GENERAL LAWS

OF THE

STATE OF IDAHO

PASSED BY
THE SECOND REGULAR SESSION OF THE
FIFTY-EIGHTH IDAHO LEGISLATURE

Convened January 9, 2006
Adjourned April 11, 2006

Volume 1

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

PUBLISHED BY AUTHORITY OF THE SECRETARY OF STATE

BEN YSURSA
Secretary of State
Boise, Idaho
CHAPTER 1
(S.B. No. 1263)

AN ACT
RELATING TO APPROPRIATIONS; STATING FINDINGS OF THE LEGISLATURE; APPROPRIATING ADDITIONAL MONEYS FOR FISCAL YEAR 2006 TO STATE AGENCIES AND STATE INSTITUTIONS FOR A SALARY INCREASE FOR EMPLOYEES; AND DECLARING AN EMERGENCY.

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

SECTION 1. LEGISLATIVE FINDINGS. The Legislature finds that funding consistent and adequate employee pay increases for the past several years has been difficult given the limited resources available. As a result, the state is falling further behind competitive labor market averages each year. The current economic conditions for the state now allow for a compensation package to be considered and it is the intent of the Legislature through this act that state employees be given the first and highest priority. The Legislature and the Governor hereby recommend funding an ongoing 3% increase in personnel costs to be used for salary increases for our valued state employees. The Division of Financial Management, Division of Human Resources, and State Controller's Office shall collaborate on an appropriate date of action to execute the intent of this act. Notwithstanding the time requirements in Section 67-5309C(b)(ii), Idaho Code, all salary increases shall be based on performance. Notwithstanding any provisions to the contrary in Section 67-5309C(b), Idaho Code, when allocating salary increases, state department directors and higher education institution executives should also take into consideration market competitive rates.

SECTION 2. In addition to any other appropriation provided by law, there is hereby appropriated to the following state agencies and state institutions the following amounts to be expended for the designated programs for personnel costs only from the listed funds for the period July 1, 2005, through June 30, 2006:

(1) STATE BOARD OF EDUCATION
AGRICULTURAL RESEARCH AND EXTENSION SERVICE:
FROM:
General Fund
$ 268,100
(2) STATE BOARD OF EDUCATION
COLLEGES AND UNIVERSITIES:
FROM:
General Fund
$ 2,822,400
(3) STATE BOARD OF EDUCATION
COMMUNITY COLLEGES
COMMUNITY COLLEGE SUPPORT:
FROM:
General Fund
$ 153,700

TOTAL

$ 3,244,200
| (4) STATE BOARD OF EDUCATION  |
| IDAHO SCHOOL FOR THE DEAF AND THE BLIND  |
| I. CAMPUS OPERATIONS:  |
| FROM:  |
| General Fund | $ 47,100  |
| II. OUTREACH SERVICES:  |
| FROM:  |
| General Fund | $ 18,800  |
| TOTAL | $ 65,900  |

| (5) STATE BOARD OF EDUCATION  |
| OFFICE OF THE STATE BOARD OF EDUCATION:  |
| FROM:  |
| General Fund | $ 13,100  |
| Federal Grant Fund | 3,100  |
| TOTAL | $ 16,200  |

| (6) STATE BOARD OF EDUCATION  |
| HEALTH EDUCATION PROGRAMS  |
| I. WOI VETERINARY EDUCATION:  |
| FROM:  |
| General Fund | $ 5,200  |
| II. WWAMI MEDICAL EDUCATION:  |
| FROM:  |
| General Fund | $ 7,200  |
| III. IDEP DENTAL EDUCATION:  |
| FROM:  |
| General Fund | $ 3,000  |
| Unrestricted Fund | 600  |
| SUBTOTAL | $ 3,600  |
| IV. FAMILY MEDICINE RESIDENCIES:  |
| FROM:  |
| General Fund | $ 4,600  |
| TOTAL | $ 20,600  |

| (7) STATE BOARD OF EDUCATION  |
| IDAHO STATE HISTORICAL SOCIETY  |
| I. HISTORIC PRESERVATION AND EDUCATION:  |
| FROM:  |
| General Fund | $ 13,400  |
| Miscellaneous Revenue Fund | 1,400  |
| Federal Grant Fund | 8,300  |
| SUBTOTAL | $ 23,100  |
| II. HISTORIC SITE MAINTENANCE AND INTERPRETATION:  |
| FROM:  |
| General Fund | $ 1,700  |
| Miscellaneous Revenue Fund | 1,700  |
| SUBTOTAL | $ 3,400  |
| TOTAL | $ 26,500  |

| (8) STATE BOARD OF EDUCATION  |
| STATE LIBRARY BOARD:  |
| FROM:  |
| General Fund | $ 18,000  |
| Federal Grant Fund | 1,800  |
| TOTAL | $ 19,800  |
(9) STATE BOARD OF EDUCATION
DIVISION OF PROFESSIONAL-TECHNICAL EDUCATION
I. STATE LEADERSHIP AND TECHNICAL ASSISTANCE:
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(10) STATE BOARD OF EDUCATION
IDAHO EDUCATIONAL PUBLIC BROADCASTING SYSTEM:
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(11) STATE BOARD OF EDUCATION
SPECIAL PROGRAMS
I. FOREST UTILIZATION RESEARCH:
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V. IDAHO COUNCIL FOR ECONOMIC EDUCATION:
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**TOTAL**                      | $23,900|
### (12) SUPERINTENDENT OF PUBLIC INSTRUCTION
#### STATE DEPARTMENT OF EDUCATION:

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### (13) STATE BOARD OF EDUCATION
#### VOCATIONAL REHABILITATION

1. **COMMUNITY SUPPORTED EMPLOYMENT:**
   - **General Fund:** $1,200

2. **VOCATIONAL REHABILITATION:**
   - **Federal Grant Fund:** $73,100

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### (14) DEPARTMENT OF HEALTH AND WELFARE
#### CHILD WELFARE:

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### (15) DEPARTMENT OF HEALTH AND WELFARE
#### SERVICES FOR THE DEVELOPMENTALLY DISABLED

1. **COMMUNITY DEVELOPMENTAL DISABILITY SERVICES:**
   - **Cooperative Welfare Fund (General):** $72,300
   - **Cooperative Welfare Fund (Federal):** 14,300
   - **SUBTOTAL:** $86,600

2. **IDAHO STATE SCHOOL AND HOSPITAL:**
   - **Cooperative Welfare Fund (General):** $52,900
   - **Cooperative Welfare Fund (Federal):** 124,200
   - **SUBTOTAL:** $177,100

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### (16) DEPARTMENT OF HEALTH AND WELFARE
#### INDEPENDENT COUNCILS

1. **COUNCIL FOR THE DEAF AND HARD OF HEARING:**
   - **Cooperative Welfare Fund (General):** $1,600

2. **DEVELOPMENTAL DISABILITIES COUNCIL:**
   - **Cooperative Welfare Fund (General):** $800
   - **Cooperative Welfare Fund (Federal):** 3,000
   - **SUBTOTAL:** $3,800

3. **DOMESTIC VIOLENCE COUNCIL:**
   - **Domestic Violence Project Fund:** $2,700

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(17) DEPARTMENT OF HEALTH AND WELFARE
INDIRECT SUPPORT SERVICES:
FROM:
Cooperative Welfare Fund (General) $107,300
Cooperative Welfare Fund (Federal) 87,800
TOTAL $195,100
(18) DEPARTMENT OF HEALTH AND WELFARE
MEDICAL ASSISTANCE SERVICES
MEDICAID ADMINISTRATION & MEDICAL MGMT:
FROM:
Cooperative Welfare Fund (General) $ 59,300
Cooperative Welfare Fund (Federal) 109,800
TOTAL $169,100
(19) DEPARTMENT OF HEALTH AND WELFARE
PSYCHIATRIC HOSPITALIZATION
I. STATE HOSPITAL NORTH:
FROM:
Cooperative Welfare Fund (General) $ 47,500
II. STATE HOSPITAL SOUTH:
FROM:
Cooperative Welfare Fund (General) $142,200
TOTAL $189,700
(20) DEPARTMENT OF HEALTH AND WELFARE
MENTAL HEALTH SERVICES
I. CHILDREN'S MENTAL HEALTH:
FROM:
Cooperative Welfare Fund (General) $ 52,700
Cooperative Welfare Fund (Federal)  9,400
SUBTOTAL $ 62,100
II. COMMUNITY MENTAL HEALTH SERVICES:
FROM:
Cooperative Welfare Fund (General) $110,300
Cooperative Welfare Fund (Federal)  19,900
SUBTOTAL $130,200
TOTAL $192,300
(21) DEPARTMENT OF HEALTH AND WELFARE
PUBLIC HEALTH SERVICES
I. PHYSICAL HEALTH SERVICES:
FROM:
Cooperative Welfare Fund (General) $ 30,600
Cooperative Welfare Fund (Federal)  47,800
SUBTOTAL $ 78,400
II. EMERGENCY MEDICAL SERVICES:
FROM:
Cooperative Welfare Fund (General) $ 4,500
Emergency Medical Services Fund  12,200
SUBTOTAL $ 16,700
III. LABORATORY SERVICES:
FROM:
Cooperative Welfare Fund (General) $ 23,600
IV. SUBSTANCE ABUSE SERVICES:
FROM:
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<td>Cooperative Welfare Fund (Federal)</td>
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(22) DEPARTMENT OF HEALTH AND WELFARE
DIVISION OF WELFARE
SELF-RELIANCE OPERATIONS:
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(23) STATE INDEPENDENT LIVING COUNCIL:
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(24) PUBLIC HEALTH DISTRICTS:
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(25) DEPARTMENT OF CORRECTION
SUPPORT DIVISION
SUPPORT SERVICES:
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<tr>
<td>Federal Grant Fund</td>
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(26) DEPARTMENT OF CORRECTION
OPERATIONS DIVISION
I. OPERATIONS ADMINISTRATION:
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II. OFFENDER PROGRAMS:
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III. COMMUNITY SUPERVISION:
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IV. COMMUNITY WORK CENTERS:
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V. IDAHO STATE CORRECTIONAL INSTITUTION - BOISE:
FROM:
- General Fund: $155,300
- Miscellaneous Revenue Fund: 3,200
- Federal Grant Fund: 500
  SUBTOTAL: $159,000

VI. IDAHO CORRECTIONAL INSTITUTION - OROFINO:
FROM:
- General Fund: $56,900
- Inmate Labor Fund: 5,000
- Miscellaneous Revenue Fund: 1,000
  SUBTOTAL: $62,900

VII. NORTH IDAHO CORRECTIONAL INSTITUTION - COTTONWOOD:
FROM:
- General Fund: $29,700
- Miscellaneous Revenue Fund: 200
  SUBTOTAL: $29,900

VIII. SOUTH IDAHO CORRECTIONAL INSTITUTION - BOISE:
FROM:
- General Fund: $54,100
- Inmate Labor Fund: 7,200
- Miscellaneous Revenue Fund: 200
- Federal Grant Fund: 1,400
  SUBTOTAL: $62,900

IX. IDAHO MAXIMUM SECURITY INSTITUTION - BOISE:
FROM:
- General Fund: $70,300
- Miscellaneous Revenue Fund: 800
  SUBTOTAL: $71,100

X. ST. ANTHONY WORK CAMP:
FROM:
- General Fund: $16,700
- Inmate Labor Fund: 4,300
  SUBTOTAL: $21,000

XI. POCATELLO WOMEN'S CORRECTIONAL CENTER:
FROM:
- General Fund: $37,100
- Inmate Labor Fund: 1,800
- Miscellaneous Revenue Fund: 1,800
  SUBTOTAL: $40,700

XII. SOUTH BOISE WOMEN'S CORRECTIONAL CENTER:
FROM:
- General Fund: $22,900
  TOTAL: $649,600

(27) DEPARTMENT OF CORRECTION
COMMISSION FOR PARDONS AND PAROLE:
FROM:
- General Fund: $13,700
(28) JUDICIAL BRANCH
I. SUPREME COURT:
FROM:
- General Fund $27,600
- Federal Grant Fund $600
  **SUBTOTAL $28,200**
II. LAW LIBRARY:
FROM:
- General Fund $3,000
III. DISTRICT COURTS:
FROM:
- General Fund $32,300
  - ISTAR Technology Fund 1,400
  **SUBTOTAL $33,700**
IV. COURT OF APPEALS:
FROM:
- General Fund $6,400
V. SNAKE RIVER BASIN ADJUDICATION:
FROM:
- General Fund **$7,000**
  **TOTAL $78,300**

(29) DEPARTMENT OF JUVENILE CORRECTIONS
I. ADMINISTRATION:
FROM:
- General Fund $19,400
  - Miscellaneous Revenue Fund 600
  **SUBTOTAL $20,000**
II. COMMUNITY SERVICES:
FROM:
- General Fund $6,700
  - Juvenile Corrections Fund 500
  - Federal Grant Fund 500
  **SUBTOTAL $7,700**
III. INSTITUTIONS:
FROM:
- General Fund $137,400
  - Federal Grant Fund 1,400
  **SUBTOTAL $138,800**
IV. JUVENILE JUSTICE COMMISSION:
FROM:
- General Fund $1,200
  - Federal Grant Fund 2,300
  **SUBTOTAL $3,500**
  **TOTAL $170,000**

(30) IDAHO STATE POLICE
BRAND INSPECTION:
FROM:
- State Brand Board Fund $20,200
(31) IDAHO STATE POLICE  
DIVISION OF IDAHO STATE POLICE  
I. DIRECTOR'S OFFICE:  
FROM:  
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<td><strong>$5,600</strong></td>
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</tbody>
</table>

VI. SUPPORT SERVICES:  
FROM:  
<table>
<thead>
<tr>
<th>Source Fund</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>$14,200</td>
</tr>
<tr>
<td>Idaho Law Enforcement Fund</td>
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<td>Idaho Law Enforcement Telecommunications Fund</td>
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<tr>
<td>Miscellaneous Revenue Fund</td>
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<tr>
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<td><strong>$29,900</strong></td>
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VII. FORENSIC SERVICES:  
FROM:  
<table>
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<tr>
<th>Source Fund</th>
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<tbody>
<tr>
<td>General Fund</td>
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**TOTAL**  
<table>
<thead>
<tr>
<th>Source Fund</th>
<th>Amount</th>
</tr>
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<tbody>
<tr>
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<td></td>
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</table>

(32) IDAHO STATE POLICE  
POST ACADEMY  
PEACE OFFICERS' STANDARDS AND TRAINING ACADEMY:  
FROM:  
<table>
<thead>
<tr>
<th>Source Fund</th>
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<tbody>
<tr>
<td>Peace Officers Fund</td>
<td>$15,900</td>
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<td><strong>TOTAL</strong></td>
<td><strong>$16,600</strong></td>
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</table>
(33) IDAHO STATE POLICE
RACING COMMISSION:
FROM:
Idaho State Racing Commission Fund $ 2,300

(34) DEPARTMENT OF ENVIRONMENTAL QUALITY
I. ADMINISTRATION AND SUPPORT SERVICES:
FROM:
General Fund $ 15,900
Air Quality Permitting Fund 1,800
Public Water System Supervision Fund 3,000
Department of Environmental Quality Fund (Receipts) 1,200
Department of Environmental Quality Fund (Federal) 19,900
SUBTOTAL $ 41,800

II. AIR QUALITY:
FROM:
General Fund $ 19,300
Air Quality Permitting Fund 11,900
Department of Environmental Quality Fund (Receipts) 800
Department of Environmental Quality Fund (Federal) 14,400
SUBTOTAL $ 46,400

III. WATER QUALITY:
FROM:
General Fund $ 47,400
Public Water System Supervision Fund 8,900
Department of Environmental Quality Fund (Receipts) 3,300
Department of Environmental Quality Fund (Federal) 42,500
SUBTOTAL $102,100

IV. COEUR D'ALENE BASIN COMMISSION:
FROM:
Environmental Remediation Fund (Basin) $ 600
Department of Environmental Quality Fund (Federal) 1,600
SUBTOTAL $ 2,200

V. WASTE MANAGEMENT AND REMEDIATION:
FROM:
General Fund $ 22,500
Environmental Remediation Fund (Box) 200
Environmental Remediation Fund (Basin) 1,000
Department of Environmental Quality Fund (Receipts) 4,000
Department of Environmental Quality Fund (Federal) 26,900
SUBTOTAL $ 54,600
<table>
<thead>
<tr>
<th>VI. IDAHO NATIONAL LABORATORY OVERSIGHT:</th>
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<tr>
<td>FROM:</td>
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</tr>
<tr>
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<tr>
<td>Department of Environmental Quality Fund (Federal)</td>
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<td><strong>SUBTOTAL</strong></td>
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(35) DEPARTMENT OF FISH AND GAME

<table>
<thead>
<tr>
<th>I. ADMINISTRATION:</th>
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</tr>
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<tbody>
<tr>
<td>FROM:</td>
<td></td>
</tr>
<tr>
<td>Fish and Game Fund (Licenses)</td>
<td>$ 26,800</td>
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<tr>
<td>Fish and Game Fund (Federal)</td>
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<table>
<thead>
<tr>
<th>II. ENFORCEMENT:</th>
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<tbody>
<tr>
<td>FROM:</td>
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<td>Fish and Game Fund (Licenses)</td>
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<table>
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<tr>
<th>III. FISHERIES:</th>
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<td>Fish and Game Fund (Licenses)</td>
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<tr>
<td>Fish and Game Set-Aside Fund (Other)</td>
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<td>Fish and Game Fund (Federal)</td>
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<th>IV. WILDLIFE:</th>
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<td>Fish and Game Fund (Licenses)</td>
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<tr>
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<tr>
<td>Fish and Game Set-Aside Fund (Other)</td>
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<tr>
<td>Fish and Game Expendable Trust Fund</td>
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<tr>
<td>Non-Expendable Trust Fund</td>
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<tr>
<td>Fish and Game Fund (Federal)</td>
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<th>V. COMMUNICATIONS:</th>
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<td>Fish and Game Fund (Licenses)</td>
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</tr>
<tr>
<td>Fish and Game Fund (Other)</td>
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<tr>
<td>Fish and Game Set-Aside Fund (Other)</td>
<td>1,800</td>
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<tr>
<td>Fish and Game Expendable Trust Fund</td>
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<tr>
<td>Fish and Game Fund (Federal)</td>
<td>6,900</td>
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<td><strong>SUBTOTAL</strong></td>
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<table>
<thead>
<tr>
<th>VI. ENGINEERING:</th>
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<tbody>
<tr>
<td>FROM:</td>
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</tr>
<tr>
<td>Fish and Game Fund (Licenses)</td>
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VII. NATURAL RESOURCE POLICY:
FROM:

<table>
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</thead>
<tbody>
<tr>
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<td>$6,800</td>
</tr>
<tr>
<td>Fish and Game Fund (Other)</td>
<td>2,000</td>
</tr>
<tr>
<td>Fish and Game Set-Aside Fund (Other)</td>
<td>1,400</td>
</tr>
<tr>
<td>Fish and Game Fund (Federal)</td>
<td>14,700</td>
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<td><strong>SUBTOTAL</strong></td>
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VIII. WINTER FEEDING AND HABITAT IMPROVEMENT:
FROM:

<table>
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<tr>
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<tr>
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<tr>
<td>Fish and Game Set-Aside Fund (Licenses)</td>
<td>700</td>
</tr>
<tr>
<td><strong>SUBTOTAL</strong></td>
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**(36) BOARD OF LAND COMMISSIONERS**
ENDOWMENT FUND INVESTMENT BOARD:
FROM:

<table>
<thead>
<tr>
<th>Fund</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Miscellaneous Revenue Fund</td>
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<tr>
<td>Endowment Administrative Fund</td>
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</tr>
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<td><strong>TOTAL</strong></td>
<td><strong>$3,400</strong></td>
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**(37) BOARD OF LAND COMMISSIONERS**
DEPARTMENT OF LANDS
I. SUPPORT SERVICES:
FROM:

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<thead>
<tr>
<th>Fund</th>
<th>Amount</th>
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<tbody>
<tr>
<td>General Fund</td>
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<tr>
<td>Department of Lands Fund</td>
<td>4,300</td>
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<tr>
<td>Endowment Administrative Fund</td>
<td>17,700</td>
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<tr>
<td><strong>SUBTOTAL</strong></td>
<td><strong>$26,500</strong></td>
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II. FOREST RESOURCES MANAGEMENT:
FROM:

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<tr>
<th>Fund</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>$10,300</td>
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<tr>
<td>Department of Lands Fund</td>
<td>12,600</td>
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<tr>
<td>Indirect Cost Recovery Fund</td>
<td>600</td>
</tr>
<tr>
<td>Endowment Administrative Fund</td>
<td>64,200</td>
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<tr>
<td>Federal Grant Fund</td>
<td>6,200</td>
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<td><strong>SUBTOTAL</strong></td>
<td><strong>$93,900</strong></td>
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III. LAND, RANGE, AND MINERAL RESOURCE MANAGEMENT:
FROM:

<table>
<thead>
<tr>
<th>Fund</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>$6,900</td>
</tr>
<tr>
<td>Department of Lands Fund</td>
<td>200</td>
</tr>
<tr>
<td>Endowment Administrative Fund</td>
<td>18,200</td>
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<tr>
<td><strong>SUBTOTAL</strong></td>
<td><strong>$25,300</strong></td>
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IV. FOREST AND RANGE FIRE PROTECTION:
FROM:

<table>
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<tr>
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<tbody>
<tr>
<td>General Fund</td>
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<tr>
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<tr>
<td>Federal Grant Fund</td>
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<tr>
<td><strong>SUBTOTAL</strong></td>
<td><strong>$37,000</strong></td>
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V. SCALING PRACTICES:
FROM:

<table>
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<tr>
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<tbody>
<tr>
<td>Department of Lands Fund</td>
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<tr>
<td><strong>TOTAL</strong></td>
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(38) DEPARTMENT OF PARKS AND RECREATION

<table>
<thead>
<tr>
<th></th>
<th>FROM:</th>
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<tbody>
<tr>
<td>I. MANAGEMENT SERVICES:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>General Fund</td>
</tr>
<tr>
<td></td>
<td>$ 17,200</td>
</tr>
<tr>
<td></td>
<td>Indirect Cost Recovery Fund</td>
</tr>
<tr>
<td></td>
<td>2,800</td>
</tr>
<tr>
<td></td>
<td>Parks and Recreation Fund</td>
</tr>
<tr>
<td></td>
<td>6,400</td>
</tr>
<tr>
<td></td>
<td>Recreational Funds Fund</td>
</tr>
<tr>
<td></td>
<td>3,000</td>
</tr>
<tr>
<td></td>
<td>Parks and Recreation Registration Fund</td>
</tr>
<tr>
<td></td>
<td>1,200</td>
</tr>
<tr>
<td></td>
<td>SUBTOTAL</td>
</tr>
<tr>
<td></td>
<td>$ 30,600</td>
</tr>
</tbody>
</table>

| II. PARK OPERATIONS:  |                                            |
| FROM:                 |                                            |
| General Fund          | $ 42,200                                   |
| Indirect Cost Recovery Fund | 200                                      |
| Parks and Recreation Fund | 17,600                                   |
| Recreational Funds Fund | 2,400                                      |
| Parks and Recreation Registration Fund | 3,800                                   |
| Miscellaneous Revenue Fund | 100                                      |
| Public Recreation Enterprise Fund | 3,800                                   |
| Parks and Recreation Expendable Trust Fund | 2,900                                   |
| SUBTOTAL              | $ 73,000                                   |

| TOTAL                  | $ 103,600                                  |

(39) DEPARTMENT OF PARKS AND RECREATION

LAVA HOT SPRINGS FOUNDATION:

<table>
<thead>
<tr>
<th></th>
<th>FROM:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Public Recreation Enterprise - Lava Hot Springs Fund</td>
</tr>
</tbody>
</table>

(40) DEPARTMENT OF WATER RESOURCES

I. MANAGEMENT AND SUPPORT SERVICES:

<table>
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<tr>
<th></th>
<th>FROM:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>General Fund</td>
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<tr>
<td></td>
<td>$ 9,100</td>
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<tr>
<td></td>
<td>Indirect Cost Recovery Fund</td>
</tr>
<tr>
<td></td>
<td>2,800</td>
</tr>
<tr>
<td></td>
<td>Water Administration Fund</td>
</tr>
<tr>
<td></td>
<td>500</td>
</tr>
<tr>
<td></td>
<td>SUBTOTAL</td>
</tr>
<tr>
<td></td>
<td>$ 12,400</td>
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II. PLANNING AND TECHNICAL SERVICES:

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</thead>
<tbody>
<tr>
<td></td>
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<tr>
<td></td>
<td>$ 21,300</td>
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<td></td>
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<td></td>
<td>Federal Grant Fund</td>
</tr>
<tr>
<td></td>
<td>3,100</td>
</tr>
<tr>
<td></td>
<td>SUBTOTAL</td>
</tr>
<tr>
<td></td>
<td>$ 25,100</td>
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III. ENERGY RESOURCES:

<table>
<thead>
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<th>FROM:</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>General Fund</td>
</tr>
<tr>
<td></td>
<td>$ 500</td>
</tr>
<tr>
<td></td>
<td>Indirect Cost Recovery Fund</td>
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<td></td>
<td>600</td>
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<td></td>
<td>Miscellaneous Revenue Fund</td>
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<td></td>
<td>Petroleum Price Violation Fund</td>
</tr>
<tr>
<td></td>
<td>5,700</td>
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<td></td>
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</tr>
<tr>
<td></td>
<td>5,000</td>
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<tr>
<td></td>
<td>SUBTOTAL</td>
</tr>
<tr>
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IV. SNAKE RIVER BASIN ADJUDICATION:

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<tbody>
<tr>
<td></td>
<td>General Fund</td>
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<td></td>
<td>$ 18,900</td>
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V. WATER MANAGEMENT:

<table>
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<tbody>
<tr>
<td></td>
<td>General Fund</td>
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<tr>
<td></td>
<td>$ 29,700</td>
</tr>
<tr>
<td></td>
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</tr>
<tr>
<td>Fund</td>
<td>Amount ($)</td>
</tr>
<tr>
<td>-------------------------------------------</td>
<td>------------</td>
</tr>
<tr>
<td>Water Administration Fund</td>
<td>10,600</td>
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<tr>
<td>Miscellaneous Revenue Fund</td>
<td>6,200</td>
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<td>Federal Grant Fund</td>
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(41) DEPARTMENT OF AGRICULTURE

I. ADMINISTRATION:

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<th>Amount ($)</th>
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<tbody>
<tr>
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<td>5,000</td>
</tr>
<tr>
<td>Administration and Accounting Services Fund</td>
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<tr>
<td>Facilities Maintenance Fund</td>
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II. ANIMAL INDUSTRIES:

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<tr>
<td>General Fund</td>
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</tr>
<tr>
<td>Agricultural Fees - Livestock Disease Control Fund</td>
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</tr>
<tr>
<td>Agricultural Fees - Dairy Inspection Fund</td>
<td>8,500</td>
</tr>
<tr>
<td>Agricultural Fees - Egg Inspection Fund</td>
<td>800</td>
</tr>
<tr>
<td>Federal Grant Fund</td>
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<tr>
<td><strong>SUBTOTAL</strong></td>
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III. AGRICULTURAL RESOURCES:

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<tr>
<td>General Fund</td>
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</tr>
<tr>
<td>Agricultural Smoke Management Fund</td>
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</tr>
<tr>
<td>Agricultural Fees - Pesticides Fund</td>
<td>13,500</td>
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<td><strong>SUBTOTAL</strong></td>
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IV. PLANT INDUSTRIES:

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<tr>
<td>Agricultural Inspection Fund</td>
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<tr>
<td>Agricultural Fees - Commercial Feed and Fertilizer Fund</td>
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<td>Agricultural Fees - Organic Food Products Fund</td>
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V. AGRICULTURAL INSPECTIONS:

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<tbody>
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<tr>
<td>Agricultural Inspection Fund</td>
<td>800</td>
</tr>
<tr>
<td>Weights and Measures Inspection Fund</td>
<td>2,100</td>
</tr>
<tr>
<td>Agricultural Fees - Fresh Fruit and Vegetable Inspection Fund</td>
<td>48,900</td>
</tr>
<tr>
<td><strong>SUBTOTAL</strong></td>
<td><strong>$57,900</strong></td>
</tr>
</tbody>
</table>

VI. MARKETING AND DEVELOPMENT:

<table>
<thead>
<tr>
<th>FROM:</th>
<th>Amount ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>3,100</td>
</tr>
<tr>
<td>Federal Grant Fund</td>
<td>100</td>
</tr>
<tr>
<td><strong>SUBTOTAL</strong></td>
<td><strong>$3,200</strong></td>
</tr>
</tbody>
</table>
### VII. SHEEP COMMISSION:

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>$500</td>
</tr>
<tr>
<td>Agricultural Fees - Sheep Industry Regulation Fund</td>
<td>$200</td>
</tr>
<tr>
<td><strong>SUBTOTAL</strong></td>
<td><strong>$700</strong></td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$156,300</strong></td>
</tr>
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</table>

(42) **DEPARTMENT OF AGRICULTURE**

### SOIL CONSERVATION COMMISSION:

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>$12,200</td>
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<tr>
<td>Federal Grant Fund</td>
<td>1,600</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$13,800</strong></td>
</tr>
</tbody>
</table>

(43) **DEPARTMENT OF COMMERCE AND LABOR**

### I. COMMERCE:

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>$22,300</td>
</tr>
<tr>
<td>Tourism and Promotion Fund</td>
<td>5,200</td>
</tr>
<tr>
<td>Miscellaneous Revenue Fund</td>
<td>900</td>
</tr>
<tr>
<td>Federal Grant Fund</td>
<td>4,000</td>
</tr>
<tr>
<td><strong>SUBTOTAL</strong></td>
<td><strong>$32,400</strong></td>
</tr>
</tbody>
</table>

### II. IDAHO RURAL PARTNERSHIP:

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Miscellaneous Revenue Fund</td>
<td>$1,000</td>
</tr>
</tbody>
</table>

### III. WAGE AND HOUR:

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>$4,200</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$37,600</strong></td>
</tr>
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</table>

(44) **DEPARTMENT OF FINANCE**

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>State Regulatory Fund</td>
<td>$34,500</td>
</tr>
</tbody>
</table>

(45) **INDUSTRIAL COMMISSION**

### I. COMPENSATION:

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Industrial Administration Fund</td>
<td>$25,800</td>
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</tbody>
</table>

### II. REHABILITATION:

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Industrial Administration Fund</td>
<td>$26,600</td>
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</tbody>
</table>

### III. CRIME VICTIMS COMPENSATION:

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Crime Victims Compensation Fund</td>
<td>$5,400</td>
</tr>
</tbody>
</table>

### IV. ADJUDICATION:

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Industrial Administration Fund</td>
<td>$10,700</td>
</tr>
</tbody>
</table>

**TOTAL** $68,500

(46) **DEPARTMENT OF INSURANCE**

### I. INSURANCE REGULATION:

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Self-Governing Operating Fund</td>
<td>$32,800</td>
</tr>
<tr>
<td>Miscellaneous Revenue Fund</td>
<td>800</td>
</tr>
<tr>
<td>Federal Grant Fund</td>
<td>1,400</td>
</tr>
<tr>
<td><strong>SUBTOTAL</strong></td>
<td><strong>$35,000</strong></td>
</tr>
</tbody>
</table>
II. STATE FIRE MARSHAL:
FROM:
Self-Governing State Fire Marshall Fund $ 6,400
**TOTAL** $ 41,400

(47) PUBLIC UTILITIES COMMISSION
UTILITIES REGULATION:
FROM:
Public Utilities Commission Fund $ 28,100
Federal Grant Fund 500
**TOTAL** $ 28,600

(48) SELF-GOVERNING AGENCIES
DIVISION OF BUILDING SAFETY
BUILDING SAFETY:
FROM:
- Electrical Fund $ 35,800
- Building Fund 7,700
- Plumbing Fund 22,100
- Manufactured Housing Fund 700
- Public Works Contractors Licensing Fund 1,800
- Heating, Ventilation, and Air Conditioning Board Fund 9,300
- Elevator Safety Fund 2,000
- Miscellaneous Revenue/Industrial Safety Fund 4,400
- Miscellaneous Revenue/Logging Fund 3,200
- Building Bureau NCSBICS Fund 200
- Miscellaneous Revenue/Energy Program Fund 300
- Federal Grant Fund 200
**TOTAL** $ 87,700

(49) SELF-GOVERNING AGENCIES
GENERAL BOARDS
COMMISSION ON HISPANIC AFFAIRS:
FROM:
- General Fund $ 800
- Federal Grant Fund 500
**TOTAL** $ 1,300

(50) SELF-GOVERNING AGENCIES
STATE LOTTERY:
FROM:
- State Lottery Fund $ 24,600

(51) SELF-GOVERNING AGENCIES
MEDICAL BOARDS
I. BOARD OF DENTISTRY:
FROM:
- State Regulatory Fund $ 1,700

II. BOARD OF MEDICINE:
FROM:
- State Regulatory Fund $ 6,400

III. BOARD OF NURSING:
FROM:
- State Regulatory Fund $ 4,600

IV. BOARD OF PHARMACY:
FROM:
- State Regulatory Fund $ 5,900
## V. BOARD OF VETERINARY MEDICINE:

From:
- State Regulatory Fund $800

*(52) SELF-GOVERNING AGENCIES*

### REGULATORY BOARDS

#### I. BOARD OF ACCOUNTANCY:
- From: State Regulatory Fund $2,100

#### II. BOARD OF PROF. ENGINEERS & LAND SURVEYORS:
- From: State Regulatory Fund $1,800

#### III. BOARD OF PROFESSIONAL GEOLOGISTS:
- From: State Regulatory Fund $200

#### IV. BUREAU OF OCCUPATIONAL LICENSES:
- From: State Regulatory Fund $12,000

#### V. CERTIFIED SHORTHAND REPORTERS BOARD:
- From: State Regulatory Fund $100

#### VI. OUTFITTERS AND GUIDES LICENSING BOARD:
- From: State Regulatory Fund $2,500

### VII. REAL ESTATE COMMISSION:
- From: State Regulatory Fund $6,200

*(53) SELF-GOVERNING AGENCIES*

### OFFICE OF STATE APPELLATE PUBLIC DEFENDER:
- From: General Fund $14,600

*(54) SELF-GOVERNING AGENCIES*

### DIVISION OF VETERANS SERVICES:
- From:
  - General Fund $14,600
  - Miscellaneous Revenue Fund $81,000
  - Federal Grant Fund $32,500
  - **Total** $128,100

*(55) IDAHO TRANSPORTATION DEPARTMENT*

#### I. MANAGEMENT AND ADMINISTRATIVE SERVICES:
- From:
  - State Highway Fund (Dedicated) $124,300
  - State Highway Fund (Billing) 200
  - State Highway Fund (Federal) 1,000
  - **Subtotal** $125,500

#### II. PLANNING:
- From:
  - State Highway Fund (Dedicated) $5,900
  - State Highway Fund (Federal) 23,400
  - **Subtotal** $29,300

### TOTAL
- **$19,400**
### III. MOTOR VEHICLES:
FROM:
- State Highway Fund (Dedicated) $108,100

### IV. HIGHWAY OPERATIONS:
FROM:
- State Highway Fund (Dedicated) $624,500
- State Highway Fund (Local) 1,800
- State Highway Fund (Federal) 97,800
- SUBTOTAL $724,100

### V. AERONAUTICS:
FROM:
- State Aeronautics Fund (Dedicated) $8,900
- State Aeronautics Fund (Billing) 900
- State Aeronautics Fund (Federal) 100
- SUBTOTAL $9,900

### VI. PUBLIC TRANSPORTATION:
FROM:
- State Highway Fund (Dedicated) $1,700
- State Highway Fund (Federal) 4,500
- SUBTOTAL $6,200

**TOTAL** $1,003,100

(56) DEPARTMENT OF ADMINISTRATION

### I. ADMINISTRATIVE RULES:
FROM:
- Administrative Code Fund $2,200

### II. DIRECTOR'S OFFICE:
FROM:
- General Fund $2,200
- Indirect Cost Recovery Fund 4,700
- Administration and Accounting Services Fund 200
- Industrial Special Indemnity Fund 1,700
- SUBTOTAL $8,800

### III. INFORMATION TECHNOLOGY & COMMUNICATIONS:
FROM:
- General Fund $5,900
- Indirect Cost Recovery Fund 3,500
- Administration and Accounting Services Fund 18,000
- SUBTOTAL $27,400

### IV. INFORMATION TECHNOLOGY RESOURCE MGMT COUNCIL:
FROM:
- General Fund $700
- Administration and Accounting Services Fund 3,500
- SUBTOTAL $4,200

### V. OFFICE OF INSURANCE MANAGEMENT:
FROM:
- Employee Group Insurance Fund $2,700
- Retained Risk Fund 4,200
- SUBTOTAL $6,900

### VI. PUBLIC WORKS:
FROM:
- Permanent Building Fund $15,600
- Administration and Accounting Services Fund 11,400
- SUBTOTAL $27,000
VII. PURCHASING:
FROM:
<table>
<thead>
<tr>
<th>Fund/Revolving Fund</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>$ 7,500</td>
</tr>
<tr>
<td>Administration and Accounting Services Fund</td>
<td>4,700</td>
</tr>
<tr>
<td>Federal Surplus Property Revolving Fund</td>
<td>1,700</td>
</tr>
<tr>
<td><strong>SUBTOTAL</strong></td>
<td><strong>$ 13,900</strong></td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$ 90,400</strong></td>
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</table>

(57) DEPARTMENT OF ADMINISTRATION
CAPITOL COMMISSION:
FROM:
<table>
<thead>
<tr>
<th>Fund</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Capitol Endowment Income Fund</td>
<td>$ 200</td>
</tr>
</tbody>
</table>

(58) ATTORNEY GENERAL
STATE LEGAL SERVICES:
FROM:
<table>
<thead>
<tr>
<th>Fund/Revolving Fund</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>$142,200</td>
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<tr>
<td>Consumer Protection Fund</td>
<td>700</td>
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<td><strong>TOTAL</strong></td>
<td><strong>$ 142,900</strong></td>
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</table>

(59) STATE CONTROLLER
I. ADMINISTRATION:
FROM:
<table>
<thead>
<tr>
<th>Fund</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>$ 2,400</td>
</tr>
</tbody>
</table>

II. STATEWIDE ACCOUNTING:
FROM:
<table>
<thead>
<tr>
<th>Fund</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>$ 14,400</td>
</tr>
</tbody>
</table>

III. STATEWIDE PAYROLL:
FROM:
<table>
<thead>
<tr>
<th>Fund</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>$ 12,100</td>
</tr>
</tbody>
</table>

IV. COMPUTER CENTER:
FROM:
<table>
<thead>
<tr>
<th>Fund/Revolving Fund</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Data Processing Services Fund</td>
<td>$ 38,300</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$ 67,200</strong></td>
</tr>
</tbody>
</table>

(60) OFFICE OF THE GOVERNOR
COMMISSION ON AGING:
FROM:
<table>
<thead>
<tr>
<th>Fund/Revolving Fund</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>$ 5,400</td>
</tr>
<tr>
<td>Federal Grant Fund</td>
<td>4,400</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$ 9,800</strong></td>
</tr>
</tbody>
</table>

(61) OFFICE OF THE GOVERNOR
COMMISSION ON THE ARTS:
FROM:
<table>
<thead>
<tr>
<th>Fund/Revolving Fund</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>$ 3,100</td>
</tr>
<tr>
<td>Federal Grant Fund</td>
<td>2,400</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$ 5,500</strong></td>
</tr>
</tbody>
</table>

(62) OFFICE OF THE GOVERNOR
COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED:
FROM:
<table>
<thead>
<tr>
<th>Fund/Revolving Fund</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>$ 6,500</td>
</tr>
<tr>
<td>Federal Grant Fund</td>
<td>12,600</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$ 19,100</strong></td>
</tr>
<tr>
<td>Division</td>
<td>From</td>
</tr>
<tr>
<td>----------------------------------------------</td>
<td>-------------------------------------</td>
</tr>
<tr>
<td><strong>DIVISION OF FINANCIAL MANAGEMENT:</strong></td>
<td></td>
</tr>
<tr>
<td>General Fund</td>
<td>$ 19,600</td>
</tr>
<tr>
<td>Miscellaneous Revenue Fund</td>
<td>200</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
</tr>
<tr>
<td><strong>OFFICE OF THE GOVERNOR</strong></td>
<td></td>
</tr>
<tr>
<td>I. ADMINISTRATION - GOVERNOR'S OFFICE:</td>
<td></td>
</tr>
<tr>
<td>General Fund</td>
<td>$ 10,500</td>
</tr>
<tr>
<td><strong>SOCIAL SERVICES:</strong></td>
<td></td>
</tr>
<tr>
<td>Federal Grant Fund</td>
<td>$ 1,600</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
</tr>
<tr>
<td><strong>DIVISION OF HUMAN RESOURCES:</strong></td>
<td></td>
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<tr>
<td>Division of Human Resources Fund</td>
<td>$ 21,700</td>
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<tr>
<td><strong>STATE LIQUOR DISPENSARY</strong></td>
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<tr>
<td>Liquor Control Fund</td>
<td>$ 75,300</td>
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<tr>
<td><strong>MILITARY DIVISION</strong></td>
<td></td>
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<tr>
<td>I. MILITARY MANAGEMENT:</td>
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</tr>
<tr>
<td>General Fund</td>
<td>$ 16,500</td>
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<tr>
<td>Indirect Cost Recovery Fund</td>
<td>600</td>
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<tr>
<td><strong>SUBTOTAL</strong></td>
<td></td>
</tr>
<tr>
<td>II. FEDERAL/STATE AGREEMENTS:</td>
<td></td>
</tr>
<tr>
<td>General Fund</td>
<td>$ 7,300</td>
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<tr>
<td>Federal Grant Fund</td>
<td>87,100</td>
</tr>
<tr>
<td><strong>SUBTOTAL</strong></td>
<td></td>
</tr>
<tr>
<td>III. BUREAU OF HOMELAND SECURITY:</td>
<td></td>
</tr>
<tr>
<td>General Fund</td>
<td>$ 12,700</td>
</tr>
<tr>
<td>Federal Grant Fund</td>
<td>15,000</td>
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<tr>
<td><strong>SUBTOTAL</strong></td>
<td></td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
</tr>
<tr>
<td><strong>PUBLIC EMPLOYEE RETIREMENT SYSTEM</strong></td>
<td></td>
</tr>
<tr>
<td>I. RETIREMENT ADMINISTRATION:</td>
<td></td>
</tr>
<tr>
<td>Persi Administrative Fund</td>
<td>$ 29,800</td>
</tr>
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</table>
II. PORTFOLIO INVESTMENT:

<table>
<thead>
<tr>
<th>FROM</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>PERS! Special Fund</td>
<td>$ 4,900</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$ 34,700</strong></td>
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<tr>
<td>General Fund</td>
<td>$ 4,600</td>
</tr>
<tr>
<td>Miscellaneous Revenue Fund</td>
<td>100</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$ 4,700</strong></td>
</tr>
<tr>
<td>Office of the Governor</td>
<td></td>
</tr>
<tr>
<td>Office of Species Conservation:</td>
<td></td>
</tr>
<tr>
<td>General Fund</td>
<td>$ 200</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$ 200</strong></td>
</tr>
<tr>
<td>Administration - Lieutenant Governor:</td>
<td></td>
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<tr>
<td>General Fund</td>
<td>$ 1,600</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$ 1,600</strong></td>
</tr>
<tr>
<td>Office of Performance Evaluations:</td>
<td></td>
</tr>
<tr>
<td>General Fund</td>
<td>$ 5,700</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$ 5,700</strong></td>
</tr>
<tr>
<td>Department of Revenue and Taxation:</td>
<td></td>
</tr>
<tr>
<td>General Fund</td>
<td>$ 500</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$ 500</strong></td>
</tr>
<tr>
<td>State Tax Commission</td>
<td></td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$ 123,200</strong></td>
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I. GENERAL SERVICES:

<table>
<thead>
<tr>
<th>FROM</th>
<th>SUBTOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>$ 35,900</td>
</tr>
<tr>
<td>Administration Services for Transportation Fund</td>
<td>3,900</td>
</tr>
<tr>
<td><strong>SUBTOTAL</strong></td>
<td><strong>$ 39,800</strong></td>
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</table>

II. AUDIT AND COLLECTIONS:

<table>
<thead>
<tr>
<th>FROM</th>
<th>SUBTOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>$ 92,900</td>
</tr>
<tr>
<td>Multistate Tax Compact Fund</td>
<td>12,000</td>
</tr>
<tr>
<td>Administration Services for Transportation Fund</td>
<td>13,700</td>
</tr>
<tr>
<td>Abandoned Property Trust - Unclaimed</td>
<td>4,600</td>
</tr>
<tr>
<td><strong>SUBTOTAL</strong></td>
<td><strong>$123,200</strong></td>
</tr>
</tbody>
</table>
III. REVENUE OPERATIONS:
FROM:
  General Fund $ 26,800
  Administration and Accounting Fund  600
  Administration Services for Transportation Fund  4,600
  Abandoned Property Trust - Unclaimed Property Fund  900
SUBTOTAL $ 32,900
IV. COUNTY SUPPORT:
FROM:
  General Fund $ 24,400
  TOTAL $ 220,300

(78) SECRETARY OF STATE ADMINISTRATION:
FROM:
  General Fund $ 15,900
(79) STATE TREASURER TREASURY - ADMINISTRATION:
FROM:
  General Fund $ 8,100
  State Treasurer LGIP Fund  2,000
  Treasurer's Office - Professional Services Fund  2,000
  TOTAL $ 12,100
GRAND TOTAL $10,690,600

SECTION 3. An emergency existing therefore, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved January 24, 2006.

CHAPTER 2
(H.B. No. 403)

AN ACT
RELATING TO TRANSFERS OF FUNDS; PROVIDING A TRANSFER OF FUNDS TO THE FIRE SUPPRESSION DEFICIENCY FUND; PROVIDING A TRANSFER OF FUNDS TO THE PEST CONTROL DEFICIENCY FUND; PROVIDING A TRANSFER OF FUNDS TO THE HAZARDOUS SUBSTANCE EMERGENCY RESPONSE FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. The State Controller shall transfer $9,250,000 from the General Fund to the Fire Suppression Deficiency Fund. Such moneys shall be used to reimburse costs incurred by the Forest and Range Fire Protection Program in the Department of Lands pursuant to Sections 38-131 and 38-131A, Idaho Code.
SECTION 2. The State Controller shall transfer $47,800 from the General Fund to the Pest Control Deficiency Fund. Such moneys shall be used to reimburse costs incurred by the Plant Industries Program in the Department of Agriculture pursuant to Section 22-2019, Idaho Code.

SECTION 3. The State Controller shall transfer $87,700 from the General Fund to the Hazardous Substance Emergency Response Fund. Such moneys shall be used to reimburse costs incurred by the Bureau of Homeland Security in the Military Division of the Office of the Governor pursuant to Section 39-7110, Idaho Code.

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

Approved February 1, 2006.

CHAPTER 3  
(H.B. No. 404)

AN ACT  
APPROPRIATING ADDITIONAL MONEYS TO THE OFFICE OF THE GOVERNOR FOR THE MILITARY DIVISION FOR FISCAL YEAR 2006; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 212, Laws of 2005, there is hereby appropriated to the Office of the Governor for the Military Division the following amount to be expended for the designated program according to the designated expense class from the listed fund for the period July 1, 2005, through June 30, 2006:

BUREAU OF HOMELAND SECURITY:
FOR:
Operating Expenditures $24,200
FROM:
Miscellaneous Revenue Fund $24,200

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

Approved February 7, 2006.

CHAPTER 4  
(H.B. No. 409)

AN ACT  
STATING FINDINGS OF THE LEGISLATURE; TRANSFERRING MONEYS TO THE BUDGET STABILIZATION FUND; AND DECLARING AN EMERGENCY.
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. It is the finding of the Legislature that, given the improved economic conditions that have produced state revenues in excess of projections, it is in the best interest of the citizens of the state of Idaho to follow a sound budget policy which includes maximizing the state's cash reserves when those economic opportunities materialize. The appropriation contained in this act will bring the state's Budget Stabilization Fund to the full five percent cap allowed by law, an historical high for this fund, which is designed to protect state programs as well as the taxpayers of Idaho during economic downturns.

SECTION 2. In addition to the normal transfers made by the State Controller pursuant to Section 57-814, Idaho Code, the State Controller shall immediately transfer the sum of $70,000,000 from the General Fund to the Budget Stabilization Fund.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved February 7, 2006.

CHAPTER 5
(H.B. No. 440)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF COMMERCE AND LABOR FOR FISCAL YEAR 2006; AND REDUCING THE APPROPRIATION TO THE DEPARTMENT OF COMMERCE AND LABOR FOR FISCAL YEAR 2006; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 146, Laws of 2005, there is hereby appropriated to the Department of Commerce and Labor the following amount to be expended for the designated program according to the designated expense class from the listed fund for the period July 1, 2005, through June 30, 2006:

IDaho Rural Partnership:
 FOR: Personnel Costs $50,000
 FROM: Miscellaneous Revenue Fund $50,000

SECTION 2. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 1, Chapter 146, Laws of 2005, there is hereby reduced by the following amount from the designated program according to the designated expense class from the listed fund for the period July 1, 2005, through June 30, 2006:
C. 6 2006

IDAHO RURAL PARTNERSHIP:
FOR: Operating Expenditures $50,000
FROM: Miscellaneous Revenue Fund $50,000

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved February 8, 2006.

CHAPTER 6
(S.B. No. 1277)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE STATE CONTROLLER FOR FISCAL YEAR 2006; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 227, Laws of 2005, there is hereby appropriated to the State Controller the following amount to be expended for the designated program according to the designated expense class from the listed fund for the period July 1, 2005, through June 30, 2006:
COMPUTER CENTER:
FOR: Operating Expenditures $150,000
FROM: Data Processing Services Fund $150,000

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

Approved February 8, 2006.

CHAPTER 7
(S.B. No. 1278)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE OFFICE OF THE GOVERNOR FOR THE COMMISSION ON THE ARTS FOR FISCAL YEAR 2006; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 169, Laws of 2005, there is hereby appropriated to the Office of
the Governor for the Commission on the Arts the following amount to be expended according to the designated expense class from the listed fund for the period July 1, 2005, through June 30, 2006:

FOR:

Trustee and Benefit Payments $45,700
FROM:

Federal Grant Fund $45,700

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

Approved February 8, 2006.

CHAPTER 8
(S.B. No. 1305)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DIVISION OF BUILDING SAFETY IN THE DEPARTMENT OF SELF-GOVERNING AGENCIES FOR FISCAL YEAR 2006; AUTHORIZING ADDITIONAL FULL-TIME POSITIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 302, Laws of 2005, there is hereby appropriated to the Division of Building Safety in the Department of Self-Governing Agencies the following amount to be expended according to the designated expense classes from the listed funds for the period July 1, 2005, through June 30, 2006:

<table>
<thead>
<tr>
<th>FOR PERSONNEL COSTS</th>
<th>FOR OPERATING EXPENDITURES</th>
<th>FOR CAPITAL OUTLAY</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>BUILDING SAFETY:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>FROM:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Electrical Fund</td>
<td>$114,700</td>
<td>$8,100</td>
<td>$49,800</td>
</tr>
<tr>
<td>Building Fund</td>
<td>12,300</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Plumbing Fund</td>
<td>38,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Heating, Ventilation and Air Conditioning Board Fund</td>
<td>144,100</td>
<td>15,600</td>
<td>98,400</td>
</tr>
<tr>
<td>Miscellaneous Revenue/Industrial Safety Fund</td>
<td>3,700</td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL</td>
<td>$312,800</td>
<td>$23,700</td>
<td>$148,200</td>
</tr>
</tbody>
</table>

SECTION 2. In addition to the full-time equivalent positions authorized in Section 2, Chapter 302, Laws of 2005, the Division of Building Safety is hereby authorized an additional eight (8) full-time equivalent positions for the period July 1, 2005, through June 30, 2006.
SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved February 13, 2006.

CHAPTER 9
(S.B. No. 1306)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE STATE BOARD FOR PROFESSIONAL-TECHNICAL EDUCATION FOR FISCAL YEAR 2006; REDUCING THE APPROPRIATION TO THE STATE BOARD FOR PROFESSIONAL-TECHNICAL EDUCATION FOR FISCAL YEAR 2006; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 385, Laws of 2005, there is hereby appropriated to the State Board for Professional-Technical Education the following amount to be expended for the designated program according to the designated expense class from the listed funds for the period July 1, 2005, through June 30, 2006:

CAREER INFORMATION SYSTEM:
FOR: Personnel Costs
FROM: Miscellaneous Revenue Fund Federal Grant Fund
TOTAL

$5,000
$2,500
2,500
$5,000

SECTION 2. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made in Section 1, Chapter 385, Laws of 2005, is hereby reduced by the following amount from the designated program according to the designated expense class from the listed funds for the period July 1, 2005, through June 30, 2006:

CAREER INFORMATION SYSTEM:
FOR: Operating Expenditures
FROM: Miscellaneous Revenue Fund Federal Grant Fund
TOTAL

$5,000
$2,500
2,500
$5,000

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved February 13, 2006.
CHAPTER 10  
(S.B. No. 1307)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE STATE BOARD OF EDUCATION FOR SPECIAL PROGRAMS FOR FISCAL YEAR 2006; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 196, Laws of 2005, there is hereby appropriated to the State Board of Education for Special Programs the following amount to be expended for the designated program according to the designated expense class from the listed fund for the period July 1, 2005, through June 30, 2006:

SCHOLARSHIPS AND GRANTS:

FOR: Trustee and Benefit Payments
FROM: General Fund
$101,800

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

Approved February 13, 2006.

CHAPTER 11  
(S.B. No. 1329)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE OFFICE OF THE GOVERNOR FOR THE COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED FOR FISCAL YEAR 2006; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 289, Laws of 2005, there is hereby appropriated to the Office of the Governor for the Commission for the Blind and Visually Impaired the following amount to be expended according to the designated expense class from the listed fund for the period July 1, 2005, through June 30, 2006:

FOR: Operating Expenditures
FROM: General Fund
$418,800

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

Approved February 15, 2006.
CHAPTER 12
(S.B. No. 1330)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE DIVISION OF VETERANS SERVICES WITHIN THE DEPARTMENT OF SELF-GOVERNING AGENCIES FOR FISCAL YEAR 2006; REDUCING THE GENERAL FUND APPROPRIATION FOR THE DIVISION OF VETERANS SERVICES WITHIN THE DEPARTMENT OF SELF-GOVERNING AGENCIES FOR FISCAL YEAR 2006; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 373, Laws of 2005, there is hereby appropriated to the Division of Veterans Services within the Department of Self-governing Agencies the following amounts to be expended from the listed funds for the period July 1, 2005, through June 30, 2006:

<table>
<thead>
<tr>
<th>Fund</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Miscellaneous Revenue Fund</td>
<td>$2,872,500</td>
</tr>
<tr>
<td>Federal Grant Fund</td>
<td>154,200</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$3,026,700</strong></td>
</tr>
</tbody>
</table>

SECTION 2. Notwithstanding any other provision of the law to the contrary, the total appropriation of General Fund moneys to the Division of Veterans Services within the Department of Self-governing Agencies in Section 1, Chapter 373, Laws of 2005, is hereby reduced by $545,900 for the period July 1, 2005, through June 30, 2006.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved February 15, 2006.

CHAPTER 13
(H.B. No. 405)

AN ACT
RELATING TO THE WORKFORCE DEVELOPMENT TRAINING FUND; AMENDING SECTION 72-1347B, IDAHO CODE, TO EXTEND THE SUNSET DATE ON THE TRAINING TAX FOR FIVE YEARS.

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

SECTION 1. That Section 72-1347B, Idaho Code, be, and the same is hereby amended to read as follows:

72-1347B. WORKFORCE DEVELOPMENT TRAINING FUND. (1) There is established in the state treasury a special trust fund, separate and apart from all other public funds of this state, to be known as the workforce development training fund, hereinafter "training fund." Except as pro-
vided herein, all proceeds from the training tax defined in subsection (4) of this section shall be paid into the training fund. The state treasurer shall be the custodian of the training fund and shall invest said moneys in accordance with law. Any interest earned on the moneys in the training fund shall be deposited in the training fund. Moneys in the training fund shall be disbursed in accordance with the directions of the director. In any month when the unencumbered balance in the training fund exceeds six million dollars ($6,000,000), the excess amount over six million dollars ($6,000,000) shall be transferred to the employment security reserve fund, section 72-1347A, Idaho Code. For the purposes of this subsection (1), the unencumbered balance in the training fund is the balance in such fund reduced by the sum of:

(a) The amounts that have been obligated pursuant to fully-executed workforce development training fund contracts;
(b) The amounts that have been obligated pursuant to letters of intent for proposed job training projects; and
(c) Any administrative costs related to the training fund that are due and payable.

(2) All moneys in the training fund are perpetually appropriated to the director for expenditure in accordance with the provisions of this section. The purpose of the training fund is to provide or expand training and retraining opportunities in an expeditious manner that would not otherwise exist for Idaho's workforce. The training fund is intended to supplement, but not to supplant or compete with, money available through existing training programs. The moneys in the training fund shall be used for the following purposes:

(a) To provide training for skills necessary for specific economic opportunities and industrial expansion initiatives;
(b) To provide training to upgrade the skills of currently employed workers at risk of being permanently laid off;
(c) For refunds of training taxes erroneously collected and deposited in the workforce training fund;
(d) For all administrative expenses incurred by the department associated with the collection of the training tax and any other administrative expenses associated with the training fund.

(3) Expenditures from the training fund for purposes authorized in paragraphs (a) and (b) of subsection (2) of this section shall be approved by the director in consultation with the office of the governor, based on procedures, criteria and performance measures established by the council appointed pursuant to section 72-1336, Idaho Code. The activities funded by the training fund will be coordinated with similar activities funded by the state division of professional-technical education. Expenditures from the training fund for purposes authorized in paragraphs (c) and (d) of subsection (2) of this section shall be approved by the director. The director shall pay all approved expenditures as long as the training fund has a positive balance. The council shall report annually to the governor and the joint finance-appropriations committee the commitments and expenditures made from the training fund in the preceding fiscal year and the results of the activities funded by the training fund.

(4) A training tax is hereby imposed on all covered employers required to pay contributions pursuant to section 72-1350, Idaho Code, with the exception of deficit employers who have been assigned a taxable wage rate from rate class six pursuant to section 72-1350, Idaho Code.
The training tax rate shall be equal to three percent (3%) of the taxable wage rate then in effect for each eligible, standard-rated and deficit employer. The training tax shall be due and payable at the same time and in the same manner as contributions. This subsection is repealed effective January 1, 2007, unless, prior to that date, the Idaho legislature approves the continuation of this subsection by repeal of this sunset clause.

(5) The provisions of this chapter which apply to the payment and collection of contributions also apply to the payment and collection of the training tax, including the same calculations, assessments, method of payment, penalties, interest, costs, liens, injunctive relief, collection procedures and refund procedures. In the administration of the provisions of this section, the director is granted all rights, authority, and prerogatives granted under the provisions of this chapter. Moneys collected from an employer delinquent in paying contributions, reserve taxes and the training tax shall first be applied to any penalty and interest imposed pursuant to the provisions of this chapter and shall then be applied pro rata to delinquent contributions to the employment security fund, section 72-1346, Idaho Code, delinquent reserve taxes to the reserve fund, section 72-1347A, Idaho Code, and delinquent training taxes to the training fund. Any interest and penalties collected pursuant to this subsection shall be paid into the state employment security administrative and reimbursement fund, section 72-1348, Idaho Code, and any interest or penalties refunded under this subsection shall be paid out of that same fund. Training taxes paid pursuant to this section shall not be credited to the employer's experience rating account and may not be deducted by any employer from the wages of individuals in its employ. All training taxes shall be deposited in the clearing account of the employment security fund, section 72-1346, Idaho Code, for clearance only and shall not become part of such fund. After clearance, the moneys shall be deposited in the training fund established in subsection (1) of this section.

(6) Administrative costs related to the training fund shall be paid from the training fund in accordance with subsection (3) of this section.

Approved February 17, 2006.

CHAPTER 14
(H.B. No. 406)

AN ACT
RELATING TO THE SCIENCE AND TECHNOLOGY ADVISORY COUNCIL; AMENDING CHAPTER 47, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-4726, IDAHO CODE, TO CREATE A SCIENCE AND TECHNOLOGY ADVISORY COUNCIL, TO PROVIDE MEMBERSHIP OF THE COUNCIL AND TO PROVIDE DUTIES OF THE COUNCIL.

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

SECTION 1. That Chapter 47, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-4726, Idaho Code, and to read as follows:
67-4726. SCIENCE AND TECHNOLOGY ADVISORY COUNCIL -- APPOINTMENT OF MEMBERS -- QUALIFICATIONS. (1) The state of Idaho recognizes that the health and expansion of Idaho's future economy will depend upon taking full advantage of research and technology, and that Idaho has impressive resources for technology-based growth, internationally recognized university research programs, globally competitive technology companies and the Idaho national laboratory.

The science and technology advisory council is hereby created to advise the department of commerce and labor, the state board of education, state colleges and universities, and other state, local, federal and private sector agencies and organizations on science and technology interests and potentials; to support the development and publishing of information on the condition and importance of science and technology to the state's economy; to assist with the development and implementation of a state strategic plan for science and technology; and to assist with the coordination of local, state and federal interests to increase the positive economic impact of the state's science and technology resources.

(2) The council shall be appointed by and serve at the pleasure of the governor. Membership of the council shall include individuals knowledgeable and experienced in science and technology issues. The council shall include representatives from the private sector who have expertise in the transfer and commercialization of science and technology, and representatives from the department of commerce and labor, the office of the state board of education, and the office of the governor. The governor shall designate a chairman from the council's membership and the council shall designate such other officers from its membership as it deems necessary. The chairman and council members from the department of commerce and labor, the office of the state board of education, and the office of the governor shall serve as the executive committee of the council. The council shall be staffed and supported by the department of commerce and labor. Members of the council who are not state employees shall be compensated for actual and necessary expenses as provided by section 59-509(b), Idaho Code.

Approved February 17, 2006.

CHAPTER 15
(S.B. No. 1255)

AN ACT
RELATING TO THE UNIFORM ENVIRONMENTAL COVENANTS ACT; AMENDING TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 30, TITLE 55, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO SET FORTH THE NATURE OF RIGHTS AND SUBORDINATION OF INTERESTS, TO SET FORTH REQUIREMENTS FOR THE CONTENTS OF ENVIRONMENTAL COVENANTS, TO PROVIDE THAT QUALIFYING ENVIRONMENTAL COVENANTS RUN WITH THE LAND, TO PROVIDE FOR VALIDITY AND EFFECT OF ENVIRONMENTAL COVENANTS, TO PROVIDE FOR THE RELATIONSHIP OF ENVIRONMENTAL COVENANTS TO OTHER LAND USE LAWS, TO REQUIRE NOTICE AND RECORDING, TO SET FORTH DURATION OF COVENANTS, TO PROVIDE FOR AMENDMENT BY COURT ACTION, TO PROVIDE FOR AMENDMENT OR TERMINATION BY CONSENT, TO PROVIDE FOR ENFORCEMENT, TO
ESTABLISH A REGISTRY AND TO REQUIRE NOTICE, TO PROVIDE FOR UNIFORMITY OF APPLICATION AND CONSTRUCTION, TO PROVIDE FOR RELATION TO THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT AND TO PROVIDE FOR SEVERABILITY.

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

SECTION 1. That Title 55, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 30, Title 55, Idaho Code, and to read as follows:

CHAPTER 30
UNIFORM ENVIRONMENTAL COVENANTS ACT

55-3001. SHORT TITLE. This chapter shall be known and may be cited as the "Uniform Environmental Covenants Act."

55-3002. DEFINITIONS. As used in this chapter:
(1) "Activity and use limitations" means restrictions or obligations created under this chapter with respect to real property.
(2) "Agency" means the Idaho department of environmental quality or any other state or federal agency that determines or approves the environmental response project pursuant to which the environmental covenant is created.
(3) "Common interest community" means a condominium, cooperative, or other real property with respect to which a person, by virtue of the person's ownership of a parcel of real property, is obligated to pay property taxes or insurance premiums, or for maintenance, or improvement of other real property described in a recorded covenant that creates the common interest community.
(4) "Environmental covenant" means a servitude arising under an environmental response project that imposes activity and use limitations.
(5) "Environmental response project" means a plan or work performed for environmental remediation of real property and conducted:
   (a) Under a federal or state program governing environmental remediation of real property;
   (b) Incident to closure of a solid or hazardous waste management unit, if the closure is conducted with approval of an agency; or
   (c) Under an authorized state voluntary cleanup program.
(6) "Holder" means the grantee of an environmental covenant as specified in section 55-3003(1), Idaho Code.
(7) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.
(8) "Record," used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
(9) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
55-3003. NATURE OF RIGHTS -- SUBORDINATION OF INTERESTS. (1) Any person, including a person that owns an interest in the real property, the agency, or a municipality or other unit of local government, may be a holder. An environmental covenant may identify more than one holder. The interest of a holder is an interest in real property.

(2) A right of an agency under this chapter or under an environmental covenant, other than a right as a holder, is not an interest in real property.

(3) An agency is bound by any obligation it assumes in an environmental covenant, but an agency does not assume obligations merely by signing an environmental covenant. Any other person that signs an environmental covenant is bound by the obligations the person assumes in the covenant, but signing the covenant does not change obligations, rights, or protections granted or imposed under law other than this chapter except as provided in the covenant.

(4) The following rules apply to interests in real property in existence at the time an environmental covenant is created or amended:

(a) An interest that has priority under other law is not affected by an environmental covenant unless the person that owns the interest subordinates that interest to the covenant.

(b) This chapter does not require a person that owns a prior interest to subordinate that interest to an environmental covenant or to agree to be bound by the covenant.

(c) A subordination agreement may be contained in an environmental covenant covering real property or in a separate record. If the environmental covenant covers commonly owned property in a common interest community, the record may be signed by any person authorized by the governing board of the owners' association.

(d) An agreement by a person to subordinate a prior interest to an environmental covenant affects the priority of that person's interest but does not by itself impose any affirmative obligation on the person with respect to the environmental covenant.

55-3004. CONTENTS OF ENVIRONMENTAL COVENANT. (1) An environmental covenant must:

(a) State that the instrument is an environmental covenant executed pursuant to this chapter;

(b) Contain a legally sufficient description of the real property subject to the covenant;

(c) Describe the activity and use limitations on the real property;

(d) Identify every holder;

(e) Be signed by the agency, every holder, and unless waived by the agency every owner of the fee simple of the real property subject to the covenant; and

(f) Identify the name and location of any administrative record for the environmental response project reflected in the environmental covenant.

(2) In addition to the information required by subsection (1) of this section, an environmental covenant may contain other information, restrictions, and requirements agreed to by the persons who signed it, including any:

(a) Requirements for notice following transfer of a specified interest in, or concerning proposed changes in use of, applications for building permits for, or proposals for any site work affecting
(c) Rights of access to the property granted in connection with implementation or enforcement of the covenant;
(d) A brief narrative description of the contamination and remedy, including the contaminants of concern, the pathways of exposure, limits on exposure, and the location and extent of the contamination;
(e) Limitation on amendment or termination of the covenant in addition to those contained in sections 55-3009 and 55-3010, Idaho Code; and
(f) Rights of the holder in addition to its right to enforce the covenant pursuant to section 55-3011, Idaho Code.
(3) In addition to other conditions for its approval of an environmental covenant, the agency may require those persons specified by the agency who have interests in the real property to sign the covenant.

55-3005. VALIDITY -- EFFECT ON OTHER INSTRUMENTS. (1) An environmental covenant that complies with this chapter runs with the land.
(2) An environmental covenant that is otherwise effective is valid and enforceable even if:
(a) It is not appurtenant to an interest in real property;
(b) It can be or has been assigned to a person other than the original holder;
(c) It is not of a character that has been recognized traditionally at common law;
(d) It imposes a negative burden;
(e) It imposes an affirmative obligation on a person having an interest in the real property or on the holder;
(f) The benefit or burden does not touch or concern real property;
(g) There is no privity of estate or contract;
(h) The holder dies, ceases to exist, resigns, or is replaced; or
(i) The owner of an interest subject to the environmental covenant and the holder are the same person.
(3) An instrument that creates restrictions or obligations with respect to real property that would qualify as activity and use limitations except for the fact that the instrument was recorded before July 1, 2006, is not invalid or unenforceable because of any of the limitations on enforcement of interests described in subsection (2) of this section or because it was identified as an easement, servitude, deed restriction, or other interest. This chapter does not apply in any other respect to such an instrument.
(4) This chapter does not invalidate or render unenforceable any interest, whether designated as an environmental covenant or other interest, that is otherwise enforceable under the law of this state.

55-3006. RELATIONSHIP TO OTHER LAND USE LAW. This chapter does not authorize a use of real property that is otherwise prohibited by zoning, by law other than this chapter regulating use of real property, or by a recorded instrument that has priority over the environmental covenant. An environmental covenant may prohibit or restrict uses of real property which are authorized by zoning or by law other than this chapter.
55-3007. NOTICE. (1) A copy of an environmental covenant shall be provided by the persons and in the manner required by the agency to:
(a) Each person that signed the covenant;
(b) Each person holding a recorded interest in the real property subject to the covenant;
(c) Each person in possession of the real property subject to the covenant;
(d) Each municipality or other unit of local government in which real property subject to the covenant is located; and
(e) Any other person the agency requires.
(2) The validity of a covenant is not affected by failure to provide a copy of the covenant as required under this section.

55-3008. RECORDING. (1) An environmental covenant and any amendment or termination of the covenant must be recorded in every county in which any portion of the real property subject to the covenant is located. For purposes of indexing, a holder shall be treated as a grantee.
(2) Except as otherwise provided in section 55-3009(3), Idaho Code, an environmental covenant is subject to the laws of this state governing recording and priority of interests in real property.

55-3009. DURATION — AMENDMENT BY COURT ACTION. (1) An environmental covenant is perpetual unless it is:
(a) By its terms limited to a specific duration or terminated by the occurrence of a specific event;
(b) Terminated by consent pursuant to section 55-3010, Idaho Code;
(c) Terminated pursuant to subsection (2) of this section;
(d) Terminated by foreclosure of an interest that has priority over the environmental covenant; or
(e) Terminated or modified in an eminent domain proceeding, but only if:
   (i) The agency that signed the covenant is a party to the proceeding;
   (ii) All persons identified in section 55-3010(1) and (2), Idaho Code, are given notice of the pendency of the proceeding; and
   (iii) The court determines, after hearing, that the termination or modification will not adversely affect human health or the environment.
(2) If the agency that signed an environmental covenant has determined that the intended benefits of the covenant can no longer be realized, a court, under the doctrine of changed circumstances, in an action in which all persons identified in section 55-3010(1) and (2), Idaho Code, have been given notice, may terminate the covenant or reduce its burden on the real property subject to the covenant. The agency's determination or its failure to make a determination upon request is subject to review pursuant to the Idaho administrative procedure act, chapter 52, title 67, Idaho Code.
(3) Except as otherwise provided in subsections (1) and (2) of this section, an environmental covenant may not be extinguished, limited, or impaired through issuance of a tax deed, foreclosure of a tax lien, or application of the doctrine of adverse possession, prescription, abandonment, waiver, lack of enforcement, or acquiescence, or a similar doctrine.
55-3010. AMENDMENT OR TERMINATION BY CONSENT. (1) An environmental covenant may be amended or terminated by consent only if the amendment or termination is signed by:
(a) The agency;
(b) Unless waived by the agency, the current owner of the fee simple of the real property subject to the covenant;
(c) Each person that originally signed the covenant, unless the person waived in a signed record the right to consent or a court finds that the person no longer exists or cannot be located or identified with the exercise of reasonable diligence; and
(d) Except as otherwise provided in subsection (4)(b) of this section, the holder.
(2) If an interest in real property is subject to an environmental covenant, the interest is not affected by an amendment of the covenant unless the current owner of the interest consents to the amendment or has waived in a signed record the right to consent to amendments.
(3) Except for an assignment undertaken pursuant to a governmental reorganization, assignment of an environmental covenant to a new holder is an amendment.
(4) Except as otherwise provided in an environmental covenant:
(a) A holder may not assign its interest without consent of the other parties;
(b) A holder may be removed and replaced by agreement of the other parties specified in subsection (1) of this section; and
(c) A court of competent jurisdiction may fill a vacancy in the position of holder.

55-3011. ENFORCEMENT OF ENVIRONMENTAL COVENANT. (1) A civil action for injunctive or other equitable relief for violation of an environmental covenant may be maintained by:
(a) A party to the covenant;
(b) The agency or, if it is not the agency, the Idaho department of environmental quality;
(c) Any person to whom the covenant expressly grants power to enforce;
(d) A person whose interest in the real property or whose collateral or liability may be affected by the alleged violation of the covenant; or
(e) A municipality or other unit of local government in which the real property subject to the covenant is located.
(2) This chapter does not limit the regulatory authority of the agency or the Idaho department of environmental quality under law other than this chapter with respect to an environmental response project.
(3) A person is not responsible for or subject to liability for environmental remediation solely because it has the right to enforce an environmental covenant.

55-3012. REGISTRY -- SUBSTITUTE NOTICE. (1) The Idaho department of environmental quality shall establish and maintain a registry that contains all environmental covenants and any amendment or termination of those covenants. The registry may also contain any other information concerning environmental covenants and the real property subject to them which the department of environmental quality considers appropriate. The registry is a public record.
(2) After an environmental covenant or an amendment or termination of a covenant is filed in the registry established and maintained pursuant to subsection (1) of this section, a notice of the covenant, amendment, or termination that complies with this section may be recorded in the land records in lieu of recording the entire covenant. Any such notice must contain:

(a) A legally sufficient description and any available street address of the real property subject to the covenant;
(b) The name and address of the owner of the fee simple interest in the real property, the agency, and the holder if other than the agency;
(c) A statement that the covenant, amendment, or termination is available in a registry at the department of environmental quality, which discloses the method of any electronic access; and
(d) A statement that the notice is notification of an environmental covenant executed pursuant to this chapter.

(3) A statement in substantially the following form, executed with the same formalities as a deed in this state, satisfies the requirements of subsection (2) of this section:

1. This notice is filed in the land records of the (political subdivision) of (insert name of jurisdiction in which the real property is located) pursuant to section 55-3012, Idaho Code.
2. This notice and the covenant, amendment or termination to which it refers may impose significant obligations with respect to the property described below.
3. A legal description of the property is attached as Exhibit A to this notice. The address of the property that is subject to the environmental covenant is (insert address of property) (not available).
4. The name and address of the owner of the fee simple interest in the real property on the date of this notice is (insert name of current owner of the property and the owner's current address as shown on the tax records of the jurisdiction in which the property is located).
5. The environmental covenant, amendment or termination was signed by (insert name and address of the agency).
6. The environmental covenant, amendment or termination was filed in the registry on (insert date of filing).
7. The full text of the covenant, amendment or termination and any other information required by the agency is on file and available for inspection and copying in the registry maintained for that purpose by the Idaho department of environmental quality."

55-3013. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

55-3014. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This chapter modifies, limits, or supersedes the federal electronic signatures in global and national commerce act (15 U.S.C. section 7001 et seq.) but does not modify, limit, or supersede section 101 of that act (15 U.S.C. section 7001(a)) or authorize electronic
delivery of any of the notices described in section 103 of that act (15 U.S.C. section 7003(b)).

55-3015. SEVERABILITY. The provisions of this chapter are hereby declared to be severable and if any provision of this chapter or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this chapter.

Approved March 2, 2006.

CHAPTER 16
(H.B. No. 413)

AN ACT
RELATING TO CODIFIER'S CORRECTIONS IN STATUTES; AMENDING SECTION 9-340D, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 16-1629, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING THE HEADING FOR CHAPTER 3, TITLE 20, IDAHO CODE; AMENDING SECTION 33-5203, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 47-1506, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 49-416C, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING THE HEADING FOR CHAPTER 51, TITLE 54, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 143, LAWS OF 2005, TO REDESIGNATE THE CHAPTER; AMENDING SECTION 54-5101, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 143, LAWS OF 2005, TO REDESIGNATE THE SECTION; AMENDING SECTION 54-5102, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 143, LAWS OF 2005, TO REDESIGNATE THE SECTION; AMENDING SECTION 54-5103, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 143, LAWS OF 2005, TO REDESIGNATE THE SECTION; AMENDING SECTION 54-5104, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 143, LAWS OF 2005, TO REDESIGNATE THE SECTION; AMENDING SECTION 54-5105, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 143, LAWS OF 2005, TO REDESIGNATE THE SECTION; AMENDING SECTION 54-5106, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 143, LAWS OF 2005, TO REDESIGNATE THE SECTION; AMENDING SECTION 54-5107, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 143, LAWS OF 2005, TO REDESIGNATE THE SECTION; AMENDING SECTION 54-5108, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 143, LAWS OF 2005, TO REDESIGNATE THE SECTION; AMENDING SECTION 54-5109, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 143, LAWS OF 2005, TO REDESIGNATE THE SECTION; AMENDING SECTION 54-5110, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 143, LAWS OF 2005, TO REDESIGNATE THE SECTION; AMENDING SECTION 54-5111, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 143, LAWS OF 2005, TO REDESIGNATE THE SECTION AND TO PROVIDE CORRECT CODE REFERENCES; AMENDING SECTION 54-5112, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 143, LAWS OF 2005, TO REDESIGNATE THE SECTION; AMENDING SECTION 54-5113, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 143, LAWS OF 2005, TO REDESIGNATE THE SECTION; AMENDING SECTION 54-5114, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 143, LAWS OF 2005, TO REDESIGNATE THE SECTION; AMENDING SECTION 54-5115, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 143, LAWS OF 2005, TO REDESIGNATE THE SECTION; AMENDING SECTION 54-5116, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 143, LAWS OF 2005, TO REDESIGNATE THE SECTION; AMENDING SECTION 54-5117,
IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 143, LAWS OF 2005, TO REDESIGNATE THE SECTION AND TO CORRECT A TYPOGRAPHICAL ERROR; AMENDING SECTION 63-602HH, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 279, LAWS OF 2005, TO REDESIGNATE THE SECTION; AMENDING SECTION 67-2601, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING THE HEADING FOR CHAPTER 56, TITLE 67, IDAHO CODE; AMENDING SECTION 67-7702, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 72-311, IDAHO CODE, TO CORRECT A TYPOGRAPHICAL ERROR AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 9-340D, Idaho Code, be, and the same is hereby amended to read as follows:

9-340D. RECORDS EXEMPT FROM DISCLOSURE -- TRADE SECRETS, PRODUCTION RECORDS, APPRAISALS, BIDS, PROPRIETARY INFORMATION. The following records are exempt from disclosure:

(1) Trade secrets including those contained in response to public agency or independent public body corporate and politic requests for proposal, requests for clarification, requests for information and similar requests. "Trade secrets" as used in this section means information, including a formula, pattern, compilation, program, computer program, device, method, technique, process, or unpublished or in progress research that:
   (a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and
   (b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

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

(3) Records relating to the appraisal of real property, timber or mineral rights prior to its acquisition, sale or lease by a public agency or independent public body corporate and politic.

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

(5) Examination, operating or condition reports and all documents relating thereto, prepared by or supplied to any public agency or independent public body corporate and politic responsible for the regulation or supervision of financial institutions including, but not limited to, banks, savings and loan associations, regulated lenders, business and industrial development corporations, credit unions, and insurance companies, or for the regulation or supervision of the issuance of securities.
(6) Records gathered by a local agency or the Idaho department of commerce, as described in chapter 47, title 67, Idaho Code, for the specific purpose of assisting a person to locate, maintain, invest in, or expand business operations in the state of Idaho.

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

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

(9) Names and addresses of seed companies, seed crop growers, seed crop consignees, locations of seed crop fields, variety name and acreage by variety. Upon the request of the owner of the proprietary variety, this information shall be released to the owner. Provided however, that if a seed crop has been identified as diseased or has been otherwise identified by the Idaho department of agriculture, other state departments of agriculture, or the United States department of agriculture to represent a threat to that particular seed or commercial crop industry or to individual growers, information as to test results, location, acreage involved and disease symptoms of that particular seed crop, for that growing season, shall be available for public inspection and copying. This exemption shall not supersede the provisions of section 22-436, Idaho Code.

(10) Information obtained from books, records and accounts required in chapter 47, title 22, Idaho Code, to be maintained by the Idaho canola and rapeseed commission and pertaining to the individual production records of canola or rapeseed growers.

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

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

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

(14) Voluntarily prepared environmental audits, and voluntary disclosures of information submitted on or before December 31, 1997, to an environmental agency as defined in section 9-803, Idaho Code, which are
claimed to be confidential business information.

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

(a) The original data including, but not limited to, numbers, text, voice, graphics and images;
(b) Analysis, compilation and other manipulated forms of the original data produced by use of the program; or
(c) The mathematical or statistical formulas that would be used if the manipulated forms of the original data were to be produced manually.

(16) Active investigative records and trademark usage audits of the Idaho potato commission specifically relating to the enforcement of chapter 12, title 22, Idaho Code, until the commencement of formal proceedings as provided by rules of the commission; purchase and sales information submitted to the Idaho potato commission during a trademark usage audit, and investigation or enforcement proceedings. Inactive investigatory records shall be disclosed unless the disclosure would violate the standards set forth in subsections (1)(a) through (f) of section 9-335, Idaho Code. Nothing in this subsection shall limit the use which can be made, or availability of such information if used, for regulatory purposes or its admissibility in any enforcement proceeding.

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

(a) Records otherwise deemed to be public records not exempt from disclosure pursuant to this chapter; and
(b) Inspection reports, determinations of compliance or noncompliance and all other records created by the director or his designee pursuant to section 25-3806, Idaho Code.

(18) All data and information collected by the division of animal industries or the state brand board pursuant to the provisions of section 25-2078, Idaho Code, or rules promulgated thereunder.

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

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

(21) Records, data, information and materials collected or utilized during the course of academic research at public institutions of higher education provided by any person or entity other than the public institution of higher education or a public agency.

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

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

(204) Records of a county assessor containing information showing
the income and expenses of a taxpayer, which information was provided to
the assessor by the taxpayer to permit the assessor to determine the
value of property of the taxpayer.

SECTION 2. That Section 16-1629, Idaho Code, be, and the same is
hereby amended to read as follows:

16-1629. POWERS AND DUTIES OF THE DEPARTMENT. The department, work­
ing in conjunction with the court and other public and private agencies
and persons, shall have the primary responsibility to implement the pur­
pose of this chapter. To this end, the department is empowered and shall
have the duty to do all things reasonably necessary to carry out the
purpose of this chapter, including, but not limited to, the following:

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

(2) On December 1, the department shall make an annual statistical
report to the governor covering the preceding fiscal year showing the
number and status of persons in its custody and including such other
data as will provide sufficient facts for sound planning in the conserv­
ation of children and youth. All officials and employees of the state
and of every county and city shall furnish the department upon request,
such information within their knowledge and control as the department
deems necessary. Local agencies shall report in such uniform format as
may be required by the department.

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

(4) The department shall make periodic evaluation of all persons in
its custody or under its supervision for the purpose of determining
whether existing orders and dispositions in individual cases shall be
modified or continued in force. Evaluations may be made as frequently as
the department considers desirable and shall be made with respect to
every person at intervals not exceeding six (6) months. Reports of eval­
uation made pursuant to this section shall be filed with the court which
vested custody of the person with the department. Reports of evaluation
shall be provided to persons having full or partial legal or physical
custody of a child. Failure of the department to evaluate a person or to
reevaluate him within six (6) months of a previous examination shall not of itself entitle the person to a change in disposition but shall entitle him, his parent, guardian or custodian or his counsel to petition the court pursuant to section 16-1622, Idaho Code.

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

(6) The department shall keep written records of investigations, evaluations, prognoses and all orders concerning disposition or treatment of every person over whom it has legal custody. Department records shall be subject to disclosure according to chapter 3, title 9, Idaho Code, unless otherwise ordered by the court, the person consents to the disclosure, or disclosure is necessary for the delivery of services to the person. Notwithstanding the provisions restricting disclosure or the exemptions from disclosure provided in chapter 3, title 9, Idaho Code, all records pertaining to investigations, the rehabilitation of youth, the protection of children, evaluation, treatment and/or disposition records pertaining to the statutory responsibilities of the department shall be disclosed to any duly elected state official carrying out his official functions.

(7) The department shall establish appropriate administrative procedures for the processing of complaints of child neglect, abuse and abandonment received and for the implementation of the protection, treatment and care of children formally or informally placed in the custody of the department under this chapter including, but not limited to:

(7a) Department employees whose job duties are related to the child protective services system under this chapter shall first be trained as to their obligations under this chapter regarding the protection of children whose health and safety may be endangered. The curriculum shall include information regarding their legal duties, how to conduct their work in conformity with the requirements of this chapter, information regarding applicable federal and state laws with regard to the rights of the child, parent and others who may be under investigation under the child protective services system, and the applicable legal and constitutional parameters within which they are to conduct their work.

(7b) Department employees whose job duties are related to the child protective services system shall advise the individual of the complaints or allegations made against the individual at the time of the initial contact, consistent with protecting the identity of the referant.

(8) The department having been granted legal custody of a child, subject to the judicial review provisions of this subsection, shall have the right to determine where and with whom the child shall live, provided that the child shall not be placed outside the state without the court's consent. Provided however, that the court shall retain jurisdiction over the child, which jurisdiction shall be entered on any order or petition granting legal custody to the department, and the court shall have jurisdiction over all matters relating to the child. The department shall not place the child in the home from which the court ordered the child removed without first obtaining the approval of the court.

(9) The department shall give to the court any information concerning the child that the court may at any time require, but in any event shall report the progress of the child under its custody at intervals of
not to exceed six (6) months. The department shall file with the court at least five (5) days prior to the permanency hearing under section 16-1622, Idaho Code, the permanency plan and recommendations of the department. There shall be a rebuttable presumption that if a child is placed in the custody of the department and was also placed in out of the home care for a period not less than fifteen (15) out of the last twenty-two (22) months from the date the child entered shelter care, the department shall initiate a petition for termination of parental rights. This presumption may be rebutted by a finding of the court that the filing of a petition for termination of parental rights would not be in the best interests of the child or reasonable efforts have not been provided to reunite the child with his family, or the child is placed permanently with a relative.

(10) The department shall establish appropriate administrative procedures for the conduct of administrative reviews and hearings as required by federal statute for all children committed to the department and placed in out of the home care.

(11) At any time the department is considering a placement pursuant to this act, the department shall make a reasonable effort to place the child in the least disruptive environment to the child and in so doing may consider, without limitation, placement of the child with related persons.

SECTION 3. That the Heading for Chapter 3, Title 20, Idaho Code, be, and the same is hereby amended to read as follows:

CHAPTER 3
OUT-OF-STATE-PAROLEE-SUPERVISION-ACT
INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION

SECTION 4. That Section 33-5203, Idaho Code, be, and the same is hereby amended to read as follows:

33-5203. AUTHORIZATION -- LIMITATIONS. (1) The creation of public charter schools is hereby authorized. Public charter schools shall be part of the state's program of public education.

(2) The number of new public charter schools which may begin educational instruction in any one (1) school year shall be limited in number in accordance with the following:

(a) Not more than six (6) new public charter schools may begin educational instruction in any one (1) school year, and

(b) Not more than one (1) new public charter school may begin educational instruction that is physically located within any one (1) school district in any one (1) school year, and

(c) No whole school district may be converted to a charter district or any configuration which includes all schools as public charter schools, and

(d) Public virtual charter schools approved by the public charter school commission are not included in paragraph (b) of this subsection, and

(e) The transfer of a charter for a school already authorized pursuant to section 33-5205A, Idaho Code, is not included in the limit on the annual number of public charter schools approved to begin educational instruction in any given school year as set forth in
paragraph (a) of this subsection, and
(f) A petition must be received by the initial authorized chartering entity no later than September 1 to be eligible to begin instruction the first complete school year following receipt of the petition, and
(dg) To begin operations, a newly-chartered public school must be authorized by no later than January 1 of the previous school year.
(3) A public charter school may be formed either by creating a new public charter school, which charter may be approved by any authorized chartering entity, or by converting an existing traditional public school to a public charter school, which charter may only be approved by the board of trustees of the school district in which the existing public school is located.
(4) No charter shall be approved under this chapter:
(a) Which provides for the conversion of any existing private or parochial school to a public charter school.
(b) To a for-profit entity or any school which is operated by a for-profit entity, provided however, nothing herein shall prevent the board of directors of a public charter school from legally contracting with for-profit entities for the provision of products or services that aid in the operation of the school.
(c) By the board of trustees of a school district if the public charter school's physical location is outside the boundaries of the authorizing school district. The limitation provided in this subsection (4)(c) does not apply to a home-based public virtual school.
(5) A public virtual school charter may be approved by the public charter school commission. In addition, a charter may also be approved by the state board of education pursuant to section 33-5207(5)(b), Idaho Code.
(6) The state board of education shall adopt rules, subject to law, to establish a consistent application and review process for the approval and maintenance of all public charter schools.
(7) The state board of education shall be responsible to designate those public charter schools that will be identified as a local education agency (LEA) as such term is defined in 34 CFR 300.18; however, only public charter schools chartered by the board of trustees of a school district may be included in that district's LEA.

SECTION 5. That Section 47-1506, Idaho Code, be, and the same is hereby amended to read as follows:

47-1506. OPERATOR -- DUTIES PRIOR TO OPERATION -- SUBMISSION OF MAPS AND PLANS. (a) Any operator desiring to conduct surface mining operations within the state of Idaho for the purpose of immediate or ultimate sale of the minerals in either the natural or processed state, shall submit to the board prior to commencing such surface mining operations a reclamation plan that contains the following:
(1) A map of the mine panel on which said operator desires to conduct surface mining operations, which sets forth with respect to said panel the following:
(i) The location of existing roads and anticipated access and main haulage roads planned to be constructed in conducting the surface mining operations.
(ii) The approximate boundaries of the lands to be utilized
in the process of surface mining operations.
(iii) The approximate location and, if known, the names of all streams, creeks, or bodies of water within the area where surface mining operations shall take place.
(iv) The name and address of the person to whom notices, orders, and other information required to be given to the operator pursuant to this chapter may be sent.
(v) The drainage adjacent to the area where the surface is being utilized by surface mining operations.
(vi) The approximate boundaries of the lands that will become affected lands as a result of surface mining operations during the year immediately following the date that a reclamation plan is approved as to said panel, together with the number of acres included within said boundaries.
(vii) A description of foreseeable, site-specific nonpoint sources of water quality impacts upon adjacent surface waters, and the best management practices that will be used to control such nonpoint source impacts.
(viii) A description of foreseeable, site-specific impacts from acid rock drainage and the best management practices that will be used to mitigate the impacts, if any, from such acid rock drainage.

(2) Diagrams showing the planned location of pits, mineral stockpiles, overburden piles and tailings ponds on said panel.
(3) A description of the action which said operator intends to take to comply with the provisions of this chapter as to the surface mining operations conducted on such mine panel.
(b) Any operator who is not required to submit an operating plan for a surface mining operation to an entity of the federal government shall submit to the board, as part of the reclamation plan, an operating plan with regards to that surface mining operation. The operating plan shall include:
(1) Maps showing the location of existing roads and anticipated access and main haulage roads planned to be constructed for surface mining operations.
(2) The boundaries and acreage of the lands to be utilized in the process of surface mining operations.
(3) Maps showing the planned location of pits, mineral stockpiles, overburden piles and tailings ponds for the surface mining operations.
(4) The location and, if known, the names of all streams, creeks, or bodies of water within the area where surface mining operations shall take place.
(5) The drainage adjacent to the area where the surface is being utilized by surface mining operations.
(6) The approximate boundaries and acreage of the lands that will become affected during the first year of construction of surface mining operations.
(7) The board shall promulgate rules or guidelines to allow the content of a nonfederal operating plan to be determined based upon the type and size of the surface mining operation.
(c) No operator who is required to submit an operating plan for a surface mining operation to an entity of the federal government shall be required to submit an operating plan to the board. This provision shall
apply to all lands, regardless of surface or mineral ownership, covered
by the operating plan submitted to the entity of the federal government.

(d) No operator shall commence surface mining operations on any
mine panel without first having a reclamation plan approved by the state
board of land commissioners.

(e) Any operator desiring to conduct exploration operations within
the state of Idaho using motorized earth-moving equipment in order to
locate minerals for immediate or ultimate sale in either the natural or
the processed state shall notify the board by certified mail as soon
after beginning exploration operations as possible and in any event
within seven (7) days after beginning exploration operations. The letter
shall include the following:

(1) The name and address of the operator;
(2) The location of the operation and the starting date and esti­
mated completion date;
(3) The anticipated size of the operation, and the general method
of operation.
The letter shall be subject to disclosure according to chapter 3, title
9, Idaho Code.

(f) Any operator desiring to operate a cyanidation facility within
the state of Idaho shall submit to the board prior to the operation of
such a facility a permanent closure plan that contains the following:

(1) The name and address of the operator;
(2) The location of the operation;
(3) The objectives, methods and procedures the operator will use to
attain permanent closure;
(4) An estimate of the cost of attaining permanent closure as well
as an estimate of the costs to achieve critical phases of the clo­
sure plan;
(5) Any other information specified in the rules adopted to carry
out the intent and purposes of this chapter.

(g) The board may require a reasonable fee for reviewing and
approving a permanent closure plan. The fee may include the reasonable
cost to employ a qualified independent party, acceptable to the operator
and the board, to verify the accuracy of the cost estimate required in
subsection (f)(34) of this section.

(h) The board shall coordinate its review of activities in the per­
manent closure plan under the statutory responsibility of the department
of environmental quality with that department, but that coordination
shall not extend the time limit in which the board must act on a plan
submitted.

(i) No operator shall commence operation of a cyanidation facility
without first having a permanent closure plan approved by the board.

SECTION 6. That Section 49-416C, Idaho Code, be, and the same is
hereby amended to read as follows:

49-416C. SCIENCE AND TECHNOLOGY PLATES. (1) Any person who is the
owner of a vehicle registered under the provisions of section 49-402 or
49-4316(1), Idaho Code, or registered under any other section of law for
which the purchase of special plates is allowed, may apply for and, upon
department approval, receive special science and technology license
plates in lieu of regular license plates. The provisions of this section
shall not apply to any vehicle with a registered maximum gross weight
over twenty-six thousand (26,000) pounds. Availability of science and technology license plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars ($35.00) for the initial issuance of plates, and twenty-five dollars ($25.00) upon each succeeding annual registration. Ten dollars ($10.00) of the initial fee and ten dollars ($10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-five dollars ($25.00) of each initial fee and fifteen dollars ($15.00) of each renewal fee shall be transferred by the state treasurer for deposit to the office of science and technology fund created in section 67-4725, Idaho Code, and shall be used by the science technology division of the department of commerce for attracting science and technology companies to locate or to expand their operations in Idaho.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(4) The science and technology license plate shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. The design and any slogan on the plate shall be acceptable to the director of the department of commerce and labor and shall be approved by the Idaho transportation department utilizing a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the department of commerce and labor.

(5) Sample science and technology license plates may be purchased for a fee of thirty dollars ($30.00), ten dollars ($10.00) of which shall be deposited in the state highway account and twenty dollars ($20.00) of which shall be transferred to the office of science and technology fund, and shall be used by the office for attracting science and technology companies to locate or to expand their operations in Idaho.

SECTION 7. That the Heading for Chapter 51, Title 54, Idaho Code, as added by Section 1, Chapter 143, Laws of 2005, be, and the same is hereby amended to read as follows:

CHAPTER 543
IDAHO LIQUEFIED PETROLEUM GAS PUBLIC SAFETY ACT

SECTION 8. That Section 54-5101, Idaho Code, as added by Section 1, Chapter 143, Laws of 2005, be, and the same is hereby amended to read as follows:

54-5101. SHORT TITLE. This chapter shall be known and may be cited as the "Idaho Liquefied Petroleum Gas Public Safety Act."

SECTION 9. That Section 54-5102, Idaho Code, as added by Section 1, Chapter 143, Laws of 2005, be, and the same is hereby amended to read as follows:
54-51025302. DECLARATION OF POLICY. (1) In order to protect the public health, safety and welfare, every person practicing or offering to practice as a liquefied petroleum gas dealer as herein defined shall submit evidence of meeting such education, experience and examination qualifications as hereinafter provided and be licensed in accordance with the provisions of this chapter.

(2) In order to protect the public health, safety and welfare, it shall be unlawful to own or operate any facility engaged in liquefied petroleum gas facility operation unless such facility is licensed in accordance with the provisions of this chapter.

(3) Every person so licensed and every facility so licensed shall maintain prescribed standards of competence, conduct and operation, and shall annually renew said license in order to continue such practice or operation. This chapter shall be liberally construed to promote the public interest and to accomplish the purpose stated herein.

SECTION 10. That Section 54-5103, Idaho Code, as added by Section 1, Chapter 143, Laws of 2005, be, and the same is hereby amended to read as follows:

54-51025303. DEFINITIONS. (1) "Board" means the liquefied petroleum gas safety board.

(2) "Bureau" means the bureau of occupational licenses.

(3) "Department" means the department of self-governing agencies.

(4) "Good moral character" means the absence of any behavior that violates accepted standards of the community including, but not limited to:

(a) Conviction or plea of guilty to a felony or other crime involving moral turpitude;

(b) Habitual use of drugs or intoxicants to such a degree as to render a person unfit and unreliable to practice;

(c) Revocation or suspension or other restriction of any license or certificate in any state in the previous five (5) years; and

(d) Failure to pay final judgments in any state in the previous seven (7) years.

(5) "License" means a physical document issued by the bureau certifying that a person or facility has met the appropriate qualifications and has been granted the authority to practice or operate in Idaho under the provisions of this chapter.

(6) "Liquefied petroleum gas" or "LPG" or "LP-Gas" means any material that is composed predominantly of or by the mixture of any of the following hydrocarbons: propane, propylene, butanes, isobutanes and butylenes.

(7) "LPG facility" means any facility at a fixed location licensed pursuant to this chapter whose activities include selling, filling, refilling, or commercial handling or commercial storage of LPG.

(8) "LPG dealer" means any person licensed pursuant to this chapter who engages in LPG dealer practice.

(9) "LPG dealer practice" means a person engaging in the selling, filling, refilling, transporting, delivering, or commercial handling of LPG, or engaging in the installation or maintenance of systems, equipment, pipes or containers for the use or storage of LPG.
"LPG code" means the liquefied petroleum gas code adopted by the national fire protection association, inc., commonly known as NFPA 58.

SECTION 11. That Section 54-5104, Idaho Code, as added by Section 1, Chapter 143, Laws of 2005, be, and the same is hereby amended to read as follows:

54-51045304. LICENSE REQUIRED -- BUSINESS ENTITIES NAME AND ADDRESS CHANGE. (1) It shall be unlawful for any person to practice or to offer to engage in any practice governed by this chapter, or display a sign or in any other way advertise or represent oneself as a person who engages in such practices, unless duly licensed in accordance with this chapter. The license shall be posted in the person's established place of business or carried upon the person, and shall be presented upon demand as proof of licensing.

(2) A person, corporation, partnership, trust, association or other legal entity may maintain an established facility for engaging in an operation governed by this chapter, provided that such facility is properly licensed pursuant to this chapter. No person, corporation, partnership, trust, association or other legal entity may operate or conduct business under an assumed business name unless such operation or business is registered in accordance with the rules of the board.

(3) All holders of individual or facility licenses shall notify the board in writing of any change of address of office or established place of business within thirty (30) days of such change.

(4) All holders of individual or facility licenses shall report to the board and provide official documentation of any name change within thirty (30) days after the change becomes final.

SECTION 12. That Section 54-5105, Idaho Code, as added by Section 1, Chapter 143, Laws of 2005, be, and the same is hereby amended to read as follows:

54-51055305. EXEMPTIONS. (1) The provisions of this chapter shall not apply to persons or entities engaging in the activities of selling, filling, refilling, transporting, delivering, or the commercial handling of natural gas or petroleum distillates, or persons engaging in the installation or maintenance of equipment used in the selling or handling or use of natural gas or petroleum distillates.

(2) The provisions of this chapter shall not apply to persons engaged in the dispensing of LPG into portable containers.

(3) The provisions of this chapter shall not apply to facilities engaged in the sale or exchange of portable containers possessing LPG.

SECTION 13. That Section 54-5106, Idaho Code, as added by Section 1, Chapter 143, Laws of 2005, be, and the same is hereby amended to read as follows:

54-51065306. LICENSING OF APPLICANTS -- ENDORSEMENT. (1) The board shall issue a license to each applicant who submits the required information on an application form provided by the board together with the supporting documentation and the required fees, and who demonstrates to the satisfaction of the board that the applicant meets the education,
experience, and examination requirements, or the facility requirements, of this chapter and the rules adopted thereto.

(2) Whenever the board determines that another state or country has licensing requirements substantially equivalent to or higher than those in effect pursuant to this chapter, the board may, upon receipt of the required application, supporting documentation, and required fee, issue licenses to applicants who hold current, unsuspended, unrevoked or otherwise nonsanctioned licenses in such other state or country. The board, in its discretion, may require by rule that applicants who received their professional education or experience outside of the United States provide additional information to the board concerning such professional education or experience. The board may also, in its discretion, require successful completion of additional course work or examination.

SECTION 14. That Section 54-5107, Idaho Code, as added by Section 1, Chapter 143, Laws of 2005, be, and the same is hereby amended to read as follows:

54-5107. QUALIFICATIONS FOR A DEALER'S LICENSE. Except as herein otherwise provided, the following shall be considered minimum requirements for a dealer's license. All applicants shall:

(1) Provide verification acceptable to the board of:
   (a) Being at least eighteen (18) years of age; and
   (b) Good moral character; and
   (c) Never having had a license revoked or otherwise sanctioned as part of disciplinary action from this or any other state; and
   (d) Never having been convicted, found guilty, or received a withheld judgment for any felony; and
   (e) Never having been found by the board to have engaged in conduct prohibited by this chapter.

The board may take into consideration the rehabilitation of the applicant and other mitigating circumstances when considering applications for a license.

(2) Provide documentation satisfactory to the board that the applicant has successfully completed a certified educational training program approved by the board.

(3) Provide documentation satisfactory to the board that the applicant has successfully completed such experience as may be required by the board.

(4) Provide documentation that the applicant has successfully passed an examination approved by the board.

(5) Prior to July 1, 2006, the board may deem other education, experience, or examinations equivalent to the licensing requirements set forth in this chapter, provided that the board is satisfied, and the applicant provides documentation acceptable to the board that such applicant has:
   (a) Documented experience in this state prior to July 1, 2005, in the LPG industry; and
   (b) Practiced for not less than five (5) years in the field for which such applicant is applying for a license; and
   (c) Applied for a license prior to July 1, 2006.
SECTION 15. That Section 54-5108, Idaho Code, as added by Section 1, Chapter 143, Laws of 2005, be, and the same is hereby amended to read as follows:

54-5108. FACILITY LICENSE -- EQUIPMENT -- INSPECTIONS. (1) The board shall issue a facility license to any person, corporation, partnership, trust, association or other legal entity to operate at specific locations only. No facility license shall be transferable, but an applicant may make application for more than one (1) facility license so long as all of the requirements are met for each license individually. Except as herein otherwise provided, the following shall be considered minimum requirements for a facility license:

(a) That the applicant is lawfully entitled to do business within the United States;
(b) That the applicant has not been refused a license for a facility, or its equivalent, or had a personal or facility license revoked in Idaho or in any other state;
(c) That the applicant has designated the name under which the facility will operate and has designated a specific location for which the facility license is to be issued;
(d) That the applicant has at least one (1) dealer licensed under this chapter who is a resident of the state of Idaho and who is, and will be, responsible for the operation of the facility;
(e) That the applicant has filed an application and paid the required filing fee;
(f) That the applicant's facility meets the requirements of the LPG code, except as designated by the board by rule;
(g) All applications for facility licenses are in writing and contain the name of the applicant, the address and location of the facility and a description of the type of structure and equipment to be used in the operation of the facility, and such further information as may be required by the board to ensure the safe operation of the facility, and its compliance with the requirements of this chapter;
(h) The person responsible for the operation of a facility maintains such records documenting the storage, transportation, dispensation and utilization of LPG as may be required by the laws of the state of Idaho and the rules adopted by the board; and
(i) In the event a licensed facility ceases to have a licensed dealer in its employ responsible for operation of the facility, all operation involving practices regulated under this chapter shall cease and written notification of such fact shall be submitted immediately to the board. In the event a licensed facility fails to have a licensed dealer in its employ responsible for the facility within thirty (30) days of said notice, the facility license shall be summarily suspended until a licensed dealer is so employed.

(2) The board may adopt rules setting forth minimum general standards covering the design, construction, location, installation and operation of systems, equipment, pipes and containers for storing, handling, transporting by tank truck or tank trailer, and using liquefied petroleum gases and specifying the odorization of the gases and the degree thereof.

(3) The board shall adopt inspection rules regarding LPG facilities.
SECTION 16. That Section 54-5109, Idaho Code, as added by Section 1, Chapter 143, Laws of 2005, be, and the same is hereby amended to read as follows:

54-5109. IDAHO LIQUEFIED PETROLEUM GAS SAFETY BOARD. (1) There is hereby established in the department of self-governing agencies the Idaho liquefied petroleum gas safety board and the members thereof shall be appointed by the governor. In making appointments, the governor shall give consideration to recommendations submitted by the Rocky Mountain Propane Association and other such nominations as may be received. If recommendations are not made within sixty (60) days of notification and request, the governor may make appointments of any qualified individual.

(2) The board shall consist of five (5) members, two (2) of whom shall be licensed dealers pursuant to the provisions of this chapter; and one (1) of whom shall be a volunteer fireman in a rural area of the state; and one (1) of whom shall be a fireman employed by a city fire department in the state; and one (1) of whom shall be a representative of the general public not employed or otherwise connected with the practices or operations regulated pursuant to this chapter.

(3) The members of the first board shall serve for the following terms: one (1) dealer member shall serve for one (1) year; one (1) fireman member shall serve for two (2) years; one (1) dealer member shall serve for three (3) years; and one (1) fireman member and the public member shall each serve for four (4) years. Each member shall serve from the effective date of appointment or until a successor is duly appointed and qualified. Upon the expiration of the term of any member of the board, the governor shall appoint the subsequent member for a term of four (4) years. No member shall be appointed for more than two (2) successive terms.

(4) The governor may remove any member of the board for misconduct, incompetence, neglect of duty, or for any other cause.

(5) Three (3) members of the board shall constitute a quorum, and may exercise all the power and authority conferred on the board.

(6) Within thirty (30) days of the appointment of the first board and annually thereafter, the members shall meet and elect from among the members by majority vote of those present a chairman who shall serve for one (1) year.

(7) The board shall meet thereafter no less than annually at such times and at such places as may be specified by the chairman or by the written request of at least two (2) members.

(8) Each member of the board shall be compensated as provided in section 59-509(h), Idaho Code.

SECTION 17. That Section 54-5110, Idaho Code, as added by Section 1, Chapter 143, Laws of 2005, be, and the same is hereby amended to read as follows:

54-5110. POWERS AND DUTIES OF THE BOARD. The powers and duties of the board are as follows, to:

(1) Authorize all disbursements necessary to carry out the provisions of this chapter;

(2) Approve and administer qualifying examinations to test the knowledge and competence of applicants for a license;
(3) Supervise the approval and issuance of licenses as provided in this chapter, and to license persons who apply to the board and who are qualified pursuant to this chapter;

(4) Renew licenses to persons who apply to the board and who are qualified pursuant to this chapter;

(5) Accept complaints and conduct investigations concerning alleged violations of the provisions of this chapter;

(6) Require and conduct inspections of facilities licensed pursuant to this chapter;

(7) Conduct disciplinary proceedings and take such action as may be appropriate for any violation of this chapter;

(8) Authorize, by written agreement, the bureau of occupational licenses as agent to act in its interest;

(9) Impose reasonable costs, investigative expenses and attorney's fees incurred in enforcing the provisions of this chapter upon a licensee found to have violated one (1) or more provisions of this chapter;

(10) Enforce all provisions of this chapter and board rules including, but not limited to, issuing subpoenas, and obtaining restraining orders and injunctions prohibiting conduct in violation of the provisions of this chapter; and

(11) Make and publish rules not inconsistent with the laws of this state which are necessary to carry out the provisions of this chapter. The rules relating to safety in the storage, distribution, dispensing, transporting and utilization of LPG in this state and in the manufacture, fabrication, assembly, sale, installation and use of LPG systems, piping, containers, apparatus or appliances shall be just and reasonable and shall conform, except as established by board rule, to the standards of the LPG code relating to the design, construction, installation and use of systems, piping, containers, apparatus, appliances and pertinent equipment for the storage, transportation, dispensation and utilization of LPG.

SECTION 18. That Section 54-5111, Idaho Code, as added by Section 1, Chapter 143, Laws of 2005, be, and the same is hereby amended to read as follows:

54-5111. DENIAL OR ISSUANCE OF LICENSES. (1) The board shall approve or disapprove all applications, and in the event an application is disapproved, the board shall promptly return to the applicant the license fee. Within fifteen (15) days after the denial of a license, the board shall notify the applicant of the denial and specify the reasons for the denial.

(2) If the applicant is qualified for licensing pursuant to the provisions of this chapter, the board shall approve the application and issue a license for the appropriate classification according to section 54-5125312, Idaho Code.

(3) If the application for a facility license is complete and meets the provisions of this chapter, and the applicant attests that the equipment used at the facility complies with the minimum safety standards established by the board, the board shall approve the application and issue a license for the appropriate classification according to section 54-5125312, Idaho Code.
SECTION 19. That Section 54-5112, Idaho Code, as added by Section 1, Chapter 143, Laws of 2005, be, and the same is hereby amended to read as follows:

54-5112. CLASSIFICATIONS OF LICENSES. For the purpose of administering the provisions of this chapter, the board may issue licenses in such types and classifications as may be necessary and as determined by board rule. Such license types may include, but not be limited to:

1. An LPG dealer;
2. An LPG facility;
3. Any other licenses for persons, businesses or facilities engaged in activities regulated under this chapter that the board determines require a license and are not otherwise exempt under the provisions of this chapter.

SECTION 20. That Section 54-5113, Idaho Code, as added by Section 1, Chapter 143, Laws of 2005, be, and the same is hereby amended to read as follows:

54-5113. LICENSES -- RECORDS -- FEES -- PAYMENT OF COSTS AND EXPENSES. (1) The bureau of occupational licenses shall, upon the approval of the board and subject to the provisions of this chapter, register and issue licenses to persons who have been approved by the board in accordance with this chapter. The licenses shall bear on their face the seal of the state and the signature of the chief of the bureau of occupational licenses, and shall be effective until the next birthday of the person being licensed. Licenses so issued shall be renewed annually in accordance with section 67-2614, Idaho Code. The provisions of sections 67-2609 through 67-2614, Idaho Code, shall apply to licenses issued pursuant to this chapter.

2. The board shall keep and the bureau shall maintain a record of board proceedings and a register of all applications that show:
   a. The name, age, social security number and residency of each applicant;
   b. The date of application;
   c. The place of business of such applicant;
   d. The educational and other qualifications of each applicant;
   e. Whether or not an examination was required;
   f. Whether the applicant was denied;
   g. Whether a license was issued;
   h. The dates of the action by the board;
   i. Compliance with continuing education requirements; and
   j. Such other information as may be deemed necessary by the board.
3. The bureau of occupational licenses shall collect a fee not to exceed two hundred dollars ($200) for each application, each original license, and each annual renewal of any license issued pursuant to this chapter, and shall deposit all fees in the state treasury in accordance with section 67-2605, Idaho Code. The actual fees shall be set by board rule. The bureau shall also collect a fee equal to that charged by the examination provider when an examination is required as a condition of licensing. Fees paid under the provisions of this chapter shall not be refunded unless otherwise specified herein.
4. All fees received under the provisions of this chapter shall be paid to the bureau of occupational licenses and deposited in the state.
treasury to the credit of the occupational licenses fund and all costs and expenses incurred under the provisions of this chapter shall be charged against and paid from said fund.

SECTION 21. That Section 54-5114, Idaho Code, as added by Section 1, Chapter 143, Laws of 2005, be, and the same is hereby amended to read as follows:

54-5114. LICENSES NONTRANSFERABLE -- NOTICE OF CHANGE -- LICENSE FEES NOT REFUNDED. (1) Any license issued under the provisions of this chapter shall not be transferable to any other person, firm, association, partnership, corporation or legal entity, and shall be valid only for the particular premises and particular persons described thereon.

(2) Whenever there is any transfer or change in the ownership of a facility, or whenever there is any change of name or address, such change shall be reported to the board within thirty (30) days together with such documentation as may be required.

SECTION 22. That Section 54-5115, Idaho Code, as added by Section 1, Chapter 143, Laws of 2005, be, and the same is hereby amended to read as follows:

54-5115. REVOCATION OR SUSPENSION OF LICENSE -- PROCEDURES FOR DISCIPLINARY PROCEEDINGS. (1) The board shall have the power to refuse to issue a license, or revoke, suspend, refuse to renew, or otherwise sanction any license issued pursuant to the provisions of this chapter for any of the following:

(a) Procuring a license or registration by knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for a license or through any form of fraud or misrepresentation;

(b) Being convicted of a felony;

(c) Misrepresentation or fraudulent representation in the performance of any duty, conduct or activity regulated under this chapter;

(d) Violating the provisions of this chapter or any rules of the board or any code of conduct or ethical standards adopted by the board;

(e) Being incompetent;

(f) Failing to provide appropriate and personal supervision, if acting as the designated supervisor, to any person gaining experience under the provisions of this chapter.

(2) The board shall have the power to administer oaths, take depositions of witnesses within or without the state in the manner provided by law in civil cases, and shall have power throughout the state of Idaho to require the attendance of such witnesses and the production of such books, records and papers as it may desire, relevant to any hearing before it of any matter which it has authority to investigate, and for that purpose the board may issue a subpoena for any witness or a subpoena duces tecum to compel the production of books, records or papers, directed to the sheriff of any county of the state of Idaho where such witness resides or may be found, which shall be served and returned in the same manner as a subpoena in a criminal case.
(3) The procedures for disciplinary proceedings shall be in compliance with the Idaho administrative procedure act and the rules of the office of the attorney general and the bureau of occupational licenses.

SECTION 23. That Section 54-5116, Idaho Code, as added by Section 1, Chapter 143, Laws of 2005, be, and the same is hereby amended to read as follows:

54-51165316. VIOLATIONS AND PENALTIES. Any person who shall practice or offer to practice as an LPG dealer or any person who shall operate or attempt to operate an LPG facility as defined in this chapter, without first having a valid and current and unsuspended license issued under the provisions of this chapter, shall be guilty of a misdemeanor and, for each violation, shall be subject to punishment by a fine of not more than one thousand dollars ($1,000) or by imprisonment for a period of not more than six (6) months, or both.

SECTION 24. That Section 54-5117, Idaho Code, as added by Section 1, Chapter 143, Laws of 2005, be, and the same is hereby amended to read as follows:

54-51175317. DUTY OF PROSECUTING ATTORNEY -- DUTY OF ATTORNEY GENERAL. It shall be the duty of the prosecuting attorney or of each county to prosecute all violations of this chapter constituting a violation of criminal law and it shall be the duty of the attorney general of the state of Idaho to prosecute any administrative actions brought under the provisions of this chapter as requested by the board.

SECTION 25. That Section 63-602HH, Idaho Code, as added by Section 1, Chapter 279, Laws of 2005, be, and the same is hereby amended to read as follows:

63-602HHII. PROPERTY EXEMPT FROM TAXATION -- UNUSED INFRASTRUCTURE. (1) It is the intent of this section to preserve infrastructure and encourage economic development in the limited circumstances when a business or other commercial entity ceases to operate on property within a county.

(2) Following notice as prescribed in section 31-710, Idaho Code, and public hearings, the board of county commissioners of any county shall have the authority to exempt from taxation the unused infrastructure of a business, provided that the business states that such infrastructure is nonoperational under penalty of perjury.

(3) The exemption shall be for a period of up to five (5) years, provided that the board of county commissioners may vote to extend the exemption for a period not exceeding five (5) additional years.

(4) The board of county commissioners shall publish in its minutes any decision to grant or deny the exemption provided in this section and shall notify the county assessor and state tax commission of any exemption and the duration of such exemption. It shall be the responsibility of the assessor to return the property valuation of the unused infrastructure to the tax rolls upon the expiration of the exemption.

(5) The exemption provided in this section shall not be granted for any portion of an operating public utility.
(6) As used in this section, "unused infrastructure" means installed utilities including, but not limited to, rail, water, natural gas and electrical lines.

SECTION 26. That Section 67-2601, Idaho Code, be, and the same is hereby amended to read as follows:

67-2601. DEPARTMENT CREATED -- ORGANIZATION -- DIRECTOR -- BUREAU OF OCCUPATIONAL LICENSES CREATED. (1) There is hereby created the department of self-governing agencies. The department shall, for the purposes of section 20, article IV of the constitution of the state of Idaho, be an executive department of the state government.

(2) The department shall consist of the following:

(a) Agricultural commodity commissions: Idaho apple commission, as provided by chapter 36, title 22, Idaho Code; Idaho bean commission, as provided by chapter 29, title 22, Idaho Code; Idaho beef council, as provided by chapter 29, title 25, Idaho Code; Idaho cherry commission, as provided by chapter 37, title 22, Idaho Code; Idaho dairy products commission, as provided by chapter 31, title 25, Idaho Code; Idaho potato commission, as provided by chapter 12, title 22, Idaho Code; Idaho prune commission, as provided by chapter 30, title 22, Idaho Code; the Idaho wheat commission, as provided by chapter 33, title 22, Idaho Code; and the Idaho aquaculture commission, as provided by chapter 44, title 22, Idaho Code.

(b) Professional and occupational licensing boards: Idaho state board of certified public accountancy, as provided by chapter 2, title 54, Idaho Code; board of acupuncture, as provided by chapter 47, title 54, Idaho Code; board of architectural examiners, as provided by chapter 3, title 54, Idaho Code; office of the state athletic director, as provided by chapter 4, title 54, Idaho Code; board of barber examiners, as provided by chapter 5, title 54, Idaho Code; board of commissioners of the Idaho state bar, as provided by chapter 4, title 3, Idaho Code; board of chiropractic physicians, as provided by chapter 7, title 54, Idaho Code; Idaho board of cosmetology, as provided by chapter 8, title 54, Idaho Code; Idaho counselor licensing board, as provided by chapter 34, title 54, Idaho Code; state board of dentistry, as provided by chapter 9, title 54, Idaho Code; state board of denturistry, as provided by chapter 33, title 54, Idaho Code; state board of engineering examiners, as provided by chapter 12, title 54, Idaho Code; state board for registration of professional geologists, as provided by chapter 28, title 54, Idaho Code; speech and hearing services licensure board, as provided by chapter 29, title 54, Idaho Code; Idaho state board of landscape architects, as provided by chapter 30, title 54, Idaho Code; liquefied petroleum gas safety board, as provided by chapter 53, title 54, Idaho Code; state board of medicine, as provided by chapter 18, title 54, Idaho Code, and its associated physical therapist advisory board, as provided by chapter 22, title 54, Idaho Code; state board of morticians, as provided by chapter 11, title 54, Idaho Code; board of naturopathic medical examiners, as provided by chapter 51, title 54, Idaho Code; board of nurses, as provided by chapter 14, title 54, Idaho Code; board of examiners of nursing home
administrators, as provided by chapter 16, title 54, Idaho Code; state board of optometry, as provided by chapter 15, title 54, Idaho Code; Idaho outfitters and guides board, as provided by chapter 21, title 36, Idaho Code; board of pharmacy, as provided by chapter 17, title 54, Idaho Code; state board of podiatry, as provided by chapter 6, title 54, Idaho Code; Idaho state board of psychologist examiners, as provided by chapter 23, title 54, Idaho Code; Idaho real estate commission, as provided by chapter 20, title 54, Idaho Code; real estate appraiser board, as provided by chapter 41, title 54, Idaho Code; board of social work examiners, as provided by chapter 32, title 54, Idaho Code; the board of veterinary medicine, as provided by chapter 21, title 54, Idaho Code; the board of examiners of residential care facility administrators, as provided by chapter 42, title 54, Idaho Code; and the board of drinking water and wastewater professionals, as provided by chapter 24, title 54, Idaho Code.

(c) The board of examiners, pursuant to section 67-2001, Idaho Code.

(d) The division of building safety, to be headed by a division administrator and comprised of five (5) bureaus: plumbing, electrical, buildings, public works contractor licensing, and logging and industrial safety. The division administrator and bureau chiefs shall be nonclassified employees exempt from the provisions of chapter 53, title 67, Idaho Code. The administrator of the division shall administer the provisions of chapter 40, title 39, Idaho Code, relating to manufactured homes and recreational vehicles; chapter 41, title 39, Idaho Code, relating to modular buildings; chapter 21, title 44, Idaho Code, relating to manufactured home dealer and installer licensing; chapter 10, title 54, Idaho Code, relating to electrical contractors and journeymen; chapter 19, title 54, Idaho Code, relating to licensing of public works contractors; chapter 26, title 54, Idaho Code, relating to plumbing and plumbers; and shall perform such additional duties as are imposed upon him by law. The division administrator shall cooperate with the industrial commission and aid and assist the commission in its administration of sections 72-720, 72-721 and 72-723, Idaho Code, and at the request of the commission shall make inspection of appliances, tools, equipment, machinery, practices or conditions, and make a written report to the commission. The administrator shall make recommendations to the commission to aid the commission in its administration of sections 72-720, 72-721 and 72-723, Idaho Code, provided however, that nothing herein shall be construed as transferring to the administrator any of the authority or powers now vested in the industrial commission.

(e) The division of veterans services to be headed by a division administrator who shall be a nonclassified employee exempt from the provisions of chapter 53, title 67, Idaho Code. The administrator of the division shall administer the provisions of chapter 2, title 65, Idaho Code, and chapter 9, title 66, Idaho Code, with the advice of the veterans affairs commission established under chapter 2, title 65, Idaho Code, and shall perform such additional duties as are imposed upon him by law.

(3) The bureau of occupational licenses is hereby created within the department of self-governing agencies.
SECTION 27. That the Heading for Chapter 56, Title 67, Idaho Code, be, and the same is hereby amended to read as follows:

CHAPTER 56
COMMISSION ON ARTS AND HUMANITIES

SECTION 28. That Section 67-7702, Idaho Code, be, and the same is hereby amended to read as follows:

67-7702. DEFINITIONS. As used in this chapter:
(1) "Bingo" means the traditional game of chance played for a prize determined prior to the start of the game.
(a) Upon approval by the bingo-raffle advisory board a licensee may offer bingo games in which players are allowed to select their own numbers if the cards used to conduct the games have controls that provide an audit trail adequate to determine all winning number combinations.
(b) Card-minding devices are prohibited. Autodaubing features are prohibited.
(c) Bingo shall not include "instant bingo" which is a game of chance played by the selection of one (1) or more prepackaged bingo cards, with the winner determined by the appearance of a preprinted winning designation on the bingo card.
(2) "Bingo-raffle advisory board" means a board of six (6) persons chosen by the governor to make advisory recommendations regarding bingo and raffle operations and regulation in Idaho.
(3) "Charitable organization" means an organization that has been in continuous existence in the county of operation of the charitable bingo game or raffle for at least one (1) year and that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(8), 501(c)(10), 501(c)(19) or 501(d) of the Internal Revenue Code and is exempt from income taxation under title 63, Idaho Code, as a bona fide nonprofit charitable, civic, religious, fraternal, patriotic or veterans organization or as a nonprofit volunteer fire department, or as a nonprofit volunteer rescue squad, or as a nonprofit volunteer educational booster group, parent-teacher organization or association. If the organization has local branches or chapters, the term "charitable organization" means the local branch or chapter operating the bingo or raffle game.
(4) "Commission" means the Idaho state lottery commission as defined in section 67-7404, Idaho Code.
(5) "Duck race" means a charitable raffle played by releasing numbered, inanimate toys (ducks) into a body of moving water. A person who has been assigned the same number as the first duck to cross a predetermined point in the water (the finish line) is the winner. Other prizes may be awarded on the basis of the order in which the ducks cross the finish line. With the exception of determining "net proceeds," all restrictions and requirements applicable to the conduct of charitable raffles in this chapter shall also apply to the conduct of duck races.
(6) "Electronic bingo card" or "face" means an electronic facsimile of a bingo card or face, from a permutation of bingo cards formulated by a manufacturer licensed in Idaho, which is stored and/or displayed in a bingo card-monitoring device. An electronic bingo card or face is deemed to be a form of disposable paper bingo card.
(7) (a) "Electronic bingo device" means an electronic device used by a bingo player to monitor bingo cards purchased at the time and place of a licensed organization's bingo session, and which:
   (i) Provides a means for bingo players to input numbers announced by a bingo caller;
   (ii) Requires the player to manually enter the numbers as they are announced by a bingo caller;
   (iii) Compares the numbers entered by the bingo player to the numbers contained on bingo cards previously stored in the electronic database of the device;
   (iv) Identifies winning bingo patterns; and
   (v) Signals only the bingo player when a winning bingo pattern is achieved.

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

(8) "Gross revenues" shall mean all moneys paid by players during a bingo game or session for the playing of bingo or raffle event and shall not include money paid for concessions.

(9) "Holiday Christmas tree fundraiser" means a charitable raffle played by persons bidding on decorated holiday trees with the proceeds being utilized for senior citizen centers or hospitals or hospital auxiliaries. With the exception of determining "net proceeds," all restrictions and requirements applicable to the conduct of charitable raffles in this chapter shall also apply to the conduct of holiday Christmas tree fundraisers.

(910) "Host system" means the computer hardware, software and peripheral equipment of a licensed manufacturer which is used to generate and download electronic bingo cards to a licensed organization's site system, and which monitors sales and other activities of a site system.

(8)(101) "Nonprofit organization" means an organization incorporated under chapter 3, title 30, Idaho Code, or an unincorporated association recognized under chapter 7, title 53, Idaho Code.

(1192) "Organization" means a charitable organization or a nonprofit organization.

(1293) "Person" shall be construed to mean and include an individual, association, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals. "Person" shall also be construed to mean and include departments, commissions, agencies and instrumentalities of the state of Idaho, including counties and municipalities and agencies or instrumentalities thereof.

(1314) "Raffle" means a game in which the prize is won by random drawing of the name or number of one (1) or more persons purchasing chances.

(1425) "Session" means a period of time not to exceed eight (8) hours in any one (1) day in which players are allowed to participate in bingo games operated by a charitable or nonprofit organization.
(156) "Site system" means the computer hardware, software and peripheral equipment used by a licensed organization at the site of its bingo session which provides electronic bingo cards or bingo card monitoring devices to players, and which receipt the sale or rental of such cards and devices and generates reports relative to such sales or rentals.

(1637) "Special permit" means a permit that can be obtained by a charitable organization that is not licensed but qualifies to operate an exempt bingo operation. This permit allows a qualifying organization to operate bingo games at a county fair for the duration of the fair.

(1748) "Vendor" means an applicant, licensee or manufacturer, distributor or supplier licensed or unlicensed that furnishes or supplies bingo or raffle equipment, disposable or nondisposable cards and any and all related gaming equipment.

SECTION 29. That Section 72-311, Idaho Code, be, and the same is hereby amended to read as follows:

72-311. NOTICE OF SECURITY -- CANCELLATION OF SURETY CONTRACT. (1) The employer shall forthwith file with the commission in form prescribed by it, a notice of his security.

(2) No policy of insurance or guaranty contract or surety bond issued against liability arising under this act, where the policy, contract, or bond is intended to provide coverage of greater than one hundred and eighty (180) days, shall be cancelled canceled or not renewed until at least sixty (60) days after notice of cancellation has been filed with the industrial commission, and also served on the other contracting party either personally or by certified mail to the last known address of the other contracting party. If cancellation is due to failure to pay premiums, material misrepresentations by the insured, substantial and unforeseen changes in the risk assumed, substantial breaches of contractual duties, conditions of or warranties, or the policy is being cancelled canceled or not renewed at the request of the policyholder, then at least ten (10) days' notice of cancellation is required and the notice shall be filed as required in this section. For purposes of this section, service by certified mail is complete either on acknowledgement of receipt or refusal of the notice by the contracting party or the 15th fifteenth day after the date the postal authority first attempts to deliver the certified mail as evidenced by P.S. form 3849 or other similar document.

(3) A contracting party may, by its own representations or actions, be estopped by the commission from relying on the time limitations set out herein.

Approved March 8, 2006.

CHAPTER 17
(H.B. No. 434)

AN ACT
RELATING TO THE STATE TREASURER; AMENDING SECTION 67-1210, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE INVESTMENT OF IDLE MONEYS IN THE STATE TREASURY AND TO MAKE TECHNICAL CORRECTIONS.
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 67-1210, Idaho Code, be, and the same is hereby amended to read as follows:

67-1210. INVESTMENT OF IDLE MONEYS. It shall be the duty of the state treasurer to invest idle moneys in the state treasury, other than moneys in public endowment funds, in any of the following:

(a) Bonds, treasury bills, interest-bearing notes, or other obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) General obligation or revenue bonds of this state, or those for which the faith and credit of this state are pledged for the payment of principal and interest.

(c) General obligation or revenue bonds of any county, city, metropolitan water district, municipal utility district, school district or other taxing district of this state.

(d) Notes, bonds, debentures, or other similar obligations issued by the farm credit system or institutions forming a part thereof under the farm credit act of 1971, $12 U.S.C., tit. 12, sections 2001-2259$; and all acts of congress amendatory thereof or supplementary thereto; in bonds or debentures of the federal home loan bank board established under the federal home loan bank act, $12 U.S.C., tit. 12, sections 1421-1449$; in bonds, debentures and other obligations of the federal national mortgage association established under the national housing act, $12 U.S.C., tit. 12, sections 1701-1750$ as amended, and in the bonds of any federal home loan bank established under said act and in other obligations issued or guaranteed by agencies or instrumentalities of the government of the state of Idaho or of the United States, including the United States small business administration guaranteed portion of any loan approved by an Idaho banking corporation and by the state treasurer.

(e) Bonds, notes or other similar obligations issued by public corporations of the state of Idaho including, but not limited to, the Idaho state building authority, the Idaho housing authority and the Idaho water resource board; but such investment shall not extend beyond seven (7) days.

(f) Repurchase agreements covered by any legal investment for the state of Idaho.

(g) Tax anticipation notes and registered warrants of the state of Idaho.

(h) Tax anticipation bonds or notes and income and revenue anticipation bonds or notes of taxing districts of the state of Idaho.

(i) Time deposit accounts and savings accounts in state depositories including, but not limited to, accounts on which interest or dividends are paid and upon which negotiable orders of withdrawal may be drawn, and similar transaction accounts.

(j) Time deposit accounts and savings accounts of state or federal savings and loan associations located within the geographical boundaries of the state in amounts not to exceed the insurance provided by the federal savings and loan insurance corporation including, but not limited to, accounts on which interest or dividends are paid and upon which negotiable orders of withdrawal may be drawn, and similar transaction accounts.
(k) Revenue bonds of institutions of higher education of the state of Idaho.

(1) Share, savings and deposit accounts of state and federal credit unions located within the geographical boundaries of the state in amounts not to exceed the insurance provided by the national credit union share insurance fund and/or any other authorized deposit guaranty corporation, including, but not limited to, accounts on which interest or dividends are paid and upon which negotiable orders of withdrawal may be drawn, and similar transaction accounts.

(m) Money market funds whose portfolios consist of any allowed investment as specified in this section. The securities held in money market portfolios must be dollar-denominated, meaning that all principal and interest payments on such a security are payable to security holders in United States dollars.

The term "idle moneys" means the balance of cash and other evidences of indebtedness which are accepted by banks as cash in the ordinary course of business, in demand deposit accounts, after taking into consideration all deposits and withdrawals, on a daily basis.

The interest received on all such investments, unless otherwise specifically required by law, shall be paid into the general account of the state of Idaho. Provided, unless otherwise specifically provided by statute, any interest earned on funds received by the state pursuant to a federal law, regulation, or federal-state agreement which governs disposition of interest earned upon such funds shall be accounted for separately to give effect to the federal law, regulation, or federal-state agreement.

If the interest is to be credited to a separate account, the state treasurer shall charge the account an investment administration fee. The amount of the fee shall be determined annually by the state treasurer and submitted to the board of examiners for approval as stipulated in section 67-3524, Idaho Code. The fee shall be expressed as an annual percentage of the average daily balance of the account, including separate investments, if any, of that account. The fee shall be charged monthly in an amount approximately one-twelfth (1/12) of the fee which would be payable on an annual basis. The amount of the investment administration fee shall constitute an appropriation from the account for which the investment administration services are rendered.

The state treasurer shall charge an investment administration fee to each such state fund or account, including the general account, which receives investment income from investments administered by the office of state treasurer. The investment administration fee shall be determined annually by the state treasurer and submitted to the board of examiners for approval, as stipulated in section 67-3524, Idaho Code. The fee shall be expressed as an annual percentage of the average daily balance of the fund or account, including separate investments, if any, of that fund or account. The fee shall be charged monthly in an amount approximately one-twelfth (1/12) of the fee which would be payable on an annual basis. The amount of the investment administration fee shall constitute an appropriation from the fund or account for which the investment administration services are rendered.

The term "to invest" means to use the idle moneys in the state treasury to buy, sell, including selling before maturity at either a gain or
a loss, retain, or exchange any of the investments described in this section, considering the probable safety of the capital, the probable income to be derived, and the liquidity of the assets.

Approved March 8, 2006.

CHAPTER 18
(H.B. No. 435)

AN ACT
RELATING TO THE STATE LIQUOR DISPENSARY; AMENDING SECTION 23-203, IDAHO CODE, TO AUTHORIZE THE STATE LIQUOR DISPENSARY TO BUY, IMPORT, TRANSPORT, STORE, SELL AND DELIVER CERTAIN NONALCOHOL MERCHANDISE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 23-217, IDAHO CODE, TO AUTHORIZE THE SUPERINTENDENT OF THE STATE LIQUOR DISPENSARY TO IMPOSE CERTAIN SURCHARGES AND ALLOW CERTAIN DISCOUNTS RELATING TO ALCOHOLIC LIQUOR AND ALL OTHER MERCHANDISE SOLD; AMENDING SECTION 23-309, IDAHO CODE, TO PROHIBIT CERTAIN SALES OF MERCHANDISE ON BEHALF OF THE DISPENSARY BY VENDORS OF ANY STATE LIQUOR STORE OR SPECIAL DISTRIBUTOR; AMENDING SECTION 23-401, IDAHO CODE, TO REQUIRE ALL REVENUES DERIVED FROM THE SALE OF OTHER MERCHANDISE TO BE PAID INTO THE LIQUOR ACCOUNT; AMENDING SECTION 23-402, IDAHO CODE, TO PROVIDE FOR THE APPROPRIATIONS OF CERTAIN MONEYS IN THE STATE LIQUOR FUND FOR THE PURCHASE OF NONALCOHOL MERCHANDISE SOLD THROUGH THE DISPENSARY; AMENDING SECTION 23-407, IDAHO CODE, TO REQUIRE ALL REVENUES DERIVED FROM THE SALE OF ALL OTHER MERCHANDISE TO BE DEPOSITED WITH THE STATE TREASURER TO THE CREDIT OF THE LIQUOR FUND AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 63-3638A, IDAHO CODE, TO INCLUDE SALES TAX COLLECTED ON THE RETAIL SALE OF ALL OTHER MERCHANDISE BY AND ON BEHALF OF THE SUPERINTENDENT OF THE STATE LIQUOR DISPENSARY AMONG ITEMS TO BE CREDITED TO THE LIQUOR ACCOUNT.

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

SECTION 1. That Section 23-203, Idaho Code, be, and the same is hereby amended to read as follows:

23-203. POWERS AND DUTIES. The dispensary shall have the following general powers and duties:
(a) Regulation of Liquor Traffic. To permit, license, inspect, and regulate the manufacture, importation, transportation, storage, sale, and delivery of alcoholic liquor for purposes permitted by this act.
(b) Traffic in Liquor. To buy, import, transport, store, sell, and deliver alcoholic liquor.
(c) Operation of Liquor Stores. To establish, maintain, and discontinue warehouses, state liquor stores and distribution stations, and in the operation thereof to buy, import, transport, store, sell and deliver such other nonalcohol merchandise as may be reasonably related to its sale of alcoholic liquor.
(d) Acquisition of Real Estate. To acquire, buy, and lease real estate, and to improve and equip the same for the conduct of its business.
(e) Acquisition of Personal Property. To acquire, buy, and lease personal property necessary and convenient for the conduct of its business.

(f) Making Reports. To report to the governor annually, and at such other times as he may require, concerning the condition, management, and financial transactions of the dispensary.

(g) General Powers. To do all things necessary and incidental to its powers and duties under this act.

The dispensary shall so exercise its powers as to curtail the intemperate use of alcoholic beverages. It shall not attempt to stimulate the normal demands of temperate consumers thereof, irrespective of the effect on the revenue derived by the state from the resale of intoxicating liquor.

SECTION 2. That Section 23-217, Idaho Code, be, and the same is hereby amended to read as follows:

23-217. SURCHARGE ADDED TO PRICE OF GOODS ALCOHOLIC LIQUOR AND ALL OTHER MERCHANDISE SOLD — COLLECTION AND REMISSION BY SUPERINTENDENT.

(1) The superintendent of the state liquor dispensary is hereby authorized and directed to include in the price of goods hereafter alcoholic liquor and all other merchandise sold in the dispensary, and its branches, a surcharge equal to two percent (2%) of the current price per unit computed to the nearest multiple of five cents (5¢).

(2) After the price of the surcharge has been included, the superintendent of the state liquor dispensary is hereby authorized and directed to allow a discount of five percent (5%) from the price of each order of goods alcoholic liquor and all other merchandise sold to any licensee, as defined in section 23-902(7), Idaho Code.

(3) The surcharge imposed pursuant to this section shall be collected and credited monthly to the drug court, mental health court and family court services fund, as set forth in section 1-1625, Idaho Code.

SECTION 3. That Section 23-309, Idaho Code, be, and the same is hereby amended to read as follows:

23-309. SALES. No vendor of any state liquor store or special distributor shall sell any alcoholic liquor or any other merchandise on behalf of the dispensary except for cash, check, money order, credit card, electronic funds transfer or debit card. In addition, the dispensary shall, under such rules as may be adopted by it, authorize the vendor of a state liquor store or special distributor to accept a check, credit cards, electronic funds transfer or debit card from persons licensed for the retail sale of liquor by the drink pursuant to chapter 9, title 23, Idaho Code, as payment for purchases from the dispensary. Dishonor of any credit device given by such person shall constitute grounds for suspension or revocation of such person's license pursuant to section 23-933, Idaho Code, in addition to any other remedy provided by law.

SECTION 4. That Section 23-401, Idaho Code, be, and the same is hereby amended to read as follows:
23-401. LIQUOR ACCOUNT CREATED. The state treasurer shall be custo-
dian of an account in the agency asset fund, which is hereby created, to
be known as the "liquor account," into which shall be paid all revenues
derived from sales of alcoholic beverages and other merchandise, excise
taxes, licenses, permits, fees, profits on sales, sales of equipment and
supplies, and all other moneys accruing or received under any of the
provisions of this act. All moneys, properties, buildings, plants, appa-
ratus, real estate, securities acquired by or through the moneys belong-
ing to the liquor account, including interest earned thereon, shall be
the property of the liquor account.

SECTION 5. That Section 23-402, Idaho Code, be, and the same is
hereby amended to read as follows:

23-402. APPROPRIATION. All moneys appropriated for, accruing to, or
received by said fund are hereby appropriated for the purpose of this
act for the purchase of alcoholic liquor, and the purchase of other
nonalcohol merchandise sold through the dispensary and payment of
expenses of administration and operation of the dispensary, and the same
shall be paid out by the state treasurer only upon vouchers prepared and
certified to by the dispensary and approved by the state board of exam-
iners.

SECTION 6. That Section 23-407, Idaho Code, be, and the same is
hereby amended to read as follows:

23-407. DEPOSIT OF REVENUE. It shall be the duty of all special
distributors, vendors, officers, agents, and employees to report and pay
over to the dispensary, in such manner and pursuant to such regulations
rules as may be adopted by it, all revenues derived from the sale of
alcoholic beverages, all revenues derived from the sale of all other
merchandise sold on behalf of the dispensary, excise taxes, licenses,
permits, fees, profits on sales, or other revenues resulting from the
operation of this act, and the dispensary shall deposit the same with the
state treasurer to the credit of the liquor fund.

SECTION 7. That Section 63-3638A, Idaho Code, be, and the same is
hereby amended to read as follows:

63-3638A. SALES TAX ON LIQUOR TO BE PAID TO LIQUOR ACCOUNT. Not-
withstanding the provisions of section 63-3638, Idaho Code, the sales
tax collected on the retail sale of liquor and all other merchandise by
or on behalf of the superintendent of the state liquor dispensary shall
be credited directly to the liquor account, and shall not be or become a
part of the sales tax account.

Approved March 8, 2006.
AN ACT

RELATING TO THE FIREMEN'S RETIREMENT FUND; AMENDING SECTION 59-1320, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO APPROVED DOMESTIC RETIREMENT ORDERS; AMENDING SECTION 72-1422, IDAHO CODE, TO PROVIDE THAT CERTAIN BENEFITS MAY BE TRANSFERRED PURSUANT TO AN APPROVED DOMESTIC RETIREMENT ORDER; AMENDING SECTION 72-1461, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO DEATH BENEFITS OF SPOUSES AND SURVIVING CHILDREN OF FIREFIGHTERS KILLED IN PERFORMANCE OF DUTY; AMENDING SECTION 72-1462, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO DEATH BENEFITS OF SPOUSES OF RETIRED FIREFIGHTERS; AMENDING SECTION 72-1463, IDAHO CODE, TO CLARIFY THE BENEFIT PAID TO A RETIRED FIREFIGHTER'S CHILDREN UPON THE DEATH OF THE SURVIVING SPOUSE; AMENDING SECTION 72-1464, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO DEATH BENEFITS OF SURVIVING SPOUSES AND CHILDREN OF CERTAIN FIREFIGHTERS AFTER FIVE YEARS OF SERVICE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 72-1465, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO DEATH BENEFITS OF SURVIVING SPOUSES AND CHILDREN OF CERTAIN FIREFIGHTERS AFTER TWENTY-FIVE YEARS OF SERVICE AND TO MAKE TECHNICAL CORRECTIONS; AND TO PROVIDE APPLICABILITY.

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

SECTION 1. That Section 59-1320, Idaho Code, be, and the same is hereby amended to read as follows:

59-1320. APPROVED DOMESTIC RETIREMENT ORDERS -- APPLICATION AND EFFECT. (1) The executive director of the public employee retirement system or his designee upon receipt of a copy of a domestic retirement order, shall determine whether the order is an approved domestic retirement order and shall notify the member and the alternate payee of the determination within ninety (90) days. Orders shall be applied prospectively only from the first day of the month following the order being determined to be an approved domestic retirement order. The retirement system shall then pay benefits or establish a segregated account in accordance with the order. When established, the segregated account will consist of accumulated contributions identified in the approved domestic retirement order together with accrued interest on that amount from the effective date to the date of segregation.

(2) If the order is determined not to be an approved domestic retirement order, or if no determination is issued within ninety (90) days, the member or the alternate payee named in the order may move the court which issued the order to amend the order so that it will be approved. The court that issued the order or which would otherwise have jurisdiction over the matter has jurisdiction to amend the order so that it will be qualified even though all other matters incident to the action or proceeding have been fully and finally adjudicated.

(3) The executive director of the retirement system to which a domestic retirement order is submitted or his designee has exclusive authority to determine whether a domestic retirement order is an approved domestic retirement order. If it is determined that a domestic
retirement order does not meet the requirements for an approved domestic retirement order, both the issuing court and the parties to the order shall be notified so action may be taken to amend the order.

(4) Because an approved domestic retirement order cannot cause the retirement system to pay any benefit or any amount of benefit greater than would have been paid had the member's account not been segregated, disputes related to benefits paid under an approved domestic retirement order shall be resolved between the parties to the order by the court issuing that order. The retirement system shall not be made a party to the action. Any cost, including attorney's fees, incurred by the retirement system as a result of such actions shall be distributed by the court among the parties and included in any amended order issued.

(5) Unless the approved domestic retirement order specifies differently, if the member has a right to a vested benefit as of the effective date of the order, then both the member and the alternate payee shall have a right to a vested benefit after the transfer of months of service even if the member or the alternate payee has less than sixty (60) months of membership service.

(6) For benefits under chapter 13, title 59, Idaho Code, for members other than retired members, if the domestic retirement order awards to the alternate payee a portion of the member's accumulated contributions the alternate payee shall be entitled to all the same benefits and rights an inactive member has under chapter 13, title 59, Idaho Code. The alternate payee's benefit calculation for a lifetime annuity shall use the member's average monthly salary and base period as of the effective date of the order and the months of credited service transferred to the alternate payee's segregated account. The benefit calculation shall use the alternate payee's age with the appropriate reduction factors based on the alternate payee's age at the time of payment of the lifetime annuity. For the purpose of the lifetime annuity, the bridging factor, as specified in section 59-1355, Idaho Code, shall be the bridging factor between the effective date of the order or the last day of contributions by the member prior to the effective date of the order, whichever is earliest, and the date of the first lifetime annuity payment to the alternate payee. The alternate payee shall have the right to select any of the optional retirement allowances provided in section 59-1351, Idaho Code. The alternate payee shall have the right to name a beneficiary.

(7) For benefits defined under chapter 13, title 59, Idaho Code, for retired members, and for benefits under chapter 14, title 72, Idaho Code, the retirement system shall include in the alternate payee's amount or percentage of the benefit, on a proportional basis, all future adjustments, including postretirement increases that are granted by the retirement system, and any death benefit. Furthermore, upon the death of the alternate payee, his/her percentage of the benefit will revert to the person or persons, including the member, who are entitled to the benefit under the system at the time of the alternate payee's death.

(8) For benefits under chapter 13, title 59, Idaho Code, for retired members, the form of payment previously elected by the member under section 59-1351, Idaho Code, cannot be changed by a domestic retirement order, except that a member's benefit may be adjusted as provided in section 59-1351(2), Idaho Code, if an alternate payee waives all survivor benefits otherwise payable as a contingent annuitant as provided in section 59-1319(1)(e), Idaho Code. Furthermore, no segre-
gated account will be established by the retirement system for the alternate payee. Upon the death of the alternate payee, his/her percentage of the benefit will revert to the person or persons, including the member, who are entitled to the benefit under the system at the time of the alternate payee's death.

(9) For benefits defined under chapter 14, title 72, Idaho Code, the benefit paid transferred to the alternate payee shall start when the retirement system begins paying benefits to the member, surviving spouse, or surviving children of the member. Unless otherwise ordered, in the event the member dies and leaves a surviving spouse, during the surviving spouse's lifetime, the alternate payee shall be paid his/her designated amount or percentage of the benefit. Unless otherwise ordered, if there is no surviving spouse or the surviving spouse dies and there is a surviving child or children of the member who are under eighteen (18) years of age and unmarried, then the alternate payee shall be paid his/her designated amount or percentage of the benefit until the child or children reach the age of eighteen (18) years or marries, whichever occurs first. The transferred benefit shall be payable only for the lifetime of the alternate payee and it shall not revert to the member, surviving spouse or surviving children of the member.

(10) The retirement system shall be authorized to issue any and all appropriate tax forms or reports for any payments made to the alternate payee.

(11) The retirement system, the retirement board, and officers and employees of the retirement system shall not be liable to any person for making payments of any benefits in accordance with an approved domestic retirement order.

SECTION 2. That Section 72-1422, Idaho Code, be, and the same is hereby amended to read as follows:

72-1422. BENEFITS EXEMPT FROM EXECUTION -- NOT ASSIGNABLE. No benefits or payments payable under the provisions of this chapter shall be subject to execution, nor assignable, nor shall the same be hypothecated or in any manner encumbered, except as ordered by a court to be transferred to an alternate payee in an approved domestic retirement order, as provided in sections 59-1319 and 59-1320, Idaho Code.

SECTION 3. That Section 72-1461, Idaho Code, be, and the same is hereby amended to read as follows:

72-1461. DEATH BENEFITS -- SPOUSE AND THE SURVIVING CHILD OR CHILDREN OF FIREFIGHTER KILLED IN PERFORMANCE OF DUTY. (1) In the event a paid firefighter is killed or sustains injury from which death results, while in the performance of duty and leaves surviving a spouse or a spouse with the firefighter's surviving child or children, the spouse, during his or her lifetime, shall be paid from the public employee retirement account the same pension the deceased firefighter would have been entitled to had the deceased firefighter retired as of the date of death, but in no event less than a monthly sum equal to: (a) sixty-five percent (65%) of the average paid firefighter's salary or wage in this state, if the deceased firefighter was an Option I firefighter, less any portion of the benefit transferred to an alternate payee as provided in sections 59-1319 and 59-1320, Idaho Code; or, (b) sixty-five percent
(65%) of the deceased firefighter's average monthly salary or wage, based on his average final compensation, if the deceased firefighter was an Option II firefighter, less any portion of the benefit transferred to an alternate payee as provided in sections 59-1319 and 59-1320, Idaho Code. If the surviving spouse should die, the full retirement pay shall be paid to the firefighter's surviving child or children until they reach the age of eighteen (18) years or shall marry, whichever occurs first; provided, however, that if said deceased firefighter shall have died without leaving a surviving spouse and leaving surviving a child or children, said firefighter's surviving child or children shall be entitled to be paid from the public employee retirement account the same pension the deceased firefighter would have been entitled to had the deceased firefighter retired as of the date of death, less any portion of the benefit transferred to an alternate payee as provided in sections 59-1319 and 59-1320, Idaho Code, until they shall reach the age of eighteen (18) years or shall marry, whichever occurs first.

(2) The monthly benefits provided for in this section shall vary annually according to the cost of living adjustment as set forth in section 72-1471, Idaho Code.

(3) Those benefits payable under the provisions of subsection (1), or under the provisions of section 72-1429C, Idaho Code, which were ordered prior to July 1, 1978, shall continue under the provisions of this chapter in effect at the time such benefit payment was ordered.

(4) Eligibility for benefits of surviving spouses that was terminated on or after July 1, 1987, solely because of the spouse's remarriage is hereby reinstated effective July 1, 1992. Such spouses are entitled to have the benefits, including any cost of living allowances approved by the board effective on or after July 1, 1987, commence prospectively effective July 1, 1992, or upon their application to the retirement system, whichever is later.

SECTION 4. That Section 72-1462, Idaho Code, be, and the same is hereby amended to read as follows:

72-1462. DEATH BENEFITS -- SPOUSE OF RETIRED FIREFIGHTER. (1) In the event a paid firefighter, retired on retirement pay, shall die and leave surviving a spouse, but no minor children, such surviving spouse shall receive for life the retirement benefits to which the deceased firefighter was entitled, less any portion of the benefit transferred to an alternate payee as provided in sections 59-1319 and 59-1320, Idaho Code.

(2) Those benefits payable under the provisions of subsection (1) which were ordered prior to July 1, 1978, shall continue under the provisions of this chapter in effect at the time such benefit payment was ordered.

(3) Eligibility for benefits of surviving spouses that was terminated on or after July 1, 1987, solely because of the spouse's remarriage is hereby reinstated effective July 1, 1992. Such spouses are entitled to have the benefits, including any cost of living allowances approved by the board effective on or after July 1, 1987, commence prospectively effective July 1, 1992, or upon their application to the retirement system, whichever is later.
SECTION 5. That Section 72-1463, Idaho Code, be, and the same is hereby amended to read as follows:

72-1463. DEATH BENEFITS -- SURVIVING SPOUSE AND SURVIVING CHILD OR CHILDREN OF RETIRED FIREFIGHTER. (1) In the event a paid firefighter, retired on retirement pay, shall die and leave surviving a spouse, or a spouse and firefighter's surviving child or children, the spouse, during the spouse's lifetime shall be paid the retirement pay to which the deceased firefighter was eligible. If the surviving spouse dies the same retirement pay shall be paid to the firefighter's surviving child or children until they reach the age of eighteen (18) years or shall marry, whichever occurs first. Should a paid firefighter, retired on retirement pay, die without leaving a surviving spouse, and leave surviving him or her a minor child or children, said child or children shall be entitled to receive the pension to which said firefighter was entitled until they marry or shall attain eighteen (18) years of age, whichever occurs first.

(2) Eligibility for benefits of surviving spouses that was terminated on or after July 1, 1987, solely because of the spouse's remarriage is hereby reinstated effective July 1, 1992. Such spouses are entitled to have the benefits, including any cost of living allowances approved by the board effective on or after July 1, 1987, commence prospectively effective July 1, 1992, or upon their application to the retirement system, whichever is later.

SECTION 6. That Section 72-1464, Idaho Code, be, and the same is hereby amended to read as follows:

72-1464. DEATH BENEFITS -- SURVIVING SPOUSE AND CHILDREN OF FIREFIGHTER DYING FROM CAUSES UNCONNECTED WITH DUTIES BUT DURING SERVICE AFTER FIVE YEARS. (1) In the event a paid firefighter who shall have died from causes unconnected with said firefighter's official duties, but during the period of said firefighter's service, leaves surviving a spouse or a spouse with firefighter's surviving child or children, and who shall have completed less than twenty (20) years, but more than five (5) years of active service as defined in subsection (H) of section 72-1403, Idaho Code, as a paid firefighter, said spouse, during the spouse's lifetime shall be paid from the account a monthly sum equal to:

(a) two percent (2%) of the average paid firefighter's salary or wage in this state, if the deceased firefighter was an Option I firefighter, for each year's active service, less any portion of the benefit transferred to an alternate payee as provided in sections 59-1319 and 59-1320, Idaho Code; or,

(b) two percent (2%) of said firefighter's average monthly salary or wage, based on his average final compensation, if the deceased firefighter was an Option II firefighter, for each year's active service, less any portion of the benefit transferred to an alternate payee as provided in sections 59-1319 and 59-1320, Idaho Code. The monthly sum for Option I benefits shall vary annually, according to the determination of the average paid firefighter's salary or wage in this state as set forth in section 72-1431, Idaho Code. If said surviving spouse dies, said monthly sum shall be paid to the firefighter's surviving child or children until they reach the age of eighteen (18) years or shall marry, whichever occurs first; provided, however, that if said deceased firefighter shall
have died without leaving a surviving spouse and leaving surviving a child or children, said firefighter's surviving child or children shall be entitled to receive said monthly sum until they shall reach the age of eighteen (18) years or shall marry, whichever occurs first.

(2) In the event a paid firefighter who shall have died from causes unconnected with said firefighter's official duties, but during the period of said firefighter's service, leaves surviving a spouse or a spouse with firefighter's surviving child or children, and who shall have completed less than twenty-five (25) years, but more than twenty (20) years of active service as defined in subsection (H) of section 72-1403, Idaho Code, as a paid firefighter, said spouse, during his or her lifetime shall be paid from the account a monthly sum equal to the sum the firefighter would have received under the provisions of section 72-1435, Idaho Code, had said firefighter retired as of the date of his or her death, less any portion of the benefit transferred to an alternate payee as provided in sections 59-1319 and 59-1320, Idaho Code, and for the purposes of this section, said firefighter shall be deemed to have retired as of the date of death. The monthly retirement sum shall vary annually according to the determination of the cost of living adjustment as set forth in section 72-1471, Idaho Code, and if said spouse dies said monthly sum shall be paid to the firefighter's surviving child or children until they reach the age of eighteen (18) years or shall marry, whichever occurs first, provided, however, that if said deceased firefighter shall have died without leaving a surviving spouse and leaving surviving a child or children, said firefighter's surviving child or children shall be entitled to receive said monthly sum until they reach the age of eighteen (18) years or shall marry, whichever occurs first.

(3) Those benefits payable under the provisions of subsections (1) and (2) of this section which were ordered prior to July 1, 1978, shall continue under the provisions of this chapter in effect at the time such benefit payment was ordered.

(4) Eligibility for benefits of surviving spouses that was terminated on or after July 1, 1987, solely because of the spouse's remarriage is hereby reinstated effective July 1, 1992. Such spouses are entitled to have the benefits, including any cost of living allowances approved by the board effective on or after July 1, 1987, commence prospectively effective July 1, 1992, or upon their application to the retirement system, whichever is later.

SECTION 7. That Section 72-1465, Idaho Code, be, and the same is hereby amended to read as follows:

72-1465. DEATH BENEFITS -- SPOUSE AND CHILDREN OF FIREFIGHTER DYING FROM CAUSES UNCONNECTED WITH DUTIES BUT DURING SERVICE AFTER TWENTY-FIVE YEARS. (1) In the event a paid firefighter who shall have died from causes unconnected with said firefighter's official duties, but during the period of said firefighter's service, and left surviving a spouse or a spouse with the firefighter's surviving child or children, and who shall have completed twenty-five (25) years' active service as defined in subsection (H) of section 72-1403, Idaho Code, as a paid firefighter, said spouse, during his or her lifetime shall be paid from the account a monthly sum equal to: (a) sixty-five percent (65%) of the average paid firefighter's salary or wage in this state, if the deceased
A firefighter was an Option I firefighter, less any portion of the benefit transferred to an alternate payee as provided in sections 59-1319 and 59-1320, Idaho Code; or, (b) sixty-five percent (65%) of said firefighter's average monthly salary or wage, based on his average final compensation, if the deceased firefighter was an Option II firefighter, less any portion of the benefit transferred to an alternate payee as provided in sections 59-1319 and 59-1320, Idaho Code. The monthly sum shall vary annually according to the determination of the cost of living adjustment as set forth in section 72-1471, Idaho Code, and if he or she dies said monthly sum shall be paid to the firefighter's surviving child or children until they shall reach the age of eighteen (18) years or shall marry, whichever occurs first; provided, however, that if said deceased firefighter shall have died without leaving a surviving spouse and leaving a child or children, said firefighter's surviving child or children shall be entitled to receive the pension which said firefighter was entitled until they shall reach the age of eighteen (18) years or shall marry, whichever occurs first.

(2) Those benefits payable under the provisions of subsection (1) which were ordered prior to July 1, 1978, shall continue under the provisions of this chapter in effect at the time such benefit payment was ordered.

(3) Eligibility for benefits of surviving spouses that was terminated on or after July 1, 1987, solely because of the spouse's remarriage is hereby reinstated effective July 1, 1992. Such spouses are entitled to have the benefits, including any cost of living allowances approved by the board effective on or after July 1, 1987, commence prospectively effective July 1, 1992, or upon their application to the retirement system, whichever is later.

SECTION 8. The provisions of Section 1 of this act shall not apply to a domestic retirement order issued prior to the effective date of this act unless such an order is amended after the effective date of this act to incorporate those specific provisions.

Approved March 8, 2006.
49-2202. PERMIT REQUIREMENTS FOR TRANSPORTERS OF HAZARDOUS WASTES.

(1) Every person, including a private carrier or a common or contract carrier, who operates a vehicle on any highway of this state transporting hazardous waste shall first procure from the department an annual or single trip permit for each vehicle so driven in which the shipment meets any one of the following qualifiers:

(a) Is required to be placarded pursuant to title 49, code of federal regulations, part 172;
(b) Is manifested on a United States environmental protection agency uniform hazardous waste manifest form 8700-22 and 8700-22m, or its equivalent;
(c) Is any waste material containing polychlorinated biphenyls (PCB) which is regulated by title 40, code of federal regulations, part 761; but in the event waste material is being transported to a disposal facility approved in compliance with 40 CFR 761.70 or 40 CFR 761.75 and is accompanied by a hazardous waste manifest form 8700-22 or 8700-22m, or its equivalent, then a permit shall be required regardless of the polychlorinated biphenyl concentration.

This permit shall be available for examination and shall be displayed in accordance with rules adopted by the department. The provisions of this section shall not apply to vehicles owned by any city, county, state or federal governmental department or agency, special purpose district created pursuant to law or rural electric cooperatives.

(2) The fee for a single trip permit for the transportation of hazardous waste shall be twenty dollars ($20.00).

(3) The fee for an annual permit for the transportation of hazardous waste shall be two hundred fifty dollars ($250).

(4) Any carrier required to pay the fees assessed pursuant to this section is authorized to pass along such fees to the shipping party. No portion of the fees shall be prorated, reduced or transferred to another vehicle.

(5) The department may select vendors to serve as agents on state highways for the purpose of selling hazardous waste permits where fixed ports of entry do not adequately serve a respective highway entering the state. The vendor shall be remunerated at the rate of two dollars ($2.00) determined by contract between the vendor and the department per permit sold, and he the vendor shall collect the fees provided in this section, and pay the fees to the department. The vendor shall guarantee payment by giving a bond to the state of Idaho in a sum as shall be fixed by the department, the premium on the bond to be paid by the department.

(6) The operation of a vehicle, which is subject to the permit requirements of this section in a negligent manner is a violation of the provisions of this chapter.

Approved March 8, 2006.

CHAPTER 21
(S.B. No. 1315)

AN ACT
RELATING TO COUNTIES; AMENDING SECTION 31-814, IDAHO CODE, TO REMOVE A CAP ON FUND BALANCES FOR INSURANCE ON COUNTY PROPERTY.
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 31-814, Idaho Code, be, and the same is hereby amended to read as follows:

31-814. INSURANCE OF COUNTY PROPERTY. Where in the discretion of the commissioners it is desirable, they are hereby authorized to make contracts of insurance with any insurance company authorized to transact business within the state providing for insurance against loss by fire, and against any and all hazards on any or all property belonging to the county, including insurance to cover liability for damages to property and for bodily injury arising as a result of the ownership, operation or use of county vehicles. In consideration of the premium at which any such policy shall be written, it shall be a part of the policy contract between the county and the insurance company that the insurance company shall not be entitled to the defense of governmental immunity of the insured. Immunity of the county, against liability damages, is hereby waived to the extent of the liability insurance carried by the county on such vehicles. Nothing herein contained shall be construed to require the making of such contracts of insurance by the commissioners on behalf of the county; provided that the board may create or participate in a self-insured risk program, with a fund balance which may be carried over from year to year, said fund balance not to exceed ten million dollars ($10,000,000).

Approved March 11, 2006.

CHAPTER 22
(H.B. No. 414)

AN ACT RELATING TO DISPOSITION OF UNEXPENDED BALANCES BY CANDIDATES; AMENDING SECTION 67-6608, IDAHO CODE, TO PROVIDE THAT THE POLITICAL TREASURER FOR A CANDIDATE WHO WAS DEFEATED IN THE PRIMARY ELECTION AND WHOSE POST-PRIMARY REPORT SHOWS AN UNEXPENDED BALANCE OF CONTRIBUTIONS OR A CAMPAIGN DEBT, SHALL CONTINUE TO FILE ANNUAL REPORTS UNTIL THERE IS NO UNEXPENDED BALANCE OF CONTRIBUTIONS OR NO CAMPAIGN EXPENDITURE DEFICIT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-6608, Idaho Code, be, and the same is hereby amended to read as follows:

67-6608. DISPOSITION OF UNEXPENDED BALANCES. (a) If a statement filed under paragraph (3) of subsection (a) of section 67-6607, Idaho Code, pertaining to post-primary election reports or under paragraph (6) of subsection (a) of section 67-6607, Idaho Code, shows an unexpended balance of contributions or an expenditure deficit, the political treasurer for the candidate for nonstatewide office or political committee or measure shall continue to file annual reports on January 31, to cover the period since the end of the last report period, to and including the
last day of the month preceding the month in which the report is filed. If a statement filed under paragraph (6) of subsection (a) of section 67-6607, Idaho Code, shows an unexpended balance of contributions or an expenditure deficit, the political treasurer for the candidate for statewide office shall continue to file semiannual reports on January 31 and July 31, to cover the period since the end of the last report period, to and including the last day of the month preceding the month in which the report is filed. Such reports shall be filed until the account shows no unexpended balance of contributions or expenditure deficit.

(b) If a candidate wins nomination, supplemental statements under subsection (a) of this section need not be filed with respect to the nomination campaign by the political treasurer of a political committee supporting the candidate or by the political treasurer for such candidate, if such political committee continues to function in support of such candidate in the campaign for the general or special election.

(c) A political committee which is organized after an election shall file reports required by subsection (a) of this section.

(d) The political treasurer for a candidate who was defeated in the primary election and whose post-primary report shows an unexpended balance of contributions or a campaign debt, shall continue to file annual reports until there is no unexpended balance of contributions or no campaign expenditure deficit.

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

Approved March 11, 2006.

CHAPTER 23
(H.B. No. 415)

AN ACT
RELATING TO LIMITATIONS ON CAMPAIGN CONTRIBUTIONS; AMENDING SECTION 67-6610A, IDAHO CODE, TO PROVIDE APPLICATION TO CONTRIBUTIONS BY POLITICAL COMMITTEES, BY A PERSON OR POLITICAL COMMITTEE WHOSE CONTRIBUTION OR EXPENDITURE ACTIVITY IS FINANCED, MAINTAINED OR CONTROLLED BY A TRADE ASSOCIATION, LABOR UNION, COLLECTIVE BARGAINING ORGANIZATION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-6610A, Idaho Code, be, and the same is hereby amended to read as follows:

67-6610A. LIMITATIONS ON CONTRIBUTIONS. (1) Except as provided in subsection (2) of this section, aggregate contributions for a primary election or a general election made by a corporation, political committee, other recognized legal entity or an individual, other than the candidate, to a candidate for the state legislature, and political committees organized on the candidate's behalf shall be limited to an amount
not to exceed one thousand dollars ($1,000) for the primary election and an amount not to exceed one thousand dollars ($1,000) for the general election. Aggregate contributions for a primary election or a general election by a corporation, political committee, other recognized legal entity or an individual, other than the candidate, to a candidate for statewide office and political committees organized on the candidate's behalf shall be limited to an amount not to exceed five thousand dollars ($5,000) for the primary election and an amount not to exceed five thousand dollars ($5,000) for the general election.

(2) Aggregate contributions for a primary election or for a general election made by a county central committee or by the state central committee of the political parties qualified under section 34-501, Idaho Code, to a candidate for the state legislature, and political committees organized on the candidate's behalf shall be limited to an amount not to exceed two thousand dollars ($2,000) for the primary election and an amount not to exceed two thousand dollars ($2,000) for the general election. Aggregate contributions for the primary election or the general election by the state central committee of the political parties qualified under section 34-501, Idaho Code, to a candidate for statewide office and political committees organized on the candidate's behalf shall be limited to an amount not to exceed ten thousand dollars ($10,000) for the primary election and an amount not to exceed ten thousand dollars ($10,000) for the general election.

(3) For purposes of this section "statewide office" shall mean an office in state government which shall appear on the primary or general election ballot throughout the state.

(4) Contributions other than money or its equivalent are deemed to have a monetary value equivalent to the fair market value of the contribution. Services or property or rights furnished at less than their fair market value for the purpose of assisting any candidate or political committee are deemed a contribution. A contribution of this kind shall be reported as an in-kind contribution at its fair market value and counts toward any applicable contribution limit of the contributor. Contributions shall not include the personal services of volunteers.

(5) The contribution limits for the state legislature shall apply to judicial district offices, city offices and county offices regulated by this chapter.

(6) For the purposes of contribution limits, the following apply:
(a) A contribution by a political committee with funds that have all been contributed by one (1) person who exercises exclusive control over the distribution of the funds of the political committee is a contribution by the controlling person.
(b) All contributions made by a person or political committee whose contribution or expenditure activity is financed, maintained or controlled by a trade association, labor union or collective bargaining organization shall be considered a contribution from such trade association, labor union or collective bargaining organization.
(c) Two (2) or more entities are treated as a single entity if the entities:

(i) Share the majority of members on their board of directors;
(ii) Share two (2) or more officers;
(iii) Are owned or controlled by the same majority shareholder or shareholders or persons;
(iv) Are in a parent-subsidiary relationship; or
(v) Have bylaws so stating.

(7) The provisions of this section are hereby declared to be severable and if any provision of this section or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this section.

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

Approved March 11, 2006.

CHAPTER 24
(H.B. No. 436)

AN ACT
RELATING TO CEMETERY MAINTENANCE DISTRICTS; AMENDING SECTION 27-114, IDAHO CODE, TO REVISE BOND PROVISIONS APPLICABLE TO TREASURERS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 27-114, Idaho Code, be, and the same is hereby amended to read as follows:

27-114. ORGANIZATION OF BOARD -- MEETINGS -- OFFICERS -- OFFICIAL BONDS. Immediately after qualifying, the board of cemetery maintenance commissioners shall meet and organize as a board, and at that time, and whenever thereafter vacancies in the respective offices may occur, they shall elect a president from their number, and shall appoint a secretary and treasurer who may also be from their number, all of whom shall hold office during the pleasure of the board, or for terms fixed by the board. The offices of secretary and treasurer may be filled by the same person. Certified copies of all such appointments, under the hand of each of the commissioners, shall be forthwith filed with the clerk of the board of county commissioners and with the tax collector of the county.

As soon as practicable after the organization of the first board of cemetery maintenance commissioners, and thereafter when deemed expedient or necessary, such board shall designate a day and hour on which regular meetings shall be held and a place for the holding thereof, which shall be within the district. Regular meetings shall be held at least quarterly. The minutes of all meetings must show what bills are submitted, considered, allowed or rejected. The secretary shall make a list of all bills presented, showing to whom payable, for what service or material, when and where used, amount claimed, allowed or disallowed. Such list shall be signed by the chairman and attested by the secretary: provided, that all special meetings must be ordered by the president or a majority of the board, the order must be entered of record, and the secretary must give each member not joining in the order, five (5) days' notice of
special meetings: provided, further, that whenever all members of the board are present, however called, the same shall be deemed a legal meeting and any lawful business may be transacted. All meetings of the board must be public, and a majority shall constitute a quorum for the transaction of business. All records shall be open to the inspection of any elector during business hours.

The officers of the district shall take and file with the secretary, an oath for the faithful performance of the duties of the respective offices. The treasurer shall on his appointment execute and file with the secretary an official bond in such an amount as may be fixed by the cemetery maintenance board which amount shall be at least sufficient to cover the probable amounts of money coming into his hands and twenty-five percent (25%) thereof in addition thereto but in no case less than ten thousand dollars ($10,000).

Approved March 11, 2006.

CHAPTER 25
(H.B. No. 446)

AN ACT
RELATING TO BORROWED SURPLUS OF STOCK AND MUTUAL INSURERS; AMENDING SECTION 41-2841, IDAHO CODE, TO PROVIDE THAT A COMMISSION OR PROMOTION EXPENSE MAY BE PAID IN CONNECTION WITH ISSUANCE OF A LOAN UPON APPROVAL OF THE DIRECTOR OF THE DEPARTMENT OF INSURANCE AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 41-2841, Idaho Code, be, and the same is hereby amended to read as follows:

41-2841. BORROWED SURPLUS. (1) A domestic stock or mutual insurer may borrow money to defray the expenses of its organization, provide it with surplus funds, or for any purpose of its business, upon a written agreement that such money is required to be repaid only out of the insurer's surplus in excess of that stipulated in such agreement. The agreement may provide for interest at such rate or rates approved by the director, which interest shall or shall not constitute a liability of the insurer as to its funds other than such excess or surplus, as stipulated in the agreement. No commission or promotion expense shall may be paid in connection with any such loan upon approval of the director.

(2) Money so borrowed, together with the interest thereon if so stipulated in the agreement, shall not form a part of the insurer's legal liabilities except as to its surplus in excess of the amount thereof stipulated in the agreement, or be the basis of any set-off set-off, but until repaid, financial statements filed or published by the insurer shall show as a footnote thereto the amount thereof then unpaid together with any interest thereon accrued but unpaid.

(3) Any such loan shall be subject to the director's approval. The insurer shall, in advance of the loan, file with the director a statement of the purpose of the loan and a copy of the proposed loan agree-
ment. The loan and agreement shall be deemed approved unless within fifteen (15) days after the date of such filing the insurer is notified of the director's disapproval and the reasons therefor. The director shall disapprove any proposed loan or agreement if he finds the loan is unnecessary or excessive for the purpose intended, or that the terms of the loan agreement are not fair and equitable to the parties, and to other similar lenders, if any, to the insurer, or that the information so filed by the insurer is inadequate.

(4) Any such loan to a mutual insurer or substantial portion thereof shall be repaid by the insurer when no longer reasonably necessary for the purpose originally intended. No repayment of such a loan shall be made by a mutual insurer unless approved in advance by the director.

(5) This section shall not apply to loans obtained by the insurer in ordinary course of business from banks and other financial institutions, nor to loans secured by pledge or mortgage of assets.

Approved March 11, 2006.

CHAPTER 26  
(H.B. No. 447)

AN ACT  
RELATING TO INVESTMENTS BY INSURANCE COMPANIES; AMENDING SECTION 41-721, IDAHO CODE, TO DELETE PROVISIONS LIMITING THE PERMISSIBLE AMOUNT OF, OR LOAN TO VALUE RATIO OF, CERTAIN LOANS MADE BY IDAHO DOMICILED INSURANCE COMPANIES; AND AMENDING SECTION 41-722, IDAHO CODE, TO DELETE PROVISIONS LIMITING THE PERMISSIBLE LOAN TO VALUE RATIO OF COMMERCIAL LOANS TO SEVENTY-FIVE PERCENT OF THE FAIR VALUE OF THE PROPERTY, TO PROVIDE THAT THE PERMISSIBLE LOAN TO VALUE RATIO OF EIGHTY PERCENT APPLIES TO COMMERCIAL MORTGAGE LOANS MADE BY IDAHO DOMICILED INSURANCE COMPANIES, TO PROVIDE CORRECT CODE REFERENCES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 41-721, Idaho Code, be, and the same is hereby amended to read as follows:

41-721. MORTGAGE LOANS AND CONTRACTS. An insurer may invest any of its funds in:
(1) Bonds or evidences of debt which are secured by first mortgages or deeds of trust on improved unencumbered real property located in the United States.
(2) The equity of the seller of any such property in the contract for a deed, covering the entire balance due on a bona fide sale of such property, in an amount not to exceed ten thousand dollars ($10,000) or the amount permissible under section 41-706, Idaho Code, whichever is greater, in any one (1) such contract for deed; nor in any amount in excess of seventy-five percent (75%) of the actual sale price or fair value of the property, whichever is the smaller.
(3) Purchase money mortgages or like securities received by it upon
the sale or exchange of real property acquired pursuant to section 41-728, Idaho Code.

(43) Bonds or notes secured by mortgage or trust deed guaranteed or insured by the federal housing administration under the terms of an act of Congress of the United States for June twenty-seventh, nineteen hundred thirty-four, entitled the "National Housing Act," as amended.

(54) Bonds or notes secured by mortgage or trust deed guaranteed or insured as to principal in whole or in part by the administrator of veterans' affairs pursuant to the provisions of title III of an act of Congress of the United States of June twenty-second, nineteen hundred forty-four, entitled the "Servicemen's Readjustment Act of 1944," as amended, or by any other similar agency of the government of the United States.

(65) Evidences of debt secured by first mortgages or deeds of trust upon leasehold estates, running for a term of not less than fifteen (15) years beyond the maturity of the loan as made or as extended, in improved real property, otherwise unencumbered, and if the mortgagee is entitled to be subrogated to all the rights under the leasehold.

(76) Bonds or notes secured by mortgage and insured by mortgage guarantee insurance as provided by chapter 26A, title 41, Idaho Code.

(87) Participation interests in any bond, note or evidence of indebtedness if the entire indebtedness would qualify as an investment under subsections (1) through (76) of this section, and:

(a) Such participation is senior and gives the holder substantially the rights of a first mortgagee; or

(b) Such participation is of equal priority, to the extent of such interest, with other interests therein.

SECTION 2. That Section 41-722, Idaho Code, be, and the same is hereby amended to read as follows:

41-722. MORTGAGE LOAN LIMITED BY PROPERTY VALUE. (1) No commercial mortgage loan or investment therein upon any one (1) parcel of real property shall exceed in amount, at the time of acquisition, seventy-five percent (75%) of the fair value of the property and the loan is required to be amortized within not more than thirty (30) years by payment of installments of principal and interest thereon at regular intervals not less frequent than every year.

(2) No commercial or residential mortgage loan or investment therein upon any one (1) parcel of real property shall exceed in amount, at the time of acquisition, eighty percent (80%) of the fair value of the property and the loan is required to be amortized within not more than thirty (30) years by payment of installments of principal and interest thereon at regular intervals not less frequent than every year.

(32) The extent to which a mortgage loan made under subsection (3) or (4) or (5) of section 41-721, Idaho Code, is guaranteed by the administrator of veterans affairs may be deducted before application of the limitations contained in subsection (1) of this section.

Approved March 11, 2006.
An Act

relating to investments by insurance companies; amending section 41-713, Idaho code, to delete authority for investment in guaranteed stocks, to allow an insurer to invest funds in preferred stocks or shares of solvent institutions existing under the laws of the government of Canada or any of its provinces and to make a technical correction; amending section 41-714, Idaho code, to allow an insurer to invest in common shares of stock of any solvent institution existing under the laws of the government of Canada or any of its provinces, and to remove authority for investment in a foreign corporation publicly traded on United States stock exchanges; repealing section 41-727, Idaho code; and amending chapter 7, Title 41, Idaho code, by the addition of a new section 41-727, Idaho code, to provide for investment of funds by insurance companies in foreign securities and to provide definitions.

Be it enacted by the Legislature of the State of Idaho:

Section 1. That section 41-713, Idaho code, be, and the same is hereby amended to read as follows:

41-713. Preferred and guaranteed stocks -- diversification. An insurer may invest any of its funds, in an aggregate amount not exceeding fifteen percent (15%) of its assets in preferred or guaranteed stocks or shares, other than common stocks, of solvent institutions existing under the laws of the United States or of any state, district, or territory thereof, or of the government of Canada or any province thereof, if all of the prior obligations and prior preferred stocks, if any, of such institution at the date of acquisition by the insurer are not then in default as to principal, interest or dividends.

Section 2. That section 41-714, Idaho code, be, and the same is hereby amended to read as follows:

41-714. Common stocks. After satisfying the requirements of section 41-706(3) and (4), Idaho code, (investment of capital and life reserves), an insurer may invest funds in an aggregate amount not in excess of fifteen percent (15%) of its assets in common shares of stock of any solvent institution existing under the laws of the United States or of any state, district or territory thereof, or a foreign corporation publicly traded on United States stock exchanges of the government of Canada or any province thereof, that qualify as a sound investment, in addition to the shares of a substantially owned or wholly owned subsidiary corporation.

For the purpose of determining the investment limitation imposed by this section, the insurer shall value securities subject to the provisions of this section at the cost of the security or at the market value of the security, whichever is lower. However, investments in the shares of subsidiaries or companion insurance companies shall be governed by sections 41-715 and 41-3801B, Idaho code.
The limitations as to investment in common stocks as provided herein shall not apply to nor limit the right of investments in investment trust securities as provided for in section 41-716, Idaho Code.

SECTION 3. That Section 41-727, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Chapter 7, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-727, Idaho Code, and to read as follows:

41-727. FOREIGN SECURITIES. (1) Notwithstanding the definitions in chapter 1, title 41, Idaho Code, for purposes of this section, the following definitions shall apply:

(a) "Business entity" means a sole proprietorship, corporation, limited liability company, association, partnership, joint stock company, joint venture, mutual fund, trust, joint tenancy or other similar form of business organization, whether organized for-profit or not-for-profit.

(b) "Domestic jurisdiction" means the United States, Canada, and a state or political subdivision of the United States or Canada.

(c) "Foreign currency" means a currency other than that of the United States or Canada.

(d) "Foreign investment" means an investment in a foreign jurisdiction or in an asset domiciled in a foreign jurisdiction. An investment shall not be deemed to be foreign if the issuing business entity, qualified primary credit source or qualified guarantor is a domestic jurisdiction or a business entity domiciled in a domestic jurisdiction, unless:

(i) The issuing business entity is a shell business entity; and

(ii) The investment is not assumed, accepted, guaranteed or insured or otherwise backed by a domestic jurisdiction or a business entity that is not a shell business entity domiciled in a domestic jurisdiction.

(e) "Foreign jurisdiction" means a jurisdiction outside of the United States or Canada.

(f) "Qualified guarantor" means a guarantor against which an insurer has a direct claim for full and timely payment evidenced by a contractual right for which an enforcement action can be brought in a domestic jurisdiction.

(g) "Qualified primary credit source" means the credit source to which an insurer looks for payment as to an investment and against which an insurer has a direct claim for full and timely payment evidenced by a contractual right for which an enforcement action can be brought in a domestic jurisdiction.

(h) "Shell business entity" means a business entity having no economic substance except as a vehicle for owning interests in assets issued, owned or previously owned by a business entity domiciled in a foreign jurisdiction.

(i) "SVO" means the securities valuation office of the national association of insurance commissioners or any successor office established by the national association of insurance commissioners.

(2) Any insurance company organized under any law of this state may
invest, by loans or otherwise, any of its funds, or any part thereof, in foreign investments of the same types as those that an insurer is permitted to acquire under sections 41-707, 41-708, 41-711, 41-713, 41-714, 41-716 and 41-721(1), Idaho Code, if:

(a) The aggregate amount of foreign investments then held by the insurer does not exceed fifteen percent (15%) of its admitted assets; and

(b) The aggregate amount of foreign investments then held by the insurer in a single foreign jurisdiction does not exceed ten percent (10%) of its admitted assets for jurisdictions that have a sovereign debt rating of SVO 1, or three percent (3%) of its admitted assets for all other jurisdictions.

(3) Any insurance company organized under any law of this state may invest, by loans or otherwise, any of its funds, or any part thereof, in investments of the same types as those that an insurer is permitted to acquire under sections 41-707, 41-708, 41-711, 41-713, 41-714, 41-716 and 41-721(1), Idaho Code, which are denominated in foreign currencies, whether or not they are foreign investments acquired under subsection (2) of this section, if:

(a) The aggregate amount of investments then held by the insurer denominated in foreign currencies does not exceed ten percent (10%) of its admitted assets; and

(b) The aggregate amount of investments then held by the insurer denominated in the foreign currency of a single foreign jurisdiction does not exceed five percent (5%) of its admitted assets for jurisdictions that have a sovereign debt rating of SVO 1, or three percent (3%) of its admitted assets for all other jurisdictions.

(4) The investment limitations in subsections (2) and (3) of this section computed on the basis of an insurer's admitted assets shall relate to the amount as shown on the insurer's last annual report as filed with the commissioner of insurance or a more recent quarterly financial statement as filed with the commissioner, on a form prescribed by the national association of insurance commissioners, within forty-five (45) days following the end of the calendar quarter to which the interim statement pertains.

(5) Investments acquired under this section shall be aggregated with investments of the same types made under sections 41-707, 41-708, 41-711, 41-713, 41-714, 41-716 and 41-721(1), Idaho Code, and in a similar manner, for purposes of determining compliance with the limits, if any, contained in this chapter.

Approved March 11, 2006.

CHAPTER 28
(H.B. No. 453)

AN ACT
RELATING TO THE IDAHO GRAPE GROWERS AND WINE PRODUCERS COMMISSION;
AMENDING CHAPTER 36, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-3611, IDAHO CODE, TO PROVIDE ANY GROWER OR PRODUCER THE ALTERNATIVE TO OPT OUT OF APPLICATION OF ALL PROVISIONS OF CHAPTER 36, TITLE 54, IDAHO CODE.
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 36, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-3611, Idaho Code, and to read as follows:

54-3611. OPT OUT ALTERNATIVE. (1) Each and every year, any grower or producer may, at his election, opt out of application of all provisions of this chapter, including assessment provisions. In order to opt out of application of the provisions of this chapter, a grower or producer shall comply with the following requirements:
   (a) On an annual basis, no later than June 30 of each year, submit a letter to the Idaho grape growers and wine producers commission, stating intent to opt out of application of the provisions of the chapter for the upcoming fiscal year; and
   (b) The letter shall include the grower's or producer's name and address.

(2) The Idaho grape growers and wine producers commission shall post the address of the commission on its official website. The commission shall also set forth its mailing address by rule.

Approved March 11, 2006.

CHAPTER 29
(H.B. No. 454)

AN ACT
RELATING TO THE DIRECT TO CONSUMER SALE AND SHIPMENT OF WINE BY WINERIES; AMENDING SECTION 23-1309A, IDAHO CODE, TO PROVIDE THAT WINERIES THAT SELL AND SHIP TO IDAHO RESIDENTS MUST OBTAIN A PERMIT, PAY TAXES AND COMPLY WITH SPECIFIED SHIPPING REQUIREMENTS AND TO PROVIDE FOR PROCEDURES AND RULES AND THE EXCHANGE OF INFORMATION BETWEEN THE STATE POLICE AND THE STATE TAX COMMISSION; AND AMENDING SECTION 23-1319, IDAHO CODE, TO PROVIDE FOR IMPOSITION OF THE EXCISE TAX UPON ALL WINES SOLD AND SHIPPED DIRECTLY TO IDAHO STATE RESIDENTS BY AN OUT-OF-STATE WINE MANUFACTURER HOLDING A WINE DIRECT SHIPPER PERMIT AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 23-1309A, Idaho Code, be, and the same is hereby amended to read as follows:

23-1309A. RECIPROCAL-INTERSTATE SHIPMENT AND RECEIPT OF WINE AUTHORIZED -- LABELING REQUIREMENT. (1) Any resident of this state who is at least twenty-one (21) years of age is entitled to receive not more than two (2) cases of wine per month for personal use, containing not more than nine (9) liters per case, from another state without payment of state tax, fees or charges if the state from which the wine is sent allows its residents to receive wine from this state without imposition of state tax, fees or charges. For tax purposes, receipt of a shipment into this state under this subsection shall not be considered to consti-
tute-a-safe-in-this-state; No-person-who-transportswine-pursuant-to
this-subsection-shall-deliver-more-than-two-(2)-cases-of-wine-to-the
same-address-at-one-(1)-time; No-person-who-receives-wine-pursuant-to
this-subsection-shall-resell-any-of-the-wine Notwithstanding any other
provision of law, rule or regulation to the contrary, any holder of a
winery license under section 23-1306, Idaho Code, or any person holding
a license to manufacture wine in another state who obtains a wine direct
shipper permit pursuant to this section may sell and ship up to twenty-
four (24) nine-liter cases of wine annually directly to a resident of
Idaho, who is at least twenty-one (21) years of age, for the resident's
personal use and not for resale.

(2) Before sending any shipment to a resident of Idaho, the wine
direct shipper permit holder must:

(a) File an application with the director;
(b) Pay a fifty dollar ($50.00) annual registration fee if the win­
er is not currently licensed by the director;
(c) Provide the director its Idaho winery license number or a true
copy of its current alcoholic beverage license issued by another
state;
(d) Obtain from the director a wine direct shipper permit;
(e) Register with the state tax commission for the payment of sales
and use taxes and excise taxes on wine sold to residents of Idaho
under the wine direct shipper permit.

(3) A wine direct shipper permit authorizes the permit holder to do
all of the following:

(a) Sell and ship not more than twenty-four (24) nine-liter cases
of wine annually to any person twenty-one (21) years of age or older
for his or her personal use and not for resale;
(b) Ship wine directly to a resident in this state only in comli­
ance with subsections (8) and (9) of this section;
(c) Report to the director, no later than January 31 of each year,
the total amount of wine shipped during the preceding calendar year
under the wine direct shipper permit;
(d) If the permit holder is located outside this state, pay to the
state tax commission all sales and use taxes, and excise taxes on
sales to residents of Idaho under the wine direct shipper permit.
For excise tax purposes, all wine sold pursuant to a direct shipper
permit shall be deemed to be wine sold in this state;
(e) Permit the director and the state tax commission to perform an
audit of the wine direct shipper permit holder's records upon
request;
(f) Be deemed to have consented to the jurisdiction of the alcohol
beverage control division of the Idaho state police, or any other
state agency and the Idaho courts concerning enforcement of this
section and any related laws, rules or regulations.

(4) A wine direct shipper permit holder located outside the state
may annually renew its permit with the director by paying a twenty-five
dollar ($25.00) renewal fee and providing the director a true copy of
its current alcoholic beverage license issued in another state. A wine
direct shipper permit holder located in Idaho shall renew its wine
direct shipper permit in conjunction with its license to manufacture
wine. All registration fees and renewal fees shall be shared equally by
the state police and the state tax commission.

(5) The director may enforce the requirements of this section by
administrative proceedings or suspend or revoke a wine direct shipper permit, and the director may accept payment of an offer in compromise in lieu of suspension, such payments to be determined by rule promulgated by the director.

(6) Sales and shipments of wine directly to consumers in Idaho from wine manufacturers in Idaho or in another state who do not possess a current wine direct shipper permit are prohibited. Any person who knowingly makes such a shipment is guilty of a misdemeanor.

(7) A licensee who holds a license for the retail sale of wine for consumption off the licensed premises may ship not more than two (2) cases of wine, containing not more than nine (9) liters per case, per shipment, for personal use and not for resale, directly to a resident of another state if the state to which the wine is sent allows residents of this state to receive wine sent from that state without payment of additional state tax, fees or charges. The sale shall be considered to have occurred in this state.

(8) The shipping container of any wine sent into or out of this state shipped under this section must be clearly labeled to indicate that the container contains alcoholic beverages and cannot be delivered to a person who is not at least twenty-one (21) years of age.

(9) For the purposes of out-of-state shipments wine shipped under this section to an Idaho resident, the delivery person shall:

(a) Have the person who receives the wine shipment sign for it; and
(b) Not make deliveries to anyone who is under twenty-one (21) years of age or to anyone who is visibly intoxicated; and
(c) Keep the signature record for one (1) year.

(10) Sales authorized under this section are sales made by a retailer who is not authorized to sell at wholesale or sales by a winery of wine produced or bottled by the winery.

(11) The director and the state tax commission may promulgate rules to effectuate the purposes of this section and are authorized to exchange necessary information to implement the provisions of this section.

SECTION 2. That Section 23-1319, Idaho Code, be, and the same is hereby amended to read as follows:

23-1319. EXCISE TAX -- SALES INCLUDED -- REFUND FOR EXPORT SALES -- REFUND FOR BREAKAGE OR SPOILAGE -- DISTRIBUTION OF REVENUE. Upon all wines sold by a distributor or winery to a retailer or consumer and upon all wines sold and shipped directly to Idaho state residents by an out-of-state wine manufacturer holding a wine direct shipper permit under section 23-1309A, Idaho Code, for use within the state of Idaho pursuant to this act chapter there is hereby imposed an excise tax of forty-five cents (45¢) per gallon. Sales of wine by a distributor or winery for the purpose of and resulting in export of wine from this state for resale outside this state shall be exempt from the taxes on wine imposed by this chapter.

(a) Every sale of wine by a distributor to a retailer shall constitute a sale of wine for resale or consumption in this state, whether the sale is made within or without this state, and the distributor shall be liable for the payment of taxes. In every transfer of wine by a licensed winery to its licensed retail outlet, the winery shall be liable for payment of taxes.
(b) When wine has been destroyed by breakage or has spoiled or otherwise become unfit for beverage purposes prior to payment of taxes on it, the distributor, upon satisfactory proof of destruction or spoilage, shall be entitled to deduct from existing inventories, subject to tax, the amount of wine so destroyed or spoiled.

(c) If the tax commission determines that any amount due under this chapter has been paid more than once or has been erroneously or illegally collected or computed, the commission shall set forth that fact in its records and the excess amount paid or collected may be credited on any amount then due and payable to the commission from that person and any balance refunded to the person by whom it was paid or to his successors, administrators or executors. The commission is authorized and the state board of tax appeals is authorized to order the commission in proper cases to credit or refund such amounts whether or not the payments have been made under protest and certify the refund to the state board of examiners.

(d) No credit or refund shall be allowed or made after three (3) years from the time the payment was made, unless before the expiration of that period a claim is filed by the taxpayer. The three (3) year period allowed by this subsection for making refunds or credit claims shall not apply in cases where the tax commission asserts a deficiency of tax imposed by law, and taxpayers desiring to appeal or otherwise seek a refund of amounts paid in obedience to deficiencies must do so within the time limits elsewhere prescribed by law.

(e) All revenue received pursuant to this chapter shall be distributed as follows:

1. An amount of money shall be distributed to the state refund account sufficient to pay current refund claims as authorized in subsection (c) of this section and those moneys are continuously appropriated.

2. The balance remaining after distributing the amount in paragraph (1) of this subsection shall be distributed as follows:
   1. Twelve percent (12%) shall be distributed to the alcoholism treatment account;
   2. Five percent (5%) shall be distributed to the Idaho grape growers and wine producers commission account; and
   3. The remainder shall be distributed to the general account.

(f) Any person who is not a distributor or winery but who makes, whether as principal, agent or broker, any sales of wine not otherwise taxed under this section and not exempt from such tax, shall be liable for payment of taxes imposed by this section. This subsection shall not impose tax on wine sold pursuant to section 23-1336, Idaho Code.

Approved March 11, 2006.

CHAPTER 30
(H.B. No. 462)

AN ACT
RELATING TO CASUALTY INSURANCE CONTRACTS; AMENDING SECTION 41-2515, IDAHO CODE, TO LOWER THE ELIGIBILITY AGE FOR CERTAIN AUTOMOBILE INSURANCE POLICY DISCOUNTS.
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 41-2515, Idaho Code, be, and the same is hereby amended to read as follows:

41-2515. DISCOUNT FOR CERTAIN AGE GROUPS. (1) Any insurer offering for sale an automobile insurance policy, as policy is defined in subsection (a) of section 41-2506, Idaho Code, in which there is insured a principal operator who is sixty-five (65) years of age or older, shall provide for an appropriate reduction in premium charges for liability, medical payments and collision coverages if the principal operator sixty-five (65) years of age or older has successfully completed a motor vehicle accident prevention course which meets criteria established by the transportation department. Any discount used by an insurer shall be presumed appropriate unless credible evidence data demonstrates otherwise.

(2) Upon successful completion of an approved motor vehicle accident prevention course, each participant shall be issued, by the course's sponsoring entity, a certificate of completion which shall be the basis of the qualification for the discount on the automobile insurance.

(3) The premium reduction required in this section shall be effective for an insured for a three (3) year period after successful completion of the approved course, except that the insurer may require, as a condition of providing and maintaining the discount, that the insured for a three (3) year period after course completion, not be involved in an accident for which the insured is at fault or be found guilty of a moving traffic violation.

(4) The provisions of this section shall not apply in the event the approved course is specified by a court or other governmental entity resulting from a moving traffic violation.

(5) Each participant shall take an approved course every three (3) years to continue to be eligible for the reduction in premiums.

(6) Nothing in the provisions of this section shall be deemed to prohibit an insurer from canceling or not renewing an automobile insurance policy for grounds enumerated in section 41-2507, Idaho Code, or in chapter 25, title 41, Idaho Code.

(7) The provisions of this section shall not apply in the event that such an insurer offers a premium reduction which is substantially comparable to the premium reduction required in this section and in no event shall such insurer be required to provide both comparable premium reductions on a cumulative basis.

Approved March 11, 2006.
TRANSPORTATION DEPARTMENT EMPLOYEES AT PORTS OF ENTRY AND CHECKING STATIONS; AND AMENDING SECTION 40-511, IDAHO CODE, TO CLARIFY THOSE VEHICLES REQUIRED TO STOP AT PORTS OF ENTRY AND CHECKING STATIONS FOR INSPECTION, GRADING OR WEIGHING.

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

SECTION 1. That Section 40-510, Idaho Code, be, and the same is hereby amended to read as follows:

40-510. PORTS OF ENTRY OR CHECKING STATIONS ESTABLISHED -- MOTOR VEHICLE INVESTIGATOR ACTIVITIES -- AUTHORITY OF THE BOARD TO EMPLOY INDIVIDUALS. (1) To augment and help make more efficient and effective the enforcement of certain laws of the state of Idaho, the Idaho transportation department is hereby authorized and directed to establish from time to time temporary or permanent ports of entry or checking stations upon any highways in the state of Idaho, at such places as the Idaho transportation department shall deem necessary and advisable.

(2) The board is authorized to appoint and employ individuals who shall have limited peace officer authority for the enforcement of such motor vehicle related laws as are herein specified:

(a) Sections 18-3906 and 18-8001, Idaho Code;
(b) Sections 25-1105 and 25-1182(2), Idaho Code;
(c) Sections 40-510 through 40-5142, Idaho Code;
(d) Chapters 1 through 5, 9, 10, 11, 15 through 19, 22 and 24, title 49, sections 49-619, 49-660, 49-1407, 49-1418 and 49-1427 through 49-1430, Idaho Code;
(e) Sections 63-2438, 63-2440, 63-2441 and 63-2443, Idaho Code; and
(f) Section 67-2901A, Idaho Code.

(3) Motor vehicle investigators shall have the authority to access confidential vehicle identification number information.

(4) Any employee so appointed shall have the authority to issue misdemeanor traffic citations in accordance with the provisions of section 49-1409, Idaho Code, and infraction citations in accordance with the provisions of chapter 15, title 49, Idaho Code.

(5) No employee of the department shall carry or use a firearm of any type in the performance of his duties unless specifically authorized in writing by the director of the Idaho state police to do so.

(6) The board is authorized to extend the authority as provided in this section to authorized employees of contiguous states upon approval of a bilateral agreement according to the provisions of section 40-317, Idaho Code.

SECTION 2. That Section 40-511, Idaho Code, be, and the same is hereby amended to read as follows:

40-511. STOPPING AND INSPECTION. (1) Wherever by the laws of the state of Idaho any vehicle with a maximum gross weight or registered gross weight, or operated at a gross weight of twenty-six thousand one (26,001) pounds or more, excepting those transporting livestock or placardable quantities of hazardous materials, is used to transport any merchandise, product or commodity within the state, within the state to without the state, or from without the state to within the state, the owner or operator of either the motor vehicle or trailer, as defined in
chapter 1, title 49, Idaho Code, used to transport such merchandise, product or commodity is hereby required to stop at such ports of entry or checking stations established by the Idaho transportation department and submit to inspection, grading or weighing, for compliance with the laws of the state of Idaho.

(2) Vehicles or combinations of vehicles with a maximum gross weight of ten thousand (10,000) pounds or more transporting livestock or placardable quantities of hazardous materials are required to stop at all ports of entry or checking stations established by the Idaho transportation department.

(3) It shall be the duty of such owner or operator of every motor vehicle or trailer to drive the motor vehicle or trailer upon any state owned stationary or portable scale or private scale, certified by the state of Idaho when requested to do so by any peace officer, excepting fish and game officers, or authorized employees of the Idaho transportation department.

(4) Authorized employees of the transportation department may stop any vehicle with a maximum gross weight of eighteen thousand (18,000) pounds or more by displaying a flashing red light if the authorized employee has probable cause to believe the vehicle bypassed a weighing or inspection station or proceeded through the station without regard for the directional signals. Authorized employees may direct a vehicle which has bypassed a weighing or inspection station or has proceeded through the station without regard for the directional signals, to return to the bypassed inspection or weighing station and may issue a citation for failure to stop as required in this section. The operator of a vehicle shall bring the vehicle to a stop, pulling off the traveled portion of the highway when directed to do so by an authorized employee of the transportation department by use of emergency lights or siren.

Approved March 11, 2006.

CHAPTER 32
(H.B. No. 476)

AN ACT
RELATING TO NONCONSENSUAL COMMON LAW LIENS; AMENDING SECTION 45-1704, IDAHO CODE, TO CLARIFY THE REMEDY FOR REMOVING AN INVALID CLAIM OF LIEN FILED AGAINST A FEDERAL, STATE OR LOCAL OFFICIAL OR EMPLOYEE; AMENDING SECTION 45-1705, IDAHO CODE, TO REVISE PENALTIES APPLICABLE TO FILING AN INVALID CLAIM OF LIEN; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 45-1704, Idaho Code, be, and the same is hereby amended to read as follows:

45-1704. LIENS AGAINST PUBLIC OFFICERS AND EMPLOYEES. (1) Any claim of lien against a federal, state, or local official or employee based on the performance or nonperformance of that official's or employee's duties shall be invalid unless accompanied by a specific order from a court of competent jurisdiction authorizing the filing of such lien or
unless a specific statute authorizes the filing of such lien.

(2) A federal, state, or local official or employee whose property is affected by a claim of lien that is based on the performance or non-performance of that official's or employee's duties may petition the district court pursuant to section 45-1703, Idaho Code, for an order striking and releasing the claim of lien. In such case, the claim of lien shall be treated as if it were a nonconsensual common law lien.

SECTION 2. That Section 45-1705, Idaho Code, be, and the same is hereby amended to read as follows:

45-1705. PENALTIES. (1) Any person who offers to have recorded or filed in the office of the county clerk and recorder, or with the secretary of state, any document purporting to create a nonconsensual common law lien against real or personal property, knowing or having reason to know that such document is forged or groundless, contains a material misstatement or false claim, or is otherwise invalid, shall be liable to the owner of such real or personal property for the sum of not less than five thousand dollars ($5,000) or for actual damages caused thereby, whichever is greater, together with reasonable attorney's fees.

(2) Any grantee or other person purportedly benefited by a recorded document which creates a nonconsensual common law lien against real or personal property and is forged or groundless, contains a material misstatement or false claim, or is otherwise invalid, who willfully refuses to release such document or record upon request of the owner of the real or personal property affected shall be liable to such owner for the damages and attorney's fees provided in subsection (1) of this section.

(3) Any person who offers to have recorded or filed in the office of the county clerk and recorder, or with the secretary of state, any document, including a financing statement, purporting to create a claim of lien against any real or personal property of a federal, state or local official or employee, knowing or having reason to know that such document is forged or groundless, contains a material misstatement or false claim, or is otherwise invalid, shall be liable to the owner of such property for the damages and attorney's fees provided in subsection (1) of this section.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 11, 2006.
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 65-201, Idaho Code, be, and the same is hereby amended to read as follows:

65-201. DIVISION OF VETERANS SERVICES -- CREATION OF COMMISSION -- APPOINTMENT OF MEMBERS -- DISCONTINUANCE OF COMMISSION -- RECEIPT OF PROPERTY. (1) There is hereby established in the department of self-governing agencies the division of veterans services. The division shall be headed by an administrator who shall be appointed by the governor from a nomination list of eligible candidates for administrator submitted by the veterans affairs commission. The administrator may be removed from office by the governor only with the consent of the veterans affairs commission.

(2) There is hereby created an advisory commission to be known as the Idaho veterans affairs commission to consist of five (5) persons, all of whom shall be appointed by the governor of the state of Idaho. Said appointees shall have had active service in any war or conflict officially engaged in by the government of the United States and have been honorably discharged from such service. No more than two (2) of said commission shall be residents of the same judicial district of the state of Idaho. Upon the expiration of a member's term, the subsequent appointment shall be made by the governor and shall be for a term of three (3) years. Such subsequent terms shall expire on the third Monday in January of the appropriate year. The governor shall have power to fill any and all vacancies occurring in said commission. The governor shall have the further full power to discontinue said commission by proclamation whenever the governor determines that the government of the United States, or the state of Idaho, shall have made adequate provision for the care and assistance of honorably discharged and destitute veterans of the armed forces.

(3) All rights, title and interest in property, real and personal, held by the department of health and welfare for use in exercising the powers and duties transferred to the division of veterans services by chapter 59, laws of 2000, are hereby transferred to and vested in the division of veterans services.

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

Approved March 11, 2006.

CHAPTER 34
(H.B. No. 488)

AN ACT
RELATING TO SUCCESSION TO THE DUTIES OF LEGISLATOR; AMENDING SECTION 67-423A, IDAHO CODE, TO PROVIDE FOR ASSUMPTION OF POWERS AND DUTIES OF A LEGISLATOR IN THE EVENT A LEGISLATOR RESIGNS FROM OFFICE AND TO REVISE TERMINOLOGY.
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 67-423A, Idaho Code, be, and the same is hereby amended to read as follows:

67-423A. ASSUMPTION OF POWERS AND DUTIES OF LEGISLATOR BY EMERGENCY INTERIM SUCCESSOR. IN THE EVENT OF DEATH. If in the event a legislator dies or resigns the office, his the legislator’s emergency interim successor highest in order of succession who is not unavailable shall, except for the power and duty to appoint emergency successors, exercise the powers and assume the duties of such legislator. An emergency interim successor shall exercise these powers and assume these duties until an emergency interim successor higher in order of succession, or a replacement legislator appointed pursuant to section 59-904A, Idaho Code, and legally qualified can act. Each house of the legislature shall, in accordance with its own rules, determine who is entitled under the provisions of this act chapter to exercise the powers and assume the duties of its members. All constitutional and statutory provisions pertaining to ouster of a legislator shall be applicable to an emergency interim successor who is exercising the powers and assuming the duties of a legislator.

Approved March 11, 2006.

CHAPTER 35
(H.B. No. 535)

AN ACT
RELATING TO SEXUAL OFFENDERS; AMENDING SECTION 18-8324, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE DISSEMINATION OF INFORMATION RELATING TO VIOLENT SEXUAL PREDATORS AND TO PROVIDE FOR THE DEPOSIT AND USE OF CERTAIN FEES.

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

SECTION 1. That Section 18-8324, Idaho Code, be, and the same is hereby amended to read as follows:

18-8324. DISSEMINATION OF REGISTRY INFORMATION. (1) The department shall disseminate any registration information collected under this chapter, including change of address notification, to criminal justice agencies through the public safety and security information system established in section 19-5202, Idaho Code. Registry information provided under this section shall be used only for the administration of criminal justice or for the protection of the public as permitted by this chapter.

(2) The department shall provide quarterly to the superintendent of public instruction and to the director of the department of health and welfare a list of all sexual offenders required to register with the central registry together with the address, date of birth and crime of conviction for each offender listed. The superintendent may further distribute the list or portions thereof to school districts or to schools.
(3) The department shall release quarterly to the public a list of offenders thirty (30) days or more delinquent in maintaining registration or address verification. Offenders subject to being listed include those who have failed:

(a) To register with a sheriff after initial registration under section 18-8307, Idaho Code;
(b) To register annually as required in section 18-8307, Idaho Code; and
(c) To respond to an address verification notice as required in section 18-8308, Idaho Code.

(4) The department shall include a cautionary statement relating to completeness, accuracy and use of registry information when releasing information to the public or noncriminal justice agencies as well as a statement concerning the penalties provided in section 18-8326, Idaho Code, for misuse of registry information.

(5) Information released pursuant to this section may be used only for the protection of the public.

(6) Further dissemination of registry information by any person or entity shall include the cautionary statements required in subsection (4) of this section.

(7) Upon registration in a county of a person classified as a violent sexual predator presenting a high risk of reoffense by the Idaho sex offender classification board, or an equivalent classification in another state, the sheriff shall publish in a newspaper in general circulation within the county once a week for three (3) consecutive weeks, the name, address, photograph of said person and offense the offender has committed within thirty (30) days of registration and within this time period shall also disseminate the name, address, photograph of said person and offense the offender has committed to all major local radio and television media. The sheriff shall charge a fee of fifty dollars ($50.00) in addition to any other fees authorized by this chapter to be paid by the sex offender. Fees shall be deposited in a violent sexual predator account maintained by the sheriff to be used for the purpose of public education relating to violent sexual predators and to offset the cost of newspaper publication.

Approved March 11, 2006.

CHAPTER 36
(H.B. No. 556)

AN ACT
RELATING TO MONEYS CONTRIBUTED TO A POLITICAL CAMPAIGN; REPEALING SECTION 67-6610C, IDAHO CODE, RELATING TO USE OF CONTRIBUTIONS FOR CERTAIN PURPOSES BY A CANDIDATE OR OFFICEHOLDER; AMENDING CHAPTER 66, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-6610C, IDAHO CODE, TO ENUMERATE PERMITTED AND NONPERMITTED USES OF A CONTRIBUTION ACCEPTED BY A CANDIDATE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-6610C, Idaho Code, be, and the same is hereby repealed.
SECTION 2. That Chapter 66, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-6610C, Idaho Code, and to read as follows:

67-6610C. USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES. (1) Permitted uses. A contribution accepted by a candidate may be used by the candidate:
(a) For expenditures in connection with the campaign for public office of the candidate;
(b) For ordinary and necessary expenses incurred in connection with duties of the individual as a holder of public office;
(c) For contributions to an organization described in section 170(c) of the Internal Revenue Code of 1986;
(d) For transfers, without limitation, to a national, state or local committee of a political party;
(e) For donations to state and local candidates subject to the provisions of state law; or
(f) For any other lawful purpose unless prohibited by subsection (2) of this section.
(2) Prohibited use.
(a) In general. A contribution shall not be converted by any person to personal use.
(b) Conversion. For the purposes of subsection (2)(a) of this section, a contribution shall be considered to be converted to personal use if the contribution is used to fulfill any commitment, obligation or expense of a person that would exist irrespective of the candidate's election campaign or individual's duties as a holder of public office, including:
(i) A home mortgage, rent or utility payment;
(ii) A clothing purchase except for items of de minimis value such as campaign shirts or hats;
(iii) A noncampaign or nonofficeholder related automobile expense;
(iv) A country club membership;
(v) A vacation or other noncampaign-related trip;
(vi) A tuition payment;
(vii) Admission to a sporting event, concert, theater or other form of entertainment not associated with an election campaign;
(viii) Dues, fees and other payments to a health club or recreational facility; and
(ix) Meals, groceries or other food expense, except for tickets to meals that the candidate attends solely for the purpose of enhancing the candidacy of another person or meal expenses which are incurred as part of a campaign activity or as part of a function that is related to the candidate's or officeholder's responsibilities.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 11, 2006.
RELATING TO MINES AND MINING BONDS; AMENDING SECTION 47-1513, IDAHO
CODE, TO DELETE LANGUAGE THAT PROVIDED ANY UNENCUMBERED AND UNEX­
PENDED BALANCES IN THE SURFACE MINING RECLAMATION FUND AND THE
CYANIDATION FACILITY CLOSURE FUND REMAINING AT THE END OF A FISCAL
YEAR SHALL NOT LAPSE BUT SHALL BE CARRIED FORWARD UNTIL EXPENDED OR
MODIFIED BY SUBSEQUENT STATUTE; AND AMENDING SECTION 47-1703, IDAHO
CODE, TO MAKE A TECHNICAL CORRECTION AND TO DELETE LANGUAGE THAT
PROVIDED ANY UNENCUMBERED AND UNEXPENDED BALANCE OF THE ABANDONED
MINE RECLAMATION FUND REMAINING AT THE END OF A FISCAL YEAR SHALL
NOT LAPSE BUT SHALL BE CARRIED FORWARD FOR THE PURPOSES OF THE STAT­
UTE ON ABANDONED MINES UNTIL EXPENDED OR UNTIL MODIFIED BY SUBSE­
QUENT STATUTE.

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

SECTION 1. That Section 47-1513, Idaho Code, be, and the same is
hereby amended to read as follows:

47-1513. OPERATOR'S FAILURE TO COMPLY -- FORFEITURE OF BOND -- PEN­
ALTIES -- RECLAMATION FUND -- CYANIDATION CLOSURE FUND. (a) Whenever the
board determines that an operator has not complied with the provisions
of this chapter, the board may notify the operator of such noncompli­
ance, and may by private conference, conciliation, and persuasion,
endeavor to remedy such violation. In the event of a violation referred
in subsections (d) and (e) of this section, the board may proceed
without an administrative action, hearing or decision to exercise the
remedies set forth in said subsections. Additionally, no administrative
action, hearing or decision shall be required from the Idaho board of
environmental quality prior to the board proceeding under subsections
(d) and (e) of this section. In the event of the failure of any confer­
ence, conciliation and persuasion to remedy any alleged violation, the
board may cause to have issued and served upon the operator alleged to
be committing such violation, a formal complaint which shall specify the
provisions of this chapter which the operator allegedly is violating,
and a statement of the manner in and the extent to which said operator
is alleged to be violating the provisions of this chapter. Such com­
plaint may be served by certified mail, and return receipt signed by the
operator, an officer of a corporate operator, or the designated agent of
the operator shall constitute service. The operator shall answer the
complaint and request a hearing before a designated hearing officer
within thirty (30) days from receipt of the complaint if matters
asserted in the complaint are disputed. If the operator fails to answer
the complaint and request a hearing, the matters asserted in the com­
plaint shall be deemed admitted by the operator, and the board may pro­
cceed to cancel the reclamation or permanent closure plan and forfeit the
bond in the amount necessary to reclaim affected lands or complete the
permanent closure activities. Upon request for a hearing by an operator,
the board shall schedule a hearing before a hearing officer appointed by
the board at a time not less than thirty (30) days after the date the
operator requests a hearing. The board shall issue subpoenas at the request of the director of the department of lands and at the request of the charged operator, and the matter shall be otherwise handled and conducted in accordance with chapter 52, title 67, Idaho Code. The hearing officer shall, pursuant to said hearing, enter an order in accordance with chapter 52, title 67, Idaho Code, which, if adverse to the operator, shall designate a time period within which corrective action should be taken. The time period designated shall be long enough to allow the operator, in the exercise of reasonable diligence, to rectify any failure to comply designated in said order. In the event that the operator takes such action as is necessary to comply with the order within the time period designated in said order, no further action shall be taken by the board to compel performance under the chapter.

(b) Upon request of the board, the attorney general shall institute proceedings to have the bond of an operator forfeited for the violation by the operator of an order entered pursuant to this section.

(c) The forfeiture of such bond shall fully satisfy all obligations of the operator to reclaim the affected land or complete permanent closure activities under the provisions of this chapter. If the violation involves an operator that has not furnished a bond required by this chapter, or an operator that is not required to furnish a bond pursuant to this chapter, or an operator who violates this chapter by performing an act not included in the original approved reclamation plan or the original approved permanent closure plan, and such departure from the plan is not subsequently approved, such operator shall be subject to a civil penalty for his failure to comply with such order in the amount determined by the board to be the anticipated cost of reasonable reclamation of affected lands or permanent closure of the cyanidation facility. Nothing in this subsection shall relieve the operator of any obligation to complete closure requirements, pursuant to a permit issued by the department of environmental quality under section 39-118A, Idaho Code, or limit that department's authority to require compliance with such permit requirements.

(d) Notwithstanding any other provisions of this chapter, the board may commence an action without bond or undertaking, in the name of the state of Idaho to enjoin any operator who is conducting operations without an approved plan required by section 47-1506, Idaho Code, or without the bond required by this chapter. The court, or a judge thereof at chambers, if satisfied from the complaint or by affidavits that such acts have been or are being committed, shall issue a temporary restraining order without notice or bond, enjoining the defendant, his agents, and employees from conducting such operations without said plan or bond. Upon a showing of good cause therefor, the temporary restraining order may require the defendant to perform reclamation of the mined area in conformity with sections 47-1509 and 47-1510, Idaho Code, or to complete permanent closure activities, pending final disposition of the action. The action shall then proceed as in other cases for injunctions. If it is established at trial that the defendant has operated without an approved plan or bond, the court shall enter, in addition to any other order, a decree enjoining the defendant, his agents and employees from thereafter conducting such activities or similar actions in violation of this chapter. The board may, in conjunction with its injunctive procedures, proceed in the same or in a separate action to recover from an operator who is conducting surface mining or exploration operations or
operating a cyanidation facility without the required plan or bond, the cost of performing the reclamation activities required by sections 47-1509 and 47-1510, Idaho Code, or the cost of permanent closure activities from any such operator who has not filed a bond to cover the cost of the required activities.

(e) Notwithstanding any other provision of this chapter, the board may, without bond or undertaking and without any administrative action, hearing or decision, commence an action in the name of the state of Idaho (1) to enjoin a permitted surface mining operation or cyanidation facility when, under an existing approved plan, an operator violates the terms of the plan and where immediate and irreparable injury, loss or damage may result to the state and (2) to recover the penalties and to collect civil damages provided for by law.

(f) In addition to the procedures set forth in subsections (a), (d) and (e) of this section, and in addition to the civil penalty provided in subsection (c) of this section, any operator who violates any of the provisions of this chapter or rules adopted pursuant thereto, or who fails to perform the duties imposed by these provisions, or who violates any determination or order promulgated pursuant to the provisions of this chapter, shall be liable to a civil penalty of not less than five hundred dollars ($500) nor more than two thousand five hundred dollars ($2,500) for each day during which such violation continues, and in addition may be enjoined from continuing such violation. Such penalties shall be recoverable in an action brought in the name of the state of Idaho by the attorney general in the district court for the county where the violation, or some part thereof, occurs, or in the district court for the county wherein the defendant resides.

(1) All sums recovered related to the reclamation provisions of this chapter shall be placed in the state treasury and credited to the surface mining reclamation fund, which is hereby created, to be used to reclaim affected lands and to administer the reclamation provisions of this chapter.

(2) All sums recovered related to the cyanidation facility closure provisions of this chapter shall be placed in the state treasury and credited to the cyanidation facility closure fund, which is hereby created. Moneys in the fund may be expended pursuant to appropriation and used to complete permanent closure activities and to administer the permanent closure provisions of this chapter.

(3) Any unencumbered and unexpended balances in the surface mining reclamation fund and the cyanidation facility closure fund remaining at the end of a fiscal year shall not lapse but shall be carried forward until expended or modified by subsequent statute.

(g) Any person who willfully and knowingly falsifies any records, information, plans, specifications, or other data required by the board or willfully fails, neglects, or refuses to comply with any of the provisions of this chapter shall be guilty of a misdemeanor and shall be punished by a fine of not less than one thousand dollars ($1,000) and not more than five thousand dollars ($5,000) or imprisonment not to exceed one (1) year or both.

(h) Reclamation plans approved by the board as of January 1, 1997, shall be deemed to be in full compliance with the requirements of this chapter. However, the board may periodically review, and revise if necessary to meet the requirements of sections 47-1506, 47-1509, 47-1510 and 47-1511, Idaho Code, the amount, terms and conditions of any bond
when there is a material change in the reclamation plan or a material change in the estimated reasonable costs of reclamation determined pursuant to section 47-1512, Idaho Code. Any revision to the amount, terms and conditions of a bond due to a material change in the reclamation plan shall apply only to the affected lands covered by the material change in the reclamation plan.

(i) A cyanidation facility with an existing permit approved by the department of environmental quality under section 39-118A, Idaho Code, as of July 1, 2005, shall be deemed to be in full compliance with the requirements of this chapter. If there is a material modification or a material expansion of a cyanidation facility after July 1, 2005, the provisions of this chapter shall apply to the modification or expansion. Provided however, that reclamation or closure related activities at a facility with an existing cyanidation permit that did not actively add cyanide after January 1, 2005, shall not be considered to be material modifications or a material expansion of the facility.

(j) For a permanent closure plan approved by the board after July 1, 2005, the board shall periodically review, and revise if necessary to meet the requirements of this chapter, the amount, terms and conditions of any bond when there is a material change in the permanent closure plan or a material change in the estimated reasonable costs of permanent closure determined pursuant to section 47-1512, Idaho Code. The board may require a fee sufficient to employ a qualified independent party, acceptable to the operator and the board, to verify any revised estimate of the reasonable costs of permanent closure.

SECTION 2. That Section 47-1703, Idaho Code, be, and the same is hereby amended to read as follows:

47-1703. FUNDING. This chapter shall govern the use of state and federal moneys specifically appropriated for abandoned mine reclamation. This chapter shall not require the state to expend or appropriate state moneys. The board may receive federal funds, state funds, and any other funds, and, within the limits imposed by a specific grant, expend them as directed by this chapter. All grants, funds, fees, fines, penalties and other uncleared money which has been or will be paid to the state for abandoned mine reclamation shall be placed in the state treasury and credited to the abandoned mine reclamation account fund, which is hereby created. This account fund shall be available to the board, by legislative appropriation, and shall be expended for the reclamation of lands affected by eligible mining operations. Any unencumbered and unexpended balance of this account remaining at the end of a fiscal year shall not lapse but shall be carried forward for the purposes of this chapter until expended or until modified by subsequent statute.

Approved March 11, 2006.

CHAPTER 38
(H.B. No. 577)

AN ACT
RELATING TO THE EMPLOYMENT SECURITY LAW; AMENDING SECTION 72-1349A, IDAHO CODE, TO PROVIDE ADDITIONAL METHODS FOR CHARGING BENEFITS
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 72-1349A, Idaho Code, be, and the same is hereby amended to read as follows:

72-1349A. FINANCING OF BENEFIT PAYMENTS BY NONPROFIT ORGANIZATIONS AND GOVERNMENTAL ENTITIES. (1) Benefits paid to employees of governmental entities and nonprofit organizations shall be financed in accordance with the provisions of this section.

A group of such organizations or entities may elect, with the approval of the director, to act as a group in fulfilling the requirements of this chapter.

(2) Liability for contributions and election of reimbursements. A nonprofit organization or governmental entity shall pay contributions under the provisions of section 72-1349, Idaho Code, unless it elects, in accordance with this section to pay to the director an amount equal to the full amount of regular benefits paid and the amount paid for extended benefits for which the department is not reimbursed by the federal government, for any reason including, but not limited to, payments made as a result of a determination or payments erroneously paid or paid as a result of a determination of eligibility which is subsequently reversed if said payment or any portion thereof was made as a result of wages earned in the employ of such organization or entity. Any sums recovered by the department from a claimant as a result of said payments shall be credited to the account of the nonprofit organization or governmental entity which reimbursed the fund for the payment of said benefits. Where such benefits are paid utilizing wages paid by two (2) or more employers, the portion of benefits to be repaid by the organization or entity shall be its proportionate share. This shall be computed on the basis of the relationship between wages utilized which were earned for services performed for such organization or entity and the total wages utilized in paying such benefits.

(3) Any nonprofit organization or governmental entity may elect to become liable for payments in lieu of contributions, provided it files with the director a written notice of election not later than thirty (30) days prior to the beginning of any taxable year or within thirty (30) days after the date of the final determination that such organization or entity is subject to this chapter. Such election shall be effec-
tive for not less than two (2) full taxable years after the election is made, and will continue to be in effect until terminated. The organization or entity must file with the director a written notice of termination of such election not later than thirty (30) days prior to the beginning of the taxable year for which such termination shall first be effective. The director may, in his discretion, terminate an election as provided in this section or extend the period within which a notice of election or a notice of termination must be filed. The director shall notify each nonprofit organization and governmental entity of any determination he makes of its status as an employer and of the effective date of any election which it makes and of any termination of such election.

(4) Reimbursement payments. Payments in lieu of contributions shall be made in accordance with the provisions of this subsection, including either paragraph (a) or paragraph (b).

(a) At the end of each calendar quarter, or at the end of any other period as determined by the director, the director shall bill each organization or entity (or group of organizations or entities) which has elected to make payments in lieu of contributions for an amount equal to the full amount of regular benefits paid, and the amount paid for extended benefits for which the department is not reimbursed by the federal government, if paid as a result of wages earned in the employ of such organization or entity.

(b) Payment in advance. Nonprofit organizations or governmental entities may elect to make payments in lieu of contributions in advance of actual billing for payment costs. Advance payments shall be made as follows: At the end of each calendar quarter, the nonprofit organization or governmental entity shall pay one percent (1%) of its total quarterly payroll unless the director determines that a lesser percentage will cover the cost of payment of benefits to the employees of said employer. For purposes of this section, the total quarterly payroll for school districts shall be computed based upon only those school districts which have elected cost reimbursement status. Such payments shall become due and payable within thirty (30) days following the quarter ending.

At the end of such taxable year, the director shall compute the benefit costs attributable to the employer as provided in subsection (2) of this section. The director will then debit the employer's account with these costs. When payments exceed benefit costs, either the employer will be credited on subsequent benefit costs with the overpayment or, at the director's discretion, the overpayment will be refunded to the employer. When payments are not sufficient to pay benefit costs, either the employer will be billed the additional amount necessary to pay such costs or, at the director's discretion, the employer's advance payment rate for the next taxable year will be set at a rate that will cover such costs.

(5) Bond requirements. Any nonprofit organization that elects to become liable for payments in lieu of contributions may be required to obtain and deposit with the director a surety bond approved by the director. The amount of the bond shall be determined by the director on the basis of potential liability for benefit costs of each employing nonprofit organization. Such bond shall be in force for a period of not less than two (2) years, and shall be renewed not less frequently than two (2) year intervals for as long as the organization continues to be liable for payments in lieu of contributions. The director shall require
adjustments to be made in the bond filed as deemed appropriate. When upward adjustments are required, the adjusted bond shall be filed within thirty (30) days of the date notice of the required adjustment was mailed. Failure by an organization covered by such bond to pay the full amount of payments due, together with interest and penalties, as provided in section 72-1354, Idaho Code, shall render the surety liable on said bond to the extent of the bond, as though the surety was a liable organization.

(6) Failure to pay timely. If any nonprofit organization or governmental entity is delinquent in making payments in lieu of contributions, the director may terminate such employer's election to make payments in lieu of contributions as of the beginning of the next taxable year, and such termination shall be effective for that and the next taxable year. Any nonprofit organization or governmental entity becoming delinquent in making payments in lieu of contributions shall be subject to the same penalty provisions as any other covered employer as provided in this chapter.

(7) Appeals procedure. Nonprofit organizations and governmental entities making payments in lieu of contributions may appeal a determination made pursuant to this section as provided in section 72-1361, Idaho Code.

(8) In the payment of any payments in lieu of contributions a fractional part of a dollar shall be disregarded unless it amounts to fifty cents (50¢) or more, in which case it shall be increased to one dollar ($1.00).

SECTION 2. That Section 72-1366, Idaho Code, be, and the same is hereby amended to read as follows:

72-1366. PERSONAL ELIGIBILITY CONDITIONS. The personal eligibility conditions of a benefit claimant are that:

(1) The claimant shall have made a claim for benefits and provided all necessary information pertinent to eligibility.

(2) The claimant shall have registered for work and thereafter reported to a job service office or other agency in a manner prescribed by the director.

(3) The claimant shall have met the minimum wage requirements in his base period as provided in section 72-1367, Idaho Code.

(4) During the whole of any week with respect to which he claims benefits or credit to his waiting period, the claimant was:

(a) Able to work, available for suitable work, and seeking work; provided, however, that no claimant shall be considered ineligible for failure to comply with the provisions of this subsection if: (i) such failure is due to the claimant's illness or disability which occurs after he has filed a claim and during such illness or disability, the claimant does not refuse or miss suitable work that would have provided wages greater than one-half (1/2) of the claimant's weekly benefit amount; or (ii) such failure is due to compelling personal circumstance, provided that such failure does not exceed a minor portion of the claimant's workweek and during which time the claimant does not refuse or miss suitable work that would have provided wages greater than one-half (1/2) of the claimant's weekly benefit amount; and

(b) Living in a state, territory, or country that is included in
the interstate benefit payment plan or that is a party to an agreement with the United States or the director with respect to unemployment insurance.

(5) The claimant's unemployment is not due to the fact that he left his employment voluntarily without good cause connected with his employment, or that he was discharged for misconduct in connection with his employment.

(6) The claimant's unemployment is not due to his failure without good cause to apply for available suitable work or to accept suitable work when offered to him. The longer a claimant has been unemployed, the more willing he must be to seek other types of work and accept work at a lower rate of pay.

(7) In determining whether or not work is suitable for an individual, the degree of risk involved to his health, safety, morals, physical fitness, experience, training, past earnings, length of unemployment and prospects for obtaining local employment in his customary occupation, the distance of the work from his residence, and other pertinent factors shall be considered. No employment shall be deemed suitable and benefits shall not be denied to any otherwise eligible individual for refusing to accept new work or to hold himself available for work under any of the following conditions:

(a) If the vacancy of the position offered is due directly to a strike, lockout, or other labor dispute;
(b) If the wages, hours, or other conditions of the work offered are below those prevailing for similar work in the locality of the work offered;
(c) If, as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(8) No claimant who is otherwise eligible shall be denied benefits for any week due to an inability to comply with the requirements contained in subsections (4) and (6) of this section, if:

(a) The claimant is a participant in a program sponsored by title I of the workforce investment act and attends a job training course under that program; or
(b) The claimant attends a job training course authorized pursuant to the provisions of section 236(a)(1) of the trade act of 1974 or the North American free trade agreement implementation act.
(c) The claimant lacks skills to compete in the labor market and attends a job training course with the approval of the director. The director may approve job training courses that meet the following criteria:
   (i) The purpose of the job training is to teach the claimant skills that will enhance the claimant's opportunities for employment; and
   (ii) The job training can be completed within one (1) year, except that this requirement may be waived pursuant to rules that the director may prescribe.

This subsection shall apply only if the claimant submits with each claim report a written certification from the training facility that the claimant is attending and satisfactorily completing the job training course, or demonstrates good cause for failure to attend the job training.

(9) No claimant who is otherwise eligible shall be denied benefits
under subsection (5) of this section for leaving employment to attend job training pursuant to subsection (8) of this section, provided that the claimant obtained the employment after enrollment in or during scheduled breaks in the job training course, or that the employment was not suitable. For purposes of this subsection, the term "suitable employment" means work of a substantially equal or higher skill level than the individual's past employment, and wages for such work are not less than eighty percent (80%) of the average weekly wage in the individual's past employment.

(10) A claimant shall not be eligible to receive benefits for any week with respect to which it is found that his unemployment is due to a labor dispute; provided, that this subsection shall not apply if it is shown that:

(a) The claimant is not participating, financing, aiding, abetting, or directly interested in the labor dispute; and
(b) The claimant does not belong to a grade or class of workers with members employed at the premises at which the labor dispute occurs, who are participating in or directly interested in the dispute.

(11) A claimant shall not be entitled to benefits for any week with respect to which or a part of which he has received or is seeking benefits under an unemployment insurance law of another state or of the United States; provided, that if the appropriate agency of such other state or of the United States shall finally determine that he is not entitled to such unemployment compensation or insurance benefits, he shall not by the provisions of this subsection be denied benefits. For purposes of this section, a law of the United States providing any payments of any type and in any amounts for periods of unemployment due to involuntary unemployment shall be considered an unemployment insurance law of the United States.

(12) A claimant shall not be entitled to benefits for a period of fifty-two (52) weeks if it is determined that he has willfully made a false statement or willfully failed to report a material fact in order to obtain benefits. The period of disqualification shall commence the week the determination is issued. The claimant shall also be ineligible for waiting week credit and shall repay any sums received for any week in for which the claimant received waiting week credit or benefits as a result of having willfully made a false statement or willfully failed to report a material fact. The claimant shall also be ineligible for waiting week credit or benefits for any week in which he owes the department an overpayment, civil penalty, or interest resulting from a determination that he willfully made a false statement or willfully failed to report a material fact.

(13) A claimant shall not be entitled to benefits if his principal occupation is self-employment.

(14) A claimant who has been found ineligible for benefits under the provisions of subsection (5), (6), (7) or (9) of this section shall reestablish his eligibility by having obtained bona fide work and received wages therefor in an amount of at least fourteen (14) times his weekly benefit amount.

(15) Benefits based on service in employment defined in sections 72-1349A and 72-1352(3), Idaho Code, shall be payable in the same amount, on the same terms and subject to the same conditions as benefits payable on the basis of other service subject to this act.
(a) If the services performed during one-half (1/2) or more of any contract period by an individual for an educational institution as defined in section 72-1322B, Idaho Code, are in an instructional, research, or principal administrative capacity, all the services shall be deemed to be in such capacity.

(b) If the services performed during less than one-half (1/2) of any contract period by an individual for an educational institution are in an instructional, research, or principal administrative capacity, none of the service shall be deemed to be in such capacity.

(c) As used in this section, "contract period" means the entire period for which the individual contracts to perform services, pursuant to the terms of the contract.

(16) No claimant is eligible to receive benefits in two (2) successive benefit years unless, after the beginning of the first benefit year during which he received benefits, he performed service and earned an amount equal to not less than six (6) times the weekly benefit amount established during the first benefit year.

(17) (a) Benefits based on wages earned for services performed in an instructional, research, or principal administrative capacity for an educational institution shall not be paid for any week of unemployment commencing during the period between two (2) successive academic years, or during a similar period between two (2) terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual’s contract, to any individual who performs such services in the first academic year (or term) and has a contract to perform services in any such capacity for any educational institution in the second academic year or term, or has been given reasonable assurance that such a contract will be offered.

(b) Benefits based on wages earned for services performed in any other capacity for an educational institution shall not be paid to any individual for any week which commences during a period between two (2) successive school years or terms if the individual performs such services in the first school year or term, and there is a contract or reasonable assurance that the individual will perform such services in the second school year or term. If benefits are denied to any individual under this paragraph (b) and the individual was not offered an opportunity to perform such services for the educational institution for the second academic year or term, the individual shall be entitled to a retroactive payment of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this clause.

(c) With respect to any services described in paragraphs (a) and (b) of this subsection (17), benefits shall not be paid nor "waiting week" credit given to an individual for wages earned for services for any week which commences during an established and customary vacation period or holiday recess if the individual performed the services in the period immediately before the vacation period or holiday recess, and there is a reasonable assurance the individual will perform such services in the period immediately following such vacation period or holiday recess.

(d) With respect to any services described in paragraphs (a) and (b) of this subsection (17), benefits shall not be payable on the
basis of services in any capacities specified in paragraphs (a), (b) and (c) of this subsection (17) to any individual who performed such services in an educational institution while in the employ of an educational service agency. For purposes of this paragraph the term "educational service agency" means a governmental entity which is established and operated exclusively for the purpose of providing such services to one (1) or more educational institutions.

(18) Benefits shall not be payable on the basis of services which substantially consist of participating in sports or athletic events or training or preparing to participate, for any week which commences during the period between two (2) successive sport seasons (or similar periods) if the individual performed services in the first season (or similar period) and there is a reasonable assurance that the individual will perform such services in the later of such season (or similar period).

(19) (a) Benefits shall not be payable on the basis of services performed by an alien unless the alien was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was permanently residing in the United States under color of law at the time the services were performed (including an alien who was lawfully present in the United States as a result of the application of the provisions of sections 207 and 208 or section 212(d)(5) of the Immigration and Nationality Act).

(b) Any data or information required of individuals applying for benefits to determine eligibility under this subsection shall be uniformly required from all applicants for benefits.

(c) A decision to deny benefits under this subsection must be based on a preponderance of the evidence.

(20) An individual who has been determined to be likely to exhaust regular benefits and to need reemployment services pursuant to a profiling system established by the director must participate in those reemployment services unless:

(a) The individual has completed such services; or

(b) There is justifiable cause, as determined by the director, for the claimant's failure to participate in such services.

(21) (a) A claimant:

(i) Who has been assigned to work for one (1) or more customers of a staffing service; and

(ii) Who, at the time of hire by the staffing service, signed a written notice informing him that completion or termination of an assignment for a customer would not, of itself, terminate the employment relationship with the staffing service;

will not be considered unemployed upon completion or termination of an assignment until such time as he contacts the staffing service to determine if further suitable work is available. If the claimant:

(A) Contacts the staffing service and refuses a suitable work assignment that is offered to him at that time, he will be considered to have voluntarily quit that employment; or

(B) Contacts the staffing service and the service does not have a suitable work assignment for him, he will be considered unemployed due to a lack of work; or

(C) Accepts new employment without first contacting the
staffing service for additional work, he will be considered to have voluntarily quit employment with the staffing service.

(b) For the purposes of this subsection, the term "staffing service" means any person who assigns individuals to work for its customers and includes, but is not limited to, professional employers, as defined in chapter 24, title 44, Idaho Code, and the employers of temporary employees as defined in section 44-2403(7), Idaho Code.

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

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

(1) Except as provided in this subsection, all personnel records of a current or former public official other than the public official's public service or employment history, classification, pay grade and step, longevity, gross salary and salary history, status, workplace and employing agency. All other personnel information relating to a public employee or applicant including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. A public official or authorized representative may inspect and copy his personnel records, except for material used to screen and test for employment.

(2) Retired employees' and retired public officials' home addresses, home telephone numbers and other financial and nonfinancial membership records; active and inactive member financial and membership records and mortgage portfolio loan documents maintained by the public employee retirement system. Financial statements prepared by retirement system staff, funding agents and custodians concerning the investment of assets of the public employee retirement system of Idaho are not considered confidential under this chapter.

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

(4) Records of a personal nature as follows:

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

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

(c) Records of ownership of financial obligations and instruments of a public agency or independent public body corporate and politic, such as bonds, compiled by the public agency or independent public
body corporate and politic pursuant to law;
(d) Records, with regard to the ownership of, or security interests in, registered public obligations;
(e) Vital statistics records; and
(f) Military records as described in and pursuant to section 65-301, Idaho Code.
(5) Information in an income or other tax return measured by items of income or sales, which is gathered by a public agency for the purpose of administering the tax, except such information to the extent disclosed in a written decision of the tax commission pursuant to a taxpayer protest of a deficiency determination by the tax commission, under the provisions of section 63-3045B, Idaho Code.
(6) Records of a personal nature related directly or indirectly to the application for and provision of statutory services rendered to persons applying for public care for the elderly, indigent, or mentally or physically handicapped, or participation in an environmental or a public health study, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.
(7) Employment security information and unemployment insurance benefit information, except that all interested parties may agree to waive the exemption unless access to the information by the parties is restricted by subsection (3)(a), (3)(b) or (3)(d) of section 9-342, Idaho Code. Notwithstanding the provisions of section 9-342, Idaho Code, a person may not review identifying information concerning an informant who reported to the department of commerce and labor a suspected violation by the person of the employment security law, chapter 13, title 72, Idaho Code, under an assurance of confidentiality. As used in this section, "employment security information" means any information descriptive of an identifiable person or persons that is received by, recorded by, prepared by, furnished to or collected by the department of commerce and labor or the industrial commission in the administration of the employment security law.
(8) Any personal records, other than names, business addresses and business phone numbers, such as parentage, race, religion, sex, height, weight, tax identification and social security numbers, financial worth or medical condition submitted to any public agency or independent public body corporate and politic pursuant to a statutory requirement for licensing, certification, permit or bonding.
(9) Unless otherwise provided by agency rule, information obtained as part of an inquiry into a person's fitness to be granted or retain a license, certificate, permit, privilege, commission or position, private association peer review committee records authorized in title 54, Idaho Code. Any agency which has records exempt from disclosure under the provisions of this subsection shall annually make available a statistical summary of the number and types of matters considered and their disposition.
(10) The records, findings, determinations and decisions of any pre-litigation screening panel formed under chapters 10 and 23, title 6, Idaho Code.
(11) Complaints received by the board of medicine and investigations and informal proceedings, including informal proceedings of any commit-
(c) Records of the board of medicine, pursuant to chapter 18, title 54, Idaho Code, and rules adopted thereunder.

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

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

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

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

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

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

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

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

(20) Records of the Idaho housing and finance association (IHFA) relating to the following:
   (a) Records containing personal financial, family, health or similar personal information submitted to or otherwise obtained by the IHFA;
   (b) Records submitted to or otherwise obtained by the IHFA with regard to obtaining and servicing mortgage loans and all records relating to the review, approval or rejection by the IHFA of said loans;
   (c) Mortgage portfolio loan documents;
   (d) Records of a current or former employee other than the employee's duration of employment with the association, position held and location of employment. This exemption from disclosure does not include the contracts of employment or any remuneration, includ-
ing reimbursement of expenses, of the executive director, executive officers or commissioners of the association. All other personnel information relating to an association employee or applicant including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence, retirement plan information and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. An employee or authorized representative may inspect and copy that employee's personnel records, except for material used to screen and test for employment or material not subject to disclosure elsewhere in the Idaho public records act.

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

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

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

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

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

SECTION 4. That Section 63-3077A, Idaho Code, be, and the same is hereby amended to read as follows:

63-3077A. AGREEMENTS FOR EXCHANGE OF INFORMATION AND JOINT ADMINISTRATION WITH DEPARTMENT OF COMMERCE AND LABOR. (a) The state tax commission and the department of commerce and labor may enter into a written agreement for exchange of information relating to tax laws administered by the state tax commission or and the employment security law administered by the department of commerce and labor. Any information so exchanged shall be confidential information in the hands of the recipient thereof and may be used only for the following:

(1) Determining whether the person to whom the information relates may have an undischarged duty or liability under any the employment security law or the tax laws of this state administered by the state tax commission, the amount of such liability, the person's where-
abouts, social security number, and information helpful in collecting taxes any liability due.

(2) Administering any joint agreement between the department of commerce and labor and the state tax commission relating to employment security taxes and income tax withholding for the common registration of employers, common tax reporting forms, centralized filing and processing of forms.

(3) Administration of the state directory of new hires provided in chapter 16, title 72, Idaho Code.

(b) No such information shall be public information unless it is used in the course of a judicial proceeding arising under a the employment security law or the tax statute-of-this-state laws administered by the state tax commission.

(c) An agreement made pursuant to this section may provide for the offset of any refunds owed to any person by either party to the agreement against any tax liability, or overpayment of benefits liability, and any penalties and interest thereon owed to the other either party to the agreement. No offset may be made unless the liability against which it is applied is final, without any further right on the part of the person owing the liability to either administrative or judicial review.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 11, 2006.

CHAPTER 39
(H.B. No. 534, As Amended)

AN ACT
RELATING TO STATUTE OF LIMITATIONS; AMENDING SECTION 19-401, IDAHO CODE, TO REVISE THE CRIMES FOR WHICH NO STATUTE OF LIMITATIONS APPLIES; AMENDING SECTION 19-402, IDAHO CODE, TO REVISE STATUTE OF LIMITATIONS PROVISIONS FOR CERTAIN FELONIES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 19-401, Idaho Code, be, and the same is hereby amended to read as follows:

19-401. PROSECUTIONS--FOR-MURDER, VOLUNTARY-MANSLAUGHTER-OR-RAPE NO STATUTE OF LIMITATIONS FOR CERTAIN FELONIES. Notwithstanding any other provision of law, there is no limitation of time within which a prosecution for the following crimes must be commenced:

(1) Murder;
(2) Voluntary manslaughter; or;
(3) Rape pursuant to section 18-6101 2., 3., 4., 5. or 7., or section 18-6108, Idaho Code; must be commenced--They may--be--commenced--at any-time-after-the-death-or-rape-of-the-person-killed-or-raped;
(4) Sexual abuse of a child or lewd conduct with a child as set forth in sections 18-1506 and 18-1508, Idaho Code; or

SECTION 2. That Section 19-402, Idaho Code, be, and the same is hereby amended to read as follows:

19-402. COMMENCEMENT OF PROSECUTIONS FOR CRIMES--AGAINST--CHILDREN AND--OTHER FELONIES. (1) A prosecution for any felony other than murder, voluntary manslaughter, rape: pursuant to section 18-6101-2, -3, -4, -5, or -7; or section 18-6108, Idaho Code; or any felony committed upon or against a minor child, or an act of terrorism as set forth in sections 18-8102, 18-8103, 18-3322, 18-3323, and 18-3324, Idaho Code, those specified in section 19-401, Idaho Code, must be commenced by the filing of the complaint or the finding of an indictment within five (5) years after its commission provided however, a prosecution under section 18-1506A, Idaho Code, must be commenced within three (3) years after the date of initial disclosure by the victim. Except as provided in subsection (2) of this section, a prosecution for any felony committed upon or against a minor child must be commenced within five (5) years after the commission of the offense by the filing of the complaint or a finding of an indictment.

(2) A prosecution under section 18-1506 or 18-1508, Idaho Code, must be commenced within five (5) years after the date the child reaches eighteen (18) years of age.

(3) A prosecution under section 18-1506A, Idaho Code, must be commenced within three (3) years after the date of initial disclosure by the victim.

(4) Notwithstanding any other provision of law, an indictment or an information instituted at any time without limitation for a prosecution under section 18-8102, 18-3322, 18-3323, or 18-3324, Idaho Code, may be found, or an information instituted at any time without limitation for a prosecution under section 18-8103, 18-3322, 18-3323, or 18-3324, Idaho Code.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 13, 2006.

CHAPTER 40
(H.B. No. 701)

AN ACT

RELATING TO APPROPRIATIONS FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION/STATE DEPARTMENT OF EDUCATION; AMENDING SECTION 1, CHAPTER 382, LAWS OF 2005, TO REVISE THE APPROPRIATION MADE TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION/STATE DEPARTMENT OF EDUCATION; AMENDING SECTION 2, CHAPTER 382, LAWS OF 2005, TO PROVIDE ADDITIONAL AUTHORIZED FULL-TIME EQUIVALENT POSITIONS FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION/STATE DEPARTMENT OF EDUCATION; AND DECLARING AN EMERGENCY.

Be It Enacted by the Legislature of the State of Idaho:
SECTION 1. That Section 1, Chapter 382, Laws of 2005, be, and the same is hereby amended to read as follows:

SECTION 1. There is hereby appropriated to the Superintendent of Public Instruction/State Department of Education the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2005, through June 30, 2006:

<table>
<thead>
<tr>
<th>FOR PERSONNEL COSTS</th>
<th>FOR OPERATING EXPENDITURES</th>
<th>FOR TRUSTEE AND BENEFIT PAYMENTS</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>STATE DEPARTMENT OF EDUCATION:</td>
<td></td>
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<td></td>
</tr>
<tr>
<td>FROM:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>General Fund</td>
<td>$3,025,300</td>
<td>$1,256,300</td>
<td>$967,700</td>
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<td>Student Tuition Recovery Fund</td>
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<tr>
<td>Federal Grant Fund</td>
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<td>Indirect Cost Recovery Fund</td>
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<td>Data Processing Services Fund</td>
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<tr>
<td>Miscellaneous Revenue Fund</td>
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<td>226,000</td>
<td></td>
</tr>
<tr>
<td>TOTAL</td>
<td>7,348,100</td>
<td>6,274,900</td>
<td>$3,102,400</td>
</tr>
</tbody>
</table>

SECTION 2. That Section 2, Chapter 382, Laws of 2005, be, and the same is hereby amended to read as follows:

SECTION 2. In accordance with Section 67-3519, Idaho Code, the State Department of Education is authorized no more than one hundred twenty-four (124) full-time equivalent positions at any point during the period July 1, 2005, through June 30, 2006, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.
SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 13, 2006.

CHAPTER 41
(H.B. No. 608)

AN ACT
RELATING TO SPECIAL MOTOR VEHICLE LICENSE PLATES; AMENDING SECTION 49-402, IDAHO CODE, TO PROVIDE A CODE REFERENCE; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-415C, IDAHO CODE, TO ESTABLISH A NATIONAL RIFLE ASSOCIATION SPECIAL LICENSE PLATE PROGRAM; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 49-402, Idaho Code, be, and the same is hereby amended to read as follows:

49-402. ANNUAL REGISTRATION. (1) The annual fee for operating each pickup truck, each neighborhood electric vehicle and each other motor vehicle having a maximum gross weight not in excess of eight thousand (8,000) pounds shall be:

<table>
<thead>
<tr>
<th>Age Range</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 and 2 years old</td>
<td>$48.00</td>
</tr>
<tr>
<td>3 and 4 years old</td>
<td>$36.00</td>
</tr>
<tr>
<td>5 and 6 years old</td>
<td>$36.00</td>
</tr>
<tr>
<td>7 and 8 years old</td>
<td>$24.00</td>
</tr>
<tr>
<td>Over 8 years old</td>
<td>$24.00</td>
</tr>
</tbody>
</table>

There shall be twelve (12) registration periods, starting in January for holders of validation registration stickers numbered 1, and proceeding consecutively through December for holders of validation registration stickers numbered 12, each of which shall start on the first day of a calendar month and end on the last day of the twelfth month from the first day of the beginning month. Registration periods shall expire midnight on the last day of the registration period in the year designated by the validation registration sticker. The numeral digit on the validation registration stickers shall, as does the registration card, fix the registration period under the staggered plate system of Idaho for the purpose of reregistration and notice of expiration.

A vehicle that has once been registered for any of the above designated periods shall, upon reregistration, be registered for the period bearing the same number, and the registration card shall show and be the exclusive proof of the expiration date of registration and licensing. Vehicles may be initially registered for less than a twelve (12) month period, or for more than a twelve (12) month period, and the fee prorated on a monthly basis if the fractional registration tends to fulfill the purpose of the monthly series registration system.

(2) For all school buses operated either by a nonprofit, nonpublic school or operated pursuant to a service contract with a school district for transporting children to or from school or in connection with school
approved activities, the annual fee shall be twenty-four dollars ($24.00).

(3) For all motorcycles and all-terrain vehicles operated upon the public highways the annual fee shall be nine dollars ($9.00). For operation of an all-terrain vehicle or motorcycle off the public highways, the fee specified in section 49-426, Idaho Code, shall be paid. Registration exemptions provided in section 49-426(2), (3) and (4), Idaho Code, apply to all-terrain vehicles and motorcycles used for the purposes described in subsections (2), (3) and (4) of section 49-426, Idaho Code.

(4) For all motor homes the fee shall be as specified in subsection (1) of this section and shall be in addition to the fees provided for in section 49-445, Idaho Code.

(5) Registration fees shall not be subject to refund.

(6) A financial institution or repossession service contracted to a financial institution repossessing vehicles under the terms of a security agreement shall move the vehicle from the place of repossession to the financial institution's place of business on a repossession plate. The repossession plate shall also be used for demonstrating the vehicle to a prospective purchaser for a period not to exceed ninety-six (96) hours. The registration fees for repossession plates shall be as required in subsection (1) of this section for a vehicle one (1) and two (2) years old. All other fees required under chapter 4, title 49, Idaho Code, shall be in addition to the registration fee. The repossession plate shall be issued on an annual basis by the department.

(7) In addition to the annual registration fee in this section, there shall be an initial program fee of twenty-five dollars ($25.00) and an annual program fee of fifteen dollars ($15.00) for all special license plate programs for those license plates issued pursuant to sections 49-404A, 49-407, 49-408, 49-409, 49-414, 49-416, 49-418 and 49-418D, Idaho Code. For special plates issued pursuant to sections 49-406 and 49-406A, Idaho Code, there shall be an initial program fee of twenty-five dollars ($25.00) but there shall be no annual renewal fee. For special plates issued pursuant to sections 49-415C, 49-416A, 49-416B, 49-416C, 49-417, 49-417A, 49-417B, 49-417C, 49-418A, 49-418B, 49-418C, 49-419, 49-419A, 49-419B, 49-419C, 49-419D, 49-420, 49-420A, 49-420B, 49-420C, 49-420D, 49-420E and 49-420F, Idaho Code, there shall be an initial program fee of thirty-five dollars ($35.00) and an annual program fee of twenty-five dollars ($25.00). The fees contained in this subsection shall be applicable to all new special plate programs. The initial program fee and the annual program fee shall be deposited in the state highway account and shall be used to fund the cost of administration of special license plate programs, unless otherwise specified by law.

SECTION 2. That Chapter 4, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-415C, Idaho Code, and to read as follows:

49-415C. NATIONAL RIFLE ASSOCIATION LICENSE PLATES. (1) On and after January 1, 2007, any person who is the owner of a vehicle registered under the provisions of section 49-402 or 49-434(1), Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for and, upon department approval,
receive special national rifle association license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of national rifle association license plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars ($35.00) for the initial issuance of plates, and twenty-five dollars ($25.00) upon each succeeding annual registration. Ten dollars ($10.00) of the initial fee and ten dollars ($10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-five dollars ($25.00) of each initial fee and fifteen dollars ($15.00) of each renewal fee shall be transferred by the state treasurer for deposit to the highway distribution account established in section 40-701, Idaho Code.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(4) The national rifle association license plate shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. The design and any slogan on the plate shall be acceptable to appropriate representatives of the national rifle association and shall be approved by the Idaho transportation department utilizing a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the national rifle association.

(5) Sample national rifle association license plates may be purchased for a fee of thirty dollars ($30.00), ten dollars ($10.00) of which shall be deposited in the state highway account and twenty dollars ($20.00) of which shall be transferred to the highway distribution account established in section 40-701, Idaho Code.

SECTION 3. This act shall be in full force and effect on and after January 1, 2007.

Approved March 14, 2006.

CHAPTER 42
(H.B. No. 603)

AN ACT
RELATING TO GOVERNANCE OF UTILITY TYPE VEHICLES; AMENDING SECTION 67-7101, IDAHO CODE, TO DEFINE "UTILITY TYPE VEHICLE"; AMENDING SECTION 67-7122, IDAHO CODE, TO GOVERN REGISTRATION REQUIREMENTS; AMENDING SECTION 67-7128, IDAHO CODE, TO PROVIDE REPRESENTATION ON THE OFF-ROAD MOTOR VEHICLE ADVISORY COMMITTEE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-105, IDAHO CODE, TO REVISE A DEFINITION; AMENDING SECTION 49-122, IDAHO CODE, TO DEFINE "UTILITY
TYPE VEHICLE"; AMENDING SECTION 49-501, IDAHO CODE, TO GOVERN TITLING REQUIREMENTS FOR UTILITY TYPE VEHICLES AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 49-1608, IDAHO CODE, TO PROVIDE APPLICATION TO DEALERS OF UTILITY TYPE VEHICLES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 67-7101, Idaho Code, be, and the same is hereby amended to read as follows:

67-7101. DEFINITIONS. In this chapter:
(1) "All-terrain vehicle (ATV)" means any recreation vehicle with three (3) or more tires, under eight hundred fifty (850) pounds and forty-eight (48) inches or less in width, having a wheelbase of sixty-one (61) inches or less, traveling on low-pressure tires of ten (10) psi or less.
(2) "Board" means the park and recreation board created under authority of section 67-4221, Idaho Code.
(3) "Bona fide snowmobile program" means services or facilities as approved by the department that will benefit snowmobilers such as snowmobile trail grooming, plowing and maintaining snowmobile parking areas and facilities, and trail signing.
(4) "Dealer" means any person who engages in the retail sales of or rental of snowmobiles, motorbikes, or all-terrain vehicles.
(5) "Department" means the Idaho department of parks and recreation.
(6) "Designated parking area" means an area located, constructed, maintained, and signed with the approval of the land manager or owner.
(7) "Director" means the director of the department of parks and recreation.
(8) "Highway." (See section 40-109, Idaho Code, but excepting public roadway as defined in this section).
(9) "Motorbike" means any self-propelled two (2) wheeled motorcycle or motor-driven cycle, excluding tractor, designed for or capable of traveling off developed roadways and highways and also referred to as trailbikes, enduro bikes, trials bikes, motocross bikes or dual purpose motorcycles.
(10) "Operator" means any person who is in physical control of a motorbike, all-terrain vehicle, or snowmobile.
(11) "Owner" means every person holding record title to a motorbike, all-terrain vehicle, or snowmobile and entitled to the use or possession thereof, other than a lienholder or other person having a security interest only.
(12) "Person" means an individual, partnership, association, corporation, or any other body or group of persons, whether incorporated or not, and regardless of the degree of formal organization.
(13) "Public roadway" means all portions of any highway which are controlled by an authority other than the Idaho transportation department.
(14) "Snowmobile" means any self-propelled vehicle under one thousand (1,000) pounds unladen gross weight, designed primarily for travel on snow or ice or over natural terrain, which may be steered by tracks, skis, or runners, and which is not otherwise registered or
licensed under the laws of the state of Idaho.

(15) "Utility type vehicle (UTV)" means any recreational motor vehicle other than an ATV, motorbike or snowmobile as defined in this section, designed for and capable of travel over designated unpaved roads, traveling on four (4) or more low-pressure tires of twenty (20) psi or less, maximum width less than seventy-four (74) inches, maximum weight less than two thousand (2,000) pounds, or having a wheelbase of ninety-four (94) inches or less. Utility type vehicle does not include golf carts, vehicles specially designed to carry a disabled person, implements of husbandry as defined in section 49-110(2), Idaho Code, or vehicles otherwise registered under title 49, Idaho Code.

(16) "Vendor" means any entity authorized by the department to sell recreational registrations.

(167) "Winter recreational parking locations" means designated parking areas established and maintained with funds acquired from the cross-country skiing account.

SECTION 2. That Section 67-7122, Idaho Code, be, and the same is hereby amended to read as follows:

67-7122. REQUIREMENTS -- REGISTRATION -- PROCEDURE. (1) On or before January 1 of each year, the owner of any all-terrain vehicle, or motorbike or utility type vehicle as defined in section 67-7101, Idaho Code, used off public highways or on highways designated as prescribed in section 49-426(3), Idaho Code, but excluding those vehicles used exclusively on private land for agricultural use or used exclusively for snow removal purposes, shall register that vehicle at any vendor authorized by the department. A fee of ten dollars ($10.00) shall be charged for each registration, which fee includes a one dollar and fifty cent ($1.50) vendor fee. At the time of sale from any dealer, each motorbike or all-terrain vehicle or utility type vehicle sold to an Idaho resident, but excluding those vehicles to be used exclusively on private land for agricultural use or used exclusively for snow removal purposes, must be registered before it leaves the premises. Application blanks and stickers shall be supplied by the department and the registration sticker shall be issued to the person making application for registration. The vendor issuing the registration sticker shall, upon receipt of the application in approved form, issue to the applicant a motorbike, ATV or UTV sticker and shall note the number of the sticker in his records and shall supply a duplicate copy of the application form, noting the number of the sticker issued, to the department. All stickers which are issued shall be in force through December 31 of the issued year. All registration stickers shall be renewed by the owner of the all-terrain vehicle, or motorbike or utility type vehicle in the same manner provided for in the initial securing of the same. The issued sticker shall be placed upon the all-terrain vehicle, or motorbike or utility type vehicle in such a manner that it is completely visible and shall be kept in a legible condition at all times.

(2) For operation of an all-terrain vehicle or motorbike on the public highways, the vehicle shall also be registered pursuant to the provisions of section 49-402, Idaho Code, except for those highways defined in section 49-426, Idaho Code.
SECTION 3. That Section 67-7128, Idaho Code, be, and the same is hereby amended to read as follows:

67-7128. OFF-ROAD MOTOR VEHICLE ADVISORY COMMITTEE -- CREATION -- SELECTION -- TERM OF OFFICE -- DUTY. (1) The park and recreation board shall appoint an off-road motor vehicle advisory committee (ORMV) of nine (9) members. The membership of the advisory committee shall consist of three (3) members each from northern Idaho, southwestern Idaho, and southeastern Idaho. Two (2) members from each area shall represent the following groups: motorbikes, or ATV or UTV riders and snowmobilers. One (1) member interested in ORMV projects shall be appointed from each area without regard to the recreational activity in which that member participates and shall represent interests other than motorbike, or ATV or UTV riders and snowmobilers. Each member of the advisory committee shall be chosen by the park and recreation board to serve a term of four (4) years, except that the term of the initial appointees shall commence on the date of appointment and shall be of staggered lengths. Each member of the advisory committee shall be a qualified elector of the state. Duties shall include:

(a) Representing the best interests of the ORMV users and activities which they represent in the district from which they are appointed;
(b) Advising the department as to whether proposed ORMV projects meet the needs of ORMV users in that area;
(c) Advising the department as to how funds can be used to rehabilitate areas on public or private lands and how the department can assist in the enforcement of laws and regulations governing the use of off-road vehicles in the state of Idaho;
(d) The three (3) motorbike, or all-terrain vehicle or utility type vehicle representatives from the ORMV advisory committee shall advise the department on matters relating to the use of moneys in the motorbike recreation account as provided for in section 67-7127, Idaho Code.

(2) The department may reimburse members of the ORMV advisory committee for reasonable expenses incurred in the conduct of their official duties prescribed in section 59-509(b), Idaho Code, and authorized by the department.

SECTION 4. That Section 49-105, Idaho Code, be, and the same is hereby amended to read as follows:

49-105. DEFINITIONS -- D. (1) "Dealer" means every person in the business of buying, selling or exchanging five (5) or more new or used vehicles, new or used neighborhood electric vehicles, new or used motorcycles, snow machines or motor scooters, travel trailers, all-terrain vehicles, utility type vehicles or motor homes in any calendar year, either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise, or who has an established place of business for the sale, lease, trade, or display of these vehicles. No insurance company, bank, finance company, public utilities company, or other person coming into possession of any vehicle, as an incident to its regular business, who shall sell that vehicle under any contractual rights it may have, shall be considered a dealer. See also "salvage pool," section 49-120, Idaho Code.
(2) "Dealer's selling agreement." (See "Franchise," section 49-107, Idaho Code)
(3) "Department" means the Idaho transportation department acting directly or through its duly authorized officers and agents, except in chapters 6 and 9, title 49, Idaho Code, where the term means the Idaho state police, except as otherwise specifically provided.
(4) "Designated family member" means the spouse, child, grandchild, parent, brother or sister of the owner of a vehicle dealership who, in the event of the owner's death, is entitled to inherit the ownership interest in the dealership under the same terms of the owner's will, or who has been nominated in any other written instrument, or who, in the case of an incapacitated owner of a dealership, has been appointed by a court as the legal representative of the dealer's property.
(5) "Director" means the director of the Idaho transportation department, except in chapters 6, 9 and 22, title 49, Idaho Code, where the term means the director of the Idaho state police.
(6) "Disclose" means to engage in any practice or conduct to make available and make known personal information contained in records of the department about a person to any other person, organization or entity, by any means of communication.
(7) "Disqualification" as defined in 49 CFR part 383, means withdrawal by the department of commercial vehicle driving privileges.
(8) "Distributor" means any person, firm, association, corporation or trust, resident or nonresident, who has a franchise from a manufacturer of vehicles to distribute vehicles in this state, and who in whole or in part sells or distributes new vehicles to dealers or who maintains distributor representatives.
(9) "Distributor branch" means a branch office similarly maintained by a distributor for the same purposes a factory branch is maintained.
(10) "Distributor representative" means any person, firm, association, corporation or trust, and each officer and employee thereof engaged as a representative of a distributor or distributor branch of vehicles for the purpose of making or promoting the sale of vehicles, or for supervising or contacting dealers or prospective dealers.
(11) "District" means:
(a) Business district. The territory contiguous to and including a highway when within any six hundred (600) feet along the highway there are buildings in use for business or industrial purposes, including hotels, banks or office buildings, railroad stations and public buildings which occupy at least three hundred (300) feet of frontage on one side or three hundred (300) feet collectively on both sides of the highway.
(b) Residential district. The territory contiguous to and including a highway not comprising a business district when the property on the highway for a distance of three hundred (300) feet or more is in the main improved with residences, or residences and buildings in use for business.
(c) Urban district. The territory contiguous to and including any highway which is built up with structures devoted to business, industry or dwelling houses. For purposes of establishing speed limits in accordance with the provisions of section 49-654, Idaho Code, no state highway or any portion thereof lying within the boundaries of an urban district is subject to the limitations which otherwise apply to nonstate highways within an urban district. Provided, this
subsection shall not limit the authority of the duly elected officials of an incorporated city acting as a local authority to decrease speed limits on state highways passing through any district within the incorporated city.

(12) "Documented vessel" means a vessel having a valid marine document as a vessel of the United States.

(13) "Drag race" means the operation of two (2) or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of one (1) or more vehicles over a common selected course, from the same point to the same point, for the purpose of comparing the relative speeds or power of acceleration of the vehicles within a certain distance or time limit.

(14) "Driver" means every person who drives or is in actual physical control of a vehicle.

(15) "Driver's license" means a license or permit issued by the department or by any other jurisdiction to an individual which authorizes the individual to operate a motor vehicle or commercial motor vehicle on the highways in accordance with the requirements of title 49, Idaho Code.

(16) "Driver's license -- Classes of" are issued for the operation of a vehicle based on the size of the vehicle or the type of load and mean:

(a) Class A. This license shall be issued and valid for the operation of any combination of motor vehicles with a manufacturer's gross combination weight rating (GCWR) in excess of twenty-six thousand (26,000) pounds, provided the manufacturer's gross vehicle weight rating (GVWR) of the vehicle(s) being towed is in excess of ten thousand (10,000) pounds. Persons holding a valid class A license may also operate vehicles requiring a class B, C or D license.

(b) Class B. This license shall be issued and valid for the operation of any single vehicle with a manufacturer's gross vehicle weight rating (GVWR) in excess of twenty-six thousand (26,000) pounds, or any such vehicle towing a vehicle not in excess of ten thousand (10,000) pounds manufacturer's gross vehicle weight rating (GVWR). Persons holding a valid class B license may also operate vehicles requiring a class C license or a class D license.

(c) Class C. This license shall be issued and valid for the operation of any single vehicle or combination of vehicles that does not meet the definition of class A or class B, as defined in this section, but that either is designed to transport sixteen (16) or more people including the driver, or is of any size which does not meet the definition of class A or class B and is used in the transportation of materials found to be hazardous according to the hazardous material transportation act and which requires the motor vehicle to be placarded under the federal hazardous materials regulations 49 CFR part 172, subpart F. Persons holding a valid class C license may also operate vehicles requiring a class D license.

(d) Class D. This license shall be issued and valid for the operation of a motor vehicle that is not a commercial vehicle as defined in section 49-123, Idaho Code.

(e) "Seasonal driver's license" means a special restricted class B or C driver's license to operate certain commercial vehicles in farm-related industries under restrictions imposed by the depart-
ment. As used in this definition, "farm-related industry" shall mean custom harvesters, farm retail outlets and suppliers, agri-chemical businesses and livestock feeders. Seasonal driver's licenses are not valid for driving vehicles carrying any quantities of hazardous material requiring placarding, except for diesel fuel in quantities of one thousand (1,000) gallons or less, liquid fertilizers, i.e., plant nutrients, in vehicles or implements of husbandry with total capacities of three thousand (3,000) gallons or less, and solid fertilizers, i.e., solid plant nutrients, that are not mixed with any organic substance.

(17) "Driver record" means any record that pertains to an individual's driver's license, driving permit, driving privileges, driving history, identification documents or other similar credentials issued by the department.

(18) "Driver's license endorsements" means special authorizations that are required to be displayed on a driver's license which permit the driver to operate certain types of commercial vehicles or commercial vehicles hauling certain types of cargo, or to operate a motorcycle or a school bus.

(a) "Endorsement T -- Double/Triple trailer" means this endorsement is required on a class A, B or C license to permit the licensee to operate a vehicle authorized to tow more than one (1) trailer.

(b) "Endorsement H -- Hazardous material" means this endorsement is required on a class A, B or C license if the driver is operating a vehicle used in the transportation of materials found to be hazardous according to the hazardous material transportation act and which requires the motor vehicle to be placarded under the federal hazardous materials regulations 49 CFR part 172, subpart F.

(c) "Endorsement P -- Passenger" means this endorsement is required on a class A, B or C license to permit the licensee to operate a vehicle designed to transport sixteen (16) or more people including the driver.

(d) "Endorsement N -- Tank vehicle" means this endorsement is required on a class A, B or C license to permit the licensee to operate a vehicle which is designed to transport any liquid or gaseous materials within a tank that is either permanently or temporarily attached to the vehicle. Such vehicles include, but are not limited to, cargo tanks and portable tanks, as defined in federal regulations 49 CFR part 171. This definition does not include portable tanks having a rated capacity under one thousand (1,000) gallons.

(e) "Endorsement M Motorcycle" means this endorsement is required on a driver's license to permit the driver to operate a motorcycle.

(f) "Endorsement S -- School bus" means this endorsement is required on a class A, B or C license to permit the licensee to operate a school bus in accordance with 49 CFR part 383, to transport preprimary, primary or secondary school students from home to school, from school to home, or to and from school-sponsored events. School bus does not include a bus used as a common carrier.

(19) "Driveway" means a private road giving access from a public way to a building on abutting grounds.

(20) "Dromedary tractor" means every motor vehicle designed and used primarily for drawing a semitrailer and so constructed as to carry manifested cargo in addition to a part of the weight of the semitrailer.
SECTION 5. That Section 49-122, Idaho Code, be, and the same is hereby amended to read as follows:

49-122. DEFINITIONS -- U. (1) "Unauthorized vehicle" means any vehicle parked or otherwise left on private property without the consent of the person owning or controlling that property.
(2) "United States" means the fifty (50) states and the District of Columbia.
(3) "Unladen weight." (See "Light weight," section 49-113, Idaho Code)
(4) "Unregistered vehicle" means a vehicle without current registration on file with the department or with the appropriate agency of another state, unless exempt from registration.
(5) "Unusual noise." (See "Excessive," section 49-106, Idaho Code)
(6) "Urban district." (See "District," section 49-105, Idaho Code)
(7) "Utility trailer" means a trailer or semitrailer designed primarily to be drawn behind a passenger car or pickup truck for domestic and utility purposes. Utility or domestic use shall include a farm trailer while being used to haul agricultural products or livestock from farm to storage, market or processing plant, or returning therefrom.
(8) "Utility type vehicle (UTV)" means any recreational motor vehicle other than an ATV, motorbike or snowmobile as defined in section 67-7101, Idaho Code, designed for and capable of travel over designated unpaved roads, traveling on four (4) or more low-pressure tires of twenty (20) psi or less, maximum width less than seventy-four (74) inches, maximum weight less than two thousand (2,000) pounds, or having a wheelbase of ninety-four (94) inches or less. Utility type vehicle does not include golf carts, vehicles specially designed to carry a disabled person, implements of husbandry as defined in section 49-110(2), Idaho Code, or vehicles otherwise registered under title 49, Idaho Code.

SECTION 6. That Section 49-501, Idaho Code, be, and the same is hereby amended to read as follows:

49-501. TITLING REQUIREMENTS -- EXEMPTIONS. (1) The provisions of this chapter shall apply to every vehicle required to be registered with the department in chapter 4, title 49, Idaho Code.
(2) In addition, the titling requirements of this chapter shall apply to the following vehicles which are not required to be registered under the provisions of chapter 4, title 49, Idaho Code:
(a) All-terrain vehicles, motorbikes, and snowmobiles as defined in section 67-7101, Idaho Code, and utility type vehicles as defined in section 49-110(2), Idaho Code; and
(b) Manufactured homes as defined in section 39-4105, Idaho Code.
(3) Certain vehicles which are required to be registered under the provisions of chapter 4, title 49, Idaho Code, shall be exempt from the titling requirements of this chapter as follows:
(a) Utility trailers whose unladen weight is less than two thousand (2,000) pounds; and
(b) The board may, by rule, exempt vehicles and motor vehicles registered under the provisions of sections 49-434 and 49-435, Idaho Code, from the titling requirements of this chapter.
(4) Vehicles exempt from registration under the provisions of section 49-426, Idaho Code, are exempt from the titling requirements of this chapter, unless otherwise specifically required by the provisions of subsection (2) of this section.

SECTION 7. That Section 49-1608, Idaho Code, be, and the same is hereby amended to read as follows:

49-1608. LICENSE BOND. (1) Before any dealer's license shall be issued by the department to any applicant, the applicant shall procure and file with the department good and sufficient bond in the amount shown, conditioned that the applicant shall not practice any fraud, make any fraudulent representation or violate any of the provisions of this chapter, rules and regulations of the department, or the provisions of chapter 5, title 49, section 49-1418, or chapter 6, title 48, Idaho Code, or federal motor vehicle safety standards, or odometer fraud in the conduct of the business for which he is licensed.

(a) All dealers, including wholesale, but excluding a dealer exclusively in the business of motorcycles and motor scooters, all-terrain vehicles, utility type vehicles and snow machine sales, twenty thousand dollars ($20,000).

(b) A dealer exclusively in the business of motorcycle and motor scooter sales, all-terrain vehicles, utility type vehicles and snow machine sales, ten thousand dollars ($10,000).

(2) The bond required in this section may be continuous in form and the total aggregate liability on the bond shall be limited to the payment of the amounts set forth in this section. The bond shall be in the following form:

(a) A corporate surety bond, by a surety licensed to do business in this state; or

(b) A certificate of deposit, in a form prescribed by the director; or

(c) A cash deposit with the director.

(3) If a bond is canceled or otherwise becomes invalid, upon receiving notice of the cancellation or invalidity, the department shall immediately suspend the dealer's license and take possession of the license itself, all vehicle plates used in the business and all unused title applications of the licensee. The licensee is entitled to a hearing which shall be held within twenty (20) days of the suspension. Upon receiving notice that a valid bond is in force, the department shall immediately reinstate the license.

(4) The bond requirements of this section shall be satisfied if the applicant is a duly licensed manufactured home dealer in accordance with chapter 21, title 44, Idaho Code, and the bond required by section 44-2103, Idaho Code, otherwise meets the requirements of this section. The amount of the bond shall be in the amount as required in this section or that required in section 44-2103, Idaho Code, whichever is greater. The applicant shall furnish a certified copy of the bond as required in section 44-2103, Idaho Code, to the department.

Approved March 14, 2006.
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 57-724, Idaho Code, be, and the same is hereby amended to read as follows:

57-724. DETERMINATION OF GAINS AND LOSSES. (1) Gains. Gains to permanent endowment funds shall be determined by the investment board when the current market value of the permanent endowment fund as of the end of the fiscal year exceeds the gain benchmark market value of the permanent endowment fund. Gains for each permanent endowment fund shall be calculated as of June 30 of each fiscal year by subtracting the gain benchmark market value as of June 30 of such year, after all adjustments set out in this section, from the current market value of the permanent endowment fund as of the same June 30 date. The gain benchmark market value shall begin with the market value of the permanent endowment fund calculated as it existed on June 30, 2000, and shall be modified on June 30 of each fiscal year by the percentage change in the average of the immediately preceding three fiscal years of the unadjusted consumer price index for all urban consumers as issued by the United States department of labor, and by the addition of funds deposited as a result of land sales and mineral royalty payments adjusted cumulatively as of June 30 of each fiscal year thereafter for inflation during the preceding year based on the unadjusted consumer price index for all urban consumers as published by the United States department of labor, hereafter referred to in this section as "CPI-U," and further adjusted for certain deposits of funds into the permanent endowment fund during the preceding year, such adjustments to be calculated as follows:

(a) Inflation Adjustment. The gain benchmark market value shall be adjusted for inflation as of June 30 of each fiscal year by multiplying the gain benchmark market value as of the commencement of business on July 1 of the preceding calendar year by the sum of one plus the percentage change in the average CPI-U for the fiscal year then ending. The percentage change in the average CPI-U shall be a fraction, the numerator of which is the average CPI-U for the fiscal year then ending less the average CPI-U for the preceding fiscal year, and the denominator of which is the average CPI-U for the preceding fiscal year. The average CPI-U for each fiscal year shall be calculated by dividing the sum of the monthly CPI-U index figures for such fiscal year, July through June, by twelve (12).

(b) Deposit of Funds. After adjustment for inflation, the gain benchmark market value shall be further adjusted by adding the amount of funds deposited into the permanent endowment fund from and including July 1 of the preceding calendar year through and including the June 30 date of adjustment, from any of the following sources:
(i) Land sales proceeds not deposited into the land bank fund under section 58-133(2), Idaho Code;
(ii) Funds transferred from the land bank fund after expiration of the time frame under section 58-133(3), Idaho Code;
(iii) Mineral royalty payments;
or
(iv) Such other deposits into the permanent endowment fund as are required by law or otherwise permitted to be added to the permanent endowment fund except for the following:
1. Deposits to make up for losses to the permanent endowment fund;
2. Deposits of earnings reserves if the state board of land commissioners directs that such deposit not be added to the gain benchmark market value; or
3. Other deposits, including bequests, to the permanent endowment fund if the depositor or grantor thereof directs that the deposit not be added to the gain benchmark market value.

(c) Gain Benchmark Floor. Notwithstanding any other provision of this section, in no event shall the gain benchmark market value fall below the permanent corpus balance. For purposes of this subsection, the permanent corpus balance shall be calculated by adding to the permanent endowment fund balance as of June 30, 2000, all deposits to the permanent endowment fund up to and including the June 30 date of adjustment, other than deposits resulting from the investment activities of the permanent endowment fund and deposits made to make up losses to the permanent endowment fund.

(2) Losses. Losses to permanent endowment funds shall be determined by the investment board when the market value of the permanent endowment fund as of the end of the fiscal year is less than the loss benchmark market value of the permanent endowment fund. The investment board shall calculate any annual loss as well as the cumulative loss for each permanent endowment fund as of June 30 of the fiscal year.

(a) Cumulative Loss. The cumulative loss for each permanent endowment fund shall be equal to the difference between the loss benchmark market value as of June 30 of the fiscal year, after all adjustments to the loss benchmark market value as set out below in this subsection (2), and the current market value of the permanent endowment fund as of the same June 30 date.

(b) Annual Loss. The annual loss for a fiscal year shall be equal to the increase, if any, of the cumulative loss as of June 30 of such fiscal year, compared to the cumulative loss as of June 30 of the preceding fiscal year.

(c) Loss Benchmark. The loss benchmark market value for each permanent endowment fund shall begin with the market value of the permanent endowment fund calculated as it existed on June 30, 2000, and shall be modified on June 30 of each subsequent fiscal year by the addition of funds deposited as a result of land sales and mineral royalty payments adjusted cumulatively as of June 30 of each fiscal year thereafter by adding the amount of funds deposited into the permanent endowment fund from and including July 1 of the preceding calendar year through and including the June 30 date of adjustment, from any of the following sources:
(i) Land sales proceeds not deposited into the land bank fund under section 58-133(2), Idaho Code;
(ii) Funds transferred from the land bank fund after expiration of the time frame under section 58-133(3), Idaho Code;

(iii) Mineral royalty payments; or

(iv) Such other deposits into the permanent endowment fund as are required by law or otherwise permitted to be added to the permanent endowment fund except for the following:

1. Deposits to make up for losses to the permanent endowment fund; and

2. Deposits of earnings reserves.

(d) Loss Recovery. Cumulative losses to in permanent endowment funds other than the public school permanent endowment fund shall be made up from earnings reserve fund moneys that the state board of land commissioners determines will not be needed for administrative costs or scheduled distributions to each endowment's respective income fund. Cumulative losses to in the public school permanent endowment fund shall be made up as follows:

(ai) The state board of land commissioners may annually transfer any funds in the public school earnings reserve fund that it determines will not be needed for administrative costs or scheduled distributions to the public school income fund in the following fiscal year to the public school permanent endowment fund, to make up for all or part of any prior then existing cumulative losses in value the public school permanent endowment fund.

(bii) If funds transferred from the earnings reserve fund are insufficient to make up any losses in value to a cumulative loss exists in the public school permanent endowment fund, and the market value of the public school permanent endowment fund at as of the end of each a fiscal year, remains below the and there has also been a cumulative loss benchmark-market-value at the end of each of the preceding nine (9) fiscal years, for a total of ten (10) consecutive fiscal years ending with a cumulative loss, then, to the extent the then existing cumulative loss is not made up from transfers of earnings reserves under subsection (2)(d)(i) of this section, the legislature shall make up the loss by legislative transfer or appropriation authorized during one (1) or both of the next succeeding two (2) regular sessions of the legislature, Such loss-to-be-made up—shall—be authorize a deposit to the public school permanent endowment fund in an amount equal to the lesser of: the—

1. The current cumulative loss; or

2. An amount not less than the annual loss determined in the first year of the preceding consecutive ten (10) consecutive fiscal years, provided however, the legislature may offset the amount of this annual loss by any deposits of earnings reserves made by the land board into the public school permanent endowment fund after the end of the fiscal year for which such annual loss was calculated, but only to the extent any such deposit of earnings reserves has not been used previously to offset the amount of a prior legislative deposit under this subparagraph 2.

(ciii) The deposit of any transfers or appropriations authorized by the legislature for deposit into the public school permanent endowment fund under subsection (2)(d)(ii) of this
section shall take place at after the end of the fiscal year; after the determination of gains and losses, if the market value of the public-school-permanent-endowment-fund exceeds the loss benchmark-market-value-at-the-end-of-any-fiscal-year-in which legislative transfers or appropriations are authorized to the public-school-permanent-endowment-fund, then such transfers or appropriations shall be reduced by the lesser of the:

(i) Amount that the market value of the public-school-permanent-endowment-fund would exceed the loss benchmark-market-value-at-the-end-of-the-fiscal-year if all authorized legislative transfers or appropriations were to be made; or

(ii) Amount of the legislative transfers or appropriations authorized for deposit into the public-school-permanent-endowment fund for the fiscal year in which the deposit was authorized by the legislature, and as soon as is practicable once the investment board has calculated the cumulative loss in the public school permanent endowment fund as of the end of the fiscal year; provided however, in the event the cumulative loss as of the end of such fiscal year is less than the amount of the authorized deposit, the deposit shall be reduced to an amount equal to the cumulative loss, and the balance of the authorized deposit shall be returned to the source of the deposit.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, the calculation of gain benchmark market value and loss benchmark market value set forth in this act shall be in full force and effect on and after its passage and approval, and shall be retroactive to June 30, 2000, and shall replace and supersede any prior calculation thereof.

Approved March 14, 2006.

CHAPTER 44
(H.B. No. 591)

AN ACT RELATING TO THE INVESTMENT OF PERMANENT FUNDS; REPEALING SECTIONS 3 AND 5, CHAPTER 132, LAWS OF 2004, REGARDING THE DEFINITION OF "EARNINGS DEFINED" AND THE EFFECTIVE DATE OF THE ACT; AND AMENDING SECTION 57-724A, IDAHO CODE, TO PROVIDE FOR CALCULATION OF GAINS ACHIEVED BY THE PERMANENT FUND OF EACH ENDOWMENT FUND TO BE INCORPORATED INTO THE CALCULATION OF GAINS AND NOT BE A SEPARATE ITEM OF EARNINGS.

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

SECTION 1. That Sections 3 and 5, Chapter 132, Laws of 2004, be, and the same are hereby repealed.

SECTION 2. That Section 57-724A, Idaho Code, be, and the same is hereby amended to read as follows:
57-724A. EARNINGS DEFINED. "Earnings" shall mean all revenues generated from the management of endowment lands and their related endowment funds including, but not limited to, timber sale proceeds, lease fees, interest, dividends, and gains as defined in section 57-724, Idaho Code; provided however, for the permanent fund of each endowment, on and after July 1 of the calendar year following the first calendar year in which gains, as calculated under the provisions of section 57-724, Idaho Code, have been achieved by the permanent fund of such endowment fund, dividends and interest shall be incorporated into the calculation of gains as defined in section 57-724, Idaho Code, and shall not be a separate item of earnings for such permanent fund. "Earnings" does not include mineral royalties or land sale proceeds.

Approved March 14, 2006.

CHAPTER 45
(H.B. No. 586)

AN ACT
RELATING TO INSURANCE ADMINISTRATORS; AMENDING SECTION 41-913, IDAHO CODE, TO REVISE FEES, TO REVISE EXPIRATION AND RENEWAL PERIODS AND TO PROVIDE CORRECT TERMINOLOGY.

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

SECTION 1. That Section 41-913, Idaho Code, be, and the same is hereby amended to read as follows:

41-913. CERTIFICATE OF REGISTRATION -- FEES -- EXPIRATION -- RENEWAL -- REVOCA TION. (1) No person shall act as or hold himself out to be an administrator in this state, other than an adjuster licensed in this state for the kinds of business for which such person is acting as an adjuster, unless such person shall hold a valid certificate of registration as an administrator issued by the director.

(2) An application for such certificate shall be in the form prescribed by the director, and shall be accompanied by a fee of one hundred dollars ($100) or as provided for by regulation rule, which fee is not refundable if the application is denied.

(3) Such certificate shall not be issued until the director has determined that the administrator is competent, trustworthy, financially responsible and of good personal and business reputation.

(4) Such certificate shall expire on the December 31 of the year following its issuance, but may be renewed annually for a period of one two (2) years commencing January 1 upon filing a renewal form prescribed by the director, accompanied by a fee of one hundred dollars ($100) or as provided for by regulation rule. Such renewal form shall be filed on or before the preceding November 17 and December 31. Any renewal form filed postmarked after such date December 31 shall also be accompanied by an additional late filing fee of fifty dollars ($50.00) in the amount of double the unpaid renewal fee. Any renewal postmarked after January 31 must be submitted as a new application with supporting documents and accompanied by the full application fee as provided for by rule.
(5) Such certificate shall be renewed by the director unless, after notice and hearing, the director shall determine that the administrator is not competent, trustworthy, financially responsible or of good personal and business reputation, or has had an insurance license denied for cause by any state.

(6) After notice and hearing, the director may either suspend or revoke such certificate upon finding the administrator violated any of the provisions of this title or upon finding any of the reasons for which the issuance or renewal of such certificate could have been denied.

(7) Any person who is acting as or holding himself out to be an administrator while failing to have a valid certificate shall be subject to a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000) for each violation. Such fine shall be in addition to any other penalties which may be imposed for violations of this title or other laws of this state.

(8) Any fines imposed pursuant to the provisions of this section shall be remitted and accounted for as provided for by section 41-406, Idaho Code.

Approved March 14, 2006.

CHAPTER 46
(H.B. No. 580)

AN ACT
RELATING TO FALSE REPORTS OF EXPLOSIVES; AMENDING SECTION 18-3313, IDAHO CODE, TO CLARIFY THAT A PERSON WHO MAKES A FALSE REPORT OF EXPLOSIVES TO AN EMPLOYEE OF A POLICE DEPARTMENT, SHERIFF'S OFFICE OR EMERGENCY DISPATCH CENTER IS GUILTY OF A FELONY.

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

SECTION 1. That Section 18-3313, Idaho Code, be, and the same is hereby amended to read as follows:

18-3313. FALSE REPORTS OF EXPLOSIVES IN PUBLIC OR PRIVATE PLACES A FELONY — PENALTY. Any person who reports to any police officer, sheriff, employee of a police department or sheriff's office, employee of a 911 emergency communications system or emergency vehicle dispatch center, employee of a fire department or fire service, prosecuting attorney, newspaper, radio station, television station, deputy sheriff, deputy prosecuting attorney, member of the state police, employee of an airline, employee of an airport, employee of a railroad or bus line, an employee of a telephone company, occupants of a building, employee of a school district, or a news reporter in the employ of a newspaper or radio or television station, that a bomb or other explosive has been placed or secreted in a public or private place knowing that such report is false, is guilty of a felony, and upon conviction thereof, shall be sentenced to a term of not to exceed five (5) years in the state penitentiary.

Approved March 14, 2006.
AN ACT RELATING TO THE PEACE OFFICER STANDARDS AND TRAINING COUNCIL; AMENDING SECTION 19-5109, IDAHO CODE, TO REMOVE LANGUAGE AUTHORIZING THE COUNCIL TO RECEIVE APPLICATIONS AND DISBURSE MONEYS FOR FINANCIAL ASSISTANCE, TO REVISE PROVISIONS APPLICABLE TO COUNCIL'S POWER TO DECERTIFY OFFICERS, TO REVISE THE TIME PERIOD REQUIRED FOR REPORTING CERTAIN ACTIONS TO THE COUNCIL, TO SET FORTH PROVISIONS APPLICABLE TO THE REJECTION OF APPLICATIONS FOR CERTIFICATION, TO DEFINE "CONVICTED" AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 19-5112, IDAHO CODE, TO DELETE LANGUAGE REFERENCING FINANCIAL AID AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 19-5109, Idaho Code, be, and the same is hereby amended to read as follows:

19-5109. POWERS OF THE COUNCIL -- STANDARDS OF TRAINING, EDUCATION AND EMPLOYMENT OF PEACE OFFICERS -- CERTIFICATION -- PENALTIES. (a) It shall be the duty of and the council shall have the power:
   (1) To establish the requirements of minimum basic training which peace officers shall complete in order to be eligible for permanent employment as peace officers, and the time within which such basic training must be completed. One (1) component of minimum basic training shall be a course in the investigation of and collection of evidence in cases involving an allegation of sexual assault or battery.
   (2) To establish the requirements of minimum education and training standards for employment as a peace officer in probationary, temporary, part-time, and/or emergency positions.
   (3) To establish the length of time a peace officer may serve in a probationary, temporary, and/or emergency position.
   (4) To approve, deny approval or revoke the approval of any institution or school established by the state or any political subdivision or any other party for the training of peace officers.
   (5) To establish the minimum requirements of courses of study, attendance, equipment, facilities of all approved schools, and the scholastic requirement, experience and training of instructors at all approved schools.
   (6) To establish such other requirements for employment, retention and promotion of peace officers, including minimum age, physical and mental standards, citizenship, moral character, experience and such other matters as relate to the competence and reliability of peace officers.
   (7) To certify peace officers as having completed all requirements established by the council in order to be eligible for permanent employment as peace officers in this state.
   (8) To receive and file for record copies of merit regulations or local ordinances passed by any political subdivision.
   (9) To maintain permanent files and transcripts for all peace officers certified by the council to include any additional courses
or advance courses of instruction successfully completed by such peace officers while employed in this state.

(10) To receive applications for financial assistance from the state and from political subdivisions and disburse available state funds to the state and to political subdivisions for salaries and allowable living expenses or any part thereof as authorized by the council incurred while in attendance at approved training programs and schools. The annual reimbursements authorized by this section shall not exceed the funds available for such purpose and authorized by section 31-3201B, Idaho Code.

(11) To allow a peace officer of a federally recognized Indian tribe within the boundaries of this state to attend the peace officer standards and training academy if said peace officer meets minimum physical and educational requirements of the academy. The Indian tribal law enforcement agency shall reimburse the peace officer standards and training academy for the officer's training. Upon satisfactory completion of the peace officer standards and training academy, the tribal peace officer shall receive a certificate of satisfactorily completing the academy.

(b2) After January 1, 1974, any peace officer as defined in section 19-5101(d), Idaho Code, employed after January 1, 1974, except any elected official or deputy serving civil process, the deputy director of the Idaho state police, or any person serving under a temporary commission with any law enforcement agency in times of natural or man-caused disaster declared to be an emergency by the board of county commissioners or by the governor of the state of Idaho, or those peace officers whose primary duties involve motor vehicle parking and animal control pursuant to city or county ordinance, or any peace officer acting under a special deputy commission from the Idaho state police, shall be certified by the council within one (1) year of employment; provided, however, that the council may establish criteria different than that required of other peace officers for certification of city police chiefs or administrators within state agencies having law enforcement powers, who, because of the number of full-time peace officers they supervise, have duties which are primarily administrative. Any such chief of police or state agency administrator employed in such capacity prior to July 1, 1987, shall be exempt from certification.

(c3) No peace officer shall have or exercise any power granted by any statute of this state to peace officers unless such person shall have been certified by the council within one (1) year of the date upon which such person commenced employment as a peace officer, except in cases where the council, for good cause and in writing, has granted additional time to complete such training. The council may decertify any officer who pleads guilty or is found guilty, regardless of the form of judgment or withheld judgment convicted of any felony or offense which would be a felony if committed in this state. The council may decertify any officer who:

(2a) Is convicted of a misdemeanor;

(2b) Any unlawful use--possession--sale--or delivery of any controlled substance or who

(4b) Willfully or otherwise falsifies or omits any information to obtain any certified status; or who

(5c) Violates any of the standards of conduct as established by the council's code of ethics, as adopted and amended by the council.
All proceedings taken by the council shall be done conducted in accordance with chapter 52, title 67, Idaho Code.

(d) Any law enforcement agency as defined in section 19-5101(c), Idaho Code, in which any peace officer shall resign as a result of any disciplinary action or in which a peace officer's employment is terminated as a result of any disciplinary action, shall, within thirty fifteen (3015) days of such action, make a report to the council.

(e) The council shall, pursuant to the requirements of this section, establish minimum basic training and certification standards for county detention officers that can be completed within one (1) year of employment as a county detention officer.

(f) The council may, upon recommendation of the juvenile training council and pursuant to the requirements of this section, implement minimum basic training and certification standards for juvenile detention officers and for juvenile probation officers.

(g) The council may, upon recommendation of the correction standards and training council, and pursuant to the requirements of this section, establish minimum basic training and certification standards for state correction officers and for adult probation and parole officers.

(h) The council may reject any applicant for certification who has been convicted of a misdemeanor, and the council shall reject an applicant for certification who has been convicted of a felony, the punishment for which could have been imprisonment in a federal or state penal institution.

(9) As used in this section, "convicted" means a plea or finding of guilt, notwithstanding the form of judgment or withheld judgment, regardless of whether the sentence is imposed, suspended, deferred or withheld, and regardless of whether the plea or conviction is set aside or withdrawn or the case is dismissed or reduced under section 19-2604, Idaho Code, or any other comparable statute or procedure where the setting aside of the plea or conviction, or dismissal or reduction of the case or charge, is based upon leniency or the furtherance of rehabilitation rather than upon any defect in the legality or factual basis of the plea, finding of guilt or conviction.

SECTION 2. That Section 19-5112, Idaho Code, be, and the same is hereby amended to read as follows:

19-5112. AGREEMENT BY OFFICER TO SERVE -- VIOLATIONS. (a) Any peace officer attending such schools or programs or directly or indirectly receiving the aid authorized by section 19-5109, Idaho Code, shall execute an agreement whereby said officer promises to remain within the law enforcement profession in the state of Idaho in a position approved by rules and regulations of the council for two (2) years following graduation, subject only to such disqualifications as established by the council and included within the agreement.

(b) Violation of the provisions of this section or the terms of any contract or agreement entered into pursuant to such section shall give rise to a civil action which may be commenced by the council for and on behalf of the state of Idaho for restitution of any and all sums paid by the council plus costs and reasonable attorney's fees.

Approved March 14, 2006.
CHAPTER 48
(H.B. No. 578)

AN ACT
RELATING TO THE EMPLOYMENT SECURITY LAW; AMENDING SECTION 72-1347A, IDAHO CODE, TO REVISE CONDITIONS WHEN A RESERVE TAX MAY BE IMPOSED FOR CALENDAR YEAR 2006; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 72-1347A, Idaho Code, be, and the same is hereby amended to read as follows:

72-1347A. EMPLOYMENT SECURITY RESERVE FUND -- SPECIAL ADMINISTRATION FUND. (1) There is established in the state treasury a special trust fund, separate and apart from all other public funds of this state, to be known as the employment security reserve fund, hereinafter "reserve fund." Except as provided herein, all proceeds from the reserve tax defined in subsection (2) of this section shall be paid into the reserve fund. The moneys in the reserve fund may be used by the director for loans to the employment security fund, section 72-1346, Idaho Code, as security for loans from the federal unemployment insurance trust fund, and for the repayment of any interest bearing advances, including interest, made under title XII of the social security act, 42 USC 1321 through 1324, and shall be available to the director for expenditure in accordance with the provisions of this section. The state treasurer shall be the custodian of the reserve fund and shall invest said moneys in accordance with law. The state treasurer shall disburse the moneys from the reserve fund in accordance with the directions of the director.

(2) A reserve tax is imposed on all covered employers required to pay contributions pursuant to section 72-1350, Idaho Code, except deficit employers who have been assigned a taxable wage rate from deficit rate class six pursuant to section 72-1350(8)(a), Idaho Code. The reserve tax shall be due and payable at the same time and in the same manner as contributions. If the reserve fund is less than one percent (1%) of state taxable wages in the penultimate year as of September 30 of the preceding calendar year, the reserve tax rate for all eligible, standard-rated and deficit employers shall be equal to the taxable wage rate then in effect less the assigned contribution rate and training tax rate. The provisions of this chapter which apply to the payment and collection of contributions also apply to the payment and collection of the reserve tax, including the same calculations, assessments, method of payment, penalties, interest, costs, liens, injunctive relief, collection procedures and refund procedures. In the administration of the provisions of this section and the collection of the reserve tax, the director is granted all rights, authority, and prerogatives granted the director under the provisions of this chapter. Moneys collected from an employer delinquent in paying contributions and reserve taxes shall first be applied to pay any penalty and interest imposed pursuant to the provisions of this chapter and shall then be applied pro rata to pay delinquent contributions to the employment security fund, section 72-1346, Idaho Code, and delinquent reserve taxes to the reserve fund
pursuant to this section. Any interest and penalties collected pursuant to this subsection shall be paid into the state employment security administrative and reimbursement fund, section 72-1348, Idaho Code, and any interest or penalties refunded under this subsection shall be paid out of that same fund. Reserve taxes paid pursuant to this subsection may not be deducted in whole or in part by any employer from the wages of individuals in its employ. All reserve taxes collected pursuant to this subsection shall be deposited in the clearing account of the employment security fund, section 72-1346, Idaho Code, for clearance only and shall not become part of such fund. After clearance, the moneys shall be deposited in the reserve fund established in subsection (1) of this section. No reserve tax shall be imposed for any calendar year if, as of September 30 of the preceding calendar year, the balance of the reserve fund equals or exceeds one percent (1%) of the state taxable wages for the penultimate calendar year, or exceeds forty-nine percent (49%) of the actual balance of the employment security fund, section 72-1346, Idaho Code. Provided however, and notwithstanding any other provisions of this subsection, for calendar year 2006, the imposition of a reserve tax shall not be precluded even if the balance of the reserve fund exceeds forty-nine percent (49%) of the actual balance of the employment security fund.

(3) The interest earned from investment of the reserve fund shall be deposited in a fund established in the state treasurer's office, to be known as the department of commerce and labor special administration fund, hereinafter "special administration fund." The moneys in the special administration fund shall be held separate and apart from all other public funds of this state. The state treasurer shall be the custodian of this fund and may invest said moneys in accordance with law. Any interest earned on said moneys shall be deposited in the special administration fund. In the absence of a specific appropriation, the moneys in the special administration fund are perpetually appropriated to the director and may be expended with the approval of the advisory council appointed pursuant to section 72-1336, Idaho Code, for costs related to programs administered by the department. The director shall report annually to the joint finance-appropriations committee and the advisory council the expenditures and disbursements made from the fund during the preceding fiscal year, and the expenditures and disbursements and commitments made during the current fiscal year to date.

(4) Administrative costs related to the reserve fund and the special administration fund shall be paid from federal administrative grants received under title III of the social security act, to the extent permitted by federal law, and then from the special administration fund.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2006.

Approved March 14, 2006.
CHAPTER 49
(H.B. No. 585)

AN ACT
RELATING TO THE DEPARTMENT OF INSURANCE; AMENDING CHAPTER 2, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-232A, IDAHO CODE, TO SET FORTH PROVISIONS APPLICABLE TO HEARINGS; AMENDING SECTION 41-308, IDAHO CODE, TO REMOVE REFERENCES TO HEARINGS RELATED TO CERTIFICATES OF AUTHORITY; AND AMENDING SECTION 41-1016, IDAHO CODE, TO PROVIDE A CODE REFERENCE, TO REMOVE LANGUAGE REFERENCING HEARINGS, TO REFERENCE VIOLATIONS BY APPLICANTS AND TO REMOVE LANGUAGE REFERENCING NOTIFICATION AND HEARING PROVISIONS RELATING TO THE DENIAL OR REFUSAL TO RENEW A LICENSE FOR AN APPLICANT.

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

SECTION 1. That Chapter 2, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-232A, Idaho Code, and to read as follows:

41-232A. HEARINGS UPON THE DENIAL, NONRENEWAL, SUSPENSION OR REVOCA TION OF A CERTIFICATE OF AUTHORITY OR LICENSE OR IMPOSITION OF ADMINISTRATIVE PENALTIES. (1) In the event the director denies an applicant's application for a certificate of authority or for a license, the director shall notify the applicant in writing of the basis for the denial. Within twenty-one (21) days of the issuance of the notice of denial, the applicant may submit to the director a written request for a hearing before the director or his duly appointed representative addressing the basis for the denial of the application and requesting that the director reexamine the applicant's qualifications for a certificate of authority or a license. An applicant's failure to request a hearing in writing within twenty-one (21) days of the issuance of the notice of denial shall be deemed a waiver of the opportunity for hearing.

(2) Except as otherwise provided in title 41 and chapter 52, title 67, Idaho Code, prior to the director's nonrenewal, suspension or revocation of a certificate of authority or license or imposition of any administrative penalty, the director shall provide the insurer or licensee, and any appointing insurers that have appointed the licensee as an agent, with advance written notice of the nature of the violations alleged or the charges pending against the insurer or licensee and affording the insurer or licensee an opportunity for a hearing thereon. Within twenty-one (21) days of the issuance of the notice of violations or charges, the insurer or licensee may submit to the director a written request for a hearing before the director or his duly appointed representative addressing the alleged violations and charges pending against the insurer or licensee. An insurer's or licensee's failure to request a hearing or otherwise dispute the notice in writing within twenty-one (21) days of the issuance of the notice of violations or charges shall be deemed a waiver of the opportunity for hearing.

(3) All hearings under this section shall be conducted in accordance with the provisions set forth in this chapter and chapter 52, title 67, Idaho Code.
SECTION 2. That Section 41-308, Idaho Code, be, and the same is hereby amended to read as follows:

41-308. GENERAL ELIGIBILITY FOR CERTIFICATE OF AUTHORITY. To qualify for and hold authority to transact insurance in this state an insurer must be otherwise in compliance with this code and with its charter powers, and must be an incorporated stock insurer, or an incorporated mutual insurer, or a reciprocal insurer, of the same general type as may be formed as a domestic insurer under this code; except that:

(1) No insurer shall be authorized to transact insurance in this state which does not maintain reserves as required by chapter 6 (assets and liabilities) of this code applicable to the kind or kinds of insurance transacted by such insurer, wherever transacted in the United States.

(2) Before granting authority to an insurer to transact insurance in this state, the director shall take into consideration the length of time the insurer has been transacting insurance; the net profit or loss experienced over the previous five (5) years; or any other factor which for good reason he believes could make the admittance of the insurer not in the best interest of the insurance-buying public.

(3) The director shall not grant or continue authority to transact insurance in this state as to any insurer the management of which is found by him, after a hearing held thereon, to be untrustworthy, or so lacking in insurance experience as to make the proposed operation hazardous to the insurance-buying public; or which, after a hearing held thereon, he has good reason to believe is affiliated directly or indirectly through ownership, control, reinsurance transactions or other insurance or business relations, with any person or persons whose business operations are or have been marked, to the detriment of policyholders or stockholders or investors or creditors or of the public, by manipulation or dissipation of assets, or manipulation of accounts, or of reinsurance, or by similar injurious actions.

SECTION 3. That Section 41-1016, Idaho Code, be, and the same is hereby amended to read as follows:

41-1016. ADMINISTRATIVE PENALTY -- SUSPENSION, REVOCATION, REFUSAL OF LICENSE. (1) The director may impose an administrative penalty not to exceed one thousand dollars ($1,000), for deposit in the general fund of the state of Idaho, and may suspend for not more than twelve (12) months or may revoke or refuse to issue or continue any license issued under this chapter, chapter 27, title 41, Idaho Code (title insurance), chapter 11, title 41, Idaho Code (adjusters), or any chapter 12, title 41, Idaho Code (surplus lines brokers), if, after not less than twenty-one (21) days' notice of the opportunity for a hearing and of the charges against the licensee given as provided in section 41-212(3), Idaho Code, to the licensee and to any appointing insurers represented as to a producer who is appointed as an agent, the director finds that as to the licensee or applicant any one (1) or more of the following causes or violations exist:

(a) Providing incorrect, misleading, incomplete or materially untrue information in the license application;

(b) Violating any provision of title 41, Idaho Code, department
rule, subpoena or order of the director or of another state's insurance director;
(c) Obtaining or attempting to obtain a license through misrepresentation or fraud;
(d) Improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business;
(e) Misrepresenting the terms of an actual or proposed insurance contract or application for insurance or misrepresenting any fact material to any insurance transaction or proposed transaction;
(f) Being convicted of or pleading guilty to any felony, or to a misdemeanor which evidences bad moral character, dishonesty, a lack of integrity and financial responsibility, or an unfitness and inability to provide acceptable service to the consuming public;
(g) Admitting or being found to have committed any insurance unfair trade practice or fraud;
(h) Using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility, or being a source of injury and loss to the public or others, in the conduct of business in this state or elsewhere;
(i) Having an insurance license denied, suspended or revoked in any other state, province, district or territory;
(j) Forging another's name on an application for insurance or on any document related to an insurance transaction;
(k) Improperly using notes or any other reference material to complete an examination for an insurance license;
(l) Knowingly accepting insurance business from an individual who is not licensed;
(m) Failing to comply with an administrative or court order imposing a child support obligation, provided however, that nothing in this provision shall be deemed to abrogate or modify chapter 14, title 7, Idaho Code; or
(n) Failing to pay state income tax or to comply with any administrative or court order directing payment of state income tax.
(2) The director shall, without hearing, suspend for not more than twelve (12) months, or shall revoke or refuse to continue any license issued under this chapter to a nonresident where the director has received a final order of suspension, revocation or refusal to continue from the insurance regulatory official or court of jurisdiction of the licensee's home state. If cause under this provision exists after the expiration of the twelve (12) months, successive suspensions may be imposed by the director without hearing.
(3) In-the-event-that-the-director-denies-or-refuses-to-renew-an application--for--a--license,-the-director-shall-notify-the-applicant-or licensee-and-advice,-in-writing,-the-applicant-or-licensee-of-the-reason for-the-denial-or-nonrenewal-of-the-applicant's-or-licensee's-license. The--applicant--or--licensee--may--make-written-demand-upon-the-director within-twenty-one-(21)-days-for-a-hearing--before-the-director-to--deter- mine--the--reasonableness-of-the-director's-action. The-hearing-shall-be held-pursuant-to-chapter-2,-title-41,-and-chapter-52,-title-67,-Idaho Code.
(4) The license of a business entity may be suspended, revoked or refused if the director finds, after hearing, that the violation of an individual licensee, who is registered to or acting on behalf of the
business entity, was known or should have been known by one (1) or more of the owners, officers or managers acting on behalf of the business entity and that the violation was not reported to the director and no corrective action was taken.

(54) In addition to or in lieu of any applicable denial, suspension or revocation of a license, a person may, after hearing, be subject to a civil fine or administrative penalty pursuant to subsection (1) of this section or any other applicable section.

(65) The director shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by title 41, Idaho Code, against any person who is under investigation for or charged with a violation of title 41, Idaho Code, or department rule, even if the person's license or registration has been surrendered, has lapsed by operation of law, or if the person has never been licensed.

Approved March 14, 2006.

CHAPTER 50
(H.B. No. 574)

AN ACT
RELATING TO IDAHO STATE VETERANS HOMES; AMENDING SECTION 66-901, IDAHO CODE, TO PROVIDE FOR ADMISSION TO AN IDAHO STATE VETERANS HOME TO THE SPOUSES OF ELIGIBLE VETERANS AND TO DEFINE "SPOUSE."

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 66-901, Idaho Code, be, and the same is hereby amended to read as follows:

66-901. ESTABLISHMENT OF HOMES. On and after July 1, 2000, there shall be established in the division of veterans services in the department of self-governing agencies in this state homes for veterans which shall hereafter be known and designated as Idaho state veterans homes. These homes shall be homes for male and female veterans discharged under honorable conditions by the government of the United States; provided, that and the spouses of veterans eligible for admission to an Idaho state veterans home. A "spouse" shall mean the current husband or wife of a veteran under a marriage recognized by title 32, Idaho Code, and, as allowed by admissions criteria established pursuant to section 66-907, Idaho Code, the widow or widower of a veteran under a marriage recognized by title 32, Idaho Code. Before a person is admitted to a home, he that person shall be a bona fide resident of this state.

Approved March 14, 2006.
CHAPTER 51
(H.B. No. 571)

AN ACT
RELATING TO VETERANS; AMENDING CHAPTER 5, TITLE 65, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 65-501, IDAHO CODE, TO PROVIDE A STATEMENT OF PURPOSE; AMENDING CHAPTER 5, TITLE 65, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 65-502, IDAHO CODE, TO DEFINE TERMS; REPEALING SECTION 65-503, IDAHO CODE, RELATING TO GROUNDS FOR REFUSING EMPLOYMENT OR DISCHARGING FROM EMPLOYMENT; AMENDING SECTION 65-502, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS APPLICABLE TO THE PREFERENCE GIVEN TO QUALIFIED VETERANS, SPOUSES, WIDOWS AND WIDOWERS BY PUBLIC EMPLOYERS; AMENDING SECTION 65-506, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS APPLICABLE TO THE BASIC PREFERENCE AND THE ADDITION OF POINTS TO COMPETITIVE EXAMINATION RATINGS; AMENDING SECTION 65-504, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS APPLICABLE TO OBSERVANCE BY OFFICIALS OF THE PREFERENCE AND EXCEPTIONS; AMENDING SECTION 65-505, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE PROVISIONS APPLICABLE TO THE FAILURE OR REFUSAL TO GIVE PREFERENCE AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 65-507, IDAHO CODE, DEFINING "DISABLED VETERAN"; AMENDING SECTION 65-508, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS RELATING TO APPLICATION; AMENDING CHAPTER 5, TITLE 65, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 65-508, IDAHO CODE, TO PROVIDE FOR REEMPLOYMENT AND LEAVES OF ABSENCE; REPEALING SECTION 65-509, IDAHO CODE, DEFINING "VETERAN" AND REPEALING SECTION 65-510, IDAHO CODE, RELATING TO DEFINITIONS; AMENDING SECTION 65-501, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 65-515, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE CORRECT TERMINOLOGY; REPEALING SECTION 65-511, IDAHO CODE, RELATING TO REEMPLOYMENT RIGHTS OF PUBLIC EMPLOYEES CALLED FOR MILITARY DUTY, REPEALING SECTION 65-512, IDAHO CODE, RELATING TO RIGHTS AFTER REINSTATEMENT, REPEALING SECTION 65-513, IDAHO CODE, RELATING TO LEAVES OF ABSENCE FOR PUBLIC EMPLOYEES WHO ARE NOT ACCEPTED FOR MILITARY DUTY AND REPEALING SECTION 65-514, IDAHO CODE, RELATING TO ENFORCEMENT; AMENDING CHAPTER 5, TITLE 65, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 65-511, IDAHO CODE, TO PROVIDE SEVERABILITY; AMENDING SECTION 67-5302, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 67-5309, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE RULES OF THE DIVISION OF HUMAN RESOURCES AND THE PERSONNEL COMMISSION; AND AMENDING SECTION 49-123, IDAHO CODE, TO REVISE A CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Chapter 5, Title 65, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 65-501, Idaho Code, and to read as follows:

65-501. STATEMENT OF PURPOSE. It is the intent of the legislature to honor veterans of the armed forces by providing preference in initial appointments to public sector jobs in Idaho. Veteran's preference is intended to honor those citizens who have served their country in active duty by providing veterans a more favorable competitive position for
government employment and acknowledging the larger sacrifice of disabled veterans. Eligible veterans are provided advantages in public employment in Idaho, including preference for initial employment and retention in the event of layoffs. Veteran's preference requires public employers to provide additional consideration for eligible veterans, but it does not guarantee the veteran a job.

SECTION 2. That Chapter 5, Title 65, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 65-502, Idaho Code, and to read as follows:

65-502. DEFINITIONS. As used in this chapter:
(1) "Armed forces" means the army, navy, marine corps, coast guard, air force, and the reserve components thereof.
(2) "Disabled veteran" means those honorably separated veterans who:
   (a) Qualify as disabled veterans because they have served on active duty in the armed forces and have a current service-connected disability of ten percent (10%) or more or are receiving compensation related to a service-connected disability including retirement benefits or pension from the military or the department of veterans affairs; or
   (b) Are purple heart recipients.
(3) "Honorable conditions" means an honorable discharge or a general discharge "under honorable conditions."
(4) "Initial appointment" means the first time a qualified veteran is hired by a county or a municipal government or the state, provided however, subsequent separation from the county, municipal government or the state shall not result in the award of new preference or preference points with that governmental entity. "Initial appointment" shall not include:
   (a) Jobs held by patients, inmates or students in or enrolled at a state institution;
   (b) Temporary or casual employment; or
   (c) An office filled by election.
(5) "Key employee" means an individual specifically hired for an "at will" or nonclassified position for which there is no selection process, such as a position as a private secretary or deputy of an official or department who holds a confidential relationship to the appointing or employing officer.
(6) "Military duty" means training and service performed by an inductee, enlistee or reservist or any entrant into a component of the armed forces of the United States, provided "military duty" shall not include active duty training as a reservist in the armed forces of the United States or as a member of the national guard of the United States where the call is for training only.
(7) "Position" means a job held by a public employee but shall not include:
   (a) A job held by a patient, inmate or student in or enrolled at a state institution;
   (b) Temporary or casual employment; or
   (c) An office filled by election.
(8) "Public employee" means any person holding a position in public employment.
"Public employer" means any government, department or agency mentioned in subsection (10) of this section employing a public employee in a position.

"Public employment" means employment of the government of this state, or of any county, municipality or other political subdivision of the state, including any department or agency thereof.

"Register" means a list of names of persons who have been determined to be eligible for employment in a classified position as determined on the basis of examination and merit factors as established in a civil service system.

"Service-connected disability" means that the veteran is disabled due to injury or illness that was incurred in or aggravated by military service as certified by the federal veterans administration or an agency of the department of defense.

"Temporary or casual employment" means employment for a brief, nonrecurrent period where there is no reasonable expectation that such employment will continue indefinitely or for a significant period of time.

"Veteran" means any person who has:
(a) Served on active duty in the armed forces during a war, in a campaign or expedition for which a campaign badge has been authorized, or during the period beginning April 28, 1952, and ending July 1, 1955;
(b) Served on active duty as defined in 38 U.S.C. section 101(21) at any time in the armed forces for a period of more than one hundred eighty (180) consecutive days, any part of which occurred after January 31, 1955, and before October 15, 1976, not including service under 10 U.S.C. section 12103(d) pursuant to an enlistment in the army national guard or the air national guard or as a reserve for service in the army reserve, naval reserve, air force reserve, marine corps reserve or coast guard reserve;
(c) Served on active duty as defined in 38 U.S.C. section 101(21) in the armed forces during the period beginning on August 2, 1990, and ending on January 2, 1992; or
(d) Served as may be further defined in 38 U.S.C. section 101(11).

SECTION 3. That Section 65-503, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Section 65-502, Idaho Code, be, and the same is hereby amended to read as follows:

PREJERIENCE TO BE GIVEN QUALIFIED VETERANS, SPOUSES, WIDOWS AND WIDOWERS BY PUBLIC EMPLOYERS. (1) Eligibility for preference.
(a) Veterans and disabled veterans as defined in section 56-502, Idaho Code;
(b) A widow or widower of any veteran as long as she or he remains unmarried;
(c) The wife or husband of a service-connected disabled veteran if the veteran cannot qualify for any public employment because of a service-connected disability.
(2) Employer obligations.
(a) Public employers must give notice in all announcements and advertisements of vacancies that preference in appointment will be
given to eligible veterans, and application forms must inquire whether the applicant is claiming veteran's preference and whether the applicant has previously claimed such a preference. An applicant claiming preference is responsible for providing required documentation at the time of making application. The employer must inform applicants of the requirements for documentation.

(b) In all public employment of any kind or character, excluding confidential secretarial positions; in all state; county; and municipal governments and departments and in all political subdivisions thereof; key employee positions, the hiring official or person in charge of such unit of government shall give preference to the employment of veterans who served on military duty in the armed forces of the United States for a period of more than one hundred eighty (180) days, or whose discharge or release from military duty was for a disability incurred or aggravated in time of duty, who are discharged under honorable conditions, and who are residents of the state of Idaho when the application for work or employment is made.

(c) An application for an examination for appointment to a public employment position in said public employment will be accepted after the closing date of the examination from a person who was serving in the armed forces, or undergoing service-connected hospitalization of no more than up to one (1) year following discharge. during any period in which the examination was open. The application must be submitted within one hundred twenty (120) days of his or her separation from the armed forces or hospitalization and prior to the expiration of any register established as a result of the examination.

(d) A disabled veteran may file an application at any time up until a selection has been made for any position for which a register is maintained as a source for future job openings, or for which a register is about to be established, provided he or she has not already been examined twice for the same position and grade for which application is made, does not have current eligibility on that register, or is not serving in a competitive position in the same grade for which application is made. If a register is not used as part of the selection process, a disabled veteran may file an application after the closing date, but such application will only be considered if a selection has not been made and the selection process is still active.

(e) An appointing authority may refuse to accept an application from an otherwise qualified veteran who is deemed unqualified through his or her actions. Examples of such actions include dismissal for cause from a public entity, a felony conviction, or conduct unbecoming a public employee. Such refusal must be supported by good cause and is appealable pursuant to section 5-506, Idaho Code.

SECTION 5. That Section 65-506, Idaho Code, be, and the same is hereby amended to read as follows:

65-5064. BASIC PREFERENCE AND ADDITION OF POINTS TO COMPETITIVE EXAMINATION RATINGS. (1) An individual who qualifies for a veteran's employment preference is entitled to a preference in initial appointment with a public employer over other applicants for the same position who are not more qualified.
(2) Five (5) percentage points shall be added to the earned rating of any war veteran and the widow or widower of any war veteran as long as he or she remains unmarried, when required to take competitive examination for any position in any state department, county or municipal government, which may now or which may hereafter require competitive examination under merit system or civil service plan of selecting employees: The names of all five (5) point preference eligibles resulting from any merit system or civil service examination shall be placed on the register in accordance with their augmented rating. As used in this subsection, "war-veteran" shall mean a veteran as defined in 5 U.S.C. section 2308. The additional points added by reason of veteran’s preference shall be used only for the purpose of initial appointment and not for the purpose of any promotion, transfer or reassignment.

(3) Ten (10) percentage points shall be added to the earned rating of veterans discharged under honorable conditions who qualify as disabled veterans because they have served on active duty in the armed forces at any time and have a present current service-connected disability of ten percent (10%) or more. Ten Alternatively, ten (10) percentage points shall also be added to the earned rating of the widow or widower of any disabled veteran as long as he or she remains unmarried; the spouse of any eligible disabled veteran who is physically unable to perform the work in the position to which the spouse seeks to apply; the preference; when required to take competitive examination for any position in any state department, county or municipal government, which may now or which may hereafter require competitive examinations under merit system or civil service plan of selecting employees cannot qualify for any public employment because of a service-connected disability. The names of all ten (10) point preference eligibles resulting from any merit system or civil service examination shall be placed at the top of the register above the names of all nonpreference eligibles in accordance with their augmented rating. The additional points added by reason of veteran’s preference shall be used only for the purpose of initial appointment and not for the purpose of any promotions, transfer or reassignment.

(4) For the purpose of this section, an initial appointment shall meet the following criteria:

(a) The appointment shall be the first time a qualified veteran is hired by a county, municipal government or state agency and subsequent separation from the county, municipal government or state agency shall not result in the award of new preference points with such employer.

(b) Preference points shall only be applied if the county, municipal government or state agency is using a point system to rank candidates for the particular opening. Veterans discharged under honorable conditions who served on active duty in the armed forces at any time and have a current service-connected disability of thirty percent (30%) or more shall be offered an interview if they are one (1) of the top ten (10) qualified applicants. If applicants are not ranked, an interview must be offered to such veterans who fully meet all qualifications for the position. Notwithstanding this subsection, employers shall not be required to interview more than a total of ten (10) applicants regardless of the number of such qualified veteran applicants.
SECTION 6. That Section 65-504, Idaho Code, be, and the same is hereby amended to read as follows:

65-5045. OFFICIALS TO OBSERVE PREFERENCE -- EXCEPTIONS. All elective officers, department heads, boards, commissions and/or other public officials of all state, county or municipal governments and departments and all political subdivisions thereof, who may be authorized to select or hire employees, are hereby required to strictly observe this preference for veterans and disabled veterans when implementing a reduction in force, filling vacancies or selecting new employees, provided that this act chapter shall not apply to confidential--secretarial key employee positions. This preference shall be granted without regard to political affiliation or endorsements to veterans and disabled veterans who are qualified for the position or positions to be filled. In the event of an emergency which may endanger the health, safety, and public welfare, the provisions of this act chapter may be dispensed with temporarily, but in no event shall persons who were employed to meet such emergencies be permitted to work for a period of time exceeding ten ninety (390) days, except such employees who meet all the requirements provided for in the act chapter.

SECTION 7. That Section 65-505, Idaho Code, be, and the same is hereby amended to read as follows:

65-5056. FAILING OR REFUSING TO GIVE PREFERENCE -- CIVIL LIABILITY. All elective officers, department heads, boards, commissions and all other public officials in any state, county and municipal governments and departments, and in all political subdivisions thereof; (1) Individuals who believe they have been denied a right or benefit under this chapter may file an appeal with the governing body of such jurisdiction or unit of government within thirty-five (35) days of the alleged denial of preference. If an appeal process does not exist for that jurisdiction or unit of government, the complainant may file directly in district court. (2) The division of veterans services is authorized and directed to issue rules for the enforcement of this chapter. Such rules shall include, but are not limited to, procedures public employers may implement for an internal process which must be exhausted prior to gaining access to the courts. (3) Any public employer who deliberately or wantonly willfully refuses or fails to give preference to qualified war veterans required by the provisions of this act chapter shall be subject to writs of mandate pursuant to sections 7-301 to through 7-314, Idaho Code, and if found in violation of any such provisions shall be required to pay the costs of suit and reasonable attorney’s fees incurred in such action, and shall further be required to employ or reemploy the war veteran, and shall be required to pay as damages such amount as the court may award, but in no event shall the amount of such damages, and costs of suit and attorney’s fees exceed the sum of two-hundred-fifty five thousand dollars ($250,000) or ten percent (10%) of the annual salary of the position, whichever is higher. Such action must be commenced not more than one hundred eighty (180) days from the alleged denial of preference, provided however, applicants for classified state employment remain subject to the procedures set forth in section 67-5316, Idaho
that process has been exhausted.

SECTION 8. That Section 65-507, Idaho Code, be, and the same is hereby repealed.

SECTION 9. That Section 65-508, Idaho Code, be, and the same is hereby amended to read as follows:

65-508. APPLICATION OF ACT CHAPTER LIMITED. This act chapter shall not apply to work performed where federal funds are contributed, if in conflict with federal laws or regulations under which the work is done restrict employment eligibility to specific individuals or groups.

SECTION 10. That Chapter 5, Title 65, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 65-508, Idaho Code, and to read as follows:

65-508. REEMPLOYMENT AND LEAVE OF ABSENCE. All public employers shall comply with the reemployment, leave of absence, and other provisions of the uniformed services employment and reemployment rights act, 38 U.S.C. section 4301, et seq.

SECTION 11. That Sections 65-509 and 65-510, Idaho Code, be, and the same are hereby repealed.

SECTION 12. That Section 65-501, Idaho Code, be, and the same is hereby amended to read as follows:

65-501. MALES OF OR OVER EIGHTEEN YEARS OF AGE EMPOWERED TO CONTRACT UNDER G.I. BILL OF RIGHTS. Males of the age of eighteen (18) years and over are expressly authorized to incur obligations and enter into necessary contracts to comply with the requirements of the federal "G.I. Bill of Rights" (being the act of June 22, 1944 (58 Stat. 291, 38 U.S.C.A. 694) and acts amendatory thereof or supplemental thereto). A minor can not disaffirm such contract if otherwise valid.

SECTION 13. That Section 65-515, Idaho Code, be, and the same is hereby amended to read as follows:

65-515. RELATION TO OTHER LAWS. Any laws or parts of laws, which are inconsistent with the provisions of this act chapter, or which would serve to defeat the purposes thereof, shall to such extent be deemed inapplicable to public employers and public employees in the exercise of the rights and privileges conferred by this act chapter.


SECTION 15. That Chapter 5, Title 65, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 65-511, Idaho Code, and to read as follows:
65-511. SEVERABILITY. The provisions of this chapter are hereby declared to be severable and if any provision of this chapter or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this chapter.

SECTION 16. That Section 67-5302, Idaho Code, be, and the same is hereby amended to read as follows:

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

(1) "Administrative employee" means any person, nonclassified or classified appointed to a position which meets the following criteria:
   1. (a) Responsible office or nonmanual work directly related to the management policies of a department or section; or
   (b) Responsible work that is directly related to academic instruction or training carried on in the administration of a school system or educational establishment; and
   2. The employee must customarily and regularly exercise discretion and independent judgment, as distinguished from using skills and following procedures. The employee must have the authority to make important decisions; and
   3. The employee must:
      (a) Regularly assist a bona fide executive or administrative employee; or
      (b) Perform work under general supervision along specialized or technical lines requiring special training, experience or knowledge; or
      (c) Execute under only general supervision special assignments; and
   4. The employee is classified to a position allocated to the pay grade equivalent to two hundred sixty (260) points or higher pursuant to the rating system established by section 67-5309C, Idaho Code.
   5. Final designation of a classified position as "administrative" within this definition shall be made by the administrator of the division of human resources.

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

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

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

(5) "Classified officer or employee" means any person appointed to or holding a position in any department of the state of Idaho which position is subject to the provisions of the merit examination, selection, retention, promotion and dismissal requirements of chapter 53,
assigned or delegated by one (1) or more appointing authorities and requiring the employment of one (1) person.

(27) "Professional employee" means any person, nonclassified or classified, appointed to a position which meets the following criteria:

1. The employee's primary duty must be either:
   (a) Work requiring knowledge of an advanced type in a field of science or learning, customarily obtained by a prolonged course of specialized instruction and study; or
   (b) Work that is original and creative in character in a recognized field of artistic endeavor and the result of which depends primarily on his invention, imagination, or talent; or
   (c) Work as a teacher certified or recognized as such in a school system or educational institution by which he is employed; and

2. The employee must consistently exercise discretion and judgment; and

3. The employee must do work that is predominantly intellectual and varied, as distinguished from routine or mechanical duties; and

4. The employee is classified to a position allocated to the pay grade equivalent to two hundred sixty (260) points or higher pursuant to the rating system established in section 67-5309C, Idaho Code.

5. Final designation of a classified position as "professional" within this definition shall be made by the administrator.

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

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

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

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

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

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

(34) "Vacation leave" means a period of exemption from work granted to employees during which time said employees shall be compensated. The term shall not include compensatory time for overtime work.
"Veteran" means any person who has served in the active service of the armed forces of the United States during any period of war recognized by the United States department of veterans affairs for the purpose of awarding federal veterans benefits as may be defined in title 38, U.S. code, chapter 1, section 101(f), or during any other conflict recognized by the award of a campaign or service medal of the United States, and who has been discharged under other than dishonorable conditions as defined in section 65-502, Idaho Code.

SECTION 17. That Section 67-5309, Idaho Code, be, and the same is hereby amended to read as follows:

67-5309. RULES OF THE DIVISION OF HUMAN RESOURCES AND THE PERSONNEL COMMISSION. The administrator of the division of human resources shall have the power and authority to adopt, amend, or rescind such rules as may be necessary for proper administration of this chapter. Such rules shall include:

(a) A rule requiring the administrator, after consulting with each department to develop, adopt, and make effective, a job classification system for positions covered by this chapter, based upon an analysis of the duties and responsibilities of the positions. The job classification shall include an appropriate title for each class, and a description of duties and responsibilities of positions in the classes and the requirements of minimum training, experience and other qualifications, suitable for the performance of duties of the position.

(b) A rule describing the relevant labor markets and benchmark job classifications used in the administrator's salary surveys.

(c) A rule requiring that all classes of positions which are common to the departments concerned shall have the same titles, minimum requirements and compensation ranges.

(d) A rule providing for review by the administrator of the personnel system including classifications and compensation policies and procedures.

(e) A rule that, notwithstanding the procedure for examination and ranking of eligibles on a register provided in subsection (f) of this section, an agency may appoint an individual directly into an entrance or promotional probation if the division of vocational rehabilitation, Idaho commission for the blind and visually impaired or the industrial commission certifies, with the concurrence of division of human resources staff, that the individual (1) has a disability or handicap as defined under state or federal law; (2) is qualified to perform the essential functions of a particular classified position with or without reasonable accommodation; and (3) lacks competitiveness in the examination process due to the disability or handicap. The probationary period as provided in subsection (j) of this section shall be the sole examination for such individuals.

(f) A rule requiring fair and impartial selection of appointees to all positions other than those defined as nonclassified in this chapter, on the basis of open competitive merit examinations or evaluations. An application for an examination will be accepted after the closing date of the examination from a person who was serving in the armed forces, or undergoing service-connected hospitalization of no more than up to one year following discharge, during any period in which the examination was open. The application must be submitted within one hundred
(6) "Commission" means the Idaho personnel commission.

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

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

(9) "Disabled veteran" means an individual who has served on military duty in the armed forces of the United States during any period of war recognized by the United States department of veterans affairs for the purposes of awarding federal veterans benefits as may be defined in title 38, United States code, chapter 1, section 101(11), or during any other conflict recognized by the award of a campaign or service medal of the United States and has been separated therefrom under honorable conditions and has established the present existence of a service-connected disability and is receiving compensation, disability retirement benefits, or pension under a public statute as administered by the department of veterans affairs or a military department as defined in section 65-502, Idaho Code.

(10) "Earned administrative leave" means hours which exceed the regularly scheduled hours but do not result in overtime. These hours may accrue after hours worked and hours on paid leave exceed forty (40) hours in one (1) work week.

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

(12) "Executive employee" means any person, nonclassified or classified, appointed to a position equivalent to a bureau chief or above as provided in section 67-2402, Idaho Code, or any employee meeting the following criteria:
1. An individual whose primary duty is management of a department, division or section; and
2. Who customarily and regularly directs the work of at least two (2) or more other employees therein; and
3. Who has the authority to hire and fire, or to recommend hiring and firing; or whose recommendation on these and other actions affecting employees is given particular weight; and
4. Who customarily and regularly exercises discretionary powers; and
5. Who is classified to a position allocated to the pay grade equivalent to two hundred sixty (260) points or higher pursuant to the rating system established by section 67-5309C, Idaho Code.
6. Final designation of a classified position as "executive" in this definition shall be made by the administrator.

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

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

(15) "Holiday" means the following:
   January 1 (New Year's Day);
Third Monday in January (Martin Luther King, Jr.-Idaho Human Rights Day);
Third Monday in February (Washington's Birthday);
Last Monday in May (Memorial Day);
July 4 (Independence Day);
First Monday in September (Labor Day);
Second Monday in October (Columbus Day);
November 11 (Veterans Day);
Fourth Thursday in November (Thanksgiving);
December 25 (Christmas).

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

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

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

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

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

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

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

(20) "Overtime work" means time worked on holidays and time worked in excess of forty (40) hours in a period of one hundred sixty-eight (168) consecutive hours, except that in the case of those employees engaged in law enforcement, correctional and fire protection activities characterized by irregular shift work schedules, time worked in excess of one hundred sixty (160) hours in a period of twenty-eight (28) consecutive days shall constitute overtime work within the meaning of this chapter.

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

(22) "Part-time employee" means any employee whose usually scheduled work is less than forty (40) hours in a period of one hundred sixty-eight (168) consecutive hours.

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

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

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

(26) "Position" means a group of duties and responsibilities legally
twenty (120) days of separation from the armed forces or hospitalization and prior to the expiration of the register established as a result of the examination. A disabled veteran may file an application at any time up until a selection has been made for any position for which the division maintains a register as a source for future job openings or for which a register is about to be established, provided he or she has not already been examined twice for the same position and grade for which application is made, does not have current eligibility on that register, or is not serving in a competitive position in the same grade for which application is made. Examinations may be assembled or unassembled and may include various examining techniques such as rating of training and experience, written tests, oral interviews, recognition of professional licensing, performance tests, investigations and any other measure of ability to perform the duties of the position. Examinations shall be scored objectively. Five (5) percentage points shall be added to the earned rating of any war veteran as defined in section 65-5062, Idaho Code, and the widow or widower of any war veteran as defined in section 65-5062, Idaho Code, as long as he or she remains unmarried. Pursuant to section 65-5064, Idaho Code, ten (10) percentage points shall be added to the earned rating of any disabled veteran as defined in section 65-502, Idaho Code, the widow or widower of any disabled veteran as long as he or she remains unmarried or the spouse of any eligible disabled veteran who is physically unable to perform the work in the position to which the spouse seeks to apply the preference cannot qualify for any public employment because of a service-connected disability. Employment registers shall be established in order of final score except that the names of all five (5) and ten (10) percentage point preference eligibles resulting from any merit system or civil service examination shall be placed on the register in accordance with their augmented rating, and the names of all ten (10) point preference eligibles shall be placed at the top of the register above the names of all nonpreference eligibles. Certification of eligibility for appointment to vacancies shall be in accordance with a formula which limits selection by the hiring department from among the ten (10) top ranking available eligibles plus the names of all individuals with scores identical to the tenth ranking eligible on the register. A register with at least five (5) eligibles shall be adequate. Selective certification shall be permitted when justified by the hiring department, under rules to be made by the division defining adequate justification based on the duties and requirements of the positions. Such examinations need not be held until after the rules have been adopted, the service classified and a pay plan established, but shall be held not later than one (1) year after departments commence participation in the personnel system.

(g) A rule that, whenever practicable, a vacancy in a classified position shall be filled by the promotion of a qualified permanent employee of the agency in which the vacancy occurs. An interagency promotion shall be made through competitive examination and all qualified state employees shall have the opportunity to compete for such promotions. If an employee's name appears within certifiable range on a current register for a higher class of position, he shall be eligible for a transfer and promotion.

(h) A rule for development and maintenance of a system of service ratings and the use of such ratings by all departments in connection with promotions, demotions, retentions, separations and reassignments.
The rule shall require that an evaluation of each classified employee shall be made after each two thousand eighty (2,080) hour period of credited state service, and that a copy of the evaluation shall be filed with the division.

(i) A rule prohibiting disqualification of any person from taking an examination, from appointment to a position, from promotion, or from holding a position because of race or national origin, color, sex, age, political or religious opinions or affiliations, and providing for right of appeal.

(j) A rule establishing a probation period not to exceed one thousand forty (1,040) hours of credited state service for all appointments and promotions, except that peace officers as defined in section 19-5101, Idaho Code, shall be subject to a probation period of two thousand eighty (2,080) hours of credited state service, and for the appointing authority to provide the employee and the administrator a performance evaluation indicating satisfactory or unsatisfactory performance not later than thirty (30) days after the expiration of the probationary period. The rule shall provide that if the appointing authority fails to provide a performance evaluation within thirty (30) days after the expiration of the probationary period, the employee shall be deemed to have satisfactorily completed the probation unless the appointing authority receives approval from the administrator to extend the probationary period for good cause for an additional specified period not to exceed one thousand forty (1,040) hours of credited state service. If an employee is performing in an unsatisfactory manner during the entrance probationary period, the appointing authority shall ask the employee to resign, and if no resignation is submitted, shall terminate the employment of such employee without the right of grievance or appeal.

(k) A rule concerning provisional appointments.

(l) A rule concerning temporary appointments.

(m) A rule governing the employment of consultants and persons retained under independent contract.

(n) A rule for the disciplinary dismissal, demotion, suspension or other discipline of employees only for cause with reasons given in writing. Such rule shall provide that any of the following reasons shall be proper cause for the disciplinary dismissal, demotion or suspension of any employee in the state classified service:

1. Failure to perform the duties and carry out the obligations imposed by the state constitution, state statutes and rules of the employee's department, or rules of the administrator or the division.

2. Inefficiency, incompetency, or negligence in the performance of duties.

3. Physical or mental incapability for performing assigned duties.

4. Refusal to accept a reasonable and proper assignment from an authorized supervisor.

5. Insubordination or conduct unbecoming a state employee or conduct detrimental to good order and discipline in the employee's department.

6. Intoxication on duty.

7. Careless, negligent, or improper use or unlawful conversion of state property, equipment or funds.
8. Use of any influence which violates the principles of the merit system in an attempt to secure a promotion or privileges for individual advantage.
9. Conviction of official misconduct in office, or conviction of any felony, or conviction of any other crime involving moral turpitude.
10. Acceptance of gifts in exchange for influence or favors given in the employee's official capacity.
11. Habitual pattern of failure to report for duty at the assigned place and time.
13. Unauthorized disclosure of confidential information from official records.
15. Misstatement or deception in the application for the position.
16. Failure to obtain or maintain a current license or certificate lawfully required as a condition for performing the duties of the job.
17. Prohibited participation in political activities.
(o) A rule to establish procedures for maintenance of a record of the employment history and appropriate information relating to performance of all employees under the personnel system. For the purposes of this rule, the state shall be considered one (1) employer.
(p) Rules to provide for recruitment programs in cooperation with department heads and the employment security agency in keeping with current employment conditions and labor market trends.
(q) Rules to establish procedures for examinations as necessary for the purpose of maintaining current registers from which to fill employment vacancies.
(r) Other rules not inconsistent with the foregoing provisions of this section as may be necessary and proper for the administration and enforcement of this chapter.
(s) A rule concerning "project exempt" appointments.
(t) Rules relating to leave for state employees from official duties including, but not limited to, sick leave, military leave, jury duty, leaves of absence without compensation and such other forms of absence from performance of duties in the course of state employment as may be necessary.
(u) A rule providing for five percent (5%) shift differential pay.

SECTION 18. That Section 49-123, Idaho Code, be, and the same is hereby amended to read as follows:

49-123. DEFINITIONS -- V. (1) "Variable load suspension axle" means an axle or axles designed to support a part of the vehicle and load and which can be regulated to vary the amount of load supported by such an axle or axles and which can be deployed or lifted by the operator of the vehicle. See also section 49-117, Idaho Code.
(a) "Fully raised" means that the variable load suspension axle is in an elevated position preventing the tires on such axle from having any contact with the roadway.
(b) "Fully deployed" means that the variable load suspension axle is supporting a portion of the weight of the loaded vehicle as controlled by the preset pressure regulator valve.
"Vehicle" means:

(a) General. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

(b) Authorized emergency vehicle. Vehicles operated by any fire department or law enforcement agency of the state of Idaho or any political subdivision of the state, ambulances, vehicles belonging to personnel of voluntary fire departments while in performance of official duties only, vehicles belonging to, or operated by EMS personnel certified or otherwise recognized by the EMS bureau of the Idaho department of health and welfare while in the performance of emergency medical services, sheriff's search and rescue vehicles which are under the immediate supervision of the county sheriff, wreckers which are engaged in motor vehicle recovery operations and are blocking part or all of one (1) or more lanes of traffic, other emergency vehicles designated by the director of the Idaho state police or vehicles authorized by the Idaho transportation board and used in the enforcement of laws specified in section 40-510, Idaho Code, pertaining to vehicles of ten thousand (10,000) pounds or greater.

(c) Commercial vehicle or commercial motor vehicle. For the purposes of chapter 3 of this title, (driver's licenses), a motor vehicle or combination of motor vehicles designed or used to transport passengers or property if the motor vehicle:

1. Has a manufacturer's gross combination weight rating (GCWR) in excess of twenty-six thousand (26,000) pounds inclusive of a towed unit with a manufacturer's gross vehicle weight rating (GVWR) of more than ten thousand (10,000) pounds; or
2. Has a manufacturer's gross vehicle weight rating (GVWR) in excess of twenty-six thousand (26,000) pounds; or
3. Is designed to transport sixteen (16) or more people, including the driver; or
4. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the hazardous material transportation act and which require the motor vehicle to be placarded under the hazardous materials regulations (49 CFR part 172, subpart F).

For the purposes of chapter 4, title 49, Idaho Code, (motor vehicle registration), a vehicle or combination of vehicles of a type used or maintained for the transportation of persons for hire, compensation or profit, or the transportation of property for the owner of the vehicle, or for hire, compensation, or profit, and shall include fixed load specially constructed vehicles exceeding the limits imposed by chapter 10, title 49, Idaho Code, and including drilling rigs, construction, drilling and wrecker cranes, log jammers, log loaders, and similar vehicles which are normally operated in an overweight or oversize condition or both, but shall not include those vehicles registered pursuant to sections 49-402 and 49-402A, Idaho Code, or exempted by section 49-426, Idaho Code. A motor vehicle used in a ridesharing arrangement that has a seating capacity for not more than fifteen (15) persons, including the driver, shall not be a "commercial vehicle" under the provisions of this title relating to equipment requirements, rules of the road, or registration.
(d) Farm vehicle. A vehicle or combination of vehicles owned by a farmer or rancher, which are operated over public highways, and used exclusively to transport unprocessed agricultural, dairy or livestock products raised, owned and grown by the owner of the vehicle to market or place of storage; and shall include the transportation by the farmer or rancher of any equipment, supplies or products purchased by that farmer or rancher for his own use, and used in the farming or ranching operation or used by a farmer partly in transporting agricultural products or livestock from the farm of another farmer that were originally grown or raised on the farm, or when used partly in transporting agricultural supplies, equipment, materials or livestock to the farm of another farmer for use or consumption on the farm but not transported for hire, and shall not include vehicles of husbandry or vehicles registered pursuant to sections 49-402 and 49-402A, Idaho Code.

(e) Foreign vehicle. Every vehicle of a type required to be registered under the provisions of this title brought into this state from another state, territory or country other than in the ordinary course of business by or through a manufacturer or dealer and not registered in this state.

(f) Glider kit vehicle. Every large truck manufactured from a kit manufactured by a manufacturer of large trucks which consists of a frame, cab complete with wiring, instruments, fenders and hood and front axles and wheels. The "glider kit" is made into a complete assembly by the addition of the engine, transmission, rear axles, wheels and tires.

(g) Motor vehicle. Every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails, except vehicles moved solely by human power, electric personal assistive mobility devices and motorized wheelchairs.

(h) Multipurpose passenger vehicle (MPV). For the purposes of section 49-966, Idaho Code, a motor vehicle designed to carry ten (10) or fewer persons which is constructed either on a truck chassis or with special features for occasional off-road operation.

(i) Neighborhood electric vehicle (NEV). A self-propelled, electrically-powered, four-wheeled motor vehicle which is emission free and conforms to the definition and requirements for low-speed vehicles as adopted in the federal motor vehicle safety standards for low-speed vehicles under federal regulations at 49 CFR part 571. An NEV shall be titled, registered and insured according to law as provided respectively in chapters 4, 5 and 12, title 49, Idaho Code, and shall only be operated by a licensed driver. Operation of an NEV on a highway shall be allowed as provided in section 49-663, Idaho Code.

(j) Noncommercial vehicle. For the purposes of chapter 4, title 49, Idaho Code, (motor vehicle registration), a noncommercial vehicle shall not include those vehicles required to be registered under sections 49-402 and 49-402A, Idaho Code, and means all other vehicles or combinations of vehicles which are not commercial vehicles or farm vehicles, but shall include motor homes. A noncommercial vehicle shall include those vehicles having a combined gross weight not in excess of sixty thousand (60,000) pounds and not held out for hire, used for purposes related to private use and not used in the
furtherance of a business or occupation for compensation or profit or for transporting goods for other than the owner.

(k) Passenger car. For the purposes of section 49-966, Idaho Code, a motor vehicle, except a multipurpose passenger vehicle, motorcycle or trailer, designed to carry ten (10) or fewer persons.

(l) Reconstructed or repaired vehicle. Every vehicle that has been rebuilt or repaired using like make and model parts and visually appears as a vehicle that was originally constructed under a distinctive manufacturer. This includes a salvage vehicle which is damaged to the extent that a "reconstructed vehicle" or "repaired vehicle" brand is required, and other vehicles which have been reconstructed by the use of a kit designed to be used to construct an exact replica of a vehicle which was previously constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles. A glider kit vehicle is not a reconstructed vehicle.

(m) Salvage vehicle. Any vehicle for which a salvage certificate, salvage bill of sale or other documentation showing evidence that the vehicle has been declared salvage or which has been damaged to the extent that the owner, or an insurer, or other person acting on behalf of the owner, determines that the cost of parts and labor minus the salvage value makes it uneconomical to repair or rebuild. When an insurance company has paid money or has made other monetary settlement as compensation for a total loss of any motor vehicle, such motor vehicle shall be considered to be a salvage vehicle.

(n) Specially constructed vehicle. Every vehicle of a type required to be registered not originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction and cannot be visually identified as a vehicle produced by a particular manufacturer. This includes:

1. A vehicle that has been structurally modified so that it does not have the same appearance as a similar vehicle from the same manufacturer; or
2. A vehicle that has been constructed entirely from homemade parts and materials not obtained from other vehicles; or
3. A vehicle that has been constructed by using major component parts from one (1) or more manufactured vehicles and cannot be identified as a specific make or model; or
4. A vehicle constructed by the use of a custom kit that cannot be visually identified as a specific make or model.

(o) Total loss vehicle. Every vehicle that is deemed to be uneconomical to repair due to scrapping, dismantling or destruction. A total loss shall occur when an insurance company or any other person pays or makes other monetary settlement to the owner when it is deemed to be uneconomical to repair the damaged vehicle. The compensation for total loss as defined herein shall not include payments by an insurer or other person for medical care, bodily injury, vehicle rental or for anything other than the amount paid for the actual damage to the vehicle.

(3) "Vehicle identification number." (See "Identifying number," section 49-110, Idaho Code)

(4) "Vehicle salesman" means any person who, for a salary, commission or compensation of any kind, is employed either directly or indi-
rectly, or regularly or occasionally by any dealer to sell, purchase or exchange, or to negotiate for the sale, purchase or exchange of vehicles. (See also "full-time salesman," section 49-107, Idaho Code, and "part-time salesman," section 49-117, Idaho Code)

(5) "Vessel." (See section 67-7003, Idaho Code)
(6) "Veteran." (See section 65-5092, Idaho Code)
(7) "Violation" means a conviction of a misdemeanor charge involving a moving traffic violation, or an admission or judicial determination of the commission of an infraction involving a moving traffic infraction, except bicycle infractions.

Approved March 14, 2006.

CHAPTER 52  
(H.B. No. 566)

AN ACT
RELATING TO PSYCHOLOGISTS; AMENDING SECTION 54-2315, IDAHO CODE, TO INCREASE THE MAXIMUM ALLOWABLE FEE FOR LICENSE RENEWALS.

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

SECTION 1. That Section 54-2315, Idaho Code, be, and the same is hereby amended to read as follows:

54-2315. ADMINISTRATION BY BUREAU OF OCCUPATIONAL LICENSES -- FEE FOR RENEWAL OF LICENSE -- RENEWAL AND REINSTATEMENT. This chapter shall be administered by the bureau of occupational licenses. The fee for renewal of license shall be a fee as established by board rule not to exceed two three hundred twenty-five dollars ($2300) per annum. All licenses issued under the provisions of this chapter shall be subject to annual renewal and shall expire unless renewed in the manner prescribed by the board regarding applications for renewal, continuing education, and fees. License renewal and reinstatement shall be in accordance with section 67-2614, Idaho Code.

Approved March 14, 2006.

CHAPTER 53  
(H.B. No. 559)

AN ACT
RELATING TO CITIES; AMENDING SECTION 50-609, IDAHO CODE, TO PROVIDE THAT THE MAYOR OF A CITY IS HEREBY AUTHORIZED TO CALL ON EVERY RESIDENT IN THE CITY OVER TWENTY-ONE YEARS OF AGE TO AID IN ENFORCING THE LAWS.

Be It Enacted by the Legislature of the State of Idaho:
SECTION 1. That Section 50-609, Idaho Code, be, and the same is hereby amended to read as follows:

50-609. MAYOR MAY REQUIRE AID IN ENFORCING LAW. The mayor is hereby authorized to call on every male-inhabitant resident in the city over twenty-one (21) years of age to aid in enforcing the laws.

Approved March 14, 2006.

CHAPTER 54
(H.B. No. 564)

AN ACT RELATING TO OPTOMETRISTS; AMENDING SECTION 54-1506, IDAHO CODE, TO REVISE DESCRIPTIVE LANGUAGE, TO PROVIDE FOR THE DEPOSIT AND DISTRIBUTION OF FEES AND TO INCREASE THE ANNUAL FEE FOR LICENSE RENEWAL; REPEALING SECTION 54-1507, IDAHO CODE, RELATING TO ADDITIONAL LICENSE FEES; AND AMENDING SECTION 54-1508, IDAHO CODE, TO REMOVE LANGUAGE REFERENCING THE COMPENSATION OF BOARD MEMBERS FROM CERTAIN MONEYS.

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

SECTION 1. That Section 54-1506, Idaho Code, be, and the same is hereby amended to read as follows:

54-1506. STATE BOARD OF OPTOMETRY FUND—CREATION LICENSE FEES.
(1) All fees of any kind collected under the provisions of this act and all fees collected from optometrists in or out of the state of Idaho by law, except those fees required by subsection (2) of this section and section 54-1523, Idaho Code, shall be deposited in the state treasury to the credit of a separate fund to be known as the state board of optometry fund and all such moneys deposited into such fund are hereby appropriated to carrying out the purpose and objects of this act and to pay salaries, fees, costs and expenses incurred in connection with the purpose and objects of this act. The funds collected shall remain perpetually in the state board of optometry fund from one biennium to the next.

The moneys and funds in the state board of optometry fund shall be paid out upon warrants drawn by the state controller upon presentation of proper vouchers approved by the state board of optometry or its executive secretary acting within his delegated authority. Moneys paid from this fund are expressly exempted from the provisions of sections 67-2007 and 67-2008, Idaho Code (Standard Travel Pay and Allowance Act of 1949) chapter shall be paid to the bureau of occupational licenses and deposited in the state treasury to the credit of the occupational licenses fund and all costs and expenses incurred under the provisions of this chapter shall be a charge against and paid from said fund.

(2) The annual fee for renewal of a license shall be established by board rule, not to exceed one hundred seventy-five dollars ($175), which shall be paid to the bureau of occupational licenses and to pay salaries, fees, costs and expenses incurred in connection with the purposes and objects of this act.
SECTION 2. That Section 54-1507, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Section 54-1508, Idaho Code, be, and the same is hereby amended to read as follows:

54-1508. STATE BOARD OF OPTOMETRY -- ORGANIZATION -- MEETINGS -- EXPENSES. The board of optometry shall meet on or before September 15 of each year and select from its members a chairman and a secretary who shall serve at the pleasure of the board. The secretary shall keep the minutes of the meetings of the board, maintain the files and records of the board, maintain a roster of all persons licensed as optometrists under this act and on or before October 1 of each year, forward to the bureau of occupational licenses a certified list of those persons who have paid the fees required by this act. The board of optometry may meet at stated times and places and shall meet upon the call of its chairman or upon written request of a majority of its members. Three (3) members shall constitute a quorum and a majority of the members present at a meeting at which a quorum is present shall determine the action of the board. Each member of the board shall be notified of any meeting called for any purpose. Out of the moneys appropriated to the bureau from fees paid under section 54-1506(2), Idaho Code, or otherwise appropriated from fees paid under section 54-1506(2), Idaho Code, and deposited in the occupational license account established by section 67-2605, Idaho Code, the members of the board of optometry shall be compensated as provided by section 59-509(h), Idaho Code.

Approved March 14, 2006.
the treasury through the internal revenue service or the financial management service of the department of the treasury of the United States providing for the mutual offset of any refunds or other amount payable by either party against liabilities owed to the other party to the agreement. Any such agreement shall require that no offset may be made unless the liability against which it applies is final, without any further right on the part of the person owing the liability to either administrative review or judicial review.

(2) No refunds from this state shall be available for offset against any federal debt:
   (a) Until any debts subject to offset that are owed to this state or agency thereof have been satisfied; or
   (b) During any time when a reciprocal program for offset from federal refunds for tax debts owing to this state is not in effect.

Approved March 14, 2006.

CHAPTER 56
(H.B. No. 471)

AN ACT
RELATING TO INCOME TAXES; AMENDING SECTION 63-3033, IDAHO CODE, TO DELETE THE PROVISION EXTENDING THE PAYMENT DUE DATE WHEN THE DATE TO FILE RETURNS IS EXTENDED AND TO PROVIDE THAT THE PAYMENT OF ANY BALANCE OF TAX IS DUE ON THE EARLIER OF THE EXTENDED DUE DATE OR THE DATE THE RETURN IS FILED.

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

SECTION 1. That Section 63-3033, Idaho Code, be, and the same is hereby amended to read as follows:

63-3033. EXTENSION OF TIME. (a) Taxpayers shall have an automatic extension of time for filing any return, declaration, statement or other document or payment required by this chapter for a period of six (6) months if on or before the unextended due date the taxpayer has paid at least eighty percent (80%) of the total tax due on the income tax return when it is filed, or the total tax due on the income tax return for the prior year if a return was filed for the prior year.

(b) If, on the unextended due date, the payment required to meet the provisions of subsection (a) of this section, after consideration of any previous credits or payments applicable to the return, is fifty dollars ($50.00) or less, such payment shall not be required in order to qualify for the extension. However, interest shall accrue as provided in subsection (f) of this section. Payment of any balance of tax is due on the earlier of the extended due date or the date the return is filed.

(c) Taxpayers residing outside any of the United States and Puerto Rico (including persons in military or naval service) shall have an automatic extension of time within which to file income tax returns with this state for a period which shall expire on the fifteenth day of the sixth month following the close of their taxable year.
(d) Individuals who are entitled to extensions for filing federal income tax returns as a result of the application of the provisions of sections 911 and 7508 of the Internal Revenue Code, shall be entitled to extensions of time for the same period for filing income tax returns with the state of Idaho subject to the requirements imposed in implementation of the indicated sections.

(e) Any taxpayer entitled to an extension under subsection (c) or (d) of this section shall attach a statement to his return claiming his right to the extension.

(f) If the amount of payment made under subsection (a) of this section is less than eighty percent (80%) of the total tax due under the provisions of this chapter and is less than the amount of the total tax due on the income tax return for the prior year, except as permitted by subsection (b) of this section, a penalty may be applied to the total of the balance due unless reasonable cause can be established. The penalty shall be:

1. If the taxes for the taxable year are paid on or before the extended due date, two percent (2%) per month from the original due date to the date of payment.
2. If the taxes for the taxable year are not paid on or before the extended due date, the penalty provided in section 63-3046(c), Idaho Code, from the original due date.

(g) In all cases of an extension of time in which to file any return, interest shall be paid on any tax due from the original due date to date of payment at the rate provided in section 63-3045, Idaho Code.

Approved March 14, 2006.

CHAPTER 57
(H.B. No. 465)

AN ACT
RELATING TO COMMERCIAL FEED; AMENDING SECTION 25-2715, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 25-2716, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 25-2717, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE DEFINITIONS, TO DEFINE TERMS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 25-2718, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE REGISTRATION PROVISIONS, TO PROVIDE A CORRECT CODE REFERENCE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 25-2719, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE LABELING REQUIREMENTS, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 25-2720, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE FOR REPORTING, TO REVISE FEE PROVISIONS, TO PROVIDE CORRECT CODE REFERENCES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 25-2721, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE ADULTERATION PROVISIONS, TO PROVIDE A CORRECT REFERENCE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 25-2722, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE PROVISIONS RELATING TO COMMERCIAL FEEDS DEEMED TO BE MISBRANDED, TO PROVIDE CORRECT TERMINOLOGY, TO PROVIDE A CORRECT CODE REFERENCE AND TO
MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 25-2723, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE CORRECT CODE REFERENCES, TO AUTHORIZE THE DIRECTOR OF THE IDAHO DEPARTMENT OF AGRICULTURE TO COPY CERTAIN RECORDS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 25-2724, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE CORRECT TERMINOLOGY, TO AUTHORIZE RULEMAKING AUTHORITY FOR THE ESTABLISHMENT OF FEES FOR SERVICES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 25-2725, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE FOR STOP SALE, USE OR REMOVAL ORDERS, TO STRIKE UNNECESSARY VERBIAGE, TO PROVIDE FOR COMMERCIAL FEED NOT IN COMPLIANCE WITH CERTAIN RULES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 27, TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-2712, IDAHO CODE, TO PROVIDE FOR PROHIBITED ACTS; AMENDING SECTION 25-2726, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE PENALTY PROVISIONS, TO PROVIDE CORRECT TERMINOLOGY, TO PROVIDE A CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTIONS 25-2727 AND 25-2728, IDAHO CODE, TO REDESIGNATE THE SECTIONS; AMENDING CHAPTER 27, TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-2716, IDAHO CODE, TO PROVIDE FOR/editorial changes/and severability; and AMENDING CHAPTER 27, TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-2717, IDAHO CODE, TO PROVIDE FOR THE USE OF FUNDS RECEIVED.

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

SECTION 1. That Section 25-2715, Idaho Code, be, and the same is hereby amended to read as follows:

25-271501. TITLE. This act chapter shall be known as the "Idaho Commercial Feed Law."

SECTION 2. That Section 25-2716, Idaho Code, be, and the same is hereby amended to read as follows:

25-271602. ENFORCING OFFICIAL. This act chapter shall be administered by the director of the department of agriculture of the state of Idaho, hereinafter referred to as the "director."

SECTION 3. That Section 25-2717, Idaho Code, be, and the same is hereby amended to read as follows:

25-271703. DEFINITIONS. OF WORDS AND TERMS. When used in this chapter:

(a) The term "animal remedy" means any drug, combination of drugs, pharmaceutical, proprietary medicine, veterinary biologics, or combination of drugs and other ingredients, other than for food or cosmetic purposes, which is prepared or compounded for any animal use except man, or materials other than food intended to affect the structure or any function of the body of animals other than man. This term does not include medicated feeds.

(b) The term "brand name" means any word, name, symbol or device, or any combination thereof, identifying the commercial feed of a distributor or registrant and distinguishing it from that of others.

(c) The term "commercial feed" means all materials or combination of materials which are distributed or intended for distribution for use...
as feed, or for mixing in feed for poultry and animals other than man except:

\(a\) Unmixed whole seeds and physically altered entire unmixed seeds, when such whole or physically altered seeds are not chemically changed or are not adulterated within the meaning of section 25-272407, Idaho Code, or misbranded within the meaning of section 25-2708, Idaho Code.

\(b\) Seeds mixed and planted as such mixture, grown and harvested as one (1) crop and processed as one (1) mixture when not adulterated within the meaning of section 25-2707, Idaho Code, or misbranded within the meaning of section 25-2708, Idaho Code.

\(c\) All hay, except commercially dehydrated legumes and grasses and when not adulterated within the meaning of section 25-2707, Idaho Code, or misbranded within the meaning of section 25-2708, Idaho Code.

\(d\) Whole or ground straw, stover, silage, cobs, husks, hulls, wet or pressed beet pulp, pea screenings and beet discard molasses when not mixed with other materials and when not adulterated within the meaning of section 25-2707, Idaho Code, or misbranded within the meaning of section 25-2708, Idaho Code.

\(e\) Live, whole or unprocessed animals when not adulterated within the meaning of section 25-2707, Idaho Code, or misbranded within the meaning of section 25-2708, Idaho Code.

\(f\) Animal remedies except when used as a feed additive when not adulterated within the meaning of section 25-2707, Idaho Code, or misbranded within the meaning of section 25-2708, Idaho Code.

\(g\) Individual mineral substances when not mixed with another material and when not adulterated within the meaning of section 25-2707, Idaho Code, or misbranded within the meaning of section 25-2708, Idaho Code.

\(h\) High moisture food processing waste containing more than fifty percent (50%) moisture content, without further processing, received by the end user directly from the food processor when not adulterated within the meaning of section 25-2707, Idaho Code, or misbranded within the meaning of section 25-2708, Idaho Code.

The director, by rule, may exempt from this definition, or from specific provisions of this chapter, commodities, and individual chemical compounds or substances when such commodities, compounds or substances are not intermixed with other materials, and are not adulterated according to the provisions of section 25-272407, Idaho Code, or misbranded within the meaning of section 25-2708, Idaho Code.

\(4\) The term "contract feeder" means a person who as an independent contractor, feeds commercial feed to animals pursuant to a contract whereby such commercial feed is supplied, furnished, or otherwise provided to such person and whereby such person's remuneration is determined, all or in part, by feed consumption, mortality, profits, or amount or quality of product.

\(5\) The term "customer-formula feed" means commercial feed which consists of a mixture of commercial feeds and/or feed ingredients each batch of which is manufactured according to the specific instructions of the final purchaser.

\(6\) The term "department" means the Idaho department of agriculture.

\(7\) The term "director" means the director of the Idaho depart-
ment of agriculture or the director's authorized agent.

g(8) The term "distribute" means to offer for sale, sell, exchange or barter, or otherwise supply commercial feeds in or into this state; or to supply, furnish, or otherwise provide commercial feed to a contract feeder.
h(9) The term "distributor" means any person who distributes.
i(10) The term "drug" means any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than man and articles other than feed intended to affect the structure or any function of the animal body.
j(11) The term "feed ingredient" means each of the constituent materials making up a commercial feed.
k(12) The term "label" means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed, or on the invoice or delivery slip with which a commercial feed is distributed.
l(13) The term "labeling" means all labels and other written, printed, or graphic matter upon a commercial feed or any of its containers or wrapper, or accompanying such commercial feed.
m(14) The term "manufacture" means to grind, mix or blend, or further process a commercial feed for distribution.

(15) The term "medicated feed" means any feed which contains drug ingredients intended or presented for the cure, mitigation, treatment, or prevention of disease in animals other than man or which contains drug ingredients intended to affect the structure or any function of the body of animals other than man.

(16) The term "mineral" means a naturally occurring, homogeneous inorganic solid substance, essential to the nutrition of animals, having a definite chemical composition and characteristic crystalline structure, color and hardness.

(17) The term "mineral feed" means a commercial feed intended to supply primarily mineral elements or inorganic nutrients.

(18) The term "official sample" means a sample of commercial feed taken by the director or an authorized agent in accordance with the provisions of section 25-272309, Idaho Code.

(19) The term "percent" or "percentage" means percentage by weight.

(20) The term "person" includes an individual, partnership, corporation, firm, association, and agent.

(21) The term "pet" means any domesticated animal normally maintained in or near the household(s) of the owner(s) thereof.

(22) The term "pet food" means any commercial feed prepared and distributed for consumption by dogs and cats.

(23) The term "pharmaceutical" means any product prescribed for the treatment or prevention of disease for veterinary purposes, including vaccines, synthetic and natural hormones, anesthetics, stimulants or depressants.

(24) The term "product name" means the name of the commercial feed which identifies it as to kind, class, or specific use.

(25) The term "purchase" includes taking by sale, discount, negotiation, mortgage, pledge, lien, issue or reissue, gift or any other voluntary transaction creating an interest in property.

(26) The term "purchaser" means a person who takes by purchase.

(27) The term "registrant" means that person, manufacturer, guar-
antor, or distributor who registers a product or products according to the provisions of section 25-271804, Idaho Code.

(28) The term "sell" or "sale" includes exchange.

(29) The term "specialty pet" means any domesticated animal pet normally maintained in a cage or tank, such as, but not limited to, gerbils, hamsters, canaries, psittacine birds, mynahs, finches, tropical fish, goldfish, snakes and turtles.

(30) The term "specialty pet food" means any commercial feed prepared and distributed for consumption by specialty pets.

(31) The term "ton" means a net weight of two thousand (2,000) pounds avoirdupois.

(32) The term "tonnage-only distributor" means any person who assumes the liability for inspection fees and reports as provided for in subsection (1) of section 25-2706, Idaho Code. A tonnage-only distributor must file a completed application with the department on forms provided by the director. A tonnage-only distributor is subject to the provisions of section 25-2706, Idaho Code.

(33) The term "veterinary biologics" means any biologic product used for veterinary purposes, including, but not limited to, antibiotics, antiparasiticides, growth promotants and bioculture products.

(34) Words importing the singular number may extend and be applied to several persons or things and words importing the plural may include the singular.

SECTION 4. That Section 25-2718, Idaho Code, be, and the same is hereby amended to read as follows:

25-271804. REGISTRATION. (1) Each type-of commercial feed except customer-formula feed shall be registered annually by the person who manufactures or distributes feed into or within the state of Idaho before being offered for sale, sold, or otherwise distributed in or into this state. The application for registration shall be submitted to the director on forms furnished by the department of agriculture, and shall be accompanied by a nonrefundable fee of five dollars ($5.00), except that those feeds sold in packages of ten (10) pounds or less shall be registered for a nonrefundable fee of twenty-five dollars ($25.00), and shall also be accompanied by a label describing the product, unless such label has not been altered since the last registration of the product. A label shall continue in effect unless it is canceled or changed by the registrant or unless canceled by the department of agriculture pursuant to subsection d(4) of this section. All fees paid to the department of agriculture provided for in this section shall be paid to the state treasury, and placed in the commercial feed and fertilizer fund. Upon approval by the director a copy of the registration shall be furnished to the applicant. All registrations expire on September 30 of each year. If an application for registration renewal provided for in this section is not postmarked before November 1 of any one (1) year, a penalty of ten dollars ($10.00) per product shall be assessed and added to the original fee and shall be paid by the applicant before the renewal registration is issued.

(2) A distributor shall not be required to register any brand-of commercial feed which is already registered under the provisions of this chapter by another person provided the commercial feed is distributed in its original package or container or, if the commercial feed is distrib-
uted in bulk, the integrity of the original product is maintained and labeled with the registrant's original label or a copy of the registrant's original label.

(c) Changes in the guarantee of either chemical or ingredient composition of a commercial feed may be permitted provided satisfactory evidence is submitted showing that such changes would not result in a lowering of the feeding value of the product for the purpose for which designed.

d. The director is empowered to refuse registration of any application not in compliance with all provisions of this chapter and to cancel any registration when it is subsequently found to be in violation of any provision of this chapter or when the director has satisfactory evidence that the registrant has used fraudulent or deceptive practices in attempted evasion of the provisions of this chapter or regulations thereunder.

Provided, however, that no registration shall be refused or canceled until the registrant shall have been given opportunity to be-heard before the director amend their application within thirty (30) days of receipt of notice of intent to refuse or cancel registration in order to comply with the requirements of this chapter or be given notice and opportunity for a hearing pursuant to the Idaho administrative procedure act, chapter 52, title 67, Idaho Code.

(5) Any person distributing commercial feed into or within Idaho to an Idaho registrant or an Idaho tonnage-only distributor must be an Idaho registrant or an Idaho tonnage-only distributor.

(6) If a product is found being offered for sale, sold, or otherwise distributed into or within Idaho prior to registration, the department is authorized to assess a penalty of twenty-five dollars ($25.00) on each product in addition to the annual registration fee as provided in this section.

SECTION 5. That Section 25-2719, Idaho Code, be, and the same is hereby amended to read as follows:

25-271905. LABELING. A commercial feed shall be labeled as follows:

a. A commercial feed, except a customer-formula feed, offered for sale or sold or otherwise distributed in this state in bags, barrels, or other containers shall have placed on or affixed to the container in written or printed form, a label bearing the following information:

1. A quantity statement specifying the net weight (may be stated parenthetically in metric units in addition to the required avoirdupois), or net volume (liquid or dry). If appropriate, unit count may be used.

2. The product name and the brand name, if any, under which the commercial feed is distributed.

3. The guaranteed analysis stated in such terms as the director, by regulation rule, determines is required to advise the user of the composition of the feed or to support claims made in the labeling. In all cases the substances or elements must be determinable by laboratory methods, such as the methods published by the association of official analytical chemists.

4. The common or usual name of each ingredient used in the manufacture of the commercial feed; provided that the director, by regu-
ration rule, may permit the use of a collective term for a group of ingredients which perform a similar function, or the director may exempt such commercial feeds, or any group thereof, from this requirement of an ingredient statement if the director finds that such statement is not required in the interest of consumers.

5. (e) The name and principal mailing address of the manufacturer or the person responsible for distributing the commercial feed.

6. (f) Adequate directions for use for all commercial feeds containing drugs and for such other feeds as the director may require, by regulation rule, as necessary for their safe and effective use.

7. (g) Such precautionary statements as the director, by regulation rule, determines are necessary for the safe and effective use of the commercial feed.

b. (2) A customer-formula feed shall be accompanied by a label invoice, delivery slip, or other shipping document bearing the following information:

1. (a) Name and address of the manufacturer.

2. (b) Name and address of the purchaser.

3. (c) Date of delivery.

4. (d) The product name and net weight (may be stated parenthetically in metric units in addition to the required avoirdupois), net volume (liquid or dry) of each commercial feed and the guaranteed-analysis, listing the minimum percentage of crude protein, minimum percentage of crude fat, and the maximum percentage of crude fiber other ingredients used in the mixture.

5. (e) Adequate directions for use for all customer-formula feeds containing drugs and for such other feeds as the director may require, by regulation rule, as necessary for their safe and effective use.

6. (f) The directions for use and precautionary statements as required by regulation rule.

7. (g) If a drug-containing product is used:

(i) The purpose of the medication (claim statement).

(ii) The established name of each active drug ingredient and the level of each drug used in the final mixture expressed in accordance with regulation rule.

SECTION 6. That Section 25-2720, Idaho Code, be, and the same is hereby amended to read as follows:

25-27206. INSPECTION FEES AND REPORTS. (1) There shall be paid to the department of agriculture for all commercial feeds distributed in this state, an inspection fee at the rate of not more than twenty cents (20¢) per ton, by the registrant except that a person other than the registrant, such as another registrant or tonnage-only distributor, may assume liability for the inspection fee. Fees so collected shall be paid into the state treasury and placed in the Commercial Feed and Fertilizer Fund and shall be used to pay the costs of inspection, sampling, analysis, and other expenses necessary for the administration of this chapter. Payment of inspection fees is subject to the following:

1. (a) No fee shall be paid on a commercial feed if the payment has been made by a previous distributor.
2τ(b) No fee shall be paid on customer-formula feeds if the inspection fee is paid on the commercial feeds which are used as ingredients therein.

3τ(c) No fee shall be paid on commercial feeds which are used as ingredients for the manufacture of commercial feeds which are registered. If the fee has already been paid, credit shall be given for such payment.

4τ(d) No fee shall be paid on sales of commercial feeds to manufacturers or exchanges between them are hereby exempted if the commercial feeds so sold or exchanged are used solely in the manufacture of feeds which are registered.

5τ(e) In the case of a commercial feed which is distributed in the state in packages of ten (10) pounds or less, an a nonrefundable annual registration fee of twenty-five dollars ($25.00) per product shall be paid in lieu of an inspection fee.

6τ(f) The minimum inspection fee shall be five dollars ($5.00) per quarter.

(g) When more than one (1) person is involved in the distribution of a commercial feed, the last registrant or tonnage-only distributor who has distributed the commercial feed to a nonregistrant, dealer or consumer is responsible for reporting the tonnage and paying the inspection fee, unless the report and payment are made by a prior distributor of the commercial feed. The registrant has the ultimate responsibility for the payment of inspection fees.

(h) In the case of food production waste, except commercial feeds excluded in subsection (3) of section 25-2703, Idaho Code, containing more than fifty percent (50%) moisture distributed without further processing, the inspection fee shall be five cents (5c) per ton.

Payment of the inspection fee shall be evidenced by a statement made under oath in due form of law, of commercial feed distributed together with documents, as prescribed by the director, showing that fees corresponding to the tonnage were received by the director. Every person required to register in accordance with section 25-271004, Idaho Code, shall:

1τ(a) File, not later than the last day of January, April, July, and October of each year, a quarterly statement under oath, setting forth the number of net tons of commercial feeds distributed in this state during the preceding three (3) month period; and upon filing such statement shall pay the inspection fee at the rate stated in paragraph 2 of subsection (1) of this section.

2τ(b) Keep such records as may be necessary or required by the director to indicate accurately the tonnage of commercial feed distributed in this state and the director shall have the right to examine and copy such records to verify statements of tonnage.

3τ(c) Inspection fees which are due and owing and have not been remitted to the department within thirty (30) days following the due date by the last day of January, April, July or October of each year shall have a late collection fee of ten percent (10%), but not less than twenty-five dollars ($25.00), added to the amount due when payment is finally made. The assessment of this late collection fee shall not prevent the director from taking any other action as provided for in this chapter. Failure to make an accurate statement of tonnage or to pay the inspection fee or comply as provided herein
shall constitute sufficient cause for the cancellation of all registrations on file for the distributor.

(3) The registrant or tonnage-only distributor distributing or selling feed or feed ingredients to a nonregistrant or consumer shall furnish to the department a report showing the amount, in tons, of each feed. In the case of feed sold to an intermediate distributor, the registrant, tonnage-only distributor or distributor shall list the name, address, telephone number and amount, in tons, of each feed product sold to each intermediate distributor. Information furnished to the department under this section is exempt from disclosure under subsection (1) or (2) of section 9-3400, Idaho Code, if the disclosure would divulge the operation of any person.

SECTION 7. That Section 25-2721, Idaho Code, be, and the same is hereby amended to read as follows:

25-2721. ADULTERATION. No person shall distribute an adulterated commercial feed. A commercial feed shall be deemed to be adulterated:

a. If it bears or contains any poisonous or deleterious substance which may render it injurious to health, but in case the substance is not an added substance, such commercial feed shall not be considered adulterated under the provisions of this subsection if the quantity of such substance in such commercial feed does not ordinarily render it injurious to health.

b. If it bears or contains any added poisonous, added deleterious, or added nonnutritive substance which is unsafe within the meaning of section 406 of the federal food, drug, and cosmetic act, as amended, and regulations adopted thereunder other than one which is:

(3) A pesticide chemical in or on a raw agricultural commodity; or

(4) A food additive.

If it is, or it bears or contains any food additive which is unsafe within the meaning of section 409 of the federal food, drug, and cosmetic act, as amended, and regulations adopted thereunder.

If it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of section 408(a) of the federal food, drug and cosmetic act, as amended, and regulations adopted thereunder; provided that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under section 408 of the federal food, drug, and cosmetic act, as amended, and regulations adopted thereunder, and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of such pesticide chemical remaining in or on such processed feed shall not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of such residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity unless the feeding of such processed feed will result or is likely to result in a pesticide residue in the edible product of the animal, which is unsafe within the meaning of section 408(a) of the federal food, drug, and cosmetic act, as amended, and regulations adopted thereunder.

If it is, or it bears or contains any color additive which is
unsafe within the meaning of section 70621 of the federal food, drug and cosmetic act, as amended, and regulations adopted thereunder.

(i) If it is, or it bears or contains any new animal drug which is unsafe within the meaning of section 512 of the federal food, drug and cosmetic act, as amended, and regulations adopted thereunder.

(j) If any valuable constituent has been in whole or part omitted or abstracted therefrom or any less valuable substance substituted therefor.

(k) If its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling.

(l) If it contains added hulls, screenings, straw, cobs, or other high fiber material unless the name of each such material is clearly and prominently stated on the label.

(m) If it contains a drug and the methods used in or the facilities or controls used for its manufacture, processing or packaging do not conform to current good manufacturing practice regulations promulgated by the director to assure that the drug meets the requirements of this chapter as to safety. In promulgating such regulations, the director shall adopt the current good manufacturing practice regulations for type A medicated articles and type B and type C medicated feeds established under authority of the federal food, drug, and cosmetic act, unless the director determines that they are not appropriate to the conditions which exist in this state.

(n) If it contains viable noxious weed seeds or other weed seeds in amounts exceeding the limits which the director shall establish by rule, or regulation:

(12) If it consists, in whole or in part, of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for feed.

(13) If it has been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health.

(14) If it is, in whole or in part, the product of a diseased animal or of an animal which has died otherwise than by slaughter which is unsafe within the meaning of section 409 of the federal food, drug, and cosmetic act, as amended, and regulations adopted thereunder.

(15) If its container is composed, in whole or in part, of any poisonous or deleterious substances which may render the contents injurious to health.

(16) If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with the regulation or exemption in effect pursuant to section 409 of the federal food, drug, and cosmetic act, as amended, and regulations adopted thereunder.

SECTION 8. That Section 25-2722, Idaho Code, be, and the same is hereby amended to read as follows:

25-2722. MISBRANDING. No person shall distribute misbranded feed. A commercial feed shall be deemed to be misbranded:

(a) If its labeling is or advertisements are false or misleading in any particular.

(b) If it is distributed under the name of another feed.

(c) If its container is not labeled as required in section 25-27405, Idaho Code, and in regulations rules prescribed under this chapter.
c.(4) If it purports to be, or is represented as, a commercial feed, or if it purports to contain or is represented as containing a commercial feed ingredient, unless such commercial feed or feed ingredient conforms to the definition, if any, prescribed by regulation rule by the director.

d.(5) If any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

e.(6) If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the commissioner director determines to be, and by regulations rules prescribes as necessary in order fully to inform purchasers as to its value for such uses.

SECTION 9. That Section 25-2723, Idaho Code, be, and the same is hereby amended to read as follows:

25-272309. INSPECTION, SAMPLING, ANALYSIS. a.(1) For the purpose of enforcement of this chapter, and in order to determine whether its provisions have been complied with, including whether or not any operations may be subject to such provisions, officers or employees duly designated by the director upon presenting appropriate credentials, to the owner, operator, or agent in charge, are authorized:

(1a) To enter, during normal business hours, any factory, warehouse, or establishment within the state in which commercial feeds are manufactured, processed, packed, or held for distribution, or to enter any vehicle being used to transport or hold such feeds, and

(1b) To inspect, at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, establishment or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling therein.

The inspection may include the verification of only such records, and production and control procedures as may be necessary to determine compliance with the good manufacturing practice regulations established under the provisions of this chapter. Each inspection shall be commenced and completed with reasonable promptness. Upon completion of the inspection, the person in charge of the facility or vehicle shall be so notified.

b.(2) Sampling and analysis shall be conducted in accordance with methods published by the association of official analytical chemists, or in accordance with other generally recognized methods.

c.(3) The director, in determining for administrative purposes whether a commercial feed is deficient in any component, shall be guided by the official sample as defined in paragraph (e) of subsection (18) of section 25-272303, Idaho Code, and obtained and analyzed as provided for in section 25-2723, Idaho Code this section.

d.(4) If the owner of any factory, warehouse, or establishment described in subsection a.(1) of this section, or authorized agent, refuses to admit the director or an authorized agent to inspect in accordance with subsections a.(1) and e.(5) of this section, the director is authorized to obtain from any state court of competent jurisdiction a
warrant directing such owner or agent to submit the premises described in such warrant to inspection.

er.(5) For the enforcement of this chapter, the director or a duly authorized agent is authorized to enter upon any public or private premises including any vehicle of transport during regular business hours to have access to, and to obtain samples, and to examine and make copies of records relating to distribution of commercial feeds.

f.(6) The results of all analyses of official samples shall be forwarded by the director to the registrant and to the purchaser. When the inspection and analysis of an official sample indicate a commercial feed has been adulterated or misbranded and upon request by the registrant or purchaser within thirty (30) days following the receipt of the analysis the director shall furnish to the registrant a portion of the sample concerned.

SECTION 10. That Section 25-2724, Idaho Code, be, and the same is hereby amended to read as follows:

25-272410. REGULATIONS RULES, STANDARDS, DEFINITIONS. The director is hereby charged with the enforcement of this act chapter, and after due publicity and due public hearing is empowered to promulgate and adopt such reasonable rules and regulations as may be necessary to carry into effect the full intent and meaning of this act chapter, including the establishment of fees for services. The director is hereby empowered to adopt regulations rules establishing definitions for commercial feeds and such other regulations rules as may be necessary for the enforcement of any provision of this act chapter.

SECTION 11. That Section 25-2725, Idaho Code, be, and the same is hereby amended to read as follows:

25-272511. DETAINED-COMMERCIAL-FEEDS "STOP SALE, USE, OR REMOVAL" ORDERS. As: "Withdrawal-from-sale-or-distribution" order. When the director or an authorized agent has reasonable cause to believe a commercial feed is being distributed in violation of any of the provisions of this chapter or of any of the prescribed regulations under this chapter, the director may issue and enforce a written or printed "withdrawal-from-sale-or-distribution" order warning the distributor not to dispose of the feed in any manner until written permission is given by the director or the court. The director shall release the commercial feed so withdrawn when the provisions and regulations have been complied with and all costs and expenses incurred in the withdrawal have been paid. If compliance is not obtained within thirty (30) days, the director shall begin proceedings for condemnation. (1) In the event the department finds that commercial feed is being offered for sale in violation of this chapter or rules promulgated under this chapter, the department may issue and enforce a written or printed "stop sale, use, or removal" order to the distributor, owner or custodian of the commercial feed and hold the commercial feed, or order it held, at a designated place until the law has been complied with and the commercial feed is released in writing by the department, or the violation has been otherwise legally disposed of by written authority. Unless the department grants a written extension, the owner or custodian of any commercial feed that has been issued a "stop sale, use, or removal" order shall remedy the violation
within thirty (30) days. The department shall release the commercial feed so withdrawn when the requirements of this chapter have been complied with and all costs and expenses incurred in connection with the withdrawal have been paid.

b (2) Condemnati on-and-confiscati on. Any lot of commercial feed not in compliance with the provisions of this chapter, or rules promulgated under this chapter, shall be subject to seizure on complaint of the director to a court of competent jurisdiction in the area in which said commercial feed is located. In the event the court finds the said commercial feed to be in violation of the provisions of this chapter and orders the condemnation of said commercial feed, it shall be disposed of in any manner consistent with the quality of the commercial feed and the laws of the state; provided, that in no instance shall the disposition of said commercial feed be ordered by the court without first giving the claimant an opportunity to apply to the court for release of said commercial feed or for permission to process or relabel said commercial feed to bring it into compliance with the provisions of this chapter.

SECTION 12. That Chapter 27, Title 25, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 25-2712, Idaho Code, and to read as follows:

25-2712. PROHIBITED ACTS. Acts including, but not limited to, the following acts and the causing thereof within the state of Idaho are hereby prohibited:

(1) The manufacture or distribution of any commercial feed that is adulterated or misbranded.
(2) The adulteration or misbranding of any commercial feed.
(3) The distribution of agricultural commodities such as whole seed, hay, straw, stover, silage, cobs, husks, and hulls which are adulterated within the meaning of section 25-2707, Idaho Code.
(4) The failure or refusal to register products in accordance with the provisions of section 25-2704, Idaho Code.
(5) The failure to label products in accordance with the provisions of section 25-2705, Idaho Code.
(6) The failure to pay inspection fees and file reports as required by section 25-2706, Idaho Code.
(7) The reuse of bags or totes used for commercial feeds, including customer formula feeds, that are not appropriately cleaned. A person that intends to reuse bags or totes must document their cleanout procedures.
(8) The removal or disposal of a commercial feed in violation of an order under section 25-2711, Idaho Code.

SECTION 13. That Section 25-2726, Idaho Code, be, and the same is hereby amended to read as follows:

25-272613. PENALTIES FOR VIOLATIONS. a (1) Any person convicted of violating any of the provisions of this chapter, or the rules and regulations issued thereunder promulgated under this chapter, or who shall impede, obstruct, hinder, or otherwise prevent or attempt to prevent said director or a duly authorized agent in performance of their duty in connection with the provisions of this chapter, shall be adjudged guilty of a misdemeanor and shall be fined not more than five hundred dollars
($500) for the first violation, and not more than one thousand five hundred dollars ($1,500) for a subsequent violation. In all prosecutions under the provisions of this chapter involving the composition of a lot of commercial feed, a certified copy of the official analysis signed by the director shall be accepted as prima facie evidence of the composition.

b.(2) Any person who violates or fails to comply with any of the provisions of this chapter or any regulations rules promulgated under this chapter may be assessed a civil penalty by the department or its duly authorized agent of not more than five hundred ten thousand dollars ($510,000) for each offense and shall be liable for reasonable attorney's fees. Assessment of a civil penalty may be made in conjunction with any other department administrative action. No civil penalty may be assessed unless the person charged was given notice and opportunity for a hearing pursuant to the Idaho administrative procedure act, chapter 52, title 67, Idaho Code. If the director is unable to collect such penalty or if any person fails to pay all or a set portion of the civil penalty as determined by the department, it may recover such amount by action in the appropriate district court. Any person against whom the director has assessed a civil penalty under the provisions of this section may, within thirty (30) days of the final action by the agency making the assessment, appeal the assessment to the district court of the county in which the violation is alleged by the department to have occurred. Moneys collected for violation of a rule or regulation shall be remitted to the feed and fertilizer account.

c.(3) Nothing in this chapter shall be construed as requiring the director or a duly authorized representative to report for prosecution or for the institution of seizure proceedings as a result of minor violations of the act chapter when the director believes that the public interest will be best served by a suitable notice of warning in writing.

d.(4) It shall be the duty of each prosecuting attorney to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. Before the director reports a violation for such prosecution, an opportunity shall be given the distributor to present his view to the director.

e.(5) The director is hereby authorized to apply for and the court to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this chapter or any rules or regulation promulgated under the this chapter notwithstanding the existence of other remedies at law. Said injunction to be issued without bond.

SECTION 14. That Section 25-2727, Idaho Code, be, and the same is hereby amended to read as follows:

25-2727(14). PUBLICATIONS. The director shall publish at least annually, in such forms as he may deem proper, information concerning the sales of commercial feeds, together with such data on their production and use as he may consider advisable, and a report of the results of the analyses of official samples of commercial feeds sold within the state as compared with the analyses guaranteed in the registration and on the label; provided, however, that the information concerning production and use of commercial feeds shall not disclose the operations of any person
SECTION 15. That Section 25-2728, Idaho Code, be, and the same is hereby amended to read as follows:

25-2728. COOPERATION WITH OTHER ENTITIES. The director may cooperate with and enter into agreements with governmental agencies of this state, other states, agencies of the federal government, private associations, and commercial feed manufacturers in order to carry out the purpose and provisions of this chapter.

SECTION 16. That Chapter 27, Title 25, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 25-2716, Idaho Code, and to read as follows:

25-2716. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

SECTION 17. That Chapter 27, Title 25, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 25-2717, Idaho Code, and to read as follows:

25-2717. USE OF FUNDS RECEIVED. All moneys received by the director from the enforcement of this chapter including, but not limited to, registration of feeds or feed ingredients, inspection fees and moneys collected for violation(s) of this chapter or rules promulgated under this chapter, shall be paid into the state treasury and placed in the "commercial feed and fertilizer fund." Moneys in the commercial feed and fertilizer fund are continuously appropriated for the purposes of carrying out the provisions of this chapter.

Approved March 14, 2006.

CHAPTER 58
(H.B. No. 463, As Amended)

AN ACT
RELATING TO TEMPORARY REGISTRATION OF COMMERCIAL MOTOR VEHICLES; AMENDING SECTION 49-432, IDAHO CODE, TO PROVIDE A THIRTY DAY UNLADEN WEIGHT PERMIT, TO CLARIFY USE OF AN UNLADEN WEIGHT PERMIT AND TO DELETE REDUNDANT LANGUAGE.

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

SECTION 1. That Section 49-432, Idaho Code, be, and the same is hereby amended to read as follows:
49-432. TEMPORARY REGISTRATION FOR RESIDENTS AND NONRESIDENTS -- FEES. (1) When a vehicle or combination of vehicles subject to registration is to be moved upon the public highways in the state of Idaho, the department may issue a permit in lieu of registration for any vehicle or combination of vehicles upon the payment of a fee as set forth in the following schedule:

(a) One hundred twenty (120) hour permit
   - Single vehicle .............................................$30.00
   - Combination of vehicles .................................$60.00
(b) Fuel permit ..................................................$30.00
(c) Thirty (30) day unladen weight permit .......................$30.00

An owner-operator vehicle moving between lessee fleets where the vehicle registration was issued in the name of the former lessee shall be eligible for a thirty (30) day unladen weight permit for the unladen movement from the point of entry into the state to the destination of the new lessee's place of business.

(2) Permits to operate a vehicle or combination of vehicles in excess of the registered maximum gross vehicle weight up to a maximum of one hundred twenty-nine thousand (129,000) pounds gross vehicle weight shall be:

(a) One hundred twenty (120) hour permit to increase gross weight .............................................$50.00
(b) Thirty (30) day permit to increase gross vehicle weight:

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<th>Maximum Registered Cross Weight (Pounds)</th>
<th>Temporary Permitted Maximum Gross Weight (Pounds)</th>
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<td>112,001-128,000</td>
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The permit issued pursuant to this subsection (2) shall be specific to the motor vehicle to which it is issued. No permit or fee shall be transferable or apportionable to any other vehicle, nor shall any such fee be refundable. At the time of purchasing a permit, the applicant may purchase additional permits in any combination which does not exceed a maximum of ninety (90) days.

(3) A temporary permit shall be in a form, and issued under rules adopted by the board, and shall be displayed at all times while the vehicle is being operated on the highways by posting the permit upon the windshield of each vehicle or in another prominent place, where it may be readily legible.

(4) Any permit issued pursuant to subsection (2) of this section shall be purchased prior to movement of the vehicle on a highway, and such permit shall be in addition to and available only to a vehicle which is currently and validly registered in Idaho pursuant to section 49-432(1), 49-434(1), 49-434(8)(c) or 49-435, Idaho Code.

(5) The department may select vendors to serve as agents on state highways for the purpose of selling permits where fixed ports of entry do not adequately serve a respective highway entering the state. The
vendor shall be remunerated at the rate of three dollars ($3.00) per permit sold, and he shall collect the fees specified in this section, and pay the fees to the department. The vendor shall guarantee payment by giving a bond to the state in a sum as shall be fixed by the board, the premium on the bond to be paid by the department.

(6) An owner-operator vehicle moving between lessee fleets where the vehicle registration was issued in the name of the former lessee shall be eligible for a one-hundred-twenty-(120)-hour permit for the unladen movement from the point of entry into the state to the destination of the new lessee's place of business.

Approved March 14, 2006.

CHAPTER 59
(H.B. No. 461)

AN ACT
RELATING TO TECHNICAL CORRECTIONS TO THE PROPERTY TAX LAWS; AMENDING SECTION 63-602HH, IDAHO CODE, TO PROVIDE THAT EXEMPTED SIGNIFICANT CAPITAL IMPROVEMENTS SHALL NOT BE INCLUDED ON A NEW CONSTRUCTION ROLL AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 63-710, IDAHO CODE, TO DELETE LANGUAGE REQUIRING A PERCENTAGE REDUCTION OF STATE MONEY UNDER THE CIRCUIT BREAKER PROPERTY TAX RELIEF PROGRAM; AMENDING SECTION 63-2909, IDAHO CODE, TO DELETE THE REQUIREMENT THAT EXEMPTED PROPERTY BE INCLUDED ON ANY NEW CONSTRUCTION ROLL; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

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

63-602HH. PROPERTY EXEMPT FROM TAXATION -- SIGNIFICANT CAPITAL INVESTMENTS. (1) The net taxable value of all property of a taxpayer in excess of eight hundred million dollars ($800,000,000) located within a single county in Idaho shall be exempt from property taxation and any special assessment.

(2) The property included in the calculation of the exemption set forth in this section shall include all real property owned, and all personal property owned, leased, or rented that would otherwise be subject to property tax; provided however, with respect to leased or rented personal property, only that portion of the property which a taxpayer is contractually liable for payment of property taxes thereon shall be included in the calculation of the exemption.

(3) Leased or rented personal property, included in the calculation of the exemption provided by this section shall not be assessable against the owner of such property.

(4) The exemption set forth in this section shall apply first to owned real and personal property and, if exhausted, shall then apply to leased or rented personal property.

(5) The taxpayer owning, leasing, or renting the property included in the calculation of the exemption shall designate the property to which the exemption applies.
(6) The exemption set forth in this section shall not be available to any taxpayer with respect to a given year who, in the immediately preceding calendar year, failed to make significant capital investments of at least twenty-five million dollars ($25,000,000), by the acquisition or improvement of real or personal property located within the county referred to in subsection (1) of this section.

(7) The exemption set forth in this section shall not be available to any taxpayer with respect to a given year who, as of the first day of such year, did not employ or engage on a regular full-time basis, or the equivalent thereof, at least one thousand five hundred (1,500) workers within the county referred to in subsection (1) of this section.

(8) Except for the exemption provided for in subsection (4) of section 63-3029B, Idaho Code, no other exemption from property tax or any special assessment provided by the statutes of this state shall be applicable to any property described in subsection (2) of this section with respect to a year in which the exemption set forth in subsection (1) of this section applies to any of the same property.

(9) Property exempted under this section shall not be included on any new construction roll prepared by the county assessor in accordance with section 63-301A, Idaho Code.

(10) The state tax commission shall adopt all rules that may be necessary to implement this section.

SECTION 2. That Section 63-710, Idaho Code, be, and the same is hereby amended to read as follows:

63-710. PROCEDURE AFTER REIMBURSEMENT. (1) Upon receipt of the notice-of-percent-reduction-from-the-state-tax-commission, the county auditor shall immediately notify the county commissioners, and the commissioners may take this reduction into consideration in making its property-tax-levies; and the county commissioners are authorized, but not required, to increase any levy to the extent necessary to compensate for the percentage reduction.

(2) The money received by the county tax collector under the provisions of section 63-709, Idaho Code, may be considered by the counties and other taxing districts and budgeted against at the same time, in the same manner and in the same year as revenues from taxation.

SECTION 3. That Section 63-2909, Idaho Code, be, and the same is hereby amended to read as follows:

63-2909. PROPERTY TAX INCENTIVES. (1) Subject to the limitations of this chapter, both improvements to real property and personal property which are newly constructed, including construction in progress during the year, or acquired during a project period and located in the project site and owned by a taxpayer who has certified that the tax incentive criteria will be met in regard to that site, shall be entitled to receive a rebate of the lesser of:

(a) All property taxes the taxpayer actually paid for any of the years 2005 through 2012 that are properly levied upon any property constructed or installed within the project site during the project period for that site; or

(b) All property tax the taxpayer actually paid for any of the years 2005 through 2012 that are properly levied upon any property
constructed or installed within the area described in subsection (2)(g)(ii) of section 63-2902, Idaho Code, within which eighty percent (80%) or more of the investment required in subsection (2)(j)(i) of section 63-2902, Idaho Code, is made during the project period for that site; or
(c) Two million dollars ($2,000,000) of property tax paid in any one (1) calendar year.

Property upon which tax is rebated by this section, which is included on the new construction roll provided in section 63-307A, Idaho Code, shall be separately identified on that roll.

(2) Upon filing of a written claim by the taxpayer entitled to the rebate, which shall include a description of the property upon which the tax sought to be rebated was levied, the property's assessed value for property tax purposes, and its location and subject to such reasonable documentation and verification as the commission may require, the rebate shall be paid by the commission as provided in section 63-3067, Idaho Code. A claim for rebate under this section must be filed on or before the last day of the third calendar year following the year of the property taxes sought to be rebated or the right to the rebate is lost.

(3) The taxpayer shall be subject to recapture of any rebate paid under this section:
(a) At one hundred percent (100%) in the event that the tax incentive criteria are not met at the project site during the project period, or
(b) In the event that the property is disposed of, or otherwise ceases to qualify with respect to the taxpayer before five (5) full years from the date the project period ends, or
(c) In the event that the employment required in section 63-2902(2)(j), Idaho Code, is not maintained for sixty (60) consecutive full months from the date the project period ends.
(d) Any recapture required by subsection (3)(b) or (3)(c) of this section shall be in the same proportion of the credit required to be recaptured under section 63-3029B, Idaho Code.
(e) Any amount subject to recapture is a deficiency in tax for the amount of the rebate in the taxable year in which the disqualification first occurs and may be enforced and collected in the manner provided by the Idaho income tax act, provided however, that in lieu of the provisions of section 63-3068(a), Idaho Code, the period of time within which the commission may issue a notice under section 63-3045, Idaho Code, in regard to an amount subject to recapture shall be five (5) years after the end of the taxable year in which the project period ends.

(4) The rebate allowed by this section is limited to improvements to real property and personal property which are newly constructed, including construction in progress during the year, or acquired related to headquarters or administrative facilities.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2006.

Approved March 14, 2006.
CHAPTER 60
(H.B. No. 459)

AN ACT
RELATING TO TAX LICENSES, PERMITS AND ACCOUNTS; AMENDING CHAPTER 24, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-2427C, IDAHO CODE, TO PROVIDE FOR THE CANCELLATION, REVOCA TION AND SUSPENSION OF LICENSES OF MOTOR FUEL DEALERS AND TO PROVIDE FOR CIVIL PENALTIES FOR DOING BUSINESS WITHOUT A REQUIRED LICENSE; AMENDING SECTION 63-2503, IDAHO CODE, TO PROVIDE FOR THE CANCELLATION, REVOCA TION AND SUSPENSION OF PERMITS OF CIGARETTE WHOLESALERS, TO PROVIDE FOR CIVIL PENALTIES FOR DOING BUSINESS WITHOUT A REQUIRED PERMIT AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 63-2518, IDAHO CODE, RELATING TO REVOCA TION OF CIGARETTE WHOLESALERS' PERMITS; AMENDING SECTION 63-2512, IDA HO CODE, TO DELETE PROVISIONS IMPOSING CIVIL PENALTIES FOR FAILURE TO POSSESS A VALID CIGARETTE PERMIT; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3035C, IDAHO CODE, TO PROVIDE FOR THE CANCELLATION, REVOCA TION AND SUSPENSION OF INCOME TAX WITHHOLDING ACCOUNTS AND TO PROVIDE FOR CIVIL PENALTIES FOR DOING BUSINESS WITHOUT A REQUIRED INCOME TAX WITHHOLDING ACCOUNT; AND AMENDING SECTION 63-2510A, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE.

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

SECTION 1. That Chapter 24, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-2427C, Idaho Code, and to read as follows:

63-2427C. REVOCATION AND SUSPENSION OF LICENSE -- PENALTIES. (1) A license issued under section 63-2427A or 63-2427B, Idaho Code, shall be held only by persons actively engaged in activities requiring a license under this chapter. Any person not so engaged shall forthwith surrender his license to the commission for cancellation.

(2) Whenever any person fails to comply with any provision of this chapter relating to the receipt, purchase, sale or offering for sale or distribution of motor fuel or any rules of the commission relating to motor fuels taxes prescribed and adopted under this chapter, the commission may revoke or suspend any license held by the person or may deny a new license to such person.

(3) The commission may revoke the license of a person not actively engaged in activities requiring a license under this section.

(4) Notice of revocation shall be given in the manner provided for deficiencies in taxes in section 63-3629, Idaho Code, which shall be subject to review as provided in section 63-3631, Idaho Code.

(5) A license, held by a person who for a period of twelve (12) consecutive months reports no motor fuels activity under this chapter, shall expire automatically upon the state tax commission providing notice of the expiration to the last known address of the person to whom the license was issued.

(6) A person who engaged in activities requiring a license under this chapter without such license or after a license has been revoked or suspended, and any person who is a responsible person, as defined in
section 63-3627, Idaho Code, of such a business shall, after receiving written notice from the state tax commission, be subject to a civil penalty not in excess of one hundred dollars ($100), and each day shall constitute a separate offense, which the state tax commission may assess as a deficiency pursuant to section 63-2434, Idaho Code.

SECTION 2. That Section 63-2503, Idaho Code, be, and the same is hereby amended to read as follows:

63-2503. PERMITS. (a1) It shall be unlawful for a person to act as a wholesaler of cigarettes without a permit. The permit shall be obtained by application to the tax commission upon a form furnished by it, accompanied by a fee of fifty dollars ($50.00). The wholesaler permit shall be nonassignable and shall continue in force until surrendered or canceled.

(b2) It shall be unlawful for any retailer to purchase, sell, offer for sale, distribute, store or possess any cigarettes without first applying for and receiving a seller's permit under section 63-3620, Idaho Code.

(3) A permit shall be held only by persons actively engaged in making wholesale sales of cigarettes subject to tax under this chapter. Any person not so engaged shall forthwith surrender his permit to the state tax commission for cancellation.

(4) Whenever any person fails to comply with any provision of this chapter relating to the purchase, sale or offering for sale or distribution of cigarettes or any rules of the state tax commission relating to the cigarette tax prescribed and adopted under this chapter, the state tax commission may revoke or suspend any permit held by the person or may deny a new permit to such person.

(5) The state tax commission may revoke the permit of a person not actively engaged in activities requiring a permit under this section.

(6) Notice of revocation shall be given in the manner provided for deficiencies in taxes in section 63-3629, Idaho Code, which shall be subject to review as provided in section 63-3631, Idaho Code.

(7) A permit, held by a person who for a period of twelve (12) consecutive months reports no cigarette tax due under this chapter, shall expire automatically upon the state tax commission providing notice of the expiration to the last known address of the person to whom the permit was issued.

(8) A person who engaged in activities requiring a permit under this section without a permit or after a permit has been revoked or suspended, and any person who is a responsible person, as defined in section 63-3627, Idaho Code, of such a business shall, after receiving written notice from the state tax commission, be subject to a civil penalty not in excess of one hundred dollars ($100), and each day shall constitute a separate offense, which the state tax commission may assess as a deficiency pursuant to section 63-2516, Idaho Code.

SECTION 3. That Section 63-2518, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Section 63-2512, Idaho Code, be, and the same is hereby amended to read as follows:
63-2512. PENALTIES. The penalties herein prescribed are not intended as exclusive, but are in addition and supplemental to any and all other existing remedies and procedures prescribed by law for the enforcement of the revenue laws of this state.

(a) Any person who shall forge or counterfeit an Idaho cigarette stamp shall be guilty of a felony and upon conviction thereof shall be punished in accordance with the provisions of the criminal code, and additionally shall be ineligible to have issued him or to hold any state license or permit to sell or vend goods or merchandise of any kind or type, or to be employed by or work in any manner for any person who sells cigarettes for a period of five (5) years thereafter.

(b) The possession by any person of more than ten (10) packages of cigarettes without Idaho cigarette stamps is a misdemeanor. Any person upon conviction shall be subject to a fine of five dollars ($5.00) for each full or partial package of unstamped cigarettes in his possession in excess of ten (10), but the maximum punishment for each offense shall not exceed a fine of three hundred dollars ($300) or imprisonment in the county jail not to exceed ninety (90) days or both.

(c) Failure to possess a valid permit, as required by section 63-2503, Idaho Code, shall be punishable by the imposition of civil penalties at the rate of twenty-five dollars ($25.00) per day; per violation, and such penalty shall be assessed and collected, as provided in section 63-2516, Idaho Code.

(d) All violations of the provisions of this chapter for which criminal penalties are not otherwise imposed shall be misdemeanors and punishable in accordance with the provisions of the criminal code.

(ed) The provisions of this section shall be applicable to all proceedings pending before the state tax commission, the board of tax appeals, or the courts of this state on the effective date of this act.

SECTION 5. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3035C, Idaho Code, and to read as follows:

63-3035C. REVOCATION AND SUSPENSION OF WITHHOLDING ACCOUNTS -- PENALTIES. (1) An income tax withholding account issued under section 63-3035, Idaho Code, shall be held only by persons actively engaged in activities requiring such an account under this chapter. Any person not so engaged shall forthwith cancel his account number by notifying the state tax commission.

(2) Whenever any person fails to comply with any provision of this chapter relating to the withholding, reporting or payment of income tax withholding or any rules of the commission relating to such withholding prescribed and adopted under this chapter, the state tax commission may revoke or suspend any withholding account held by the person or may deny a new account to such person.

(3) The state tax commission may revoke the withholding account of a person not actively engaged in activities requiring an account under section 63-3035, Idaho Code.

(4) Notice of revocation shall be given in the manner provided for deficiencies in taxes in section 63-3045, Idaho Code, which shall be subject to review as provided in that section.

(5) A withholding account, held by a person who for a period of twelve (12) consecutive months reports no income tax withholding due
under this chapter, shall expire automatically upon the state tax commission providing notice of the expiration to the last known address of the person to whom the account was issued.

(6) A person who engages in activities requiring a withholding account under this chapter without such an account or after an account has been revoked or suspended, and any person who is a responsible person, as defined in section 63-3078, Idaho Code, of such a business shall, after receiving written notice from the state tax commission, be subject to a civil penalty not in excess of one hundred dollars ($100), and each day shall constitute a separate offense, which the state tax commission may assess as a deficiency pursuant to section 63-3045, Idaho Code.

SECTION 6. That Section 63-2510A, Idaho Code, be, and the same is hereby amended to read as follows:

63-2510A. BONDING. (1) At the time an application for a wholesaler's license or permit, under section 63-2503, Idaho Code, is submitted to the state tax commission, the applicant shall file a bond, in such form as the commission may determine, conditioned upon faithful performance of all of the requirements of this chapter. The total amount of the bond shall be fixed by the commission and shall be equivalent to, at least, twice the estimated average tax liability for the reporting period for which the applicant will be required to file a return, under section 63-2510, Idaho Code. The bond required shall, in no case, be less than one thousand dollars ($1,000). The total amount required to be secured by the bond may be increased or reduced by the commission at any time. Any bond given in conjunction with the provisions of this section shall be a continuing instrument, and shall cover the period during which the license or permit in connection with which the bond is given is in effect, unless the surety on the bond is released or discharged by the commission. Any surety on any bond furnished by a wholesaler shall be discharged only by the commission. Any surety on any bond furnished by a wholesaler shall be discharged and released by the commission from, any and all, liability to the state, accruing on the bond after the expiration of thirty (30) days from the date upon which the surety shall have lodged with the commission a written request to be released and discharged. The request shall not operate to relieve, release, or discharge the surety from any liability accrued, or which will accrue, before the expiration of the thirty (30) day period. The commission shall promptly, upon receipt of the notice of the request, notify the wholesaler and require him to furnish a new bond. Unless the wholesaler files a new bond with the commission in the amount provided in this section before the expiration of the thirty (30) day period, the commission shall immediately cancel the wholesaler's license or permit.

(2) In the event that any taxes due under the provisions of this chapter are not paid by a wholesaler, and the unpaid taxes are assessed by the commission, and after all avenues for appeal of the assessment have been exhausted, the commission may apply the unpaid tax liability against the bond required in this section.

(3) A wholesaler may petition for release from the bond requirement after having filed timely and fully paid cigarette tax returns, as provided in section 63-2510, Idaho Code, for a period of not less than twelve (12) months. Upon such petition from the wholesaler, the commis-
sion will review the cigarette tax return filing and payment record of
the wholesaler and, if determined necessary, within sixty (60) days
examine the books and records of the wholesaler. The commission will, no
later than ninety (90) days from the date of receipt of the petition,
advise the wholesaler in writing of its determination and the reasons
therefor. If the wholesaler wishes to seek a redetermination of the
commission's decision, a petition for redetermination may be filed as
provided in section 63-3045, Idaho Code.

(4) If at any time after release of a bond requirement the whole-
saler becomes delinquent for any period in the filing of tax returns or
the payment of the tax as required in section 63-2510, Idaho Code, the
commission may make immediate demand that the return be filed or the
payment be tendered and that a bond be filed as set forth in subsection
(1) of this section. Any wholesaler against whom such demand is made may
petition for a redetermination as provided in section 63-3045, Idaho
Code, except that the petition must be filed no later than ten (10) days
after service upon the person of notice thereof. If a petition for rede-
termination is not filed within the ten (10) day period, the determina-
tion shall become final and the commission shall issue a jeopardy
assessment as provided in section 63-3630, Idaho Code, and thereafter
may:

(a) Seize all Idaho cigarette stamps in the possession of the
wholesaler which are not applied to cigarettes;
(b) File a lien of record upon the cigarettes held in inventory by
the wholesaler or seize such cigarettes;
(c) Revoke the wholesaler's cigarette permit as provided in section
63-2510 63-2503, Idaho Code, except that no notice or hearing shall
be required; and
(d) Notify the manufacturers of the cigarettes held in inventory by
the wholesaler of any or all actions so taken.

(5) A wholesaler who acquires all cigarettes with tax stamps
affixed at the time of acquisition may petition the state tax commission
for waiver of the bond required in subsection (1) of this section. Upon
receipt of evidence establishing that the wholesaler is not required to
pay cigarette taxes under this chapter because the wholesaler exclu-
sively purchases cigarettes with stamps affixed by another wholesaler,
the state tax commission may waive the requirement for a bond. Any such
waiver is conditioned upon the wholesaler's continuing qualification for
the waiver under this subsection.

Approved March 14, 2006.

CHAPTER 61
(H.B. No. 458)

AN ACT
RELATING TO SALES AND USE TAXES; AMENDING SECTION 63-3620, IDAHO CODE,
to revise the penalty for doing business without a required seller's
permit from a criminal misdemeanor to a civil penalty, to limit the
penalty to persons who are responsible persons of a corporation or
other business entity and to provide for assessment of the penalty
as a deficiency.
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 63-3620, Idaho Code, be, and the same is hereby amended to read as follows:

63-3620. PERMITS -- ISSUANCE -- REVOCATION -- PENALTIES. (a) Every retailer engaged in business in this state, before conducting business within this state, shall file with the state tax commission an application for a seller's permit. Every application for a permit shall be made upon a form prescribed by the state tax commission and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place or places of business, and such other information as the state tax commission may require. The applications, or any information contained thereon, may be made available by the tax commission to authorized representatives of state or federal agencies. The application shall be signed by the owner if he is a natural person or by an individual authorized by the seller to sign the application. Except as provided in subsection (f) of this section, permits shall be issued without charge.

(b) The state tax commission, for the efficient administration of this chapter, may issue:

(1) Temporary seller's permits. No retailer shall be issued more than three (3) temporary permits in one (1) calendar year. A temporary permit shall be valid only for the period of time shown on the face thereof.

(2) Wholesaler's permits to persons who are not retailers but who purchase tangible personal property for resale. A wholesaler's permit shall be valid for no more than twelve (12) consecutive months and may be renewed by the commission.

(c) The person signing the application shall certify that the applicant will actively engage in or conduct a business making sales subject to tax under this chapter.

(d) After compliance by the applicant with the requirements set out above and in section 63-3625, Idaho Code, the state tax commission shall grant and issue to each applicant a permit. A permit shall not be assignable, and shall be valid only for the person in whose name it is issued. The permit or a copy thereof shall at all times be conspicuously displayed at each place where the person to whom it is issued conducts business.

(e) A seller whose permit has been previously suspended or revoked shall pay the state tax commission a fee of ten dollars ($10.00) for the renewal or issuance of a permit in the event of a first revocation and twenty-five dollars ($25.00) for renewal after each successive revocation unless the suspension or revocation is for inactivity pursuant to section 63-3620A, Idaho Code.

(f) Whenever any person fails to comply with any provision of this chapter relating to the sales tax or any rules of the state tax commission relating to the sales tax prescribed and adopted under this chapter, the state tax commission may revoke or suspend any one (1) or more of the permits held by the person or may deny a new permit to such person. Notice of revocation or denial shall be given in the manner provided for deficiencies in taxes in section 63-3629, Idaho Code, which shall be subject to review as provided in section 63-3631, Idaho Code. The state tax commission shall not issue a new permit after the revoca-
tion of a permit unless the commission is satisfied that the former holder of the permit will comply with the provisions of this chapter relating to the sales tax and the rules of the state tax commission.

(g) A person who engages in business as a seller in this state without a permit or permits, or after a permit has been suspended, and each officer of any corporation which so engages in business is guilty of a misdemeanor punishable by a fine and any person who is a responsible person, as defined in section 63-3627, Idaho Code, of such a business shall, after receiving written notice from the state tax commission, be subject to a civil penalty not in excess of one hundred dollars ($100), and each day shall constitute a separate offense, which the state tax commission may assess as a deficiency pursuant to section 63-3629, Idaho Code.

Approved March 14, 2006.

CHAPTER 62
(H.B. No. 452)

AN ACT
RELATING TO THE DIVISION OF PURCHASING; AMENDING SECTION 67-5725, IDAHO CODE, TO PROVIDE THAT WHEN AN INVITATION TO BID OR A REQUEST FOR PROPOSALS IS CANCELED PRIOR TO AWARD OF A PURCHASE ORDER OR CONTRACT, THE ADMINISTRATOR OF THE DIVISION OF PURCHASING SHALL IMMEDIATELY RETURN ALL BIDS OR PROPOSALS TO THE SUBMITTING VENDOR AND THOSE BIDS OR PROPOSALS SHALL NOT BE SUBJECT TO DISCLOSURE UNDER CHAPTER 3, TITLE 9, IDAHO CODE.

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

SECTION 1. That Section 67-5725, Idaho Code, be, and the same is hereby amended to read as follows:

67-5725. PRESERVATION OF RECORDS -- WRITTEN CONTRACTS -- VOID CONTRACTS. The administrator shall preserve all records of bids and acquisitions in his office, and information with respect thereto, in such form as he shall prescribe for a period of three (3) years after the date of final action, or for a period of time as may be proscribed by the record retention guideline schedule approved by the director of the department of administration. The records shall be subject to disclosure according to chapter 3, title 9, Idaho Code. Notwithstanding the foregoing, when an invitation to bid or a request for proposals is canceled prior to award of a purchase order or contract, the administrator shall immediately return all bids or proposals to the submitting vendor and those bids or proposals shall not be subject to disclosure under chapter 3, title 9, Idaho Code.

Every contract made by the administrator in behalf of the state shall be reduced to writing and signed by the contracting parties with their names at the end thereof and filed in the office of the administrator, together with all bids, specifications, and all other documents and records associated with the acquisition or intended acquisition.

All contracts or agreements made in violation of the provisions of
this chapter shall be void and any sum of money advanced by the state of Idaho in consideration of any such contract or agreement shall be repaid forthwith. In the event of refusal or delay when repayment is demanded by the proper officer of the state of Idaho, under whose authority such contract or agreement shall have been made or entered into, every person so refusing or delaying, together with his surety or sureties, shall be forthwith prosecuted at law for the recovery of such sum of money so advanced.

Approved March 14, 2006.

CHAPTER 63
(H.B. No. 444, As Amended)

AN ACT
RELATING TO INCOME TAXES; AMENDING SECTION 63-3022, IDAHO CODE, TO DELETE THE REQUIREMENT THAT RESIDENT MILITARY MEMBERS REDUCE DEDUCTIONS AND EXEMPTIONS IN PROPORTION TO NONTAXABLE MILITARY PAY; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

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

63-3022. ADJUSTMENTS TO TAXABLE INCOME. The additions and subtractions set forth in this section, and in sections 63-3022A through 63-3022Q, Idaho Code, are to be applied to the extent allowed in computing Idaho taxable income:

(a) Add any state and local taxes, as defined in section 164 of the Internal Revenue Code and, measured by net income, paid or accrued during the taxable year adjusted for state or local tax refunds used in arriving at taxable income.

(b) Add the net operating loss deduction used in arriving at taxable income.

(c) (1) A net operating loss for any taxable year commencing on and after January 1, 2000, shall be a net operating loss carryback not to exceed a total of one hundred thousand dollars ($100,000) to the two (2) immediately preceding taxable years. Any portion of the net operating loss not subtracted in the two (2) preceding years may be subtracted in the next twenty (20) years succeeding the taxable year in which the loss arises in order until exhausted. The sum of the deductions may not exceed the amount of the net operating loss deduction incurred. At the election of the taxpayer, the two (2) year carryback may be foregone and the loss subtracted from income received in taxable years arising in the next twenty (20) years succeeding the taxable year in which the loss arises in order until exhausted. The election shall be made as under section 172(b)(3) of the Internal Revenue Code. An election under this subsection must be in the manner prescribed in the rules of the state tax commission and once made is irrevocable for the year in which it is made. The term "income" as used in this subsection (c) means Idaho taxable
income as defined in this chapter as modified by section 63-3021(b)(2), (3) and (4), Idaho Code.

(2) Net operating losses incurred by a corporation during a year in which such corporation did not transact business in Idaho or was not included in a group of corporations combined under subsection (t) of section 63-3027, Idaho Code, may not be subtracted. However, if at least one (1) corporation within a group of corporations combined under subsection (t) of section 63-3027, Idaho Code, was transacting business in Idaho during the taxable year in which the loss was incurred, then the net operating loss may be subtracted. Net operating losses incurred by a person, other than a corporation, in activities not taxable by Idaho may not be subtracted.

(d) In the case of a corporation, add the amount deducted under the provisions of sections 243(a) and (c), 244, 245 and 246A of the Internal Revenue Code (relating to dividends received by corporations) as limited by section 246(b)(1) of said code.

(e) In the case of a corporation, subtract an amount determined under section 78 of the Internal Revenue Code to be taxable as dividends.

(f) Subtract the amount of any income received or accrued during the taxable year which is exempt from taxation by this state, under the provisions of any other law of this state or a law of the United States, if not previously subtracted in arriving at taxable income.

(g) For the purpose of determining the Idaho taxable income of the beneficiary of a trust or of an estate:

(1) Distributable net income as defined for federal tax purposes shall be corrected for the other adjustments required by this section.

(2) Net operating losses attributable to a beneficiary of a trust or estate under section 642 of the Internal Revenue Code shall be a deduction for the beneficiary to the extent that income from the trust or estate would be attributable to this state under the provisions of this chapter.

(h) In the case of an individual who is on active duty as a full-time officer, enlistee or draftee, with the armed forces of the United States, which full-time duty is or will be continuous and uninterrupted for one hundred twenty (120) consecutive days or more, deduct compensation paid by the armed forces of the United States for services performed outside this state. The deduction is allowed only to the extent such income is included in taxable income, and provided that appropriate adjustments shall be made in determining the deductions and exemptions allowed pursuant to section 63-3026A(4), Idaho Code.

(i) In the case of a corporation, including any corporation included in a group of corporations combined under subsection (t) of section 63-3027, Idaho Code, add any capital loss deducted which loss was incurred during any year in which such corporation did not transact business in Idaho. However, do not add any capital loss deducted if a corporation, including any corporation in a group of corporations combined under subsection (t) of section 63-3027, Idaho Code, was transacting business in Idaho during the taxable year in which the loss was incurred. In the case of persons, other than corporations, add any capital loss deducted which was incurred in activities not taxable by Idaho at the time such loss was incurred. In computing the income taxable to an S corporation or partnership under this section, deduction shall not
be allowed for a carryover or carryback of a net operating loss provided for in subsection (c) of this section or a capital loss provided for in section 1212 of the Internal Revenue Code.

(j) In the case of an individual, there shall be allowed as a deduction from gross income either (1) or (2) at the option of the taxpayer:

(1) The standard deduction as defined in section 63, Internal Revenue Code.

(2) Itemized deductions as defined in section 63 of the Internal Revenue Code except state or local taxes measured by net income and general sales taxes as either is defined in section 164 of the Internal Revenue Code.

(k) Add the taxable amount of any lump sum distribution excluded from gross income for federal income tax purposes under the ten (10) year averaging method. The taxable amount will include the ordinary income portion and the amount eligible for the capital gain election.

(1) Deduct any amounts included in gross income under the provisions of section 86 of the Internal Revenue Code relating to certain social security and railroad benefits.

(m) In the case of a self-employed individual, deduct the actual cost of premiums paid to secure worker's compensation insurance for coverage in Idaho, if such cost has not been deducted in arriving at taxable income.

(n) In the case of an individual, deduct the amount contributed to a college savings program pursuant to chapter 54, title 33, Idaho Code, but not more than four thousand dollars ($4,000) per tax year. If the contribution is made on or before April 15, 2001, it may be deducted for tax year 2000 and an individual can make another contribution and claim the deduction according to the limits provided in this subsection during 2001 for tax year 2001, as long as the contribution is made on or before December 31, 2001.

(o) In the case of an individual, add the amount of a nonqualified withdrawal from an individual trust account or savings account established pursuant to chapter 54, title 33, Idaho Code, less any amount of such nonqualified withdrawal included in the individual's federal gross income pursuant to section 529 of the Internal Revenue Code.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2005.

Approved March 14, 2006.

CHAPTER 64
(H.B. No. 748)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR SERVICES FOR THE DEVELOPMENTALLY DISABLED IN THE COMMUNITY DEVELOPMENTAL DISABILITY SERVICES PROGRAM FOR FISCAL YEAR 2006; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; AND DECLARING AN EMERGENCY.
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. In addition to the appropriation made in Section 1, Chapter 345, Laws of 2005, there is hereby appropriated to the Department of Health and Welfare for services for the developmentally disabled in the Community Developmental Disability Services Program the following amounts to be expended according to the designated expense class from the listed funds for the period July 1, 2005, through June 30, 2006:

FOR:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trustee and Benefit Payments</td>
<td>$800,000</td>
</tr>
<tr>
<td>FROM:</td>
<td></td>
</tr>
<tr>
<td>General Fund</td>
<td>$730,000</td>
</tr>
<tr>
<td>Cooperative Welfare Fund (Dedicated)</td>
<td>70,000</td>
</tr>
<tr>
<td>TOTAL</td>
<td>$800,000</td>
</tr>
</tbody>
</table>

SECTION 2. GENERAL FUND TRANSFERS. As appropriated, the State Controller shall make transfers from the General Fund to the Cooperative Welfare Fund, periodically, as requested by the director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 15, 2006.

CHAPTER 65
(H.B. No. 747)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE CATASTROPHIC HEALTH CARE COST FUND FOR FISCAL YEAR 2006; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 286, Laws of 2005, there is hereby appropriated $5,000,000 from the General Fund to be deposited in the Catastrophic Health Care Cost Fund for the period July 1, 2005, through June 30, 2006.

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

Approved March 15, 2006.
CHAPTER 66
(H.B. No. 746)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE;
AMENDING SECTION 1, CHAPTER 347, LAWS OF 2005, TO REVISE THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR PUBLIC HEALTH SERVICES IN THE PHYSICAL HEALTH SERVICES PROGRAM; AMENDING SECTION 3, CHAPTER 347, LAWS OF 2005, TO REVISE THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR PUBLIC HEALTH SERVICES IN THE EMERGENCY MEDICAL SERVICES PROGRAM; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 1, Chapter 347, Laws of 2005, is hereby amended to read as follows:

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for public health services in the Physical Health Services Program the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2005, through June 30, 2006:

<table>
<thead>
<tr>
<th>FROM:</th>
<th>FOR PERSONNEL COSTS</th>
<th>FOR OPERATING EXPENDITURES</th>
<th>FOR TRUSTEE AND BENEFIT PAYMENTS</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>$1,601,100</td>
<td>$ 2,250,700</td>
<td>$ 1,127,400</td>
<td>$4,979,200</td>
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<tr>
<td>Cancer Control Fund</td>
<td>50,100</td>
<td>93,200</td>
<td>258,400</td>
<td>401,700</td>
</tr>
<tr>
<td>Central Tumor Registry</td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fund</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Food Safety Fund</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cooperative Welfare Fund</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(Federal)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>4,787,500</td>
<td>8,698,300</td>
<td>38,635,700</td>
<td>51,871,500</td>
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<td></td>
<td>4,537,500</td>
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<td></td>
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<tr>
<td>Cooperative Welfare Fund</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(Dedicated)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>1,383,700</td>
<td>881,400</td>
<td>7,019,000</td>
<td>9,284,100</td>
</tr>
<tr>
<td>TOTAL</td>
<td>$7,572,400</td>
<td>$11,172,700</td>
<td>$45,654,700</td>
<td>$64,249,200</td>
</tr>
<tr>
<td></td>
<td>$11,923,600</td>
<td></td>
<td></td>
<td>67,357,200</td>
</tr>
</tbody>
</table>

SECTION 2. That Section 3, Chapter 347, Laws of 2005, is hereby amended to read as follows:

SECTION 3. There is hereby appropriated to the Department of Health and Welfare for public health services in the Emergency Medical Services Program the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2005, through June 30, 2006:
SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 15, 2006.

CHAPTER 67
(H.B. No. 708)

AN ACT
RELATING TO HEALTH CARE DIRECTIVE REGISTRY; AMENDING SECTION 9-340C, IDAHO CODE, TO PROVIDE A HEALTH CARE DIRECTIVE REGISTRY EXCEPTION TO THE PUBLIC RECORDS ACT; AMENDING SECTION 39-4509, IDAHO CODE, TO DEFINE "HEALTH CARE DIRECTIVE"; AMENDING SECTION 39-4510, IDAHO CODE, TO PERMIT REGISTRATION OF A HEALTH CARE DIRECTIVE; AMENDING SECTION 39-4511, IDAHO CODE, TO PERMIT REGISTRATION OF A HEALTH CARE DIRECTIVE REVOCATION; AMENDING SECTION 39-4513, IDAHO CODE, TO PROVIDE IMMUNITIES; AMENDING CHAPTER 45, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-4515, IDAHO CODE, TO CREATE A HEALTH CARE DIRECTIVE REGISTRY IN THE OFFICE OF THE SECRETARY OF STATE, TO PROVIDE FOR THE CONTENT OF THE INFORMATION TO BE INCLUDED IN THE REGISTRY, TO PERMIT REGISTRATION OF HEALTH CARE DIRECTIVES AND REVOCATIONS, TO PERMIT THE SECRETARY OF STATE TO CHARGE A FEE FOR REGISTRATION OF A HEALTH CARE DIRECTIVE, TO PROVIDE AND LIMIT DUTIES AND RESPONSIBILITIES OF THE SECRETARY OF STATE, TO PROVIDE A MEANS OF ACCESS TO THE REGISTRY, TO LIMIT ACCESS TO THE INFORMATION CONTAINED IN THE REGISTRY, TO LIMIT LIABILITY OF THE SECRETARY OF STATE AND THE STATE OF IDAHO AND TO CREATE A FUND TO SUPPORT, PROMOTE AND MAINTAIN THE REGISTRY; DECLARING AN EMERGENCY, PROVIDING EFFECTIVE DATES AND PROVIDING THAT THE SECRETARY OF STATE WILL ACCEPT REGISTRATION APPLICATIONS PURSUANT TO THIS ACT ON AND AFTER JANUARY 1, 2007.
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 9-340C, Idaho Code, be, and the same is hereby amended to read as follows:

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

(1) Except as provided in this subsection, all personnel records of a current or former public official other than the public official's public service or employment history, classification, pay grade and step, longevity, gross salary and salary history, status, workplace and employing agency. All other personnel information relating to a public employee or applicant including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. A public official or authorized representative may inspect and copy his personnel records, except for material used to screen and test for employment.

(2) Retired employees' and retired public officials' home addresses, home telephone numbers and other financial and nonfinancial membership records; active and inactive member financial and membership records and mortgage portfolio loan documents maintained by the public employee retirement system. Financial statements prepared by retirement system staff, funding agents and custodians concerning the investment of assets of the public employee retirement system of Idaho are not considered confidential under this chapter.

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

(4) Records of a personal nature as follows:
   (a) Records of personal debt filed with a public agency or independent public body corporate and politic pursuant to law;
   (b) Personal bank records compiled by a public depositor for the purpose of public funds transactions conducted pursuant to law;
   (c) Records of ownership of financial obligations and instruments of a public agency or independent public body corporate and politic, such as bonds, compiled by the public agency or independent public body corporate and politic pursuant to law;
   (d) Records, with regard to the ownership of, or security interests in, registered public obligations;
   (e) Vital statistics records; and
   (f) Military records as described in and pursuant to section 65-301, Idaho Code.

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

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

(7) Employment security information and unemployment insurance benefit information, except that all interested parties may agree to waive the exemption.

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

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

(10) The records, findings, determinations and decisions of any pre-litigation screening panel formed under chapters 10 and 23, title 6, Idaho Code.

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

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

(13) Records of hospital care, medical records, including prescriptions, drug orders, records or any other prescription information that specifically identifies an individual patient, prescription records maintained by the board of pharmacy under section 37-2730A, Idaho Code, records of psychiatric care or treatment and professional counseling records relating to an individual's condition, diagnosis, care or treatment, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.
(14) Information collected pursuant to the directory of new hires act, chapter 16, title 72, Idaho Code.

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

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

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

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

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

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

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

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

(c) Mortgage portfolio loan documents;

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

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

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

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

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

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

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

SECTION 2. That Section 39-4509, Idaho Code, be, and the same is hereby amended to read as follows:

39-4509. DEFINITIONS. As used in sections 39-4508 through 39-45145, Idaho Code:

(1) "Artificial life-sustaining procedure" means any medical procedure or intervention that utilizes mechanical means to sustain or supplant a vital function which when applied to a qualified patient, would serve only to artificially prolong life. "Artificial life-sustaining procedure" does not include the administration of medication or the performance of any medical procedure deemed necessary to alleviate pain.

(2) "Artificial nutrition and hydration" means supplying food and water through a conduit, such as a tube or intravenous line, where the recipient is not required to chew or swallow voluntarily, but does not include assisted feeding, such as spoon feeding or bottle feeding.

(3) "Attending physician" means the physician licensed by the state board of medicine who is selected by, or assigned to, the patient and who has primary responsibility for the treatment and care of the patient.

(4) "Competent person" means any emancipated minor or any person eighteen (18) or more years of age who is of sound mind.
(5) "Consent to care" includes refusal to consent to care and/or withdrawal of care.
(6) "Health care directive" means a document meeting the requirements of section 39-4510(1), Idaho Code.

SECTION 3. That Section 39-4510, Idaho Code, be, and the same is hereby amended to read as follows:

39-4510. LIVING WILL AND DURABLE POWER OF ATTORNEY FOR HEALTH CARE.
(1) Any competent person may execute a document known as a "Living Will and Durable Power of Attorney for Health Care." Such document shall be in substantially the following form, or in another form that contains the elements set forth in this chapter. A "Living Will and Durable Power of Attorney for Health Care" executed prior to the effective date of this act, but which was in the "Living Will" and/or "Durable Power of Attorney for Health Care" form pursuant to prior Idaho law at the time of execution, or in another form that contained the elements set forth in this chapter at the time of execution, shall be deemed to be in compliance with this chapter. A "Living Will and Durable Power of Attorney for Health Care" or similar document(s) executed in another state which substantially complies with this chapter shall be deemed to be in compliance with this chapter. In this chapter, a "Living Will and Durable Power of Attorney for Health Care" may be referred to as a "directive." Any portions of the "Living Will and Durable Power of Attorney for Health Care" which are left blank by the person executing the document shall be deemed to be intentional and shall not invalidate the document.

LIVING WILL AND DURABLE POWER OF ATTORNEY FOR HEALTH CARE

Date of Directive: ................................

Name of person executing Directive: ........................................

Address of person executing Directive: ...................................

A LIVING WILL

A Directive to Withhold or to Provide Treatment

1. Being of sound mind, I willfully and voluntarily make known my desire that my life shall not be prolonged artificially under the circumstances set forth below. This Directive shall only be effective if I am unable to communicate my instructions and:
   a. I have an incurable injury, disease, illness or condition and two (2) medical doctors who have examined me have certified:
      1. That such injury, disease, illness or condition is terminal; and
      2. That the application of artificial life-sustaining procedures would serve only to prolong artificially my life; and
      3. That my death is imminent, whether or not artificial life-sustaining procedures are utilized; or
   b. I have been diagnosed as being in a persistent vegetative state. In such event, I direct that the following marked expression of my intent be followed, and that I receive any medical treatment or care that may be required to keep me free of pain or distress.
Check one box and initial the line after such box:

☐ ........ I direct that all medical treatment, care and procedures necessary to restore my health, sustain my life, and to abolish or alleviate pain or distress be provided to me. Nutrition and hydration, whether artificial or nonartificial, shall not be withheld or withdrawn from me if I would likely die primarily from malnutrition or dehydration rather than from my injury, disease, illness or condition.

OR

☐ ........ I direct that all medical treatment, care and procedures, including artificial life-sustaining procedures, be withheld or withdrawn, except that nutrition and hydration, whether artificial or nonartificial shall not be withheld or withdrawn from me if, as a result, I would likely die primarily from malnutrition or dehydration rather than from my injury, disease, illness or condition, as follows: (If none of the following boxes are checked and initialed, then both nutrition and hydration, of any nature, whether artificial or nonartificial, shall be administered.)

Check one box and initial the line after such box:

A. ☐ ........ Only hydration of any nature, whether artificial or nonartificial, shall be administered;
B. ☐ ........ Only nutrition, of any nature, whether artificial or nonartificial, shall be administered;
C. ☐ ........ Both nutrition and hydration, of any nature, whether artificial or nonartificial shall be administered.

OR

☐ ........ I direct that all medical treatment, care and procedures be withheld or withdrawn, including withdrawal of the administration of artificial nutrition and hydration.

2. This Directive shall be the final expression of my legal right to refuse or accept medical and surgical treatment, and I accept the consequences of such refusal or acceptance.

3. If I have been diagnosed as pregnant, this Directive shall have no force during the course of my pregnancy.

4. I understand the full importance of this Directive and am mentally competent to make this Directive. No participant in the making of this Directive or in its being carried into effect shall be held responsible in any way for complying with my directions.

A DURABLE POWER OF ATTORNEY FOR HEALTH CARE

1. DESIGNATION OF HEALTH CARE AGENT. None of the following may be designated as your agent: (1) your treating health care provider; (2) a nonrelative employee of your treating health care provider; (3) an oper-
ator of a community care facility; or (4) a nonrelative employee of an operator of a community care facility. If the agent or an alternate agent designated in this Directive is my spouse, and our marriage is thereafter dissolved, such designation shall be thereupon revoked.

I do hereby designate and appoint the following individual as my attorney in fact (agent) to make health care decisions for me as authorized in this Directive. (Insert name, address and telephone number of one individual only as your agent to make health care decisions for you.)

Name of Health Care Agent: ........................................
Address of Health Care Agent: ........................................
Telephone Number of Health Care Agent: ........................................

For the purposes of this Directive, "health care decision" means consent, refusal of consent, or withdrawal of consent to any care, treatment, service or procedure to maintain, diagnose or treat an individual's physical condition.

2. CREATION OF DURABLE POWER OF ATTORNEY FOR HEALTH CARE. By this portion of this Directive, I create a durable power of attorney for health care. This power of attorney shall not be affected by my subsequent incapacity. This power shall be effective only when I am unable to communicate rationally.

3. GENERAL STATEMENT OF AUTHORITY GRANTED. Subject to any limitations in this Directive, including as set forth in paragraph 2 immediately above, I hereby grant to my agent full power and authority to make health care decisions for me to the same extent that I could make such decisions for myself if I had the capacity to do so. In exercising this authority, my agent shall make health care decisions that are consistent with my desires as stated in this Directive or otherwise made known to my agent including, but not limited to, my desires concerning obtaining or refusing or withdrawing life-prolonging care, treatment, services and procedures, including such desires set forth in a living will or similar document executed by me, if any. (If you want to limit the authority of your agent to make health care decisions for you, you can state the limitations in paragraph 4 ("Statement of Desires, Special Provisions, and Limitations") below. You can indicate your desires by including a statement of your desires in the same paragraph.)

4. STATEMENT OF DESIRES, SPECIAL PROVISIONS, AND LIMITATIONS. (Your agent must make health care decisions that are consistent with your known desires. You can, but are not required to, state your desires in the space provided below. You should consider whether you want to include a statement of your desires concerning life-prolonging care, treatment, services and procedures. You can also include a statement of your desires concerning other matters relating to your health care, including a list of one or more persons whom you designate to be able to receive medical information about you and/or to be allowed to visit you in a medical institution. You can also make your desires known to your agent by discussing your desires with your agent or by some other means. If there are any types of treatment that you do not want to be used, you should state them in the space below. If you want to limit in any other
way the authority given your agent by this Directive, you should state the limits in the space below. If you do not state any limits, your agent will have broad powers to make health care decisions for you, except to the extent that there are limits provided by law.) In exercising the authority under this durable power of attorney for health care, my agent shall act consistently with my desires as stated below and is subject to the special provisions and limitations stated in a living will or similar document executed by me, if any. Additional statement of desires, special provisions, and limitations: -------------------------

---------------------------------------------------------------

(You may attach additional pages or documents if you need more space to complete your statement.)

5. INSPECTION AND DISCLOSURE OF INFORMATION RELATING TO MY PHYSICAL OR MENTAL HEALTH.

A. General Grant of Power and Authority. Subject to any limitations in this Directive, my agent has the power and authority to do all of the following: (1) Request, review and receive any information, verbal or written, regarding my physical or mental health including, but not limited to, medical and hospital records; (2) Execute on my behalf any releases or other documents that may be required in order to obtain this information; (3) Consent to the disclosure of this information; and (4) Consent to the donation of any of my organs for medical purposes. (If you want to limit the authority of your agent to receive and disclose information relating to your health, you must state the limitations in paragraph 4 ("Statement of Desires, Special Provisions, and Limitations") above.)

B. HIPAA Release Authority. My agent shall be treated as I would be with respect to my rights regarding the use and disclosure of my individually identifiable health information or other medical records. This release authority applies to any information governed by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. 1320d and 45 CFR 160 through 164. I authorize any physician, health care professional, dentist, health plan, hospital, clinic, laboratory, pharmacy, or other covered health care provider, any insurance company, and the Medical Information Bureau, Inc. or other health care clearinghouse that has provided treatment or services to me, or that has paid for or is seeking payment from me for such services, to give, disclose and release to my agent, without restriction, all of my individually identifiable health information and medical records regarding any past, present or future medical or mental health condition, including all information relating to the diagnosis of HIV/AIDS, sexually transmitted diseases, mental illness, and drug or alcohol abuse. The authority given my agent shall supersede any other agreement that I may have made with my health care providers to restrict access to or disclosure of my individually identifiable health information. The authority given my agent has no expiration date and shall expire only in the event that I revoke the authority in writing and deliver it to my health care provider.

6. SIGNING DOCUMENTS, WAIVERS AND RELEASES. Where necessary to implement the health care decisions that my agent is authorized by this Directive to make, my agent has the power and authority to execute on my
behalf all of the following: (a) Documents titled, or purporting to be, a "Refusal to Permit Treatment" and/or a "Leaving Hospital Against Medical Advice"; and (b) Any necessary waiver or release from liability required by a hospital or physician.

7. DESIGNATION OF ALTERNATE AGENTS. (You are not required to designate any alternate agents but you may do so. Any alternate agent you designate will be able to make the same health care decisions as the agent you designated in paragraph 1 above, in the event that agent is unable or ineligible to act as your agent. If an alternate agent you designate is your spouse, he or she becomes ineligible to act as your agent if your marriage is thereafter dissolved.) If the person designated as my agent in paragraph 1 is not available or becomes ineligible to act as my agent to make a health care decision for me or loses the mental capacity to make health care decisions for me, or if I revoke that person’s appointment or authority to act as my agent to make health care decisions for me, then I designate and appoint the following persons to serve as my agent to make health care decisions for me as authorized in this Directive, such persons to serve in the order listed below:

A. First Alternate Agent:
Name: .................................................................
Address: ..................................................................
Telephone Number: ..............................................

B. Second Alternate Agent:
Name: .................................................................
Address: ..................................................................
Telephone Number: ..............................................

C. Third Alternate Agent:
Name: .................................................................
Address: ..................................................................
Telephone Number: ..............................................

8. PRIOR DESIGNATIONS REVOKED. I revoke any prior durable power of attorney for health care.

DATE AND SIGNATURE OF PRINCIPAL. (You must date and sign this Living Will and Durable Power of Attorney for Health Care.)

I sign my name to this Statutory Form Living Will and Durable Power of Attorney for Health Care on the date set forth at the beginning of this Form at ............... (City, State)..............

Signature

(2) A health care directive meeting the requirements of subsection (1) of this section may be registered with the secretary of state pursuant to the provisions of section 39-4515, Idaho Code. Failure to register the health care directive shall not affect the validity of the health care directive.
SECTION 4. That Section 39-4511, Idaho Code, be, and the same is hereby amended to read as follows:

39-4511. REVOCATION. (1) A "Living Will and Durable Power of Attorney for Health Care" may be revoked at any time by the maker thereof, without regard to his mental state or competence, by any of the following methods:
   (a) By being canceled, defaced, obliterated or burned, torn, or otherwise destroyed by the maker thereof, or by some person in his presence and by his direction;
   (b) By a written, signed revocation of the maker thereof expressing his intent to revoke; or
   (c) By an oral expression by the maker thereof expressing his intent to revoke.
(2) There shall be no criminal or civil liability on the part of any person for the failure to act upon a revocation of a "Living Will and Durable Power of Attorney for Health Care" made pursuant to this section unless that person has actual knowledge of the revocation.
(3) A person may register a revocation of a health care directive which meets the requirements of subsection (1)(b) of this section with the secretary of state pursuant to the provisions of section 39-4515, Idaho Code. Failure to register a revocation of the health care directive shall not affect the validity of the revocation.

SECTION 5. That Section 39-4513, Idaho Code, be, and the same is hereby amended to read as follows:

39-4513. IMMUNITY. (1) No medical personnel or health care facility shall be civilly or criminally liable for acts or omissions carried out or performed pursuant to the directives in a facially valid living will or by the holder of a facially valid durable power of attorney or directive for health care if the medical personnel or health care facility acts in good faith.
(2) Any physician or other health care provider who for ethical or professional reasons is incapable or unwilling to conform to the desires of the patient as expressed by the procedures set forth in this chapter may withdraw without incurring any civil or criminal liability provided the physician or other health care provider makes a good faith effort to assist the patient in obtaining the services of another physician or other health care provider before withdrawal.
(3) No person who exercises the responsibilities of a durable power of attorney for health care in good faith shall be subject to civil or criminal liability as a result.
(4) Neither the registration of a health care directive in the health care directive registry under section 39-4515, Idaho Code, nor the revocation of such a directive requires a health care provider to request information from that registry. The decision of a health care provider to request or not to request a health care directive document from the registry shall be immune from civil or criminal liability. A health care provider who in good faith acts in reliance on a facially valid health care directive received from the health care directive registry shall be immune from civil or criminal liability for those acts done in such reliance.
SECTION 6. That Chapter 45, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-4515, Idaho Code, and to read as follows:

39-4515. HEALTH CARE DIRECTIVE REGISTRY. (1) The secretary of state shall create and maintain a health care directive registry. The health care directive registry shall be accessible through a website maintained by the secretary of state. The information contained in such registry shall include: the full name of the person executing the health care directive as stated in the directive, a file identification number unique to the person executing the directive, and the date the directive was executed.

(2) A person may register with the secretary of state a health care directive or a revocation of a health care directive by submitting the directive or revocation, completing and submitting an informational registration form as required by the secretary of state, and paying the secretary of state the fee which the secretary of state may require for registering a health care directive. The person who submits a document for registration pursuant to this section shall provide a return address.

(3) The secretary of state may charge and collect a fee not to exceed ten dollars ($10.00) for the filing of a health care directive. All fees collected for the filing of a health care directive shall be deposited into the health care directive registry fund. No fee shall be charged for revoking a health care directive.

(4) Upon receipt of the registration form, the secretary of state shall:
   (a) Create a digital reproduction of the health care directive or the revocation document and the informational registration form;
   (b) Enter these digitally reproduced documents into the health care directive registry database;
   (c) Assign each entry a unique identification file number and password;
   (d) Return the original health care directive or revocation thereof to the person who submitted the document;
   (e) Provide to the person who submitted the document a printed record of the information entered into the database, the identification file number under which it was entered, the password assigned to that identification file number; and
   (f) Provide to the person who submitted the document a wallet-sized card that contains the name of the person executing the health care directive as it appears on the document, the identification file number assigned to the registration, and the password assigned to the identification file number.

(5) The registry established under this section shall be accessible only by entering the identification file number and the assigned password on the health care directive registry website.

(6) The secretary of state and those granted access to the health care directive registry shall use information contained in the registry only for purposes prescribed in this section. No person granted access to the registry shall use the information for commercial solicitations or in any fraudulent or improper way. Any commercial solicitation, fraudulent or improper use of information contained in the registry shall constitute a violation of this section and a violation of the
Idaho consumer protection act.

(7) The secretary of state is not required to review a health care directive or revocation thereof to ensure that the document complies with any applicable and statutory requirements. Entry of a document into the health care directive registry pursuant to this section does not create a presumption favoring the validity of the document.

(8) The secretary of state shall delete a health care directive and the informational registration form from the health care directive registry when the secretary of state receives:

(a) A revocation of a health care directive signed by the maker thereof or that person's legal representative along with the identification file number and assigned password; or

(b) Verification from the bureau of health policy and vital statistics of the Idaho department of health and welfare that the person who executed the health care directive is deceased. The deletion under this paragraph shall be performed not less than once every two (2) years. The bureau of health policy and vital statistics of the Idaho department of health and welfare shall share its registry of death certificates with the secretary of state in order to permit the secretary of state to fulfill its responsibilities under this paragraph.

(9) Neither the secretary of state nor the state of Idaho shall be subject to civil liability for any claims or demands arising out of the administration or operation of the health care directive registry.

(10) There is hereby created in the state treasury the health care directive registry fund, the moneys of which shall be continuously appropriated, administered by the secretary of state and used to support, promote and maintain the health care directive registry. The fund shall consist of fees paid by persons registering health care directives under this section and income from investment from the fund, gifts, grants, bequests and other forms of voluntary donations. On notice from the secretary of state, the state treasurer shall invest and divest moneys in the fund, and moneys earned from such investment shall be credited to the fund.

SECTION 7. An emergency existing therefor, which emergency is hereby declared to exist, Section 6 of this act shall be in full force and effect on and after its passage and approval and Sections 1 through 5 of this act shall be in full force and effect on and after July 1, 2006. The Secretary of State will accept registration applications pursuant to this act on and after January 1, 2007.

Approved March 15, 2006.

CHAPTER 68
(H.B. No. 700)

AN ACT
RELATING TO APPROPRIATIONS FOR THE DEPARTMENT OF JUVENILE CORRECTIONS;
AMENDING SECTION 1, CHAPTER 318, LAWS OF 2005, TO REVISE THE APPROPRIATION MADE TO THE DEPARTMENT OF JUVENILE CORRECTIONS FOR FISCAL YEAR 2006; AMENDING SECTION 2, CHAPTER 318, LAWS OF 2005, TO PROVIDE
ADDITIONAL AUTHORIZED FULL-TIME EQUIVALENT POSITIONS FOR THE DEPARTMENT OF JUVENILE CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 1, Chapter 318, Laws of 2005, be, and the same is hereby amended to read as follows:

SECTION 1. There is hereby appropriated to the Department of Juvenile Corrections the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2005, through June 30, 2006:

<table>
<thead>
<tr>
<th>FOR PERSONNEL COSTS</th>
<th>FOR OPERATING EXPENDITURES</th>
<th>FOR CAPITAL EXPENSES</th>
<th>FOR TRUSTEE AND BENEFIT PAYMENTS</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. ADMINISTRATION:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>FROM:</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>General Fund</td>
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<td>28,000</td>
<td>109,100</td>
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<td>TOTAL</td>
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<td></td>
<td>$2,720,400</td>
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<tr>
<td>II. COMMUNITY SERVICES:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>FROM:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>General Fund</td>
<td>$591,400</td>
<td>$89,200</td>
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<tr>
<td>Juvenile Corrections Fund</td>
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<td>81,700</td>
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<td>Federal Grant Fund</td>
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<td>68,600</td>
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<td>TOTAL</td>
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<td>$7,980,900</td>
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<td>III. INSTITUTIONS:</td>
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<td></td>
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<td>FROM:</td>
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<tr>
<td>General Fund</td>
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FOR TRUSTEE AND
PERSONNEL OPERATING CAPITAL OUTLAY PAYMENTS TOTAL

IV. JUVENILE JUSTICE COMMISSION:
FROM:

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<td>Federal Grant</td>
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<td>TOTAL</td>
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GRAND TOTAL: $17,064,000 $3,983,300 $20,000 $23,334,900 $44,416,800

SECTION 2. That Section 2, Chapter 318, Laws of 2005, be, and the same is hereby amended to read as follows:

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Juvenile Corrections is authorized no more than three hundred forty-five and twenty-five hundredths (345.25) full-time equivalent positions at any point during the period July 1, 2005, through June 30, 2006, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 15, 2006.

CHAPTER 69
(H.B. No. 685)

AN ACT RELATING TO INCOME TAXATION; AMENDING SECTION 63-3029C, IDAHO CODE, TO PROVIDE FOR AN INCOME TAX CREDIT FOR CHARITABLE CONTRIBUTIONS MADE TO THE LEARNING LAB, INC., OR ITS FOUNDATION; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

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

63-3029C. INCOME TAX CREDIT FOR CERTAIN CHARITABLE CONTRIBUTIONS -- LIMITATION. At the election of the taxpayer, there shall be allowed, subject to the applicable limitations provided herein, as a credit against the income tax imposed by chapter 30, title 63, Idaho Code, an
amount equal to fifty percent (50%) of the aggregate amount of charitable contributions made by such taxpayer during the year to the anchor house or its foundation, to the children's home society of Idaho, Inc., to the Idaho youth ranch or its foundation, to kinderhaven or its foundation, to the women's and children's alliance or its foundation, to children's village, Inc. or its foundation, to gem youth services or its foundation, to the hope house, Inc. or its foundation, to the north Idaho children's home or its foundation, to the learning lab, Inc. or its foundation, to a center for independent living located within the state of Idaho, to a nonprofit substance abuse center licensed by the department of health and welfare, or to a nonprofit rehabilitation facility located within the state of Idaho or its foundation.

(1) In the case of a taxpayer other than a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed twenty percent (20%) of such taxpayer's total income tax liability imposed by section 63-3024, Idaho Code, for the year, or one hundred dollars ($100), whichever is less.

(2) In the case of a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed ten percent (10%) of such corporation's total income or franchise tax liability imposed by sections 63-3025 and 63-3025A, Idaho Code, for the year, or five hundred dollars ($500), whichever is less.

(3) For the purposes of this section, "center for independent living" shall mean a private, nonprofit, nonresidential organization in which at least fifty-one percent (51%) of the principal governing board, management and staff are individuals with disabilities and that:
   (a) Is designed and operated within a local community by individuals with disabilities;
   (b) Provides an array of independent living services and programs; and
   (c) Is cross-disability.

(4) For the purposes of this section, "nonprofit rehabilitation facility" means only a facility that is accredited by the commission on accreditation of rehabilitation facilities or another accreditation organization recognized by the state of Idaho.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2006.

Approved March 15, 2006.
REGISTRATION OFFICIALS OR THE COUNTY CLERK WHERE THE ELECTOR WAS PREVIOUSLY REGISTERED SO THAT THE PRIOR REGISTRATION MAY BE CANCELED; AMENDING SECTION 34-432, IDAHO CODE, TO DELETE LANGUAGE ALLOWING AN ELECTOR TO REQUEST A CHANGE IN THE INFORMATION ON HIS REGISTRATION CARD; AMENDING SECTION 34-437B, IDAHO CODE, TO PROVIDE THAT THE COUNTY CLERK SHALL SUPPLY TO A REQUESTING SCHOOL BOARD A LIST OF REGISTERED ELECTORS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 34-304, Idaho Code, be, and the same is hereby amended to read as follows:

34-304. CHALLENGERS -- WATCHERS. The county clerk shall, upon receipt of a written request, such request to be received no later than five (5) days prior to the day of election, direct that the election judges permit one (1) person authorized by each political party to be at the polling place for the purpose of challenging voters, and shall, if requested, permit any candidate, or one (1) person authorized by a candidate, several candidates or political party, to be present to watch the receiving and counting of the votes serve as a watcher to observe the conduct of the election. Such authorization shall be evidenced by a writing signed by the county chairman and secretary of the political party, or by the candidate or candidates, and filed with the county clerk. Where the issue before the electors is other than the election of officers, the clerk shall, upon receipt of a written request, such request to be received no later than five (5) days prior to the date of voting on the issue or issues, direct that the election judges permit one (1) pro and one (1) con person to be at the polling place for the purpose of challenging voters and to observe the conduct of the election. Such authorization shall be evidenced in writing signed by the requesting person and shall state which position relative to the issue or issues the person represents. Persons who are authorized to serve as challengers or watchers shall wear a visible name tag which includes their respective titles. A watcher is entitled to observe any activity conducted at the location at which the watcher is serving, provided however, that the watcher does not interfere with the orderly conduct of the election. If the watchers are present at the polling place when ballots are counted they shall not absent themselves until the polls are closed. A watcher serving at a central counting station may be present at any time the station is open for the purpose of processing or preparing to process election results and until the election officers complete their duties at the station. If the county clerk does not receive the list of names of those which the parties desired to be present for the purpose of either poll watching or challenging within the time prescribed above, the clerk shall not allow the presence of such persons later seeking to serve in those capacities. Persons who are authorized to serve as challengers or watchers shall wear a visible name tag which includes their respective titles. Persons permitted to be present to watch the counting of the votes shall not absent themselves until the polls are closed.

SECTION 2. That Section 34-418, Idaho Code, be, and the same is hereby amended to read as follows:
34-418. WEEKLY REVIEW OF NEW REGISTRATION CARDS -- REPORT TO INTERESTED OFFICIALS. Each week the county clerk shall review the registration cards of all newly registered electors for the past weekly period to determine whether they have been previously registered to vote in another state or in another county within this state. The county clerk or secretary of state, through the statewide voter registration system, shall mail a notification of registration to notify the proper registration official or county clerk where the elector was previously registered so that the prior registration may be canceled. This notice shall explain that the elector has appeared and registered in this county. The form of such notice shall be prescribed by the secretary of state.

SECTION 3. That Section 34-432, Idaho Code, be, and the same is hereby amended to read as follows:

34-432. CORRECTION OF ELECTION REGISTER FROM CHALLENGES AT ELECTION. (1) Within sixty (60) days after each election, the county clerk shall examine the election register and note the challenges as described in section 34-431, Idaho Code. The county clerk shall mail a written inquiry to the challenged elector at his mailing address as indicated on his registration card. Such inquiry shall state the nature of the challenge and provide a suitable form for reply.

(2) Within twenty (20) days from date of mailing of the written inquiry the elector may, in person or in writing, state that the information on his registration card is correct or he may request a change in the information on his registration card. Upon receipt of such a statement or request the county clerk shall determine whether the information satisfies the challenge. If the county clerk determines that the challenge has not been satisfied, the county clerk shall schedule a hearing on the challenge and shall notify the elector of the place and time of the hearing. The hearing shall be held no later than twenty (20) days after notice is given. At the hearing, the challenged elector may present evidence of qualification. If the county clerk, upon the conclusion of the hearing, determines that the challenged elector's registration is not valid, the county clerk shall cancel the registration. If a challenged elector fails to make the statement or request in response to the inquiry, the county clerk shall cancel the registration.

(3) The county clerk may make inquiry into the validity of any registration at any time. The inquiry shall proceed as provided in this section.

SECTION 4. That Section 34-437B, Idaho Code, be, and the same is hereby amended to read as follows:

34-437B. FURNISHING LISTS OF REGISTERED ELECTORS TO SCHOOL DISTRICTS. Each of the county clerks, upon receiving a request therefor, not later than the thirtieth day prior to a school election, shall, not later than the seventh day prior to the election, supply to a requesting school board a list of registered electors, by precinct, that are within the school district within which a school district election is to be held. The county clerk may assess the school board an amount which will compensate the county for the cost of preparing such a list.
SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 15, 2006.

CHAPTER 71
(H.B. No. 629)

AN ACT
RELATING TO CRIMINAL PENALTIES; AMENDING SECTION 18-1601, IDAHO CODE, TO INCREASE A PENALTY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 18-1905, IDAHO CODE, TO INCREASE A PENALTY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 18-2308, IDAHO CODE, TO INCREASE A PENALTY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 18-2317, IDAHO CODE, TO INCREASE A PENALTY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 18-2318, IDAHO CODE, TO INCREASE A PENALTY; AMENDING SECTION 18-2322, IDAHO CODE, TO INCREASE A PENALTY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 18-2501, IDAHO CODE, TO INCREASE A PENALTY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 18-3202, IDAHO CODE, TO INCREASE A PENALTY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 18-3304, IDAHO CODE, TO INCREASE A PENALTY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 18-3305, IDAHO CODE, TO INCREASE A PENALTY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 18-3306, IDAHO CODE, TO INCREASE A PENALTY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 18-3809, IDAHO CODE, TO INCREASE A PENALTY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 18-3810, IDAHO CODE, TO REMOVE A CODE REFERENCE APPLICABLE TO PENALTIES; AMENDING SECTION 18-4109, IDAHO CODE, TO INCREASE A PENALTY; AMENDING SECTION 18-4629, IDAHO CODE, TO INCREASE A PENALTY AND TO PROVIDE A CODE REFERENCE; AMENDING SECTION 18-6801, IDAHO CODE, TO INCREASE A PENALTY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 18-7020, IDAHO CODE, TO INCREASE A PENALTY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 18-7031, IDAHO CODE, TO INCREASE A PENALTY; AMENDING SECTION 19-4705, IDAHO CODE, TO CLARIFY THE EFFECTIVE DATE FOR THE APPORTIONMENT OF CERTAIN FINES AND FORFEITURES; AND AMENDING SECTION 49-1401, IDAHO CODE, TO INCREASE PENALTIES.

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

SECTION 1. That Section 18-1601, Idaho Code, be, and the same is hereby amended to read as follows:

18-1601. COMPOUNDING FELONY OR MISDEMEANOR. Every person who, having knowledge of the actual commission of a crime, takes money or property of another, or any gratuity or reward, or any engagement, or promise thereof, upon any agreement or understanding to compound or conceal, such crime, or to abstain from any prosecution thereof, or to withhold any evidence thereof, except in the cases provided for by law, in which crimes may be compromised by leave of court, is punishable as follows:
(1) By imprisonment in the state prison not exceeding five (5) years, or in a county jail not exceeding one (1) year, where the crime was punishable by death or imprisonment in the state prison for life.

(2) By imprisonment in the state prison not exceeding three (3) years, or in the county jail not exceeding six (6) months where the crime was punishable by imprisonment in the state prison for any other term than for life.

(3) By imprisonment in the county jail not exceeding six (6) months, or by fine not exceeding one thousand dollars ($5001,000), where the crime was a misdemeanor.

SECTION 2. That Section 18-1905, Idaho Code, be, and the same is hereby amended to read as follows:

18-1905. FALSIFICATION OF CORPORATE BOOKS. Every director, officer or agent of any corporation or joint stock association who knowingly receives or possesses himself of any property of such corporation or association otherwise than in payment of a just demand, and who, with intent to defraud, omits to make, or to cause or direct to be made, a full and true entry thereof in the books or accounts of such corporation or association, and every director, officer, agent or member of any corporation or joint stock association who, with intent to defraud, destroys, alters, mutilates or falsifies any of the books, papers, writings or securities belonging to such corporation or association, or makes or concurs in making, any false entries, or omits or concurs in omitting to make any material entry in any book of accounts, or other record or document kept by such corporation or association, is punishable by imprisonment in the state prison not less than three (3) nor more than ten (10) years, or by imprisonment in a county jail not exceeding one (1) year or a fine not exceeding one thousand dollars ($5001,000), or by both such fine and imprisonment.

SECTION 3. That Section 18-2308, Idaho Code, be, and the same is hereby amended to read as follows:

18-2308. ATTEMPT OF OFFICER TO ASCERTAIN VOTE. Every officer, judge, or clerk of an election, who, previous to putting the ballot of an elector in the ballot box, attempts to find out any name on such ballot, or who opens, or suffers the folded ballot of any elector which has been handed in, to be opened or examined previous to putting the same into the ballot box, or who makes, or places any mark or device on any folded ballot, with a view to ascertain the name of any person for whom the elector has voted, or who, without the consent of the elector, discloses the name of any person which such officer, judge, or clerk has fraudulently or illegally discovered to have been voted for by such elector, is punishable by fine of not less than fifty dollars ($50.00) nor more than one thousand dollars ($5001,000).

SECTION 4. That Section 18-2317, Idaho Code, be, and the same is hereby amended to read as follows:

18-2317. DESTROYING OR DEFACING SUPPLIES. No person shall, during the election, remove or destroy any of the supplies or conveniences placed in the booths or compartments for the purpose of enabling the
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voter to prepare his ballot, or prior to, or on the day of election, willfully deface or destroy any list of candidates posted in accordance with the provisions of title 34, Idaho Code, concerning elections. No person shall, during an election, tear down or deface the cards printed for the instruction of voters. Every person willfully violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction thereof in any court of competent jurisdiction, shall be fined in any sum not exceeding one thousand dollars ($1,000).

SECTION 5. That Section 18-2318, Idaho Code, be, and the same is hereby amended to read as follows:

18-2318. ELECTIONEERING AT POLLS. (1) On the day of any primary, general or special election, no person may, within a polling place, or any building in which an election is being held, or on private property within one hundred (100) feet thereof, or on public property within three hundred (300) feet thereof:
   (a) Do any electioneering;
   (b) Circulate cards or handbills of any kind;
   (c) Solicit signatures to any kind of petition; or
   (d) Engage in any practice which interferes with the freedom of voters to exercise their franchise or disrupts the administration of the polling place.
   (2) No person may obstruct the doors or entries to a building in which a polling place is located or prevent free access to and from any polling place.
   (3) Any election officer, sheriff, constable or other peace officer is hereby authorized, and it is hereby made the duty of such officer, to arrest any person violating the provisions of subsections (1) and (2) of this section, and such offender shall be punished by a fine of not less than twenty-five dollars ($25.00) nor exceeding one hundred thousand dollars ($100,000).

SECTION 6. That Section 18-2322, Idaho Code, be, and the same is hereby amended to read as follows:

18-2322. ILLEGAL REGISTRATION BY VOTER. Any person who shall willfully cause, or endeavor to cause, his name to be registered in any other election district than that in which he resides, or will reside prior to the day of the next ensuing election, except as herein otherwise provided, and any person who shall cause, or endeavor to cause, his name to be registered, knowing that he is not a qualified elector, and will not be a qualified elector on or before the day of the next ensuing election, in the election district in which he causes or endeavors to cause such registry to be made, and any person who shall induce, aid or abet any one in the commission of either of the acts in this section enumerated and described, shall be fined not less than fifty dollars ($50.00) nor more than one thousand dollars ($1,000), or be confined in the county jail for not less than one (1) month nor more than six (6) months, or both.

SECTION 7. That Section 18-2501, Idaho Code, be, and the same is hereby amended to read as follows:
18-2501. RESCUING PRISONERS. Every person who rescues, or attempts to rescue, or aids another person in rescuing or attempting to rescue, any prisoner from any prison, or from any officer or person having him in lawful custody, is punishable as follows:

(1.) If such prisoner was in custody upon a conviction of felony punishable with death, by imprisonment in the state prison not less than one (1) or nor more than fourteen (14) years.

(2.) If such prisoner was in custody upon a conviction of any other felony, by imprisonment in the state prison not less than six (6) months nor more than five (5) years.

(3.) If such prisoner was in custody upon a charge of felony, by a fine not exceeding one thousand dollars ($1,000) and imprisonment in the county jail not exceeding one (1) year.

(4.) If such prisoner was in custody, otherwise than upon a conviction of felony, by a fine not exceeding one thousand dollars ($1,000) and imprisonment in the county jail not exceeding six (6) months.

SECTION 8. That Section 18-3202, Idaho Code, be, and the same is hereby amended to read as follows:

18-3202. PRIVATE PERSON STEALING, MUTILATING OR FALSIFYING PUBLIC RECORDS. Every person not an officer such as is referred to in the preceding section, who is guilty of any of the acts specified in that section, is punishable by imprisonment in the state prison not exceeding five (5) years, or in a county jail not exceeding one (1) year, or by a fine not exceeding one thousand dollars ($1,000,000), or by both.

SECTION 9. That Section 18-3304, Idaho Code, be, and the same is hereby amended to read as follows:

18-3304. AIMING FIREARMS AT OTHERS. Any person who shall intentionally, without malice, point or aim any firearm at or toward any other person shall be guilty of a misdemeanor and shall be subject to a fine of not more than one thousand dollars ($1,000,000) and not less than five dollars ($5.00).

SECTION 10. That Section 18-3305, Idaho Code, be, and the same is hereby amended to read as follows:

18-3305. DISCHARGE OF ARMS AIMED AT ANOTHER. Any person who shall discharge, without injury to any person, any firearm, while intentionally, without malice, aimed at or toward any person, shall be guilty of a misdemeanor, and shall be liable to a fine of not less than one thousand dollars ($1,000,000), or imprisonment in the county jail not to exceed six (6) months, or both, at the discretion of the court.

SECTION 11. That Section 18-3306, Idaho Code, be, and the same is hereby amended to read as follows:

18-3306. INJURING ANOTHER BY DISCHARGE OF AIMED FIREARMS. Any person who shall maim or injure any other person by the discharge of any firearm pointed or aimed, intentionally but without malice, at any such person, shall be guilty of a misdemeanor, and shall be punished by a
fine of not less than fifty dollars ($50.00) nor more than one thousand dollars ($1,000), or imprisonment in the county jail for a period of not more than one (1) year; and if death ensue from such wounding or maiming, such person so offending shall be deemed guilty of the crime of manslaughter.

SECTION 12. That Section 18-3809, Idaho Code, be, and the same is hereby amended to read as follows:

18-3809. BOOK-MAKING BOOKMAKING AND POOL SELLING. Any person who for gain, hire or profit engages in pool selling or book-making bookmaking at any time or place within this state; or any person who keeps or occupies any room, shed, tenement, tent, booth or building, float or vessel, or any part thereof, or who occupies any place or stand of any kind, upon any public or private grounds within this state, with books, papers, paraphernalia, or mechanical device, for the purpose of engaging in pool selling or book-making bookmaking, or recording or registering bets or wagers; or who sells pools or makes books upon the result of any trial or contest of skill, speed or power of endurance of man or beast for gain, hire or reward; or any person who, for gain, hire or reward, receives, registers, records and forwards to any other place, within or without this state, any money, consideration or thing of value for the purpose of having it there bet or wagered by or for any person, who at such place sells pools or makes books upon any such event, or any person who, being the owner, lessee or occupant of any such room, shed, tenement, tent, booth or building, float or vessel, or part thereof, or any grounds within this state, knowingly and willfully permits the same to be occupied and used for any of the purposes aforesaid, unless unable to legally prevent the same; or any person who aids, assists or abets in any manner in any of said acts which are hereby forbidden, is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than one thousand dollars ($3001.00) or by imprisonment in the county jail for a period of not more than six (6) months or by both such fine and imprisonment.

SECTION 13. That Section 18-3810, Idaho Code, be, and the same is hereby amended to read as follows:

18-3810. SLOT MACHINES -- POSSESSION UNLAWFUL -- EXCEPTION. (1) Except as otherwise provided in this section, it shall be a misdemeanor and punishable as provided in Section 18-3804, Idaho Code, for any person to use, possess, operate, keep, sell, or maintain for use or operation or otherwise, anywhere within the state of Idaho, any slot machine of any sort or kind whatsoever.

(2) The provisions of section 18-3804, Idaho Code, shall not apply to antique slot machines. For the purpose of this section, an antique slot machine is a slot machine manufactured prior to 1950, the operation of which is exclusively mechanical in nature and is not aided in whole or in part by any electronic means.

(3) Antique slot machines may be sold, possessed or located for purposes of display only and not for operation.

(4) An antique slot machine may not be operated for any purpose.
SECTION 14. That Section 18-4109, Idaho Code, be, and the same is hereby amended to read as follows:

18-4109. PUNISHMENT FOR VIOLATIONS. The following punishments are applicable to this act:

Every person who violates sections 18-4103, 18-4104 or 18-4105, Idaho Code, is punishable by a fine of not more than **three--hundred one thousand dollars ($3001,000)**, or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment for each separate violation. If such person has twice been convicted within the immediately preceding two (2) years for any offense contained in chapter 41, title 18, Idaho Code, and these convictions were for offenses which occurred ten (10) or more days apart, a third or subsequent violation of sections 18-4103, 18-4104 or 18-4105, Idaho Code, within this two (2) year period is punishable as a felony.

SECTION 15. That Section 18-4616, Idaho Code, be, and the same is hereby amended to read as follows:

18-4616. DEFACING MARKS ON LOGS OR LUMBER. Every person who cuts out, alters, mutilates, changes, disfigures, or defaces any legally recorded mark or marks made upon any log, lumber, or wood, or re-marks or puts a false mark thereon with intent to prevent the owner from discovering its identity, or places any mark upon, or cuts, saws, manufactures, or in any manner appropriates to his own use, or to the use of any other person, any prize log or timber, is guilty of a misdemeanor and punishable by a fine not exceeding **one thousand dollars ($5001,000)**, or imprisonment in the county jail not exceeding six (6) months, or by both such fine and imprisonment. In any prosecution for a violation of the provisions of this section relating to prize logs it shall be sufficient to prove that such logs are prize logs without further proof of ownership.

SECTION 16. That Section 18-4629, Idaho Code, be, and the same is hereby amended to read as follows:

18-4629. PENALTY FOR TRANSPORTATION OF FOREST PRODUCTS WITHOUT A PERMIT, CONTRACT, BILL OF SALE, OR PRODUCT LOAD RECEIPT. Violation of the provisions of this act section 18-4629, Idaho Code, shall constitute a misdemeanor, and upon conviction, be punishable by a fine of not to exceed **three--hundred one thousand dollars ($3001,000)**, or by imprisonment in the county jail not exceeding six (6) months, or both.

SECTION 17. That Section 18-6801, Idaho Code, be, and the same is hereby amended to read as follows:

18-6801. REMOVAL OR OBSTRUCTION OF TELEPHONE OR TELEGRAPH LINES OR EQUIPMENT. Every person who maliciously displaces, removes, injures or destroys any public telephone instrument or any part thereof or any equipment or facilities associated therewith, or who enters or breaks into any coin box associated therewith, or who willfully displaces, removes, injures or destroys any telegraph or telephone line, wire, cable, pole or conduit belonging to another or the material or property appurtenant thereto is guilty of a misdemeanor, and upon con-
viction thereof shall be punished by a fine not exceeding three-hundred one thousand dollars ($300,000), or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment.

SECTION 18. That Section 18-7020, Idaho Code, be, and the same is hereby amended to read as follows:

18-7020. DESTROYING LUMBER, POLES, RAFTS, AND VESSELS. Every person who willfully and maliciously burns, injures, marks, brands or defaces or destroys any pile, piling, telegraph pole, telephone pole or electric transmission line pole, fence post, pile or raft of wood, plank, boards or other lumber, or any part thereof, or cuts loose or sets adrift any such raft or part thereof, or cuts, breaks, injures, sinks or sets adrift any vessel the property of another, is punishable by a fine not exceeding one thousand dollars ($300,000), or by imprisonment in the county jail not exceeding six (6) months, or by both such fine and imprisonment.

SECTION 19. That Section 18-7031, Idaho Code, be, and the same is hereby amended to read as follows:

18-7031. PLACING DEBRIS ON PUBLIC OR PRIVATE PROPERTY A MISDEMEANOR. It shall constitute a misdemeanor for any person, natural or artificial, to deposit upon any public or private property within this state any debris, paper, litter, glass bottles, glass, nails, tacks, hooks, cans, barbed wire, boards, trash, garbage, lighted material or other waste substances on any place not authorized by any county, city, village or the owner of such property, and is punishable by imprisonment in a county jail not exceeding six (6) months, or by a fine not exceeding three-hundred one thousand dollars ($300,000), or both. Additionally, a peace officer or state fish and game personnel supervised public service of not less than eight (8) hours and not more than forty (40) hours may be imposed to clean up and to properly dispose of debris from public property, or from private property with the written consent of the private property owner, as ordered by the court.

SECTION 20. That Section 19-4705, Idaho Code, be, and the same is hereby amended to read as follows:

19-4705. PAYMENT OF FINES AND FORFEITURES -- SATISFACTION OF JUDGMENT -- DISPOSITION -- APPORTIONMENT. (1) Except as otherwise provided in subsection (2) of this section:
(a) All fines and forfeitures collected pursuant to the judgment of any court of the state shall be remitted to the court in which the judgment was rendered. The judgment shall then be satisfied by entry in the docket of the court. The clerk of the court shall daily remit all fines and forfeitures to the county auditor who shall at the end of each month apportion the proceeds according to the provisions of this act chapter. Other existing laws regarding the disposition of fines and forfeitures are hereby repealed to the extent such laws are inconsistent with the provisions of this act chapter except as provided in section 49-1013(3), Idaho Code.
(b) Fines and forfeitures remitted for violations of fish and game laws shall be apportioned two and one-half percent (2 1/2%) to the
state treasurer for deposit in the state general account fund, ten percent (10%) to the search and rescue account, twenty-two and one-half percent (22 1/2%) to the district court fund and sixty-five percent (65%) to the fish and game fund.

(c) Fines and forfeitures remitted for violations of state motor vehicle laws, for violation of state driving privilege laws, and for violation of state laws prohibiting driving while under the influence of alcohol, drugs or any other intoxicating substances, shall be apportioned ten percent (10%) to the state treasurer of which eighty-six percent (86%) shall be deposited to the state general fund and fourteen percent (14%) shall be deposited to the peace officers standards and training fund authorized in section 19-5116, Idaho Code, forty-five percent (45%) to the state treasurer for deposit in the highway distribution account, twenty-two and one-half percent (22 1/2%) to the district court fund and twenty-two and one-half percent (22 1/2%) to the state treasurer for deposit in the public school income fund; provided, however, that fines and forfeitures remitted for violation of state motor vehicle laws, for violation of state driving privilege laws, and for violation of state laws prohibiting driving while under the influence of alcohol, drugs or any other intoxicating substances, where an arrest is made or a citation is issued by a city law enforcement official, or by a law enforcement official of a governmental agency under contract to provide law enforcement services for a city, shall be apportioned ten percent (10%) to the state treasurer of which eighty-six percent (86%) shall be deposited to the state general fund and fourteen percent (14%) shall be deposited to the peace officers standards and training fund authorized in section 19-5116, Idaho Code, and ninety percent (90%) to the city whose officer made the arrest or issued the citation.

(d) Fines and forfeitures remitted for violation of any state law not involving fish and game laws, or motor vehicle laws, or state driving privilege laws, or state laws prohibiting driving while under the influence of alcohol, drugs or any other intoxicating substances, shall be apportioned ten percent (10%) to the state treasurer of which eighty-six percent (86%) shall be deposited to the state general fund and fourteen percent (14%) shall be deposited to the peace officers standards and training fund authorized in section 19-5116, Idaho Code, and ninety percent (90%) to the district court fund of the county in which the violation occurred.

(e) Fines and forfeitures remitted for violation of county ordinances shall be apportioned ten percent (10%) to the state treasurer of which eighty-six percent (86%) shall be deposited to the state general fund and fourteen percent (14%) shall be deposited to the peace officers standards and training fund authorized in section 19-5116, Idaho Code, and ninety percent (90%) to the district court fund of the county whose ordinance was violated.

(f) Fines and forfeitures remitted for violation of city ordinances shall be apportioned ten percent (10%) to the state treasurer of which eighty-six percent (86%) shall be deposited to the state general fund and fourteen percent (14%) shall be deposited to the peace officers standards and training fund authorized in section 19-5116, Idaho Code, and ninety percent (90%) to the city whose ordinance was violated.
(g) Fines and forfeitures remitted for violations not specified in this act chapter shall be apportioned ten percent (10%) to the state treasurer of which eighty-six percent (86%) shall be deposited to the state general fund and fourteen percent (14%) shall be deposited to the peace officers standards and training fund authorized in section 19-5116, Idaho Code, and ninety percent (90%) to the district court fund of the county in which the violation occurred except in cases where a duly designated officer of any city police department or city law enforcement official shall have made the arrest for any such violation, in which case ninety percent (90%) shall be apportioned to the city whose officer made the arrest.

(h) Fines and forfeitures remitted for violations involving registrations of motorcycles or motor-driven cycles used off highways, snowmobiles, or use of winter recreation parking areas shall be apportioned ten percent (10%) to the state treasurer of which eighty-six percent (86%) shall be deposited to the state general fund and fourteen percent (14%) shall be deposited to the peace officers standards and training fund authorized in section 19-5116, Idaho Code, and ninety percent (90%) to the general fund of the county or city whose law enforcement official issued the citation.

(i) Fines and forfeitures remitted for violations of overweight laws as provided in section 49-1013(3), Idaho Code, shall be deposited one hundred percent (100%) into the highway distribution account.

(2) Any fine or forfeiture remitted for any misdemeanor violation for which an increase in the maximum fine became effective on or after July 1, 2005, shall be apportioned as follows:

(a) Any funds remitted, up to the maximum amount that could have been imposed before July 1, 2005, as a fine for the misdemeanor violation, shall be apportioned according to the applicable provisions of subsection (1) of this section; and

(b) Any other funds remitted, in excess of the maximum amount that could have been imposed before July 1, 2005, as a fine for the misdemeanor violation, shall be remitted to the state treasurer and shall be deposited in the drug court, mental health court and family court services fund as set forth in section 1-1625, Idaho Code.

(3) As used in this section, the term "city law enforcement official" shall include an official of any governmental agency which is providing law enforcement services to a city in accordance with the terms of a contract or agreement, when such official makes the arrest or issues a citation within the geographical limits of the city and when the contract or agreement provides for payment to the city of fines and forfeitures resulting from such service.

SECTION 21. That Section 49-1401, Idaho Code, be, and the same is hereby amended to read as follows:

49-1401. RECKLESS DRIVING. (1) Any person who drives or is in actual physical control of any vehicle upon a highway, or upon public or private property open to public use, carelessly and heedlessly or without due caution and circumspection, and at a speed or in a manner as to endanger or be likely to endanger any person or property, or who passes when there is a line in his lane indicating a sight distance restric-
tion, shall be guilty of reckless driving and upon conviction shall be punished as provided in subsection (2) of this section.

(2) Every person who pleads guilty to or is found guilty of reckless driving for the first time is guilty of a misdemeanor and may be sentenced to jail for not more than six (6) months or may be fined not more than five-hundred one thousand dollars ($5001,000), or may be punished by both fine and imprisonment. Every person who pleads guilty to or is found guilty of reckless driving, who has previously been found guilty of or has pled guilty to reckless driving, or any substantially conforming foreign criminal violation within five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s), is guilty of a misdemeanor and may be sentenced to jail for not more than one (1) year or may be fined not more than one two thousand dollars ($±2,000), or may be punished by both fine and imprisonment. The department shall suspend the driver's license or privileges of any such person as provided in section 49-326, Idaho Code.

(3) Inattentive driving shall be considered a lesser offense than reckless driving and shall be applicable in those circumstances where the conduct of the operator has been inattentive, careless or imprudent, in light of the circumstances then existing, rather than heedless or wanton, or in those cases where the danger to persons or property by the motor vehicle operator's conduct is slight. Every person convicted of inattentive driving under this section shall be guilty of a misdemeanor and may be sentenced to jail for not more than ninety (90) days or may be fined not more than three hundred dollars ($300), or may be punished by both fine and imprisonment.

Approved March 15, 2006.

CHAPTER 72
(H.B. No. 628)

AN ACT
RELATING TO JUDGES' RETIREMENT AND COMPENSATION; AMENDING CHAPTER 20, TITLE 1, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 1-2012, IDAHO CODE, TO AUTHORIZE THE SUPREME COURT TO ADOPT, AMEND AND RESCIND RULES AND ADMINISTRATIVE POLICIES.

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

SECTION 1. That Chapter 20, Title 1, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 1-2012, Idaho Code, and to read as follows:

1-2012. RULES AND ADMINISTRATIVE POLICIES. Subject to the other provisions of this chapter, the supreme court shall have the power and authority to adopt, amend and rescind such rules and administrative policies as may be necessary for the proper administration of this chapter.

Approved March 15, 2006.
AN ACT
RELATING TO THE ISTARS TECHNOLOGY FUND; AMENDING SECTION 1-1623, IDAHO CODE, TO PROVIDE A CODE REFERENCE, TO REFERENCE PAYMENTS BY CREDIT CARD OR DEBIT CARD AND TO ALLOW FOR THE DESIGNATION OF MONEYS FOR CERTAIN TECHNOLOGIES; AND AMENDING SECTION 31-3221, IDAHO CODE, TO PROVIDE FOR THE DEPOSIT OF CERTAIN PAYMENTS INTO THE ISTARS TECHNOLOGY FUND FOR SPECIFIED USES.

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

SECTION 1. That Section 1-1623, Idaho Code, be, and the same is hereby amended to read as follows:

1-1623. IDAHO STATEWIDE TRIAL COURT AUTOMATED RECORDS SYSTEM (ISTARS) TECHNOLOGY FUND. There is hereby created in the office of the state treasurer the ISTARS technology fund. Moneys deposited into the fund pursuant to sections 31-3201, and 31-3201A and 31-3221, Idaho Code, upon appropriation by the legislature, shall be used by the supreme court for the purpose of maintaining, replacing and enhancing the Idaho Statewide Trial Court Automated Records System (ISTARS) program, and other technologies that assist in the efficient management of the courts, including a system for payments by credit card or debit card as provided in section 31-3221, Idaho Code, or that improve access to the courts and court records. The ISTARS technology fund shall be separate and distinct from the state general fund, and expenditures from the ISTARS technology fund shall be solely dedicated to the purposes set forth in this section. Moneys deposited into the fund may be allowed to accumulate from year to year for designated maintenance, replacement, extension or enhancement of the ISTARS program and for other technologies that assist in the efficient management of the courts. Interest earned on the investment of idle moneys in the ISTARS technology fund shall be returned to the ISTARS technology fund.

SECTION 2. That Section 31-3221, Idaho Code, be, and the same is hereby amended to read as follows:

31-3221. PAYMENTS TO COURT BY CREDIT CARD OR DEBIT CARD. (1) The clerk of the district court may accept payment of a debt owed to the court by a credit card or debit card. Any person making payment on a debt owed to the court by a credit card or debit card shall be assessed an electronic payment convenience fee established by the supreme court, which shall include, among other costs, the amount charged the court by the issuer for the use of the card. This fee may also be paid by credit card or debit card and included in the transaction for the payment of the debt owed to the court. The electronic payment convenience fee shall be separate from the debt owed to the court and shall be deposited into the district court ISTARS technology fund created in section 1-1623, Idaho Code, and shall be used for the implementation of the provisions of this section. The debt owed to the court shall not be expunged, canceled, released, discharged or satisfied and any receipt or other evi-
dence of payment shall be deemed conditional until the court has received final and unconditional payment of the full amount due from the financing agency or card issuer for the transaction. If an electronic payment once made is subsequently denied, revoked or otherwise canceled for any reason, and the payment is withdrawn from the court, the court may proceed as though payment had never been made.

(2) Definitions. As used in this section:

(a) "Cardholder" means the person or organization named on the face of a credit card or debit card to whom or for whose benefit the credit card or debit card is issued by an issuer.

(b) "Credit card" means any instrument or device, whether known as a credit card or credit plate or by any other name, issued with or without a fee by an issuer for the use of the cardholder in obtaining money, property, goods, services or anything else of value on credit.

(c) "Debit card" means any instrument or device, whether known as a debit card or by any other name, issued with or without a fee by an issuer for the use of the cardholder in depositing, obtaining or transferring funds.

(d) "Debt owed to the court" means any assessment of fines, court costs, surcharges, penalties, fees, restitution, cash deposit of bail, moneys expended in providing counsel and other defense services to indigent defendants, or other charges which a court judgment has ordered to be paid to the court or which a party has agreed to pay in criminal or civil cases and includes any interest or penalty on such unpaid amounts as provided for in the judgment or by law.

(e) "Issuer" means a business organization, financial institution or authorized agent of a business organization or financial institution that issues a credit card or debit card.

(3) The supreme court may adopt rules as deemed appropriate for the administration of this section and may enter into contracts with an issuer or other organization to implement the provisions of this section.

Approved March 15, 2006.

CHAPTER 74
(H.B. No. 621)

AN ACT
RELATING TO THE IDAHO TOBACCO MASTER SETTLEMENT AGREEMENT COMPLEMENTARY ACT; AMENDING SECTION 39-8402, IDAHO CODE, TO REVISE THE DEFINITION OF "STAMPING AGENT" AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 39-8402, Idaho Code, be, and the same is hereby amended to read as follows:

39-8402. DEFINITIONS. (1) "Brand family" means all styles of cigarettes sold under the same trademark and differentiated from one another
by means of additional modifiers or descriptors including, but not limited to, "menthol," "lights," "kings," and "100s," and includes any brand name (alone or in conjunction with any other word), trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes.

(2) "Cigarette" has the same meaning as that term is defined in section 39-7802(d), Idaho Code.

(3) "Commission" means the state tax commission for the state of Idaho.

(4) "Master settlement agreement" has the same meaning as that term is defined in section 39-7802(e), Idaho Code.

(5) "Nonparticipating manufacturer" means any tobacco product manufacturer that is not a participating manufacturer.

(6) "Participating manufacturer" has the same meaning as that term is defined in section II(jj) of the master settlement agreement and all amendments thereto.

(7) "Qualified escrow fund" has the same meaning as that term is defined in section 39-7802(f), Idaho Code.

(8) "Stamping agent" means a person who is authorized to wholesale cigarettes or is required to affix tax stamps to packages or other containers of cigarettes under as well as any person who pays a tobacco products tax on "roll your own" tobacco, pursuant to chapter 25, title 63, Idaho Code.

(9) "Tobacco product manufacturer" has the same meaning as that term is defined in section 39-7802(i), Idaho Code.

(10) "Units sold" has the same meaning as that term is defined in section 39-7802(j), Idaho Code.

Approved March 15, 2006.

CHAPTER 75
(H.B. No. 590)

AN ACT
RELATING TO COUNTY-BASED INTERMODAL COMMERCE AUTHORITIES; AMENDING SECTION 70-2203, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO THE ESTABLISHMENT AND ABOLISHMENT OF AN AUTHORITY; AMENDING SECTION 70-2204, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO AUTHORITY COMMISSIONERS; AMENDING SECTION 70-2205, IDAHO CODE, TO REVISE THE POWERS OF A GOVERNING BODY OF A COUNTY FOR WHICH AN INTERMODAL AUTHORITY HAS BEEN CREATED AND TO PROVIDE THAT CERTAIN ACTIONS MAY BE TAKEN BY A PUBLIC BODY AFTER A HEARING; AMENDING SECTION 70-2206, IDAHO CODE, TO REVISE THE GENERAL POWERS OF A COUNTY-BASED INTERMODAL COMMERCE AUTHORITY AND TO REVISE TERMINOLOGY; AMENDING SECTION 70-2210, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO PROPERTY AND DISPOSAL OF PROPERTY OF AN INTERMODAL AUTHORITY; AND AMENDING SECTION 70-2211, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO BONDS AND OBLIGATIONS.

Be It Enacted by the Legislature of the State of Idaho:
SECTION 1. That Section 70-2203, Idaho Code, be, and the same is hereby amended to read as follows:

70-2203. ESTABLISHMENT AND ABOLITION. Any (1) There is hereby created in each county, hereinafter referred to as a governing body, may, after a public hearing, by resolution or ordinance of its governing body, create an independent public body, corporate and politic, to be known as a local county-based intermodal commerce authority. Any county after establishment of an intermodal authority may, after a public hearing, by resolution or ordinance abolish the county-based intermodal commerce authority. A county-based intermodal commerce authority shall be authorized to exercise its functions upon the appointment and qualification of the first commissioners thereof. The resolution or ordinance creating an authority shall include provisions for governance and how the authority shall conduct its affairs. The board of directors shall consist of no less than three (3) members.

(2) No intermodal commerce authority and no county shall exercise the authority hereafter conferred by this chapter until after the county commissioners, after a public hearing, have adopted a resolution finding that:

(a) There are conditions in the county which will be benefited by the intermodal commerce authority to further the purposes set forth in section 70-2202, Idaho Code; and

(b) The county commissioners have reason to believe that the citizens of the county are supportive of the intermodal commerce authority.

(3) Upon the county making the findings set forth in subsection (2) of this section, the intermodal commerce authority is authorized to transact the business and exercise the powers hereunder by a board of commissioners to be appointed or designated as provided in section 70-2204, Idaho Code.

(4) After the establishment of an intermodal authority, any county may by resolution or ordinance, after a public hearing, abolish the county-based intermodal commerce authority provided that the payment of any bonds or other obligations of the authority shall not be adversely affected by such action.

(5) Notwithstanding any other provision of this section to the contrary, any county-based intermodal authority existing as of July 1, 2006, is hereby validated.

SECTION 2. That Section 70-2204, Idaho Code, be, and the same is hereby amended to read as follows:

70-2204. COMMISSIONERS. (1) The powers of each authority are vested in the commissioners thereof. The resolution or ordinance creating an authority shall include provisions for establishing a commission to govern the affairs of the authority; to define what constitutes a quorum of the commission; terms of commissioners; procedures for appointment, reappointment, and vacancies; appointing a board of not fewer than three (3) commissioners for the authority to stagger terms and requiring bylaws for governance of the authority. A majority of the commissioners of an authority constitutes a quorum for the purpose of conducting business of the authority and exercising its
powers for all other purposes. Action may be taken by the intermodal authority upon a vote of not less than a majority of the commissioners present for a meeting of the authority.

(2) Each local county-based intermodal commerce authority must elect a chairman and vice-chairman from among the commissioners at a time and for terms as set out in the respective resolution or ordinance.

(3) An intermodal authority may employ such other officers, agents, and employees, permanent or temporary, as it may require. Commissioners shall determine necessary qualifications, duties and compensation for officers, agents and employees. An intermodal authority may delegate to one (1) or more of its agents or employees such powers or duties as it considers proper.

(4) A commissioner of an intermodal authority is entitled to receive reimbursement for expenses for travel and the discharge of his or her duties according to the policies of the governing body.

(5) For inefficiency or neglect of duty or misconduct in office, a commissioner may be removed only after a hearing and after such commissioner has been given a copy of the charges at least ten (10) days prior to such hearing and has had the opportunity to be heard in person or by counsel.

(6) Each commissioner shall hold office until his successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk of the county and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner.

SECTION 3. That Section 70-2205, Idaho Code, be, and the same is hereby amended to read as follows:

70-2205. COOPERATION OF COUNTY. (1) For the purpose of cooperating in the planning, establishment, construction or operation of an intermodal authority or any of its facilities, any governing body of the respective county for which an intermodal authority has been created may, upon such terms, with or without consideration, as it may determine:

(1a) Dedicate, sell, convey or lease any of its interest in any property or facility or grant easements, licenses, or any other rights or privileges therein to the intermodal authority;
(2b) Cooperate with the intermodal authority in the planning of an intermodal authority and its facilities; and
(3c) Enter into agreements with the intermodal authority respecting action to be taken by the county pursuant to the provisions of this section.

(2) After a public hearing, any sale, conveyance, lease or agreement provided for in this section may be made by a public body.

SECTION 4. That Section 70-2206, Idaho Code, be, and the same is hereby amended to read as follows:

70-2206. GENERAL POWERS OF A COUNTY-BASED INTERMODAL COMMERCE AUTHORITY. An intermodal authority shall have the powers provided to it by a local governing body including:

(1) Have perpetual succession unless abolished as provided in this chapter;
(2) Sue and be sued;
(3) Have a seal;
(4) Execute contracts and other instruments and take other action that may be necessary or convenient to carry out the purposes of this chapter;
(5) Plan, establish, acquire, develop, construct, purchase, enlarge, improve, modify, maintain, equip, operate, regulate and protect transportation, storage, or other facilities or other personal property necessary or convenient to carry out the purposes of this chapter;
(6) Acquire any land or interest in land. All land and other property and privileges acquired and used by or on behalf of any intermodal authority must be used for intermodal authority purposes. The property of an intermodal authority acquired or held for the purposes of this chapter is declared to be public property used for essential public and governmental purposes and, effective the date an intermodal authority acquires title to such property, it shall be exempt from all taxes of the municipality, the county, the state or any political subdivision thereof; provided, that such tax exemption shall terminate when the authority sells or otherwise disposes of such property for development to a purchaser that is not a public body entitled to tax exemption with respect to such property. As specified in this chapter, a port authority may pledge, lease, sell, or mortgage all or any part of its facilities to secure bonds or for other financing purposes;
(7) Recommend to the local governing body county that created it, comprehensive county-based intermodal commerce authority zoning regulations in accordance with the laws of this state and the governing body; and
(8) Provide financial and other support to corporations or other business entities or organizations under the provisions of Idaho law, whose purpose is to promote, stimulate, develop and advance the economic development and prosperity of its jurisdiction and of the state and its citizens by stimulating, assisting in, and supporting the growth of all kinds of economic activity, including the creation, expansion, modernization, retention, and relocation of new and existing businesses and industry in the state, all of which will tend to promote business development, maintain the economic stability and prosperity of the state, and thus provide maximum opportunities for employment and improvement in the standards of living of citizens of the state.

SECTION 5. That Section 70-2210, Idaho Code, be, and the same is hereby amended to read as follows:

70-2210. PROPERTY -- DISPOSAL. (1) Except as may be limited by the terms and conditions of any grant, loan or agreement entered into by the intermodal authority, notwithstanding the provisions in title 31, Idaho Code, an intermodal authority may, after a public hearing, sell, lease with a provision containing the right to transfer title or otherwise dispose of any transportation, storage or other facility or other property or portion of or interest in the intermodal authority's facility or property acquired pursuant to this chapter. The disposition by sale, lease, or otherwise must be in accordance with the laws of this state and the governing body governing the disposition of other public property, unless a sale, lease, mortgage or other disposition is made under this chapter to secure bonds of the intermodal authority.
(2) Notice of the public hearing shall be posted at least fourteen (14) days prior to the date of the hearing in at least one (1) conspicuous place in the county to be determined by the commissioners of the authority. A copy of such notice shall also be published in a daily or weekly newspaper published within such county in one (1) issue thereof at least fourteen (14) days prior to the date of the hearing. The place, hour and day of such hearing shall be specified in the notice.

SECTION 6. That Section 70-2211, Idaho Code, be, and the same is hereby amended to read as follows:

70-2211. BONDS AND OBLIGATIONS. (1) Except for providing financial support to a private organization, including a business operating under Idaho law, whose purpose is to advance the economic development of its jurisdiction and of the state and its citizens, an intermodal authority may borrow money for any of its lawful purposes. For the purposes of sections 3 and 3B, article VIII of the constitution of the state of Idaho, the local intermodal authority shall be deemed and considered to be a port district. The bonds may be issued according to processes and in the form and upon terms as it determines pursuant to section 3B, article VIII of the constitution of the state of Idaho and shall have the power to issue bonds from time to time in its discretion to finance the undertaking of any project or purpose under this chapter. Bonds shall be payable out of any revenue of the intermodal authority, including revenue derived from:
   (a) Any transportation, storage or other facility;
   (b) Grants or appropriations from federal, state or local governments;
   (c) Other sources.

(2) The bonds may be issued by resolution of the intermodal authority pursuant to section 3B, article VIII of the constitution of the state of Idaho, without any limitation of amount, except that bonds may not be issued at any time if the total amount of principal and interest to become due in any year on the bonds and on any then outstanding bonds for which revenue from the same source is pledged exceeds the amount of revenue to be received in that year, as estimated in the intermodal authority order authorizing the issuance of the bonds. The intermodal authority shall take all action necessary and possible to impose, maintain, and collect rates, charges and rentals sufficient to make the revenue from the pledged source in such year at least equal to the amount of principal and interest due in that year.

(3) The bonds may be sold at public or private sale and shall bear interest at such rate or rates as the issuing intermodal authority respectively shall determine. Except as otherwise provided in this chapter, any bonds issued pursuant to this chapter by an intermodal authority may be payable as to principal and interest solely from revenue of the intermodal authority or from particular transportation, storage or other facilities of the intermodal authority. The bonds must state on their face the applicable limitations or restrictions regarding the source from which principal and interest are payable. In no circumstance shall the bonds be payable with a property tax.

(4) Bonds issued by an intermodal authority pursuant to the provisions of this chapter are declared to be issued for an essential public and governmental purpose and together with interest thereon and income
therefrom, shall be exempted from all state and local taxes.

(5) For the security of bonds, the intermodal authority may by resolution make and enter into any covenant, agreement or indenture and may exercise any additional powers authorized by a county. The sums required from time to time to pay principal and interest and to create and maintain a reserve for the bonds may be paid from any revenue referred to in this chapter, prior to the payment of current costs of operation and maintenance of the facilities. As further security for the bonds, the intermodal authority, with the approval of the governing body of the county that created the authority, may pledge, lease, sell, mortgage, or grant a security interest in all or any portion of its land-based port, transportation, storage or other facilities, whether or not the facilities are financed by the bonds. The instrument effecting the pledge, lease, sale, mortgage, or security interest may contain any agreements and provisions customarily contained in instruments securing bonds, as the commissioners of the intermodal authority consider advisable. The provisions must be consistent with this chapter and are subject to and must be in accordance with the laws of this state governing mortgages, trust indentures, security agreements, or instruments. The instrument may provide that in the event of a default in the payment of principal or interest on the bonds or in the performance of any agreement contained in the proceedings authorizing the bonds or instrument, the payment or performance may be enforced by the appointment of a receiver in equity. The receiver may collect charges, rents or fees and may apply the revenue from the mortgaged property or collateral in accordance with the provisions of the instrument.

(6) Nothing in this section may be construed to limit the use of intermodal authority revenue, including federal, state and local money to make grants and loans or to otherwise provide financial and other support to a private intermodal authority, including corporations and business entities operating under the provisions of Idaho law. The credit of the state, county or municipal governments or their agencies or authorities may not be pledged to provide financial support to the intermodal authority.

Approved March 15, 2006.

CHAPTER 76
(H.B. No. 589, As Amended)

AN ACT
RELATING TO UNIFORM CONTROLLED SUBSTANCES; AMENDING SECTION 37-2737A, IDAHO CODE, TO REVISE THE PENALTIES APPLICABLE TO THE MANUFACTURE OR DELIVERY OF METHAMPHETAMINE OR AMPHETAMINE WHERE CHILDREN ARE PRESENT.

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

SECTION 1. That Section 37-2737A, Idaho Code, be, and the same is hereby amended to read as follows:
37-2737A. MANUFACTURE OR DELIVERY OF CONTROLLED SUBSTANCE WHERE CHILDREN ARE PRESENT. (1) Except as authorized in this chapter, it is unlawful for any person to manufacture or deliver, or possess with the intent to manufacture or deliver, a controlled substance as defined in schedules I, II, III and IV in this chapter, upon the same premises where a child under the age of eighteen (18) years is present.

(2) As used in this section, "premises" means any:
(a) Motor vehicle or vessel;
(b) Dwelling or rental unit including, but not limited to, apartment, townhouse, condominium, mobile home, manufactured home, motel room or hotel room;
(c) Dwelling house, its curtilage and any other out buildings.

(3) Except as provided in subsection (4) of this section, a person who violates the provisions of this section shall be guilty of a felony and upon conviction may be imprisoned for a term not to exceed five (5) years, fined not more than five thousand dollars ($5,000), or be both so imprisoned and fined.

(4) A person who violates the provisions of this section by manufacturing or delivering, or possessing with the intent to manufacture or deliver, methamphetamine or amphetamine in quantities as specified in section 37-2732B(a)(4), Idaho Code, shall be guilty of a felony and upon conviction may be imprisoned for a term of up to ten (10) years, fined not more than twenty-five thousand dollars ($25,000), or be both so imprisoned and fined.

(5) Any fine imposed under the provisions of this section shall be in addition to the fine imposed for any other offense, and any term of imprisonment shall be consecutive to any term imposed for any other offense, regardless of whether the violation of the provisions of this section and any of the other offenses have arisen from the same act or transaction.

Approved March 15, 2006.

CHAPTER 77
(H.B. No. 581)

AN ACT
RELATING TO ADOPTION; AMENDING SECTION 16-1514, IDAHO CODE, TO REVISE DESCRIPTIVE LANGUAGE AND TO REVISE PROVISIONS APPLICABLE TO PETITIONS FOR ADOPTIONS OF FOREIGN BORN CHILDREN; AND AMENDING CHAPTER 15, TITLE 16, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 16-1514A, IDAHO CODE, TO SET FORTH PROVISIONS APPLICABLE TO INTERNATIONAL ADOPTIONS.

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

SECTION 1. That Section 16-1514, Idaho Code, be, and the same is hereby amended to read as follows:

16-1514. INTERNATIONAL--ADOPTION PETITION FOR ADOPTION OF FOREIGN BORN CHILD. (1) Proceedings to adopt a foreign born child who has been allowed to enter the United States for the purpose of adoption shall be
commenced by the filing of a petition under this section. Similarly, United States citizen parents who have adopted a child in a foreign country may commence proceedings to have the foreign adoption recognized and granted judicial comity by the filing of a petition under this section. A petition under this section shall be initiated by the person or persons proposing to adopt the child and shall be filed with the district court of the judicial district in which said person or persons reside. The petitioner shall have resided and maintained a dwelling within the state of Idaho for at least six (6) consecutive months prior to the filing of a petition. The petition shall set forth the following:

(a) The name and address of the petitioner or petitioners;
(b) The name of the child proposed to be adopted and the name by which he or she shall be known when adopted;
(c) The degree of relationship of the child, if any, to the petitioner or petitioners;
(d) The child's country of origin, and date of birth, if known;
(e) That the child has been issued a visa or other document authorizing entry into the United States as an immigrant or for the purpose of adoption or for humanitarian reasons relating to adoption in the United States and the date of the person's entry into the United States;
(f) That a home study of the petitioner or petitioners was prepared and the name of the person or agency performing the home study. A copy of the home study shall be attached to the petition;
(g) That, to the information and belief of the petitioners, the biological parents of the child to be adopted are residents of another country;
(h) That the adoption of such child is in the child's best interests.

(2) At the time fixed for the hearing on a petition for adoption under this section, the person or persons adopting the child and the child to be adopted must appear before the court where the petition was filed. The judge shall examine the petitioner or petitioners at the hearing and, if satisfied that the proposed adoption is in the best interests of the child to be adopted, shall enter a decree of adoption. The petitioner or petitioners shall at such time execute an agreement to the effect that the child shall be adopted and treated in all respects as the petitioner's own lawful child.

(3) This section governs the adoption of all foreign born children who have entered the United States to be adopted, or who have entered the United States as immigrants after having been adopted in a foreign country by United States citizens. Notwithstanding any other provision of this chapter, no consent shall be required from the biological parents of the child to be adopted if the child has been granted permission by the United States department of state or United States department of justice, immigration and naturalization service homeland security to enter the United States for the purpose of adoption; or for humanitarian reasons relating to adoption by United States citizens, or as an immigrant after having been adopted in a foreign country by United States citizens. A visa or other document from the United States department of state or United States department of justice, immigration and naturalization service homeland security authorizing entry into the United States for the purpose of adoption, or for humanitarian reasons relating to adoption by United States citizens, or as an immigrant due to adopt-
tion-in-a-foreign-country-by-United-States--citizens, shall be deemed conclusive evidence of the termination of the parental rights of the biological parents and compliance with the laws of the country of the child's birth. The provisions of chapter 20, title 16, Idaho Code, shall not apply to adoptions under this section.

(4) The decisions and orders of foreign courts and government agencies, authorized to approve adoptions, shall be accorded judicial comity or the same full faith and credit accorded a judgment of a sister state without additional proceedings or documentation, provided the United States department of state or United States department of justice, immigration--and--naturalization--service has allowed the child to enter the United States as set forth in subsection (3) of this section.

SECTION 2. That Chapter 15, Title 16, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 16-1514A, Idaho Code, and to read as follows:

16-1514A. INTERNATIONAL ADOPTION. (1) When an Idaho resident adopts a child in a foreign country in accordance with the laws of the foreign country, and such adoption is recognized as full and final by the United States government, such resident may file with a petition a copy of the decree, order or certificate of adoption which evidences finalization of the adoption in the foreign country, together with a certified translation thereof if it is not in English, and proof of full and final adoption from the United States government with the clerk of the court of any county in this state having jurisdiction over the person or persons filing such documents.

(2) The court shall assign a docket number and file and enter the documents referenced in subsection (1) of this section with an order recognizing the foreign adoption without the necessity of a hearing. Such order, along with the final decree, order or certificate from the foreign country shall have the same force and effect as if a final order of adoption were granted in accordance with the provisions of this chapter.

(3) When such order is filed and entered, the adoptive parents may request a report of adoption as provided in section 39-259, Idaho Code.

Approved March 15, 2006.

CHAPTER 78 (H.B. No. 560)

AN ACT RELATING TO RULES OF THE ROAD; AMENDING CHAPTER 6, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-624, IDAHO CODE, TO PROVIDE FOR THE DUTY OF A DRIVER OF A MOTOR VEHICLE UPON APPROACHING A STATIONARY POLICE VEHICLE OR AN AUTHORIZED EMERGENCY VEHICLE DISPLAYING FLASHING LIGHTS.

Be It Enacted by the Legislature of the State of Idaho:
SECTION 1. That Chapter 6, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-624, Idaho Code, and to read as follows:

49-624. DRIVER DUTY UPON APPROACHING A STATIONARY POLICE VEHICLE OR AN AUTHORIZED EMERGENCY VEHICLE DISPLAYING FLASHING LIGHTS. The driver of a motor vehicle, upon approaching a stationary police vehicle displaying flashing lights or an authorized emergency vehicle displaying flashing lights shall:

(1) If the driver is traveling on a highway with two (2) or more lanes carrying traffic in the same direction, immediately reduce the speed of his vehicle, proceed with due caution, or change lanes as soon as it is possible to do so in a manner that is reasonable and prudent under the conditions then existing, with regard to actual and potential hazards.

(2) If the driver is traveling on a highway with one (1) lane for each direction of travel, immediately reduce the speed of his vehicle, and maintain a safe speed for the road, weather and traffic conditions until completely past the stationary police vehicle or authorized emergency vehicle.

Approved March 15, 2006.

CHAPTER 79
(H.B. No. 554)

AN ACT
RELATING TO THE DIVISION OF BUILDING SAFETY; AMENDING THE HEADING FOR CHAPTER 40, TITLE 39, IDAHO CODE; AMENDING SECTION 39-4001, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 39-4002, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-4003, IDAHO CODE, TO REVISE TERMINOLOGY, TO REVISE DUTIES OF THE ADMINISTRATOR AND TO UPDATE REFERENCES TO APPLICABLE STANDARDS; AMENDING SECTION 39-4003A, IDAHO CODE, TO REVISE TERMINOLOGY AND TO UPDATE REFERENCES TO FEDERAL REGULATIONS; AMENDING SECTION 39-4004, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 39-4006, IDAHO CODE, RELATING TO A PROHIBITION ON THE CONVERSION OF SYSTEMS FOLLOWING ISSUANCE OF INSIGNIA; REPEALING SECTION 39-4008, IDAHO CODE, RELATING TO EXEMPTIONS FOR MANUFACTURED HOMES FROM LOCAL ORDINANCES OR REGULATIONS; REPEALING SECTION 39-4009, IDAHO CODE, RELATING TO PERSONS AUTHORIZED TO SUPERVISE THE INSTALLATION OF PLUMBING, HEAT PRODUCING AND ELECTRICAL SYSTEMS IN MANUFACTURED HOMES; AND AMENDING SECTION 67-2601, IDAHO CODE, TO PROVIDE CODE REFERENCES, TO REFERENCE DEPUTY ADMINISTRATORS, TO REMOVE A REFERENCE TO RECREATIONAL VEHICLES AND TO MAKE TECHNICAL CHANGES.

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

SECTION 1. That the Heading for Chapter 40, Title 39, Idaho Code, be, and the same is hereby amended to read as follows:
SECTION 2. That Section 39-4001, Idaho Code, be, and the same is hereby amended to read as follows:

39-4001. ENFORCEMENT OF LAW. The administrator of the division of building safety shall enforce the provisions of this chapter. It shall be the responsibility and duty of the state electrical-and-plumbing building code boards to assist the administrator in the administration and enforcement of the provisions of this chapter as hereinafter provided.

SECTION 3. That Section 39-4002, Idaho Code, be, and the same is hereby amended to read as follows:

39-4002. COMPLIANCE WITH LAW REQUIRED. It is unlawful for any person, firm, partnership, association or corporation to sell or offer for sale within this state any manufactured home that is not manufactured in compliance with this act chapter after March 8, 1971.

SECTION 4. That Section 39-4003, Idaho Code, be, and the same is hereby amended to read as follows:

39-4003. DIRECTOR-OF-DEPARTMENT ADMINISTRATOR -- DUTIES. (1) The director administrator shall by rule define the term "manufactured home" to be consistent with national standards and the use of the term in industry 24 CFR 3280 (housing and urban development manufactured home construction and safety standards) and may delegate enforcement and administration of those standards to the Idaho building code board. (2) Such rule shall be enforced by the director who may delegate to the Idaho electrical board and the Idaho plumbing board the administration and enforcement of such health and safety standards as involve plumbing, heat-producing and electrical systems.

SECTION 5. That Section 39-4003A, Idaho Code, be, and the same is hereby amended to read as follows:

39-4003A. RIGHT OF ENTRY. In order to carry out the purposes of this chapter, the director administrator or his authorized representative shall, during regular working hours and at other reasonable times, have the right of entry to conduct the inspections required by this chapter; the right of entry to make inspections to carry out the duties and responsibilities as an in-plant inspection agency (IPIA) by the authority granted by the U.S. department of housing and urban development pursuant to 24 CFR 3282.352 and 362(c)(2); and the right of entry to make inspections to carry out the duties and responsibilities as a state administrative agency (SAA) by the authority granted by the U.S. department of housing and urban development pursuant to 24 CFR 3282.305.

SECTION 6. That Section 39-4004, Idaho Code, be, and the same is hereby amended to read as follows:
39-4004. INSPECTION AND ENFORCEMENT FEES -- SCHEDULE AUTHORIZED.

(1) The director administrator is authorized to establish a schedule of fees to pay the cost of inspection and enforcement of this chapter without recourse to tax subsidies. Such fee schedule shall be consistent with the actual cost of maintaining the program.

(2) The director administrator shall be authorized to participate in the fee distribution system of the U.S. department of housing and urban development set out in 24 CFR Part 3282. The director administrator shall establish a monitoring inspection fee in an amount established by the secretary of the U.S. department of housing and urban development. This monitoring inspection fee shall be an amount paid by each manufactured home manufacturer in the state for each manufactured home produced by the manufacturer in the state. This fee shall be in addition to any in-plant inspection agency (IPIA) fees assessed by the director administrator, which shall be consistent with the actual cost of providing such inspections.

(3) The monitoring inspection fee shall be paid by the manufacturer to the secretary of the U.S. department of housing and urban development who shall distribute the fees collected from all manufactured home manufacturers among the approved and conditionally-approved states based on the number of new manufactured homes whose first location after leaving the manufacturing plant is on the premises of a distributor, dealer, or purchaser in that state.

SECTION 7. That Section 39-4006, Idaho Code, be, and the same is hereby repealed.

SECTION 8. That Section 39-4008, Idaho Code, be, and the same is hereby repealed.

SECTION 9. That Section 39-4009, Idaho Code, be, and the same is hereby repealed.

SECTION 10. That Section 67-2601, Idaho Code, be, and the same is hereby amended to read as follows:

67-2601. DEPARTMENT CREATED -- ORGANIZATION -- DIRECTOR -- BUREAU OF OCCUPATIONAL LICENSES CREATED. (1) There is hereby created the department of self-governing agencies. The department shall, for the purposes of section 20, article IV of the constitution of the state of Idaho, be an executive department of the state government.

(2) The department shall consist of the following:

(a) Agricultural commodity commissions: Idaho apple commission, as provided by chapter 36, title 22, Idaho Code; Idaho bean commission, as provided by chapter 29, title 22, Idaho Code; Idaho beef council, as provided by chapter 29, title 25, Idaho Code; Idaho cherry commission, as provided by chapter 37, title 22, Idaho Code; Idaho dairy products commission, as provided by chapter 31, title 25, Idaho Code; Idaho pea and lentil commission, as provided by chapter 35, title 22, Idaho Code; Idaho potato commission, as provided by chapter 12, title 22, Idaho Code; Idaho prune commission, as provided by chapter 30, title 22, Idaho Code; the Idaho wheat commission, as provided by chapter 33, title 22, Idaho Code; and the Idaho
aquaculture commission, as provided by chapter 44, title 22, Idaho Code.

(b) Professional and occupational licensing boards: Idaho state board of certified public accountancy, as provided by chapter 2, title 54, Idaho Code; board of acupuncture, as provided by chapter 47, title 54, Idaho Code; board of architectural examiners, as provided by chapter 3, title 54, Idaho Code; office of the state athletic director, as provided by chapter 4, title 54, Idaho Code; board of barber examiners, as provided by chapter 5, title 54, Idaho Code; board of commissioners of the Idaho state bar, as provided by chapter 4, title 3, Idaho Code; board of chiropractic physicians, as provided by chapter 7, title 54, Idaho Code; Idaho board of cosmetology, as provided by chapter 8, title 54, Idaho Code; Idaho counselor licensing board, as provided by chapter 34, title 54, Idaho Code; state board of dentistry, as provided by chapter 9, title 54, Idaho Code; state board of denturitry, as provided by chapter 33, title 54, Idaho Code; state board of engineering examiners, as provided by chapter 12, title 54, Idaho Code; state board for registration of professional geologists, as provided by chapter 28, title 54, Idaho Code; speech and hearing services licensure board, as provided by chapter 29, title 54, Idaho Code; Idaho state board of landscape architects, as provided by chapter 30, title 54, Idaho Code; liquefied petroleum gas safety board, as provided by chapter 5±3, title 54, Idaho Code; state board of medicine, as provided by chapter 18, title 54, Idaho Code, and its associated physical therapist advisory board, as provided by chapter 22, title 54, Idaho Code; state board of morticians, as provided by chapter 11, title 54, Idaho Code; board of naturopathic medical examiners, as provided by chapter 51, title 54, Idaho Code; board of nurses, as provided by chapter 14, title 54, Idaho Code; board of examiners of nursing home administrators, as provided by chapter 16, title 54, Idaho Code; state board of optometry, as provided by chapter 15, title 54, Idaho Code; Idaho outfitters and guides board, as provided by chapter 21, title 36, Idaho Code; board of pharmacy, as provided by chapter 17, title 54, Idaho Code; state board of podiatry, as provided by chapter 6, title 54, Idaho Code; Idaho state board of psychologist examiners, as provided by chapter 23, title 54, Idaho Code; Idaho real estate commission, as provided by chapter 20, title 54, Idaho Code; real estate appraiser board, as provided by chapter 41, title 54, Idaho Code; board of social work examiners, as provided by chapter 32, title 54, Idaho Code; the board of veterinary medicine, as provided by chapter 21, title 54, Idaho Code; the board of examiners of residential care facility administrators, as provided by chapter 42, title 54, Idaho Code; and the board of drinking water and wastewater professionals, as provided by chapter 24, title 54, Idaho Code.

(c) The board of examiners, pursuant to section 67-2001, Idaho Code.

(d) The division of building safety, to be headed by a division administrator and comprised of five (5) bureaus: plumbing, electrical, buildings, public works contractor licensing, and logging and industrial safety. The division administrator, deputy administrators and bureau chiefs shall be nonclassified employees exempt from the provisions of chapter 53, title 67, Idaho Code.

(i) The administrator of the division shall administer the
provisions of chapter 40, title 39, Idaho Code, relating to manufactured homes; and recreational vehicles chapter 41, title 39, Idaho Code, relating to modular buildings; chapter 21, title 44, Idaho Code, relating to manufactured home dealer and installer licensing; chapter 22, title 44, Idaho Code, relating to manufactured home installation; chapter 25, title 44, Idaho Code, relating to mobile home rehabilitation; chapter 10, title 54, Idaho Code, relating to electrical contractors and journeymen; chapter 19, title 54, Idaho Code, relating to licensing of public works contractors; chapter 26, title 54, Idaho Code, relating to plumbing and plumbers; chapter 19, title 54, Idaho Code, relating to public works contractor licensing; chapter 50, title 54, Idaho Code, relating to heating, ventilation and air conditioning systems; and shall perform such additional duties as are imposed upon him by law.

(ii) The division administrator shall cooperate with the industrial commission and aid and assist the commission in its administration of sections 72-720, 72-721 and 72-723, Idaho Code, and at the request of the commission shall make inspection of appliances, tools, equipment, machinery, practices or conditions, and make a written report to the commission. The administrator shall make recommendations to the commission to aid the commission in its administration of sections 72-720, 72-721 and 72-723, Idaho Code, provided however, that nothing herein shall be construed as transferring to the administrator any of the authority or powers now vested in the industrial commission.

(e) The division of veterans services to be headed by a division administrator who shall be a nonclassified employee exempt from the provisions of chapter 53, title 67, Idaho Code. The administrator of the division shall administer the provisions of chapter 2, title 65, Idaho Code, and chapter 9, title 66, Idaho Code, with the advice of the veterans affairs commission established under chapter 2, title 65, Idaho Code, and shall perform such additional duties as are imposed upon him by law.

(3) The bureau of occupational licenses is hereby created within the department of self-governing agencies.

Approved March 15, 2006.

CHAPTER 80
(H.B. No. 551)

AN ACT
RELATING TO PUBLIC WORKS CONTRACTORS; AMENDING SECTION 54-1904, IDAHO CODE, TO REVISE LICENSING FEES.

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

SECTION 1. That Section 54-1904, Idaho Code, be, and the same is hereby amended to read as follows:
54-1904. CLASSES OF LICENSES -- RIGHTS GRANTED UNDER LICENSES -- FEES. There shall be six (6) classes of licenses issued under the provisions of this chapter which are hereby designated as Classes AAA, AA, A, B, C and D, the maximum fee for which shall be as hereinafter specified. Each applicant for a license shall specify the class of license applied for in his application.

For the purpose of licensing public works contractors under this chapter the board may adopt rules necessary to determine the classification according to their responsibility, and the type and scope of the operations of a licensed contractor to those in which he is classified and qualified to engage as in this chapter provided.

Class "AAA" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of more than three million dollars ($3,000,000) may, upon his application and the payment of a license fee not to exceed one five hundred fifty dollars ($±500), be granted a Class "AAA" license and be so classified by the board in accordance with the provisions of this chapter. The holder of a Class "AAA" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "AAA" license shall not exceed one five hundred fifty dollars ($±500).

Class "AA" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of not more than three million dollars ($3,000,000) may, upon his application and the payment of a license fee not to exceed one four hundred fifty dollars ($±450), be granted a Class "AA" license and be so classified by the board in accordance with the provisions of this chapter. The holder of a Class "AA" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "AA" license shall not exceed one four hundred fifty dollars ($±450).

Class "A" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of not more than one million dollars ($1,000,000) may, upon his application and the payment of a license fee not to exceed one three hundred fifty dollars ($±300), be granted a Class "A" license and be so classified by the board in accordance with the provisions of this chapter. The holder of a Class "A" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "A" license shall not exceed one three hundred fifty dollars ($±300).

Class "B" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of not more than five hundred thousand dollars ($500,000), may, upon his application and the payment of a license fee not to exceed seventy-five one hundred fifty dollars ($75±50) be granted a Class "B" license and be so classified by the board in accordance with the provisions of this chapter. The holder of a Class "B" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "B" license shall not exceed seventy-five one hundred fifty dollars ($75±50).

Class "C" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of not more than one hundred thousand dollars ($100,000),
may, upon his application and the payment of a license fee not to exceed $75, one hundred dollars ($75-100), be granted a Class "C" license and be so classified by the board in accordance with the provisions of this chapter. The holder of a Class "C" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "C" license shall not exceed $75, one hundred dollars ($75-100).

Class "D" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of not more than fifty thousand dollars ($50,000), may, upon his application and the payment of a license fee not to exceed $75, fifty dollars ($75.00), be granted a Class "D" license and be so classified by the board in accordance with the provisions of this chapter. The holder of a Class "D" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "D" license shall not exceed $75, fifty dollars ($75.00).

The board shall be vested with the power to fix annually the amount of the original and renewal license fees for each class of license for the ensuing license year. The amount of the license fee so fixed shall not exceed the maximum fee set forth in this section.

Each license issued by the administrator shall clearly indicate the type and scope of work for which the licensee is qualified and licensed. The holder of the license shall be permitted to submit proposals for and perform only those types of work specified in each license. The administrator may extend the permissible type or scope of work to be done under any license when it is determined by the administrator that the applicant meets all of the requirements of this chapter to qualify him to do such other work.

Approved March 15, 2006.

CHAPTER 81
(H.B. No. 550)

AN ACT
RELATING TO THE IDAHO ELEVATOR SAFETY CODE ACT; AMENDING CHAPTER 86, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-8623, IDAHO CODE, TO ESTABLISH THE IDAHO ELEVATOR SAFETY FUND AND TO PROVIDE FOR THE APPROPRIATION OF MONEYS IN THE FUND.

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

SECTION 1. That Chapter 86, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-8623, Idaho Code, and to read as follows:

39-8623. IDAHO ELEVATOR SAFETY FUND ESTABLISHED. All moneys received by the administrator under the provisions of this chapter shall be paid into the state treasury as directed by section 59-1014, Idaho Code, and shall be placed by the state treasurer to the credit of a dedicated fund to be known as the "Idaho Elevator Safety Fund" which is
hereby established. All such moneys hereafter placed in the fund are hereby set aside and appropriated to the division of building safety to carry into effect the provisions of this chapter.

Approved March 15, 2006.

CHAPTER 82
(H.B. No. 549)

AN ACT
RELATING TO ELECTRICAL CONTRACTORS AND JOURNEYMEN; AMENDING SECTION 54-1008, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO THE DURATION OF LICENSES; REPEALING SECTION 54-1013A, IDAHO CODE, RELATING TO THE RENEWAL OF CERTAIN LICENSES; AND AMENDING SECTION 54-1014, IDAHO CODE, TO REMOVE OBSOLETE CODE REFERENCES.

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

SECTION 1. That Section 54-1008, Idaho Code, be, and the same is hereby amended to read as follows:

54-1008. DURATION OF LICENSE. (1) All licenses, including license renewals, other than as provided in section 54-1013A, Idaho Code, for master electricians, journeyman electricians and specialty journeyman electricians shall bear the date of issue for a period of three (3) years, and shall expire thirty-six (36) calendar months three (3) years from the date of issue, unless renewed as provided in section 54-1013, Idaho Code revoked or suspended.

(2) Electrical contractor, specialty electrical contractor and apprentice/specialty trainee licenses issued after July 1, 2002, shall bear the date of issue for a period of one (1) year, and shall expire on the first day of July next following. Each licensing period shall end at midnight on the last day of the licensing period.

(3) Each licensing period shall end at midnight on the last day of the licensing period.

(4) The board shall promulgate rules to provide for a staggered system of issuing and renewing licenses.

SECTION 2. That Section 54-1013A, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Section 54-1014, Idaho Code, be, and the same is hereby amended to read as follows:

54-1014. FEES. The administrator of the division of building safety shall charge the following fees:

(1) Application for license $15.00
(2) One-year licenses:
(a) Electrical contractor license $125.00
(b) Electrical contractor license renewal 100.00
(c) Electrical contractor license revival 125.00
(d) Apprentice/specialty trainee registration and working license

10.00

(e) Specialty contractor license

125.00

(f) Specialty contractor license renewal

100.00

(g) Specialty contractor license revival

125.00

(3) Three-year licenses, in accordance with sections 54-1008; and 54-1013, and 54-1013A, Idaho Code:

(a) Master electrician license $65.00

(b) Master electrician license renewal $45.00

(c) Master electrician license revival $55.00

(d) Journeyman electrician license $55.00

(e) Journeyman electrician license renewal $45.00

(f) Journeyman electrician license revival $55.00

(g) Specialty journeyman electrician license $55.00

(h) Specialty journeyman electrician license renewal $45.00

(i) Specialty journeyman electrician license revival $55.00

(4) For licenses issued or renewed pursuant to section 54-1013A, Idaho Code, the administrator of the division of building safety shall prorate the fees set forth in subsection (3) of this section for the actual number of months the license will be in effect.

Approved March 15, 2006.
any time during the term of active contractor or specialty contractor licensure, the licensee failed to maintain required liability insurance or applicable worker’s compensation insurance.

(3) Before any license shall be revoked or suspended, the holder thereof shall have written notice enumerating the charges against him, and shall be given a hearing by said administrator, and have an opportunity to produce testimony in his behalf, at a time and place specified in said notice, which time shall not be less than five (5) days after the service thereof.

(a) The proceedings shall be governed by the provisions of chapter 52, title 67, Idaho Code.

(b) Any party aggrieved by the action of the administrator shall be entitled to judicial review thereof in accordance with the provisions of chapter 52, title 67, Idaho Code.

(4) The administrator shall have the power to appoint, by an order in writing, a hearing officer to take testimony, who shall have power to administer oaths, issue subpoenas and compel the attendance of witnesses, and the decision of the administrator shall be based on his examination of the testimony taken and the records produced. Any person whose license has been revoked may, after the expiration of one (1) year from the date of such revocation, but not before, apply for a new license.

SECTION 2. That Section 54-1013, Idaho Code, be, and the same is hereby amended to read as follows:

54-1013. RENEWAL OF LICENSES -- INACTIVE LICENSES. (1) A license once issued under this chapter, unless revoked or suspended as herein provided, may be renewed at any time during the final month of the licensing period on the payment of the renewal fee herein specified, proof of satisfaction of the continuing education requirements as established by the electrical board, and provided that all outstanding civil penalties, and permit or other fees, have been paid in full, and all outstanding correction notices have been satisfactorily resolved. For electrical contractors and specialty electrical contractors, proof of liability insurance in the amount of three hundred thousand dollars ($300,000) shall also be required, and proof of worker's compensation insurance shall be required if applicable.

(2) Any license which has expired may be revived at any time within one (1) year from the first day of the final month of the licensing period, by payment of the revival fee herein specified, together with all outstanding civil penalties, and permit or other fees and penalties, and upon proof that outstanding correction notices have been satisfactorily resolved. For electrical contractors and specialty electrical contractors, proof of liability insurance in the amount of three hundred thousand dollars ($300,000) shall also be required, and proof of worker's compensation insurance shall be required if applicable.

(3) Certificates of competency issued prior to July 1, 1961, shall, for the purpose of this chapter, be considered as licenses and may be renewed or revived as herein provided.

(4) The administrator may renew, on an inactive basis, the license of an electrical contractor or specialty contractor who is not engaged in electrical contracting in this state. The board shall fix and collect an inactive license fee for such an inactive license renewal in an
amount not to exceed one hundred fifty dollars ($150). Each inactive license shall be issued for a period of one (1) year. An electrical contractor or specialty contractor holding an inactive license may not engage in the practice of electrical contracting or specialty contracting in this state. If an electrical contractor or specialty contractor wishes to convert his inactive license to an active license, he may do so by paying a processing fee of thirty dollars ($30.00) and providing proof of the required liability insurance and applicable worker's compensation insurance.

Approved March 15, 2006.

CHAPTER 84
(H.B. No. 547)

AN ACT
RELATING TO THE STATE BOARD FOR PROFESSIONAL-TECHNICAL EDUCATION; AMENDING SECTION 33-2211, IDAHO CODE, TO PROVIDE ADDITIONAL RULEMAKING AUTHORITY; AND AMENDING SECTION 33-2303, IDAHO CODE, TO PERMIT THE BOARD TO ENTER INTO AGREEMENTS TO PROVIDE VOCATIONAL REHABILITATION SERVICES, TO PERMIT APPLICATIONS FOR APPROVAL AND CERTIFICATION OF SUCH SERVICES AND TO PROVIDE AUTHORITY REGARDING CERTIFICATIONS AND APPROVALS.

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

SECTION 1. That Section 33-2211, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

4. To contract for the acquisition, purchase or repair of buildings, in the manner prescribed for trustees of school districts;

5. To dispose of real and personal property in the manner prescribed for trustees of school districts;

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

7. To acquire, hold, and dispose of, water rights;

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

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

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

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

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

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

SECTION 2. That Section 33-2303, Idaho Code, be, and the same is hereby amended to read as follows:

33-2303. POWERS OF BOARD IN CARRYING OUT PROVISIONS. (1) The board heretofore designated as the state board for professional-technical education is hereby designated as the state board for the purpose of providing for the vocational rehabilitation of persons with disabilities, other than those who are legally blind, and is empowered and directed to cooperate in the administration of said act of Congress; to prescribe and provide such courses of vocational services as may be necessary for the vocational rehabilitation of persons with disabilities, other than those who are legally blind, and provide for the supervision of such services; to appoint such assistants as may be necessary to administer this act and said act of Congress in this state; to fix the compensation of such assistants and to direct the disbursement and administer the use of all funds provided by the federal government and the state of Idaho for the vocational rehabilitation of such persons.

(2) In order to provide vocational rehabilitation services the board of professional-technical education may enter into, or authorize a state vocational rehabilitation agency over which it has oversight to enter into, agreements with any person, corporation or association, approved by the board of professional-technical education to provide such services.

(3) Any person, corporation or association may make application to the board of professional-technical education for approval and certification to provide vocational rehabilitation services. The board of professional-technical education may either grant or deny certification
CHAPTER 85
(H.B. No. 536)

AN ACT
RELATING TO HUMAN TRAFFICKING; AMENDING TITLE 18, IDAHO CODE, BY THE
ADDITION OF A NEW CHAPTER 85, TITLE 18, IDAHO CODE, TO SET FORTH
LEGISLATIVE INTENT, TO DEFINE "HUMAN TRAFFICKING," TO PROVIDE PENAL-
TIES, TO SET FORTH RESTITUTION AND REHABILITATION PROVISIONS AND TO
PROVIDE FOR HUMAN TRAFFICKING VICTIM PROTECTION.

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

SECTION 1. That Title 18, Idaho Code, be, and the same is hereby
amended by the addition thereto of a NEW CHAPTER, to be known and desig-
nated as Chapter 85, Title 18, Idaho Code, and to read as follows:

CHAPTER 85
HUMAN TRAFFICKING

18-8501. LEGISLATIVE INTENT. It is the intent of the legislature to
address the growing problem of human trafficking and to provide criminal
sanctions for persons who engage in human trafficking in this state. In
addition to the other provisions enumerated in this chapter, the legis-
lature finds that it may also be appropriate for members of the law
enforcement community to receive training from the respective training
entities in order to increase awareness of possible human trafficking
cases occurring in Idaho and to assist and direct victims of such traf-
ficking to available community resources.

18-8502. HUMAN TRAFFICKING DEFINED. "Human trafficking" means:
(1) Sex trafficking in which a commercial sex act is induced by
force, fraud or coercion, or in which the person induced to perform such
act has not attained eighteen (18) years of age; or
(2) The recruitment, harboring, transportation, provision, or
obtaining of a person for labor or services, through the use of force,
fraud or coercion for the purpose of subjection to involuntary servi-
tude, peonage, debt bondage, or slavery.

18-8503. PENALTIES. Notwithstanding any other law to the contrary,
on and after July 1, 2006, any person who commits a crime as provided
for in the following sections, and who, in the commission of such crime
or crimes, also commits the crime of human trafficking, as defined in

or revoke certification previously granted after investigation of the
applicant, in accordance with standards as set forth in rules promul-
gated by the board of professional-technical education, and consistent
with national accreditation bodies. The board of professional-technical
education may authorize a state vocational rehabilitation agency over
which it has oversight to provide the approvals or certifications
described in this subsection.

Approved March 15, 2006.
section 18-8502, Idaho Code, shall be punished by imprisonment in the state prison for not more than twenty-five (25) years unless a more severe penalty is otherwise prescribed by law: 18-905 (aggravated assault), 18-907 (aggravated battery), 18-909 (assault with intent to commit a serious felony), 18-911 (battery with intent to commit a serious felony), 18-913 (felonious administering of drugs), 18-1501(1) (felony injury to child), 18-1505(1) (felony injury to vulnerable adult), 18-1505(3) (felony exploitation of vulnerable adult), 18-1505B (sexual abuse and exploitation of vulnerable adult), 18-1506 (sexual abuse of a child under the age of sixteen years), 18-1506A (ritualized abuse of child), 18-1507 (sexual exploitation of child), 18-1508A (sexual battery of minor child sixteen or seventeen years of age), 18-1509A (enticing of children over the internet), 18-2407(1) (grand theft), 18-5601 through 18-5614 (prostitution), or 18-7804 (racketeering).

18-8504. RESTITUTION -- REHABILITATION. (1) In addition to any other amount of loss resulting from a human trafficking violation, the court shall order restitution, as applicable, including the greater of:
(a) The gross income or value to the defendant of the victim's labor or services; or
(b) The value of the victim's labor as guaranteed under the minimum wage and overtime provisions of the federal fair labor standards act.
(2) In addition to any order for restitution as provided in this section, the court shall order the defendant to pay an amount determined by the court to be necessary for the mental and physical rehabilitation of the victim or victims.

18-8505. HUMAN TRAFFICKING VICTIM PROTECTION. (1) The attorney general, in consultation with the department of health and welfare and the United States attorney's office, shall, no later than July 1, 2007, issue a report outlining how existing victim and witness laws respond to the needs of human trafficking victims, and suggesting areas of improvement and modification.
(2) The department of health and welfare, in consultation with the attorney general, shall, no later than July 1, 2007, issue a report outlining how existing social service programs respond or fail to respond to the needs of human trafficking victims, and the interplay of such existing programs with federally-funded victim service programs, and suggesting areas of improvement or modification. Such inquiry shall include, but not be limited to, the ability of state programs and licensing bodies to recognize federal T nonimmigrant status for the purposes of benefits, programs and licenses.

Approved March 15, 2006.
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 22-2517, Idaho Code, be, and the same is hereby amended to read as follows:

22-2517. PUBLIC POLICY. The Idaho based bee industry has a need for inspections and certification in order to transport bees into other states for pollination; there is a further need to minimize the presence of bee pests and diseases within the state. Therefore, it is declared to be public policy of the state of Idaho to provide a qualified inspection service within the department of agriculture, to issue regulations rules setting fees for such services and to take such action to control pests and diseases of bees as the resources provided under this act chapter support.
SECTION 2. That Section 22-2518, Idaho Code, be, and the same is hereby amended to read as follows:

22-251802. DEFINITIONS. The following terms shall be construed respectively when used in this act chapter to mean:

(1) "Apiary" means any place where one (1) or more colonies of bees are kept, or one (1) or more hives containing honey combs or bee combs are kept.

(2) "Bee diseases" means a condition of a colony of bees wherein sufficient numbers of individual bees or the colony as a whole are afflicted by or infested with bacterial, fungal, viral, parasitic, or other organisms to the extent that the well-being of the colony is affected. Specific diseases shall be determined by regulation rule.

(3) "Bees" means any stage of common honey bee, Apis mellifera L.

(4) "Colony" means the hive and bees therein with or without extra supers.

(5) "Comb" means and includes all materials which are normally deposited into hives by bees. It does not include extracted honey or royal jelly, trapped pollen and processed beeswax.

(6) "Commercial beekeeper" means a person engaged in the management of honey bees for their products and for pollination services.

(7) "Director" means the director of the Idaho department of agriculture or his designated agent.

(8) "Equipment" means hives, supers, frames, veils, gloves or any apparatus, tools, machines or other devices used in the handling and manipulation of bees, wax and hives, and shall also include any containers for honey and wax which may be used in any apiary or in transporting bees and their products and apiary supplies.

(9) "Exotic strain of bees" means African or Africanized bees (Apis mellifera scutellata) or any other developed strain of bees known to be harmful, but not known to be present ordinarily in this state.

(10) "Hive" means frame, hive, box, barrel, log gum, skep, or any other receptacle or container, natural or artificial, or any part thereof, which may be used as a domicile for bees.

(11) "Hobbyist beekeeper" means a person engaged in the management of honey bees for pleasure and whose stock does not exceed fifty (50) colonies.

(12) "Persons" means individuals, associations, partnerships and corporations.


(14) "Queen apiary" means any apiary or premises in which queen bees are reared or kept for sale or gift.

SECTION 3. That Section 22-2519, Idaho Code, be, and the same is hereby amended to read as follows:

22-251903. DIRECTOR TO CONDUCT APIARY INSPECTIONS -- REGULATIONS RULES SETTING FEES FOR REQUESTED INSPECTIONS AUTHORIZED. The director shall conduct such apiary inspections as may be required by Idaho beekeepers to transport bees to other jurisdictions. To ensure that the inspections are adequate, the director shall consult with scientists
designated--by--the--dean--of--the--college-of-agriculture;--University-of
Idaho;--the--directors--of--the--Idaho--honey--association--or--successor--organiza-
tions,--and--with--other--persons--knowledgeable--in--the--science--and--art--of
beekeeping.---The--director--shall--establish--by--regulation--rule--a--schedule
of--fees--for--inspection--work--to--be--paid--by--the--person--requesting--the
inspection.

SECTION 4. That--Section--22-2520,--Idaho--Code,--be,--and--the--same--is
hereby--amended--to--read--as--follows:

22-252004. DUTIES--OF--THE--DIRECTOR--IN--CONTROLLING--THE--SPREAD--OF--DI-
EASE--AND--EXOTIC--STRAIN--OF--BEES.---When--the--director--shall--be--notified--of
the--existence--in--any--apiary--of--a--transmissible--bee--disease--or--exotic
strain--of--bees,--or--items--prohibited--in--section-22-2521,--Idaho--Code,--he
shall--conduct--appropriate--investigations--to--the--extent--that--the
resources--provided--by--this--act--chapter--support.---If--the--investigation
establishes--the--presence--of--such--transmissible--disease--or--exotic--strain
of--bees,--the--director--may--order--abatement--by--methods--which--he--shall--pre-
scribe.---These--methods--may--include--destruction--of--the--infested--bees--or
exotic--strain--of--bees--and--contaminated--equipment.---Infested--colonies--or
other--equipment--may--not--be--removed--from--the--premises--on--which--they--are
found--without--written--permission--of--the--director.---The--director--may,--by
rule,--establish--tolerances--of--regulated--bee--diseases--allowable--in--apiar-
ies--and--establish--a--certification--program--for--beekeepers--in--order--to
prevent--and--control--the--movement--of--exotic--strains--of--bees--into--the
state.

SECTION 5. That--Section--22-2521,--Idaho--Code,--be,--and--the--same--is
hereby--repealed.

SECTION 6. That--Section--22-2523,--Idaho--Code,--be,--and--the--same--is
hereby--amended--to--read--as--follows:

22-252305. DUTY--OF--OWNER--OF--DISEASED--BEES----PENALTY.---Any--owner--or
keeper--of--bees,--knowing--or--being--notified--by--the--director--of--the--exis-
tence--of--fomites--or--other--infectious--or--contagious--a--bee--disease--in
his--apiary,--who--fails--either--to--comply--with--the--instructions--of--the
director,--designed--to--cure--said--disease,--or--to--destroy--the--infected
bees,--hives--or--appliances,--within--the--time--designated--by--the--director,
is--guilty--of--a--misdemeanor.

SECTION 7. That--Section--22-2524,--Idaho--Code,--be,--and--the--same--is
hereby--amended--to--read--as--follows:

22-252406. RIGHT--TO--INSPECT----PENALTY--FOR--RESISTING.---The--director
shall--have--the--right--to--enter--the--premises--of--any--beekeeper--where--bees
or--equipment--are--kept,--and--inspect--such--bees--or--equipment,--and--any--per-
son--resisting--or--refusing--to--allow--such--inspection--shall--be--guilty--of--a
misdemeanor.

SECTION 8. That--Section--22-2525,--Idaho--Code,--be,--and--the--same--is
hereby--repealed.
SECTION 9. That Section 22-2526, Idaho Code, be, and the same is hereby repealed.

SECTION 10. That Section 22-2529, Idaho Code, be, and the same is hereby amended to read as follows:

22-252907. ACT CHAPTER CONSTRUED TO PERMIT TRANSPORTATION OF BEES -- PERMIT. This act chapter shall not be construed to prevent the transportation across the Idaho state line of bees in hives, or bee supplies and equipment, between bee yards owned by, or under the control of a "qualified--bi-state--beekeeper." However, such transportation shall not be lawful unless a general and continuing permit therefor as hereinafter provided in Section 22-2530, Idaho Code, shall have been first obtained from the director, and such permit may be revoked by the director upon a showing that such privilege has been or is being abused. Beekeeper registered pursuant to Section 22-2510, Idaho Code. Bee colonies in transit through Idaho shall be netted while within the borders of Idaho and no such bees shall be off loaded in Idaho without full compliance of the laws.

SECTION 11. That Section 22-2530, Idaho Code, be, and the same is hereby repealed.

SECTION 12. That Chapter 25, Title 22, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 22-2508, Idaho Code, and to read as follows:

22-2508. PUBLICATION OF REGISTERED BEEKEEPERS. The department shall make available to any pesticide applicator registered with the department, mosquito abatement or pest control district, or University of Idaho county agricultural extension office, a list of beekeepers registered with the department. The list shall include the names and telephone numbers of the beekeepers, the counties in which they keep bees, and any other information the department deems necessary to assist in the prevention of accidental poisoning of honeybees.

SECTION 13. That Section 22-2532, Idaho Code, be, and the same is hereby amended to read as follows:

22-253209. MONEYS RECEIVED PAID INTO "BEE INSPECTION SPECIAL FUND." All moneys received pursuant to the provisions of this act chapter shall be paid to the state treasurer and kept by the state treasurer in a special and separate fund to be known as the "bee inspection special fund."

SECTION 14. That Section 22-2536, Idaho Code, be, and the same is hereby amended to read as follows:

22-253610. TAX-ON-BEES REGISTRATION -- ASSESSMENT -- COLLECTION -- PROCEEDS. (a) There is hereby levied upon each beekeeper maintaining colonies within the state of Idaho, a or desiring to move bees into the state, an annual registration fee of ten dollars ($10.00) for up to fifty (50) colonies. Each additional colony in excess of the first fifty (50) colonies shall be assessed at the rate of ten cents (10c) per col-
ony. Hobbyist beekeepers are exempt from registration under this section.

(b2) The tax registration fee assessed for colonies in excess of fifty (50) colonies may be increased to not more than twenty cents (20¢) per hive or colony per year, if approved by a majority of the beekeepers voting in a referendum held for the purpose of determining whether such levy of the tax registration fee shall or shall not be changed. If the levy of the tax registration fee is changed, the levy of the tax registration fee will continue annually at the changed rate until again changed by another referendum. Any resident of Idaho who is registered under this chapter as an Idaho beekeeper with the Idaho department of agriculture may vote at such referendum. Any referendum to be held for the purpose of changing the levy of such tax registration fee shall be held at the annual meeting of the Idaho honey industry association or any successor organization to this group.

(c3) Said tax registration fee shall be a lien upon all apicultural products, equipment, bees and property of the person owning or controlling such bees and shall be prior to all other liens or encumbrances except liens which are declared prior by operation of the statutes of this state.

SECTION 15. That Section 22-2538, Idaho Code, be, and the same is hereby amended to read as follows:

22-253811. RULES AND REGULATIONS. It is hereby made the duty of the department of agriculture to make reasonable rules and regulations as necessary for or as an aid to the effectuation of any provision of this act chapter, and to prepare and cause to be printed suitable forms for the proper administration of this act chapter.

SECTION 16. That Section 22-2539, Idaho Code, be, and the same is hereby amended to read as follows:

22-253912. PENALTY FOR VIOLATIONS. (1) Any person who violates or fails to comply with any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or be imprisoned in the county jail for not less than three (3) months nor more than twelve (12) months or be subject to both such fine and imprisonment.

(2) Any person who violates or fails to comply with any of the provisions of this chapter or any rules promulgated under this chapter may be assessed a civil penalty by the department or its duly authorized agent of not more than one hundred dollars ($100) for each offense and shall be liable for reasonable attorney's fees. Assessment of a civil penalty may be made in conjunction with any other department administrative action. No civil penalty may be assessed unless the person charged was given notice and opportunity for a hearing pursuant to the Idaho administrative procedure act. If the department is unable to collect such penalty or if any person fails to pay all or a set portion of the civil penalty as determined by the department, it may recover such amount by action in the appropriate district court. Any person against whom the department has assessed a civil penalty under the provisions of this section may, within thirty (30) days of the final action by the
agency making the assessment, appeal the assessment to the district court of the county in which the violation is alleged by the department to have occurred. Moneys collected for violation of a rule shall be remitted to the agricultural inspection account.

(3) Any bees, colonies, equipment or hives, imported into this state by a nonresident person, in violation of any provision of this chapter shall be subject to seizure by the department. Any bees, colonies, equipment or hives found on any property without the permission of the landowner or not identified with the owner's name, address, phone and registration numbers or found to be in violation of this chapter or rules adopted by the department, shall also be subject to seizure by the department. Any bees, colonies, equipment or hives not claimed and brought into compliance with the provisions of this chapter within ninety (90) days from the date of seizure may be sold at public auction by a sealed bid.

(4) Nothing in this chapter shall be construed as requiring the director to report minor violations for prosecution when he believes that the public interest will be best served by suitable warnings or other administrative action.

SECTION 17. That Section 22-2540, Idaho Code, be, and the same is hereby amended to read as follows:

22-254013. REVIEW OF ACTION OF DIRECTOR. Any individual who has exhausted all administrative remedies available within the department and who is aggrieved by a final decision in a contested case is entitled to judicial review in accordance with chapter 52, title 67, Idaho Code. The review may be obtained by filing in the district court within thirty (30) days following the action of the director a written petition praying that such action be set aside. A copy of such petition shall forthwith be delivered to the director and within thirty (30) days thereafter, the director shall certify and file in the district court of the area affected a transcript of any record pertaining thereto, including a transcript of evidence received at any hearing of referendum. The district court shall give notice by United States mail, to the director and to the petitioner or petitioners of the time and place at which the court will hear such petition, at which time any interested party may be heard. Upon completion of the hearing, the court shall affirm, set aside or modify the action of the director, except that the finding of the director as to the facts, if supported by substantial evidence, shall be conclusive.

Approved March 15, 2006.

CHAPTER 87
(H.B. No. 490)

AN ACT
RELATING TO HONEYBEES; AMENDING SECTION 22-2807, IDAHO CODE, TO PROVIDE FOR DUTIES OF THE IDAHO HONEY ADVERTISING COMMISSION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 22-2808, IDAHO CODE, TO PROVIDE AN EXEMPTION FROM ANNUAL TAXATION FOR HOBBYIST BEEKEEPERS AND
TO PROVIDE FOR VOLUNTARY REGISTRATION AND PAYMENT OF FEE; AND AMENDING CHAPTER 28, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-2811, IDAHO CODE, TO PROVIDE FOR THE PUBLICATION OF CERTAIN INFORMATION RELATING TO REGISTERED BEEKEEPERS.

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

SECTION 1. That Section 22-2807, Idaho Code, be, and the same is hereby amended to read as follows:

22-2807. ADVERTISING DUTIES. The commission shall plan and conduct a campaign for honey and honey by-product advertising, publicity, merchandising, sales promotion and research, including bee research, by contracting with a service of the hereinabove mentioned, or jointly with any university or other state or states of the United States and its territories, or individually.

SECTION 2. That Section 22-2808, Idaho Code, be, and the same is hereby amended to read as follows:

22-2808. LEVY AND COLLECTION OF TAXES -- CHANGE OF TAX BY REFERENDUM -- VIOLATIONS -- PENALTY. (a) There is hereby levied and imposed upon each colony or hive of bees within the state of Idaho on July 1 of each year a continuing annual tax of five cents (5c) per hive or colony of bees beginning in the year 1970 for the purpose of carrying out the provisions of chapter 28, title 22, Idaho Code. Hobbyist beekeepers, as defined in chapter 25, title 22, Idaho Code, are exempt from taxation under this section. Provided however, that any hobbyist beekeeper who desires to support the efforts of the commission, as set forth in section 22-2807, Idaho Code, and desires to be included in registration lists distributed as authorized under section 22-2811, Idaho Code, may register with the commission for that purpose by remitting an annual registration fee of ten dollars ($10.00).

(b) The tax may be decreased to not less than three cents (3c) per hive or colony per year or it may be increased to not more than ten cents (10c) per hive or colony per year, if approved by a majority of the beekeepers voting in a referendum held for the purpose of determining whether such levy of the tax shall or shall not be changed. If the levy of the tax is changed, the levy of the tax will continue annually at the changed rate until again changed by another referendum. Any resident of Idaho who is a registered Idaho beekeeper with the department of agriculture may vote at such referendum. Any referendum held for the purpose of changing the levy of such tax shall be held at the annual meeting of the Idaho honey industry association or any successor organization to this group.

(c) Notice of the tax provided for in this section shall be mailed no later than June 1 and the tax shall be due and payable on or before July 1 of each year, and it shall be collected by the Idaho department of agriculture and shall forthwith be paid over by the Idaho department of agriculture to the Idaho honey advertising fund.

(d) Said tax shall be a lien upon all apicultural products, equipment, bees and property of the person owning or controlling such bees and shall be prior to all other liens or encumbrances except liens which are declared prior by operation of the statutes of this state.
(e) The Idaho honey advertising commission may promulgate the necessary rules and forms to implement and carry out this section.

(f) Any person who shall violate the provisions of this section or the rules and regulations promulgated under it shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than three hundred dollars ($300) or imprisonment for a period not to exceed ninety (90) days, or both such fine and imprisonment, and all fines collected for violation of this section shall be paid into the Idaho honey advertising fund.

SECTION 3. That Chapter 28, Title 22, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 22-2811, Idaho Code, and to read as follows:

22-2811. PUBLICATION OF REGISTERED BEEKEEPERS. The commission shall make available to any pesticide applicator registered with the department, mosquito abatement or pest control district, or university of Idaho county agricultural extension office, a list of beekeepers registered with the commission. The list shall include the names and telephone numbers of the beekeepers, the counties in which they keep bees, and any other information the commission deems necessary to assist in the prevention of accidental poisoning of honeybees.

Approved March 15, 2006.

CHAPTER 88
(H.B. No. 483)

AN ACT RELATING TO INCOME TAX CHECKOFFS AND DONATIONS; AMENDING SECTION 63-3067A, IDAHO CODE, TO PROVIDE FOR DESIGNATION BY INDIVIDUALS OF A REFUND FOR AN OVERPAYMENT OF INCOME TAXES OR A DONATION BY INDIVIDUALS TO THE AMERICAN RED CROSS OF GREATER IDAHO FUND; AMENDING SECTION 63-3067B, IDAHO CODE, TO PROVIDE FOR DESIGNATION BY INDIVIDUALS OF A REFUND FOR AN OVERPAYMENT OF INCOME TAXES OR A DONATION BY INDIVIDUALS TO THE AMERICAN RED CROSS OF GREATER IDAHO FUND; AND AMENDING CHAPTER 8, TITLE 57, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 57-821, IDAHO CODE, TO CREATE THE AMERICAN RED CROSS OF GREATER IDAHO FUND IN THE STATE TREASURY.

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

SECTION 1. That Section 63-3067A, Idaho Code, be, and the same is hereby amended to read as follows:

63-3067A. DESIGNATION BY INDIVIDUALS -- TRUST ACCOUNTS. (a) Every individual who:
(i) Has a refund due and payable for overpayment of taxes under this act may designate all or any portion thereof to be deposited in a trust account specified in subsection (c) below; or
(ii) Has an income tax liability may, in addition to his tax obligation, include a donation to be deposited in a trust account speci-
(b) A designation under subsection (a) of this section may be made in any taxable year in such manner and form as prescribed by the state tax commission. The manner and form so prescribed shall be a conspicuous portion of the principal form provided for the purpose of individual taxation.

(c) The trust accounts authorized to receive moneys designated under subsection (a) of this section are:

(i) The fish and game set-aside account created by section 36-111, Idaho Code;
(ii) The Idaho ag in the classroom account created by section 57-815, Idaho Code;
(iii) The drug enforcement donation account created by section 57-816, Idaho Code;
(iv) The children's trust fund created by section 39-6007, Idaho Code;
(v) The United States olympic account created by section 57-817, Idaho Code, but no donation shall exceed five dollars ($5.00); and
(vi) The Idaho guard and reserve family support fund created by section 57-820, Idaho Code; and
(vii) The American red cross of greater Idaho fund created in section 57-821, Idaho Code, which donation shall be ten dollars ($10.00) if made.

(d) Prior to the distribution of funds into any of the trust accounts specified in subsection (c) of this section from the refund account, the state tax commission shall retain funds for the commission's costs for collecting and administering the moneys in the accounts as follows: three thousand dollars ($3,000) from each account for start-up costs during the first year of collections, and three thousand dollars ($3,000) or twenty percent (20%) of the moneys remitted to each account during the fiscal year, whichever is less, from each account during each fiscal year thereafter, which amounts are hereby appropriated to the tax commission.

SECTION 2. That Section 63-3067B, Idaho Code, be, and the same is hereby amended to read as follows:

63-3067B. DESIGNATION BY INDIVIDUALS -- TRUST ACCOUNTS. (a) Every resident individual who:

(i) Has a refund due and payable for overpayment of taxes under this act may designate all or any portion thereof to be deposited in a trust account specified in subsection (c) below; or
(ii) Has an income tax liability may, in addition to his tax obligation, include a donation to be deposited in a trust account specified in subsection (c) of this section.

(b) A designation under subsection (a) of this section may be made in any taxable year in such manner and form as prescribed by the state tax commission. The manner and form so prescribed shall be a conspicuous portion of the principal form provided for the purpose of individual taxation.

(c) The trust accounts authorized to receive moneys designated under subsection (a) of this section are:

(i) The fish and game set-aside account created by section 36-111, Idaho Code;
(ii) The Idaho ag in the classroom account created by section 57-815, Idaho Code;
(iii) The drug enforcement donation account created by section 57-816, Idaho Code;
(iv) The children's trust fund created by section 39-6007, Idaho Code;
(v) The United States olympic account created by section 57-817, Idaho Code, but no donation shall exceed five dollars ($5.00);
(vi) The Alzheimer's disease services account created in section 57-819, Idaho Code; and
(vii) The community forestry trust account created in section 38-136, Idaho Code; and
(viii) The American red cross of greater Idaho fund created in section 57-821, Idaho Code, which donation shall be ten dollars ($10.00) if made.

(d) Prior to the distribution of funds into any of the trust accounts specified in subsection (c) of this section from the refund account, the state tax commission shall retain funds for the commission's costs for collecting and administering the moneys in the accounts as follows: three thousand dollars ($3,000) from each account for start-up costs during the first year of collections, and three thousand dollars ($3,000) or twenty percent (20%) of the moneys remitted to each account during the fiscal year, whichever is less, from each account during each fiscal year thereafter, which amounts are hereby appropriated to the tax commission.

SECTION 3. That Chapter 8, Title 57, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 57-821, Idaho Code, and to read as follows:

57-821. AMERICAN RED CROSS OF GREATER IDAHO FUND. There is hereby created in the state treasury, the American red cross of greater Idaho fund. Moneys in the fund shall be appropriated to the Idaho chapter of the American red cross to provide disaster relief services, emergency preparation and prevention services and communication services between the armed forces and families. Moneys in the fund shall be appropriated for use in Idaho only.

Approved March 15, 2006.

CHAPTER 89
(H.B. No. 475)

AN ACT
RELATING TO SALES AND USE TAX EXEMPTIONS; AMENDING SECTION 63-36220, IDAHO CODE, TO PROVIDE A SALES AND USE TAX EXEMPTION FOR ADMISSIONS TO AND PURCHASES BY MUSEUMS, TO DEFINE THE TERM "MUSEUM" AND TO MAKE A TECHNICAL CORRECTION.

Be It Enacted by the Legislature of the State of Idaho:
SECTION 1. That Section 63-36220, Idaho Code, be, and the same is hereby amended to read as follows:

63-36220. EXEMPT PRIVATE AND PUBLIC ORGANIZATIONS. (1) There are exempted from the taxes imposed by this chapter:
(a) Sales to or purchases by hospitals, health-related entities, educational institutions, forest protective associations and canal companies which are nonprofit organizations; and
(b) Donations to, sales to, and purchases by the Idaho Foodbank Warehouse, Inc.; and
(c) Donations to, sales to, and purchases by food banks or soup kitchens of food or other tangible personal property used by food banks or soup kitchens in the growing, storage, preparation or service of food, but not including motor vehicles or trailers; and
(d) Sales of clothes to, donations of clothes to, and purchases of clothes by nonsale clothiers; and
(e) Sales to or purchases by centers for independent living; and
(f) Sales to or purchases by the state of Idaho and its agencies and its political subdivisions; and
(g) Sales to or purchases by volunteer fire departments or licensed emergency medical service agencies; and
(h) Sales to or purchases by a qualifying senior citizen center; and
(i) Sales to or purchases by the Blind Services Foundation, Inc.; and
(j) Admissions to and purchases by museums, as defined in subsection (2) of this section.
(2) As used in this section, these words shall have the following meanings:
(a) "Educational institution" shall mean nonprofit colleges, universities, public charter schools organized pursuant to chapter 52, title 33, Idaho Code, and other primary and secondary schools, the income of which is devoted solely to education and in which systematic instruction in the usual branches of learning is given. This definition does not include schools primarily teaching business, dancing, dramatics, music, cosmetology, writing, gymnastics, exercise and other special accomplishments nor parent-teacher associations, parent groups, alumni or other auxiliary organizations with purposes related to the educational function of an institution or collective group of institutions.
(b) "Hospital" shall include nonprofit institutions licensed by the state for the care of ill persons. It shall not extend to nursing homes or similar institutions.
(c) "Health-related entities" shall mean the Idaho Cystic Fibrosis Foundation, Idaho Epilepsy League, Idaho Lung Association, March of Dimes, American Cancer Society, Mental Health Association, The Arc, The Children's Home Society of Idaho, American Heart Association, Idaho Ronald McDonald House, United Cerebral Palsy, Arthritis Foundation, Muscular Dystrophy Foundation, National Multiple Sclerosis Society, Rocky Mountain Kidney Association, American Diabetes Association, Easter Seals, Idaho Community Action Agencies, Idaho Primary Care Association and community health centers who are members of the Idaho Primary Care Association, the Idaho Diabetes Youth Programs, Special Olympics Idaho, the Idaho Women's and Children's
Alliance, and the Family Services Alliance of Southeast Idaho, together with said entities' local or regional chapters or divisions.

(d) "Canal companies" shall include nonprofit corporations which are incorporated solely for the purpose of operating and maintaining and are engaged solely in operation and maintenance of dams, reservoirs, canals, lateral and drainage ditches, pumps or pumping plants.

(e) "Forest protective associations" shall mean associations whose purpose is the furnishing, operating and maintaining of a protective system for the detection, prevention and suppression of forest or range fires. Forest protective associations shall include only those associations with which the state of Idaho has contracted or become a member of pursuant to chapter 1, title 38, Idaho Code.

(f) "Food banks or soup kitchens" shall mean any nonprofit corporation or association, other than the Idaho Foodbank Warehouse, Inc., one of whose regular activities is the furnishing or providing of food or food products to others without charge.

(g) "Nonsale clothier" shall mean any nonprofit corporation or association one of whose primary purposes is the furnishing or providing of clothes to others without charge.

(h) "Clothes" shall mean garments in general, designed or intended to be worn by humans and shall include footwear in addition to wearing apparel.

(i) "Center for independent living" shall mean a private, nonprofit, nonresidential organization in which at least fifty-one percent (51%) of the principal governing board, management and staff are individuals with disabilities and that:

(i) Is designed and operated within a local community by individuals with disabilities;

(ii) Provides an array of independent living services and programs; and

(iii) Is cross-disability.

(j) "Political subdivision" means:

(i) A governmental organization which:

1. Embraces a certain territory,

2. Is organized for public advantage and not in the interest of private individuals or classes,

3. Has been delegated functions of government, and

4. Has the statutory power to levy taxes; or

(ii) A public health district created by section 39-408, Idaho Code; or

(iii) A soil conservation district as defined in section 22-2717, Idaho Code; or

(iv) A drainage district created pursuant to chapter 29, title 42, Idaho Code; or

(v) An irrigation district created pursuant to title 43, Idaho Code; or

(vi) A state grazing board created by section 57-1204, Idaho Code; or

(vii) A water measurement district created pursuant to section 42-705 or 42-706, Idaho Code; or

(viii) A ground water management district created pursuant to chapter 51, title 42, Idaho Code.
(k) "Agency of the state of Idaho" shall mean an office or organization created by the constitution or statutes of this state and constituting a component part of the executive, judicial or legislative branch of the government of this state.

(1) "Volunteer fire department" means an entity exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code and which primarily provides fire protection, or fire prevention on a not-for-profit basis to surrounding residents.

(m) "Licensed emergency medical service agency (EMS)" means an emergency medical service licensed by the EMS bureau of the department of health and welfare and which is exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code and which provides emergency medical services on a not-for-profit basis to surrounding residents.

(n) "Qualifying senior citizen center" means an entity exempt from income tax pursuant to section 501(c)(3) of the Internal Revenue Code and which is a community facility for the organization and provision of a broad spectrum of services, which shall include provision of health (including mental health), social, nutritional, and educational services and the provision of facilities for recreational activities for older individuals.

(o) "Museum" means a public institution or an entity exempt from income tax pursuant to section 501(c)(3) of the Internal Revenue Code, which stores, preserves and exhibits objects of art, history, science or other objects of historical, educational or cultural value on a permanent basis in a building, portion of a building or outdoor location and which provides museum services to the public on a regular basis.

(3) The exemption granted by subsection (1)(f) of this section does not include any association or other organization whose members are political subdivisions or state agencies unless the organization is expressly created under the joint powers provision of sections 67-2328 through 67-2333, Idaho Code.

(4) The exemptions granted by subsection (1) of this section do not include the use of tangible personal property by a contractor used to improve real property of an exempt entity when such use is within the definition provided by section 63-3615(b), Idaho Code, whether the use tax liability is included in a contract total or stated separately in a contract.

(5) There is exempted from the taxes imposed in this chapter, the renting of a place to sleep to an individual by the Idaho Ronald McDonald House.

Approved March 15, 2006.
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 63-3013, Idaho Code, be, and the same is hereby amended to read as follows:

63-3013. RESIDENT. (1) The term "resident," for income tax purposes, means any individual who:
(a) Is domiciled in the state of Idaho for the entire taxable year; or
(b) Maintains a place of abode in this state for the entire taxable year and spends in the aggregate more than two hundred seventy (270) days of the taxable year in this state. Presence within the state for any part of a calendar day shall constitute a day spent in the state unless the individual can show that his presence in the state for that day was for a temporary or transitory purpose.
(2) An individual shall not be considered a resident, but may be considered a part-year resident, during a period of absence from this state described as follows:
(a) The period begins with an individual leaving this state if the individual is absent from this state for at least four hundred forty-five (445) days in the first fifteen (15) months.
(b) During such period, but excluding the first fifteen (15) months, the individual was not present in this state for more than sixty (60) days in any calendar year.
(c) During such period, the individual did not maintain a permanent place of abode in this state at which his spouse (unless he and his spouse are legally separated) or minor or dependent children are present for more than sixty (60) days during any calendar year.
(d) The individual did not, during such period, hold an elective or appointive office of the government of the United States (other than the armed forces of the United States or career appointees in the United States foreign service).
(e) The individual was not, during such period, employed on the staff of an elective officer in the legislative branch of the government of the United States; and
(f) The individual did not, during such period, claim Idaho as his tax home for federal income tax purposes.
(g) The period ends with an individual returning to this state if such individual remains or resides in the state for more than sixty (60) days.
(3) Any individual who is a nonresident alien as defined in section 7701 of the Internal Revenue Code is not a resident within the meaning of this section.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2006.

Approved March 15, 2006.
AN ACT
RELATING TO DETENTION WITHOUT HEARING FOR CERTAIN MENTALLY ILL PERSONS;
AMENDING SECTION 66-326, IDAHO CODE, TO PROVIDE THAT PROBATION AND
PAROLE OFFICERS SHALL BE DEFINED AS PEACE OFFICERS AUTHORIZED TO
ARREST AND PLACE MENTALLY ILL OR IMMINENTLY DANGEROUS PROBATIONERS
AND PAROLEES IN A MENTAL HEALTH TREATMENT FACILITY.

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

SECTION 1. That Section 66-326, Idaho Code, be, and the same is
hereby amended to read as follows:

66-326. DETENTION WITHOUT HEARING. (a) No person shall be taken
into custody as an alleged emergency patient unless and until the court
has ordered such apprehension and custody under the provisions outlined
in section 66-329, Idaho Code; provided, however, that a person may be
taken into custody by a peace officer and placed in a facility, if the
peace officer has reason to believe that the person is gravely disabled
due to mental illness or the person's continued liberty poses an immin­
ent danger to that person or others, as evidenced by a threat of sub­
stantial physical harm; provided, under no circumstances shall the pro­
posed patient be detained in a nonmedical unit used for the detention of
individuals charged with or convicted of penal offenses. For purposes
of this section, the term "peace officer" shall include state probation and
parole officers exercising their authority to supervise probationers and
parolees. Whenever a person is taken into custody under this section
without court order, the evidence supporting the claim of grave disabil­
ity due to mental illness or imminent danger must be presented to a duly
authorized court within twenty-four (24) hours from the time the indi­
vidual was placed in custody.

(b) If the court finds the individual to be gravely disabled due to
mental illness or imminently dangerous under subsection (a) of this sec­
tion, the court shall issue a temporary custody order requiring the per­
son to be held in a facility, and requiring an examination of the person
by a designated examiner within twenty-four (24) hours of the entry of
the order of the court. Under no circumstances shall the proposed
patient be detained in a nonmedical unit used for the detention of indi­
viduals charged with or convicted of penal offenses.

(c) Where an examination is required under subsection (b) of this
section, the designated examiner shall make his findings and report to
the court within twenty-four (24) hours of the examination.

(d) If the designated examiner finds, in his examination under this
section, that the person is mentally ill, and either is likely to injure
himself or others or is gravely disabled due to mental illness, the
prosecuting attorney shall file, within twenty-four (24) hours of the
examination of the person, a petition with the court requesting the
patient's detention pending commitment proceedings pursuant to the pro­
visions of section 66-329, Idaho Code. Upon the receipt of such a peti­
tion, the court shall order his detention to await hearing which shall
be within five (5) days (including Saturdays, Sundays and legal holi-
(c) If no petition is filed within twenty-four (24) hours of the designated examiner's examination of the person, the person shall be released.

(e) Any person held in custody under the provisions of this section shall have the same protection and rights which are guaranteed to a person already committed to the department director. Upon taking a person into custody, notice shall be given to the person's immediate relatives of the person's physical whereabouts and the reasons for taking the person into custody.

Approved March 15, 2006.

CHAPTER 92
(H.B. No. 430)

AN ACT
RELATING TO MENTAL HEALTH RECORDS OF OFFENDERS; AMENDING CHAPTER 2, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-217, IDAHO CODE, TO PROVIDE FOR THE TRANSMISSION OF CERTAIN MENTAL HEALTH RECORDS FOR OFFENDERS UNDER CERTAIN CONDITIONS AND TO PROVIDE THAT NO COURT ORDER OR INDIVIDUAL AUTHORIZATION IS REQUIRED EXCEPT IN THE CASE OF SUBSTANCE ABUSE RECORDS.

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

SECTION 1. That Chapter 2, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-217, Idaho Code, and to read as follows:

18-217. MENTAL HEALTH RECORDS OF OFFENDERS. (1) For purposes of care, treatment or normal health care operations, records of mental health evaluation, care and treatment shall be provided upon request to and from the mental health professionals of a governmental entity and another entity providing care or treatment for any person who is:

(a) Under court commitment to a state agency pursuant to section 18-212(4), Idaho Code;
(b) A pretrial detainee;
(c) Awaiting sentencing;
(d) In the care, custody or supervision of any correctional facility as defined in section 18-101A, Idaho Code;
(e) On probation or parole;
(f) Being supervised as part of a drug court, mental health court, juvenile detention program, work release program, or similar court program; or
(g) Applying for mental health services after release from a correctional facility.

(2) No court order or authorization from the offender to transfer the records shall be required except for records of substance abuse treatment as provided by 42 CFR part 2, and sections 37-3102 and 39-308, Idaho Code.

Approved March 15, 2006.
CHAPTER 93
(H.B. No. 411)

AN ACT
RELATING TO TUBERCULOSIS; AMENDING SECTION 25-402, IDAHO CODE, TO REVISE PROVISIONS RELATING TO COMPENSATION FOR DESTROYED CATTLE OR OTHER ANIMALS.

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

SECTION 1. That Section 25-402, Idaho Code, be, and the same is hereby amended to read as follows:

25-402. COMPENSATION FOR DESTROYED CATTLE OR OTHER ANIMALS. When cattle, other bovidae, captive cervidae, captive antilocapridae, or camelidae are destroyed on account of tuberculosis as herein provided, compensation may be paid to the owner of such animals as provided by law; and, provided further, that in no case shall the state pay more than twenty-five-dollars-($25.00) for a grade animal nor more than fifty dollars-($50.00) for a registered purebred animal and in no case shall the indemnity paid the owner by the state exceed one-third-(1/3) the difference between the appraised value and salvage value of the animals destroyed less any federal indemnity and salvage value.

Approved March 15, 2006.

CHAPTER 94
(H.B. No. 410)

AN ACT
RELATING TO MEAT INSPECTION; REPEALING CHAPTER 19, TITLE 37, IDAHO CODE, RELATING TO MEAT INSPECTION PROVISIONS; AND AMENDING SECTION 5-338, IDAHO CODE, TO DELETE CODE REFERENCES.

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

SECTION 1. That Chapter 19, Title 37, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Section 5-338, Idaho Code, be, and the same is hereby amended to read as follows:

5-338. IMMUNITY OF DONORS OF WILD GAME MEAT. (1) A donor of wild game meat for free use by a charitable organization is immune from civil or criminal liability arising from an injury or death attributable to the nature, age, condition or packaging of the donated wild game meat if the injury or death is not a result of the gross negligence, recklessness, or intentional misconduct of the donor and the donated wild game meat is prepared and packaged by a commercial butcher, commercial slaughterhouse, commercial meat processor or similar entity subject by law to regular state or federal inspection and licensing.
(2) A charitable organization that receives, distributes or serves donated wild game meat is immune from civil or criminal liability arising from an injury or death attributable to the condition of the meat if:

(a) The charitable organization uses appropriate food storage and handling equipment to provide for the safe and sanitary storage and/or service of the wild game meat;
(b) The charitable organization accepts only wild game meat prepared and packaged by a commercial butcher, commercial slaughterhouse, commercial meat processor, or similar entity subject by law to regular state or federal inspection and licensing;
(c) The charitable organization inspects the donated wild game meat in a reasonable manner and finds it to be apparently fit for human consumption at the time of distribution or service;
(d) The charitable organization has no actual or constructive knowledge at the time the wild game meat is distributed or served that it is adulterated, tainted, contaminated, or would be harmful to the health or well-being of a person eating it; and
(e) An injury or death caused by eating the wild game meat is not a proximate cause of the gross negligence, recklessness or intentional misconduct of the charitable organization.

(3) For purposes of this section:
(a) "Charitable organization" means a nonprofit organization that is exempt from taxation under the provisions of sections 501(c)(3) and 501(c)(4) of the Internal Revenue Code, as amended.
(b) "Donor" means a person, retailer, commercial butcher, commercial slaughterhouse, commercial meat processor, or similar entity under state supervision, and the Idaho fish and game department in its capacity as a donor of unlawfully taken or unclaimed wildlife pursuant to section 36-1304, Idaho Code.
(c) "Wild game meat" means any raw, cooked, processed, or prepared edible meat from a game animal killed in the wild and used or intended for use in whole or in part for human consumption and which is exempt from the inspection requirements of the federal wholesome meat act, or chapter 19, title 37, Idaho Code; provided however, that wild game salami may not be donated. Wild game meat shall not be considered "adulterated" as that term is defined in chapters 1, and 19, title 37, Idaho Code, and IDAPA 16.02.19, merely because the meat is the product of a game animal killed in the wild and not slaughtered by a butcher in a state or federally regulated food processing establishment. Wild game meat shall be considered "wildlife" as that term is used in IDAPA 16.02.19, and shall be handled, prepared and served accordingly if the charitable organization is a food establishment as defined in the rules.

Approved March 15, 2006.
CHAPTER 95
(H.B. No. 530)

AN ACT
RELATING TO RETAIL SALES OF PSEUDOEPHEDRINE PRODUCTS; AMENDING TITLE 37, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 33, TITLE 37, IDAHO CODE, TO DEFINE TERMS, TO SET FORTH RETAILER REQUIREMENTS RELATING TO PSEUDOEPHEDRINE PRODUCTS, TO SET FORTH LIMITATIONS ON SALES AND PURCHASES, TO PROVIDE PENALTIES, TO PROVIDE FOR PREEMPTION AND TO PROVIDE APPLICATION.

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

SECTION 1. That Title 37, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 33, Title 37, Idaho Code, and to read as follows:

CHAPTER 33
RETAIL SALES OF PSEUDOEPHEDRINE PRODUCTS

37-3301. DEFINITIONS. As used in this chapter:
(1) "Pseudoephedrine product" means any compound, mixture or preparation containing any detectable quantity of pseudoephedrine, its salts or optical isomers, or salts of optical isomers.
(2) "Retailer" means any person, other than a wholesaler, who sells or offers for sale or distributes at retail pseudoephedrine products, irrespective of the quantity or amount or the amount of sales of such pseudoephedrine products.

37-3302. SALES OF PSEUDOEPHEDRINE PRODUCTS. A retailer shall ensure that:
(1) Pseudoephedrine products offered for sale are located either in an area where the public is not permitted or inside a locked display case; and
(2) All distributions of pseudoephedrine products are conducted by an employee of the retailer. No pseudoephedrine products shall be dispensed by a self-service system of any kind.

37-3303. LIMITATIONS ON SALES AND PURCHASES. (1) It shall be unlawful for any retailer to knowingly sell, transfer or otherwise furnish in a single transaction a pseudoephedrine product or products containing more than nine (9) grams of pseudoephedrine.
(2) It shall be unlawful for any person to knowingly purchase a pseudoephedrine product or products containing more than nine (9) grams of pseudoephedrine from a retailer in a single thirty (30) day period.
(3) At the time of distribution or sale of a pseudoephedrine product or products, the retailer shall ensure that the purchaser presents a government-issued photo identification.

37-3304. PENALTIES. A person who knowingly violates any provision of this chapter shall be guilty of a misdemeanor.
37-3305. PREEMPTION. The provisions of this chapter shall be construed to preempt more stringent regulation of retail sales of pseudoephedrine products by any county, city or other political subdivision.

37-3306. APPLICATION. The provisions of this chapter shall not apply to a pseudoephedrine product dispensed pursuant to a valid prescription unless otherwise provided by law.

Approved March 21, 2006.

CHAPTER 96
(H.B. No. 555)

AN ACT RELATING TO EMINENT DOMAIN; AMENDING CHAPTER 7, TITLE 7, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 7-701A, IDAHO CODE, TO PROVIDE LIMITATIONS ON EMINENT DOMAIN FOR PRIVATE PARTIES, URBAN RENEWAL OR ECONOMIC DEVELOPMENT PURPOSES AND TO PROVIDE FOR REVIEW AT JUDICIAL PROCEEDINGS INVOLVING THE EXERCISE OF THE POWER OF EMINENT DOMAIN.

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

SECTION 1. That Chapter 7, Title 7, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 7-701A, Idaho Code, and to read as follows:

7-701A. LIMITATION ON EMINENT DOMAIN FOR PRIVATE PARTIES, URBAN RENEWAL OR ECONOMIC DEVELOPMENT PURPOSES. (1) This section limits and restricts the use of eminent domain under the laws of this state or local ordinance by the state of Idaho, its instrumentalities, political subdivisions, public agencies, or bodies corporate and politic of the state to condemn any interest in property in order to convey the condemned interest to a private interest or person as provided herein.
(2) Eminent domain shall not be used to acquire private property:
(a) For any alleged public use which is merely a pretext for the transfer of the condemned property or any interest in that property to a private party; or
(b) For the purpose of promoting or effectuating economic development; provided however, that nothing herein shall affect the exercise of eminent domain:
(i) Pursuant to chapter 15, title 70, Idaho Code, and title 42, Idaho Code; or
(ii) Pursuant to chapters 19, 20 or 29, title 50, Idaho Code, except that no private property shall be taken through exercise of eminent domain within the area of operation of a housing authority or within an urban renewal area or within a deteriorated or deteriorating area or within a competitively disadvantaged border community area unless the specific property to be condemned is proven by clear and convincing evidence to be in such condition that it meets all of the requirements:
1. The property, due to general dilapidation, compromised structural integrity, or failed mechanical systems, endan-
gers life or endangers property by fire or by other perils that pose an actual identifiable threat to building occupants; and

2. The property contains specifically identifiable conditions that pose an actual risk to human health, transmission of disease, juvenile delinquency or criminal content; and

3. The property presents an actual risk of harm to the public health, safety, morals or general welfare; or

(iii) For those public and private uses for which eminent domain is expressly provided in the constitution of the state of Idaho.

(3) This section shall not affect the authority of a governmental entity to condemn a leasehold estate on property owned by the governmental entity.

(4) The rationale for condemnation by the governmental entity proposing to condemn property shall be freely reviewable in the course of judicial proceedings involving exercise of the power of eminent domain.

Approved March 21, 2006.

CHAPTER 97
(H.B. No. 615)

AN ACT
RELATING TO MENTAL HEALTH PARITY IN STATE GROUP INSURANCE; TO STATE LEGISLATIVE FINDINGS; AMENDING CHAPTER 57, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5761A, IDAHO CODE, TO PROVIDE THAT STATE EMPLOYEES AND THEIR FAMILIES NOT BE DISCRIMINATED AGAINST IN MENTAL HEALTH GROUP DISABILITY INSURANCE BENEFITS OR GROUP HEALTH CARE SERVICE COVERAGE, TO DEFINE TERMS AND TO PROVIDE COVERAGE REQUIREMENTS; AND TO PROVIDE FOR A REPORT TO THE LEGISLATURE.

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

SECTION 1. FINDINGS OF THE LEGISLATURE. The Legislature of the State of Idaho finds that:

(1) Unequal health insurance coverage contributes to the destructive and unfair stigmatization of persons with serious mental illnesses that are beyond the control of the individuals in the same manner as cancer, diabetes and other serious physical health problems;

(2) Schizophrenia strikes nearly one percent (1%) of Idahoans over the course of their lifetimes and approximately thirty percent (30%) of all hospitalized psychiatric patients in the United States are diagnosed with this most disabling group of mental disorders;

(3) Left untreated, serious mental illnesses are some of the most disabling and potentially destructive illnesses affecting Idahoans;

(4) Studies have found that up to ninety percent (90%) of all persons who commit suicide had a treatable serious mental illness, such as schizophrenia, depression or manic-depressive illness;

(5) Seventy percent (70%) to eighty percent (80%) of those diagnosed with depression respond quickly to treatment and eighty percent
(80%) of those with schizophrenia can be relieved of acute symptoms with proper medication;

(6) Approximately ninety-five percent (95%) of what is known about both normal and abnormal functions of the brain has been learned in the past ten (10) years, but millions of people with serious mental illness have yet to benefit from these research advances;

(7) More than five percent (5%) of Idaho children are diagnosed with serious emotional disturbance;

(8) The state of Idaho faces the rising human and financial costs of leaving mental illness untreated; and

(9) The 2005 Interim Health Care Task Force's Mental Health Subcommittee conducted extensive hearings on mental health and on insurance parity, and the subcommittee endorsed a pilot project to establish a mental health insurance program for state employees and their families to determine the cost of parity in mental health insurance.

SECTION 2. That Chapter 57, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-5761A, Idaho Code, and to read as follows:

67-5761A. MENTAL HEALTH PARITY IN STATE GROUP INSURANCE. (1) It is the policy of the state of Idaho that state employees and their spouses with serious mental illnesses and state employees whose children have been diagnosed with serious emotional disturbances must not be discriminated against in group health care service coverages. Such coverages must provide for the treatment of serious mental illnesses and serious emotional disturbances in a manner that is equitable and commensurate with that provided for other major physical illnesses.

(2) For the purposes of this section:
(a) "Serious mental illness" means any of the following psychiatric illnesses as defined by the American psychiatric association in the diagnostic and statistical manual of mental disorders (DSM-IV-TR):
(i) Schizophrenia;
(ii) Paranoia and other psychotic disorders;
(iii) Bipolar disorders (mixed, manic and depressive);
(iv) Major depressive disorders (single episode or recurrent);
(v) Schizoaffective disorders (bipolar or depressive);
(vi) Panic disorders; and
(vii) Obsessive-compulsive disorders.
(b) "Serious emotional disturbance" means "serious emotional disturbance" as defined in section 16-2403, Idaho Code.

(3) To be considered nondiscriminatory and equitable under this section, group health care service coverage shall provide benefits and cover services that are essential to the effective treatment of serious mental illnesses and serious emotional disturbances in a manner that:
(a) Is not more restrictive or more generous than benefits and coverages provided for other major illnesses;
(b) Provides clinical care, but does not require partial care, of serious mental illness or serious emotional disturbance; and
(c) Is consistent with effective and common methods of controlling health care costs for other major illnesses.
SECTION 3. The Department of Administration shall submit a report to the Legislature and to the Health Care Task Force thereof by January 31, 2010, indicating any additional costs incurred to provide the coverage required by Section 67-5761A, Idaho Code, for the first three (3) year period of coverage.

Approved March 21, 2006.

CHAPTER 98
(H.B. No. 783)

AN ACT
APPROPRIATING MONEYS TO THE OFFICE OF THE GOVERNOR FOR THE OFFICE OF SPECIES CONSERVATION FOR FISCAL YEAR 2007; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND DIRECTING THE ALLOCATION OF SALARY SAVINGS.

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

SECTION 1. There is hereby appropriated to the Office of the Governor for the Office of Species Conservation the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2006, through June 30, 2007:

<table>
<thead>
<tr>
<th>FROM:</th>
<th>FOR PERSONNEL COSTS</th>
<th>FOR OPERATING EXPENDITURES</th>
<th>FOR CAPITAL OUTLAY</th>
<th>FOR TRUSTEE AND BENEFIT PAYMENTS</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>$445,900</td>
<td>$105,700</td>
<td></td>
<td></td>
<td>$551,600</td>
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<tr>
<td>Economic Recovery</td>
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</tr>
<tr>
<td>Reserve Fund</td>
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<tr>
<td>Miscellaneous Revenue Fund</td>
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<td>300,000</td>
<td>11,000</td>
<td>$7,000,000</td>
<td>7,400,000</td>
</tr>
<tr>
<td>TOTAL</td>
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<td>$420,700</td>
<td>$11,000</td>
<td>$7,000,000</td>
<td>$7,977,600</td>
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SECTION 2. In accordance with Section 67-3519, Idaho Code, the Office of Species Conservation is authorized no more than six (6) full-time equivalent positions at any point during the period July 1, 2006, through June 30, 2007, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. The Office of Species Conservation is hereby directed to allocate salary savings, based on performance, to provide for employee salary needs before other operational budget priorities are considered. Where applicable, employees whose salaries are below the midpoint of
their pay grade or occupational groups with significant turnover rates shall be considered first in the order of salary savings distributions.

Approved March 22, 2006.

CHAPTER 99
(H.B. No. 782)

AN ACT
APPROPRIATING MONEYS TO THE DEPARTMENT OF FISH AND GAME FOR FISCAL YEAR 2007; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND DIRECTING THE ALLOCATION OF SALARY SAVINGS.

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

SECTION 1. There is hereby appropriated to the Department of Fish and Game the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2006, through June 30, 2007:

<table>
<thead>
<tr>
<th>FOR PERSONNEL COSTS</th>
<th>FOR OPERATING EXPENDITURES</th>
<th>FOR CAPITAL OUTLAY</th>
<th>FOR TRUSTEE AND BENEFIT PAYMENTS</th>
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<tr>
<td>I. ADMINISTRATION:</td>
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<tr>
<td>FROM:</td>
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</tr>
<tr>
<td>Fish and Game Fund</td>
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</tr>
<tr>
<td>(Licenses) $ 2,550,700</td>
<td>$ 1,166,900</td>
<td>$ 2,223,500</td>
<td>$ 320,500</td>
<td>$ 6,261,600</td>
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<td>Fish and Game Fund</td>
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</tr>
<tr>
<td>(Other)</td>
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<tr>
<td>12,200</td>
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<tr>
<td>Fish and Game Set-aside Fund (Licenses)</td>
<td>200</td>
<td>36,000</td>
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<tr>
<td>Fish and Game Set-aside Fund (Other)</td>
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<tr>
<td>Expendable Big Game Depredation Fund</td>
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<td>Fish and Game Expendable Trust Fund</td>
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</tr>
<tr>
<td>Fish and Game Nonexpendable Trust Fund</td>
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<tr>
<td>Fish and Game Fund (Federal)</td>
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<td>TOTAL</td>
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<td>$ 2,272,900</td>
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<td>FOR TRUSTEE AND BENEFIT PAYMENTS</td>
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<tr>
<td>II. ENFORCEMENT:</td>
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<tr>
<td>Fish and Game</td>
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<td></td>
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<td></td>
</tr>
<tr>
<td>Fund (Licenses)</td>
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</tr>
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<td>Set-aside Fund</td>
<td>20,400</td>
<td></td>
<td></td>
<td>20,400</td>
</tr>
<tr>
<td>Fish and Game</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Expendable Trust Fund</td>
<td>21,200</td>
<td></td>
<td></td>
<td>21,200</td>
</tr>
<tr>
<td>TOTAL</td>
<td>$ 6,706,300</td>
<td>$ 2,108,000</td>
<td>$ 324,400</td>
<td>$ 9,138,700</td>
</tr>
<tr>
<td>III. FISHERIES:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>FROM:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fish and Game</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fund (Licenses)</td>
<td>$ 3,060,300</td>
<td>$ 2,133,700</td>
<td>$ 554,100</td>
<td>$ 5,748,100</td>
</tr>
<tr>
<td>Fish and Game</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fund (Other)</td>
<td>1,275,400</td>
<td>888,300</td>
<td>11,300</td>
<td>2,175,000</td>
</tr>
<tr>
<td>Fish and Game</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Set-aside Fund (Licenses)</td>
<td>167,400</td>
<td>250,500</td>
<td>158,000</td>
<td>575,900</td>
</tr>
<tr>
<td>Fish and Game</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Set-aside Fund (Other)</td>
<td>129,900</td>
<td>30,600</td>
<td></td>
<td>160,500</td>
</tr>
<tr>
<td>Fish and Game</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Expendable Trust Fund</td>
<td>82,400</td>
<td>60,800</td>
<td></td>
<td>143,200</td>
</tr>
<tr>
<td>Fish and Game</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nonexpendable Trust Fund</td>
<td>33,300</td>
<td></td>
<td></td>
<td>33,300</td>
</tr>
<tr>
<td>Fish and Game</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fund (Federal)</td>
<td>10,433,300</td>
<td>5,370,100</td>
<td>1,577,900</td>
<td>17,381,300</td>
</tr>
<tr>
<td>TOTAL</td>
<td>$15,148,700</td>
<td>$ 8,767,300</td>
<td>$ 2,301,300</td>
<td>$26,217,300</td>
</tr>
<tr>
<td>IV. WILDLIFE:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>FROM:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fish and Game</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fund (Licenses)</td>
<td>$ 3,399,700</td>
<td>$ 3,817,300</td>
<td>$ 211,100</td>
<td>$ 7,428,100</td>
</tr>
<tr>
<td>Fish and Game</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fund (Other)</td>
<td>299,500</td>
<td>689,000</td>
<td>203,200</td>
<td>1,191,700</td>
</tr>
<tr>
<td>Fund</td>
<td>For Personnel Costs</td>
<td>For Operating Expenditures</td>
<td>For Capital Outlay</td>
<td>For Trustee and Benefit Payments</td>
</tr>
<tr>
<td>---------------------------</td>
<td>---------------------</td>
<td>---------------------------</td>
<td>--------------------</td>
<td>----------------------------------</td>
</tr>
<tr>
<td>Fish and Game Set-aside</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fund (Other)</td>
<td>882,000</td>
<td>751,600</td>
<td>1,600</td>
<td></td>
</tr>
<tr>
<td>Fish and Game Expendable</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Trust Fund</td>
<td>354,600</td>
<td>297,100</td>
<td>9,200</td>
<td></td>
</tr>
<tr>
<td>Fish and Game Nonexpendable Trust Fund</td>
<td>9,800</td>
<td>2,300</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fund (Federal)</td>
<td>3,334,800</td>
<td>1,665,700</td>
<td></td>
<td>5,000,500</td>
</tr>
<tr>
<td>TOTAL</td>
<td>$8,280,400</td>
<td>$7,223,000</td>
<td>$425,100</td>
<td></td>
</tr>
</tbody>
</table>

V. COMMUNICATIONS:

FROM:
Fish and Game Fund (Licenses)$ 1,383,600 $ 489,800 $ 48,500 $ 1,921,900
Fish and Game Fund (Other) 66,400 7,100 95,000 168,500
Fish and Game Set-aside Fund (Other) 170,400 96,000 266,400
Fish and Game Expendable Trust Fund 9,900 6,100 16,000
Fish and Game Fund (Federal) 644,000 332,600 976,600
TOTAL $2,274,300 $ 931,600 $143,500 $ 3,349,400

VI. ENGINEERING:

FROM:
Fish and Game Fund (Licenses)$ 802,400 $ 91,600 $ 11,900 $ 905,900

VII. NATURAL RESOURCE POLICY:

FROM:
Fish and Game Fund (Licenses)$ 659,900 $ 73,700 $ 33,700 $ 767,300
Fish and Game Fund (Other) 186,300 16,600 202,900
Fish and Game
Set-aside Fund
(Other) 130,000 15,600 145,600

Fish and Game Fund
(Federal) 1,330,700 294,300 1,625,000
TOTAL 2,306,900 400,000 33,700 2,740,600

VIII. WINTER FEEDING AND HABITAT IMPROVEMENT:
FROM:
Fish and Game Fund
(Licenses) $513,200 $615,900 $2,900 1,132,000
Fish and Game Set-aside Fund
(Licenses) 52,900 1,394,500 4,000 1,451,400
Expendable Big Game Depredation Fund
TOTAL 566,100 2,010,400 6,900 407,600 2,991,100

GRAND TOTAL 41,307,400 25,577,600 5,519,700 728,100 73,132,800

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Fish and Game is authorized no more than five hundred twenty-five (525) full-time equivalent positions at any point during the period July 1, 2006, through June 30, 2007, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. The Department of Fish and Game is hereby directed to allocate salary savings, based on performance, to provide for employee salary needs before other operational budget priorities are considered. Where applicable, employees whose salaries are below the midpoint of their pay grade or occupational groups with significant turnover rates shall be considered first in the order of salary savings distributions.

Approved March 22, 2006.
CHAPTER 100  
(H.B. No. 767)  
AN ACT  
APPROPRIATING MONEYS TO THE EXECUTIVE OFFICE OF THE GOVERNOR FOR FISCAL YEAR 2007; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND DIRECTING THE ALLOCATION OF SALARY SAVINGS. 

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

SECTION 1. There is hereby appropriated to the Executive Office of the Governor the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2006, through June 30, 2007:

<table>
<thead>
<tr>
<th>FROM:</th>
<th>FOR PERSONNEL OPERATING EXPENDITURES TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. GOVERNOR'S OFFICE ADMINISTRATION:</td>
<td></td>
</tr>
<tr>
<td>General Fund</td>
<td>$1,191,200</td>
</tr>
<tr>
<td>II. GOVERNOR'S EXPENSE ALLOWANCE: TO BE EXPENDED PURSUANT TO SECTION 67-808d, IDAHO CODE:</td>
<td></td>
</tr>
<tr>
<td>General Fund</td>
<td>$ 4,900</td>
</tr>
<tr>
<td>III. SOCIAL SERVICES:</td>
<td></td>
</tr>
<tr>
<td>Federal Grant Fund</td>
<td>$ 173,200</td>
</tr>
<tr>
<td>IV. ACTING GOVERNOR PAY:</td>
<td></td>
</tr>
<tr>
<td>General Fund</td>
<td>$ 19,200</td>
</tr>
<tr>
<td>V. GOVERNOR ELECT TRANSITION:</td>
<td></td>
</tr>
<tr>
<td>Economic Recovery Reserve Fund</td>
<td>$ 15,000</td>
</tr>
<tr>
<td>TOTAL</td>
<td>$1,398,600</td>
</tr>
</tbody>
</table>

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Executive Office of the Governor is authorized no more than twenty-four (24) full-time equivalent positions at any point during the period July 1, 2006, through June 30, 2007, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. The Executive Office of the Governor is hereby directed to allocate salary savings, based on performance, to provide for employee salary needs before other operational budget priorities are considered. Where applicable, employees whose salaries are below the midpoint of their pay grade or occupational groups with significant turnover rates shall be considered first in the order of salary savings distributions.

Approved March 22, 2006.
CHAPTER 101
(H.B. No. 766)

AN ACT
APPROPRIATING MONEYS FOR THE DIVISION OF FINANCIAL MANAGEMENT FOR FISCAL YEAR 2007; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND DIRECTING ALLOCATION OF SALARY SAVINGS.

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

SECTION 1. There is hereby appropriated to the Office of the Governor for the Division of Financial Management the following amounts to be expended for the following programs according to the designated expense classes from the listed funds for the period July 1, 2006, through June 30, 2007:

<table>
<thead>
<tr>
<th>For Personnel Costs</th>
<th>For Operating Expenditures</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. DIVISION OF FINANCIAL MANAGEMENT:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>General Fund</td>
<td>$1,859,200</td>
<td>$184,200</td>
</tr>
<tr>
<td>Miscellaneous Revenue Fund</td>
<td>24,400</td>
<td>7,100</td>
</tr>
<tr>
<td>TOTAL</td>
<td>$1,883,600</td>
<td>$191,300</td>
</tr>
</tbody>
</table>

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Division of Financial Management is authorized no more than twenty-four (24) full-time equivalent positions at any point during the period July 1, 2006, through June 30, 2007, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. The Division of Financial Management is hereby directed to allocate salary savings, based on performance, to provide for employee salary needs before other operational budget priorities are considered. Where applicable, employees whose salaries are below the midpoint of their pay grade or occupational groups with significant turnover rates shall be considered first in the order of salary savings distributions.

Approved March 22, 2006.

CHAPTER 102
(H.B. No. 727)

AN ACT
RELATING TO TITLING OF SALVAGE VEHICLES; AMENDING SECTION 49-524, IDAHO CODE, TO DELETE THE AGE AND MARKET VALUE LIMITATIONS RELATING TO OBTAINING A SALVAGE CERTIFICATE OF OWNERSHIP FOR A SALVAGE VEHICLE;
AND AMENDING SECTION 49-525, IDAHO CODE, TO PROVIDE A PROCEDURE FOR OBTAINING A BRANDED CERTIFICATE OF TITLE FOR A VEHICLE WHICH IS MORE THAN FIVE YEARS OLD AND WHICH HAS A KNOWN MARKET VALUE OF SIX THOUSAND DOLLARS OR LESS WHICH HAS BEEN DETERMINED TO BE A SALVAGE VEHICLE AND WHICH IS NOT REQUIRED TO BE INSPECTED BY THE IDAHO TRANSPORTATION DEPARTMENT.

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

SECTION 1. That Section 49-524, Idaho Code, be, and the same is hereby amended to read as follows:

49-524. SALVAGE CERTIFICATE OF OWNERSHIP TO REPLACE CERTIFICATE OF TITLE OR ORIGIN ON CERTAIN VEHICLES — VESSELS NOT INCLUDED. (1) Every person acquiring a vehicle which is five (5) years old or less or which has a known market value in excess of six thousand dollars ($6,000) which has been determined to be a salvage vehicle, shall obtain a salvage certificate of ownership on that vehicle.

(2) The salvage certificate shall replace the certificate of origin, certificate of title or other comparable ownership document and shall indicate ownership only; it shall not be valid for registration purposes.

(3) A salvage certificate of ownership shall be issued by the department, the insurer, or a salvage pool, and shall be on a form prescribed by the department. The form shall provide for assignments of the salvage certificate.

(4) The fee for a salvage certificate shall be the same as for issuance of any regular Idaho certificate of title. The fee shall be deposited in the state highway account.

(5) Every insurer making payment for a vehicle which is five (5) years old or less or which has a known market value in excess of six thousand dollars ($6,000) which has been determined to be a salvage vehicle, shall within thirty (30) days from receipt of the properly released certificate of origin or certificate of title, issue a salvage certificate to the purchaser and surrender to the department the ownership documents, a copy of the salvage certificate, the salvage certificate fee and other documents as required by the department for processing. The department shall mark its records appropriately.

(6) If a salvage pool receives a certificate of title for a vehicle which is five (5) years old or less or which has a known market value in excess of six thousand dollars ($6,000) which has been determined to be a salvage vehicle, he shall within thirty (30) days and upon receipt of the properly released certificate of origin or certificate of title, issue a salvage certificate to the purchaser and surrender to the department the ownership documents, a copy of the salvage certificate, the salvage certificate fee and other documents as required by the department for processing. The department shall mark its records appropriately.

(7) It is a misdemeanor, punishable by up to six (6) months in jail, a fine of one thousand dollars ($1,000) or both, if the owner of a retained salvage vehicle fails to surrender the title and be issued a salvage certificate, or to sell the vehicle and not tell the buyer that the vehicle is totaled.
(8) If an insurer has allowed the owner to retain ownership of the salvage vehicle, the owner must surrender the certificate of title for such vehicle to the department or the insurance company not later than fifteen (15) days from the date that the claim was satisfied. The insurer must notify the department of a total loss payoff. The insurer or department shall issue a salvage certificate to the owner prior to any sale or disposition of the salvage vehicle.

(9) If an insurer acquires the certificate of title of a vehicle in a settlement of a theft claim, the insurer shall immediately, upon receipt of the properly released certificate of origin or certificate of title, issue a salvage certificate in the name of the insurer and surrender to the department the ownership documents, a copy of the salvage certificate, the salvage certificate fee and other documents as required by the department for processing.

(10) If an insurer has acquired a vehicle in a settlement of a theft claim, has made application to and has been issued a new salvage certificate in the name of the insurer and the vehicle is subsequently recovered and is not a salvage vehicle, the insurer may complete an affidavit indemnifying the department stating the facts of acquisition and disposition of the vehicle in a form prescribed by the department and deliver the salvage certificate of ownership, affidavit and any other documents required by the department to the transferee at the time of delivery of the vehicle.

(11) Any person acquiring ownership of a salvage vehicle purchased in a state or jurisdiction which does not require surrender of the certificate of title or comparable ownership document shall, within thirty (30) days following delivery of the certificate of title or ownership document, surrender such title or document to the department and apply for a salvage certificate.

(12) An owner of a salvage vehicle who sells or transfers said vehicle shall provide a properly executed assignment of the salvage certificate of ownership to the transferee.

(13) A purchaser of a salvage vehicle shall not possess or retain a salvage vehicle without a salvage certificate, unless the salvage vehicle is six (6) years old or older with a fair market value of six thousand dollars ($6,000) or less. The salvage vehicle purchaser shall display the salvage certificate upon the request of any peace officer or agent of the department.

(14) The provisions of this section shall not apply to vessels.

SECTION 2. That Section 49-525, Idaho Code, be, and the same is hereby amended to read as follows:

49-525. SALVAGE-CERTIFIED VEHICLE -- INSPECTIONS -- BRANDING -- BRANDED CERTIFICATE OF TITLE. (1) The department shall issue a branded certificate of title on any motor vehicle for which a salvage certificate, salvage bill of sale or other documentation showing evidence that the vehicle has been declared salvage has been issued by this or any other state, provided, if documentation of salvage certification has been received from another state, the requirements specified in section 49-524, Idaho Code, shall be applied to that vehicle.

(2) An initial vehicle identification number inspection and major component parts inspection shall be conducted by an authorized department employee and shall include examination of the vehicle and its parts
to determine that the identification numbers of the vehicle or its parts have not been removed, falsified, altered, defaced or destroyed and that there are no indications that the vehicle or any of its parts are stolen. Such certification shall not attest to the roadworthiness or safety condition of the vehicle. The fee for initial inspection shall be twenty-five dollars ($25.00) and shall be deposited in the state highway account. The department may contract with private or public entities to conduct the inspections.

(a) If the inspector determines that one (1) major component part has damage requiring repair or replacement, the vehicle statement of facts shall indicate that the vehicle shall not be eligible for a certificate of title until it has been repaired and has been reinspected as a "repaired vehicle." The vehicle statement of facts shall indicate that the vehicle will require a "repaired vehicle" decal before issuance of a branded certificate of title. The owner may then submit an application with all required supporting documents to the department for issuance of a certificate of title.

(b) If the inspector determines that two (2) or more major component parts have damage requiring repair or replacement, or that the vehicle has sustained flood damage, the vehicle shall not be eligible for a certificate of title until it has been restored or reconstructed and has been reinspected as a reconstructed vehicle. The vehicle statement of facts shall indicate that the vehicle will require a "reconstructed vehicle" decal before issuance of a branded certificate of title.

The provisions of this subsection (2) shall not apply to a vehicle which is more than five (5) years old and which has a known market value of six thousand dollars ($6,000) or less which has been determined to be a salvage vehicle.

(3) Every owner of a salvage vehicle which has been restored or repaired in this state to its operating condition, in compliance with chapter 9, title 49, Idaho Code, shall, if the inspector issued a vehicle statement of facts as required in subsection (2) of this section, present the vehicle to the department for inspection as a reconstructed vehicle or as a repaired vehicle.

(a) If the inspector determines that the receipts for major component parts are valid, including the vehicle identification numbers of the vehicles from which the major component parts were removed, a "reconstructed vehicle" decal or a "repaired vehicle" decal shall be affixed to the vehicle and the statement of facts shall indicate that the vehicle has been branded and that the certificate of title shall be branded accordingly.

(b) The fee for issuance of a "reconstructed vehicle" decal or a "repaired vehicle" decal shall be ten dollars ($10.00) and shall be deposited in the state highway account.

(c) The owner may then submit an application for branded certificate of title to the department which application shall be accompanied by the salvage bill of sale, salvage certificate or other documentation showing evidence that the vehicle has been declared salvage, vehicle statement of facts, indemnifying affidavit, bills of sale or invoices for major component parts and written affirmation which states:

1. That the owner personally rebuilt or repaired the vehicle or personally supervised its rebuilding or repairing and
includes a description of work done to restore the vehicle to the operating condition that existed prior to the event which caused the salvage certificate to be issued;
2. That the identification numbers of the restored vehicle and its parts have not, to the knowledge of the owner, been removed, destroyed, falsified, altered or defaced;
3. That the salvage certificate document or out-of-state title certificate attached to the application has not to the knowledge of the owner been forged, falsified or altered; and
4. That all information contained on the application and its attachments is true and correct.

(4) Upon presentation of the documents required by the department, the department shall issue a branded certificate of title which shall contain the word "reconstructed vehicle" or "repaired vehicle."

(5) If an otherwise correct application is made for a certificate of title on any salvage-certified vehicle which was not inspected as required by the provisions of subsection (2) of this section, the department shall brand the vehicle with a "reconstructed vehicle" decal and shall issue a branded certificate of title.

(6) If an otherwise correct application is made for a certificate of title on any salvage-certified vehicle which is not required to be inspected pursuant to the provisions of subsection (2) of this section, the department shall issue a branded certificate of title as a "reconstructed vehicle" if the application for a certificate of title is supported by a written affirmation of the owner which states:
   a. That the owner personally rebuilt or repaired the vehicle or personally supervised its rebuilding or repairing and includes a description of work done to restore the vehicle to the operating condition that existed prior to the event which caused the salvage certificate to be issued;
   b. That the identification numbers of the restored vehicle and its parts have not, to the knowledge of the owner, been removed, destroyed, falsified, altered or defaced;
   c. That the salvage certificate document or out-of-state title certificate attached to the application has not to the knowledge of the owner been forged, falsified or altered; and
   d. That all information contained on the application and its attachments is true and correct.

(7) Each branded certificate of title received from another jurisdiction shall have its brand carried forward to all subsequent certificates of title issued in this state.

(78) The department may promulgate rules as necessary to implement the provisions of sections 49-524 and 49-525, Idaho Code.

Approved March 22, 2006.
DISCLOSED UNLESS PROHIBITED BY LAW, TO AUTHORIZE A PUBLIC AGENCY OR INDEPENDENT PUBLIC BODY CORPORATE AND POLITIC TO PROVIDE A COPY OF A PUBLIC RECORD IN ELECTRONIC FORM IF THE RECORD IS AVAILABLE IN ELECTRONIC FORM AND AN ELECTRONIC COPY IS SPECIFICALLY REQUESTED, TO PROVIDE THAT A REQUEST FOR AND DELIVERY OF A PUBLIC RECORD MAY BE CONDUCTED BY ELECTRONIC MAIL AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 9-339, IDAHO CODE, TO PROVIDE AN EXCEPTION TO THE REQUIREMENT TO PROVIDE A PUBLIC RECORD WITHIN A SPECIFIED TIME; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 9-338, Idaho Code, be, and the same is hereby amended to read as follows:

9-338. PUBLIC RECORDS -- RIGHT TO EXAMINE. (1) Every person has a right to examine and take a copy of any public record of this state and there is a presumption that all public records in Idaho are open at all reasonable times for inspection except as otherwise expressly provided by statute.

(2) The right to copy public records shall include the right to make photographs or photographic or other copies while the records are in the possession of the custodian of the records using equipment provided by the public agency or independent public body corporate and politic or using equipment designated by the custodian.

(3) Additionally, the custodian of any public record shall give the person, on demand, a certified copy of it if the record is of a nature permitting such copying or shall furnish reasonable opportunity to inspect or copy such record.

(4) The custodian shall make no inquiry of any person who applies for a public record, except to verify the identity of a person requesting a record in accordance with section 9-342, Idaho Code, to ensure that the requested record or information will not be used for purposes of a mailing or telephone list prohibited by section 9-348, Idaho Code, or as otherwise provided by law, and except as required for purposes of protecting personal information from disclosure under chapter 2, title 49, Idaho Code, and federal law. The person may be required to make a written request and provide their name, a mailing address and telephone number.

(5) The custodian shall not review, examine or scrutinize any copy, photograph or memoranda in the possession of any such person and shall extend to the person all reasonable comfort and facility for the full exercise of the right granted under this act.

(6) Nothing herein contained shall prevent the custodian from maintaining such vigilance as is required to prevent alteration of any public record while it is being examined.

(7) Examination of public records under the authority of this section must be conducted during regular office or working hours unless the custodian shall authorize examination of records in other than regular office or working hours. In this event, the persons designated to represent the custodian during such examination shall be entitled to reasonable compensation to be paid to them by the public agency or independent
public body corporate and politic having custody of such records, out of funds provided in advance by the person examining such records, at other than regular office or working hours.

(8) (a) A public agency or independent public body corporate and politic or public official may establish a copying fee schedule. The fee may not exceed the actual cost to the agency of copying the record if another fee is not otherwise provided by law. The actual cost shall not include any administrative or labor costs resulting from locating and providing a copy of the public record; provided however, that a public agency or independent public body corporate and politic or public official may establish a fee to recover the actual labor cost associated with locating and copying documents if:

(i) The request is for more than one hundred (100) pages of paper records; or
(ii) The request includes records from which nonpublic information must be deleted; or
(iii) The actual labor associated with locating and copying documents for a request exceeds two (2) person hours.

(b) For providing a duplicate of a computer tape, computer disc, microfilm or similar or analogous record system containing public record information, a public agency or independent public body corporate and politic or public official may charge a fee, uniform to all persons that does not exceed the sum of the following:

(i) The agency's direct cost of copying the information in that form;
(ii) The standard cost, if any, for selling the same information in the form of a publication;
(iii) The agency's cost of conversion, or the cost of conversion charged by a third party, if the existing electronic record is converted to another electronic form.

The custodian may require advance payment of the cost of copying. Any money received by the public agency or independent public body corporate and politic shall be credited to the account for which the expense being reimbursed was or will be charged, and such funds may be expended by the agency as part of its appropriation from that fund.

(c) The public agency or independent public body corporate and politic may not charge any cost or fee for copies or labor when the requester demonstrates either:

(i) The inability to pay; or
(ii) That the public's interest or the public's understanding of the operations or activities of government or its records would suffer by the assessment or collection of any fee.

(9) A public agency or independent public body corporate and politic shall not prevent the examination or copying of a public record by contracting with a nongovernmental body to perform any of its duties or functions.

(10) Nothing contained herein shall prevent a public agency or independent public body corporate and politic from disclosing statistical information that is not descriptive of an identifiable person or persons, unless prohibited by law.

(11) Nothing contained herein shall prevent a public agency or independent public body corporate and politic from providing a copy of a public record in electronic form if the record is available in elec-
tronic form and if the person specifically requests an electronic copy. A request for a public record and delivery of the public record may be conducted by electronic mail.

SECTION 2. That Section 9-339, Idaho Code, be, and the same is hereby amended to read as follows:

9-339. RESPONSE TO REQUEST FOR EXAMINATION OF PUBLIC RECORDS. (1) A public agency or independent public body corporate and politic shall either grant or deny a person's request to examine or copy public records within three (3) working days of the date of the receipt of the request for examination or copying. If it is determined by employees of the public agency or independent public body corporate and politic that a longer period of time is needed to locate or retrieve the public records, the public agency or independent public body corporate and politic shall so notify in writing the person requesting to examine or copy the records and shall provide the public records to the person no later than ten (10) working days following the person's request. Provided however, if it is determined the existing electronic record requested will first have to be converted to another electronic format by the agency or by a third party and that such conversion cannot be completed within ten (10) working days, the agency shall so notify in writing the person requesting to examine or copy the records. The agency shall provide the converted public record at a time mutually agreed upon between the agency and the requester, with due consideration given to any limitations that may exist due to the process of conversion or due to the use of a third party to make the conversion.

(2) If the public agency or independent public body corporate and politic fails to respond, the request shall be deemed to be denied within ten (10) working days following the request.

(3) If the public agency or independent public body corporate and politic denies the person's request for examination or copying the public records or denies in part and grants in part the person's request for examination and copying of the public records, the person legally responsible for administering the public agency or independent public body corporate and politic or that person's designee shall notify the person in writing of the denial or partial denial of the request for the public record.

(4) The notice of denial or partial denial shall state that the attorney for the public agency or independent public body corporate and politic has reviewed the request or shall state that the public agency or independent public body corporate and politic has had an opportunity to consult with an attorney regarding the request for examination or copying of a record and has chosen not to do so. The notice of denial or partial denial also shall indicate the statutory authority for the denial and indicate clearly the person's right to appeal the denial or partial denial and the time periods for doing so.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 22, 2006.
AN ACT
RELATING TO CRIMINAL PROCEDURE; AMENDING SECTION 19-2604, IDAHO CODE, TO PROVIDE THAT A DEFENDANT MAY BE DISCHARGED OR A JUDGMENT AMENDED UPON A SHOWING RELATING TO THE DEFENDANT'S GRADUATION FROM A DRUG COURT PROGRAM OR MENTAL HEALTH COURT PROGRAM AND COMPLIANCE WITH ANY APPLICABLE PROBATION TERMS AND CONDITIONS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 19-2604, Idaho Code, be, and the same is hereby amended to read as follows:

19-2604. DISCHARGE OF DEFENDANT -- AMENDMENT OF JUDGMENT. (1) If sentence has been imposed but suspended, or if sentence has been withheld, upon application of the defendant and upon satisfactory showing that the defendant has at all times complied with the terms and conditions upon which he was placed on probation, or has successfully completed and graduated from an authorized drug court program or mental health court program and has at all times complied with the terms and conditions of probation during any period of probation that may have been served following such graduation, the court may, if convinced by the showing made that there is no longer cause for continuing the period of probation, and if it be compatible with the public interest, terminate the sentence or set aside the plea of guilty or conviction of the defendant, and finally dismiss the case and discharge the defendant; and this shall apply to the cases in which defendants have been convicted and granted probation by the court before this law goes into effect, as well as to cases which arise thereafter. The final dismissal of the case as herein provided shall have the effect of restoring the defendant to his civil rights.

(2) If sentence has been imposed but suspended during the first one hundred and eighty (180) days of a sentence to the custody of the state board of correction, and the defendant placed upon probation as provided in subsection 4. of section 19-2601, Idaho Code, upon application of the defendant, the prosecuting attorney, or upon the court's own motion, and upon satisfactory showing that the defendant has at all times complied with the terms and conditions of his probation, or has successfully completed and graduated from an authorized drug court program or mental health court program and has at all times complied with the terms and conditions of probation during any period of probation that may have been served following such graduation, the court may amend the judgment of conviction from a term in the custody of the state board of correction to "confinement in a penal facility" for the number of days served prior to suspension, and the amended judgment may be deemed to be a misdemeanor conviction.
(3r) Subsection (2) of this section shall not apply to any judgment of conviction for a violation of the provisions of sections 18-1506, 18-1507 or 18-1508, Idaho Code. A judgment of conviction for a violation of the provisions of any section listed in this subsection shall not be expunged from a person's criminal record.

Approved March 22, 2006.

CHAPTER 105
(H.B. No. 711)

AN ACT
RELATING TO MUNICIPAL ELECTIONS; AMENDING SECTION 50-203, IDAHO CODE, TO REVISE TIMING DEADLINES FOR COMPENSATION CHANGES FOR CITY MAYORS AND CITY COUNCILMEN; REPEALING SECTION 50-413, IDAHO CODE, RELATING TO QUALIFICATIONS OF ELECTORS; AMENDING SECTION 50-431, IDAHO CODE, TO REVISE CANDIDATE FILING DEADLINES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 50-432, IDAHO CODE, TO REVISE CANDIDATE FILING DEADLINES AND TO CLARIFY PROCEDURES FOR VERIFICATION OF PETITION SIGNATURES; AMENDING CHAPTER 4, TITLE 50, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 50-435, IDAHO CODE, TO PROVIDE FOR PUBLICATION OF NOTICE OF CANDIDATE FILING DEADLINES BY THE CITY CLERK; AMENDING SECTION 50-436, IDAHO CODE, TO REVISE DEADLINES FOR PUBLICATION OF NOTICES OF ELECTION, TO ADD THE LIST OF POLLING PLACES TO THE FIRST NOTICE OF ELECTION AND TO PROVIDE THE NAME OF THE CITY IN THE SECOND NOTICE OF ELECTION; AMENDING SECTION 50-439, IDAHO CODE, TO REVISE THE DEADLINE FOR BALLOT PREPARATION AND TO CLARIFY PROCEDURES FOR COUNTING VOTES CAST FOR WRITE-IN CANDIDATES; AMENDING SECTION 50-440, IDAHO CODE, TO REVISE THE DEADLINES FOR PRINTING AND PUBLICATION OF SAMPLE BALLOTS; REPEALING SECTION 50-459, IDAHO CODE, RELATING TO MANNER OF VOTING; AMENDING CHAPTER 4, TITLE 50, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 50-459, IDAHO CODE, TO PROVIDE FOR THE MANNER OF VOTING; REPEALING SECTION 50-479, IDAHO CODE, RELATING TO APPLICATION OF PERSUASIVE POLL REQUIREMENTS; AMENDING SECTION 50-612, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION AND TO REVISE DEADLINES FOR BALLOT PREPARATION AND PRINTING OF SAMPLE BALLOTS IN MAYORAL RUNOFF ELECTIONS; AND AMENDING SECTION 50-7078, IDAHO CODE, TO REVISE DEADLINES FOR BALLOT PREPARATION AND PRINTING OF SAMPLE BALLOTS IN CITY COUNCIL RUNOFF ELECTIONS.

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

SECTION 1. That Section 50-203, Idaho Code, be, and the same is hereby amended to read as follows:

50-203. OFFICIALS -- COMPENSATION. The officials of each city shall consist of a mayor and either four (4) or six (6) councilmen whose compensation shall be fixed by ordinance passed published at least sixty seventy-five (6075) days before any general city election, which ordinance shall be effective for all said officials commencing on January 1 following said election and continuing until changed pursuant to this section.
SECTION 2. That Section 50-413, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Section 50-431, Idaho Code, be, and the same is hereby amended to read as follows:

50-431. FORM OF DECLARATION OF CANDIDACY. Declarations of candidacy and petitions of candidacy shall read substantially as herein set forth. Any number of separate petitions of candidacy may be circulated at the same time for any candidate and all petitions for each candidate shall be considered one (1) petition when filed with the city clerk. Each signer of a petition shall be a registered qualified elector.

DECLARATION OF CANDIDACY

I, the undersigned, affirm that I am a qualified elector of the City of ..........., State of Idaho, and that I have resided in the city for at least thirty (30) days. I hereby declare myself to be a candidate for the office of ............, for a term of .... years, to be voted for at the election to be held on the .... day of ...., ...., and certify that I possess the legal qualifications to fill said office, and that my residence address is .............

(Signed) ..................

Subscribed and sworn to before me this .... day of ...., ....

Notary Public

PETITION OF CANDIDACY

OF .............

FOR OFFICE OF ............................................................

(NAME OF CANDIDATE)

This petition must be filed in the office of the City Clerk not earlier than 8:00 a.m. on the eighth-Friday eleventh Monday nor later than 5:00 p.m. on the sixth ninth Friday immediately preceding election day. The submitted petition must have affixed thereto the names of at least five (5) qualified electors who reside within the appropriate city.

I, the undersigned, being a qualified elector of the City of ............., in the State of Idaho, do hereby certify and declare that I reside at the place set opposite my name and that I do hereby join in the petition of ............., a candidate for the office of ............., to be voted at the election to be held on the .... day of ............., ....

Signature of Petitioner Printed Name Residence Address Date signed

.................................................. ............. .......................... ..........................
SECTION 4. That Section 50-432, Idaho Code, be, and the same is hereby amended to read as follows:

50-432. TIME AND MANNER OF FILING DECLARATIONS. All declarations of candidacy for elective city offices shall be filed with the clerk of the respective city wherein the elections are to be held, not earlier than 8:00 a.m. on the eighth-Friday eleventh Monday nor later than 5:00 p.m. on the sixth ninth Friday, immediately preceding election day. Signatures on petitions Before a candidate files a petition of candidacy with the city clerk, the petition signatures shall be verified by the county clerk in the manner described in section 34-1807, Idaho Code, except that the city clerk shall stand in place of the secretary of state. Before any declaration of candidacy and filing fee or petition of candidacy mentioned in section 50-431, Idaho Code, can be filed, the city clerk shall ascertain that it conforms to the provisions of chapter 4, title 50, Idaho Code. The city clerk shall not accept any declarations of candidacy after 5:00 p.m. on the sixth ninth Friday immediately preceding election day. Write-in candidates shall be governed by section 34-702A, Idaho Code, but shall file the declarations required in that section with the city clerk.

SECTION 5. That Chapter 4, Title 50, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 50-435, Idaho Code, and to read as follows:

50-435. NOTICE OF CANDIDATE FILING DEADLINE. Not more than fourteen (14) nor less than seven (7) days preceding the candidate filing deadline for an election, the city clerk shall cause to be published in the
official newspaper a notice of the forthcoming candidate filing deadline. The notice shall state the name of the city, the date of the election, the offices up for election, that declarations of candidacy are available from the city clerk, and the deadline for filing such declarations with the city clerk.

SECTION 6. That Section 50-436, Idaho Code, be, and the same is hereby amended to read as follows:

50-436. NOTICE OF ELECTION -- CONTENTS -- PUBLICATION. The city clerk shall give notice for any general or special city election by publishing such notice in at least two (2) issues of the official newspaper of the city. The first publication of notice of election shall be made not less than forty-five twelve (4512) days prior to the election. The first notice of election shall include the name of the city, wherein the election shall be held, the purpose of the election, the date of the election, the polling place in each precinct and the hours during which the polls shall be open for the purpose of voting. If the election is held for the purpose of electing the mayor and/or members of the city council, the first notice of election shall state that declarations of candidacy are available from the city clerk, and provide the deadline for filing such declarations with the city clerk. The last publication of notice shall be made not less than fifteen five (15) days prior to the election. The second notice of election shall state the name of the city, the date of the election, the purpose of the election, the polling place in each precinct and the hours during which the polls shall be open for the purpose of voting.

SECTION 7. That Section 50-439, Idaho Code, be, and the same is hereby amended to read as follows:

50-439. PREPARATION AND CONTENTS OF BALLOT. The ballot for each election shall be prepared not less than twenty-one thirty-five (2135) days prior to the date of election by the city clerk. Candidates for mayor will be listed first followed by councilman positions for four (4) years and then two (2) year councilman positions, provided, that in printing the ballots, the position of the names shall be changed in each office division by placing the top name for that office at the bottom of that division and moving each other name up the column by one (1) position, as many times as there are candidates in the office division in which there are the greatest number of candidates. Candidates' names shall be rotated by precinct for those cities using voting machines or vote tally systems. Nothing shall prevent a voter from writing in the name of any qualified elector of the city for any office to be filled at the said election, and the but a write-in vote shall not be counted unless the candidate has filed a declaration of intent with the city clerk as required by section 50-432, Idaho Code. The clerk in preparing the ballot shall make provisions for the writing in of names. Separate ballots may be used for bond issues, capital improvement levy, recall, referendum, initiative, advisory ballots or any other measure authorized to be decided by the electorate.
SECTION 8. That Section 50-440, Idaho Code, be, and the same is hereby amended to read as follows:

50-440. SAMPLE BALLOTS. The city clerk shall cause to be printed not less than fifteen twenty-nine (1529) days before the election, sample ballots containing the candidates for each office, and all measures to be submitted, which sample ballots shall be in the same form as the official ballots to be used, except they shall have printed thereon the words "sample ballot," and shall be on paper of a different color than the official ballot, and the clerk shall furnish copies of the same on application at his office, to anyone applying therefor. Said sample ballot shall be published at least twice in the official newspaper of the city, the first time to be within seven (7) days of the first publication not less than twelve (12) days prior to the election and the second publication not less than five (5) days prior to the election.

SECTION 9. That Section 50-459, Idaho Code, be, and the same is hereby repealed.

SECTION 10. That Chapter 4, Title 50, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 50-459, Idaho Code, and to read as follows:

50-459. MANNER OF VOTING. On receipt of his ballot, the elector shall retire to a vacant voting booth and mark his ballot according to the instructions provided by law. Before leaving the voting compartment the elector shall fold his ballot so that the official stamp is visible and the face of the ballot is completely enclosed.

After marking his ballot, the elector shall present himself to the receiving clerk, state his name and residence, and hand his ballot to the receiving clerk. The clerk shall deposit the ballot in the proper box after ascertaining that the ballot is folded correctly, and shall proclaim in an audible voice that the elector has voted. The election officials shall then record that the elector has voted.

SECTION 11. That Section 50-479, Idaho Code, be, and the same is hereby repealed.

SECTION 12. That Section 50-612, Idaho Code, be, and the same is hereby amended to read as follows:

50-612. MAJORITY REQUIRED FOR ELECTION -- RUNOFF ELECTION. A city may, by ordinance, provide that a majority of the votes for any candidate running for the office of mayor shall be required for election to that office. In the event that no candidate receives a majority of the votes cast, there shall be a runoff election between the two (2) candidates receiving the highest number of votes cast. Such runoff election shall be conducted as in the general election in a manner and at such time, within thirty (30) days of the general election, as prescribed by the city and shall be exempt from the limitation upon elections provided in sections 34-106 and 50-429, Idaho Code. The first notice of the election shall be made by the city clerk not less than twenty (20) days next preceding any runoff election, and the ballot shall be prepared by the city clerk not less than twenty-two (22) days preceding the runoff election.
The designation of polling places shall be made by the city clerk not less than twenty (20) days next preceding any runoff election and sample ballots shall be printed not less than eighteen (18) days preceding the runoff election.

SECTION 13. That Section 50-707B, Idaho Code, be, and the same is hereby amended to read as follows:

50-707B. MAJORITY MAY BE REQUIRED FOR ELECTION -- RUNOFF ELECTION. A city may, by ordinance, provide that a majority of the votes for any candidate running for a council seat adopted by a city in accordance with section 50-707 or 50-707A, Idaho Code, may shall be required for election to that office. In the event no candidate receives a majority of the votes cast, there shall be a runoff election between the two (2) candidates receiving the highest number of votes cast. Such runoff election shall be conducted as in the general election in a manner and at such time within thirty (30) days of the general election, as prescribed by the city and shall be exempt from the limitation upon elections provided in sections 34-106 and 50-429, Idaho Code. The first notice of election shall be made by the city clerk not less than twenty (20) days next preceding any runoff election; and the ballot shall be prepared by the city clerk not less than twenty-two (22) days preceding the runoff election. The designation of polling places shall be made by the city clerk not less than twenty (20) days next preceding any runoff election, and sample ballots shall be printed not less than eighteen (18) days preceding the runoff election.

Approved March 22, 2006.
APPEARANCES OR PARTICIPATION IN PUBLIC MEETINGS, PUBLIC HEARINGS OR PUBLIC PROCEEDINGS HELD OR INITIATED BY EXECUTIVE OFFICIALS OR THEIR EMPLOYEES SHALL BE EXEMPT FROM REGISTRATION AND REPORTING AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-6619, IDAHO CODE, TO PROVIDE THAT LOBBYISTS COVERED UNDER THIS ACT WHOSE LOBBYING ACTIVITIES ARE CONFINED ONLY TO EXECUTIVE OFFICIALS SHALL BE REQUIRED TO FILE INTERIM PERIODIC REPORTS SEMIANNUALLY, TO INCLUDE EXECUTIVE OFFICIALS IN THE EXPENDITURE REPORTING REQUIREMENTS AND TO REQUIRE THAT SEMIANNUAL PERIODIC REPORTS CONTAIN THE SUBJECT MATTER OF ANY RULE, RATEMAKING DECISION, PROCUREMENT, CONTRACT, BID OR BID PROCESS, FINANCIAL SERVICES AGREEMENT OR BOND ISSUE WHICH THE LOBBYIST HAS BEEN ENGAGED IN SUPPORTING OR OPPOSING DURING THE REPORTING PERIOD AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 67-6601, Idaho Code, be, and the same is hereby amended to read as follows:

67-6601. PURPOSE OF ACT. The purpose of this act is:
(a) To promote public confidence in government; and
(b) To promote openness in government and avoiding secrecy by those giving financial support to state election campaigns and those promoting or opposing legislation or attempting to influence executive or administrative actions for compensation at the state level.

SECTION 2. That Section 67-6602, Idaho Code, be, and the same is hereby amended to read as follows:

67-6602. DEFINITIONS. As used in this chapter, the following terms have the following meanings:
(a) "Candidate" means an individual who has taken affirmative action to seek nomination or election to public office. An individual shall be deemed to have taken affirmative action to seek such nomination or election to public office when he first:
(1) Receives contributions or makes expenditures or reserves space or facilities with intent to promote his candidacy for office; or
(2) Announces publicly or files for office.
(3) For purposes of this chapter, an incumbent shall be presumed to be a candidate in the subsequent election for his or her office. Contributions received by an incumbent candidate shall not be in excess of the prescribed contribution limits for the subsequent election by which the incumbent candidate's name would first appear on the ballot. An incumbent shall no longer be a candidate for his or her office after the deadline for the filing of a declaration of candidacy to first appear on the ballot for that office has expired.
(b) "Compensation" includes any advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge or transfer of money or anything of value, and any contract, agreement, promise or other obligation, whether or not legally enforceable, to do any of the foregoing, for services rendered or to be rendered, but does not include reimbursement of expenses if such reimbursement does not exceed the amount actually expended for such expenses and is substantiated by an itemization of such expenses.
(c) "Contribution" includes any advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, subscription or transfer of money or anything of value, and any contract, agreement, promise or other obligation, whether or not legally enforceable, to make a contribution, in support of or in opposition to any candidate, political committee or measure. Such term also includes personal funds or other property of a candidate or members of his household expended or transferred to cover expenditures incurred in support of such candidate but does not include personal funds used to pay the candidate filing fee. Such term also includes the rendering of personal and professional services for less than full consideration, but does not include ordinary home hospitality or the rendering of "part-time" personal services of the sort commonly performed by volunteer campaign workers or advisors or incidental expenses not in excess of twenty-five dollars ($25.00) personally paid for by any volunteer campaign worker. "Part-time" services for the purposes of this definition, means services in addition to regular full-time employment, or, in the case of an unemployed person or persons engaged in part-time employment, services rendered without compensation or reimbursement of expenses from any source other than the candidate or political committee for whom such services are rendered. For the purposes of this act, contributions, other than money or its equivalents shall be deemed to have a money value equivalent to the fair market value of the contribution.

(d) "Election" means any general, special or primary election.

(e) "Election campaign" means any campaign in support of or in opposition to a candidate for election to public office and any campaign in support of, or in opposition to, a measure.

(f) (1) "Electioneering communication" means any communication broadcast by television or radio, printed in a newspaper or on a billboard, directly mailed or delivered by hand to personal residences, or telephone calls made to personal residences, or otherwise distributed that:
   (i) Unambiguously refers to any candidate; and
   (ii) Is broadcasted, printed, mailed, delivered, made or distributed within thirty (30) days before a primary election or sixty (60) days before a general election; and
   (iii) Is broadcasted to, printed in a newspaper, distributed to, mailed to or delivered by hand to, telephone calls made to, or otherwise distributed to an audience that includes members of the electorate for such public office.

(2) "Electioneering communication" does not include:
   (i) Any news articles, editorial endorsements, opinion or commentary, writings, or letter to the editor printed in a newspaper, magazine, or other periodical not owned or controlled by a candidate or political party;
   (ii) Any editorial endorsements or opinions aired by a broadcast facility not owned or controlled by a candidate or political party;
   (iii) Any communication by persons made in the regular course and scope of their business or any communication made by a membership organization solely to members of such organization and their families;
   (iv) Any communication which refers to any candidate only as part of the popular name of a bill or statute;
(v) A communication which constitutes an expenditure or an independent expenditure under this chapter.

(g) "Executive official" means:

(1) The governor, lieutenant governor, secretary of state, state controller, state treasurer, attorney general, and superintendent of public instruction;

(2) A state department or agency director, deputy director, division administrator or bureau chief as established and enumerated in sections 67-2402 and 67-2406, Idaho Code;

(3) The membership and the executive or chief administrative officer of any board or commission that is authorized to make rules or conduct rulemaking activities pursuant to section 67-5201, Idaho Code;

(4) The membership and the executive or chief administrative officer of any board or commission that governs any of the state departments enumerated in section 67-2402, Idaho Code, not including public school districts;

(5) The membership and the executive or chief administrative officer of the Idaho public utilities commission, the Idaho industrial commission, and the Idaho state tax commission; and

(6) The members of the governing board of the state insurance fund, and the members of the governing board and the executive or chief administrative officer of the Idaho housing and finance association, the Idaho energy resources authority, and the Idaho state building authority.

(h) "Expenditure" includes any payment, contribution, subscription, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure. The term "expenditure" also includes a promise to pay, a payment or a transfer of anything of value in exchange for goods, services, property, facilities or anything of value for the purpose of assisting, benefiting or honoring any public official or candidate, or assisting in furthering or opposing any election campaign.

(hi) "Independent expenditure" means any expenditure by a person for a communication expressly advocating the election, passage or defeat of a clearly identified candidate or measure that is not made with the cooperation or with the prior consent of, or in consultation with, or at the consent of, or in consultation with, or at the request of a suggestion of, a candidate or any agent or authorized committee of the candidate or political committee supporting or opposing a measure. As used in this subsection, "expressly advocating" means any communication containing a message advocating election, passage or defeat including, but not limited to, the name of the candidate or measure, or expression such as "vote for," "elect," "support," "cast your ballot for," "vote against," "defeat" or "reject."

(ij) "Lobby" and "lobbying" each means attempting through contacts with, or causing others to make contact with, members of the legislature or legislative committees or an executive official, to influence the approval, modification or rejection of any legislation by the legislature of the state of Idaho or any committee thereof or by the governor, and shall also mean communicating with an executive official for the purpose of influencing the consideration, amendment, adoption or rejection of any rule or rulemaking as defined in section 67-5201, Idaho
Code, or any ratemaking decision, procurement, contract, bid or bid process, financial services agreement, or bond issue. Neither "lobby" nor "lobbying" includes an association's or other organization's act of communicating with the members of that association or organization; and provided that neither "lobby" nor "lobbying" includes communicating with an executive official for the purpose of carrying out ongoing negotiations following the award of a bid or a contract, communications involving ongoing legal work and negotiations conducted by and with attorneys for executive agencies, interactions between parties in litigation or other contested matters, or communications among and between members of the legislature and executive officials and their employees, or by state employees while acting in their official capacity or within the course and scope of their employment.

(jk) "Lobbyist" includes any person who lobbies.

(kl) "Lobbyist's employer" means the person or persons by whom a lobbyist is employed, directly or indirectly, and all persons by whom he is compensated for acting as a lobbyist.

(tm) "Measure" means any proposal, to be voted statewide, submitted to the people for their approval or rejection at an election, including any initiative, referendum or revision of or amendment to the state constitution. An initiative or referendum proposal shall be deemed a measure when the attorney general reviews it and gives it a ballot title.

(mn) "Nonbusiness entity" means any group (of two (2) or more individuals), corporation, association, firm, partnership, committee, club or other organization which:

(1) Does not have as its principal purpose the conduct of business activities for profit; and

(2) Received during the preceding calendar year contributions, gifts or membership fees, which in the aggregate exceeded ten percent (10%) of its total receipts for such year.

(no) "Person" means an individual, corporation, association, firm, partnership, committee, political party, club or other organization or group of persons.

(op) "Political committee" means:

(1) Any person specifically designated to support or oppose any candidate or measure; or

(2) Any person who receives contributions and makes expenditures in an amount exceeding five hundred dollars ($500) in any calendar year for the purpose of supporting or opposing one (1) or more candidates or measures. Any entity registered with the federal election commission shall not be considered a political committee for purposes of this chapter.

(3) A county, district or regional committee of a recognized political party shall not be considered a political committee for the purposes of this chapter unless such party committee has expenditures exceeding five thousand dollars ($5,000) in a calendar year.

(pq) "Political treasurer" means an individual appointed by a candidate or political committee as provided in section 67-6603, Idaho Code.

(qr) "Public office" means any state office or position, state senator, state representative, and judge of the district court that is filled by election.
SECTION 3. That Section 67-6618, Idaho Code, be, and the same is hereby amended to read as follows:

67-6618. EXEMPTION FROM REGISTRATION. The following persons and activities shall be exempt from registration and reporting under sections 67-6617 and 67-6619, Idaho Code:

(a) Persons who limit their lobbying activities to appearances before public sessions of committees of the legislature or to appearances or participation in public meetings, public hearings or public proceedings held or initiated by executive officials or their employees.

(b) Persons who are employees of an entity engaged in the business of publishing, broadcasting or televising, while engaged in the gathering and dissemination of news and comment thereon to the general public in the ordinary course of business.

(c) Persons who do not receive any compensation for lobbying and persons whose compensation for lobbying does not exceed two hundred fifty dollars ($250) in the aggregate during any calendar quarter, including persons who lobby on behalf of their employer or employers, and the lobbying activity represents less than the equivalent of two hundred fifty dollars ($250) of the employee's time per calendar year quarter, based on an hourly proration of said employee's compensation.

(d) Elected state officers and state executive officers appointed by the governor subject to confirmation by the senate; elected officials of political subdivisions of the state of Idaho, acting in their official capacity.

(e) A person who represents a bona fide church (of which he is a member) solely for the purpose of protecting the constitutional right to the free exercise of religion.

(f) (1) Employees of a corporation, if such corporation:

(a) Has registered as a lobbyist pursuant to chapter 66, title 67, Idaho Code, and

(b) Has designated one (1) or more of its employees as its official lobbyist, and

(c) The person so designated by the corporation has also registered as a lobbyist.

(2) The corporation and the lobbyist designated pursuant to this subsection shall fully and accurately report all expenditures made by employees who are exempt hereunder, in the manner and at the times required by section 67-6618, Idaho Code, and, in addition thereto, shall report the names of all employees who make or authorize expenditures in the aggregate sum of fifty dollars ($50.00) or more during any calendar year on behalf of the corporate lobbying activities.

SECTION 4. That Section 67-6619, Idaho Code, be, and the same is hereby amended to read as follows:

67-6619. REPORTING BY LOBBYISTS. (a) Any lobbyist registered under section 67-6617, Idaho Code, shall file with the secretary of state an annual report of his activities signed by both the lobbyist and the lobbyist's employers. The reports shall be made in the form and manner prescribed by the secretary of state and shall be filed on January 31. In addition to the annual report, while the legislature is in session, every registered lobbyist shall file interim monthly periodic reports.
for each month or portion thereof that the legislature is in session, which reports need be signed only by the lobbyist and which shall be filed within ten (10) days of the first day of the month for the activities of the month just past, provided, however, that any lobbyist covered under this chapter whose lobbying activities are confined only to executive officials shall be required to file interim periodic reports semiannually, which reports need be signed only by the lobbyist.

(b) Each such annual, semiannual and monthly periodic report shall contain:

(1) The totals of all expenditures made or incurred by such lobbyist or on behalf of such lobbyist by the lobbyist's employer (not including payments made directly to the lobbyist), during the period covered by the report, which totals shall be segregated according to financial category, including, for example, entertainment, food and refreshments; advertising; providing, however, that reimbursed personal living and travel expenses of a lobbyist incurred directly or indirectly for any lobbying purpose need not be reported. The totals of each expenditure of more than fifty dollars ($50.00) for a legislator or other holder of public office or executive official shall be identified by date, place, amount, and the names of all members of the state legislature or holders of public office or executive officials in the group partaking in or of such financial category excluding any portion thereof attributable to the lobbyist's participation therein. Reported expenditures for entertainment, food and refreshments for legislators or other holders of public office or executive officials shall be the actual cost of the entertainment, food and refreshments.

(2) In the case of a lobbyist employed by more than one (1) employer, the proportionate amount of such expenditures in each category incurred on behalf of each of his employers.

(3) An itemized listing of each such expenditure made by the lobbyist or by the lobbyist's employer in the nature of a contribution of money or of tangible or intangible personal property to any legislator or executive official, or for or on behalf of any legislator or executive official. All contributions made to, or for the benefit of, any legislator or executive official, exempting only those contributions that are required to be reported under other provisions of law, shall be identified by date, amount, and the name of the legislator or executive official receiving, or to be benefited by each such contribution.

(c) Each such annual, semiannual and monthly periodic report shall contain the subject matter of proposed legislation and the number of each senate or house bill, resolution, or other legislative activity or any rule, ratemaking decision, procurement, contract, bid or bid process, financial services agreement or bond which the lobbyist has been engaged in supporting or opposing during the reporting period; provided, that in the case of appropriations bills the lobbyist shall enumerate the specific section or sections which he supported or opposed.

Approved March 22, 2006.
AN ACT
RELATING TO PUBLIC UTILITY PROPERTY NOT PROVIDING UTILITY SERVICE;
AMENDING SECTION 61-502A, IDAHO CODE, TO PROVIDE THAT, EXCEPT UPON
ITS FINDING THAT THE PUBLIC INTEREST WILL BE SERVED THEREBY, THE
PUBLIC UTILITIES COMMISSION IS PROHIBITED IN ANY ORDER FROM SETTING
RATES FOR ANY UTILITY THAT GRANTS A RETURN ON CONSTRUCTION WORK IN
PROGRESS OR ON PROPERTY HELD FOR FUTURE USE AND WHICH IS NOT CUR-
RENTLY USED AND USEFUL IN PROVIDING UTILITY SERVICE, TO DELETE REF-
ERENCE TO SHORT-TERM CONSTRUCTION WORK IN PROGRESS AND TO PROVIDE IF
THE COMMISSION SETS RATES FOR ANY UTILITY INCLUDING A RETURN ON
PROPERTY HELD FOR FUTURE USE AND SUBSEQUENTLY DETERMINES THAT SUCH
PROPERTY IS NOT NEEDED TO PROVIDE UTILITY SERVICE, THEN THE COMMISS-
ION SHALL DETERMINE WHETHER ANY GAIN OR LOSS OCCURRING FROM THE
SALE OR OTHER DISPOSITION OF THE PROPERTY MAY BE INCLUDED IN THE
UTILITY'S RATES.

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

SECTION 1. That Section 61-502A, Idaho Code, be, and the same is
hereby amended to read as follows:

61-502A. RESTRICTION ON RATES AUTHORIZING RETURN ON PROPERTY NOT
PROVIDING UTILITY SERVICE. Except upon its explicit finding of an
extreme-emergency that the public interest will be served thereby, the
commission is hereby prohibited in any order issued after the effective
date of this act, from setting rates for any utility that grants a
return on construction work in progress (except short-term construction
work-in-progress) or property held for future use and which is not cur-
rently used and useful in providing utility service. As used in this
section, short-term construction work-in-progress means construction
work that has begun and will be completed in not more than twelve (12)
months. Except as authorized by this section, any rates granting a
return on construction work in progress (except short-term construction
work-in-progress) or property held for future use are hereby declared to
be unjust, unreasonable, unfair, unlawful and illegal. When construction
work in progress is excluded from the rate base, the commission must
allow a just, fair and reasonable allowance for funds used during con-
struction or similar account to be accumulated, computed in accordance
with generally accepted accounting principles. If the commission sets
rates for any utility including a return on property held for future use
and subsequently determines that such property is not needed to provide
utility service, then the commission shall determine whether any gain or
loss occurring from the sale or other disposition of the property may be
included in the utility's rates.

Approved March 22, 2006.
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CHAPTER 108
(H.B. No. 659)

AN ACT
RELATING TO A MOTOR VEHICLE MANUFACTURER'S LICENSE; AMENDING SECTION 49-1612, IDAHO CODE, TO PROHIBIT ISSUANCE OF A VEHICLE MANUFACTURER'S LICENSE TO AN APPLICANT WHO DOES NOT HAVE AN ESTABLISHED PLACE OF BUSINESS WITHIN IDAHO, TO REQUIRE NOTIFICATION TO THE DEPARTMENT UPON A CHANGE OF BUSINESS ADDRESS, TO PROVIDE FOR GRANTING A NEW LICENSE FOR THE UNEXPIRED PORTION OF THE TERM OF THE LICENSE AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 49-1612, Idaho Code, be, and the same is hereby amended to read as follows:

49-1612. NOTICE OF CHANGE OF ADDRESS. (1) The department shall not issue a dealer's license to any applicant who does not have a principal place of business. Should the dealer change the site or location of his principal place of business, he shall immediately upon making the change notify the department, and a new license shall be granted for the unexpired portion of the term of the license, providing the new location meets all the requirements for a principal place of business. Should a dealer cease to be in possession of a principal place of business from and on which he conducts the business for which he is licensed, he shall immediately notify the department and upon demand by the department shall deliver the dealer's license, which shall be held and retained until it shall be made to appear to the department that the licensee has again come into possession of a principal place of business, whereupon the dealer's license shall be reissued to him, without charge. Nothing in the provisions of this chapter shall be construed to prevent a dealer from conducting the business for which the dealer is licensed at one (1) or more licensed supplemental lots or locations not contiguous to the dealer's principal place of business but operated and maintained in conjunction with it.

(2) The department shall not issue a vehicle manufacturer's license to any applicant who does not have an established place of business within Idaho. Should the vehicle manufacturer change his established place of business within Idaho, the licensee shall immediately upon making the change, notify the department of the location and address of the new established place of business, and a new license shall be granted for the unexpired portion of the term of the license.

Approved March 22, 2006.
CHAPTER 109
(H.B. No. 646)

AN ACT
RELATING TO VITAL STATISTICS; AMENDING SECTION 39-269, IDAHO CODE, TO
REQUIRE DISINTERMENT PERMITS BE ISSUED ONLY UPON VERIFIED APPLICATION
OF THE PERSON HAVING THE HIGHEST LEGAL AUTHORITY UNDER SECTION
54-1142, IDAHO CODE.

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

SECTION 1. That Section 39-269, Idaho Code, be, and the same is
hereby amended to read as follows:

39-269. DISINTERMENT -- RULES. No body or stillborn fetus shall be
disinterred within the state of Idaho except upon a permit granted by
the state registrar of vital statistics. The forms of disinterment per­
mits shall be prepared by the state registrar. Disinterment and removal
must be done under the personal supervision of a licensed mortician, and
only upon verified application of the person or persons having the high­
est authority under the provisions of section 54-1142, Idaho Code. Only
such persons as are actually necessary shall be present. The coffin
shall not be opened either at place of disinterment or place of destina­
tion, except special permit be issued by the state registrar. And in
case of disinterment of bodies dead by reason of contagious and infec­
tious diseases, as shown by the certificate of death given by the certi­
fying physician or coroner, the sexton and all other persons engaged in
such removal or being present shall immediately thereafter change and
disinfect their clothing and properly disinfect their hands, head and
face, provided, that such disinterment may also be governed by rules
promulgated by the state board of health and welfare and a synopsis of
the same shall be printed on the back of every permit. In case of any
contagious and infectious disease where remains are to be shipped to
points in other states, permission must first be obtained from the state
health officer of such state. The state registrar may also issue a spe­
cial disinterment permit for legal purposes. This permit for legal pur­
poses shall be granted only upon application of a prosecuting attorney,
the attorney general of this state, or the coroner of the county in
which the body is interred, stating therein such facts which make it
evident to the state registrar that the ends of justice require that
disinterment be permitted. Such special disinterment for legal purposes
shall be governed by rules promulgated by the state board of health and
welfare and a synopsis of the same shall be printed on the back of every
such special disinterment permit for legal purposes. Bodies in a receiv­
ing vault when prepared by a licensed mortician shall not be regarded as
disinterred bodies until after the expiration of thirty (30) days.

Approved March 22, 2006.
CHAPTER 110
(H.B. No. 645)

AN ACT
RELATING TO THE IDAHO LIQUEFIED PETROLEUM GAS PUBLIC SAFETY ACT; AMENDING SECTION 54-5102, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 143, LAWS OF 2005, TO REDESIGNATE THE SECTION AND TO PROVIDE FURTHER APPLICATION; AMENDING SECTION 54-5108, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 143, LAWS OF 2005, TO REDESIGNATE THE SECTION AND TO PROVIDE APPLICATION TO A FACILITY WITH A STORAGE CAPACITY OF FOUR THOUSAND ONE GALLONS OR MORE.

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

SECTION 1. That Section 54-5102, Idaho Code, as added by Section 1, Chapter 143, Laws of 2005, be, and the same is hereby amended to read as follows:

54-5102. DECLARATION OF POLICY. (1) In order to protect the public health, safety and welfare, every person practicing or offering to practice as a liquefied petroleum gas dealer as herein defined shall submit evidence of meeting such education, experience and examination qualifications as hereinafter provided and be licensed in accordance with the provisions of this chapter.

(2) In order to protect the public health, safety and welfare, it shall be unlawful to own or operate any facility engaged in liquefied petroleum gas facility operation unless such facility is licensed in accordance with the provisions of this chapter.

(3) Every person so licensed and every facility so licensed shall maintain prescribed standards of competence, conduct and operation, and shall annually renew said license in order to continue such practice or operation. This chapter shall be liberally construed to promote the public interest and to accomplish the purpose stated herein.

(4) Notwithstanding any other provisions of law pertaining to the installation of plumbing and heating, ventilation, and air conditioning systems, and except as provided in section 54-5305, Idaho Code, the provisions of this chapter shall govern all persons and entities engaged in the outdoor installation of any liquefied petroleum gas storage tank, or outdoor piping from the storage tank through the second stage regulator.

SECTION 2. That Section 54-5108, Idaho Code, as added by Section 1, Chapter 143, Laws of 2005, be, and the same is hereby amended to read as follows:

54-5108. FACILITY LICENSE -- EQUIPMENT -- INSPECTIONS. (1) The board shall issue a facility license to any person, corporation, partnership, trust, association or other legal entity to operate at specific locations only. No facility license shall be transferable, but an applicant may make application for more than one (1) facility license so long as all of the requirements are met for each license individually. Except as herein otherwise provided, the following shall be considered minimum requirements for a facility license:

(a) That the applicant is lawfully entitled to do business within the United States;
(b) That the applicant has not been refused a license for a facility, or its equivalent, or had a personal or facility license revoked in Idaho or in any other state;
(c) That the applicant has designated the name under which the facility will operate and has designated a specific location for which the facility license is to be issued;
(d) For a facility with a storage capacity of four thousand one (4,001) gallons or more, that the applicant has at least one (1) dealer licensed under this chapter who is a resident of the state of Idaho and who is, and will be, responsible for the operation of the facility;
(e) That the applicant has filed an application and paid the required filing fee;
(f) That the applicant's facility meets the requirements of the LPG code, except as designated by the board by rule;
(g) All applications for facility licenses are in writing and contain the name of the applicant, the address and location of the facility and a description of the type of structure and equipment to be used in the operation of the facility, and such further information as may be required by the board to ensure the safe operation of the facility, and its compliance with the requirements of this chapter;
(h) The person responsible for the operation of a facility maintains such records documenting the storage, transportation, dispensation and utilization of LPG as may be required by the laws of the state of Idaho and the rules adopted by the board; and
(i) In the event a licensed facility ceases to have a licensed dealer in its employ responsible for operation of the facility, all operation involving practices regulated under this chapter shall cease and written notification of such fact shall be submitted immediately to the board. In the event a licensed facility fails to have a licensed dealer in its employ responsible for the facility within thirty (30) days of said notice, the facility license shall be summarily suspended until a licensed dealer is so employed.

(2) The board may adopt rules setting forth minimum general standards covering the design, construction, location, installation and operation of systems, equipment, pipes and containers for storing, handling, transporting by tank truck or tank trailer, and using liquefied petroleum gases and specifying the odorization of the gases and the degree thereof.

(3) The board shall adopt inspection rules regarding LPG facilities.

Approved March 22, 2006.

CHAPTER 111
(H.B. No. 639)

AN ACT
RELATING TO NAVIGATIONAL AND NONNAVIGATIONAL ENCROACHMENTS; AMENDING SECTION 58-1302, IDAHO CODE, TO REVISE A DEFINITION AND TO MAKE TECHNICAL CORRECTIONS.
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 58-1302, Idaho Code, be, and the same is hereby amended to read as follows:

58-1302. ENCROACHMENT ON NAVIGABLE LAKES -- DEFINITIONS. (a) "Navigable lake" means any permanent body of relatively still or slack water, including man-made reservoirs, not privately owned and not a mere marsh or stream eddy, and capable of accommodating boats or canoes. This definition does not include man-made reservoirs where the jurisdiction thereof is asserted and exclusively assumed by a federal agency.

(b) "Beds of navigable lakes" means the lands lying under or below the natural or ordinary high water mark of a navigable lake and, for purposes of this act only, the lands lying between the natural or ordinary high water mark and the artificial high water mark, if there be one.

(c) "Natural or ordinary high water mark" means the high water elevation in a lake over a period of years, uninfluenced by man-made dams or works, at which elevation the water impresses a line on the soil by covering it for sufficient periods to deprive the soil of its vegetation and destroy its value for agricultural purposes.

(d) "Artificial high water mark" means the high water elevation above the natural or ordinary high water mark resulting from construction of man-made dams or control works and impressing a new and higher vegetation line.

(e) "Low water mark" means that line or elevation on the bed of the lake marked or located by the average low water elevations over a period of years and marks the point to which the riparian rights of adjoining landowners extend as a matter of right, in aid of their right to use the waters of the lake for purposes of navigation.

(f) "Riparian or littoral rights" means only the rights of owners or lessees of land adjacent to navigable waters of the lake to maintain their adjacency to the lake and to make use of their rights as riparian or littoral owners or lessees in building or using aids to navigation but does not include any right to make any consumptive use of the waters of the lake.

(g) "Line of navigability" means a line located at such distance below the low water mark as will afford sufficient draft for water craft customarily in use on that particular lake.

(h) "Encroachments in aid of navigation" means and includes docks, piers, floats, pilings, breakwaters, boat ramps, channels or basins, and other such aids to the navigability of the lake, on, in or above the beds or waters of a navigable lake. The term "encroachments in aid of navigation" may be used interchangeably herein with the term "navigational encroachments."

(i) "Encroachments not in aid of navigation" means and includes all other encroachments on, in or above the beds or waters of a navigable lake, including landfills or other structures not constructed primarily for use in aid of the navigability of the lake. The term "encroachments not in aid of navigation" may be used interchangeably herein with the term "nonnavigational encroachments."

(j) "Board" means the board of land commissioners of the state of Idaho or its authorized representative.
(k) "Plans" means maps, sketches, engineering drawings, aerial and other photographs, word descriptions, and specifications sufficient to describe the extent, nature and approximate location of the proposed encroachment and the proposed method of accomplishing the same.

Approved March 22, 2006.

CHAPTER 112  
(H.B. No. 636)

AN ACT
RELATING TO WATER; TO ESTABLISH A MINIMUM STREAM FLOW WATER RIGHT FOR A DEFINED STRETCH OF THE NORTH FORK OF THE CLEARWATER RIVER IMMEDIATELY BELOW DWORSHAK DAM TO THE CONFLUENCE WITH THE CLEARWATER RIVER TO BE HELD BY THE IDAHO WATER RESOURCE BOARD IN TRUST FOR THE PEOPLE OF THE STATE OF IDAHO; DECLARING AN EMERGENCY AND PROVIDING A CONTINGENT EFFECTIVE DATE.

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

SECTION 1. The Legislature hereby establishes a minimum stream flow water right for that stretch of the North Fork of the Clearwater River immediately below Dworshak Dam to the confluence with the Clearwater River, to be held by the Idaho Water Resource Board in trust for the people of the state of Idaho. The elements of the minimum stream flow water right, including subordination to other uses of water, subordination to operations of the Dworshak Project, and other remarks, are as follows:

Priority Date: April 1, 2005.

Reach: A single point of reference near the confluence with the mainstem Clearwater River, below Dworshak Dam and just above the Highway 7 bridge, located approximately in the SW1/4NE1/4SW1/4, Section 34, T37N, R01E, B.M., Clearwater County.

Rate of flow: Changing monthly as follows: January - 2,108 cfs; February - 2,625 cfs; March - 4,250 cfs; April - 10,560 cfs; May - 16,560 cfs; June - 9,790 cfs; July - 2,730 cfs; August - 1,380 cfs; September - 1,131 cfs; October - 1,404 cfs; November - 2,059 cfs; December - 2,368 cfs.

Purpose: Minimum stream flow to preserve fish, wildlife, scenic, and recreational values and to protect and enhance water quality and is equivalent to the unimpaired monthly fifty percent (50%) exceedence flows.
This water right is subordinated to future non-domestic-commercial-municipal-industrial ("non-DCMI") development in an amount up to 283 cfs based on twenty-five percent (25%) of the lowest unimpaired median monthly flow or the amount available above a base flow which is equivalent to the unimpaired monthly eighty percent (80%) exceedence flow, whichever is less.

The unimpaired monthly eighty percent (80%) exceedence flows are:
- January - 1,364 cfs
- February - 1,540 cfs
- March - 2,550 cfs
- April - 6,600 cfs
- May - 11,520 cfs
- June - 5,500 cfs
- July - 1,680 cfs
- August - 1,050 cfs
- September - 871 cfs
- October - 954 cfs
- November - 1,305 cfs
- December - 1,480 cfs

This water right shall be subordinated to all future DCMI uses.

While the instream flow and the future allocation for non-DCMI uses and base flows are to be decreed in cubic feet per second (cfs), such quantities are intended to reflect the percentages of the unimpaired exceedence flows at the quantification point described in this water right. The unimpaired exceedence flows were estimated using regional regression equations developed by the United States Geological Service. Upon further finding and order of the director of the Department of Water Resources that gaging stations are required to maintain the approved minimum flows under this right, such measuring devices shall be permanently installed and maintained as specified by the director. If actual flow data become available, the quantities in this water right will be adjusted as necessary to give effect to the exceedence assumption stated above. Such adjustments do not result in a material change to the water right and are not subject to the notice and hearing requirements set forth in the partial decree, but shall comply with the notice and consultation requirements of Section 42-1507(4), Idaho Code.

Use of water under this right shall recognize and allow the continued beneficial diversion of water under any prior existing water right established by diversions and application to beneficial use or by an application, permit or license on file or issued by the director under the provisions of Chapter 2, Title 42, Idaho Code, with a priority of water right date earlier than the date of priority of this right.

There are no diversions associated with this minimum stream flow water right. The quantification point for this instream flow water right is at the following location: T37N R01E S34 SWNESW End of Stream Flow Within Clearwater County.

The Idaho Water Resource Board, upon receiving a request, or upon its own initiative, may petition the director for an amendment to this water right after complying with the notice and consultation procedures of Section 42-1507(4), Idaho Code. The petition must set forth any significant change in circumstances and evidence of the public interest supporting the proposed amendment. The director will notify the general public and specific persons or notify interested parties of the proposed change, and conduct a hearing for the purpose of determining whether the water right should be amended in the public interest.

This instream flow water right is subordinated to all present and future operations of the Dworshak Project. The term "operations" as used herein means the timing and rate of discharge, including water storage and release of stored water, from Dworshak Dam.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect
upon issuance of a proclamation by the governor certifying that all conditions for the effectiveness of the Snake River Water Rights Agreement of 2004 have been satisfied.

Approved March 22, 2006.

CHAPTER 113
(H.B. No. 633)

AN ACT
RELATING TO A DRUG HOTLINE FEE; AMENDING CHAPTER 27, TITLE 37, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 37-2735A, IDAHO CODE, TO PROVIDE FOR A DRUG HOTLINE FEE FOR DRUG VIOLATIONS; AND AMENDING SECTION 57-816, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO PROVIDE FOR THE USE OF CERTAIN MONEYS TO SUPPORT A TWENTY-FOUR HOUR ANONYMOUS HOTLINE AND REWARD SYSTEM FOR THE REPORTING OF DRUG VIOLATIONS.

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

SECTION 1. That Chapter 27, Title 37, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 37-2735A, Idaho Code, and to read as follows:

37-2735A. DRUG HOTLINE FEE. In addition to any other penalties, a person convicted of a violation of this chapter shall be subject to an additional fine of ten dollars ($10.00) to be deposited in the drug enforcement donation fund, as set forth in section 57-816, Idaho Code, to be used for the purposes designated in that section.

SECTION 2. That Section 57-816, Idaho Code, be, and the same is hereby amended to read as follows:

57-816. DRUG ENFORCEMENT DONATION ACCOUNT FUND. (1) There is hereby created in the state operating fund the drug enforcement donation account fund. Moneys in the account fund may be appropriated only for programs designed to control or eliminate illicit drug traffic, and for law enforcement functions associated with such control.

(2) Separate and apart from any other moneys in the fund, moneys deposited in the fund pursuant to section 37-2735A, Idaho Code, shall be used exclusively to support a twenty-four (24) hour anonymous hotline and reward system, including any advertising for and about such system, for the reporting of drug violations.

Approved March 22, 2006.
CHAPTER 114
(H.B. No. 632)

AN ACT
RELATING TO CONCEALED WEAPONS; AMENDING SECTION 18-3302, IDAHO CODE, TO EXEMPT FROM LICENSE REQUIREMENTS DETENTION DEPUTIES WITH CERTAIN CREDENTIALS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 18-3302, Idaho Code, be, and the same is hereby amended to read as follows:

18-3302. ISSUANCE OF LICENSES TO CARRY CONCEALED WEAPONS. (1) The sheriff of a county shall, within ninety (90) days after the filing of an application by any person who is not disqualified from possessing or receiving a firearm under state or federal law, issue a license to the person to carry a weapon concealed on his person within this state for four (4) years from the date of issue. The citizen's constitutional right to bear arms shall not be denied to him, unless he:

(a) Is ineligible to own, possess or receive a firearm under the provisions of state or federal law; or
(b) Is formally charged with a crime punishable by imprisonment for a term exceeding one (1) year; or
(c) Has been adjudicated guilty in any court of a crime punishable by imprisonment for a term exceeding one (1) year; or
(d) Is a fugitive from justice; or
(e) Is an unlawful user of, or addicted to, marijuana or any depressant, stimulant, or narcotic drug, or any other controlled substance as defined in 21 U.S.C. 802; or
(f) Is currently suffering or has been adjudicated as follows, based on substantial evidence:
   (i) Lacking mental capacity as defined in section 18-210, Idaho Code; or
   (ii) Mentally ill as defined in section 66-317, Idaho Code; or
   (iii) Gravely disabled as defined in section 66-317, Idaho Code; or
   (iv) An incapacitated person as defined in section 15-5-101(a), Idaho Code; or
(g) Is or has been discharged from the armed forces under dishonorable conditions; or
(h) Is or has been adjudicated guilty of or received a withheld judgment or suspended sentence for one (1) or more crimes of violence constituting a misdemeanor, unless three (3) years has elapsed since disposition or pardon has occurred prior to the date on which the application is submitted; or
(i) Has had entry of a withheld judgment for a criminal offense which would disqualify him from obtaining a concealed weapon license; or
(j) Is an alien illegally in the United States; or
(k) Is a person who having been a citizen of the United States, has renounced his or her citizenship; or
(l) Is under twenty-one (21) years of age; or
(m) Is free on bond or personal recognizance pending trial, appeal or sentencing for a crime which would disqualify him from obtaining a concealed weapon license; or
(n) Is subject to a protection order issued under chapter 63, title 39, Idaho Code, that restrains the person from harassing, stalking or threatening an intimate partner of the person or child of the intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child.

The license application shall be in triplicate, in a form to be prescribed by the director of the Idaho state police, and shall ask the name, address, description and signature of the licensee, date of birth, social security number, military status, and the driver's license number or state identification card number of the licensee if used for identification in applying for the license. The application shall indicate that provision of the social security number is optional. The license application shall contain a warning substantially as follows:

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

The sheriff shall require any person who is applying for original issuance of a license to submit his fingerprints in addition to the other information required in this subsection. Within five (5) days after the filing of an application, the sheriff shall forward the application and fingerprints to the Idaho state police for a records check of state and national files. The Idaho state police shall conduct a national fingerprint-based records check and return the results to the sheriff within seventy-five (75) days. The sheriff shall not issue a license before receiving the results of the records check and must deny a license if the applicant is disqualified under any of the criteria listed in paragraphs (a) through (n) of subsection (1) of this section.

The license will be in a form substantially similar to that of the Idaho driver's license. It will bear the signature, name, address, date of birth, picture of the licensee, expiration date and the driver's license number or state identification card number of the licensee if used for identification in applying for the license. Upon issuing a license under the provisions of this section, the sheriff will notify the Idaho state police on a form or in a manner prescribed by the state police. Information relating to an applicant or licensee received or maintained pursuant to this section by the sheriff or Idaho state police is confidential and exempt from disclosure under section 9-338, Idaho Code.

(2) The fee for original issuance of a four (4) year license shall be twenty dollars ($20.00) paid to the sheriff for the purpose of enforcing the provisions of this chapter. The sheriff may collect any additional fees necessary to cover the cost of processing fingerprints lawfully required by any state or federal agency or department, and the cost of materials for the license lawfully required by any state agency or department, which costs shall be paid to the state.

(3) The fee for renewal of the license shall be twelve dollars ($12.00). The sheriff may collect any additional fees necessary to cover
the processing costs lawfully required by any state or federal agency or department, and the cost of materials for the license lawfully required by any state agency or department, which costs shall be paid to the state. If a licensee applying for renewal has not previously been required to submit fingerprints, the sheriff shall require the licensee to do so and may collect any additional fees necessary to cover the cost of processing fingerprints lawfully required by any state or federal agency or department.

(4) A licensee may renew a license if the licensee applies for renewal at any time before or within ninety (90) days after the expiration date of the license. The sheriff shall require the licensee applying for renewal to complete an application. The sheriff shall submit the application to the Idaho state police for a records check of state and national databases. The Idaho state police shall conduct the records check and return the results to the sheriff within thirty (30) days. The sheriff shall not issue a renewal before receiving the results of the records check and must deny a license if the applicant is disqualified under any of the criteria listed in subsection (1), paragraphs (a) through (n) of this section. A renewal license shall be valid for a period of four (4) years. A license so renewed shall take effect on the expiration date of the prior license. A licensee renewing after the expiration date of the license shall pay a late renewal penalty of ten dollars ($10.00) in addition to the renewal fee. The fee shall be paid to the sheriff for the purpose of enforcing the provisions of this chapter.

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

(6) A city, county or other political subdivision of this state shall not modify the requirements of this section, nor may a political subdivision ask the applicant to voluntarily submit any information not required in this section. A civil action may be brought to enjoin a wrongful refusal to issue a license or a wrongful modification of the requirements of this section. The civil action may be brought in the county in which the application was made or in Ada county at the discretion of the petitioner. Any person who prevails against a public agency in any action in the courts for a violation of subsections (1) through (5) of this section, shall be awarded costs, including reasonable attorney's fees incurred in connection with the legal action.

(7) Except in the person's place of abode or fixed place of business, a person shall not carry a concealed weapon without a license to carry a concealed weapon. For the purposes of this section, a concealed weapon means any dirk, dirk knife, bowie knife, dagger, pistol, revolver, or any other deadly or dangerous weapon. The provisions of this section shall not apply to any lawfully possessed shotgun or rifle.

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

(9) While in any motor vehicle, inside the limits or confines of any city or inside any mining, lumbering, logging or railroad camp a person shall not carry a concealed weapon on or about his person without a license to carry a concealed weapon. This shall not apply to any pis-
tol or revolver located in plain view whether it is loaded or unloaded. A firearm may be concealed legally in a motor vehicle so long as the weapon is disassembled or unloaded.

(10) In implementing the provisions of this section, the sheriff shall make applications readily available at the office of the sheriff or at other public offices in his jurisdiction.

(11) The sheriff of a county may issue a license to carry a concealed weapon to those individuals between the ages of eighteen (18) and twenty-one (21) years who in the judgment of the sheriff warrants the issuance of the license to carry a concealed weapon. Such issuance shall be subject to limitations which the issuing authority deems appropriate. Licenses issued to individuals between the ages of eighteen (18) and twenty-one (21) years shall be easily distinguishable from regular licenses.

(12) The requirement to secure a license to carry a concealed weapon under this section shall not apply to the following persons:

(a) Officials of a county, city, state of Idaho, the United States, peace officers, guards of any jail, court appointed attendants or any officer of any express company on duty;
(b) Employees of the adjutant general and military division of the state where military membership is a condition of employment when on duty;
(c) Criminal investigators of the attorney general's office, criminal investigators of a prosecuting attorney's office, prosecutors and their deputies;
(d) Any person outside the limits of or confines of any city, or outside any mining, lumbering, logging or railroad camp, located outside any city, while engaged in lawful hunting, fishing, trapping or other lawful outdoor activity;
(e) Any publicly elected Idaho official;
(f) Retired peace officers or detention deputies with at least ten (10) years of service with the state or a political subdivision as a peace officer or detention deputy and who have been certified by the peace officer standards and training council;
(g) Any person who has a valid permit from a state or local law enforcement agency or court authorizing him to carry a concealed weapon. A permit issued in another state will only be considered valid if the permit is in the licensee's physical possession.

(13) When issuing a license pursuant to this section, the sheriff may require the applicant to demonstrate familiarity with a firearm by any of the following, provided the applicant may select which one:

(a) Completion of any hunter education or hunter safety course approved by the department of fish and game or a similar agency of another state; or
(b) Completion of any national rifle association firearms safety or training course, or any national rifle association hunter education course; or
(c) Completion of any firearms safety or training course or class available to the general public offered by a law enforcement agency, community college, college, university, or private or public institution or organization or firearms training school, utilizing instructors certified by the national rifle association or the Idaho state police; or
(d) Completion of any law enforcement firearms safety or training
course or class offered for security guards, investigators, special deputies, or any division or subdivision of a law enforcement agency or security enforcement agency; or
(e) Presents evidence or equivalent experience with a firearm through participation in organized shooting competition or military service; or
(f) Is licensed or has been licensed to carry a firearm in this state or a county or municipality, unless the license has been revoked for cause; or
(g) Completion of any firearms training or training or safety course or class conducted by a state certified or national rifle association certified firearms instructor.
(14) A person carrying a concealed weapon in violation of the provisions of this section shall be guilty of a misdemeanor.
(15) The sheriff of the county where the license was issued or the sheriff of the county where the person resides shall have the power to revoke a license subsequent to a hearing in accordance with the provisions of chapter 52, title 67, Idaho Code, for any of the following reasons:
(a) Fraud or intentional misrepresentation in the obtaining of a license; or
(b) Misuse of a license, including lending or giving a license to another person, or duplicating a license, or using a license with the intent to unlawfully cause harm to a person or property; or
(c) The doing of an act or existence of a condition which would have been grounds for the denial of the license by the sheriff; or
(d) The violation of any of the terms of this section; or
(e) The applicant is adjudicated guilty of or receives a withheld judgment for a crime which would have disqualified him from initially receiving a license.
(16) A person twenty-one (21) years of age or older issued a license to carry a concealed weapon or a license renewal on or after July 1, 1995, is exempt from any requirement to undergo a records check at the time of purchase or transfer of a firearm from a federally licensed firearms dealer. However, a temporary emergency license issued under subsection (5) of this section shall not exempt the holder of the license from any records check requirement. Temporary emergency licenses shall be easily distinguishable from regular licenses.
(17) The attorney general is authorized to negotiate reciprocal agreements with other states related to the recognition of licenses to carry concealed weapons. The Idaho state police shall keep a copy and maintain a record of all such agreements, which shall be made available to the public.
(18) The provisions of this section are hereby declared to be severable and if any provision of this section or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this section.

Approved March 22, 2006.
AN ACT
RELATING TO PROSECUTING ATTORNEYS; AMENDING SECTION 59-907, IDAHO CODE, TO ALLOW COUNTIES TO CONTRACT FOR PROSECUTORIAL SERVICES UNDER CERTAIN CONDITIONS AND TO PROVIDE FOR A LIMITED EXCEPTION TO ALLOW A PROSECUTING ATTORNEY TO HOLD ANOTHER COUNTY OFFICE.

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

SECTION 1. That Section 59-907, Idaho Code, be, and the same is hereby amended to read as follows:

59-907. PROSECUTING ATTORNEY -- VACANCY -- RESIDENCY -- CONTRACTING WITH ANOTHER PROSECUTING ATTORNEY. (1) In the event a vacancy exists and there are three (3) or fewer resident attorneys in the county who are willing and qualified to perform the functions of prosecuting attorney as set forth in chapter 26, title 31, Idaho Code, the board of county commissioners may appoint and/or contract with an attorney from outside the county to perform the duties of prosecuting attorney for the balance of the unexpired term or such shorter period as the board of county commissioners shall determine.

(2) A county may contract for prosecutorial services with another prosecuting attorney provided that:

(a) The circumstances of subsection (1) of this section have occurred;

(b) The boards of county commissioners of both affected counties adopt resolutions so authorizing the prosecutor to fill the vacancy or appointment and/or contract; and

(c) The length of the term of appointment or contract complies with subsection (1) of this section.

(3) Subsection (2) of this section shall operate as a limited exception to that portion of section 31-2601, Idaho Code, that prohibits a prosecuting attorney from holding any other county office.

Approved March 22, 2006.
REDESIGNATE THE SECTION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-2209, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE A CODE REFERENCE; AMENDING SECTION 54-2210, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE A CODE REFERENCE; AMENDING SECTION 54-2211, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-2212, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 54-2213, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE PROVISIONS APPLICABLE TO LICENSE RENEWAL AND TO REVISE A CODE REFERENCE; AMENDING SECTION 54-2214, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE DESCRIPTIVE LANGUAGE AND TO REVISE PROVISIONS APPLICABLE TO THE RENEWAL AND REINSTATEMENT OF LICENSES; AMENDING SECTIONS 54-2215, 54-2216 AND 54-2217, IDAHO CODE, TO REDESIGNATE THE SECTIONS; AMENDING SECTION 54-2218, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE THE GROUNDS FOR DISCIPLINARY ACTION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-2219, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE PROVISIONS APPLICABLE TO DISCIPLINARY ACTIONS AND PROCEDURES AND TO REMOVE REFERENCES TO THE LICENSURE BOARD; AMENDING SECTION 54-2220, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS APPLICABLE TO CENSURE OR REPRIMAND BY THE BOARD; AMENDING SECTIONS 54-2221 AND 54-2222, IDAHO CODE, TO REDESIGNATE THE SECTIONS; AMENDING CHAPTER 22, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-2224, IDAHO CODE, TO PROVIDE FOR THE DISPOSITION OF RECEIPTS AND PAYMENT OF EXPENSES; AMENDING SECTION 67-2601, IDAHO CODE, TO PROVIDE THAT THE DEPARTMENT OF SELF-GOVERNING AGENCIES SHALL INCLUDE THE IDAHO PHYSICAL THERAPY LICENSURE BOARD, TO REMOVE A REFERENCE TO THE LICENSURE BOARD AS ASSOCIATED WITH THE BOARD OF MEDICINE AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 67-2602, IDAHO CODE, TO EMPower THE BUREAU OF OCCUPATIONAL LICENSES TO ENTER A WRITTEN AGREEMENT WITH THE PHYSICAL THERAPY LICENSURE BOARD.

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

SECTION 1. That Section 54-2203, Idaho Code, be, and the same is hereby amended to read as follows:

54-2203. DEFINITIONS. As used in this chapter:
(1) "Applicant" means a person applying for a license or permit under this chapter.
(2) "Board" means the Idaho state board of medicine.
(3) "Licensure board" means the physical therapy licensure board.
(4) "Bureau" means the bureau of occupational licenses.
(5) "Department" means the department of self-governing agencies.
(6) "License" means a document issued by the board to a person under this chapter authorizing the person to practice as a physical therapist or physical therapist assistant.
(7) "Physical therapist" means a person who meets all the requirements licensed under the provisions of this chapter and who engages in the practice of physical therapy.
(8) "Physical therapist assistant" means a person who meets the requirements of this chapter and who performs physical therapy procedures and related tasks that have been selected and delegated only by a supervising physical therapist.
"Physical therapy" means the care and services provided by or under the direction and supervision of a physical therapist.

The "practice of physical therapy" means the exercise of the profession of physical therapy by a person who engages in the following health care activities:

(a) Examining, evaluating and testing individuals with mechanical, physiological and developmental impairments, functional limitations, and disability or other health and movement related conditions in order to determine a diagnosis for physical therapy and prognosis for physical therapy, plan of therapeutic intervention, and to assess the ongoing effects of intervention.

(b) Alleviating impairments and functional limitations by designing, implementing and modifying therapeutic interventions that include, but are not limited to: therapeutic exercise; functional mobility training in self-care and in-home, community or work reintegration; manual therapy; assistive, adaptive, protective and supportive devices and equipment; bronchopulmonary hygiene; debridement and wound care; physical agents or modalities; mechanical and electrotherapeutic modalities; and patient related instruction; and to reduce the risk of injury, impairment, functional limitation, and disability, including the promotion and maintenance of fitness, health, and quality of life in all age populations. The practice of physical therapy shall not include the use of radiology, surgery or medical diagnosis of disease.

(c) Engaging in administration, consultation, testing, education and research as related to paragraphs (a) and (b) of this subsection.

"Supportive personnel" means a person or persons trained under the direction of a physical therapist who performs designated and supervised routine physical therapy tasks.

SECTION 2. That Section 54-2205, Idaho Code, be, and the same is hereby amended to read as follows:

54-2205. PHYSICAL THERAPY LICENSURE BOARD. (1) There is hereby established in the department of self-governing agencies a physical therapy licensure board. The licensure board shall consist of five (5) members appointed by the board governor, three (3) of whom shall be licensed physical therapists, one (1) of whom may be a licensed physical therapist assistant or a licensed physical therapist, and one (1) of whom shall be a member of the public with an interest in the rights of the consumers of health services. All members of the licensure board shall be residents of Idaho at the time of their appointment and for their term of service. The persons appointed to the licensure board who are required to be licensed under this chapter shall have been engaged in rendering physical therapy or physical therapy assistant care services, respectively, to the public, in teaching, or in research in physical therapy or physical therapy assistant care services, respectively, for at least three (3) years immediately preceding their appointments. These members, excepting the public member, shall at all times be holders of valid licenses and be in good standing without restriction upon such license for the practice of physical therapy or physical therapy assistant, respectively, in Idaho.
(2) The board governor, within sixty (60) days after the effective date of this act, shall appoint two (2) ticensure board members for a term of one (1) year; two (2) members for a term of two (2) years; and one (1) member for a term of three (3) years. Appointments made thereafter shall be for three (3) year terms, but no person shall be appointed to serve more than two (2) consecutive terms. Terms shall begin on the first day of the calendar year and end on the last day of the calendar year or until successors are appointed, except for the first appointed members who shall serve through the last calendar day of the year in which they are appointed, before commencing the terms prescribed in this section.

(3) The members of the ticensure board shall be selected by the board governor after considering a list of three (3) qualified applicants for each such vacancy submitted by the Idaho physical therapy association.

(4) The ticensure board, within sixty (60) days after the effective date of this act, and annually thereafter, shall hold a meeting and elect a chairman who shall preside at meetings of the ticensure board. In the event the chairman is not present at any ticensure board meeting, the ticensure board may by majority vote of the members present appoint a temporary chairman. A majority of the members of the ticensure board shall constitute a quorum. Other meetings may be convened at the call of the chairman or upon the written request of any two (2) ticensure board members.

(5) Each member of the ticensure board shall be compensated as provided in section 59-509(h), Idaho Code.

(6) The ticensure board shall work in conjunction with the Idaho state board of medicine to enforce the provisions of this chapter and shall perform the duties and functions assigned to the ticensure board by the board, including, but not limited to:

(a) Evaluating the qualifications of applicants for ticensure;
(b) Administering examinations and issuing and renewing licenses;
(c) Maintaining a list of licensed physical therapists and physical therapist assistants in this state;
(d) Evaluating curricula of nationally accredited schools of physical therapy and physical therapist assistant;
(e) Reviewing and recommending fees to be assessed by the board for the issuance and renewal of licenses and
(f) Establishing criteria and recommending administrative rules.

(7) Members of the board shall disqualify themselves and, upon the motion of any interested party may, upon proper showing, be disqualified in any proceeding concerning which they have an actual conflict of interest or bias that interferes with their fair and impartial service.

(8) The board governor may remove any member of the ticensure board from the membership of the ticensure board who is guilty of malfeasance, misfeasance or nonfeasance.

SECTION 3. That Chapter 22, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-2206, Idaho Code, and to read as follows:
54-2206. POWERS AND DUTIES OF THE BOARD. The board shall have the authority to administer, coordinate and enforce the provisions of this chapter. Such authority shall include, but not be limited to, the power to:

(1) Evaluate the qualifications of applicants for licensure, approve and administer examinations to test the knowledge and proficiency of applicants for licensure, and approve or deny the registration and issuance and renewal of licenses and permits;
(2) Authorize all disbursements necessary to carry out the provisions of this chapter;
(3) Promulgate rules not inconsistent with the laws of this state which are necessary to carry out the provisions of this chapter;
(4) Adopt rules providing for continuing education;
(5) Obtain restraining orders and injunctions prohibiting conduct in violation of the provisions of this chapter, conduct investigations, issue subpoenas, and examine witnesses and administer oaths, concerning practices which are alleged to violate the provisions of this chapter;
(6) Suspend or revoke or otherwise sanction licensees in the manner provided in this chapter, or place a person holding a license under this chapter on probation;
(7) Require as a condition of receiving or retaining a license issued under this chapter that restitution be paid to a consumer;
(8) Require the inspection of testing equipment and facilities of persons engaging in any practice pursuant to this chapter;
(9) As the board deems reasonable, take notice of and give effect to prior licenses issued to physical therapists and physical therapist assistants in the state of Idaho by the state board of medicine and such other actions, proceedings, orders or decisions of the state board of medicine involving complaints, investigations, discipline or other matters concerning physical therapists or physical therapist assistants; and
(10) Authorize, by written agreement, the bureau of occupational licenses to act as its agent in its interest.

SECTION 4. That Section 54-2206, Idaho Code, be, and the same is hereby amended to read as follows:

54-22067. APPLICATION FOR LICENSURE AND FEES. An applicant for licensure as a physical therapist or physical therapist assistant shall file an application with the board on forms prescribed and furnished by the board. The application shall be made under oath, and shall show the applicant's address, education, evidence of graduation from a nationally accredited school of physical therapy or nationally accredited school for physical therapist assistants with a curriculum acceptable to the board and a detailed summary of any other qualifications deemed relevant to licensure by the board. The application shall also require the disclosure of any criminal conviction or charge against the applicant other than minor traffic infractions, the disclosure of any disciplinary action against the applicant by any professional regulatory agency, including any agency within the state or any other state, and the disclosure of any denial of registration or licensure by any state or district regulatory body. An applicant shall also furnish not less than two (2) references from persons having personal knowledge of the applicant's moral character. A non-refundable nonrefundable application fee and pay-
ment for the cost of the examination shall accompany the completed written application. Fees shall be established by the administrative rules of the board.

SECTION 5. That Section 54-2207, Idaho Code, be, and the same is hereby amended to read as follows:

54-22078. DENIAL OF APPLICATION. An application for licensure that has been denied by the board shall be considered a contested case as provided for in chapter 52, title 67, Idaho Code, and be subject to the provisions of that chapter, as well as the administrative rules adopted by the board governing contested cases.

SECTION 6. That Section 54-2208, Idaho Code, be, and the same is hereby amended to read as follows:

54-22082. EXAMINATIONS. (1) The board shall authorize examinations and permit any applicant whose application for licensure has been accepted by the board to take the board approved examinations. The board shall determine the passing score for examinations. Examinations shall test for entry-level competence and requisite knowledge and skills in the technical application of physical therapy services.

(2) An applicant who fails an examination may retake an examination one (1) additional time without reapplication for licensure, provided that the second examination occurs within six (6) months from the notification of the first failure.

(3) The board shall have the authority to prescribe additional course work or clinical work for any applicant who has failed an examination two (2) or more times. An applicant applying for licensure who has failed any board authorized examination two (2) or more times shall reapply and demonstrate to the board's satisfaction evidence of successful completion of additional clinical training or course-work coursework as determined by the board.

SECTION 7. That Section 54-2209, Idaho Code, be, and the same is hereby amended to read as follows:

54-220910. QUALIFICATIONS FOR LICENSURE. To be eligible for licensure as a physical therapist or physical therapist assistant, a person must:

(1) Be of good moral character; and

(2) Submit a completed written application to the board on forms furnished by the board which shall require proof of graduation from a nationally accredited school, with a curriculum acceptable to the board, for physical therapists or physical therapist assistants, and have completed the application process; and

(3) Have either passed to the satisfaction of the board, an examination authorized by the board to determine his or her fitness to practice as a physical therapist or physical therapist assistant, or be entitled to and apply for licensure by endorsement as provided for in section 54-22101, Idaho Code.

SECTION 8. That Section 54-2210, Idaho Code, be, and the same is hereby amended to read as follows:
54-22101. QUALIFICATIONS FOR LICENSURE BY ENDORSEMENT. A person who can show to the satisfaction of the board that he or she has met the qualifications set forth in section 54-220910(1) and (2), Idaho Code, and who, at the time of application, is a licensed or registered physical therapist or physical therapist assistant in good standing under the laws of another state or territory, and who can show to the satisfaction of the board that the person has passed a physical therapist or physical therapist assistant examination which is substantially similar to an examination authorized by the board, as determined by the board, shall be entitled to licensure without examination upon payment to the board of the licensure fee.

SECTION 9. That Section 54-2211, Idaho Code, be, and the same is hereby amended to read as follows:

54-22102. QUALIFICATIONS FOR LICENSURE OF FOREIGN-EDUCATED PHYSICAL THERAPISTS. (1) An applicant for licensure as a physical therapist or physical therapist assistant who has been educated outside of the United States shall:
(a) Be of good moral character; and
(b) Submit a completed written application to the board on forms furnished by the board which shall require proof of graduation from a school for physical therapists or physical therapist assistants with a curriculum acceptable to the board; and
(c) Have his or her education credentials evaluated by a board approved credential evaluation agency and provide satisfactory evidence that his or her education is substantially equivalent to the requirements of physical therapists or physical therapist assistants educated in accredited educational programs as determined by the board. If the board determines that a foreign-educated applicant's education is not substantially equivalent, it may require successful completion of additional coursework before proceeding with the application process;
(d) Provide written proof that the school of physical therapy education is recognized by its own ministry of education;
(e) If the applicant has actually practiced as a physical therapist or physical therapist assistant abroad, the applicant shall provide written proof of authorization to practice as a physical therapist without limitations in the country where the professional education occurred;
(f) Provide proof of legal authorization to reside and seek employment in the United States or its territories;
(g) Have successfully passed an examination authorized by the board.
(2) Notwithstanding the provisions of this section, if the foreign-educated physical therapist or physical therapist assistant applicant is a graduate of a professional physical therapy education program accredited by an agency approved by the board, requirements in subsections (1)(c) and (1)(d) of this section shall be waived.

SECTION 10. That Section 54-2212, Idaho Code, be, and the same is hereby amended to read as follows:
54-22123. EXEMPTIONS -- MILITARY, STUDENTS, EDUCATORS. In addition to the exemptions provided in section 54-2204, Idaho Code, the following persons shall also be exempt from licensure under this chapter:

(1) A physical therapist while practicing in the United States armed services, United States public health service or veterans administration as based on requirements under federal regulations for state licensure of health care providers.

(2) A person who is pursuing a course of study leading to a degree as a physical therapist or physical therapist assistant in an accredited or board approved professional education program and is satisfying supervised clinical education requirements related to his or her physical therapy education.

(3) A physical therapist licensed and in good standing in another U.S. jurisdiction, or a foreign-educated physical therapist credentialed in another country, performing physical therapy as part of teaching or participating in an educational seminar of no more than sixty (60) days in a calendar year.

SECTION 11. That Section 54-2213, Idaho Code, be, and the same is hereby amended to read as follows:

54-22134. LICENSE RENEWAL. (1) A license shall be issued for a period of not less than one (1) year nor more than five (5) years in conformance with administrative rules adopted by the board. Each license shall set forth its expiration date on the face of the certificate. The failure of any licensee to renew his or her license, as required herein and by the administrative rules of the board shall not deprive such person of the right to renewal, except as provided for in section 54-2214, Idaho Code.

(2) On and after July 1, 2007, each individual applicant for renewal of an active license shall, on or before the expiration of the license, submit satisfactory proof to the board of successful completion of not less than thirty-two sixteen (32) hours of board-approved continuing education every two (2) years and as set forth in administrative rules adopted pursuant to this chapter. The board, in its discretion, may require such additional evidence as is necessary to verify compliance.

(3) Fees for licensure of physical therapists and physical therapist assistants shall be fixed by the board in its administrative rules. All fees shall be transmitted to the state treasurer for credit to the board's account.

(4) All licensed physical therapists or physical therapist assistants shall report to the board any name change or changes in business and home addresses prior to the expiration of thirty (30) days after the change becomes final.

SECTION 12. That Section 54-2214, Idaho Code, be, and the same is hereby amended to read as follows:

54-22145. RENEWAL AND REINSTATEMENT OF LICENSE. (1) Reinstatement of aapsed license shall require the payment of a renewal fee, satisfactory proof of successful completion of the continuing education requirement set forth in section 54-2213(2), Idaho Code, and a reinstatement fee in accordance with the administrative rules adopted by the
board; provided however, that no reinstatement fee shall be greater in amount than fifty dollars ($50.00).

(2) Reinstatement of a license that has lapsed for a period of more than three (3) consecutive years shall require reapplying for a license and payment of fees in accordance with the administrative rules adopted by the board. The individual shall successfully demonstrate to the board competency in the practice of physical therapy. The board may also require the applicant to take an examination, remedial courses, or both, as shall be determined by the board. All licenses issued under the provisions of this chapter shall be subject to annual renewal and shall expire unless renewed in the manner prescribed by the board. License renewal and reinstatement shall be in accordance with section 67-2614, Idaho Code.

SECTION 13. That Section 54-2215, Idaho Code, be, and the same is hereby amended to read as follows:

54-22156. LAWFUL PRACTICE OF PHYSICAL THERAPY. (1) A physical therapist or physical therapist assistant duly licensed in accordance with this chapter is authorized to practice physical therapy as defined in this chapter.

(2) A physical therapist shall refer persons under his or her care to appropriate health care practitioners including, but not limited to, licensed medical physicians, osteopathic physicians, podiatrists, dentists or chiropractic physicians, if the physical therapist has reasonable cause to believe symptoms or conditions are present that require services beyond the scope of practice of physical therapy or when the physical therapist has reasonable cause to believe that physical therapy is contraindicated.

(3) Physical therapists and physical therapist assistants shall adhere to the standards of ethics of the physical therapy profession as set forth in the administrative rules adopted by the board.

SECTION 14. That Section 54-2216, Idaho Code, be, and the same is hereby amended to read as follows:

54-22167. USE OF TITLES AND RESTRICTIONS. (1) A physical therapist may use the letters "PT" in connection with his or her name or place of business to denote licensure under this chapter.

(2) It is unlawful for any person, or for any business entity, its employees, agents or representatives to use in connection with his or her name, or the name of activity of the business, the words "physical therapy," "physical therapist," "physiotherapist," "registered physical therapist," or "licensed physical therapist," or the letters "PT," "LPT," "RPT," or any other words, abbreviations or insignia indicating or implying directly or indirectly that such person, business entity, its employees, agents or representatives are engaged in the practice of physical therapy, unless such services are provided by or under the direction of a physical therapist licensed in accordance with this chapter.

(3) A physical therapist assistant shall use the letters "PTA" in connection with his or her name to denote licensure under this chapter.

(4) It is unlawful for any person to use the title "physical thera-
pist assistant," "licensed physical therapist assistant," or "registered
physical therapist assistant," or the letters "PTA," "RPTA," or "LPTA,
" or any other words, abbreviations or insignia in connection with his or
her name to indicate or imply, directly or indirectly, that he or she is
a physical therapist assistant without being licensed in accordance with
this chapter as a physical therapist assistant.

SECTION 15. That Section 54-2217, Idaho Code, be, and the same is
hereby amended to read as follows:

54-2217. SUPERVISION OF PHYSICAL THERAPIST ASSISTANTS AND SUPPOR­
TIVE PERSONNEL. (1) A licensed physical therapist shall supervise and be
responsible for patient care given by physical therapist assistants and
supportive personnel. A physical therapist who delegates tasks or proce­
dures that fall within the scope of the practice of physical therapy
shall supervise such tasks and procedures in conformance with adminis­
trative rules adopted by the board.

(2) A physical therapist shall adhere to the policies and proce­
dures that delineate the functions, responsibilities and supervisory
relationships of physical therapist assistants and supportive personnel
as established by the board, on the advice and counsel of the committee,
in the board's administrative rules.

SECTION 16. That Section 54-2218, Idaho Code, be, and the same is
hereby amended to read as follows:

54-2218. GROUNDS FOR DISCIPLINARY ACTION. The following conduct,
acts, or conditions shall constitute grounds for disciplinary action:

(1) Violating any provision of this chapter or any administrative
rule adopted by the board;

(2) Practicing or offering to practice beyond the scope of physical
therapy practice as defined in this chapter or which--fails failing to
meet the standard of physical therapy provided by other qualified physi­
cal therapists and physical therapist assistants in the same or similar
communities;

(3) Obtaining or attempting to obtain a license by fraud, misrepre­
sentation or omission;

(4) Engaging in the performance of substandard care by a physical
therapist due to an intentional, negligent, or reckless act or failure
to act;

(5) Engaging in the performance of substandard care by a physical
therapist assistant, due to an intentional, negligent, or reckless act
or failure to act, or performing tasks not selected or delegated by the
supervising licensed physical therapist;

(6) Inadequate supervision by a physical therapist of a physical
therapist assistant and/or supportive personnel, or inadequate
supervision by a physical therapist assistant of supportive personnel
in accordance with this chapter and the administrative rules
adopted by the board;

(7) Having been convicted of a felony or being convicted of any
crime involving moral turpitude that has a bearing on any practice pur­
suant to this chapter in the courts of this state or any other state,
territory or country. Conviction, as used in this paragraph subsection
(7), shall include a finding or verdict of guilt, an admission of guilt,
or a plea of nolo contendere or its equivalent. The record of conviction, or a certified copy thereof, certified by the clerk of the court or by the judge in whose court the conviction occurred, shall be conclusive evidence of such conviction;

(8) Practicing as a physical therapist or working as a physical therapist assistant when physical or mental abilities are impaired by the use of controlled substances or other drugs, chemicals or alcohol;

(9) Having had a license revoked or suspended, other disciplinary action taken or an application for licensure refused, revoked or suspended by the proper authorities of another state, territory or country, or omitting such information from any application to the board, or failure to divulge such information when requested by the board;

(10) Commission of committing any act of sexual contact, misconduct, exploitation or intercourse with a patient or former patient or related to the licensee's practice of physical therapy as a physical therapist or physical therapist assistant, provided:
   (a) Consent of the patient shall not be a defense;
   (b) This subsection (10) shall not apply to sexual contact between a physical therapist or physical therapist assistant and the physical therapist's or physical therapist assistant's spouse or a person in a domestic relationship who is also a patient;
   (c) A former patient means a patient for whom the physical therapist or physical therapist assistant has provided physical therapy services within the last twelve (12) months; and
   (d) Sexual or romantic relationships with former patients beyond the period of time set forth herein may also be a violation if the physical therapist or physical therapist assistant uses or exploits the trust, knowledge, emotions or influence derived from the prior professional relationship with the patient;

(11) Directly or indirectly requesting, receiving or participating in the dividing, transferring or assigning, of any referral fee from any health care professional licensed or regulated by the state of Idaho, or any other third party, or profiting by means of a credit or other valuable consideration such as an unearned commission, discount or gratuity in connection with the furnishing of physical therapy services. Nothing in this paragraph prohibits the members, owners, shareholders or partners of any regularly and properly organized business entity recognized by the laws of the state of Idaho and comprised of physical therapists from dividing fees received for professional services amongst themselves;

(12) Failing to adhere to the recognized standards of ethics of the physical therapy profession as published in the administrative rules adopted by the board;

(13) Making misleading, deceptive, untrue or fraudulent representations in violation of this chapter or in the practice of the profession, or in the application process;

(14) Having been adjudged mentally incompetent by a court of competent jurisdiction;

(15) Aiding or abetting a person not licensed in this state who directly or indirectly performs activities requiring a license;

(16) Failing to report to the board any act or omission of a licensee, applicant, or any other person, which violates any provision of this chapter;

(17) Interfering with an investigation or disciplinary proceeding by
willful misrepresentation of facts or by use of threats or harassment against any patient or witness to prevent them from providing evidence in a disciplinary proceeding, investigation or other legal actions;

(18) Failing to maintain patient confidentiality unless otherwise required by law;

(19) Failing to maintain adequate records. For purposes of this paragraph subsection (19), "adequate patient records" means legible records that contain, at a minimum, an evaluation of objective findings, the plan of care, and the treatment record;

(20) Promoting unnecessary devices, treatment, intervention or service for the financial gain of the practitioner or of a third party;

(21) Providing treatment intervention unwarranted by the condition of the patient;

(22) Failing to pay a valid judgment that arose out of any practice pursuant to this chapter within two (2) months of the date that the judgment became final;

(23) Failing to meet continuing education requirements as established by the board.

SECTION 17. That Section 54-2219, Idaho Code, be, and the same is hereby amended to read as follows:

54-2219. DISCIPLINE ACTIONS AND PROCEDURES. (1) The board shall regulate the practice of physical therapy in the state of Idaho. The licensure-board-shall-serve-as-an-advisor-to-the-board-as-prescribed-in-section-54-2205,-Idaho-Code. The board is authorized to institute any investigation, hearing or other legal proceeding necessary to effect compliance with this chapter.

(2) The board or its hearing officer, upon a finding that action is necessary, shall have the power pursuant to this chapter to administer oaths, take depositions of witnesses within or without the state in the manner provided by the administrative rules adopted by the board, and shall have power throughout the state of Idaho to require the attendance of such witnesses and the production of such books, records and papers as it may desire at any hearing and for that purpose the board may issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records or papers, directed to the sheriff of any county of the state of Idaho, where such witness resides or may be found which shall be served and returned. The board may require a licensee to be examined to determine his or her mental or physical competence when the board has probable cause to believe the licensee is suffering from an impairment that might impede his or her ability to practice competently.

(3) When it is brought to the attention of the board by the written statement of any person that a person licensed under this chapter has done any act or thing in violation of any provision of this chapter, the board or-licensure-board shall immediately make an investigation of such person, and if the board or-licensure-board finds that there is probable cause to institute proceedings against such person, it shall without unnecessary delay transmit to that person by mail, a copy of the charges and shall fix a day not-less-than-fourteen- (14), nor-more-than-ninety (90) days-after-said-mailing for a hearing upon the matter, said hearing shall be conducted in accordance with chapter 52, title 67, Idaho Code, and with the administrative rules adopted by the board.
(4) The board or--ticensore--board may investigate any person to the extent necessary to determine if the person is engaged in the unlawful practice of physical therapy. If an investigation indicates that a person may be practicing physical therapy unlawfully, the board or--ticensore--board shall inform the person of the alleged violation. The board may refer the matter for prosecution whether or not the person ceases the unlawful practice of physical therapy.

(5) The board may, in the name of the people of the state of Idaho, apply for injunctive relief in any court of competent jurisdiction to enjoin any person from committing any act in violation of this chapter. Such injunction proceedings shall be in addition to, and not in lieu of, all penalties and other remedies provided for in this chapter.

SECTION 18. That Section 54-2220, Idaho Code, be, and the same is hereby amended to read as follows:

54-2220(1). DISCIPLINARY ACTIONS -- PENALTIES. The board may, upon proof that a person has violated any provision contained in this chapter, take the following disciplinary actions singly or in combination:

(1) Issue a censure or reprimand by informal admonition for minor misconduct found by the board--Such, which censure or reprimand by--the board shall have the same effect and shall be subject to the same requirements for disclosure as a reprimand given by the board as provided in section 54-1806A shall be subject to disclosure according to chapter 3, title 9, Idaho Code;

(2) Impose restrictions and/or conditions as to scope of practice, place of practice, supervision of practice, duration of licensed status, or type or condition of patient or client served. The board may require a licensee to report regularly to the board on matters regarding the restricted license;

(3) Suspend a license, the duration of which shall be determined by the board;

(4) Revoke a license;

(5) Refuse to issue or renew a license;

(6) Impose a reasonable fine for violation of this chapter in an amount not to exceed a maximum amount as set forth in the administrative rules adopted by the board;

(7) Accept a voluntary surrender of a license;

(8) Assess costs and attorney's fees against a licensee for any investigation and/or administrative proceeding.

SECTION 19. That Section 54-2221, Idaho Code, be, and the same is hereby amended to read as follows:

54-2221(2). JUDICIAL REVIEW. Any person who shall be aggrieved by any action of the board in denying, refusing to renew, suspending or revoking a certificate of licensure, issuing a censure, imposing any restriction upon a license, or imposing any fine, may seek judicial review thereof in accordance with the provisions of chapter 52, title 67, Idaho Code.

SECTION 20. That Section 54-2222, Idaho Code, be, and the same is hereby amended to read as follows:
54-22223. UNLAWFUL PRACTICE -- FINES AND PENALTIES. (1) It shall be unlawful for any person to practice or offer to practice physical therapy in this state, or to use in connection with his or her name or otherwise assume, use or advertise any title or description tending to convey the impression that he or she is a physical therapist or a physical therapist assistant, unless such person has been licensed under the provisions of this chapter.

(2) It shall be unlawful for any person to aid, abet, or require another person, licensed or unlicensed, to directly or indirectly violate or evade any provision of this chapter, or to combine or conspire with another person, or permit one's license to be used by another person, or act as an agent, partner, associate, or otherwise, of another person with the intent to violate or evade the provisions of this chapter.

(3) A violation of the provisions of this chapter shall constitute a misdemeanor, and any person convicted thereof shall be fined an amount not to exceed one thousand dollars ($1,000). A second conviction for a violation of any provision of this chapter shall also constitute a misdemeanor, and a person convicted of a second violation of this chapter shall be imprisoned in a county jail for a period not to exceed six (6) months, or shall be fined an amount not to exceed five thousand dollars ($5,000), or shall be punished by both such fine and imprisonment. Any third or more conviction for a violation of any provision of this chapter shall constitute a felony, and a person convicted of a third or more violation of this chapter shall be imprisoned in the state prison for a period not to exceed three (3) years, or shall be fined an amount not to exceed ten thousand dollars ($10,000), or shall be punished by both such fine and imprisonment.

SECTION 21. That Chapter 22, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-2224, Idaho Code, and to read as follows:

54-2224. DISPOSITION OF RECEIPTS -- EXPENSES. All moneys received pursuant to the provisions of this chapter shall be deposited in the state treasury to the credit of the occupational licenses fund. All expenses incurred pursuant to the provisions of this chapter shall be paid from the occupational licenses fund.

SECTION 22. That Section 67-2601, Idaho Code, be, and the same is hereby amended to read as follows:

67-2601. DEPARTMENT CREATED -- ORGANIZATION -- DIRECTOR -- BUREAU OF OCCUPATIONAL LICENSES CREATED. (1) There is hereby created the department of self-governing agencies. The department shall, for the purposes of section 20, article IV of the constitution of the state of Idaho, be an executive department of the state government.

(2) The department shall consist of the following:
(a) Agricultural commodity commissions: Idaho apple commission, as provided by chapter 36, title 22, Idaho Code; Idaho bean commission, as provided by chapter 29, title 22, Idaho Code; Idaho beef council, as provided by chapter 29, title 25, Idaho Code; Idaho cherry commission, as provided by chapter 29, title 25, Idaho Code; Idaho dairy products commission, as provided by chapter 31, title 25,
Idaho Code; Idaho pea and lentil commission, as provided by chapter 35, title 22, Idaho Code; Idaho potato commission, as provided by chapter 12, title 22, Idaho Code; Idaho prune commission, as provided by chapter 30, title 22, Idaho Code; the Idaho wheat commission, as provided by chapter 33, title 22, Idaho Code; and the Idaho aquaculture commission, as provided by chapter 44, title 22, Idaho Code.

(b) Professional and occupational licensing boards: Idaho state board of certified public accountancy, as provided by chapter 2, title 54, Idaho Code; board of acupuncture, as provided by chapter 47, title 54, Idaho Code; board of architectural examiners, as provided by chapter 3, title 54, Idaho Code; office of the state athletic director, as provided by chapter 4, title 54, Idaho Code; board of barber examiners, as provided by chapter 5, title 54, Idaho Code; board of commissioners of the Idaho state bar, as provided by chapter 4, title 3, Idaho Code; board of chiropractic physicians, as provided by chapter 7, title 54, Idaho Code; Idaho board of cosmology, as provided by chapter 8, title 54, Idaho Code; Idaho counselor licensing board, as provided by chapter 34, title 54, Idaho Code; state board of dentistry, as provided by chapter 9, title 54, Idaho Code; state board of denturist, as provided by chapter 33, title 54, Idaho Code; state board of engineering examiners, as provided by chapter 12, title 54, Idaho Code; state board for registration of professional geologists, as provided by chapter 28, title 54, Idaho Code; speech and hearing services licensure board, as provided by chapter 29, title 54, Idaho Code; Idaho physical therapy licensure board, as provided by chapter 22, title 54, Idaho Code; Idaho state board of landscape architects, as provided by chapter 30, title 54, Idaho Code; liquefied petroleum gas safety board, as provided by chapter 53, title 54, Idaho Code; state board of medicine, as provided by chapter 18, title 54, Idaho Code; and its associated physical therapist advisory board, as provided by chapter 22, title 54, Idaho Code; state board of morticians, as provided by chapter 11, title 54, Idaho Code; board of naturopathic medical examiners, as provided by chapter 51, title 54, Idaho Code; board of nurses, as provided by chapter 14, title 54, Idaho Code; board of examiners of nursing home administrators, as provided by chapter 16, title 54, Idaho Code; state board of optometry, as provided by chapter 15, title 54, Idaho Code; Idaho outfitters and guides board, as provided by chapter 21, title 36, Idaho Code; board of pharmacy, as provided by chapter 17, title 54, Idaho Code; state board of podiatry, as provided by chapter 6, title 54, Idaho Code; Idaho state board of psychologist examiners, as provided by chapter 23, title 54, Idaho Code; Idaho real estate commission, as provided by chapter 20, title 54, Idaho Code; real estate appraiser board, as provided by chapter 41, title 54, Idaho Code; board of social work examiners, as provided by chapter 32, title 54, Idaho Code; the board of veterinary medicine, as provided by chapter 21, title 54, Idaho Code; the board of examiners of residential care facility administrators, as provided by chapter 42, title 54, Idaho Code; and the board of drinking water and wastewater professionals, as provided by chapter 24, title 54, Idaho Code.

(c) The board of examiners, pursuant to section 67-2001, Idaho Code.
(d) The division of building safety, to be headed by a division administrator and comprised of five (5) bureaus: plumbing, electrical, buildings, public works contractor licensing, and logging and industrial safety. The division administrator and bureau chiefs shall be nonclassified employees exempt from the provisions of chapter 53, title 67, Idaho Code. The administrator of the division shall administer the provisions of chapter 40, title 39, Idaho Code, relating to manufactured homes and recreational vehicles; chapter 41, title 39, Idaho Code, relating to modular buildings; chapter 21, title 44, Idaho Code, relating to manufactured home dealer and installer licensing; chapter 10, title 54, Idaho Code, relating to electrical contractors and journeymen; chapter 19, title 54, Idaho Code, relating to licensing of public works contractors; chapter 26, title 54, Idaho Code, relating to plumbing and plumbers; and shall perform such additional duties as are imposed upon him by law. The division administrator shall cooperate with the industrial commission and aid and assist the commission in its administration of sections 72-720, 72-721 and 72-723, Idaho Code, and at the request of the commission shall make inspection of appliances, tools, equipment, machinery, practices or conditions, and make a written report to the commission. The administrator shall make recommendations to the commission to aid the commission in its administration of sections 72-720, 72-721 and 72-723, Idaho Code, provided however, that nothing herein shall be construed as transferring to the administrator any of the authority or powers now vested in the industrial commission.

(e) The division of veterans services to be headed by a division administrator who shall be a nonclassified employee exempt from the provisions of chapter 53, title 67, Idaho Code. The administrator of the division shall administer the provisions of chapter 2, title 65, Idaho Code, and chapter 9, title 66, Idaho Code, with the advice of the veterans affairs commission established under chapter 2, title 65, Idaho Code, and shall perform such additional duties as are imposed upon him by law.

(3) The bureau of occupational licenses is hereby created within the department of self-governing agencies.

SECTION 23. That Section 67-2602, Idaho Code, be, and the same is hereby amended to read as follows:

67-2602. BUREAU OF OCCUPATIONAL LICENSES. (1) The bureau of occupational licenses created in the department of self-governing agencies by section 67-2601, Idaho Code, shall be empowered, by written agreement between the bureau and each agency for which it provides administrative or other services as provided by law, to provide such services for the board of acupuncture, board of architectural examiners, board of barber examiners, board of chiropractic physicians, board of cosmetology, counselor licensing board, state board of denturist, speech and hearing services licensure board, physical therapy licensure board, board of landscape architects, liquefied petroleum gas safety board, board of morticians, board of naturopathic medical examiners, board of examiners of nursing home administrators, board of optometry, board of podiatrists, board of psychologist examiners, real estate appraiser board, board of examiners of residential care facility administrators, board of
social work examiners, and such other professional and occupational licensing boards or commodity commissions as may request such services. The bureau may charge a reasonable fee for such services provided any agency not otherwise provided for by law and shall maintain proper accounting methods for all funds under its jurisdiction.

(2) Notwithstanding the statutes governing specific boards, for any board that contracts with the bureau of occupational licenses, each board member shall hold office until a successor has been duly appointed and qualified.

(3) The department of self-governing agencies, by and through the bureau of occupational licenses, shall be empowered to provide administrative or other services for the administration of chapter 48, title 54, Idaho Code, to issue, suspend, revoke or refuse to renew licenses and certificates, to issue subpoenas, to prescribe and impose fees and to assess administrative penalties pursuant to the provisions of chapter 48, title 54, Idaho Code.

Approved March 22, 2006.

CHAPTER 117
(H.B. No. 611, As Amended)

AN ACT
RELATING TO PHARMACISTS; AMENDING SECTION 54-1733, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO THE VALIDITY OF PRESCRIPTION DRUG ORDERS.

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

SECTION 1. That Section 54-1733, Idaho Code, be, and the same is hereby amended to read as follows:

54-1733. VALIDITY OF PRESCRIPTION DRUG ORDERS. (1) A prescription or drug order for a legend drug is not valid unless it is issued for a legitimate medical purpose arising from a prescriber-patient relationship which includes a documented patient evaluation adequate to establish diagnoses and identify underlying conditions and/or contraindications to the treatment. Treatment, including issuing a prescription or drug order, based solely on an online questionnaire or consultation outside of an ongoing clinical relationship does not constitute a legitimate medical purpose. A prescription or drug order may be issued either:

(a) By a practitioner acting in the usual course of his profession; or
(b) By a physician, dentist, veterinarian, scientific investigator or other person, other than a pharmacist, who is licensed in a jurisdiction other than the state of Idaho and is permitted by such license to dispense, conduct research with respect to or administer the prescribed legend drugs in the course of his professional practice or research in such jurisdiction, so long as the individual is acting within the jurisdiction, scope and authority of his license when issuing the prescription or drug order.
(2) It is unlawful for a practitioner to knowingly issue an invalid prescription or drug order for a legend drug.

(3) It is unlawful for a pharmacist or veterinarian to knowingly fill an invalid prescription or drug order for a legend drug.

Approved March 22, 2006.

CHAPTER 118
(H.B. No. 606)

AN ACT
RELATING TO SPECIAL MOTOR VEHICLE LICENSE PLATES; AMENDING SECTION 49-402, IDAHO CODE, TO PROVIDE A CODE REFERENCE; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-418E, IDAHO CODE, TO ESTABLISH AN IDAHO ELKS REHABILITATION HOSPITAL SPECIAL LICENSE PLATE PROGRAM; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 49-402, Idaho Code, be, and the same is hereby amended to read as follows:

49-402. ANNUAL REGISTRATION. (1) The annual fee for operating each pickup truck, each neighborhood electric vehicle and each other motor vehicle having a maximum gross weight not in excess of eight thousand (8,000) pounds shall be:

Vehicles one (1) and two (2) years old ......................... $48.00
Vehicles three (3) and four (4) years old ..................... $36.00
Vehicles five (5) and six (6) years old ....................... $36.00
Vehicles seven (7) and eight (8) years old ................. $24.00
Vehicles over eight (8) years old ............................ $24.00

There shall be twelve (12) registration periods, starting in January for holders of validation registration stickers numbered 1, and proceeding consecutively through December for holders of validation registration stickers numbered 12, each of which shall start on the first day of a calendar month and end on the last day of the twelfth month from the first day of the beginning month. Registration periods shall expire midnight on the last day of the registration period in the year designated by the validation registration sticker. The numeral digit on the validation registration stickers shall, as does the registration card, fix the registration period under the staggered plate system of Idaho for the purpose of reregistration and notice of expiration.

A vehicle that has once been registered for any of the above designated periods shall, upon reregistration, be registered for the period bearing the same number, and the registration card shall show and be the exclusive proof of the expiration date of registration and licensing. Vehicles may be initially registered for less than a twelve (12) month period, or for more than a twelve (12) month period, and the fee prorated on a monthly basis if the fractional registration tends to fulfill the purpose of the monthly series registration system.

(2) For all school buses operated either by a nonprofit, nonpublic school or operated pursuant to a service contract with a school district
for transporting children to or from school or in connection with school approved activities, the annual fee shall be twenty-four dollars ($24.00).

(3) For all motorcycles and all-terrain vehicles operated upon the public highways the annual fee shall be nine dollars ($9.00). For operation of an all-terrain vehicle or motorcycle off the public highways, the fee specified in section 67-7122, Idaho Code, shall be paid. Registration exemptions provided in section 49-426(2), (3) and (4), Idaho Code, apply to all-terrain vehicles and motorcycles used for the purposes described in subsections (2), (3) and (4) of section 49-426, Idaho Code.

(4) For all motor homes the fee shall be as specified in subsection (1) of this section and shall be in addition to the fees provided for in section 49-445, Idaho Code.

(5) Registration fees shall not be subject to refund.

(6) A financial institution or repossession service contracted to a financial institution repossessing vehicles under the terms of a security agreement shall move the vehicle from the place of repossession to the financial institution's place of business on a repossession plate. The repossession plate shall also be used for demonstrating the vehicle to a prospective purchaser for a period not to exceed ninety-six (96) hours. The registration fees for repossession plates shall be as required in subsection (1) of this section for a vehicle one (1) and two (2) years old. All other fees required under chapter 4, title 49, Idaho Code, shall be in addition to the registration fee. The repossession plate shall be issued on an annual basis by the department.

(7) In addition to the annual registration fee in this section, there shall be an initial program fee of twenty-five dollars ($25.00) and an annual program fee of fifteen dollars ($15.00) for all special license plate programs for those license plates issued pursuant to sections 49-404A, 49-407, 49-408, 49-409, 49-414, 49-416, 49-418 and 49-418D, Idaho Code. For special plates issued pursuant to sections 49-406 and 49-406A, Idaho Code, there shall be an initial program fee of twenty-five dollars ($25.00) but there shall be no annual renewal fee. For special plates issued pursuant to sections 49-416A, 49-416B, 49-416C, 49-417, 49-417A, 49-417B, 49-417C, 49-418A, 49-418B, 49-418C, 49-418E, 49-419, 49-419A, 49-419B, 49-419C, 49-419D, 49-420, 49-420A, 49-420B, 49-420C, 49-420D, 49-420E and 49-420C, Idaho Code, there shall be an initial program fee of thirty-five dollars ($35.00) and an annual program fee of twenty-five dollars ($25.00). The fees contained in this subsection shall be applicable to all new special plate programs. The initial program fee and the annual program fee shall be deposited in the state highway account and shall be used to fund the cost of administration of special license plate programs, unless otherwise specified by law.

SECTION 2. That Chapter 4, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-418E, Idaho Code, and to read as follows:

49-418E. IDAHO ELKS REHABILITATION HOSPITAL PLATES. (1) On and after January 1, 2007, any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, or registered under any other section of law for which the purchase of special plates
is allowed, may apply for and, upon department approval, receive special Idaho elks rehabilitation hospital license plates, which shall be referred to as "Idaho elks" plates, in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of Idaho elks license plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars ($35.00) for the initial issuance of plates, and twenty-five dollars ($25.00) upon each succeeding annual registration. Ten dollars ($10.00) of the initial fee and ten dollars ($10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-five dollars ($25.00) of each initial fee and fifteen dollars ($15.00) of each renewal fee shall be transferred by the state treasurer for deposit to the Idaho elks rehabilitation hospital located in Boise, Idaho, and shall be used by the hospital in providing rehabilitative programs and services in specialized areas including pediatrics, brain injury, stroke, hearing and balance, the wound clinic, and physical, speech and occupational therapies.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(4) The Idaho elks license plate shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. The design and any slogan on the plate shall be acceptable to the governing board of the Idaho elks rehabilitation hospital and shall be approved by the Idaho transportation department utilizing a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the Idaho elks rehabilitation hospital.

(5) Sample Idaho elks license plates may be purchased for a fee of thirty dollars ($30.00), ten dollars ($10.00) of which shall be deposited in the state highway account and twenty dollars ($20.00) of which shall be transferred to the Idaho elks rehabilitation hospital located in Boise, Idaho, and shall be used by the hospital in providing rehabilitative programs and services in specialized areas including pediatrics, brain injury, stroke, hearing and balance, the wound clinic, and physical, speech and occupational therapies.

SECTION 3. This act shall be in full force and effect on and after January 1, 2007.

Approved March 22, 2006.
AN ACT
RELATING TO SPECIAL MOTOR VEHICLE LICENSE PLATES; AMENDING SECTION 49-402, IDAHO CODE, TO PROVIDE A CODE REFERENCE; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-416D, IDAHO CODE, TO ESTABLISH AN IDAHO STATE HISTORIC PRESERVATION SPECIAL LICENSE PLATE PROGRAM; AMENDING CHAPTER 41, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-4129B, IDAHO CODE, TO PROVIDE FOR THE CREATION OF AN IDAHO HISTORIC PRESERVATION AND CULTURAL ENHANCEMENT FUND; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 49-402, Idaho Code, be, and the same is hereby amended to read as follows:

49-402. ANNUAL REGISTRATION. (1) The annual fee for operating each pickup truck, each neighborhood electric vehicle and each other motor vehicle having a maximum gross weight not in excess of eight thousand (8,000) pounds shall be:

<table>
<thead>
<tr>
<th>Age of Vehicle</th>
<th>Fee (in dollars)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 and 2 years old</td>
<td>$48.00</td>
</tr>
<tr>
<td>3 and 4 years old</td>
<td>$36.00</td>
</tr>
<tr>
<td>5 and 6 years old</td>
<td>$36.00</td>
</tr>
<tr>
<td>7 and 8 years old</td>
<td>$24.00</td>
</tr>
<tr>
<td>Over 8 years old</td>
<td>$24.00</td>
</tr>
</tbody>
</table>

There shall be twelve (12) registration periods, starting in January for holders of validation registration stickers numbered 1, and proceeding consecutively through December for holders of validation registration stickers numbered 12, each of which shall start on the first day of a calendar month and end on the last day of the twelfth month from the first day of the beginning month. Registration periods shall expire midnight on the last day of the registration period in the year designated by the validation registration sticker. The numeral digit on the validation registration stickers shall, as does the registration card, fix the registration period under the staggered plate system of Idaho for the purpose of reregistration and notice of expiration.

A vehicle that has once been registered for any of the above designated periods shall, upon reregistration, be registered for the period bearing the same number, and the registration card shall show and be the exclusive proof of the expiration date of registration and licensing. Vehicles may be initially registered for less than a twelve (12) month period, or for more than a twelve (12) month period, and the fee prorated on a monthly basis if the fractional registration tends to fulfill the purpose of the monthly series registration system.

(2) For all school buses operated either by a nonprofit, nonpublic school or operated pursuant to a service contract with a school district for transporting children to or from school or in connection with school approved activities, the annual fee shall be twenty-four dollars ($24.00).

(3) For all motorcycles and all-terrain vehicles operated upon the public highways the annual fee shall be nine dollars ($9.00). For opera-
tion of an all-terrain vehicle or motorcycle off the public highways, the fee specified in section 67-7122, Idaho Code, shall be paid. Registration exemptions provided in section 49-426(2), (3) and (4), Idaho Code, apply to all-terrain vehicles and motorcycles used for the purposes described in subsections (2), (3) and (4) of section 49-426, Idaho Code.

(4) For all motor homes the fee shall be as specified in subsection (1) of this section and shall be in addition to the fees provided for in section 49-445, Idaho Code.

(5) Registration fees shall not be subject to refund.

(6) A financial institution or repossession service contracted to a financial institution repossessing vehicles under the terms of a security agreement shall move the vehicle from the place of repossession to the financial institution's place of business on a repossession plate. The repossession plate shall also be used for demonstrating the vehicle to a prospective purchaser for a period not to exceed ninety-six (96) hours. The registration fees for repossession plates shall be as required in subsection (1) of this section for a vehicle one (1) and two (2) years old. All other fees required under chapter 4, title 49, Idaho Code, shall be in addition to the registration fee. The repossession plate shall be issued on an annual basis by the department.

(7) In addition to the annual registration fee in this section, there shall be an initial program fee of twenty-five dollars ($25.00) and an annual program fee of fifteen dollars ($15.00) for all special license plate programs for those license plates issued pursuant to sections 49-404A, 49-407, 49-408, 49-409, 49-414, 49-416, 49-418 and 49-418D, Idaho Code. For special plates issued pursuant to sections 49-406 and 49-406A, Idaho Code, there shall be an initial program fee of twenty-five dollars ($25.00) but there shall be no annual renewal fee. For special plates issued pursuant to sections 49-416A, 49-416B, 49-416C, 49-416D, 49-417, 49-417A, 49-417B, 49-417C, 49-418A, 49-418B, 49-418C, 49-419, 49-419A, 49-419B, 49-419C, 49-419D, 49-420, 49-420A, 49-420B, 49-420C, 49-420D, 49-420E and 49-420G, Idaho Code, there shall be an initial program fee of thirty-five dollars ($35.00) and an annual program fee of twenty-five dollars ($25.00). The fees contained in this subsection shall be applicable to all new special plate programs. The initial program fee and the annual program fee shall be deposited in the state highway account and shall be used to fund the cost of administration of special license plate programs, unless otherwise specified by law.

SECTION 2. That Chapter 4, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-416D, Idaho Code, and to read as follows:

49-416D. IDAHO STATE HISTORIC PRESERVATION PLATES. (1) On and after January 1, 2007, any person who is the owner of a vehicle registered under the provisions of section 49-402 or 49-434(1), Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for and, upon department approval, receive special Idaho state historic preservation license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of Idaho state historic preservation
license plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars ($35.00) for the initial issuance of plates, and twenty-five dollars ($25.00) upon each succeeding annual registration. Ten dollars ($10.00) of the initial fee and ten dollars ($10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-five dollars ($25.00) of each initial fee and fifteen dollars ($15.00) of each renewal fee shall be transferred by the state treasurer to the Idaho historic preservation and cultural enhancement fund created in section 67-4129B, Idaho Code, and shall be used by the state historical society to protect and preserve the heritage and cultural resources of the state.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(4) The Idaho state historic preservation license plate shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. The design and any slogan on the plate shall be acceptable to the director of the state historical society and shall be approved by the Idaho transportation department utilizing a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the state historical society.

(5) Sample Idaho state historic preservation license plates may be purchased for a fee of thirty dollars ($30.00), ten dollars ($10.00) of which shall be deposited in the state highway account and twenty dollars ($20.00) of which shall be transferred to the Idaho historic preservation and cultural enhancement fund for protection and preservation of the state's cultural resources, historic buildings, structures, artifacts, and records; for enhancement of statewide cultural and historic education opportunities; and for historical research purposes.

SECTION 3. That Chapter 41, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-4129B, Idaho Code, and to read as follows:

67-4129B. IDAHO HISTORIC PRESERVATION AND CULTURAL ENHANCEMENT FUND. (1) There is hereby created in the state treasury the Idaho historic preservation and cultural enhancement fund. Moneys in the fund shall consist of funds received pursuant to section 49-416D, Idaho Code, grants, federal moneys, donations or funds from any other source.

(2) Moneys in the fund may be expended pursuant to appropriation to the state historical society and the fund balance may be appropriated annually to the state historical society. The state treasurer shall invest all idle moneys in the fund. Any interest earned on the investment of idle moneys shall be returned to the fund.

(3) Moneys in the fund shall be used exclusively for the purposes of protection and preservation of the state's cultural resources, his-
toric buildings, structures, artifacts, and records; for enhancement of statewide cultural and historic education opportunities; and for historical research purposes.

SECTION 4. This act shall be in full force and effect on and after January 1, 2007.

Approved March 22, 2006.

CHAPTER 120
(H.B. No. 601, As Amended in the Senate)

AN ACT
RELATING TO THE MILITARY VETERAN MOTORCYCLE LICENSE PLATE; AMENDING SECTION 49-418D, IDAHO CODE, TO REVISE THE DATE OF AVAILABILITY OF THE PLATE AND TO REVISE PROVISIONS FOR APPROVAL OF THE PLATE DESIGN AND NUMBERING SYSTEM; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 49-418D, Idaho Code, be, and the same is hereby amended to read as follows:

49-418D. MILITARY VETERAN MOTORCYCLE LICENSE PLATE. (1) On and after January 1, 2006, any person who is the owner of a motorcycle registered under the provisions of section 49-402, Idaho Code, may apply for and upon department approval receive a military veteran motorcycle license plate in lieu of a regular motorcycle license plate.

(2) Proof of being a current or former member of the United States armed forces must be furnished to the department before a military veteran motorcycle plate will be issued. Acceptable proof shall be a copy of form DD214 or an equivalent document or statement from the department of veterans affairs.

(3) In addition to the annual registration fee required in section 49-402(3), Idaho Code, the applicant shall be charged a fee of twenty-five dollars ($25.00) for the initial issuance of a plate, and fifteen dollars ($15.00) upon each succeeding annual registration. Ten dollars ($10.00) of the initial program fee and ten dollars ($10.00) of the annual program fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special motorcycle license plate program. Fifteen dollars ($15.00) of the initial program fee and five dollars ($5.00) of the annual program fee shall be deposited to the veterans cemetery maintenance fund created in section 65-107, Idaho Code, to operate and maintain a state veterans cemetery.

(4) Whenever title or interest in a motorcycle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plate to another motorcycle upon payment of the required transfer fees. The owner may only display the plate on another motorcycle upon receipt of the new registration from the department.

(5) The military veteran motorcycle license plate shall be of a color and design.
(a) In accordance with the provisions of section 49-402C, Idaho Code, except that in addition, there shall be no decals to indicate the veteran's branch of service or the period of duty served; and
(b) The plate shall display the words "Scenic Idaho" at the top and "Veteran" at the bottom of the plate; and
(c) The license plate design shall comply with all applicable rules of the department, and shall include a separate and distinct numbering system; and
(d) The design, color, be approved by the department and any portion of the design which represents veterans shall be acceptable to the administrator of the Idaho division of veterans services and a unique numbering system shall be subject to approval of utilized by the department.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2006.

Approved March 22, 2006.
financial rate of return over the short- and long-term consistent with the rate of return that would occur if thermal residue disposal were utilized.

(8) "Field grass" or "forage grass field" means a field which has been planted with one (1) of the following varieties of grass for the purpose of producing seed: canary grass, bromegrass, oat grass, Timothy grass, wheat grass, or orchard grass.

(9) "Person" means a natural person, individual, firm, partnership, corporation, company, society, association, cooperative, two (2) or more persons having a joint or common interest, or any unit or agency of local, state or federal government.

(10) "Reasonable efforts" means, but is not limited to, the obtaining of any available information on local meteorological and air quality conditions and observing the smoke plume from small test fires or from other field burns.

(11) "Turf grass field" means a field which has been planted with one (1) of the following varieties of grass for the purpose of producing seed: bluegrass, bent grass, fescues or perennial ryegrass.

Approved March 22, 2006.

CHAPTER 122
(H.B. No. 587)

AN ACT
RELATING TO COMMERCIAL TRANSACTIONS; AMENDING SECTION 28-41-201, IDAHO CODE, TO REMOVE CODE REFERENCES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 28-41-301, IDAHO CODE, TO REVISE THE DEFINITION FOR "REGULATED LENDER," TO REVISE A CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 28-45-401, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO WILLFUL AND KNOWING VIOLATIONS; AMENDING SECTION 28-46-108, IDAHO CODE, TO REVISE TERMINOLOGY AND TO REFERENCE PERSONS REQUIRED TO BE LICENSED FOR PURPOSES OF CERTAIN ADMINISTRATIVE ENFORCEMENT ORDERS; AMENDING SECTION 28-46-113, IDAHO CODE, TO REMOVE LANGUAGE AUTHORIZING THE ADMINISTRATOR TO BRING CERTAIN CIVIL ACTIONS; REPEALING PART 2, CHAPTER 46, TITLE 28, IDAHO CODE, RELATING TO APPLICABILITY, NOTIFICATION AND FEES AND TAXES; AMENDING SECTION 28-46-301, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO THE AUTHORITY TO MAKE REGULATED CONSUMER LOANS; AMENDING SECTION 28-46-302, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO LICENSEES TO MAKE REGULATED CONSUMER LOANS AND TO REVISE AND REMOVE CODE REFERENCES; AMENDING SECTION 28-46-303, IDAHO CODE, TO REFERENCE CONDITIONS EXISTING AT THE TIME OF APPLICATION; AMENDING SECTION 28-46-304, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO RECORDS AND ANNUAL REPORTS; AMENDING SECTION 28-46-305, IDAHO CODE, TO PROVIDE THAT THE ADMINISTRATOR MAY EXAMINE RECORDS, TO PROVIDE REFERENCES TO REGULATED LENDERS AND TO REMOVE LANGUAGE REQUIRING A FEE FOR INVESTIGATION PURPOSES; AMENDING SECTION 28-46-402, IDAHO CODE, TO EXEMPT CERTAIN SUPERVISED FINANCIAL ORGANIZATIONS FROM LICENSING REQUIREMENTS; AMENDING SECTION 28-46-403, IDAHO CODE, TO REMOVE LANGUAGE PROVIDING FOR THE APPROVAL AUTHORITY OF THE ADMINISTRATOR AND TO CLARIFY THE CONTINUING NATURE OF CERTAIN REQUIREMENTS; AMENDING SECTION 28-46-404, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO
PAYDAY LOAN LICENSE APPLICATIONS; AMENDING SECTION 28-46-407, IDAHO CODE, TO REFERENCE THE FAILURE TO PAY ANY FEES; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 28-41-201, Idaho Code, be, and the same is hereby amended to read as follows:

28-41-201. TERRITORIAL APPLICATION. (1) Except as otherwise provided in this section, this act applies to sales and loans made in this state and to modifications, including refinancings, consolidations, and deferrals, made in this state, of sales and loans, wherever made. For purposes of this act a sale, loan, or modification of a sale or loan is made in this state if:

(a) A written agreement evidencing the obligation or offer of the consumer is received by the creditor in this state; or
(b) A consumer who is a resident of this state enters into the transaction with a creditor who has solicited or advertised in this state by any means including, but not limited to, mail, brochure, telephone, print, radio, television, internet or any other electronic means.

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

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

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

(a) A seller, lender, or assignee of his rights, may not collect charges through actions or other proceedings in excess of those permitted by the chapter on finance charges and related provisions; and
(b) A seller, lender, or assignee of his rights, may not enforce rights against the buyer or debtor, with respect to the provisions of agreements which violate the provisions on limitations on agreements and practices, part 3 of chapter 43, title 28, Idaho Code.

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

(6) For the purposes of this act, the residence of a buyer or debtor is the address given by him as his residence in any writing signed by him in connection with a credit transaction. Until he notifies the creditor of a new or different address, the given address is presumed to be unchanged.
(7) Notwithstanding other provisions of this section:
(a) Except as provided in subsection (3) of this section, this act does not apply if the buyer or debtor is not a resident of this state at the time of a credit transaction and the parties then agree that the law of his residence applies; and
(b) This act applies if the buyer or debtor is a resident of this state at the time of a credit transaction and the parties then agree that the law of this state applies.
(8) Except as provided in subsection (7) of this section, the following agreements by a buyer or debtor are invalid with respect to regulated credit sales, regulated loans, or modifications thereof, to which this act applies:
(a) That the law of another state shall apply;
(b) That the buyer or debtor consents to the jurisdiction of another state; and
(c) That fixes venue.
(9) The following provisions of this act specify the applicable law governing certain cases:
(a) Applicability—section 28-46-102, Idaho Code, of the part on powers and functions of administrator; part 15, of the chapter on administration; chapter 46, title 28, Idaho Code; and
(b) Applicability—section 28-46-201, Idaho Code, of the part on notification and fees; part 2, of the chapter on administration; chapter 46, title 28, Idaho Code.

SECTION 2. That Section 28-41-301, Idaho Code, be, and the same is hereby amended to read as follows:

28-41-301. GENERAL DEFINITIONS. (1) "Actuarial method" means the method, defined by rules adopted by the administrator, of allocating payments made on a debt between principal or amount financed and loan finance charge or credit service charge pursuant to which a payment is applied first to the accumulated loan finance charge or credit service charge and the balance is applied to the unpaid principal or unpaid amount financed.
(2) "Administrator" means the administrator designated in section 28-46-103, Idaho Code.
(3) "Agreement" means the bargain of the parties in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance.
(4) "Agricultural purpose" means a purpose related to the production, harvest, exhibition, marketing, processing, or manufacture of agricultural products by a natural person who cultivates, plants, propagates, or nurtures the agricultural products. "Agricultural products" includes agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish, and any products thereof, including processed and manufactured products, and any and all products raised or produced on farms and any processed or manufactured products thereof.
(5) "Amount financed" means the total of the following items:
(a) In the case of a sale, the cash price of the goods, services, or interest in land, less the amount of any down payment made in cash or in property traded in, and the amount actually paid or to be paid by the seller pursuant to an agreement with the buyer to dis-
charge a security interest in, a lien on, or a debt with respect to property traded in;
(b) In case of a loan, the net amount paid to, receivable by, or paid or payable for the account of the debtor, plus the amount of any discount excluded from the finance charge, paragraph (b)(iii) of subsection (198); and
(c) In the case of a loan, to the extent that payment is, or payments are, deferred and the amount is not otherwise included and is authorized and disclosed to the debtor as required by law, amounts actually paid or to be paid by the creditor for registration, certificate of title, or license fees.
(6) "Billing cycle" means the time interval between periodic billing statement dates.
(7) "Business purpose" means any purpose except a consumer purpose.

For purposes of this act, a credit transaction:
(a) Engaged in by a debtor for an agricultural purpose; or
(b) Engaged in by a debtor for an investment purpose; or
(c) Creating a debt secured by a first mortgage or first deed of trust on real property; or
(d) In which the debtor is an organization, rather than a natural person;
is considered to be for a business purpose.
(8) "Card issuer" means a person who issues a credit card.
(9) "Cardholder" means a person to whom a credit card is issued or who has agreed with the card issuer to pay obligations arising from the issuance to or use of the card by another person.
(10) "Cash price" means the price of goods, services, or an interest in land at which the goods, services, or interest in land are offered for sale by the seller to cash buyers in the ordinary course of business, except as the administrator may otherwise prescribe by rule, and may include:
(a) Applicable sales, use, and excise and documentary stamp taxes;
(b) The cash price of accessories or related services such as delivery, installation, servicing, repairs, alterations, and improvements; and
(c) Amounts actually paid or to be paid by the seller for registration, certificate of title, or license fees.
The cash price stated by the seller to the buyer pursuant to the provisions on disclosure, part 2 of chapter 43, title 28, Idaho Code, is presumed to be the cash price.
(11) "Conspicuous" means a term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it. Whether a term or clause is conspicuous or not is for decision by the court.
(12) "Consumer purpose" means primarily a personal, family or household purpose. For purposes of this act, consumer purpose does not include a credit transaction:
(a) Engaged in by a debtor for an agricultural purpose; or
(b) Engaged in by a debtor for an investment purpose; or
(c) Creating a debt secured by a first mortgage or first deed of trust on real property; or
(d) In which the debtor is an organization, rather than a natural person.
(13) "Credit" means the right granted by a creditor to a debtor to defer payment of debt, to incur debt and defer its payment, or to purchase property or services and defer payment therefor.

(14) "Credit card" means a card or device issued under an arrangement pursuant to which a card issuer gives to a cardholder the privilege of obtaining credit from the card issuer or other person in purchasing or leasing property or services, obtaining loans, or otherwise. A transaction is "pursuant to a credit card" only if credit is obtained according to the terms of the arrangement by transmitting information contained on the card or device orally, in writing, by mechanical or electronic methods, or in any other manner. A transaction is not "pursuant to a credit card" if the card or device is used solely in that transaction to:

(a) Identify the cardholder or evidence his credit-worthiness and credit is not obtained according to the terms of the arrangement; (b) Obtain a guarantee of payment from the cardholder's deposit account, whether or not the payment results in a credit extension to the cardholder by the card issuer; or (c) Effect an immediate transfer of funds from the cardholder's deposit account by electronic or other means, whether or not the transfer results in a credit extension to the cardholder by the card issuer.

(15) "Creditor" means the person who grants credit in a regulated credit transaction or, except as otherwise provided, an assignee of a creditor's right to payment, but use of the term does not itself impose on an assignee any obligation of his assignor. In case of credit granted pursuant to a credit card, "creditor" means the card issuer and not another person honoring the credit card.

(16) "Debtor" means the person to whom credit is granted in a regulated credit transaction.

(17) "Earnings" means compensation paid or payable by an employer to an employee, or for his account, for personal services rendered or to be rendered by him, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension, retirement, or disability program.

(18) "Finance charge":

(a) Except as provided in paragraph (b) of this subsection, "finance charge" means the sum of any of the following types of charges payable directly or indirectly by the debtor and imposed directly or indirectly by the creditor as an incident to or as a condition of the extension of credit, as applicable:

1. (i) Interest or any amount payable under a point, discount, or other system of charges, however denominated;
2. (ii) Time-price differential, credit service, service, carrying, or other charge, however denominated;
3. (iii) Premium or other charge for any guarantee or insurance protecting the creditor against the debtor's default or other credit loss; and
4. (iv) Charges incurred for investigating the collateral or credit-worthiness of the debtor or for commissions or brokerage for obtaining the credit, irrespective of the person to whom the charges are paid or payable, unless the creditor had no notice of the charges when the credit was granted.

(b) The term does not include:
Charges as a result of default or delinquency if made for actual unanticipated late payment, delinquency, default, or other like occurrence, unless the parties agree that these charges are finance charges; a charge is not made for actual unanticipated late payment, delinquency, default or other like occurrence if imposed on an account that is or may be debited from time to time for purchases or other debts and, under its terms, payment in full or of a specified amount is required when billed, and in the ordinary course of business the debtor is permitted to continue to have purchases or other debts debited to the account after imposition of the charge; deferral charges, section 28-42-3032, Idaho Code; or

A discount, if a creditor purchases or satisfies obligations of a cardholder pursuant to a credit card and the purchase or satisfaction is made at less than the face amount of the obligation.

"Goods" includes goods not in existence at the time the transaction is entered into and merchandise certificates, but excludes money, chattel paper, documents of title, and instruments.

"Insurance premium loan" means a regulated consumer loan that:

(a) Is made for the sole purpose of financing the payment by or on behalf of an insured of the premium on one or more policies or contracts issued by or on behalf of an insurer;

(b) Is secured by an assignment by the insured to the lender of the unearned premium on the policy or contract; and

(c) Contains an authorization to cancel the policy or contract financed.

"Lender," except as otherwise provided, includes an assignee of a lender's right to payment, but use of the term does not in itself impose on an assignee any obligation of the lender.

"Lender credit card" means a credit card issued by a regulated lender.

"Loan" means, except as provided in paragraph (b) of this subsection:

(i) The creation of debt by the lender's payment of or agreement to pay money to the debtor or to a third person for the account of the debtor;

(ii) The creation of debt pursuant to a lender credit card in any manner, including a cash advance or the card issuer's honoring a draft or similar order for the payment of money drawn or accepted by the debtor, paying or agreeing to pay the debtor's obligation, or purchasing or otherwise acquiring the debtor's obligation from the obligee or his assignees;

(iii) The creation of debt by a cash advance to a debtor pursuant to a seller credit card;

(iv) The creation of debt by a credit to an account with the lender upon which the debtor is entitled to draw immediately; and

(v) The forbearance of debt arising from a loan.

"Loan" does not include:

(i) A card issuer's payment or agreement to pay money to a third person for the account of a debtor if the debt of the debtor arises from a sale and results from use of a seller credit card; or
(24) "Merchandise certificate" means a writing not redeemable in cash and usable in its face amount in lieu of cash in exchange for goods or services.

(25) "Open-end credit" means an arrangement pursuant to which:
(a) A creditor may permit a debtor, from time to time, to purchase on credit from the creditor or pursuant to a credit card, or to obtain loans from the creditor or pursuant to a credit card;
(b) The amounts financed and the finance and other appropriate charges are debited to an account;
(c) The finance charge, if made, is computed on the account periodically; and
(d) Either the debtor has the privilege of paying in full or in installments or the creditor periodically imposes charges computed on the account for delaying payment and permits the debtor to continue to purchase on credit.

(26) "Organization" means a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.

(27) "Payable in installments" means that payment is required or permitted by agreement to be made in:
(a) Two (2) or more periodic payments, excluding a down payment, with respect to a debt arising from a regulated consumer credit sale pursuant to which a finance charge is made;
(b) Four (4) or more periodic payments, excluding a down payment, with respect to a debt arising from a regulated consumer credit sale pursuant to which no finance charge is made; or
(c) Two (2) or more periodic payments with respect to a debt arising from a regulated consumer loan. If any periodic payment other than the down payment under an agreement requiring or permitting two or more periodic payments is more than twice the amount of any other periodic payment, excluding the down payment, the regulated consumer credit sale or regulated consumer loan is "payable in installments."

(28) "Person" includes a natural person or an individual, and an organization.

(29) "Person related to" with respect to an individual means:
(a) The spouse of the individual;
(b) A brother, brother-in-law, sister; or sister-in-law of the individual;
(c) An ancestor or lineal descendant of the individual or his spouse; and
(d) Any other relative, by blood or marriage, of the individual or his spouse who shares the same home with the individual.

"Person related to" with respect to an organization means:
(a) A person directly or indirectly controlling, controlled by or under common control with the organization;
(b) An officer or director of the organization or a person performing similar functions with respect to the organization or to a person related to the organization;
(c) The spouse of a person related to the organization; and
(d) A relative by blood or marriage of a person related to the organization who shares the same home with him.

(30) "Precomputed credit transaction" means a credit transaction in
which the debt is a sum comprising the amount financed and the amount of
the finance charge computed in advance. A disclosure required by the
Federal Consumer Credit Protection Act does not in itself make a finance
charge or transaction precomputed.

(31) "Presumed" or "presumption" means that the trier of fact must
find the existence of the fact presumed unless and until evidence is
introduced which would support a finding of its nonexistence.

(32) "Regulated consumer credit sale" means a regulated credit sale,
subsection (35) of this section, and for a consumer purpose, subsection
(12) of this section.

(33) "Regulated consumer credit transaction" means a regulated
credit transaction, subsection (36) of this section, and for a consumer
purpose, subsection (12) of this section.

(34) "Regulated consumer loan" means a regulated loan, subsection
(38) of this section, and for a consumer purpose, subsection (12) of
this section.

(35) "Regulated credit sale" means a sale of goods, services, or an
interest in land in which:
(a) Credit is granted either pursuant to a seller credit card or by
a seller who regularly engages as a seller in credit transactions of
the same kind; and
(b) The debt is payable in installments or a finance charge is
made.

A "regulated credit sale" does not include a sale in which the
seller allows the buyer to purchase goods or services pursuant to a
lender credit card.

(36) "Regulated credit transaction" means a regulated credit sale or
regulated loan or a refinancing or consolidation thereof.

(37) "Regulated lender" means a person authorized to make, or take
assignments of, regulated consumer loans, as a regular business, under a
license—issued—by—the—administrator, section 28-46-301, et—seq., Idaho
Code.

(38) "Regulated loan" means a loan made by a creditor regularly
engaged in the business of making loans in which the debt is payable in
installments or a finance charge is made. A "regulated loan" does not
include a sale in which the seller allows the buyer to purchase pursuant to
a seller credit card.

(39) "Sale of goods" includes an agreement in the form of a bailment
or lease of goods if the bailee or lessee pays or agrees to pay as com-
pensation for use a sum substantially equivalent to or in excess of the
aggregate value of the goods involved and it is agreed that the bailee
or lessee will become, or for no other or a nominal consideration has
the option to become, the owner of the goods upon full compliance with
the terms of the agreement.

(40) "Sale of an interest in land" includes a lease in which the
lessee has an option to purchase the interest and all or a substantial
part of the rental or other payments previously made by him are applied
to the purchase price.

(41) "Sale of services" means furnishing or agreeing to furnish ser-
vices and includes making arrangements to have services furnished by
another.

(42) "Seller" includes, except as otherwise provided, an assignee of
the seller's right to payment, but use of the term does not in itself impose on an assignee any obligation of the seller.
"Seller credit card" means either:
(a) A credit card issued primarily for the purpose of giving the cardholder the privilege of using the card to purchase property or services from the card issuer, persons related to the card issuer, or persons licensed or franchised to do business under the card issuer's business or trade name or designation, or both from any of these persons and from other persons; or
(b) A credit card issued by a person except a regulated lender primarily for the purpose of giving the cardholder the privilege of using the credit card to purchase property or services from at least one hundred (100) persons not related to the card issuer.

"Services" includes:
(a) Work, labor, and other personal services;
(b) Privileges with respect to transportation, hotel and restaurant accommodations, education, entertainment, recreation, physical culture, hospital accommodations, funerals, cemetery accommodations, and the like; and
(c) Insurance provided by a person other than the insurer.

"Supervised financial organization" means a person, except an insurance company or other organization primarily engaged in an insurance business:
(a) Organized, chartered, or holding an authorization certificate under the laws of this state or of the United States that authorizes the person to make loans and to receive deposits, including a savings, share, certificate or deposit account; and
(b) Subject to supervision by an official or agency of this state or of the United States.

SECTION 3. That Section 28-45-401, Idaho Code, be, and the same is hereby amended to read as follows:

28-45-401. WILLFUL AND KNOWING VIOLATIONS. (1) A regulated lender who willfully and knowingly makes charges in excess of those permitted by the chapter on finance charges and related provisions, chapter 42, title 28, Idaho Code, applying to regulated consumer loans is guilty of a misdemeanor and upon conviction may be sentenced to pay a fine not exceeding five hundred dollars ($500) or to imprisonment not exceeding one (1) year, or both.

(2) A person who, in violation of the provisions of this act applying to authority to make regulated consumer loans, section 28-46-301, Idaho Code, willfully and knowingly engages without a license in the business of making regulated consumer loans, or of taking assignments of and undertaking direct collection of payments from and enforcement of rights against debtors arising from regulated consumer loans, is guilty of a misdemeanor and upon conviction may be sentenced to pay a fine not exceeding five hundred dollars ($500), or to imprisonment not exceeding one (1) year, or both.

(3) A person who willfully and knowingly engages in the business of entering into regulated consumer credit transactions, or of taking assignments of rights against debtors arising therefrom and undertaking direct collection of payments or enforcement of these rights, without complying with the provisions of this act concerning notification, section 28-46-202, Idaho Code, or payment of fees, section 28-46-203, Idaho Code,
SECTION 4. That Section 28-46-108, Idaho Code, be, and the same is hereby amended to read as follows:

28-46-108. ADMINISTRATIVE ENFORCEMENT ORDERS. (1) After notice and hearing the administrator may order a creditor or a person acting in his behalf to cease and desist from violating this act. A respondent aggrieved by an order of the administrator may obtain judicial review of the order and the administrator may obtain an order of the court for enforcement of his order in the district court. The proceeding for review or enforcement is initiated by filing a petition in the court. Copies of the petition shall be served upon all parties of record.

(2) Within thirty (30) days after service of the petition for review upon the administrator, or within any further time the court allows, the administrator shall transmit to the court the original or a certified copy of the entire record upon which the order is based, including any transcript of testimony, which need not be printed. By stipulation of all parties to the review proceeding, the record may be shortened. After hearing, the court may:

(a) Reverse or modify the order if the findings of fact of the administrator are clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record;

(b) Grant temporary relief or restraining order it deems just; and

(c) Enter an order enforcing, modifying and enforcing as modified, or setting aside in whole or in part the order of the administrator, or remanding the case to the administrator for further proceedings.

(3) An objection not urged at the hearing shall not be considered by the court unless the failure to urge the objection is excused for good cause shown. A party may move the court to remand the case to the administrator in the interest of justice for the purpose of adducing additional specified and material evidence and seeking findings thereon upon good cause shown for the failure to adduce this evidence before the administrator.

(4) The jurisdiction of the court shall be exclusive and its final judgment or decree is subject to review by the supreme court in the same manner and form and with the same effect as in appeals from a final judgment or decree. The administrator's copy of the testimony shall be available at reasonable times to all parties for examination without cost.

(5) A proceeding for review under this section shall be initiated within thirty (30) days after a copy of the order of the administrator is received. If no proceeding is so initiated, the administrator may obtain an order of the court for enforcement of his order upon showing that his order was issued in compliance with this section, that no proceeding for review was initiated within thirty (30) days after a copy of the order was received, and that the respondent is subject to the jurisdiction of the court.

(6) With respect to unconscionable agreements or fraudulent or unconscionable conduct by persons licensed to make regulated consumer loans a regulated lender, the administrator may not issue an order pursuant to this section but may bring a civil action for an injunction,
section 28-46-111, Idaho Code, or any other action which the administrator is authorized to bring under this act.

(7) With respect to unconscionable agreements or fraudulent or unconscionable conduct by an unlicensed person who is required to be licensed under section 28-46-301, Idaho Code, the administrator may issue a cease and desist order without prior notice or hearing, and may bring a civil action for an injunction, or any other action which the administrator is authorized to bring under this act.

SECTION 5. That Section 28-46-113, Idaho Code, be, and the same is hereby amended to read as follows:

28-46-113. CIVIL ACTIONS BY ADMINISTRATOR. (1) After demand, the administrator may bring a civil action against a creditor to recover actual damages sustained and excess charges paid by one (1) or more debtors who have a right to recover explicitly granted by this act. In a civil action under this subsection, penalties may not be recovered by the administrator. The court shall order amounts recovered under this subsection to be paid to each debtor or set off against his obligation. A debtor's action, except a class action, takes precedence over a prior or subsequent action by the administrator with respect to the claim of that debtor. A debtor's class action takes precedence over a subsequent action by the administrator with respect to claims common to both actions, but the administrator may intervene. An administrator's action on behalf of a class of debtors takes precedence over a debtor's subsequent class action with respect to claims common to both actions. Whenever an action takes precedence over another action under this subsection, the latter action may be stayed to the extent appropriate while the precedent action is pending and dismissed if the precedent action is dismissed with prejudice or results in a final judgment granting or denying the claim asserted in the precedent action. A defense available to a creditor in a civil action brought by a debtor is available to him in a civil action brought under this subsection.

(2) The administrator may bring a civil action against a creditor or a person acting in his behalf to recover a civil penalty of no more than five thousand dollars ($5,000) for repeatedly and intentionally violating this act. A civil penalty pursuant to this subsection may not be imposed for a violation of this act occurring more than two (2) years before the action is brought.

(3) The administrator may bring a civil action against a creditor for failure to file notification in accordance with the provisions on notification, section 28-46-282, Idaho Code, or to pay fees in accordance with the provisions on fees, section 28-46-283, Idaho Code, to recover the fees the defendant has failed to pay and a civil penalty in an amount determined by the court not exceeding the greater of three (3) times the amount of fees the defendant has failed to pay or one thousand dollars ($1,000), plus the administrator's costs and attorney's fees.

SECTION 6. That Part 2, Chapter 46, Title 28, Idaho Code, be, and the same is hereby repealed.

SECTION 7. That Section 28-46-301, Idaho Code, be, and the same is hereby amended to read as follows:
28-46-301. AUTHORITY TO MAKE REGULATED CONSUMER LOANS. (1) The administrator shall receive and act on all applications for licenses to make regulated consumer loans under this act. Applications shall be filed in the manner prescribed by the administrator and shall contain such information as the administrator may reasonably require, and shall be accompanied by the fee required by subsection (5) of section 28-46-305, Idaho Code. Unless a person is exempt under federal law or under this section or has first obtained a license from the administrator authorizing him to make regulated consumer loans, he shall not engage in the business of:

(a) Making regulated consumer loans; or
(b) Taking assignments of and undertaking direct collection of payments from or enforcement of rights against debtors arising from regulated consumer loans.

(2) Any "supervised financial organization," as defined in section 28-41-301(45), Idaho Code, or any person organized, chartered, or holding an authorization certificate under the laws of another state to engage in making loans and receiving deposits, including a savings, share, certificate, or deposit account and who is subject to supervision by an official or agency of the other state, shall be exempt from the licensing requirements of this section.

SECTION 8. That Section 28-46-302, Idaho Code, be, and the same is hereby amended to read as follows:

28-46-302. LICENSE TO MAKE REGULATED CONSUMER LOANS. (1) No application The administrator shall receive and act on all applications for a license shall be denied to do business as a regulated lender. Applications shall be filed in the manner prescribed by the administrator, shall contain such information as the administrator may reasonably require, shall be updated as necessary to keep the information current, and shall be accompanied by an application fee of three hundred fifty dollars ($350). When an application for licensure is denied or withdrawn, the administrator shall retain all fees paid by the applicant. The administrator may deny an application for a license if the administrator finds that:

(a) The financial responsibility, character, and fitness of the applicant, and of the officers and directors thereof (if the applicant is a corporation) are not such as to warrant belief that the business will be operated honestly and fairly within the purposes of this act; and
(b) The applicant has does not maintain at least thirty thousand dollars ($30,000) in liquid assets, as determined in accordance with generally accepted accounting principles, available for the purpose of making loans under this chapter;
(c) The applicant has had a license, substantially equivalent to a license under this chapter and issued by any state, denied, revoked or suspended under the law of such state;
(d) The applicant has filed an application for a license which is false or misleading with respect to any material fact;
(e) The application does not contain all of the information required by the administrator; or
(f) The application is not accompanied by an application fee of three hundred fifty dollars ($350).
(2) A licensee under this chapter shall meet the requirements of subsection (1) of this section at all times while licensed pursuant to this chapter. The administrator is empowered to conduct investigations as he may deem necessary, to enable him to determine the existence of the requirements set out in subsections (1)(a) and (1)(b) of this section.

(3) The director may issue a license under this act to a mortgage lender licensed under chapter 31, title 26, Idaho Code, and who is engaged in the business described in subsection (1)(a) or (2b) of section 28-46-301, Idaho Code. All provisions of this act, except subsections (1) and (2) of this section, and subsection (5) of section 28-46-305, Idaho Code, shall apply to persons seeking a license pursuant to this subsection.

(4) Upon written request, the applicant is entitled to a hearing on the question of his qualifications for a license if:
   (a) The administrator has notified the applicant in writing that his application has been denied, or objections filed; or
   (b) The administrator has not issued a license within sixty (60) days after the application for the license was filed.

If a hearing is held, the applicant and those filing objections shall reimburse, pro rata, the administrator for his reasonable and necessary expenses incurred as a result of the hearing. A request for a hearing may not be made more than fifteen (15) days after the administrator has mailed a writing to the applicant notifying him that the application has been denied and stating in substance the administrator's finding supporting denial of the application or that objections have been filed and the substance thereof.

(5) The administrator may issue additional licenses to the same licensee upon notification by the licensee, in the manner prescribed by the administrator, and payment of the required application fee. A separate license shall be required for each place of business. Each license shall remain in full force and effect until surrendered unless the licensee does not satisfy the renewal requirements of subsection (8) of this section, or the license is relinquished, suspended or revoked.

(6) No licensee shall change the location of any place of business, or consolidate, or close any locations, without giving the administrator at least fifteen (15) days' prior written notice. No licensee shall change the location of any of his places of business to a location more than five (5) miles from the original location or outside the original municipality, if any.

(7) A licensee shall not engage in the business of making regulated consumer loans at any place of business for which he does not hold a license nor shall he engage in business under any other name than that in the license.

(8) On or before May 31 of each year, every licensee under this chapter shall pay a nonrefundable annual license renewal fee of one hundred fifty dollars ($150) per licensed location, and shall file with the administrator a renewal form containing such information as the administrator may require.

SECTION 9. That Section 28-46-303, Idaho Code, be, and the same is hereby amended to read as follows:
28-46-303. REVOCATION OR SUSPENSION OF LICENSE. (1) The administrator may issue to a person licensed to make regulated consumer loans an order to show cause why his license should not be revoked or suspended for a period not in excess of six (6) months. The order shall state the place for a hearing and set a time for the hearing that is no less than ten (10) days from the date of the order. After the hearing, the administrator shall revoke or suspend the license if he finds that:

(a) The licensee has repeatedly and willfully violated this act or any rule or order lawfully made pursuant to this act; or
(b) Facts or conditions exist which would clearly have justified the administrator in refusing to grant a license had these facts or conditions existed or been known to exist at the time the application for the license was made.

(2) No revocation or suspension of a license is lawful unless prior to institution of revocation or suspension proceedings by the administrator, notice is given to the licensee of the facts or conduct which warrant the intended action, and the licensee is given an opportunity to show compliance with all lawful requirements for retention of the license.

(3) If the administrator finds that probable cause for revocation of a license exists and that enforcement of this act requires immediate suspension of the license pending investigation, he may, after a hearing upon five (5) days' written notice, enter an order suspending the license for not more than thirty (30) days.

(4) Whenever the administrator revokes or suspends a license, he shall enter an order to that effect and forthwith notify the licensee of the revocation or suspension. Within five (5) days after the entry of the order, he shall deliver to the licensee a copy of the order and the findings supporting the order.

(5) Any person holding a license to make regulated consumer loans may relinquish the license by notifying the administrator in writing of its relinquishment, but this relinquishment shall not affect his liability for acts previously committed.

(6) No revocation, suspension, or relinquishment of a license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any debtor.

(7) The administrator may reinstate a license, terminate a suspension, or grant a new license to a person whose license has been revoked or suspended if no fact or condition then exists which clearly would have justified the administrator in refusing to grant a license.

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

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

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

SECTION 11. That Section 28-46-305, Idaho Code, be, and the same is hereby amended to read as follows:

28-46-305. EXAMINATIONS AND INVESTIGATIONS. (1) The administrator shall examine periodically at intervals he deems appropriate, the loans and business records of every regulated lender. In addition, for the purpose of discovering violations of this act or securing information lawfully required, the administrator may at any time investigate the loans, business, and records of any regulated lender. For these purposes, he shall have free and reasonable access to the offices, places of business, and records of the lender. The administrator, for purposes of examination of licensees herein, shall be paid the cost of examination by the licensee, within thirty (30) days of demand for payment. The administrator shall, on July 1 of each year, fix such per diem examination cost.

(2) If the regulated lender's records are located outside this state, the regulated lender, at his option, shall make them available to the administrator at a convenient location within this state, or pay the reasonable and necessary expenses for the administrator or his representative to examine them at the place where they are maintained. The administrator may designate representatives, including comparable officials of the state in which the records are located, to inspect them on his behalf.

(3) For the purposes of this section, the administrator may administer oaths or affirmations, and upon his own motion or upon request of any party, may subpoena witnesses, compel their attendance, adduce evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts, or any other matter reasonably calculated to lead to the discovery of admissible evidence.

(4) Upon failure without lawful excuse to obey a subpoena or to give testimony and upon reasonable notice to all persons affected thereby, the administrator may apply to the district court for an order compelling compliance.

(5) For purposes of investigation—herein—each—regulated—lender applicant—shall submit with his application the sum of one hundred dollars ($100).

SECTION 12. That Section 28-46-402, Idaho Code, be, and the same is hereby amended to read as follows:
28-46-402. LICENSE REQUIRED. (1) No person shall engage in the business of payday loans, offer or make a payday loan, or arrange a payday loan for a third party lender in a payday loan transaction without having first obtained a license under this chapter. A separate license shall be required for each location from which such business is conducted.

(2) Any "supervised financial organization," as defined in section 28-41-301(45), Idaho Code, or any person organized, chartered, or holding an authorization certificate under the laws of another state to engage in making loans and receiving deposits, including a savings, share, certificate, or deposit account and who is subject to supervision by an official or agency of the other state, shall be exempt from the licensing requirements of this section.

SECTION 13. That Section 28-46-403, Idaho Code, be, and the same is hereby amended to read as follows:

28-46-403. QUALIFICATIONS FOR PAYDAY LOAN LICENSE. (1) To qualify for a license, an applicant shall satisfy the following requirements:
(a) The applicant shall have liquid assets of at least thirty thousand dollars ($30,000) determined in accordance with generally accepted accounting principles, provided that applicants seeking to engage in the business of payday loans at more than one (1) location in the state shall have liquid assets of at least an additional five thousand dollars ($5,000) for each additional location in the state up to a maximum of seventy-five thousand dollars ($75,000) for all locations in the state; and
(b) The financial responsibility, financial condition, business experience, character and general fitness of the applicant shall reasonably warrant the administrator's belief that the applicant's business will be conducted lawfully and fairly. In determining whether this qualification has been met, and for the purpose of investigating compliance with this act, the administrator may review:

(i) The relevant business records and the capital adequacy of the applicant;
(ii) The competence, experience, integrity and financial ability of any applicant, and if the applicant is an entity, of any person who is a member, partner, director, senior officer or twenty-five percent (25%) or more equity owner of the applicant; and
(iii) Any record of conviction, on the part of the applicant, or any person referred to in subparagraph (ii) of this paragraph, of any criminal activity; any fraud or other act of personal dishonesty; any act, omission or practice which constitutes a breach of a fiduciary duty; or any suspension, revocation, removal or administrative action by any agency or department of the United States or any state, from participation in the conduct of any business.

(2) The requirements set forth in subsection (1) of this section are continuing in nature, and may be reviewed periodically by the administrator. A licensee shall meet the requirements of this section at all times while licensed pursuant to this part 4.
SECTION 14. That Section 28-46-404, Idaho Code, be, and the same is hereby amended to read as follows:

28-46-404. APPLICATION FOR PAYDAY LOAN LICENSE. (1) Each application for a license shall be in writing and under oath to the administrator, in a form prescribed by the administrator, and shall include at least the following:

(a) The legal name, residence and business address of the applicant and, if the applicant is an entity, of every member, partner, director, senior officer or twenty-five percent (25%) or more equity owner of the applicant;

(b) The location at which the principal place of business of the applicant is located; and

(c) Other data and information the administrator may require with respect to the applicant, and if the applicant is an entity, such data and information of its members, partners, directors, senior officers, or twenty-five percent (25%) or more equity owners of the applicant.

(2) Each application for a license shall be accompanied by an application and-investigation fee in an the amount prescribed by the administrator of three hundred fifty dollars ($350). Such fee shall not be subject to refund.

(3) The fee set forth in subsection (2) of this section shall be required for each location for which an application is submitted.

(4) Within sixty (60) days of the filing of an application in a form prescribed by the administrator, accompanied by the fee required in subsection (2) of this section, the administrator shall investigate to ascertain whether the qualifications prescribed by subsection (1) of section 28-46-403, Idaho Code, have been satisfied. If the administrator finds that the qualifications have been satisfied and approves the documents, the administrator shall issue to the applicant a license to engage in the payday loan business.

(5) A license issued pursuant to this section shall remain in full force and effect through the remainder of the calendar year after its date of issuance unless earlier surrendered the licensee does not satisfy the renewal requirements of subsection (6) of this section, or the license is relinquished, suspended or revoked pursuant to this act.

(6) On or before May 31 of each year, every licensee under this part 4 shall pay a nonrefundable annual license renewal fee of one hundred fifty dollars ($150) per licensed location, and shall file with the administrator a renewal form containing such information as the administrator may require.

SECTION 15. That Section 28-46-407, Idaho Code, be, and the same is hereby amended to read as follows:

28-46-407. SUSPENSION OR REVOCATION OF LICENSE. (1) The administrator may, after notice and hearing, suspend or revoke any license if the administrator finds that the licensee:

(a) Has knowingly or through the lack of due care failed to pay the annual fee imposed by this act, or any examination fee imposed by the administrator under the authority of this act;

(b) Has committed any fraud, engaged in any dishonest activities or made any misrepresentations;
(c) Has violated any provision of this act or any rule or order lawfully made pursuant to this act or has violated any other law in the course of the licensee's dealing as a licensee;
(d) Has made a materially false statement in the application for the license or failed to give a true reply to a question in the application; or
(e) Has demonstrated incompetence or untrustworthiness to act as a licensee.
(2) If the reason for revocation or suspension of a licensee's license at any one (1) location is of general application to locations operated by a licensee, the administrator may revoke or suspend all licenses issued to a licensee.

SECTION 16. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2006.

Approved March 22, 2006.

CHAPTER 123
(H.B. No. 584)

AN ACT
RELATING TO RESIDENTIAL MORTGAGE PRACTICES; AMENDING SECTION 26-3104, IDAHO CODE, TO PROHIBIT CERTAIN UNLICENSED PERSONS FROM ENGAGING IN MORTGAGE BROKERING ACTIVITIES, MORTGAGE LENDING ACTIVITIES OR LOAN ORIGINATION ACTIVITIES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 26-3104, Idaho Code, be, and the same is hereby amended to read as follows:

26-3104. UNLAWFUL ACTS. (1) Any person, except a person exempt under section 26-3103, Idaho Code, who engages in mortgage brokering or mortgage lending activities without first obtaining a mortgage broker or mortgage lender license in accordance with this chapter, shall be guilty of a felony.
(2) Any person, not exempt under section 26-3103, Idaho Code, who engages in loan origination activities without first obtaining a loan originator license in accordance with this chapter, shall be guilty of a felony.
(3) No person, except a person exempt under section 26-3103, Idaho Code, shall engage in mortgage brokering activities, mortgage lending activities, or loan origination activities without first obtaining a license from the department in accordance with this chapter.

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

Approved March 22, 2006.
AN ACT
RELATING TO IRRIGATION DISTRICTS; AMENDING SECTION 43-201, IDAHO CODE, TO REVISE FILING REQUIREMENTS RELATING TO WRITTEN NOMINATIONS FOR THE OFFICE OF DIRECTOR AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 43-401, IDAHO CODE, TO REVISE PUBLICATION REQUIREMENTS RELATING TO NOTICES OF CERTAIN IRRIGATION DISTRICT ELECTIONS; AND AMENDING SECTION 43-1808, IDAHO CODE, TO REVISE PROVISIONS RELATING TO ELECTIONS INVOLVING THE QUESTION OF A CONTRACT BETWEEN A DISTRICT AND THE UNITED STATES.

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

SECTION 1. That Section 43-201, Idaho Code, be, and the same is hereby amended to read as follows:

43-201. ELECTION, TERM OF OFFICE, NOMINATIONS AND QUALIFICATIONS. Following the organization of any district, an election shall be held in accordance with section 34-106, Idaho Code, at which shall be elected one (1) director for each division of said district by the electors of the district at large. The term of office of the directors shall, immediately after the first election following such organization, be selected by lot so that as nearly as may be, one-third (1/3) of the number shall hold office for the term of one (1) year; one-third (1/3) for the term of two (2) years, and the balance for the term of three (3) years. And an election shall be held in the district in accordance with section 34-106, Idaho Code, for each year thereafter, at which directors shall be elected to succeed those whose terms expire, to hold office for a term of three (3) years, or until their successors are elected and qualified. Every director must be a qualified elector and a resident of the division of the director whom he is to succeed in office; provided that, in districts of fifteen thousand (15,000) acres or less, the bylaws may, by resolution of two-thirds (2/3) of the board and adoption by two-thirds (2/3) of the electors voting in a district election conducted in accordance with the general election laws of the state applicable to irrigation districts, set forth a provision allowing a district landowner to serve as the director from the division in which the landowner owns land, if the landowner possesses all the qualifications required of electors under the general laws of the state and has resided within fifteen (15) miles of the district for a period of at least thirty (30) days prior to the election; provided further that any landowner who owns land in more than one (1) division may serve as the director only from the division nearest which he resides. Written nominations for the office of director if any are made, must be signed by at least six (6) electors in districts having less than one hundred (100) resident electors and by at least twelve (12) electors in districts having more than one hundred (100) resident electors, and filed with the secretary of the district not less than twenty forty (240) days nor more than sixty (460) days before the date of election; and the names of the persons so nominated shall be placed upon official ballot to be furnished by the district.
SECTION 2. That Section 43-401, Idaho Code, be, and the same is hereby amended to read as follows:

43-401. PLAN OF CONSTRUCTION -- ISSUANCE OF BONDS -- INDEBTEDNESS -- ELECTION. As soon as practicable after the organization of any such district the board of directors shall, by a resolution entered on its records, formulate a general plan of its proposed operations, in which it shall state what constructed works or other property it proposes to purchase and the cost of purchasing the same; and further what construction work it proposes to do and how it proposes to raise the funds for carrying out said plan. For the purpose of ascertaining the cost of any such construction work, said board shall cause such surveys, examinations and plans to be made as shall demonstrate the practicability of such plan, and furnish the proper basis for an estimate of the cost of carrying out the same. All such surveys, examinations, maps, plans and estimates, shall be made under the direction of a competent irrigation engineer and certified by him. Said board shall then submit a copy of the same to the department of water resources, and within ninety (90) days thereafter the department shall file a report upon the same with said board, which report shall contain such matters as, in the judgment of the department may be desirable.

Upon receiving said report said board of directors shall proceed to determine the amount of money necessary to be raised, and shall immediately thereafter call a special election, at which shall be submitted to the electors of said district possessing the qualifications hereinafter prescribed the question whether or not the bonds of said district, or the right to enter into an obligation with the United States in the manner hereinafter in this title provided, or whether a contractual arrangement with a money-lending institution in the amount as determined, shall be authorized.

Notice of such election must be given by posting notices in three (3) public places in each election precinct in said district at least four (4) weeks before the date of said election, and the by publication thereof for the same length of time of the same once a week for four (4) consecutive weeks in some newspaper published in having general circulation within the district, and in case no paper is published in the district, then in a paper published in each county in which the district or any part thereof is located. Notice given by publication in a weekly newspaper shall be published in four (4) consecutive issues thereof, or if in a daily newspaper, at least six (6) days shall elapse between the first and last dates of publication, and in either case, publication shall be completed not less than fifteen (15) days before the election. Such notice must specify the time of holding the election, the qualifications of voters, the amount of bonds proposed to be issued, and, in case such maps and estimates have been made, it shall further state that copies thereof, and in all cases it shall state that said report of the department of water resources, are on file and open to public inspection by the people of the district, at the office of said board and at the office of the department of water resources.
No person who is not a resident holder of title or evidence of title to lands located and subject to assessment within such district, or the wife or husband of such holder of title or evidence of title, shall be entitled to vote at such election. Otherwise said election must be held and the results thereof determined and declared in all respects as nearly as practicable in conformity with the provisions of this title governing the election of officers: provided, that no informalities in conducting such an election shall invalidate the same if the election shall have been otherwise fairly conducted. At such election the ballots shall contain the words "bonds--yes" or "bonds--no," or other words equivalent thereto. If two-thirds (2/3) of the votes cast are "bonds--yes" the board of directors shall cause bonds in said amount to be issued; if more than one-third (1/3) of the votes cast at any bond election are "bonds--no" the result of such election shall be so declared and entered of record.

And whenever thereafter said board in its judgment deems it for the best interest of the district that the question of the issuance of bonds in said amount, or any other amount, shall be submitted to the electors, it shall so declare of record in its minutes, and may thereupon submit such questions to said electors in the same manner and with like effect as at such previous election.

SECTION 3. That Section 43-1808, Idaho Code, be, and the same is hereby amended to read as follows:

43-1808. ELECTION TO DETERMINE WHETHER DISTRICT SHALL CONTRACT WITH GOVERNMENT. (a) At any election under the provisions of section 43-401, Idaho Code, when the question of a contract between the district and the United States is to be voted upon, the notice of such election may state generally the terms of such contract and the ballots may contain the words "Contract--yes" or "Contract--no," or other words equivalent thereto, instead of the words "Bonds--yes" or "Bonds--no," and the procedure in connection with such vote upon such contract--and-the-confirmation-thereof-by-the-court-shall-otherwise-be-the-same-as--provided--in connection-with-a-bond-issue.

(b) Any election where the question of a contract between an irrigation district and the United States providing for the payment by the United States of the irrigation district's proportionate share of the capital costs of reconstructing, rehabilitating, replacing or improving dams, structures or works, whether or not legal title thereto is owned by the district, necessary to the storage, diversion or delivery of water necessary and appurtenant to the purposes for which such district was organized is to be voted upon, shall be conducted in accordance with the provisions of section 43-401, Idaho Code, insofar as possible. The question shall be submitted to a vote of all qualified electors of the district as defined in section 43-111, Idaho Code, except that any person residing within the boundaries of the irrigation district and meeting the qualifications of section 34-104, Idaho Code, shall also be permitted to vote. No report need be obtained from the department of water resources and the notice of election need not contain any recital concerning a report from the department of water resources. The contract between an irrigation district and the United States providing for the payment by the United States of the irrigation district's proportionate
share of the capital costs of reconstructing, rehabilitating, replacing or improving dams, structures or works, the election approving the contract and all proceedings taken by an irrigation district in connection with the contract and election need not be confirmed by the district court.

Approved March 22, 2006.

CHAPTER 125
(H.B. No. 565, As Amended)

AN ACT
RELATING TO THE IDAHO RESIDENTIAL CARE ADMINISTRATORS ACT; AMENDING SECTION 54-4208, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO EDUCATIONAL PROGRAMS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-4211, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO THE ISSUANCE OF A RESIDENTIAL CARE FACILITY ADMINISTRATOR'S LICENSE; AND AMENDING SECTION 54-4213, IDAHO CODE, TO REVISE GROUNDS FOR DISCIPLINARY ACTION.

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

SECTION 1. That Section 54-4208, Idaho Code, be, and the same is hereby amended to read as follows:

54-4208. ISSUANCE OF LICENSE -- EDUCATIONAL PROGRAMS. (1) An applicant for a license as a residential care facility administrator who has successfully complied with the requirements of section 54-4206, Idaho Code, and the standards provided for therein, has passed the examination provided for in section 54-4207, Idaho Code, and, where applicable, has complied with the requirements of section 54-4211, Idaho Code, shall be issued a license.

(2) Any license issued by the board under or pursuant to the provisions of this section shall be under the hand and seal of the chairman of the board.

(3) If the board finds that programs of training and instruction conducted within the state are not sufficient in number or content to enable applicants for residential care facility administrators to meet requirements established pursuant to this chapter, it shall institute and conduct or arrange with others to conduct one (1) or more such programs, and shall make provision for their accessibility to appropriate residents of this state. The board may approve programs conducted within and outside of this state as sufficient to meet education and training requirements established pursuant to this chapter.

SECTION 2. That Section 54-4211, Idaho Code, be, and the same is hereby amended to read as follows:

54-4211. PROVISIONAL PERMITS. (1) Pending issuance of a license, the board may issue a provisional permit for a period not exceeding three (3) months, without an examination to an applicant who files a
written application for a provisional permit and who is otherwise qualified but does not meet the examination requirements and is applying to fill a vacancy on an emergency basis.

(2) Any individual who holds a valid Idaho nursing home administrator's license and is in good standing according to the provisions of chapter 16, title 54, Idaho Code, shall be deemed to meet the requirements for issuance of a residential care facility administrator's license and shall be issued one, upon application and payment of appropriate fees.

SECTION 3. That Section 54-4213, Idaho Code, be, and the same is hereby amended to read as follows:

54-4213. DISCIPLINARY ACTION. (1) The board may revoke or suspend, or refuse to renew, or refuse to issue, any license or permit issued under the provisions of this chapter, or may reprimand, censure or otherwise discipline the holder of a license or permit in accordance with the provisions of this section upon decision and after due hearing in any of the following cases:
(a) Upon proof that such licensee is reasonably unfit to operate a residential care facility;
(b) Upon proof of the willful or repeated violation of any of the provisions of this chapter or the rules enacted in accordance with, or of willful or repeated actions in a manner inconsistent with the health and safety of patients;
(c) Upon proof that such licensee has been convicted or found guilty of committed fraud or deceit in the practice of residential care facility administration or related activities or in the licensee's admission to such practice;
(d) Upon proof that such licensee has permitted the unauthorized disclosure of information relating to a resident in the residential care facility under the administration of the licensee;
(e) Conviction of, pleading guilty or nolo contendere to, or receiving a withheld judgment of, a felony or any crime involving dishonesty or the health or safety of a person;
(f) Upon proof that the administrator had a license to practice a health care profession or occupation in another state or jurisdiction and such license was suspended or revoked or the administrator has otherwise been disciplined.
(2) The board, or a hearing officer designated by it, shall have jurisdiction to hear all charges brought under the provisions of this section against residential care facility administrators, or provisional residential care facility administrators, and upon such hearings shall determine such charges upon their merits.
(3) Proceedings under this section shall be initiated by filing with the board, charges in writing and under oath. The board on its own motion may conduct an investigation and initiate charges. The procedures for notification and the hearing on such charges, unless dismissed by the board as unfounded or trivial, shall be conducted pursuant to the provisions of chapter 52, title 67, Idaho Code.

Approved March 22, 2006.
CHAPTER 126
(H.B. No. 546)

AN ACT
RELATING TO THE IDAHO WATER RESOURCE BOARD; AMENDING SECTION 42-1756, IDAHO CODE, TO REVISE CONDITIONS UNDER WHICH THE BOARD MAY APPROVE A LOAN FOR CERTAIN WATER PROJECT COSTS AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 42-2042, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 42-1756, Idaho Code, be, and the same is hereby amended to read as follows:

42-1756. LOANS FROM ACCOUNT -- APPLICATION -- INVESTIGATION -- APPROVAL -- REPAYMENT -- STATEMENT -- FILING -- DEFAULT. (a) Any irrigation district, canal or irrigation company, water users' association, municipal corporation, municipality, private corporation, or, in special cases approved by the board, an individual may file an application with the board for a loan from the revolving account for the purpose of financing project costs. Such application shall be filed in such manner, and shall be in such form and be accompanied by such information as may be prescribed by the board; provided, however, that any such application filed with the board under the provisions of this act, shall:

(ta) Describe the nature and purpose(s) of the proposed project.
(rb) Set forth or be accompanied by a plan for development of the proposed project, together with such engineering and economic feasibility data and estimated costs of construction as may be required by the board.
(sc) State whether money other than that for which application is made to the board will be used for project costs, and whether such money is available or has been sought for this purpose.
(sd) Show that the applicant holds or can acquire title to all lands or has the necessary easements and rights-of-way for the project and related lands, and has or can acquire all water rights necessary for the construction, operation and maintenance of the proposed project, or that there exists sufficient water available for appropriation by proof of a permit issued by the director of the department of water resources.
(b2) Upon receipt of an application, the board shall evaluate and, if it deems it to be necessary, investigate all aspects of the proposed project and the proposed construction thereof. As a part of such investigation, the board shall determine whether the plan for development of the project is satisfactory. If the board determines that the plan is unsatisfactory, it shall return the application to the applicant and may make such recommendations to the applicant as are considered necessary to make the plan satisfactory.
(ec) The board may approve a loan for project costs if after investigation (if this is deemed necessary,) and evaluation it finds that:
(ta) The plan does not conflict with any extant Idaho state water plan;
(pb) The proposed project is feasible from an engineering stand-
point and economically justified, with studies showing a favorable benefit to cost ratio;

(3c) The plan for development of the proposed project is satisfactory;

(4d) The applicant is qualified and responsible;

(5e) There is reasonable assurance that the borrower can repay the loan; and

(6f) That money in the revolving account is available for the loan; and

That the loan does not exceed five hundred thousand dollars ($500,000) unless legislative approval has been obtained.

(4d) If the board approves a loan, the board and the applicant or applicants shall enter into an agreement for repayment to the revolving account of money loaned therefrom, together with interest thereon at reasonable rates as determined by the board. The agreement shall further provide that repayment of the loan, together with interest thereon, shall commence no later than one (1) full year after construction of the project is completed, and that repayment shall be completed within the time period specified by the board; provided that repayment to reserve accounts or guarantee funds shall be made as provided by order of the board. The repayment period shall not exceed sixty (60) years, except that the board may extend the time for making repayment in the event of emergency or hardship. Such agreement shall also provide for such assurances of, and security for, repayment of the loan as are considered necessary by the board.

(5f) The state shall have a lien upon a project constructed with money from the revolving account for the amount of the loan, together with the interest thereon. This lien shall attach to all project facilities, equipment, easements, real property and property of any kind or nature associated with the project and all water rights associated in any way with the project. The board shall file a statement of the loan, its amount, terms and a description of the project with the county recorder of each county in which the project or any part thereof is located. The county recorder shall record the lien in a book kept for the recording of liens and it shall be indexed as other liens are required by law to be indexed. The lien shall be valid until paid in full or otherwise discharged. The lien shall be foreclosed in accordance with applicable state law governing foreclosure of mortgages and liens as set forth in chapter 1 of title 6, Idaho Code, chapter 13 of title 45, Idaho Code, and related provisions of the statutes of this state.

(6f) If an applicant fails to comply with the repayment contract, its interest in the project may be conveyed to a successor upon approval by the board, which may contract with the qualified successor in interest of the original obligor for repayment of the loan, together with the interest thereon, and for succession to its rights and obligations in any contract with the board.

(7g) The state shall have a lien on any or all projects which the board improves or renovates with money from the revolving account, and such lien shall be valid and continue in effect until such funds, together with interest thereon, have been paid in full and the lien discharged. The board shall file a statement of the lien, and the lien shall be foreclosed upon all project property and rights as provided in subsection (e5) above of this section.
SECTION 2. That Section 42-2042, Idaho Code, be, and the same is hereby amended to read as follows:

42-2042. AUTHORIZATION -- FINANCING. Pursuant to section 42-1756(f), Idaho Code, the Idaho water resource board is authorized to plan, finance, construct, acquire, operate, own, maintain, and be the project sponsor and developer of a water resource development project as provided in the provisions of the Carey Act and to use the water resource board revolving development fund and revenues or other additions thereto from any source, including, but not limited to, proceeds from loans secured by project revenues, to finance or guarantee the funding of said project. Said project is known as the Indian Hills Project, which is located in Owyhee County approximately two (2) miles southwest of Emmett, Idaho. The Idaho water resource board is authorized by this act to proceed with the project on the basis identified and approved by the Idaho water resource board in the proposal submitted, pursuant to section 42-1734(m1), Idaho Code, to the governor of Idaho on November 25, 1974; and the Idaho water resource board is further authorized to proceed in accordance with and exercise the authority for issuance of revenue bonds as provided in section 42-1734(s17), Idaho Code. The Idaho water resource board is further authorized to own, sell, convey, mortgage, pledge or incumber the lands for said project and do all things necessary for the construction and completion of said project including the acquisition of all necessary real and personal property in connection therewith, together with all necessary pumping and water distribution works and facilities at the site of such water project and all other necessary and related structures and equipment, and, in addition to the powers conferred elsewhere on the Idaho water resource board, to issue and sell revenue bonds under the provisions of sections 42-1739 through 42-1749, Idaho Code, pledging thereto the revenues which the board shall derive from such water project, and such other revenues as may come into the water resource board revolving development fund from any source whatsoever, including, but not limited to, any tax funds pledged or dedicated to the water resource board revolving development fund, in order to pay the costs of planning, financing, acquiring, construction, operation and maintenance of such water project. The water resource board is further authorized to charge and collect such fees and assessments necessary for payment and reimbursement for all the costs of said project and the water resource board shall have a first and prior lien upon all lands of the project and water rights now appurtenant or to become appurtenant to said lands and water distribution facilities; said lien shall be in all respects prior to any and all other liens no matter how created or attempted to be created by the owner or possessor of the project lands or by law, and shall remain in full force and effect until the last deferred payment for water rights and project facilities is fully paid and satisfied according to the terms of the contract under which water is acquired for said project by persons making entry upon said lands.

Approved March 22, 2006.
AN ACT
RELATING TO ARCHITECTS; AMENDING SECTION 54-303, IDAHO CODE, TO REVISE
THE CONDUCT OF EXAMINATIONS; AMENDING SECTION 54-305, IDAHO CODE, TO
PROVIDE FOR RESPONSIBLE CONTROL AND TO MAKE TECHNICAL CORRECTIONS;
AMENDING SECTION 54-307, IDAHO CODE, TO PROVIDE FOR RESPONSIBLE CON­
TROL AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-308,
IDAHO CODE, TO SET FORTH WHEN AN ARCHITECT MAY SIGN AND SEAL TECHNICAL
SUBMISSIONS AND OTHER WORK AND TO REQUIRE THAT CERTAIN TECHNICAL
SUBMISSIONS BE MAINTAINED AND MADE AVAILABLE TO THE BOARD UPON
REQUEST; AMENDING SECTION 54-309, IDAHO CODE, TO DEFINE TERMS AND TO
PERMIT THE USE OF THE TITLE "ARCHITECT" IN CERTAIN CIRCUMSTANCES;
AND AMENDING SECTION 54-310, IDAHO CODE, TO PROHIBIT PERSONS FROM
AIDING OR ABETTING OTHERS IN THE UNLICENSED PRACTICE OF ARCHITECTURE
IN THIS STATE.

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

SECTION 1. That Section 54-303, Idaho Code, be, and the same is
hereby amended to read as follows:

54-303. REGULAR EXAMINATIONS. The bureau of occupational licenses
shall hold each year at least one (1) facilitate examinations for a
license to practice architecture, if there be any such applicants. The
examinations shall be conducted by the board of architectural examiners
under fair and wholly impartial methods and subject to such rules as the
board may establish to test the applicant's qualifications in all
branches of the professional practice of architecture with special ref­
erence to the structural stability of buildings and the protection of
life, health, and property. The board may adopt, by rule, the examina­
tions and recommended grading procedures of the national council of
architectural registration boards.

SECTION 2. That Section 54-305, Idaho Code, be, and the same is
hereby amended to read as follows:

54-305. GROUNDS FOR DISCIPLINE -- JUDICIAL REVIEW -- PENALTIES --
SUBSEQUENT LICENSE. (1) The board may refuse to grant, or may temporar­
ily suspend or otherwise restrict a license to practice architecture in
this state for a period not to exceed two (2) years, or may revoke a
license, upon any one (1) of the following grounds:
   (a) The employment of any fraud or deception in applying for a
license or in passing the examination required under this chapter.
   (b) The employment of a fraud or deceit in the practice of his
profession or procuring any contract in the practice of his profes­
sion by fraudulent means.
   (c) A display of incompetency or recklessness in the practice of
architecture resulting in a detriment to life, health, or public
safety.
   (d) The conviction, finding of guilt, receipt of a withheld judg­
ment or suspended sentence in this or any other state for a felony
or a misdemeanor, which misdemeanor involved a violation of the provisions of this act, a willful violation of state or local building codes, or a violation of other laws relating to public health and safety and which were committed in the course of practicing architecture.

(e) Affixing of his signature to, or impressing his seal upon, any plans, drawings, specifications, or other instruments of service which have not been prepared by him, or under his immediate and responsible direction control, or has permitted his name to be used for the purpose of assisting any person, not a licensed architect, to evade the provisions of this chapter.

(f) Receiving of rebates, commissions, grants of money or other favors in connection with the work, without the knowledge of the party for whom he is working, or having a pecuniary interest in the performance of the contract for the work designed, planned or supervised by him without the knowledge and consent of the owner.

(g) Practicing architecture contrary to the provisions and requirements of this chapter.

(h) Violation of rules of conduct for architects which the board may adopt in accordance with guidelines published by the national council of architectural registration boards.

(i) Practicing architecture without being licensed, in violation of licensing laws of the jurisdiction in which the practice took place.

(2) Before any license shall be revoked or suspended, or the issuance thereof denied under subsection 3 of section 54-302A, Idaho Code, the holder or applicant shall be entitled to at least twenty (20) days' notice in writing of the nature of the charge against him and of the time and place of the hearing before the board for the purpose of hearing and determining such charge. The proceedings shall be governed by the provisions of chapter 52, title 67, Idaho Code. Any revocation or suspension of license shall be certified in writing by the said board and attested to with the official seal of said board affixed thereto; and such revocation or suspension of license shall be filed in the office of the bureau of occupational licenses.

(3) Any person aggrieved by the action of the board is entitled to judicial review thereof in accordance with the provisions of chapter 52, title 67, Idaho Code.

(4) Upon the finding of the existence of grounds for discipline of any person holding a license, seeking a license, or renewing a license under the provisions of this chapter, the board may impose one (1) or more of the following penalties:

(a) Suspension of the offender's license for a term to be determined by the board;

(b) Revocation of the offender's license;

(c) Restriction of the offender's license to prohibit the offender from performing certain acts or from engaging in the practice of architecture in a particular manner for a term to be determined by the board;

(d) Refusal to renew the offender's license;

(e) Placement of the offender on probation and supervision by the board for a period to be determined by the board;

(f) Imposition of an administrative fine not to exceed two thousand dollars ($2,000).
Any person whose license has been revoked, suspended or the issuance of which has been denied by said board for cause and the order denying, revoking or suspending the same not having been revoked by a court of competent jurisdiction, may apply for a reissuance, reinstatement or issuance of a license and the board, for reasons it may deem sufficient, may reissue, reinstate or issue the license to such person, provided, however, that it shall not take such action until the expiration of one (1) year after the date of such order.

SECTION 3. That Section 54-307, Idaho Code, be, and the same is hereby amended to read as follows:

54-307. LICENSE IS INDIVIDUAL — FIRM NAME. (1) Every person practicing or offering to practice architecture as herein defined, and not otherwise excepted, shall have a separate license under his own name. A license shall not be issued in the name of any firm or corporation.

(2) The holder of a license shall not maintain, in the practice of architecture, any person who does not hold a license to practice architecture in this state, unless such unlicensed person works under the immediate and personal direction and supervision responsible control of his licensed supervisor, who shall regularly and customarily attend his business in the same quarters.

(3) All architects practicing architecture as individuals, all existing firms and all firms organized and formed henceforth, or when any change in the personnel of the firm occurs, whether by withdrawal, addition, resignation or death, or upon a change in the firm name, shall make and file with the bureau of occupational licenses, a sworn statement giving the names and addresses of all its present members and the name under which the firm is practicing architecture. Nothing in this section shall prevent the surviving members of a partnership, professional association or professional corporation, from continuing the existing firm name as long as the practice and business is continued under the existing firm name without change.

SECTION 4. That Section 54-308, Idaho Code, be, and the same is hereby amended to read as follows:

54-308. LICENSED ARCHITECT'S SEAL. (1) Every licensed architect shall have a seal, the impression of which must contain the name and Idaho architect license number of the architect and the words "licensed architect" and "state of Idaho," with which he shall seal all technical submissions issued from his office.

(2) The seal may be a rubber stamp or an electronically applied seal. Whenever the seal is applied to a technical submission, the original signature of the architect and the date thereof shall be written adjacent to or across the seal. Facsimile signatures shall not be utilized. The signature and seal shall appear on all technical submissions prepared by the architect or prepared under his direction and personal supervision, and the original signature and seal may be placed on original submissions or on prints or copies of original submissions, at the option of the architect. Only the title page of reports, specifications and like documents must bear the date and the seal and signature of the architect. Electronically produced documents distributed for informational uses, such as for bidding purposes or as working copies, may be
issued with only the architect's seal if:

(a) The copy includes a notice that the original document is on file with the date and architect's signature;
(b) The words "original signed by" and "date original signed" are placed adjacent to or across the seal on the electronic document; and
(c) The storage location of the original document is identified.

The design and use of the seal shall be as required by board rule.

(3) Technical submissions involving the practice of architecture which are submitted to any public or governmental agency for the purpose of obtaining a building permit which are not clearly identified by the affixed seal of the architect and the original signature of the architect and date thereof shall be deemed unacceptable submissions for the purpose of obtaining such building permit.

(4) An architect may sign and seal technical submissions only if the technical submissions were:

(a) Prepared by the architect;
(b) Prepared by persons under the architect's responsible control;
(c) Prepared by another architect licensed in Idaho if the signing and sealing architect has reviewed the other architect's work and either has coordinated the preparation of the work or has integrated the work into his or her own technical submissions; or
(d) Prepared by another architect licensed in any state and holding the certification issued by the national council of architectural registration boards if:
   (i) The signing and sealing architect has reviewed the other architect's work and has integrated the work into his or her own technical submissions; and
   (ii) The other architect's technical submissions are prototypical building documents.

(5) An architect may sign and seal drawings, specifications or other work that is not required to be prepared by an architect if the architect has reviewed such work and has integrated it into his or her own technical submissions.

(6) Any licensed architect signing or sealing technical submissions not prepared by that architect but prepared under the architect's responsible control by persons not regularly employed in the office where the architect is resident shall maintain and make available to the board upon request, for at least five (5) years following such signing and sealing, adequate and complete records demonstrating the nature and extent of the architect's control over and detailed knowledge of such technical submissions throughout their preparation. Any licensed architect signing or sealing technical submissions integrating the work of another architect into the registered architect's own work as permitted under subsection (4)(c) or (d) of this section shall maintain and make available to the board upon request for at least five (5) years following such signing and sealing adequate and complete records demonstrating the nature and extent of the registered architect's review of and integration of the work of such other architect's work into his or her own technical submissions and that such review and integration met the required professional standard of care.
SECTION 5. That Section 54-309, Idaho Code, be, and the same is hereby amended to read as follows:

54-309. DEFINITIONS -- LIMITATION ON APPLICATION. (1) Within the meaning and intent of this chapter, the following words shall be defined as follows:

(a) "Architect" means a person who engages in the practice of architecture as herein defined, and is licensed under the provisions of this chapter.

(b) "Building" is an enclosure including improvements related thereto, which has as its principal purpose the adaptation of space for occupancy, or habitation by human beings.

(c) "Practice of architecture" consists of rendering or offering those services hereinafter described, in connection with the design, construction, enlargement, or alteration of a building or a group of buildings. The services covered within this definition include architectural planning, advice and consultation; providing preliminary studies; architectural designs, drawings and specifications; technical submissions; and, administration of construction contracts.

(d) "Prototypical building" means any commercial building or space within a commercial building that is intended to be constructed in multiple locations and that in fact has been constructed in multiple locations. and which conveys an owner's intended uniform business program, plan or image. "Prototypical building documents" means technical submissions for prototypical buildings that:

(i) Are prepared by or under the responsible control of an architect then licensed in any jurisdiction and holding the certification issued by the national council of architectural registration boards;

(ii) Identify such architect together with the architect's license number, jurisdiction or license number and national council of registration boards certification number; and

(iii) Are marked "Prototypical Design Documents Not For Construction." Prototypical building documents do not comprise a final, comprehensive set of design and construction documents because a prototypical building also requires adaptations for local conditions including site conditions and may require additional design as well.

(f) "Responsible control" means that amount of control over and detailed knowledge of the content of technical submissions during their preparation as is ordinarily exercised by registered architects applying the required professional standard of care. Reviewing, or reviewing and correcting, technical submissions after they have been prepared by others does not constitute the exercise of responsible control because the reviewer has neither control over nor detailed knowledge of the content of such submissions throughout their preparation.

(g) "Technical submissions" involving the practice of architecture, consist of designs, drawings, specifications, studies and other technical reports prepared in the course of practicing architecture.

(2) Nothing contained in this chapter shall be held or construed to have any application to, or to prevent or affect the following:

(a) The practice of engineering or any other profession or trade
for which a license is required under any law of this state, or the
practice of consultants, officers, and employees of the United
States while engaged solely in the practice of architecture for said
government.
(b) Draftsmen, students, clerks of work, project representatives,
and others working under the supervision of those lawfully practic­
ing as architects under the provisions of this chapter from acting
under the instruction, control, or supervision of their supervisors,
or to prevent the employment of clerks of work or inspectors of
buildings paid by the owners from acting, if under the control or
direction of a licensed architect who has prepared the drawings and
specifications for the building.
(c) The rendering of any architectural service required in the
erection, enlargement, alteration, or repair of any building, where
such building is to be, or is used as a single or multiple family
residence not exceeding three (3) units or two (2) stories in
height, or as a farm building; or for the purpose of outbuildings or
auxiliary buildings in connection with such residential or farm
premises.
(d) The rendering of any architectural service required in the
erection, enlargement, alteration, or repair of any building which
does not involve the public health or safety.
(e) The preparation of shop drawings by persons other than archi­
tects for use in connection with the execution of their work; or the
preparation of drawings of fixtures, or other appliances or equip­
ment, or for any work necessary to provide for their installation.
(f) Expert consultation rendered to an architect by a consultant,
whether licensed or not, employed by the architect to consult,
advise, and assist as long as the architect approves, adopts and is
responsible for the results of such consultation, advice and assis­
tance.
(g) An intern working under the supervision of a licensed archi­
tect, including the use of the title "architectural intern," as may
be established and limited by board rule.
(h) The use of the title "architect" by a person previously
licensed as an architect in good standing whose license has lapsed
based upon retirement, to identify the person's profession but not
for the purpose of practicing architecture.
(i) The use of the title "architect" in this state by a person
licensed as an architect and in good standing in another jurisdic­
tion, to identify the person's profession in circumstances that
would not lead a reasonable person to believe that the person using
the title "architect" is offering to perform any of the services
within the practice of architecture in this state.

SECTION 6. That Section 54-310, Idaho Code, be, and the same is
hereby amended to read as follows:

54-310. VIOLATIONS AND PENALTIES. Any person, not otherwise
exempted, who shall practice; or offer to practice, or who shall aid and
abet the unlicensed practice of, architecture in this state, or who
shall advertise as an architect or put forth any card, sign or other
device which would lead the public to believe that he is qualified to
practice architecture, or through the use of the word architect, archi-
tecture or architectural or some other title implies that he is an architect, without first securing an architect's license, as provided by this chapter, or who shall violate any of the provisions of this chapter, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or suffer imprisonment for a period not exceeding three (3) months, or both.

The provisions of this section do not apply to the use of the term "landscape architect" by persons licensed pursuant to chapter 30, title 54, Idaho Code.

Approved March 22, 2006.

CHAPTER 128
(H.B. No. 538)

AN ACT
RELATING TO LANDSCAPE ARCHITECTS; AMENDING SECTION 54-3003, IDAHO CODE, TO REVISE LICENSURE QUALIFICATIONS, TO REVISE EXAMINATION PROVISIONS, TO INCREASE EXAMINATION AND LICENSE FEES, TO PROVIDE THAT THE BOARD MAY RECOVER THE ACTUAL COSTS ASSOCIATED WITH AN APPLICANT'S REVIEW OF A FAILED EXAMINATION AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 54-3003, Idaho Code, be, and the same is hereby amended to read as follows:

54-3003. QUALIFICATIONS -- EXAMINATIONS -- BOARD -- LICENSES -- FEES -- ENDORSEMENT -- EXEMPTIONS -- INDIVIDUALS, PARTNERSHIPS AND CORPORATIONS -- RESTRICTION ON USE OF NAME -- SEAL. (1) Application and practice. In order to safeguard human health and property, and to promote the public welfare, any person in either public or private capacity practicing or offering to practice landscape architecture, shall be required to submit evidence of qualifications to practice and shall be issued a license under the provisions of this chapter.

(2) Qualifications. For licensure as a landscape architect, evidence must be submitted to the board that the applicant:

(a) Is eighteen (18) years of age or older;

(b) Has, before admission to the examination, graduated from a college or school of landscape architecture approved by the board. In lieu of graduation from an approved college or school of landscape architecture, and the practical experience in addition thereto; an applicant may be admitted to the examination upon presenting evidence of at least eight (8) years of actual, practical experience in landscape architecture of a grade and character satisfactory to the board, as established by rule, that the applicant is competent to practice landscape architecture; and

(c) Has successfully passed an examination approved by the board.

(3) Examinations. Examinations for the license shall be held by the board at least once each year, provided that applications shall have been received during the time announced. The board shall adopt rules
covering the subjects and scope of the examinations. Every applicant for license as a landscape architect shall be required, in addition to all other requirements, to establish by written examination his competency to plan, design, specify and supervise the installation and construction of landscape architectural projects. Each written examination may be supplemented by such oral examinations as the board may determine.

(4) The board.

(a) There is hereby created in the department of self-governing agencies an Idaho state board of landscape architects. The board shall consist of three (3) landscape architects. Members of the board shall be appointed by the governor and must be residents of this state, have the qualifications of landscape architects required by this chapter, and after the initial board is organized be licensed hereunder. The terms of the members of the board shall be for four (4) years. Each member shall hold office until the appointment and qualification of his successor. Vacancies occurring prior to the expiration of the term shall be filled by appointment in like manner for the unexpired term.

(b) The board shall have, in addition to the powers set forth elsewhere in this chapter, the following powers and duties:

(i) To authorize, by written agreement, the bureau of occupational licenses to act as agent in its interest, and to make such rules as shall be necessary in the performance of its duties;

(ii) To adopt rules of professional responsibility;

(iii) To adopt rules requiring the completion of continuing education by each licensee on an annual basis;

(iv) The board, or its duly appointed hearing officer, shall have the power in any disciplinary proceeding against a licensee under this chapter, to administer oaths, take depositions of witnesses within or outside of the state in the manner provided by law in civil cases, and to apply to any district court of this state for a subpoena to require the attendance of such witnesses and the production of such books, records and papers as the board deems necessary in a disciplinary proceeding against a licensee. The fees and mileage of the witnesses shall be the same as that allowed in the district courts in criminal cases, which fees and mileage shall be paid in the same manner as other board expenses. In any case of disobedience to, or neglect of, any subpoena or subpoena duces tecum served upon any person, or refusal of any witness to testify to any matter about which he may lawfully be interrogated, it shall be the duty of any district court in this state on application by the board to compel compliance with the subpoena by conducting proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court or for refusal to testify therein. The licensed person accused in such proceedings shall have the same right of subpoena.

(c) The board shall elect, at its first meeting of every calendar year, a chairman from its members. In carrying out the provisions of this chapter, all members of the board shall be compensated as provided by section 59-509(m), Idaho Code. Payment of travel and other expenses shall be made from the occupational licenses fund.
(5) Renewal and reinstatement -- Revenue. 

(a) All licenses issued under the provisions of this chapter shall be subject to annual renewal and shall expire unless renewed in the manner prescribed by the board regarding applications for renewal, continuing education, and fees. License renewal and reinstatement shall be in accordance with section 67-2614, Idaho Code. 

(b) Amounts. The amount of fees shall be as determined by the board within the following stated limits:

(i) The application fee not to exceed one hundred dollars ($100).

(ii) The fee for examination to be established by board rule not to exceed that charged by the council of landscape architectural registration board plus a twenty-five fifty dollar ($250.00) processing fee. The board may recover the actual costs associated with an applicant's review of a failed examination.

(iii) The fee for an original license and the annual license fee not to exceed one two hundred twenty-five dollars ($125,200).

(c) Refund. Fees shall be nonrefundable.

(d) Deposit. All fees received under the provisions of this chapter shall be deposited in the state treasury to the credit of the occupational licenses fund and all costs and expenses incurred by the board under the provisions of this chapter shall be a charge against and paid from said fund for such purposes, and the funds collected hereunder shall be immediately available for the administration of this chapter, the provisions of any other law notwithstanding. In no instance will the occupational licenses fund be obligated to pay any claims that in aggregate with claims already paid exceed the income to the occupational licenses fund which has been derived by the application of this chapter.

(e) Appropriation. The money paid into the occupational licenses fund is continuously appropriated to the board for expenditure in the manner prescribed herein to defray the expenses of the board and in carrying out and enforcing the provisions of this chapter.

(6) Endorsement provisions. The board may approve for licensure:

(a) An individual with a current council of landscape architecture registration board (CLARB) certification; or

(b) With limited examination an applicant who is legally registered or licensed as a landscape architect in any other state or country whose requirements for registration or licensure are at least substantially equivalent to the requirements of this state.

(7) Exemptions.

(a) None of the provisions of this chapter shall prevent employees of those lawfully practicing as landscape architects from acting under the instruction, control or supervision of their employers.

(b) None of the provisions of this chapter shall apply to the business conducted in this state by any land use planner, horticulturist, nurseryman, or landscape nurseryman, gardener, landscape gardener, landscape designer, or landscape contractor, as these terms are generally used, or any other person, including, but not limited to, their right to plan and supervise in connection therewith, except that no such person shall use the designation "landscape
architect," "landscape architecture," or any description tending to convey the impression that they are a licensed landscape architect unless they are registered as provided in this chapter.

(c) This chapter shall not apply to architects, professional engineers, geologists, and land surveyors, licensed to practice their respective professions.

(8) This chapter applies to individuals only.

(a) All licenses shall be issued to individuals only but nothing contained in this chapter shall prevent a duly licensed landscape architect from rendering professional services for a corporation, firm, partnership or association.

(b) Partners. Each partner in a partnership of landscape architects shall be licensed to practice landscape architecture or to provide allied professional services as defined in section 30-1303, Idaho Code. Subject to this requirement, a partnership of landscape architects may use a partnership name if such name consists of:

   (i) The names of two (2) or more landscape architects.

   (ii) The names of one (1) or more landscape architects and one (1) or more professional engineers or architects.

(c) Any person applying to the official of any county or city for a business license to practice landscape architecture shall at the time of such application exhibit to such official satisfactory evidence that such applicant possesses a current Idaho license. The business license shall not be granted until such evidence is presented, any contrary provision of any special act or general act notwithstanding.

(9) Qualifications for practice -- Seal:

(a) No person shall use the designation "landscape architect" or "landscape architecture" or advertise any title or description tending to convey the impression that the person is a landscape architect, or practicing landscape architecture, unless such person is a licensed landscape architect. Every holder of a license shall display it in the principal office, place of business or place of employment.

(b) Every landscape architect shall have a seal approved by the board, which shall contain the name of the landscape architect and the words "Licensed Landscape Architect, State of Idaho," and such other words or figures as the board may deem necessary and prescribe.

   (i) The seal may be a rubber stamp or an electronically applied seal. Whenever the seal is applied, the licensee's written signature and the date shall be adjacent to or across the seal. The seal, signature and date shall be placed on all final reports, drawings and title pages of specifications, design information and calculations. Whenever presented to a client or to the public, such documents that are not final and do not contain a seal, signature and date, shall be clearly marked as "preliminary," "draft," "not for construction" or similar words to distinguish the documents from a finished product.

   (ii) The application of the licensee's seal, signature and the date shall constitute certification that the work thereon was prepared by such landscape architect or under the supervision of such landscape architect. Each plan or drawing sheet shall
be sealed and signed by the licensee or the licensee's agent responsible for each sheet. The principal landscape architect in charge shall sign and seal the title or first sheet. Copies of electronically produced documents listed in paragraph (b)(i) of this subsection that are distributed for informational use, such as for bidding purposes or working copies, may be issued with the licensee's seal and a notice that the original document is on file with the licensee's signature and date. The words "original signed by:" and "date signed:" shall be placed adjacent to or across the seal of the electronic original. The storage location of the original documents shall also be provided. Only the title page of reports, specifications and like documents need bear the seal and signature of the licensee and the date.

(iii) Nothing contained herein shall be construed to permit a landscape architect to practice as a licensed architect, a licensed professional engineer or a licensed land surveyor as these professions are defined by Idaho Code; provided however, nothing contained herein shall be construed to prevent a landscape architect from practicing landscape architecture.

Approved March 22, 2006.

CHAPTER 129
(H.B. No. 533, As Amended in the Senate)

AN ACT
RELATING TO THE DEATH PENALTY; AMENDING SECTION 19-2515, IDAHO CODE, TO PROVIDE ADDITIONAL STATUTORY AGGRAVATING CIRCUMSTANCES; AMENDING SECTION 19-2515A, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 19-2515, Idaho Code, be, and the same is hereby amended to read as follows:

19-2515. SENTENCE IN CAPITAL CASES -- SPECIAL SENTENCING PROCEEDING -- STATUTORY AGGRAVATING CIRCUMSTANCES -- SPECIAL VERDICT OR WRITTEN FINDINGS. (1) Except as provided in section 19-2515A, Idaho Code, a person convicted of murder in the first degree shall be liable for the imposition of the penalty of death if such person killed, intended a killing, or acted with reckless indifference to human life, irrespective of whether such person directly committed the acts that caused death.

(2) Where a person is sentenced to serve a term in the penitentiary, after conviction of a crime which falls within the provisions of section 20-223, Idaho Code, except in cases where the court retains jurisdiction, the comments and arguments of the counsel for the state and the defendant relative to the sentencing and the comments of the judge relative to the sentencing shall be recorded. If the comments are recorded electronically, they need not be transcribed. Otherwise, they shall be transcribed by the court reporter.
(3) Where a person is convicted of an offense which may be punishable by death, a sentence of death shall not be imposed unless:
   (a) A notice of intent to seek the death penalty was filed and served as provided in section 18-4004A, Idaho Code; and
   (b) The jury, or the court if a jury is waived, finds beyond a reasonable doubt at least one (1) statutory aggravating circumstance. Where a statutory aggravating circumstance is found, the defendant shall be sentenced to death unless mitigating circumstances which may be presented are found to be sufficiently compelling that the death penalty would be unjust. The jury shall not direct imposition of a sentence of death unless it unanimously finds at least one (1) statutory aggravating circumstance and unanimously determines that the penalty of death should be imposed.

(4) Notwithstanding any court rule to the contrary, when a defendant is adjudicated guilty of murder in the first degree, whether by acceptance of a plea of guilty, by verdict of a jury, or by decision of the trial court sitting without a jury, no presentence investigation shall be conducted; provided however, that if a special sentencing proceeding is not held or if a special sentencing proceeding is held but no statutory aggravating circumstance has been proven beyond a reasonable doubt, the court may order that a presentence investigation be conducted.

(5) (a) If a person is adjudicated guilty of murder in the first degree, whether by acceptance of a plea of guilty, by verdict of a jury, or by decision of the trial court sitting without a jury, and a notice of intent to seek the death penalty was filed and served as provided in section 18-4004A, Idaho Code, a special sentencing proceeding shall be held promptly for the purpose of hearing all relevant evidence and arguments of counsel in aggravation and mitigation of the offense. Information concerning the victim and the impact that the death of the victim has had on the victim's family is relevant and admissible. Such information shall be designed to demonstrate the victim's uniqueness as an individual human being and the resultant loss to the community by the victim's death. Characterizations and opinions about the crime, the defendant and the appropriate sentence shall not be permitted as part of any victim impact information. The special sentencing proceeding shall be conducted before a jury unless a jury is waived by the defendant with the consent of the prosecuting attorney.
   (b) If the defendant's guilt was determined by a jury verdict, the same jury shall hear the special sentencing proceeding; provided however, that if it is impracticable to reconvene the same jury to hear the special sentencing proceeding due to an insufficient number of jurors, the trial court may dismiss that jury and convene a new jury of twelve (12) persons, plus alternate jurors as the trial court deems necessary pursuant to section 19-1904, Idaho Code.
   (c) If the defendant's guilt was determined by a plea of guilty or by a decision of the trial court sitting without a jury, or if a retrial of the special sentencing proceeding is necessary for any reason including, but not limited to, a mistrial in a previous special sentencing proceeding or as a consequence of a remand from an appellate court, the trial court shall impanel a jury of twelve (12) persons, plus alternate jurors as the trial court deems necessary pursuant to section 19-1904, Idaho Code, unless such jury is waived.
(d) If a special sentencing proceeding is conducted before a newly impaneled jury pursuant to the provisions of subsection (5)(b) or (5)(c) of this section, the state and the defense may present evidence to inform the jury of the nature and circumstances of the murder for which the defendant was convicted. The newly impaneled jury shall be instructed that the defendant has previously been found guilty of first-degree murder and that the jury's purpose is limited to making findings relevant for sentencing.

(6) At the special sentencing proceeding, the state and the defendant shall be entitled to present all relevant evidence in aggravation and mitigation. Disclosure of evidence to be relied on in the sentencing proceeding shall be made in accordance with Idaho criminal rule 16. Evidence admitted at trial shall be considered and need not be repeated at the sentencing hearing.

(7) The jury shall be informed as follows:
(a) If the jury finds that a statutory aggravating circumstance exists and no mitigating circumstances exist which would make the imposition of the death penalty unjust, the defendant will be sentenced to death by the court.
(b) If the jury finds the existence of a statutory aggravating circumstance but finds that the existence of mitigating circumstances makes the imposition of the death penalty unjust or the jury cannot unanimously agree on whether the existence of mitigating circumstances makes the imposition of the death penalty unjust, the defendant will be sentenced to a term of life imprisonment without the possibility of parole; and
(c) If the jury does not find the existence of a statutory aggravating circumstance or if the jury cannot unanimously agree on the existence of a statutory aggravating circumstance, the defendant will be sentenced by the court to a term of life imprisonment with a fixed term of not less than ten (10) years.

(8) Upon the conclusion of the evidence and arguments in mitigation and aggravation:
(a) With regard to each statutory aggravating circumstance alleged by the state, the jury shall return a special verdict stating:
   (i) Whether the statutory aggravating circumstance has been proven beyond a reasonable doubt; and
   (ii) If the statutory aggravating circumstance has been proven beyond a reasonable doubt, whether all mitigating circumstances, when weighed against the aggravating circumstance, are sufficiently compelling that the death penalty would be unjust.
(b) If a jury has been waived, the court shall:
   (i) Make written findings setting forth any statutory aggravating circumstance found beyond a reasonable doubt;
   (ii) Set forth in writing any mitigating circumstances considered; and
   (iii) Upon weighing all mitigating circumstances against each statutory aggravating circumstance separately, determine whether mitigating circumstances are found to be sufficiently compelling that the death penalty would be unjust and detail in writing its reasons for so finding.

(9) The following are statutory aggravating circumstances, at least one (1) of which must be found to exist beyond a reasonable doubt before a sentence of death can be imposed:
(a) The defendant was previously convicted of another murder.
(b) At the time the murder was committed the defendant also committed another murder.
(c) The defendant knowingly created a great risk of death to many persons.
(d) The murder was committed for remuneration or the promise of remuneration or the defendant employed another to commit the murder for remuneration or the promise of remuneration.
(e) The murder was especially heinous, atrocious or cruel, manifesting exceptional depravity.
(f) By the murder, or circumstances surrounding its commission, the defendant exhibited utter disregard for human life.
(g) The murder was committed in the perpetration of, or attempt to perpetrate, arson, rape, robbery, burglary, kidnapping or mayhem and the defendant killed, intended a killing, or acted with reckless indifference to human life.
(h) The murder was committed in the perpetration of, or attempt to perpetrate, an infamous crime against nature, lewd and lascivious conduct with a minor, sexual abuse of a child under sixteen (16) years of age, ritualized abuse of a child, sexual exploitation of a child, sexual battery of a minor child sixteen (16) or seventeen (17) years of age, or forcible sexual penetration by use of a foreign object, and the defendant killed, intended a killing, or acted with reckless indifference to human life.
(i) The defendant, by his conduct, whether such conduct was before, during or after the commission of the murder at hand, has exhibited a propensity to commit murder which will probably constitute a continuing threat to society.
(j) The murder was committed against a former or present peace officer, executive officer, officer of the court, judicial officer or prosecuting attorney because of the exercise of official duty or because of the victim's former or present official status.
(k) The murder was committed against a witness or potential witness in a criminal or civil legal proceeding because of such proceeding.

SECTION 2. That Section 19-2515A, Idaho Code, be, and the same is hereby amended to read as follows:

19-2515A. IMPOSITION OF DEATH PENALTY UPON MENTALLY RETARDED PERSON PROHIBITED. (1) As used in this section:
(a) "Mentally retarded" means significantly subaverage general intellectual functioning that is accompanied by significant limitations in adaptive functioning in at least two (2) of the following skill areas: communication, self-care, home living, social or interpersonal skills, use of community resources, self-direction, functional academic skills, work, leisure, health and safety. The onset of significant subaverage general intelligence functioning and significant limitations in adaptive functioning must occur before age eighteen (18) years.
(b) "Significantly subaverage general intellectual functioning" means an intelligence quotient of seventy (70) or below.

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

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

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

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

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

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

(3) If the court finds by a preponderance of the evidence that the defendant is mentally retarded, the death penalty shall not be imposed. The jury shall not be informed of the mental retardation hearing or the court's findings concerning the defendant's claim of mental retardation.

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

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

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

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

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

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

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

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

(6) Any remedy available by post-conviction procedure or habeas corpus shall be pursued according to the procedures and time limits set forth in section 19-2719, Idaho Code.
SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 22, 2006.

CHAPTER 130
(H.B. No. 529)

AN ACT
RELATING TO STATE-OWNED TIMBER; AMENDING SECTION 58-415, IDAHO CODE, TO REVISE MEASURING METHODS FOR THE SALE OF STATE-OWNED TIMBER.

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

SECTION 1. That Section 58-415, Idaho Code, be, and the same is hereby amended to read as follows:

58-415. MEASURING METHOD USED IN SALE OF STATE-OWNED TIMBER. -- ESTATE-OF-SALE--PAYMENT. In all cases for sales of timber from state lands, the state board of land commissioners shall cause the timber to be scaled measured, in lieu of measurement-by-cruising selling by lump sum based on a cruise, unless in the discretion of the state board of land commissioners it shall be, in any particular instance, in the public interest of the state to use the cruising lump sum method. In addition to the purchase price, the state board of land commissioners shall, in all cases where the scaling method is used, require the purchaser to pay, in addition to the purchase price, and not as part thereof, the cost of scaling, as may be determined by the board in each case. The sum so collected shall be remitted to the director of the department of lands to be placed in the land department's scaling trust account to be used for the purpose of paying the salaries and expenses of the scaling of state timber sales. Acceptable methods of measuring timber shall include, but are not limited to, weight, scaling, cubing, by the lineal foot, or by the piece.

Approved March 22, 2006.

CHAPTER 131
(H.B. No. 528)

AN ACT
RELATING TO NAVIGATIONAL AND NONNAVIGATIONAL ENCROACHMENTS; AMENDING SECTION 58-1305, IDAHO CODE, TO PROVIDE FOR THE PROCESSING OF APPLICATIONS RELATING TO CERTAIN NAVIGATIONAL ENCROACHMENTS NOT INTENDED PRIMARILY FOR COMMUNITY USE AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 58-1306, IDAHO CODE, TO PROVIDE FOR COMMUNITY NAVIGATIONAL ENCROACHMENTS, TO CLARIFY TERMINOLOGY, TO PROVIDE FOR APPLICATION PROCESS AND PROCEDURES RELATING TO COMMUNITY NAVIGATIONAL ENCROACHMENTS, TO PROVIDE THAT APPLICATIONS FOR COMMU-
NITY NAVIGATIONAL ENCROACHMENTS MUST BE SUBMITTED OR APPROVED BY THE
RIPARIAN OR LITTORAL OWNER, TO PROVIDE THAT CERTAIN FACTORS SHALL BE
CONSIDERED IN GRANTING OR DENYING AN APPLICATION FOR A COMMUNITY
NAVIGATIONAL ENCROACHMENT, TO CLARIFY TERMINOLOGY, TO PROVIDE THAT A
PERMIT SHALL NOT BE REQUIRED FOR REPAIR OF AN EXISTING COMMUNITY
NAVIGATIONAL ENCROACHMENT AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 58-1305, Idaho Code, be, and the same is
hereby amended to read as follows:

58-1305. NONCOMMERCIAL NAVIGATIONAL ENCROACHMENTS -- PROCEDURES --
REPAIRS -- FORMS. (a) Applications for construction, enlargement or
replacement of navigational encroachments not extending beyond the line
of navigability nor intended primarily for commercial or community use
shall be processed by the board with a minimum of procedural require-
ments and shall not be denied nor appearance required except in the most
unusual of circumstances or if the proposed encroachment infringes upon
or it appears it may infringe upon the riparian or littoral rights of an
adjacent property owner.

(b) If the plans of the proposed encroachment indicate such
infringement will or may occur, the board shall require that the appli-
cant secure the consent of such adjacent owner or that he be given
notice of the application by personal service or by certified or regis-
tered mail, return receipt requested, directed to him at his usual place
of address, which, if not otherwise known, shall be the address shown on
the records of the county treasurer or assessor, and such adjacent owner
shall have ten (10) days from the date of personal service or receipt of
certified or registered mail to file objection with the board. The
application itself shall be deemed sufficient notice if the adjacent
owner is the state of Idaho.

(c) In the event objection to the application is filed by an adja-
cent owner or if the board deems it advisable because of the existence
of unusual circumstances, the board shall fix a time, no later than
sixty (60) days from the date of filing application, and a place, for
affording the applicant and the adjacent owner filing objection to
appear and present evidence in support of or in opposition to the appli-
cation and within forty-five (45) days thereafter shall render a
decision and give notice thereof to the parties concerned who may there-
after resort to appellate procedures prescribed in section 58-1306, Idaho Code.

(d) A permit shall not be required for repair of an existing
navigational encroachment.

(e) Applications submitted under this section shall be upon forms
to be furnished by the board and shall be accompanied by plans of the
proposed navigational encroachment containing information required by
section 58-144 58-1302(k), Idaho Code, and such other information as the
board may by rule or regulation require in conformance with the intent
and purpose of this chapter.

(f) If notice to an adjacent owner is not required or if the adja-
cent owner has consented to the proposed encroachment or has failed to
file objection to the proposed encroachment within the time allowed fol-
lowing service of notice, the board shall act upon the application as
expeditiously as possible but no later than sixty (60) days from receipt of the application and failure to act within such time shall constitute approval of the application.

SECTION 2. That Section 58-1306, Idaho Code, be, and the same is hereby amended to read as follows:

58-1306. NONNAVIGATIONAL OR COMMERCIAL NAVIGATIONAL ENCROACHMENTS -- COMMUNITY NAVIGATIONAL ENCROACHMENTS -- NAVIGATIONAL ENCROACHMENTS BEYOND LINE OF NAVIGABILITY -- APPLICATION -- PROCEDURES -- PUBLICATION OF NOTICE -- HEARING -- APPEALS -- RECONSIDERATION -- CRITERIA PRIORITY.

(a) Applications for construction, enlargement or replacement of a nonnavigational or encroachment, a commercial navigational encroachment, a community navigational encroachment, or for a navigational encroachment extending beyond the line of navigability shall be submitted upon forms to be furnished by the board and accompanied by plans of the proposed encroachment containing information required by section 58-143 58-1302(k), Idaho Code, and such other information as the board may by rule or regulation require in conformance with the intent and purpose of this chapter. Applications for nonnavigational, community navigational, or commercial navigational encroachments must be submitted or approved by the riparian or littoral owner.

(b) Within ten (10) days of receipt of an application submitted under subsection (a) above of this section, the board shall cause to be published in a newspaper having general circulation in the county in which the encroachment is proposed, once a week for two (2) consecutive weeks, a notice advising of the application and describing the proposed encroachment and general location thereof. Applications for installation of buried or submerged water intake lines and utility lines shall be exempt from the newspaper publication process. The board may also furnish copies of the application and accompanying plans to other state agencies having an interest in the lake to determine the opinion of such state agencies as to the likely effect of the proposed encroachment upon adjacent property and lake value factors of navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty or water quality. Within thirty (30) days following receipt of such copy of the application and plans from the board, such other state agency shall notify the board of its opinion and recommendations, if any, for alternate plans determined by such agency to be economically feasible to accomplish the purpose of the proposed encroachment without adversely affecting unreasonably adjacent property or other lake value factors.

(c) Any resident of the state of Idaho, or a nonresident owner or lessee of real property adjacent to the lake, or any state or federal agency may, within thirty (30) days of the first date of publication, file with the board an objection to the proposed encroachment and a request for a hearing on the application. If a hearing is requested, the same shall be held no later than ninety (90) days from the date of filing the application and notice of such hearing shall be given in the manner prescribed for publishing notice of application. The board may, in its discretion, within ten (10) days of filing the application, order a hearing in the first instance in which case, publication of notice of the application shall be dispensed with. All such hearings shall be public and held under rules and regulations promulgated by the board under the provisions of chapter 52, title 67 of the Idaho Code. The board
shall render a decision within thirty (30) days following conclusion of the hearing and a copy of the board's decision shall be mailed to the applicant and to each person or agency appearing at the hearing and giving testimony in support of or in opposition to the proposed encroachment. Any applicant or other aggrieved party so appearing at a hearing shall have the right to have the proceedings and decision of the board reviewed by the district court in the county where the encroachment is proposed by filing notice of appeal within thirty (30) days from the date of the board's decision. If the decision of the board be approval of a permit, the party or parties appealing shall file a bond in an amount to be fixed by the court but not less than five hundred dollars ($500) insuring payment to the applicant of damages caused by delay and costs and expenses, including reasonable attorney's fees, incurred on the appeal in the event the district court sustains the action of the board.

(d) In the event no objection to the proposed encroachment is filed with the board and no hearing is requested or ordered by the board, based upon its investigation and considering the economics of navigational necessity, justification or benefit, public or private, of such proposed encroachment as well as its detrimental effects, if any, upon adjacent real property and lake value factors, the board shall prepare and forward to the applicant by certified mail its decision and the applicant, if dissatisfied therewith, shall have twenty (20) days from the date of mailing of such decision to notify the board if he requests a reconsideration thereof and if such request is made, the board shall set a time and place for reconsideration, not to exceed thirty (30) days from receipt of such request, at which time and place the applicant may appear in person or by authorized representative. If aggrieved by the board's decision following reconsideration, the applicant may appeal to the district court in the same manner as that provided for following a hearing.

(e) In recognition of continuing private property ownership of lands lying between the natural or ordinary high water mark and the artificial high water mark, the board shall consider unreasonable adverse effect upon adjacent property and undue interference with navigation the most important factors to be considered in granting or denying an application for either a nonnavigational encroachment, or a commercial navigational encroachment, or a community navigational encroachment not extending below the natural or ordinary high water mark. If no objections have been filed to the application and no hearing has been requested or ordered by the board, or, if upon reconsideration of a decision disallowing a permit, or following a hearing, the board determines that the benefits, whether public or private, to be derived from allowing such encroachment exceed its detrimental effects, it shall grant the permit. As a condition of the permit, the board may require a lease or easement for use of any part of the state owned bed of the lake. Recordation of an issued permit in the records of the county in which an encroachment is located shall be a condition of issuance of a permit and proof of recordation shall be furnished to the department by the permittee before a permit becomes valid. Such recordation shall be at the expense of the permittee. Recordation of an issued permit serves only to provide constructive notice of the permit to the public and subsequent purchasers and mortgagees, but conveys no other right, title or interest on the permittee other than validation of said permit.
(f) A permit shall not be required for repair of an existing nonnavigational or encroachment, commercial navigational encroachment, or community navigational encroachment.

Approved March 22, 2006.

CHAPTER 132
(H.B. No. 527)

AN ACT
RELATING TO NAVIGATIONAL AND NONNAVIGATIONAL ENCROACHMENTS; AMENDING SECTION 58-1305, IDAHO CODE, TO PROVIDE FOR THE RECORDATION OF PERMITS ISSUED FOR NONCOMMERCIAL NAVIGATIONAL ENCROACHMENTS, TO PROVIDE FOR THE EFFECT OF RECORDATION AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 58-1306, IDAHO CODE, TO PROVIDE FOR COMMUNITY NAVIGATIONAL ENCROACHMENTS, TO PROVIDE CORRECT TERMINOLOGY, TO PROVIDE FOR APPLICATION PROCESS AND PROCEDURES RELATING TO COMMUNITY NAVIGATIONAL ENCROACHMENTS, TO PROVIDE FOR THE RECORDATION OF PERMITS ISSUED FOR NONNAVIGATIONAL ENCROACHMENTS, COMMERCIAL NAVIGATIONAL ENCROACHMENTS AND COMMUNITY NAVIGATIONAL ENCROACHMENTS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 58-1305, Idaho Code, be, and the same is hereby amended to read as follows:

58-1305. NONCOMMERCIAL NAVIGATIONAL ENCROACHMENTS -- PROCEDURES -- REPAIRS -- FORMS. (a) Applications for construction, enlargement or replacement of navigational encroachments not extending beyond the line of navigability nor intended primarily for commercial use shall be processed by the board with a minimum of procedural requirements and shall not be denied nor appearance required except in the most unusual of circumstances or if the proposed encroachment infringes upon or it appears it may infringe upon the riparian or littoral rights of an adjacent property owner.

(b) If the plans of the proposed encroachment indicate such infringement will or may occur, the board shall require that the applicant secure the consent of such adjacent owner or that he be given notice of the application by personal service or by certified or registered mail, return receipt requested, directed to him at his usual place of address, which, if not otherwise known, shall be the address shown on the records of the county treasurer or assessor, and such adjacent owner shall have ten (10) days from the date of personal service or receipt of certified or registered mail to file objection with the board. The application itself shall be deemed sufficient notice if the adjacent owner is the state of Idaho.

(c) In the event objection to the application is filed by an adjacent owner or if the board deems it advisable because of the existence of unusual circumstances, the board shall fix a time, no later than sixty (60) days from the date of filing application, and a place, for affording the applicant and the adjacent owner filing objection to
appear and present evidence in support of or in opposition to the application and within forty-five (45) days (45) thereafter shall render a decision and give notice thereof to the parties concerned who may thereafter resort to appellate procedures prescribed in section 58-1306, Idaho Code.

(d) A permit shall not be required for repair of an existing navigational encroachment.

(e) Applications submitted under this section shall be upon forms to be furnished by the board and shall be accompanied by plans of the proposed navigational encroachment containing information required by section 58-1302(k), Idaho Code, and such other information as the board may by rule or regulation require in conformance with the intent and purpose of this chapter.

(f) If notice to an adjacent owner is not required or if the adjacent owner has consented to the proposed encroachment or has failed to file objection to the proposed encroachment within the time allowed following service of notice, the board shall act upon the application as expeditiously as possible but no later than sixty (60) days from receipt of the application and failure to act within such time shall constitute approval of the application.

(g) All permits issued for noncommercial navigational encroachments shall be recorded in the records of the county in which the encroachment is located and shall be a condition of issuance of a permit. Proof of recordation shall be furnished to the department by the permittee before a permit becomes valid. Such recordation shall be at the expense of the permittee. Recordation of an issued permit serves only to provide constructive notice of the permit to the public and subsequent purchasers and mortgagees, but conveys no other right, title or interest on the permittee other than validation of said permit.

SECTION 2. That Section 58-1306, Idaho Code, be, and the same is hereby amended to read as follows:

58-1306. NONNAVIGATIONAL OR COMMERCIAL NAVIGATIONAL ENCROACHMENTS -- COMMUNITY NAVIGATIONAL ENCROACHMENTS -- NAVIGATIONAL ENCROACHMENTS BEYOND LINE OF NAVIGABILITY -- APPLICATION -- PROCEDURES -- PUBLICATION OF NOTICE -- HEARING -- APPEALS -- RECONSIDERATION -- CRITERIA PRIORITY.

(a) Applications for construction, enlargement or replacement of a nonnavigational or encroachment, a commercial navigational encroachment, a community navigational encroachment, or for a navigational encroachment extending beyond the line of navigability shall be submitted upon forms to be furnished by the board and accompanied by plans of the proposed encroachment containing information required by section 58-1302(k), Idaho Code, and such other information as the board may by rule or regulation require in conformance with the intent and purpose of this chapter. Applications for nonnavigational or commercial navigational encroachments must be submitted or approved by the riparian or littoral owner.

(b) Within ten (10) days of receipt of an application submitted under subsection (a) above of this section, the board shall cause to be published in a newspaper having general circulation in the county in which the encroachment is proposed, once a week for two (2) consecutive weeks, a notice advising of the application and describing the proposed encroachment and general location thereof. Applications for installation
of buried or submerged water intake lines and utility lines shall be exempt from the newspaper publication process. The board may also furnish copies of the application and accompanying plans to other state agencies having an interest in the lake to determine the opinion of such state agencies as to the likely effect of the proposed encroachment upon adjacent property and lake value factors of navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty or water quality. Within thirty (30) days following receipt of such copy of the application and plans from the board, such other state agency shall notify the board of its opinion and recommendations, if any, for alternate plans determined by such agency to be economically feasible to accomplish the purpose of the proposed encroachment without adversely affecting unreasonably adjacent property or other lake value factors.

(c) Any resident of the state of Idaho, or a nonresident owner or lessee of real property adjacent to the lake, or any state or federal agency may, within thirty (30) days of the first date of publication, file with the board an objection to the proposed encroachment and a request for a hearing on the application. If a hearing is requested, the same shall be held no later than ninety (90) days from the date of filing the application and notice of such hearing shall be given in the manner prescribed for publishing notice of application. The board may, in its discretion, within ten (10) days of filing the application, order a hearing in the first instance in which case, publication of notice of the application shall be dispensed with. All such hearings shall be public and held under rules and regulations promulgated by the board under the provisions of chapter 52, title 67 of the Idaho Code. The board shall render a decision within thirty (30) days following conclusion of the hearing and a copy of the board's decision shall be mailed to the applicant and to each person or agency appearing at the hearing and giving testimony in support of or in opposition to the proposed encroachment. Any applicant or other aggrieved party so appearing at a hearing shall have the right to have the proceedings and decision of the board reviewed by the district court in the county where the encroachment is proposed by filing notice of appeal within thirty (30) days from the date of the board's decision. If the decision of the board be approval of a permit, the party or parties appealing shall file a bond on such appeal in an amount to be fixed by the court but not less than five hundred dollars ($500) insuring payment to the applicant of damages caused by delay and costs and expenses, including reasonable attorney's fees, incurred on the appeal in the event the district court sustains the action of the board.

(d) In the event no objection to the proposed encroachment is filed with the board and no hearing is requested or ordered by the board, based upon its investigation and considering the economics of navigational necessity, justification or benefit, public or private, of such proposed encroachment as well as its detrimental effects, if any, upon adjacent real property and lake value factors, the board shall prepare and forward to the applicant by certified mail its decision and the applicant, if dissatisfied therewith, shall have twenty (20) days from the date of mailing of such decision to notify the board if he requests a reconsideration thereof and if such request is made, the board shall set a time and place for reconsideration, not to exceed thirty (30) days from receipt of such request, at which time and place the applicant may appear in person or by authorized representative. If aggrieved by the
board's decision following reconsideration, the applicant may appeal to
the district court in the same manner as that provided for following a
hearing.

(e) In recognition of continuing private property ownership of
lands lying between the natural or ordinary high water mark and the
artificial high water mark, the board shall consider unreasonable
adverse effect upon adjacent property and undue interference with navi-
gation the most important factors to be considered in granting or deny-
ing an application for either a nonnavigational encroachment or a com-
mmercial navigational encroachment not extending below the natural or
ordinary high water mark. If no objections have been filed to the appli-
cation and no hearing has been requested or ordered by the board, or, if
upon reconsideration of a decision disallowing a permit, or following a
hearing, the board determines that the benefits, whether public or pri-
ivate, to be derived from allowing such encroachment exceed its detrimen-
tal effects, it shall grant the permit. As a condition of the permit, the
board may require a lease or easement for use of any part of the
state owned bed of the lake.

(f) Recordation of an issued permit All permits issued for
nonnavigational encroachments, commercial navigational encroachments,
and community navigational encroachments shall be recorded in the
records of the county in which the encroachment is located and shall
be a condition of issuance of a permit. Proof of recordation shall
be furnished to the department by the permittee before a permit becomes
valid. Such recordation shall be at the expense of the permittee. Recor-
dation of an issued permit serves only to provide constructive notice of
the permit to the public and subsequent purchasers and mortgagees, but
conveys no other right, title or interest on the permittee other than
validation of said permit.

(fg) A permit shall not be required for repair of an existing
nonnavigational or commercial navigational encroachment.

Approved March 22, 2006.

CHAPTER 133
(H.B. No. 526)

AN ACT
RELATING TO NAVIGATIONAL AND NONNAVIGATIONAL ENCROACHMENTS; AMENDING
SECTION 58-1307, IDAHO CODE, TO REVISE FEE AND COST PROVISIONS FOR
CERTAIN PERMITS AND TO AUTHORIZE THE BOARD OF LAND COMMISSIONERS TO
CHARGE SPECIFIED APPLICANTS THE ACTUAL COSTS OF PROCESSING APPLICATIONS IN THE EVENT THE ACTUAL COSTS EXCEED THE NONREFUNDABLE FEE.

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

SECTION 1. That Section 58-1307, Idaho Code, be, and the same is
hereby amended to read as follows:

58-1307. FEES FOR SPECIFIED PERMITS -- COSTS OF PUBLICATION. Appli-
cation for a permit for any noncommercial navigational encroachment or
noncommercial nonnavigational encroachment for bank stabilization and
erosion control or for fisheries and wildlife habitat improvements shall be accompanied by a nonrefundable fee of up to two hundred fifty dollars ($250.00). Application for a permit for any other nonnavigational or commercial navigational encroachment or navigational encroachment which extends beyond the line of navigability shall be accompanied by a nonrefundable fee of two-hundred-fifty up to three thousand five hundred dollars ($253,500). Provided however, the board shall charge applicants for permits for commercial navigational encroachments the actual costs of processing the application in the event the actual costs exceed three thousand five hundred dollars ($3,500). In addition, the board shall charge the applicant with costs of publishing notice of the application which shall be refunded if such notice is not published. Any person or agency requesting a hearing upon the application shall deposit and pay to the board an amount sufficient to cover the cost of publishing notice of hearing.

Approved March 22, 2006.

CHAPTER 134
(H.B. No. 525)

AN ACT
RELATING TO NAVIGATIONAL AND NONNAVIGATIONAL ENCROACHMENTS; AMENDING SECTION 58-1302, IDAHO CODE, TO REVISE A DEFINITION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 58-1302, Idaho Code, be, and the same is hereby amended to read as follows:

58-1302. ENCROACHMENT ON NAVIGABLE LAKES -- DEFINITIONS. (a) "Navigable lake" means any permanent body of relatively still or slack water, not privately owned and not a mere marsh or stream eddy, and capable of accommodating boats or canoes and includes man-made reservoirs except where the jurisdiction thereof is asserted and exclusively assumed by a federal agency.

(b) "Beds of navigable lakes" means the lands lying under or below the "natural or ordinary high water mark" of a navigable lake and, for purposes of this act only, the lands lying between the natural or ordinary high water mark and the artificial high water mark, if there be one.

(c) "Natural or ordinary high water mark" means the high water elevation in a lake over a period of years, uninfluenced by man-made dams or works, at which elevation the water impresses a line on the soil by covering it for sufficient periods to deprive the soil of its vegetation and destroy its value for agricultural purposes.

(d) "Artificial high water mark" means the high water elevation above the natural or ordinary high water mark resulting from construction of man-made dams or control works and impressing a new and higher vegetation line.

(e) "Low water mark" means that line or elevation on the bed of the
lake marked or located by the average low water elevations over a period of years and marks the point to which the riparian rights of adjoining landowners extend as a matter of right, in aid of their right to use the waters of the lake for purposes of navigation.

(f) "Riparian or littoral rights" means only the rights of owners or lessees of land adjacent to navigable waters of the lake to maintain their adjacency to the lake and to make use of their rights as riparian or littoral owners or lessees in building or using aids to navigation but does not include any right to make any consumptive use of the waters of the lake.

(g) "Line of navigability" means a line located at such distance below waterward of the low water mark as will afford sufficient draft for watercraft customary in use on that particular lake established by the length of existing legally permitted encroachments, water depths waterward of the low water mark, and by other relevant criteria determined by the board when a line has not already been established for the body of water in question.

(h) "Encroachments in aid of navigation" means and includes docks, piers, floats, pilings, breakwaters, boat ramps, channels or basins, and other such aids to the navigability of the lake, on, in or above the beds or waters of a navigable lake. The term "encroachments in aid of navigation" may be used interchangeably herein with the term "navigational encroachments."

(i) "Encroachments not in aid of navigation" means and includes all other encroachments on, in or above the beds or waters of a navigable lake, including landfills or other structures not constructed primarily for use in aid of the navigability of the lake. The term "encroachments not in aid of navigation" may be used interchangeably herein with the term "nonnavigational encroachments."

(j) "Board" means the board of land commissioners of the state of Idaho or its authorized representative.

(k) "Plans" means maps, sketches, engineering drawings, aerial and other photographs, word descriptions, and specifications sufficient to describe the extent, nature and approximate location of the proposed encroachment and the proposed method of accomplishing the same.

Approved March 22, 2006.

CHAPTER 135
(H.B. No. 524)

AN ACT
RELATING TO NAVIGATIONAL AND NONNAVIGATIONAL ENCROACHMENTS; AMENDING SECTION 58-1312, IDAHO CODE, TO PROVIDE REQUIREMENTS FOR THE PERMITTING OF EXISTING NAVIGATIONAL OR NONNAVIGATIONAL ENCROACHMENTS.

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

SECTION 1. That Section 58-1312, Idaho Code, be, and the same is hereby amended to read as follows:

58-1312. FILING--NOTICE PERMITTING OF EXISTING ENCROACHMENTS. On or before December 31, 1974, every person owning or possessing an existing
navigational-or-nonnavigational-encroachment-on; in-or-above-the-beds-or
waters-of-a-navigable-take-in-this-state-shall-file-with-the-board-noti-
fication-therewith. Such-notice-shall-be-upon-forms-to-be-furnished-by-the
board--and-contain-such-information-concerning-the-encroachment-as-would
be-necessary-on-plans-submitted-with-an-original-application--under--the
provisions--of--this--act (1) Unless otherwise prohibited, every person
seeking a permit for a navigational or nonnavigational encroachment con-
structed prior to January 1, 1975, shall provide the board with substan-
tive documentation of the age of the encroachment and documentation that
the encroachment has not been modified since 1974. Persons providing
such documentation shall receive an encroachment permit and shall not be
required to pay the application and publication fees established in this
chapter. Such substantive documentation shall include dated aerial pho-
tographs, tax records, or other historical information deemed reliable
by the board.

(2) Every person seeking a permit for a navigational or
nonnavigational encroachment constructed, replaced or modified on or
after January 1, 1975, shall submit a permit application and enter the
same permitting process as required for new encroachments.

Approved March 22, 2006.

CHAPTER 136
(H.B. No. 521)

AN ACT
RELATING TO SURVEYS; AMENDING SECTION 55-1904, IDAHO CODE, TO REQUIRE
FILING OF A RECORD OF SURVEY WHICH RESULTS IN THE SETTING OF CERTAIN
MONUMENTS AT CORNERS OF RECORD WITHIN A SPECIFIED TIME PERIOD.

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

SECTION 1. That Section 55-1904, Idaho Code, be, and the same is
hereby amended to read as follows:

55-1904. RECORDS OF SURVEY -- WHEN FILING REQUIRED. After making a
survey in conformity with established principles of land surveying, a
surveyor shall file a record of survey with the county recorder in the
county or counties wherein the lands surveyed are situated. A record of
survey shall be filed within ninety (90) days after completing any sur-
vey which:
(1) Discloses a material discrepancy with previous surveys of
record;
(2) Establishes boundary lines and/or corners not previously exist-
ing or of record;
(3) Results in the setting of monuments at corners of record which
were not previously monumented; or
(4) Produces evidence or information which varies from, or is not
contained in, surveys of record relating to the public land survey, lost
public land corners or obliterated land survey corners.

Approved March 22, 2006.
AN ACT
RELATING TO ENGINEERS AND SURVEYORS; AMENDING SECTION 54-1223, IDAHO CODE, TO INCREASE THE NUMBER OF YEARS COLLEGE OR UNIVERSITY FACULTY CAN TEACH ENGINEERING DESIGN WITHOUT A LICENSE, TO EXEMPT CERTAIN APPLICANTS FOR LICENSURE FROM EXAMINATION REQUIREMENTS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 54-1223, Idaho Code, be, and the same is hereby amended to read as follows:

54-1223. SAVING CLAUSE -- EXEMPTIONS. A(1) This chapter shall not be construed to affect:
(1a) The practice of any other profession or trade for which a license is required under any law of this state or the United States.
(1b) The work of an employee or a subordinate of a person holding a certificate of registration under this chapter, provided such work does not include final engineering design or land surveying decisions and is done under the direct responsibility, checking, and supervision of, and verified by, a person holding a certificate of registration under this chapter.
(1c) Any individual teaching upper division engineering subjects that are classified as engineering design for any college or university in this state as of July 1, 1988, and any such individual employed after July 1, 1988, for a period of three--(3) five (5) years from the date of employment with any college or university in this state.
(1d) An individual doing surveying work for himself, or through a business entity, on property owned or leased by the individual or business entity, or in which the individual or business entity has an interest, estate or possessory right and which affects exclusively the property or interests of the individual or business entity; provided, that all land surveying maps, plats or plans filed with any county recorder's office in the state of Idaho for the purpose of illustrating or defining boundaries of property ownership, shall be made and certified by a registered, professional land surveyor as provided in this chapter.
(1e) An individual doing survey work for himself, or through a business entity with respect to the location, amendment, or relocation of a mining claim.
(1f) The practice of engineering by employees of a business entity as long as the services provided by them are for internal business entity use only.
B(2) The board, at its discretion, may exempt an exceptional individual who has twelve (12) or more years of appropriate experience in engineering from the requirement for satisfactory completion of an examination in the fundamentals of engineering.
E(3) An applicant for licensure as a professional engineer either
by examination or by comity who has earned a bachelor degree in engineering from an approved engineering program and has, in addition, earned a doctorate degree in engineering from a college or university which offers an approved undergraduate program in the same discipline as the doctorate degree earned, shall be exempt from the requirement for satisfactory completion of an examination in the fundamentals of engineering. Honorary doctorate degrees are not considered earned degrees for purposes of this subsection.

(4) In addition to, and notwithstanding other provisions of this chapter, in circumstances of emergency creating conditions of imminent and substantial danger to the public health, safety or environment through the provision of engineering services, the prosecuting attorney or the attorney general may institute a civil action for an immediate injunction to halt the provision of engineering services.

Approved March 22, 2006.

CHAPTER 138
(H.B. No. 517)

AN ACT
RELATING TO MOTOR CARRIERS AND HARVEST SEASON; AMENDING SECTION 67-2901B, IDAHO CODE, TO CLARIFY THAT VEHICLES HAULING AGRICULTURAL COMMODITIES OR PRODUCTS OF THE FOREST ARE EXEMPT FROM REGULATION ALL YEAR; AMENDING CHAPTER 6, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-674, IDAHO CODE, TO PROVIDE THAT HARVEST SEASON FOR THE PURPOSE OF VEHICLES TRANSPORTING AGRICULTURAL PRODUCTS, INCLUDING FRESH FRUITS AND VEGETABLES, LIVESTOCK, LIVESTOCK FEED, PRODUCTS OF THE FOREST OR MANURE, SHALL BE YEAR-ROUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-2901B, Idaho Code, be, and the same is hereby amended to read as follows:

67-2901B. INSPECTION OF MOTOR CARRIERS -- EXEMPTIONS -- CERTIFICATION OF REPAIR -- COMPLIANCE REVIEW -- PENALTIES. (1) All motor carriers, except those exempted under the provisions of subsection (2) of this section, are subject to compliance review and inspection by authorized state police employees for compliance with federal motor carrier safety and hazardous materials regulations and for compliance with applicable Idaho laws and rules promulgated by the director pursuant to the provisions of section 67-2901A, Idaho Code. A motor carrier shall submit any vehicle to a safety inspection when requested to do so by an authorized state police employee. Such inspections shall comply, to the extent possible, with national and industry standards for truck inspections and truck safety as adopted by the commercial vehicle safety alliance. A written inspection report shall be provided to the owner, operator or agent of the vehicle following any inspection review pursuant to this section.

(2) The following intrastate motor carriers shall be exempt from safety inspections and compliance reviews:
(a) Motor vehicles employed solely in transporting school children and teachers to or from school or to and from approved school activities, when the motor vehicles are either:
   (i) Wholly owned and operated by such school, or
   (ii) Leased or contracted by such school and the motor vehicle is not used in the furtherance of any other commercial enterprise; or
(b) Taxicabs or other motor vehicles performing a licensed or franchised taxicab service, having a seating capacity of not more than seven (7) passengers within twenty-five (25) miles of the boundaries of the licensing or franchising jurisdiction; or
(c) Motor vehicles owned or operated by or on behalf of hotels and used exclusively for the transportation of hotel patrons between hotels and local railroads or airports or other common carrier stations; or
(d) Motor vehicles controlled and operated by any farmer when used in the transportation of his farm equipment or in the transportation of supplies to his farm; or
(e) Motor vehicles used exclusively in the distribution of newspapers; or
(f) Transportation of persons or property by motor vehicle at an airport when incidental to transportation by aircraft or other transportation in substitution for scheduled airline service when the carrier cannot provide the scheduled service because of weather and/or mechanical conditions and the transportation is arranged for and paid by the affected airlines; or
(g) Transportation of persons and/or property, including mobile and modular houses manufactured with wheels and undercarriage as part of the substructure, but not transportation of other houses, buildings or structures within a municipality or territory contiguous to such municipality if such operation outside such municipality be a part of a service maintained within the limits of the municipality with the privilege of transfer of passengers to vehicles within the municipality without additional fare; or
(h) The transportation of agricultural products including fresh fruits and vegetables, livestock, livestock feed or manure at any time of the year; or
(i) Motor propelled vehicles for the sole purpose of carrying United States mail or property belonging to the United States; or
(j) Motor carriers transporting products of the forest at any time of the year; or
(k) Motor carriers transporting products of the mine including sand, gravel and aggregates thereof, except petroleum products; or
(l) Motor carriers transporting household goods as defined by the federal surface transportation board; or
(m) Vehicles properly equipped, designed and customarily used for the transportation of disabled or abandoned vehicles by means of a crane, hoist, tow bar, dolly or roll bed, which vehicle shall be known as a "wrecker (tow truck)."
(3) A motor carrier which has received a written inspection report prepared pursuant to subsection (1) of this section indicating that his vehicle does not comply with applicable federal laws or regulations or Idaho laws or rules, shall certify in writing to the director or his designee within fifteen (15) days of his receipt of the inspection
report that he has brought his vehicle into compliance with said laws, regulations or rules. The director or his designee may assess an administrative penalty to any person who does not comply with the certification provisions of this section or who makes a false certification. The penalty shall not exceed one hundred dollars ($100) for failure to comply with an inspection report or for making a false certification. If an assessment is contested, the director shall comply with the provisions governing contested cases under the administrative procedure act, chapter 52, title 67, Idaho Code.

(4) Any motor carrier subject to rules promulgated under the provisions of section 67-2901A, Idaho Code, shall submit to a compliance review upon request of the director or any officer designated by him, by providing for inspection or copying at any reasonable time, the records, books, papers and documents relating to the safety management systems or program of such motor carrier.

(5) Any penalties collected pursuant to subsection (3) of this section shall be deposited to the state highway account.

SECTION 2. That Chapter 6, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-674, Idaho Code, and to read as follows:

49-674. HARVEST SEASON. Harvest season for the purpose of vehicles transporting agricultural products, including fresh fruits and vegetables, livestock, livestock feed, products of the forest or manure, shall be year-round.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 22, 2006.

CHAPTER 139
(H.B. No. 491)

AN ACT
RELATING TO VETERINARIANS; AMENDING SECTION 54-2103, IDAHO CODE, TO REVISE DEFINITIONS, TO DEFINE A TERM AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING CHAPTER 21, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-2106, IDAHO CODE, TO PROVIDE REQUIREMENTS FOR EMERGENCY VETERINARY FACILITIES AND ON-CALL EMERGENCY SERVICES.

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

SECTION 1. That Section 54-2103, Idaho Code, be, and the same is hereby amended to read as follows:

54-2103. DEFINITIONS. As used in this chapter:
(1) "Accredited continuing education activity" means a provider and course, seminar, scientific program or any other activity approved by the board or its designees for continuing education credit.
(2) "Accredited or approved school of veterinary medicine" means any veterinary college or division of a university or college inside or outside the United States or Canada that offers the degree of doctor of veterinary medicine, veterinary medicine doctor, or its equivalent and is accredited or approved by the council on education of the American veterinary medical association or other accrediting agency or association approved by the board.

(3) "Allied health professional" means a person holding a current active license, in good standing, in any state to practice one (1) of the healing arts including, but not limited to medicine, dentistry, osteopathy, chiropractic, acupuncture and podiatry.

(4) "Anesthetized" means any condition of general anesthesia, caused by the administration of a drug or combination of drugs in sufficient quantity to produce a state of unconsciousness or disassociation and blocked response to a given pain or alarm stimulus. At a minimum, each anesthetized patient shall be monitored and under continuous observation until the patient is awake and in sternal recumbency.

(5) "Animal" means any animal other than man and includes fowl, birds, fish and reptiles, wild or domestic, living or dead.

(6) "Assistant" means any individual who is employed by an actively licensed veterinarian to perform acts pertaining to the practice of veterinary medicine and receives compensation for such acts from the employing veterinarian but is not a certified veterinary technician or licensed veterinarian.

(7) "Board" means the state board of veterinary medicine.

(8) "Certified euthanasia agency" or "CEA" means a law enforcement agency, an animal control agency or a society for the prevention of cruelty to animals, which has been inspected and certified by the euthanasia task force or the board.

(9) "Certified euthanasia technician" or "CET" means:
   (a) A person employed by a certified euthanasia agency or working under the indirect supervision of a licensed veterinarian, but not to include an individual employed as a technician by animal research laboratories, who is instructed and certified by the euthanasia task force or the board as defined in the rules of the board.
   (b) Any person who is trained prior to December 31, 1992, in euthanasia methods, in a course approved by the board, may be certified upon presentation of evidence of such training to either the euthanasia task force or the board.

(10) "Certified veterinary technician" means a person who has fulfilled the certification requirements prescribed by board rule and has been certified by the board to practice veterinary technology in this state.

(11) "Consultation" means a deliberation between two (2) or more veterinarians concerning the diagnosis of a disease or the proper management of the case.

(12) "Credit hour" means fifty (50) minutes of participation in an accredited continuing education activity.

(13) "Dentistry" is the practice of veterinary medicine and means the application or use of any instrument or device to any portion of an animal's tooth, gum or any related tissue for the prevention, cure or relief of any wound, fracture, injury, disease or other condition of an animal's tooth, gum or related tissue. Dentistry includes, but is not limited to:
(a) "Preventive dental procedures" including, but not limited to, the removal of calculus, soft deposits, plaque, stains, and floating to shape the teeth above the gum line or the smoothing, filing or polishing of tooth surfaces above the gum line; and
(b) "Operative dentistry/oral surgery" or any other dental procedure that invades the hard or soft oral tissue including a procedure that alters the structure of one (1) or more teeth, or repairs damaged and diseased teeth, or the deliberate extraction of one (1) or more teeth.

(14) "Direct supervision" means the supervisor is on the premises where the animal is being treated, is quickly and easily available and the animal has been examined by the supervising veterinarian as acceptable veterinary medical practice requires.

(15) "Discipline" means board action including, but not limited to:
(a) Refusing to issue, renew or reinstate a license, permit or certification to practice as a licensed veterinarian, a certified veterinary technician, a certified euthanasia agency or a certified euthanasia technician;
(b) Denial, revocation, suspension, sanction, probation or voluntary surrender of a license, permit or certification to practice as a licensed veterinarian, a certified veterinary technician, a certified euthanasia agency or a certified euthanasia technician;
(c) The ability to enter into consent agreements and negotiated settlements with licensed veterinarians, certified veterinary technicians, certified euthanasia agencies and certified euthanasia technicians;
(d) The ability to bring an administrative or civil action against any person in or outside of this state who practices veterinary medicine, veterinary technology or who performs euthanasia within this state.

(16) "Emergency" means that the animal has been placed in a life-threatening condition where immediate treatment is necessary to sustain life.

(17) "Emergency veterinary hospital facility" means any facility in which veterinary services are provided by either a "veterinarian-on-premises" or "veterinarian-on-call," with the primary function of receiving, treating, and monitoring emergency patients during its specified hours of operation or that displays to the public any sign, card, or advertisement that indicates it is an emergency veterinary clinic or hospital. An emergency veterinary facility may be an independent after-hours service, an independent twenty-four (24) hour service, or it may be part of a full-service veterinary medical facility.

(18) "Euthanasia task force" means a task force established by the board for the purposes of training, examining, certifying and inspecting certified euthanasia agencies and certified euthanasia technicians.

(19) "Extra label use" means the actual or intended use of a human or veterinary drug in an animal in a manner that is not in accordance with the drug's labeling.

(20) "Floating" means shaping the posterior (cheek) teeth and the incisors (cutting teeth) in horses, mules and donkeys through the use of hand floats, rasps, burs, mechanical files or other file-like instruments to restore balance, allow more efficient mastication, and reduce pain and trauma to the periodontal tissues.

(21) "Herd, litter or flock" of animals means animals managed as a
group for purposes including, but not limited to, breeding, sale, show or food production.

(22) "Immediate supervision" means the supervisor is in the immediate area, in audible and visual range of the animal patient and the person treating the patient and the animal has been examined by the supervising veterinarian as acceptable veterinary medical practice requires.

(23) "In good standing" means that an applicant:
(a) Has not been the recipient of any administrative penalties regarding his practice of veterinary medicine including, but not limited to, fines, formal reprimands, license suspensions or revocations (except for license revocations for nonpayment of license renewal fees) or probationary limitations, or has not entered into any consent agreement or negotiated settlement that contains conditions placed by a board on his professional conduct and practice, including any voluntary surrender of a license; and
(b) Has never had his United States drug enforcement administration privileges restricted or revoked; and
(c) Is not currently under investigation by another veterinary licensing authority for acts which would provide a basis for disciplinary action in this state, as determined by the board; and
(d) Has no physical or mental impairment related to drugs, alcohol, or a finding of mental incompetence by a physician that would limit the applicant’s ability to undertake the practice of veterinary medicine in a manner consistent with the safety of a patient or the public; and
(e) Has not been convicted of a felony as defined in chapter 1, title 18, Idaho Code; and
(f) Has no criminal conviction record or pending criminal charge relating to an offense the circumstances of which substantially relate to the practice of veterinary medicine. Applicants who have criminal conviction records or pending criminal charges shall require appropriate authorities to provide information about the record or charge directly to the board in sufficient detail to enable the board to make a determination whether the record or charge is substantially related to the practice of veterinary medicine.

(24) "Indirect supervision" means the supervisor is not on the premises but is available for immediate contact by telephone, radio or other means, has given either written or oral instructions for treatment of the animal patient, the animal has been examined by the supervising veterinarian as acceptable veterinary medical practice requires, and the animal, if previously anesthetized, has recovered to the point of being conscious and sternal.

(25) "Legend/Prescription drug" means any drug which, under federal law, regulation or rule, is required, prior to being distributed or delivered, to be labeled with one (1) of the following statements: "Caution: Federal law restricts this drug to be used by or on the order of a licensed veterinarian," or "Caution: Federal law prohibits dispensing without a prescription," or "RX Only," or a drug which is required by any applicable state or federal law, rule or regulation to be distributed or dispensed pursuant to a prescription only, or is restricted to use by licensed practitioners only.

(26) "Licensed veterinarian" means a person who is validly and currently licensed to practice veterinary medicine in this state.
(27) "Malpractice" means, but is not limited to:
(a) Treatment in a manner contrary to accepted veterinary practices and with injurious results; or
(b) Any professional misconduct or unreasonable lack of professional skill or fidelity in the performance of the professional practice of veterinary medicine; or
(c) Failure to provide adequate supervision, except in an emergency situation; or
(d) Allowing an unqualified individual to perform a procedure that is part of the practice of veterinary medicine; or
(e) The negligent practice of veterinary medicine, as determined by the standard of practice for the area, that results in injury, unnecessary suffering or death.

(28) "Medical incompetence" means lacking in sufficient medical knowledge or skills or both to a degree likely to endanger the health of patients.

(29) "Mobile clinic" means a vehicle including, but not limited to, a camper, motor home, trailer or mobile home, used as a veterinary medical facility. A mobile clinic is not required for house calls or farm calls.

(30) "On-call emergency service" means a veterinary medical facility that is available to provide emergency veterinary services as requested if a veterinarian is available.

(31) "Owner/Ownership" means ownership as defined by the laws of property and ownership, chapter 1, title 55, Idaho Code, and chapter 1, title 73, Idaho Code.

(31) "Person" means any individual, firm, partnership, association, joint venture, cooperative and corporation, or any other group or combination acting in concert; and whether or not acting as principal, trustee, fiduciary, receiver, or as any other kind of legal or personal representative, or as the successor in interest, assignee, agent, factor, servant, employee, director, officer, or any other representative of such person.

(33) "Physical or mental incompetence" means the veterinarian's ability to practice veterinary medicine with reasonable skill and safety is impaired by reason of illness, excessive use of alcohol, drugs, narcotics, chemicals or any other substance, or as a result of any mental or physical disability.

(33) "Practice of veterinary medicine" in this state, through telephonic, electronic or other means, regardless of the location of the veterinarian, includes veterinary surgery, obstetrics, dentistry, and all other branches or specialties of veterinary medicine and means:
(a) To directly or indirectly diagnose, treat, correct, change, relieve or prevent animal disease, deformity, defect, injury or other physical or mental conditions; including the prescription or administration of any drug, medicine, biologic, apparatus application, anesthetic or other therapeutic or diagnostic substance or technique, or the use of any obstetrical procedure or any manual or mechanical procedure for artificial insemination, for testing or examining for pregnancy, fertility evaluation, embryo transplant, grading of fresh semen, or to render advice or recommendation with regard to any of the above.
(b) To represent, directly or indirectly, publicly or privately, an ability and willingness to do any act described in subsection (334)(a) of this section.
(c) To use any title, words, abbreviations or letter in a manner or under circumstances which induce the belief that the person using them is qualified to do any act described in subsection (334)(a) of this section, except where such person is a licensed veterinarian.
(345) "Professional supervision" means the supervisor is in daily contact by telephone, radio or other means with the temporary licensee.
(356) "Referral" means the transfer of responsibility for diagnosis and treatment from the referring veterinarian to the receiving veterinarian, or from the referring veterinarian to the board-certified specialist, or from the referring veterinarian to an allied health professional.
(367) "Regular employee" means a person who performs services for the animal's owner other than, or in addition to, feeding, boarding, castrating and dehorning, but does not include independent contractors or agents.
(378) "Supervision" means the action or process of directing activities or a course of action, and pertains to any and all employees of the veterinarian.
(389) "Supervisor" means an actively licensed veterinarian employing and utilizing the services of a temporary licensee, certified veterinary technician, veterinary technician, veterinary technician with a temporary certification, veterinary assistant, certified euthanasia technician, or as provided by rule. A supervisor shall be individually responsible and liable, regardless of the supervision provided, for all damages arising out of his own acts or omissions or for the performance of any acts and omissions pertaining to the practice of veterinary medicine that are delegated to the temporary licensee, certified veterinary technician, veterinary technician, veterinary assistant or certified euthanasia technician. Nothing herein shall be construed to deprive the board of its disciplinary authority with respect to the temporary licensees, certified veterinary technicians, veterinary technicians, veterinary assistants or certified euthanasia technicians.
(3940) "Unethical or unprofessional conduct" means to knowingly engage in conduct of a character likely to deceive or defraud the public, false or misleading advertising or solicitation, obtaining any fee or compensation by fraud or misrepresentation, sharing office space and working in conjunction with any person illegally practicing veterinary medicine, employing either indirectly or directly an unlicensed or uncertified person to perform acts pertaining to the practice of veterinary medicine, except as provided by law or rule, or the violation of any law or rules adopted by the board pertaining to unethical or unprofessional conduct, or that provide a code of professional conduct to be followed and carried out by persons licensed or certified by the board.
(461) "Unlicensed practice" means:
(a) The practice of veterinary medicine in this state, through telephonic, electronic or other means, regardless of the location of the veterinarian, without a valid, unexpired, unrevoked, and unsuspended active license or certification in this state to do so, except as provided by law or rule; or
(b) Representing one's self through offerings, advertisements or use of professional titles or designations as being qualified to practice veterinary medicine.

(4±2) "Veterinarian" means a person who has received a doctor's degree in veterinary medicine from an accredited or approved school of veterinary medicine or as otherwise provided by law or rule.

(42) "Veterinarian on premises" means a veterinarian is present at the veterinary medical facility and is prepared and qualified to render veterinary services.

(43) "Veterinarian on call" means a veterinarian is not present at the veterinary medical facility, but is able to respond within a reasonable time to requests for emergency veterinary services. and has been designated to so respond.

(44) "Veterinarian on premises" means a veterinarian is present at the veterinary medical facility and is prepared and qualified to render veterinary services.

(445) "Veterinary medical facility" means any premises, office, unit, structure, or mobile unit, used or controlled by a veterinarian or area utilized for the practice of veterinary medicine and where any animal is received or confined to be examined, diagnosed or treated medically, surgically, or prophylactically. This does not include other than the premises of an owner when used for treatment of the owner's animal on the owner's premises.

(456) "Veterinary technician" means a person who has graduated from a veterinary technology program accredited or approved by the council on education of the American veterinary medical association, or other accrediting agency approved by the board, or a person who has received equivalent training as set forth in the rules of the board.

(467) "Veterinary technology" means the performance of services within the practice of veterinary medicine by a person employed by a licensed veterinarian to perform duties that require an understanding of veterinary medicine in order to carry out the orders of the veterinarian. However, such services shall not include prognosis, diagnosis, operative dentistry, deliberate tooth extraction procedures or the prescribing of treatment or performing surgery of any kind.

SECTION 2. That Chapter 21, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-2106, Idaho Code, and to read as follows:

54-2106. EMERGENCY VETERINARY FACILITIES -- ON-CALL EMERGENCY SERVICES -- REQUIREMENTS. The following requirements shall apply to:

(1) Emergency veterinary facilities:
(a) All advertisements for such facilities shall specify and clearly state the hours of operation and the address and telephone number of the facility; and
(b) At least one (1) veterinarian and a qualified staff member shall be on the premises during all stated hours of operation. A sufficient quantity of instrumentation, medications and supplies, and sufficient number of additional veterinarian(s) and support staff, as required to provide an appropriate level of emergency care, shall be on the premises during all stated hours of operation.

(2) On-call emergency services:
(a) All advertisements for such services shall specify and clearly state that the emergency services are provided on an on-call basis and that there is no veterinarian on premises other than during regular hours of operation; and
(b) Shall not be advertised as an emergency veterinary facility.

Approved March 22, 2006.

CHAPTER 140
(H.B. No. 433)

AN ACT
RELATING TO THE IDAHO PETROLEUM CLEAN WATER TRUST FUND ACT; PROVIDING LEGISLATIVE INTENT AND PROVIDING DIRECTION TO THE STATE CONTROLLER; AMENDING SECTION 41-4904, IDAHO CODE, TO REVISE COMPENSATION TO THE BOARD OF TRUSTEES OF THE IDAHO PETROLEUM CLEAN WATER TRUST FUND; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. LEGISLATIVE INTENT. In 2003, the Legislature enacted legislation which amended the Idaho Petroleum Clean Water Trust Fund Act and created a seven person board of trustees. This is a part-time board whose members receive a minimum compensation for services. It was not the intent of the Legislature for this compensation to interfere with or disqualify Individual Retirement Accounts (IRAs) of the individual board members under federal tax laws. This act is intended to reflect that the income received is an honorarium provided in Section 59-509(n), Idaho Code. The Controller's Office of the State of Idaho is to correct and refile all necessary tax forms with the Internal Revenue Service to reflect this change in law. Any contributions paid to the Public Employee Retirement system shall be refunded and no service shall be credited for any period since January 1, 2003.

SECTION 2. That Section 41-4904, Idaho Code, be, and the same is hereby amended to read as follows:

41-4904. BOARD OF TRUSTEES OF THE FUND. (1) The governor shall appoint seven (7) persons to be the board of trustees of the Idaho petroleum clean water trust fund. One (1) member shall be a member of the state senate, one (1) member shall be a member of the state house of representatives, one (1) member shall be a representative of the financial community with expertise in the area of insurance, accounting or finance, one (1) member shall be an engineer, geologist or similarly trained scientist with experience in environmental remediation, one (1) member shall be a wholesale distributor of petroleum products who participates in the trust fund and has less than five million (5,000,000) gallons in annual sales, one (1) member shall be a wholesale distributor of petroleum products who participates in the trust fund and has from five million (5,000,000) to ten million (10,000,000) gallons in annual sales, and one (1) member shall be a retailer of petroleum products who participates in the trust fund and has more than ten million
(10,000,000) gallons in annual sales. The governor shall appoint a chairman from the seven (7) members. The members shall be appointed for terms of four (4) years, except that all vacancies shall be filled for the unexpired term, provided that the first two (2) appointments the governor makes after the effective date of this act shall serve a term of two (2) years and the other five (5) members shall serve a term of four (4) years. Thereafter, a member shall serve a term of four (4) years. A certificate of appointment shall be filed in the office of the secretary of state. A majority of the members shall constitute a quorum for the transaction of all business or the exercise of any power or function of the Idaho petroleum clean water trust fund. Members of the board of trustees shall receive a compensation for service as prescribed in section 59-509(hn), Idaho Code.

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

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

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2003.

Approved March 22, 2006.

CHAPTER 141
(H.B. No. 432)

AN ACT
RELATING TO THE SMALL LAWSUIT RESOLUTION ACT; AMENDING SECTION 2, CHAPTER 137, LAWS OF 2002, TO REMOVE A SUNSET CLAUSE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 2, Chapter 137, Laws of 2002, be, and the same is hereby amended to read as follows:

SECTION 2. This act shall be in full force and effect on and after January 1, 2003, and shall apply to all cases for which initial complaints are filed on or after January 1, 2003. This act shall be null void and of no force and effect on and after June 30, 2006, provided, however, that the provisions of the act shall continue to apply to all applicable cases in which initial complaints are filed on or before June 30, 2006.
SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 22, 2006.

CHAPTER 142
(S.B. No. 1251)

AN ACT
RELATING TO COURTS; REPEALING SECTION 1-1612, IDAHO CODE, REQUIRING PERSONS TO APPEAR AT APPOINTED PLACES.

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

SECTION 1. That Section 1-1612, Idaho Code, be, and the same is hereby repealed.

Approved March 22, 2006.

CHAPTER 143
(S.B. No. 1252)

AN ACT
RELATING TO THE STATE BOARD OF CORRECTION; AMENDING SECTION 20-227, IDAHO CODE, TO REVISE DESCRIPTIVE LANGUAGE AND TO PROVIDE REFERENCES TO MENTAL HEALTH COURTS.

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

SECTION 1. That Section 20-227, Idaho Code, be, and the same is hereby amended to read as follows:

20-227. ARREST OF PAROLEE, PROBATIONER OR PERSON UNDER DRUG COURT OR MENTAL HEALTH COURT SUPERVISION WITHOUT WARRANT -- AGENT'S WARRANT -- DETENTION -- REPORT TO COMMISSION OR COURT. (1) Any parole or probation officer may arrest a parolee, probationer, or person under drug court or mental health court supervision without a warrant, or may deputize any other officer with power of arrest to do so, by giving such officer a written statement hereafter referred to as an agent's warrant, setting forth that the parolee, probationer, or person under drug court or mental health court supervision has, in the judgment of said parole or probation officer, violated the conditions of drug court or mental health court or conditions of his parole or probation.

(2) Such written statement or agent's warrant, delivered with the parolee, probationer, or person under drug court or mental health court supervision by the arresting officer to the official in charge of the institution from which the parolee was released, the county jail or other place of detention, shall be sufficient warrant for the detention of the probationer, parolee, or person under drug court or mental health court supervision.
(3) The agent's warrant issued by the parole or probation officer shall be sufficient authorization for a local law enforcement officer to transport the probationer, parolee, or person under drug court or mental health court supervision to the appropriate jurisdiction to be housed pending appearance before the sentencing court or the commission.

(4) The parole and probation officer shall at once notify the commission, or the court, of the arrest and detention of the parolee, probationer, or person under drug court or mental health court supervision, and shall submit in writing a report showing in what manner the parolee, probationer, or person under drug court or mental health court supervision is alleged to have violated the condition of his or her parole, probation, or drug court or mental health court program.

(5) In counties where there are misdemeanor probation officers in addition to department of correction parole or probation officers, those officers shall have the same authority conferred upon department of correction parole or probation officers in this section, to arrest a misdemeanor probationer without a warrant for misdemeanor probation violations occurring in the officer's presence as otherwise provided in this section.

Approved March 22, 2006.

CHAPTER 144
(S.B. No. 1256)

AN ACT
RELATING TO THE UNIFORM LIMITED PARTNERSHIP ACT; REPEALING CHAPTER 2, TITLE 53, IDAHO CODE; AMENDING TITLE 53, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 2, TITLE 53, IDAHO CODE, TO PROVIDE FOR THE UNIFORM LIMITED PARTNERSHIP ACT, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROVIDE FOR KNOWLEDGE AND NOTICE, TO PROVIDE FOR NATURE, PURPOSE AND DURATION OF ENTITIES, TO SET FORTH POWERS, TO PROVIDE GOVERNING LAW, TO PROVIDE SUPPLEMENTAL PRINCIPLES OF LAW, TO PROVIDE A RATE OF INTEREST, TO PROVIDE FOR NAMES AND RESERVATION OF NAMES, TO SET FORTH EFFECT OF PARTNERSHIP AGREEMENTS, TO PROVIDE NONWAIVABLE PROVISIONS, TO SET FORTH REQUIRED INFORMATION, TO PROVIDE FOR BUSINESS TRANSACTIONS OF PARTNERS WITH A PARTNERSHIP, TO PROVIDE FOR DUAL CAPACITY, TO PROVIDE FOR REGISTERED OFFICES AND AGENTS, TO PROVIDE FOR CHANGES OF REGISTERED OFFICES OR AGENTS, TO PROVIDE FOR THE RESIGNATION OF REGISTERED AGENTS, TO PROVIDE FOR SERVICE OF PROCESS, TO PROVIDE FOR CONSENT AND PROXIES OF PARTNERS, TO PROVIDE FOR THE FORMATION OF LIMITED PARTNERSHIPS AND CERTIFICATES OF LIMITED PARTNERSHIPS, TO PROVIDE FOR AMENDMENT OR RESTATEMENT OF CERTIFICATES, TO PROVIDE FOR STATEMENTS OF TERMINATION, TO PROVIDE FOR THE SIGNING OF RECORDS, TO PROVIDE FOR SIGNING AND FILING PURSUANT TO A JUDICIAL ORDER, TO PROVIDE FOR DELIVERY TO AND FILING OF RECORDS BY THE SECRETARY OF STATE, TO SET FORTH EFFECTIVE TIMES AND DATES, TO PROVIDE FOR CORRECTING FILED RECORDS, TO PROVIDE FOR LIABILITY FOR FALSE INFORMATION IN FILED RECORDS, TO PROVIDE FOR CERTIFICATES OF EXISTENCE OR AUTHORIZATION, TO PROVIDE FOR ANNUAL REPORTS FOR THE SECRETARY OF STATE, TO SET FORTH PROVISIONS APPLICABLE TO BECOMING A LIMITED PARTNER, TO LIMIT THE RIGHT OR POWER TO BIND LIMITED PARTNER-
SHIP, TO LIMIT LIABILITY, TO PROVIDE FOR THE RIGHT TO INFORMATION, TO SET FORTH LIMITED DUTIES OF LIMITED PARTNERS, TO SET FORTH PROVISIONS APPLICABLE TO PERSONS WHO ERRONEOUSLY BELIEVE THEMSELVES TO BE A LIMITED PARTNER, TO SET FORTH PROVISIONS APPLICABLE TO BECOMING A GENERAL PARTNER, TO PROVIDE FOR A GENERAL PARTNER AGENT, TO PROVIDE FOR LIABILITY, TO PROVIDE FOR ACTIONS BY AND AGAINST PARTNERSHIPS AND PARTNERS, TO PROVIDE FOR MANAGEMENT RIGHTS, TO PROVIDE FOR THE RIGHT TO INFORMATION, TO SET FORTH GENERAL STANDARDS OF CONDUCT, TO PROVIDE FOR FORMS OF CONTRIBUTION, TO PROVIDE FOR LIABILITY FOR CONTRIBUTION, TO PROVIDE FOR THE SHARING OF DISTRIBUTIONS, TO PROVIDE FOR INTERIM DISTRIBUTIONS, TO LIMIT THE RIGHT TO RECEIVE DISTRIBUTIONS, TO PROVIDE FOR DISTRIBUTIONS IN KIND, TO PROVIDE FOR THE RIGHT TO DISTRIBUTION, TO SET FORTH LIMITATIONS ON DISTRIBUTIONS, TO PROVIDE FOR LIABILITY FOR IMPROPER DISTRIBUTIONS, TO PROVIDE FOR DISSOCIATION OF PERSONS AS LIMITED PARTNERS, TO SET FORTH THE EFFECT OF DISSOCIATION, TO PROVIDE FOR DISSOCIATION OF PERSONS AS GENERAL PARTNERS, TO PROVIDE FOR A PERSON'S POWER TO DISSOCIATE AS GENERAL PARTNER, TO PROVIDE FOR WRONGFUL DISSOCIATION, TO SET FORTH THE EFFECT OF DISSOCIATION, TO PROVIDE FOR THE POWER TO BIND AND LIABILITY TO LIMITED PARTNERSHIPS BEFORE DISSOLUTION OR DISSOCIATION, TO PROVIDE FOR LIABILITY TO OTHER PERSONS DISSOCIATED AS GENERAL PARTNERS, TO PROVIDE FOR A PARTNER'S TRANSFERABLE INTEREST, TO PROVIDE FOR TRANSFER OF A PARTNER'S TRANSFERABLE INTEREST, TO PROVIDE RIGHTS OF CREDITORS, TO PROVIDE POWER OF ESTATE OF DECEASED PARTNER, TO PROVIDE FOR NONJUDICIAL DISSOLUTION, TO PROVIDE FOR JUDICIAL DISSOLUTION, TO PROVIDE FOR WINDING UP OF THE PARTNERSHIP, TO PROVIDE FOR THE POWER OF CERTAIN PERSONS TO BIND PARTNERSHIP AFTER DISSOLUTION, TO PROVIDE FOR LIABILITY, TO PROVIDE FOR KNOWN AND OTHER CLAIMS AGAINST A DISSOLVED LIMITED PARTNERSHIP, TO PROVIDE FOR LIABILITY OF CERTAIN PERSONS WHEN CLAIMS AGAINST A LIMITED PARTNERSHIP ARE BARRED, TO PROVIDE FOR ADMINISTRATIVE DISSOLUTION, TO PROVIDE FOR REINSTATEMENT, TO PROVIDE FOR APPEALS FROM A DENIAL OF REINSTATEMENT, TO PROVIDE FOR THE DISPOSITION OF ASSETS, TO SET FORTH WHEN CONTRIBUTIONS ARE REQUIRED, TO SET FORTH GOVERNING LAW FOR FOREIGN LIMITED PARTNERSHIPS, TO PROVIDE FOR APPLICATION FOR CERTIFICATES OF AUTHORITY, TO SET FORTH ACTIVITIES NOT CONSTITUTING TRANSACTING BUSINESS, TO PROVIDE FOR THE FILING OF CERTIFICATES OF AUTHORITY, TO PROVIDE FOR NONCOMPLYING NAMES OF FOREIGN LIMITED PARTNERSHIPS, TO PROVIDE FOR REVOCATION OF CERTIFICATES OF AUTHORITY, TO PROVIDE FOR CANCELLATION OF CERTIFICATES OF AUTHORITY, TO SET FORTH THE EFFECT OF A FAILURE TO HAVE A CERTIFICATE, TO PROVIDE FOR ACTION BY THE ATTORNEY GENERAL, TO PROVIDE FOR DIRECT ACTION BY A PARTNER, TO PROVIDE FOR DERIVATIVE ACTIONS, TO IDENTIFY PROPER PLAINTIFFS, TO PROVIDE FOR PLEADINGS, TO PROVIDE FOR PROCEEDS AND EXPENSES, TO DEFINE TERMS RELATING TO CONVERSIONS AND MERGERS, TO PROVIDE FOR CONVERSION, TO PROVIDE FOR ACTION ON PLANS OF CONVERSION, TO SET FORTH FILINGS REQUIRED FOR CONVERSION, TO PROVIDE EFFECTIVE DATE OF PLANS, TO SET FORTH THE EFFECT OF CONVERSION, TO PROVIDE FOR MERGERS, TO PROVIDE FOR ACTION ON PLANS OF MERGER, TO SET FORTH FILINGS REQUIRED FOR MERGERS, TO PROVIDE EFFECTIVE DATE OF PLANS, TO SET FORTH THE EFFECT OF MERGER, TO SET FORTH RESTRICTIONS ON APPROVAL OF CONVERSIONS, MERGERS AND ON RELINQUISHING CERTAIN STATUS, TO PROVIDE FOR LIABILITY AFTER CONVERSION OR MERGER, TO PROVIDE FOR THE POWER OF CERTAIN PERSONS TO BIND AN ORGANIZATION AFTER CONVERSION OR
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 2, Title 53, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Title 53, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 2, Title 53, Idaho Code, and to read as follows:

CHAPTER 2
UNIFORM LIMITED PARTNERSHIP ACT

PART 1
GENERAL PROVISIONS

53-2-101. SHORT TITLE. This chapter may be cited as the "Uniform Limited Partnership Act."

53-2-102. DEFINITIONS. In this chapter:
(1) "Certificate of limited partnership" means the certificate required by section 53-2-201, Idaho Code. The term includes the certificate as amended or restated.
(2) "Contribution," except in the phrase "right of contribution," means any benefit provided by a person to a limited partnership in order to become a partner or in the person's capacity as a partner.
(3) "Debtor in bankruptcy" means a person that is the subject of:
(a) An order for relief under title 11 of the United States Code or a comparable order under a successor statute of general application; or
(b) A comparable order under federal, state, or foreign law governing insolvency.
(4) "Distribution" means a transfer of money or other property from a limited partnership to a partner in the partner's capacity as a partner or to a transferee on account of a transferable interest owned by the transferee.
(5) "Foreign limited liability limited partnership" means a foreign limited partnership whose general partners have limited liability for the obligations of the foreign limited partnership under a provision similar to section 53-2-404(3), Idaho Code.
(6) "Foreign limited partnership" means a partnership formed under the laws of a jurisdiction other than this state and required by those laws to have one (1) or more general partners and one (1) or more limited partners. The term includes a foreign limited liability limited partnership.
(7) "General partner" means:
(a) With respect to a limited partnership, a person that:
(i) Becomes a general partner under section 53-2-401, Idaho Code; or
(ii) Was a general partner in a limited partnership when the limited partnership became subject to this chapter under section 53-2-1204(1) or (2), Idaho Code; and
(b) With respect to a foreign limited partnership, a person that has rights, powers, and obligations similar to those of a general partner in a limited partnership.

(8) "Limited liability limited partnership," except in the phrase "foreign limited liability limited partnership," means a limited partnership whose certificate of limited partnership states that the limited partnership is a limited liability limited partnership.

(9) "Limited partner" means:
(a) With respect to a limited partnership, a person that:
(i) Becomes a limited partner under section 53-2-301, Idaho Code; or
(ii) Was a limited partner in a limited partnership when the limited partnership became subject to this chapter under section 53-2-1204(1) or (2), Idaho Code; and
(b) With respect to a foreign limited partnership, a person that has rights, powers, and obligations similar to those of a limited partner in a limited partnership.

(10) "Limited partnership," except in the phrases "foreign limited partnership" and "foreign limited liability limited partnership," means an entity, having one (1) or more general partners and one (1) or more limited partners, which is formed under this chapter by two (2) or more persons or becomes subject to this chapter under part 11 of this chapter or section 53-2-1204(1) or (2), Idaho Code. The term includes a limited liability limited partnership.

(11) "Partner" means a limited partner or general partner.

(12) "Partnership agreement" means the partners' agreement, whether oral, implied, in a record, or in any combination, concerning the limited partnership. The term includes the agreement as amended.

(13) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; governmental subdivision, agency, or instrumentality; public corporation, or any other legal or commercial entity.

(14) "Person dissociated as a general partner" means a person dissociated as a general partner of a limited partnership.

(15) "Principal office" means the office where the principal executive office of a limited partnership or foreign limited partnership is located, whether or not the office is located in this state.

(16) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(17) "Required information" means the information that a limited partnership is required to maintain under section 53-2-111, Idaho Code.

(18) "Sign" means:
(a) To execute or adopt a tangible symbol with the present intent to authenticate a record; or
(b) To attach or logically associate an electronic symbol, sound, or process to or with a record with the present intent to authenticate the record.

(19) "State" means a state of the United States, the District of
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Columbia, Puerto Rico, the United States Virgin Islands, or any terri-
tory or insular possession subject to the jurisdiction of the United
States.

(20) "Transfer" includes an assignment, conveyance, deed, bill of
sale, lease, mortgage, security interest, encumbrance, gift, and transfer
by operation of law.

(21) "Transferable interest" means a partner's right to receive dis-
tributions.

(22) "Transferee" means a person to which all or part of a transfer-
able interest has been transferred, whether or not the transferor is a
partner.

53-2-103. KNOWLEDGE AND NOTICE. (1) A person knows a fact if the
person has actual knowledge of it.

(2) A person has notice of a fact if the person:
(a) Knows of it;
(b) Has received a notification of it;
(c) Has reason to know it exists from all of the facts known to the
person at the time in question; or
(d) Has notice of it under subsection (3) or (4) of this section.

(3) A certificate of limited partnership on file in the office of
the secretary of state is notice that the partnership is a limited part-
nership and the persons designated in the certificate as general part-
ners are general partners. Except as otherwise provided in subsection
(4) of this section, the certificate is not notice of any other fact.

(4) A person has notice of:
(a) Another person's dissociation as a general partner, ninety (90)
days after the effective date of an amendment to the certificate of
limited partnership which states that the other person has
dissociated or ninety (90) days after the effective date of a state-
ment of dissociation pertaining to the other person, whichever
occurs first;
(b) A limited partnership's dissolution, ninety (90) days after the
effective date of an amendment to the certificate of limited part-
nership stating that the limited partnership is dissolved;
(c) A limited partnership's termination, ninety (90) days after the
effective date of a statement of termination;
(d) A limited partnership's conversion under part 11 of this chap-
ter, ninety (90) days after the effective date of the articles of
conversion; or
(e) A merger under part 11 of this chapter, ninety (90) days after
the effective date of the articles of merger.

(5) A person notifies or gives a notification to another person by
taking steps reasonably required to inform the other person in ordinary
course, whether or not the other person learns of it.

(6) A person receives a notification when the notification:
(a) Comes to the person's attention; or
(b) Is delivered at the person's place of business or at any other
place held out by the person as a place for receiving communica-
tions.

(7) Except as otherwise provided in subsection (8) of this section,
a person other than an individual knows, has notice, or receives a noti-
fication of a fact for purposes of a particular transaction when the
individual conducting the transaction for the person knows, has notice,
or receives a notification of the fact, or in any event when the fact would have been brought to the individual's attention if the person had exercised reasonable diligence. A person other than an individual exercises reasonable diligence if it maintains reasonable routines for communicating significant information to the individual conducting the transaction for the person and there is reasonable compliance with the routines. Reasonable diligence does not require an individual acting for the person to communicate information unless the communication is part of the individual's regular duties or the individual has reason to know of the transaction and that the transaction would be materially affected by the information.

(8) A general partner's knowledge, notice, or receipt of a notification of a fact relating to the limited partnership is effective immediately as knowledge of, notice to, or receipt of a notification by the limited partnership, except in the case of a fraud on the limited partnership committed by or with the consent of the general partner. A limited partner's knowledge, notice, or receipt of a notification of a fact relating to the limited partnership is not effective as knowledge of, notice to, or receipt of a notification by the limited partnership.

53-2-104. NATURE, PURPOSE AND DURATION OF ENTITY. (1) A limited partnership is an entity distinct from its partners. A limited partnership is the same entity regardless of whether its certificate states that the limited partnership is a limited liability limited partnership.

(2) A limited partnership may be organized under this chapter for any lawful purpose.

(3) A limited partnership has a perpetual duration.

53-2-105. POWERS. A limited partnership has the powers to do all things necessary or convenient to carry on its activities, including the power to sue, be sued, and defend in its own name and to maintain an action against a partner for harm caused to the limited partnership by a breach of the partnership agreement or violation of a duty to the partnership.

53-2-106. GOVERNING LAW. The law of this state governs relations among the partners of a limited partnership and between the partners and the limited partnership and the liability of partners as partners for an obligation of the limited partnership.

53-2-107. SUPPLEMENTAL PRINCIPLES OF LAW -- RATE OF INTEREST. (1) Unless displaced by particular provisions of this chapter, the principles of law and equity supplement this chapter.

(2) If an obligation to pay interest arises under this chapter and the rate is not specified, the rate is that specified in section 28-22-104(1), Idaho Code.

53-2-108. NAME. (1) The name of a limited partnership may contain the name of any partner.

(2) The name of a limited partnership that is not a limited liability limited partnership must contain the phrase "limited partnership" or the abbreviation "L.P." or "LP" and may not contain the phrase "limited liability limited partnership" or the abbreviation "LLLP" or "L.L.L.L.P."

(3) The name of a limited liability limited partnership must con-
tain the phrase "limited liability limited partnership" or the abbrevia-
tion "LLLP" or "L.L.L.P." and must not contain the abbreviation "L.P." or "LP."

(4) Unless authorized by subsection (5) of this section, the name
of a limited partnership must not falsely imply government affiliation
and must be distinguishable in the records of the secretary of state
from:
(a) The name of each person other than an individual incorporated,
organized, or authorized to transact business in this state; and
(b) Each name reserved under section 53-2-109, Idaho Code, or other
state law allowing the reservation or registration of business
names.

(5) A limited partnership may apply to the secretary of state for
authorization to use a name that does not comply with subsection (4) of
this section. The secretary of state shall authorize use of the name
applied for if, as to each conflicting name:
(a) The present user, registrant, or owner of the conflicting name
consents in a signed record to the use and submits an undertaking in
a form satisfactory to the secretary of state to change the con-
flicting name to a name that complies with subsection (4) of this
section and is distinguishable in the records of the secretary of
state from the name applied for;
(b) The applicant delivers to the secretary of state a certified
copy of the final judgment of a court of competent jurisdiction
establishing the applicant's right to use in this state the name
applied for; or
(c) The applicant delivers to the secretary of state proof satis-
factory to the secretary of state that the present user, registrant,
or owner of the conflicting name:
   (i) Has merged into the applicant;
   (ii) Has been converted into the applicant; or
   (iii) Has transferred substantially all of its assets, includ-
ing the conflicting name, to the applicant.

(6) Subject to section 53-2-905, Idaho Code, this section applies
to any foreign limited partnership transacting business in this state,
having a certificate of authority to transact business in this state, or
applying for a certificate of authority.

53-2-109. RESERVATION OF NAME. (1) The exclusive right to the use
of a name that complies with section 53-2-108, Idaho Code, may be
reserved by:
(a) A person intending to organize a limited partnership under this
chapter and to adopt the name;
(b) A limited partnership or a foreign limited partnership autho-
rized to transact business in this state intending to adopt the
name;
(c) A foreign limited partnership intending to obtain a certificate
of authority to transact business in this state and adopt the name;
(d) A person intending to organize a foreign limited partnership
and intending to have it obtain a certificate of authority to trans-
act business in this state and adopt the name;
(e) A foreign limited partnership formed under the name; or
(f) A foreign limited partnership formed under a name that does not
comply with section 53-2-108(2) or (3), Idaho Code, but the name
reserved under this paragraph (f) may differ from the foreign limited partnership's name only to the extent necessary to comply with section 53-2-108(2) and (3), Idaho Code.

(2) A person may apply to reserve a name under subsection (1) of this section by delivering to the secretary of state for filing an application that states the name to be reserved and the paragraph of subsection (1) of this section which applies. If the secretary of state finds that the name is available for use by the applicant, the secretary of state shall file a statement of name reservation and thereby reserve the name for the exclusive use of the applicant for one hundred twenty (120) days.

(3) An applicant that has reserved a name pursuant to subsection (2) of this section may reserve the same name for additional one hundred twenty (120) day periods. A person having a current reservation for a name may not apply for another one hundred twenty (120) day period for the same name until ninety (90) days have elapsed in the current reservation.

(4) A person that has reserved a name under this section may deliver to the secretary of state for filing a notice of transfer that states the reserved name, the name and street and mailing address of some other person to which the reservation is to be transferred, and the paragraph of subsection (1) of this section which applies to the other person. Subject to section 53-2-206(3), Idaho Code, the transfer is effective when the secretary of state files the notice of transfer.

53-2-110. EFFECT OF PARTNERSHIP AGREEMENT -- NONWAIVABLE PROVISIONS. (1) Except as otherwise provided in subsection (2) of this section, the partnership agreement governs relations among the partners and between the partners and the partnership. To the extent the partnership agreement does not otherwise provide, this chapter governs relations among the partners and between the partners and the partnership.

(2) A partnership agreement may not:
(a) Vary a limited partnership's power under section 53-2-105, Idaho Code, to sue, be sued, and defend in its own name;
(b) Vary the law applicable to a limited partnership under section 53-2-106, Idaho Code;
(c) Vary the requirements of section 53-2-204, Idaho Code;
(d) Vary the information required under section 53-2-111, Idaho Code, or unreasonably restrict the right to information under section 53-2-304 or 53-2-407, Idaho Code, but the partnership agreement may impose reasonable restrictions on the availability and use of information obtained under those sections and may define appropriate remedies, including liquidated damages, for a breach of any reasonable restriction on use;
(e) Eliminate the duty of loyalty under section 53-2-408, Idaho Code, but the partnership agreement may:
   (i) Identify specific types or categories of activities that do not violate the duty of loyalty, if not manifestly unreasonable; and
   (ii) Specify the number or percentage of partners which may authorize or ratify, after full disclosure to all partners of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty;
(f) Unreasonably reduce the duty of care under section 53-2-408(3), Idaho Code;
(g) Eliminate the obligation of good faith and fair dealing under sections 53-2-305(2) and 53-2-408(4), Idaho Code, but the partnership agreement may prescribe the standards by which the performance of the obligation is to be measured, if the standards are not manifestly unreasonable;
(h) Vary the power of a person to dissociate as a general partner under section 53-2-604(1), Idaho Code, except to require that the notice under section 53-2-603(1), Idaho Code, be in a record;
(i) Vary the power of a court to decree dissolution in the circumstances specified in section 53-2-802, Idaho Code;
(j) Vary the requirement to wind up the partnership's business as specified in section 53-2-803, Idaho Code;
(k) Unreasonably restrict the right to maintain an action under part 10 of this chapter;
(l) Restrict the right of a partner under section 53-2-1110(1), Idaho Code, to approve a conversion or merger or the right of a general partner under section 53-2-1110(2), Idaho Code, to consent to an amendment to the certificate of limited partnership which deletes a statement that the limited partnership is a limited liability limited partnership; or
(m) Restrict rights under this chapter of a person other than a partner or a transferee.

53-2-111. REQUIRED INFORMATION. A limited partnership shall maintain at its designated office the following information:
(1) A current list showing the full name and last known street and mailing address of each partner, separately identifying the general partners, in alphabetical order, and the limited partners, in alphabetical order;
(2) A copy of the initial certificate of limited partnership and all amendments to and restatements of the certificate, together with signed copies of any powers of attorney under which any certificate, amendment, or restatement has been signed;
(3) A copy of any filed articles of conversion or merger;
(4) A copy of the limited partnership's federal, state, and local income tax returns and reports, if any, for the three (3) most recent years;
(5) A copy of any partnership agreement made in a record and any amendment made in a record to any partnership agreement;
(6) A copy of any financial statement of the limited partnership for the three (3) most recent years;
(7) A copy of the three (3) most recent annual reports delivered by the limited partnership to the secretary of state pursuant to section 53-2-210, Idaho Code;
(8) A copy of any record made by the limited partnership during the past three (3) years of any consent given by or vote taken of any partner pursuant to this chapter or the partnership agreement; and
(9) Unless contained in a partnership agreement made in a record, a record stating:
(a) The amount of cash, and a description and statement of the agreed value of the other benefits, contributed and agreed to be contributed by each partner;
(b) The times at which, or events on the happening of which, any additional contributions agreed to be made by each partner are to be made;
(c) For any person that is both a general partner and a limited partner, a specification of what transferable interest the person owns in each capacity; and
(d) Any events upon the happening of which the limited partnership is to be dissolved and its activities wound up.

53-2-112. BUSINESS TRANSACTIONS OF PARTNER WITH PARTNERSHIP. A partner may lend money to and transact other business with the limited partnership and has the same rights and obligations with respect to the loan or other transaction as a person that is not a partner.

53-2-113. DUAL CAPACITY. A person may be both a general partner and a limited partner. A person that is both a general and limited partner has the rights, powers, duties, and obligations provided by this chapter and the partnership agreement in each of those capacities. When the person acts as a general partner, the person is subject to the obligations, duties and restrictions under this chapter and the partnership agreement for general partners. When the person acts as a limited partner, the person is subject to the obligations, duties and restrictions under this chapter and the partnership agreement for limited partners.

53-2-114. REGISTERED OFFICE AND REGISTERED AGENT. (1) A limited partnership shall designate and continuously maintain in this state:
   (a) A registered office at a street address, which need not be a place of its activity in this state; and
   (b) A registered agent, who with reasonable diligence, may be found at the address of the registered office for service of process.

   (2) A foreign limited partnership shall designate and continuously maintain in this state a registered agent at the street address of its registered office for service of process.

   (3) A registered agent of a limited partnership or foreign limited partnership must be an individual who is a resident of this state or other person authorized to transact business in this state.

53-2-115. CHANGE OF REGISTERED OFFICE OR REGISTERED AGENT. (1) In order to change its registered agent or the address of its registered agent, a limited partnership or a foreign limited partnership may deliver to the secretary of state for filing a statement of change containing:
   (a) The name of the limited partnership or foreign limited partnership;
   (b) The street address of its current registered agent and office;
   (c) If the current registered office is to be changed, the new street address of the registered agent and office; and
   (d) If the current registered agent or an address of the registered agent is to be changed, the new information.

   (2) Subject to section 53-2-206(3), Idaho Code, a statement of change is effective when filed by the secretary of state.
53-2-116. RESIGNATION OF REGISTERED AGENT. (1) In order to resign as a registered agent of a limited partnership or foreign limited partnership, the registered agent must deliver to the secretary of state for filing a statement of resignation containing the name of the limited partnership or foreign limited partnership.

(2) After receiving a statement of resignation, the secretary of state shall file it and mail a copy to the principal office of the limited partnership or foreign limited partnership.

(3) An agency for service of process is terminated on the thirty-first day after the secretary of state files the statement of resignation.

53-2-117. SERVICE OF PROCESS. (1) A registered agent appointed by a limited partnership or foreign limited partnership is an agent of the limited partnership or foreign limited partnership for service of any process, notice, or demand required or permitted by law to be served upon the limited partnership or foreign limited partnership.

(2) If a limited partnership or foreign limited partnership does not appoint or maintain a registered agent in this state or the registered agent cannot with reasonable diligence be found at the address of the registered office, the limited partnership or foreign limited partnership may be served by registered or certified mail, return receipt requested, addressed to any general partner at the principal address of the limited partnership.

(3) Service is effected under subsection (2) of this section at the earliest of:

(a) The date the limited partnership or foreign limited partnership receives the process, notice, or demand;

(b) The date shown on the return receipt, if signed on behalf of the limited partnership or foreign limited partnership;

(c) Five (5) days after the process, notice, or demand is deposited in the mail, if mailed postpaid and correctly addressed.

(4) This section does not affect the right to serve process, notice, or demand in any other manner provided by law.

53-2-118. CONSENT AND PROXIES OF PARTNERS. Action requiring the consent of partners under this chapter may be taken without a meeting, and a partner may appoint a proxy to consent or otherwise act for the partner by signing an appointment record, either personally or by the partner's attorney in fact.

PART 2
FORMATION -- CERTIFICATE OF LIMITED PARTNERSHIP AND OTHER FILINGS

53-2-201. FORMATION OF LIMITED PARTNERSHIP -- CERTIFICATE OF LIMITED PARTNERSHIP. (1) In order for a limited partnership to be formed, a certificate of limited partnership must be delivered to the secretary of state for filing. The certificate must state:

(a) The name of the limited partnership, which must comply with section 53-2-108, Idaho Code;

(b) The mailing address of the initial principal office and the name and street address of the initial registered agent at the registered office;
(c) The name and mailing address of each general partner;
(d) Whether the limited partnership is a limited liability limited partnership; and
(e) Any additional information required by part 11 of this chapter.

(2) A certificate of limited partnership may also contain any other matters but may not vary or otherwise affect the provisions specified in section 53-2-110(2), Idaho Code, in a manner inconsistent with that section.

(3) If there has been substantial compliance with subsection (1) of this section, subject to section 53-2-206(3), Idaho Code, a limited partnership is formed when the secretary of state files the certificate of limited partnership.

(4) Subject to subsection (2) of this section, if any provision of a partnership agreement is inconsistent with the filed certificate of limited partnership or with a filed statement of dissociation, termination, or change or filed articles of conversion or merger:
   (a) The partnership agreement prevails as to partners and transferees; and
   (b) The filed certificate of limited partnership, statement of dissociation, termination, or change or articles of conversion or merger prevail as to persons, other than partners and transferees, that reasonably rely on the filed record to their detriment.

53-2-202. AMENDMENT OR RESTATEMENT OF CERTIFICATE. (1) In order to amend its certificate of limited partnership, a limited partnership must deliver to the secretary of state for filing an amendment or, pursuant to part 11 of this chapter, articles of merger stating:
   (a) The name of the limited partnership;
   (b) The date of filing of its initial certificate; and
   (c) The changes the amendment makes to the certificate as most recently amended or restated.

(2) A limited partnership shall promptly deliver to the secretary of state for filing an amendment to a certificate of limited partnership to reflect:
   (a) The admission of a new general partner;
   (b) The dissociation of a person as a general partner; or
   (c) The appointment of a person to wind up the limited partnership's activities under section 53-2-803(3) or (4), Idaho Code.

(3) A general partner that knows that any information in a filed certificate of limited partnership was false when the certificate was filed or has become false due to changed circumstances shall promptly:
   (a) Cause the certificate to be amended; or
   (b) If appropriate, deliver to the secretary of state for filing a statement of change pursuant to section 53-2-115, Idaho Code, or a statement of correction pursuant to section 53-2-207, Idaho Code.

(4) A certificate of limited partnership may be amended at any time for any other proper purpose as determined by the limited partnership.

(5) A restated certificate of limited partnership may be delivered to the secretary of state for filing in the same manner as an amendment.

(6) Subject to section 53-2-206(3), Idaho Code, an amendment or restated certificate is effective when filed by the secretary of state.
53-2-203. STATEMENT OF TERMINATION. A dissolved limited partnership that has completed winding up may deliver to the secretary of state for filing a statement of termination that states:

(1) The name of the limited partnership;
(2) The date of filing of its initial certificate of limited partnership; and
(3) Any other information as determined by the general partners filing the statement or by a person appointed pursuant to section 53-2-803(3) or (4), Idaho Code.

53-2-204. SIGNING OF RECORDS. (1) Each record delivered to the secretary of state for filing pursuant to this chapter must be signed in the following manner:

(a) An initial certificate of limited partnership must be signed by all general partners listed in the certificate.
(b) An amendment adding or deleting a statement that the limited partnership is a limited liability limited partnership must be signed by all general partners listed in the certificate.
(c) An amendment designating as general partner a person admitted under section 53-2-801(4), Idaho Code, following the dissociation of a limited partnership's last general partner must be signed by that person.
(d) An amendment required by section 53-2-803(3), Idaho Code, following the appointment of a person to wind up the dissolved limited partnership's activities must be signed by that person.
(e) Any other amendment must be signed by:
   (i) At least one (1) general partner listed in the certificate;
   (ii) Each other person designated in the amendment as a new general partner; and
   (iii) Each person that the amendment indicates has dissociated as a general partner, unless:
      (A) The person is deceased or a guardian or general conservator has been appointed for the person and the amendment so states; or
      (B) The person has previously delivered to the secretary of state for filing a statement of dissociation.
(f) A restated certificate of limited partnership must be signed by at least one (1) general partner listed in the certificate, and, to the extent the restated certificate effects a change under any other paragraph of this subsection, the certificate must be signed in a manner that satisfies that paragraph.
(g) A statement of termination must be signed by all general partners listed in the certificate or, if the certificate of a dissolved limited partnership lists no general partners, by the person appointed pursuant to section 53-2-803(3) or (4), Idaho Code, to wind up the dissolved limited partnership's activities.
(h) Articles of conversion must be signed by each general partner listed in the certificate of limited partnership.
(i) Articles of merger must be signed as provided in section 53-2-1108(1), Idaho Code.
(j) Any other record delivered on behalf of a limited partnership to the secretary of state for filing must be signed by at least one (1) general partner listed in the certificate.
(k) A statement by a person pursuant to section 53-2-605(1)(d), Idaho Code, stating that the person has dissociated as a general partner must be signed by that person.

(1) A statement of withdrawal by a person pursuant to section 53-2-306, Idaho Code, must be signed by that person.

(m) A record delivered on behalf of a foreign limited partnership to the secretary of state for filing must be signed by at least one general partner of the foreign limited partnership.

(n) Any other record delivered on behalf of any person to the secretary of state for filing must be signed by that person.

(2) Any person may sign by an attorney in fact any record to be filed pursuant to this chapter.

53-2-205. SIGNING AND FILING PURSUANT TO JUDICIAL ORDER. (1) If a person required by this chapter to sign a record or deliver a record to the secretary of state for filing does not do so, any other person that is aggrieved may petition the court to order:

(a) The person to sign the record;

(b) Deliver the record to the secretary of state for filing; or

(c) The secretary of state to file the record unsigned.

(2) If the person aggrieved under subsection (1) of this section is not the limited partnership or foreign limited partnership to which the record pertains, the aggrieved person shall make the limited partnership or foreign limited partnership a party to the action. A person aggrieved under subsection (1) of this section may seek the remedies provided in subsection (1) of this section in the same action in combination or in the alternative.

(3) A record filed unsigned pursuant to this section is effective without being signed.

53-2-206. DELIVERY TO AND FILING OF RECORDS BY SECRETARY OF STATE -- EFFECTIVE TIME AND DATE. (1) A record authorized or required to be delivered to the secretary of state for filing under this chapter must be captioned to describe the record's purpose, be in a medium permitted by the secretary of state, and be delivered to the secretary of state. The secretary of state shall provide forms which may be used for filing records. Unless the secretary of state determines that a record does not comply with the filing requirements of this chapter, and if all filing fees have been paid, the secretary of state shall file the record and:

(a) For a statement of dissociation, send:

(i) A copy of the filed statement and a receipt for the fees to the person which the statement indicates has dissociated as a general partner; and

(ii) A copy of the filed statement and receipt to the limited partnership;

(b) For a statement of withdrawal, send:

(i) A copy of the filed statement and a receipt for the fees to the person on whose behalf the record was filed; and

(ii) If the statement refers to an existing limited partnership, a copy of the filed statement and receipt to the limited partnership; and

(c) For all other records, send a copy of the filed record and a receipt for the fees to the person on whose behalf the record was filed.
(2) Upon request and payment of a fee, the secretary of state shall send to the requester a certified copy of the requested record.

(3) Except as otherwise provided in sections 53-2-116 and 53-2-207, Idaho Code, a record delivered to the secretary of state for filing under this chapter may specify an effective time and a delayed effective date. Except as otherwise provided in this chapter, a record filed by the secretary of state is effective:

(a) If the record does not specify an effective time and does not specify a delayed effective date, on the date and at the time the record is filed as evidenced by the secretary of state's endorsement of the date and time on the record;

(b) If the record specifies an effective time but not a delayed effective date, on the date the record is filed at the time specified in the record;

(c) If the record specifies a delayed effective date but not an effective time, at 12:01 a.m. on the earlier of:
   (i) The specified date; or
   (ii) The ninetieth day after the record is filed; or

(d) If the record specifies an effective time and a delayed effective date, at the specified time on the earlier of:
   (i) The specified date; or
   (ii) The ninetieth day after the record is filed.

53-2-207. CORRECTING FILED RECORD. (1) A limited partnership or foreign limited partnership may deliver to the secretary of state for filing a statement of correction to correct a record previously delivered by the limited partnership or foreign limited partnership to the secretary of state and filed by the secretary of state, if at the time of filing the record contained false or erroneous information or was defectively signed.

(2) A statement of correction may not state a delayed effective date and must:

(a) Describe the record to be corrected, including its filing date, or attach a copy of the record as filed;

(b) Specify the incorrect information and the reason it is incorrect or the manner in which the signing was defective; and

(c) Correct the incorrect information or defective signature.

(3) When filed by the secretary of state, a statement of correction is effective retroactively as of the effective date of the record the statement corrects, but the statement is effective when filed:

(a) For the purposes of section 53-2-103(3) and (4), Idaho Code; and

(b) As to persons relying on the uncorrected record and adversely affected by the correction.

(4) No filing may be effective prior to the time it is received and filed by the secretary of state.

53-2-208. LIABILITY FOR FALSE INFORMATION IN FILED RECORD. (1) If a record delivered to the secretary of state for filing under this chapter and filed by the secretary of state contains false information, a person that suffers loss by reliance on the information may recover damages for the loss from:
(a) A person that signed the record, or caused another to sign it on the person's behalf, and knew the information to be false at the time the record was signed; and
(b) A general partner that has notice that the information was false when the record was filed or has become false because of changed circumstances, if the general partner has notice for a reasonably sufficient time before the information is relied upon to enable the general partner to effect an amendment under section 53-2-202, Idaho Code, file a petition pursuant to section 53-2-205, Idaho Code, or deliver to the secretary of state for filing a statement of change pursuant to section 53-2-115, Idaho Code, or a statement of correction pursuant to section 53-2-207, Idaho Code.

(2) Signing a record authorized or required to be filed under this chapter constitutes an affirmation under the penalties of perjury that the facts stated in the record are true.

53-2-209. CERTIFICATE OF EXISTENCE OR AUTHORIZATION. (1) The secretary of state, upon request and payment of the requisite fee, shall furnish a certificate of existence for a limited partnership if the records filed in the office of the secretary of state show that the secretary of state has filed a certificate of limited partnership and has not filed a statement of termination. A certificate of existence must state:
(a) The limited partnership's name;
(b) That it was duly formed under the laws of this state and the date of formation;
(c) Whether all fees, taxes, and penalties due to the secretary of state under this chapter or other law have been paid;
(d) Whether the limited partnership's most recent annual report required by section 53-2-210, Idaho Code, has been filed by the secretary of state;
(e) Whether the secretary of state has administratively dissolved the limited partnership;
(f) Whether the limited partnership's certificate of limited partnership has been amended to state that the limited partnership is dissolved;
(g) That a statement of termination has not been filed by the secretary of state; and
(h) Other facts of record in the office of the secretary of state which may be requested by the applicant.

(2) The secretary of state, upon request and payment of the requisite fee, shall furnish a certificate of authorization for a foreign limited partnership if the records filed in the office of the secretary of state show that the secretary of state has filed a certificate of authority, has not revoked the certificate of authority, and has not filed a notice of cancellation. A certificate of authorization must state:
(a) The foreign limited partnership's name and any alternate name adopted under section 53-2-905(1), Idaho Code, for use in this state;
(b) That it is authorized to transact business in this state;
(c) Whether all fees, taxes, and penalties due to the secretary of state under this chapter or other law have been paid;
(d) Whether the foreign limited partnership's most recent annual report required by section 53-2-210, Idaho Code, has been filed by the secretary of state;
(e) That the secretary of state has not revoked its certificate of authority and has not filed a notice of cancellation; and
(f) Other facts of record in the office of the secretary of state which may be requested by the applicant.

(3) Subject to any qualification stated in the certificate, a certificate of existence or authorization issued by the secretary of state may be relied upon as conclusive evidence that the limited partnership or foreign limited partnership is in existence or is authorized to transact business in this state.

53-2-210. ANNUAL REPORT FOR SECRETARY OF STATE. (1) A limited partnership or a foreign limited partnership authorized to transact business in this state shall deliver to the secretary of state for filing an annual report that states:
(a) The name of the limited partnership or foreign limited partnership;
(b) The mailing address of its principal office and the name and street address of its registered agent and registered office in this state;
(c) In the case of a foreign limited partnership, the state or other jurisdiction under whose law the foreign limited partnership is formed and any alternate name adopted under section 53-2-905(1), Idaho Code; and
(d) The name and mailing address of one (1) or more general partners.

(2) Information in an annual report must be current as of the date the annual report is delivered to the secretary of state for filing.

(3) No annual report need be filed during the first year after a limited partnership is formed or authorized to transact business in this state. The first and all subsequent annual reports shall be delivered to the secretary of state each year before the end of the month during which a limited partnership was originally formed or a foreign limited partnership was initially authorized to transact business.

(4) If an annual report does not contain the information required in subsection (1) of this section, the secretary of state shall promptly notify the reporting limited partnership or foreign limited partnership and return the report to it for correction. If the report is corrected to contain the information required in subsection (1) of this section and delivered to the secretary of state within thirty (30) days after the effective date of the notice, it is timely delivered.

(5) If a filed annual report contains an address of a registered office or the name or address of a registered agent which differs from the information shown in the records of the secretary of state immediately before the filing, the differing information in the annual report is considered a statement of change under section 53-2-115, Idaho Code, provided the change in information is with the consent of any new registered agent.
PART 3
LIMITED PARTNERS

53-2-301. BECOMING LIMITED PARTNER. A person becomes a limited partner:
(1) As provided in the partnership agreement;
(2) As the result of a conversion or merger under part 11 of this chapter; or
(3) With the consent of all the partners.

53-2-302. NO RIGHT OR POWER AS LIMITED PARTNER TO BIND LIMITED PARTNERSHIP. A limited partner does not have the right or the power as a limited partner to act for or bind the limited partnership.

53-2-303. NO LIABILITY AS LIMITED PARTNER FOR LIMITED PARTNERSHIP OBLIGATIONS. An obligation of a limited partnership, whether arising in contract, tort, or otherwise, is not the obligation of a limited partner. A limited partner is not personally liable, directly or indirectly, by way of contribution or otherwise, for an obligation of the limited partnership solely by reason of being a limited partner, even if the limited partner participates in the management and control of the limited partnership.

53-2-304. RIGHT OF LIMITED PARTNER AND FORMER LIMITED PARTNER TO INFORMATION. (1) On ten (10) days' demand, made in a record received by the limited partnership, a limited partner may inspect and copy required information during regular business hours in the limited partnership's designated office. The limited partner need not have any particular purpose for seeking the information.
(2) During regular business hours and at a reasonable location specified by the limited partnership, a limited partner may obtain from the limited partnership and inspect and copy true and full information regarding the state of the activities and financial condition of the limited partnership and other information regarding the activities of the limited partnership as is just and reasonable if:
(a) The limited partner seeks the information for a purpose reasonably related to the partner's interest as a limited partner;
(b) The limited partner makes a demand in a record received by the limited partnership, describing with reasonable particularity the information sought and the purpose for seeking the information; and
(c) The information sought is directly connected to the limited partner's purpose.
(3) Within ten (10) days after receiving a demand pursuant to subsection (2) of this section, the limited partnership in a record shall inform the limited partner that made the demand:
(a) What information the limited partnership will provide in response to the demand;
(b) When and where the limited partnership will provide the information; and
(c) If the limited partnership declines to provide any demanded information, the limited partnership's reasons for declining.
Subject to subsection (6) of this section, a person dissociated as a limited partner may inspect and copy required information during regular business hours in the limited partnership's designated office if:

(a) The information pertains to the period during which the person was a limited partner;
(b) The person seeks the information in good faith; and
(c) The person meets the requirements of subsection (2) of this section.

(5) The limited partnership shall respond to a demand made pursuant to subsection (4) of this section in the same manner as provided in subsection (3) of this section.

(6) If a limited partner dies, section 53-2-704, Idaho Code, applies.

(7) The limited partnership may impose reasonable restrictions on the use of information obtained under this section. In a dispute concerning the reasonableness of a restriction under this subsection, the limited partnership has the burden of proving reasonableness.

(8) A limited partnership may charge a person that makes a demand reasonable costs of copying, limited to the costs of labor and material.

(9) Whenever this chapter or a partnership agreement provides for a limited partner to give or withhold consent to a matter, before the consent is given or withheld, the limited partnership shall, without demand, provide the limited partner with all information material to the limited partner's decision that the limited partnership knows.

(10) A limited partner or person dissociated as a limited partner may exercise the rights under this section through an attorney or other agent. Any restriction imposed under subsection (7) of this section or by the partnership agreement applies both to the attorney or other agent and to the limited partner or person dissociated as a limited partner.

(11) The rights stated in this section do not extend to a person as transferee, but may be exercised by the legal representative of an individual under legal disability who is a limited partner or person dissociated as a limited partner.

53-2-305. LIMITED DUTIES OF LIMITED PARTNERS. (1) A limited partner does not have any fiduciary duty to the limited partnership or to any other partner solely by reason of being a limited partner.

(2) A limited partner shall discharge the duties to the partnership and the other partners under this chapter or under the partnership agreement and exercise any rights consistently with the obligation of good faith and fair dealing.

(3) A limited partner does not violate a duty or obligation under this chapter or under the partnership agreement merely because the limited partner's conduct furthers the limited partner's own interest.

53-2-306. PERSON ERRONEOUSLY BELIEVING SELF TO BE LIMITED PARTNER. (1) Except as otherwise provided in subsection (2) of this section, a person that makes an investment in a business enterprise and erroneously but in good faith believes that the person has become a limited partner in the enterprise is not liable for the enterprise's obligations by reason of making the investment, receiving distributions from the enterprise, or exercising any rights of or appropriate to a limited partner,
if, on ascertaining the mistake, the person:

(a) Causes an appropriate certificate of limited partnership, amendment, or statement of correction to be signed and delivered to the secretary of state for filing; or

(b) Withdraws from future participation as an owner in the enterprise by signing and delivering to the secretary of state for filing a statement of withdrawal under this section.

(2) A person that makes an investment described in subsection (1) of this section is liable to the same extent as a general partner to any third party that enters into a transaction with the enterprise, believing in good faith that the person is a general partner, before the secretary of state files a statement of withdrawal, certificate of limited partnership, amendment, or statement of correction to show that the person is not a general partner.

(3) If a person makes a diligent effort in good faith to comply with subsection (1)(a) of this section and is unable to cause the appropriate certificate of limited partnership, amendment, or statement of correction to be signed and delivered to the secretary of state for filing, the person has the right to withdraw from the enterprise pursuant to subsection (1)(b) of this section even if the withdrawal would otherwise breach an agreement with others that are or have agreed to become co-owners of the enterprise.

PART 4
GENERAL PARTNERS

53-2-401. BECOMING GENERAL PARTNER. A person becomes a general partner:

(1) As provided in the partnership agreement;

(2) Under section 53-2-801(4), Idaho Code, following the dissociation of a limited partnership's last general partner;

(3) As the result of a conversion or merger under part 11 of this chapter; or

(4) With the consent of all the partners.

53-2-402. GENERAL PARTNER AGENT OF LIMITED PARTNERSHIP. (1) Each general partner is an agent of the limited partnership for the purposes of its activities. An act of a general partner, including the signing of a record in the partnership's name, for apparently carrying on in the ordinary course the limited partnership's activities or activities of the kind carried on by the limited partnership binds the limited partnership, unless the general partner did not have authority to act for the limited partnership in the particular matter and the person with which the general partner was dealing knew, had received a notification, or had notice under section 53-2-103(4), Idaho Code, that the general partner lacked authority.

(2) An act of a general partner which is not apparently for carrying on in the ordinary course the limited partnership's activities or activities of the kind carried on by the limited partnership binds the limited partnership only if the act was actually authorized by all the other partners.
53-2-403. LIMITED PARTNERSHIP LIABLE FOR GENERAL PARTNER'S ACTIONABLE CONDUCT. (1) A limited partnership is liable for loss or injury caused to a person, or for a penalty incurred, as a result of a wrongful act or omission, or other actionable conduct, of a general partner acting in the ordinary course of activities of the limited partnership or with authority of the limited partnership.

(2) If, in the course of the limited partnership's activities or while acting with authority of the limited partnership, a general partner receives or causes the limited partnership to receive money or property of a person not a partner, and the money or property is misapplied by a general partner, the limited partnership is liable for the loss.

53-2-404. GENERAL PARTNER'S LIABILITY. (1) Except as otherwise provided in subsections (2) and (3) of this section, all general partners are liable jointly and severally for all obligations of the limited partnership unless otherwise agreed by the claimant or provided by law.

(2) A person that becomes a general partner of an existing limited partnership is not personally liable for an obligation of a limited partnership incurred before the person became a general partner.

(3) An obligation of a limited partnership incurred while the limited partnership is a limited liability limited partnership, whether arising in contract, tort, or otherwise, is solely the obligation of the limited partnership. A general partner is not personally liable, directly or indirectly, by way of contribution or otherwise, for such an obligation solely by reason of being or acting as a general partner. This subsection (3) applies despite anything inconsistent in the partnership agreement that existed immediately before the consent required to become a limited liability limited partnership under section 53-2-406(2)(b), Idaho Code.

53-2-405. ACTIONS BY AND AGAINST PARTNERSHIP AND PARTNERS. (1) To the extent not inconsistent with section 53-2-404, Idaho Code, a general partner may be joined in an action against the limited partnership or named in a separate action.

(2) A judgment against a limited partnership is not by itself a judgment against a general partner. A judgment against a limited partnership may not be satisfied from a general partner's assets unless there is also a judgment against the general partner.

(3) A judgment creditor of a general partner may not levy execution against the assets of the general partner to satisfy a judgment based on a claim against the limited partnership, unless the partner is personally liable for the claim under section 53-2-404, Idaho Code, and:

(a) A judgment based on the same claim has been obtained against the limited partnership and a writ of execution on the judgment has been returned unsatisfied in whole or in part;
(b) The limited partnership is a debtor in bankruptcy;
(c) The general partner has agreed that the creditor need not exhaust limited partnership assets;
(d) A court grants permission to the judgment creditor to levy execution against the assets of a general partner based on a finding that limited partnership assets subject to execution are clearly insufficient to satisfy the judgment, that exhaustion of limited partnership assets is excessively burdensome, or that the grant of
permission is an appropriate exercise of the court's equitable powers; or
(e) Liability is imposed on the general partner by law or contract independent of the existence of the limited partnership.

53-2-406. MANAGEMENT RIGHTS OF GENERAL PARTNER. (1) Each general partner has equal rights in the management and conduct of the limited partnership's activities. Except as expressly provided in this chapter, any matter relating to the activities of the limited partnership may be exclusively decided by the general partner or, if there is more than one (1) general partner, by a majority of the general partners.
(2) The consent of each partner is necessary to:
(a) Amend the partnership agreement;
(b) Amend the certificate of limited partnership to add or, subject to section 53-2-1110, Idaho Code, delete a statement that the limited partnership is a limited liability limited partnership; and
(c) Sell, lease, exchange, or otherwise dispose of all, or substantially all, of the limited partnership's property, with or without the good will, other than in the usual and regular course of the limited partnership's activities.
(3) A limited partnership shall reimburse a general partner for payments made and indemnify a general partner for liabilities incurred by the general partner in the ordinary course of the activities of the partnership or for the preservation of its activities or property.
(4) A limited partnership shall reimburse a general partner for an advance to the limited partnership beyond the amount of capital the general partner agreed to contribute.
(5) A payment or advance made by a general partner which gives rise to an obligation of the limited partnership under subsection (3) or (4) of this section constitutes a loan to the limited partnership which accrues interest from the date of the payment or advance.

53-2-407. RIGHT OF GENERAL PARTNER AND FORMER GENERAL PARTNER TO INFORMATION. (1) A general partner, without having any particular purpose for seeking the information, may inspect and copy during regular business hours:
(a) In the limited partnership's designated office, required information; and
(b) At a reasonable location specified by the limited partnership, any other records maintained by the limited partnership regarding the limited partnership's activities and financial condition.
(2) Each general partner and the limited partnership shall furnish to a general partner:
(a) Without demand, any information concerning the limited partnership's activities and activities reasonably required for the proper exercise of the general partner's rights and duties under the partnership agreement or this chapter; and
(b) On demand, any other information concerning the limited partnership's activities, except to the extent the demand or the information demanded is unreasonable or otherwise improper under the circumstances.
(3) Subject to subsection (5) of this section, on ten (10) days' demand made in a record received by the limited partnership, a person dissociated as a general partner may have access to the information and
records described in subsection (1) of this section at the location specified in subsection (1) of this section if:

(a) The information or record pertains to the period during which the person was a general partner;
(b) The person seeks the information or record in good faith; and
(c) The person satisfies the requirements imposed on a limited partner by section 53-2-304(2), Idaho Code.

(4) The limited partnership shall respond to a demand made pursuant to subsection (3) of this section in the same manner as provided in section 53-2-304(3), Idaho Code.

(5) If a general partner dies, section 53-2-704, Idaho Code, applies.

(6) The limited partnership may impose reasonable restrictions on the use of information under this section. In any dispute concerning the reasonableness of a restriction under this subsection, the limited partnership has the burden of proving reasonableness.

(7) A limited partnership may charge a person dissociated as a general partner that makes a demand under this section reasonable costs of copying, limited to the costs of labor and material.

(8) A general partner or person dissociated as a general partner may exercise the rights under this section through an attorney or other agent. Any restriction imposed under subsection (6) of this section or by the partnership agreement applies both to the attorney or other agent and to the general partner or person dissociated as a general partner.

(9) The rights under this section do not extend to a person as transferee, but the rights under subsection (3) of this section of a person dissociated as a general partner may be exercised by the legal representative of an individual who dissociated as a general partner under section 53-2-603(7)(b) or (c), Idaho Code.

53-2-408. GENERAL STANDARDS OF GENERAL PARTNER'S CONDUCT. (1) The only fiduciary duties that a general partner has to the limited partnership and the other partners are the duties of loyalty and care under subsections (2) and (3) of this section.

(2) A general partner’s duty of loyalty to the limited partnership and the other partners is limited to the following:

(a) To account to the limited partnership and hold as trustee for it any property, profit, or benefit derived by the general partner in the conduct and winding up of the limited partnership's activities or derived from a use by the general partner of limited partnership property, including the appropriation of a limited partnership opportunity;
(b) To refrain from dealing with the limited partnership in the conduct or winding up of the limited partnership's activities as or on behalf of a party having an interest adverse to the limited partnership; and
(c) To refrain from competing with the limited partnership in the conduct or winding up of the limited partnership's activities.

(3) A general partner’s duty of care to the limited partnership and the other partners in the conduct and winding up of the limited partnership's activities is limited to refraining from engaging in grossly negligent or reckless conduct, intentional misconduct, or a knowing violation of law.

(4) A general partner shall discharge the duties to the partnership
and the other partners under this chapter or under the partnership agreement and exercise any rights consistently with the obligation of good faith and fair dealing.

(5) A general partner does not violate a duty or obligation under this chapter or under the partnership agreement merely because the general partner's conduct furthers the general partner's own interest.

PART 5
CONTRIBUTIONS AND DISTRIBUTIONS

53-2-501. FORM OF CONTRIBUTION. A contribution of a partner may consist of tangible or intangible property or other benefit to the limited partnership, including money, services performed, promissory notes, other agreements to contribute cash or property, and contracts for services to be performed.

53-2-502. LIABILITY FOR CONTRIBUTION. (1) A partner's obligation to contribute money or other property or other benefit to, or to perform services for, a limited partnership is not excused by the partner's death, disability, or other inability to perform personally.

(2) If a partner does not make a promised nonmonetary contribution, the partner is obligated at the option of the limited partnership to contribute money equal to that portion of the value, as stated in the required information, of the stated contribution which has not been made.

(3) The obligation of a partner to make a contribution or return money or other property paid or distributed in violation of this chapter may be compromised only by consent of all partners. A creditor of a limited partnership which extends credit or otherwise acts in reliance on an obligation described in subsection (1) of this section, without notice of any compromise under this subsection, may enforce the original obligation.

53-2-503. SHARING OF DISTRIBUTIONS. A distribution by a limited partnership must be shared among the partners on the basis of the value, as stated in the required records when the limited partnership decides to make the distribution, of the contributions the limited partnership has received from each partner.

53-2-504. INTERIM DISTRIBUTIONS. A partner does not have a right to any distribution before the dissolution and winding up of the limited partnership unless the limited partnership decides to make an interim distribution.

53-2-505. NO DISTRIBUTION ON ACCOUNT OF DISSOCIATION. A person does not have a right to receive a distribution on account of dissociation.

53-2-506. DISTRIBUTION IN KIND. A partner does not have a right to demand or receive any distribution from a limited partnership in any form other than cash. Subject to section 53-2-812(2), Idaho Code, a limited partnership may distribute an asset in kind to the extent each partner receives a percentage of the asset equal to the partner's share of distributions.
53-2-507. RIGHT TO DISTRIBUTION. When a partner or transferee becomes entitled to receive a distribution, the partner or transferee has the status of, and is entitled to all remedies available to, a creditor of the limited partnership with respect to the distribution. However, the limited partnership's obligation to make a distribution is subject to offset for any amount owed to the limited partnership by the partner or dissociated partner on whose account the distribution is made.

53-2-508. LIMITATIONS ON DISTRIBUTION. (1) A limited partnership may not make a distribution in violation of the partnership agreement.

(2) A limited partnership may not make a distribution if after the distribution:
   (a) The limited partnership would not be able to pay its debts as they become due in the ordinary course of the limited partnership's activities; or
   (b) The limited partnership's total assets would be less than the sum of its total liabilities plus the amount that would be needed, if the limited partnership were to be dissolved, wound up, and terminated at the time of the distribution, to satisfy the preferential rights upon dissolution, winding up, and termination of partners whose preferential rights are superior to those of persons receiving the distribution.

(3) A limited partnership may base a determination that a distribution is not prohibited under subsection (2) of this section on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable in the circumstances.

(4) Except as otherwise provided in subsection (6) of this section, the effect of a distribution under subsection (2) of this section is measured:
   (a) In the case of distribution by purchase, redemption, or other acquisition of a transferable interest in the limited partnership, as of the date money or other property is transferred or debt incurred by the limited partnership; and
   (b) In all other cases, as of the date:
      (i) The distribution is authorized, if the payment occurs within one hundred twenty (120) days after that date; or
      (ii) The payment is made, if payment occurs more than one hundred twenty (120) days after the distribution is authorized.

(5) A limited partnership's indebtedness to a partner incurred by reason of a distribution made in accordance with this section is at parity with the limited partnership's indebtedness to its general, unsecured creditors.

(6) A limited partnership's indebtedness, including indebtedness issued in connection with or as part of a distribution, is not considered a liability for purposes of subsection (2) of this section if the terms of the indebtedness provide that payment of principal and interest are made only to the extent that a distribution could then be made to partners under this section.

(7) If indebtedness is issued as a distribution, each payment of principal or interest on the indebtedness is treated as a distribution, the effect of which is measured on the date the payment is made.
53-2-509. LIABILITY FOR IMPROPER DISTRIBUTIONS. (1) A general partner that consents to a distribution made in violation of section 53-2-508, Idaho Code, is personally liable to the limited partnership for the amount of the distribution which exceeds the amount that could have been distributed without the violation if it is established that in consenting to the distribution the general partner failed to comply with section 53-2-408, Idaho Code.

(2) A partner or transferee that received a distribution knowing that the distribution to that partner or transferee was made in violation of section 53-2-508, Idaho Code, is personally liable to the limited partnership but only to the extent that the distribution received by the partner or transferee exceeded the amount that could have been properly paid under section 53-2-508, Idaho Code.

(3) A general partner against which an action is commenced under subsection (1) of this section may:
   (a) Impale in the action any other person that is liable under subsection (1) of this section and compel contribution from the person; and
   (b) Impale in the action any person that received a distribution in violation of subsection (2) of this section and compel contribution from the person in the amount the person received in violation of subsection (2) of this section.

(4) An action under this section is barred if it is not commenced within two (2) years after the distribution.

PART 6
DISSOCIATION

53-2-601. DISSOCIATION AS LIMITED PARTNER. (1) A person does not have a right to dissociate as a limited partner before the termination of the limited partnership.

(2) A person is dissociated from a limited partnership as a limited partner upon the occurrence of any of the following events:
   (a) The limited partnership's having notice of the person's express will to withdraw as a limited partner or on a later date specified by the person, provided however, a limited partner dissociating under this section shall thereafter have the status of a mere transferee as provided in section 53-2-602(1)(c), Idaho Code;
   (b) An event agreed to in the partnership agreement as causing the person's dissociation as a limited partner;
   (c) The person's expulsion as a limited partner pursuant to the partnership agreement;
   (d) The person's expulsion as a limited partner by the unanimous consent of the other partners if:
      (i) It is unlawful to carry on the limited partnership's activities with the person as a limited partner;
      (ii) There has been a transfer of all of the person's transferable interest in the limited partnership, other than a transfer for security purposes, or a court order charging the person's interest, which has not been foreclosed;
      (iii) The person is a corporation and, within ninety (90) days after the limited partnership notifies the person that it will be expelled as a limited partner because it has filed a certificate of dissolution or the equivalent, its charter has been
revoked, or its right to conduct business has been suspended by
the jurisdiction of its incorporation, there is no revocation
of the certificate of dissolution or no reinstatement of its
charter or its right to conduct business; or
(iv) The person is a limited liability company or partnership
that has been dissolved and whose business is being wound up;
(e) On application by the limited partnership, the person's expul-
sion as a limited partner by judicial order because:
(i) The person engaged in wrongful conduct that adversely and
materially affected the limited partnership's activities;
(ii) The person willfully or persistently committed a material
breach of the partnership agreement or of the obligation of
good faith and fair dealing under section 53-2-305(2), Idaho
Code; or
(iii) The person engaged in conduct relating to the limited
partnership's activities which makes it not reasonably practi-
cable to carry on the activities with the person as limited
partner;
(f) In the case of a person who is an individual, the person's
death;
(g) In the case of a person that is a trust or is acting as a lim-
ited partner by virtue of being a trustee of a trust, distribution
of the trust's entire transferable interest in the limited partner-
ship, but not merely by reason of the substitution of a successor
trustee;
(h) In the case of a person that is an estate or is acting as a
limited partner by virtue of being a personal representative of an
estate, distribution of the estate's entire transferable interest in
the limited partnership, but not merely by reason of the substitu-
tion of a successor personal representative;
(i) Termination of a limited partner that is not an individual,
partnership, limited liability company, corporation, trust, or
estate;
(j) The limited partnership's participation in a conversion or
merger under part 11 of this chapter, if the limited partnership:
(i) Is not the converted or surviving entity; or
(ii) Is the converted or surviving entity but, as a result of
the conversion or merger, the person ceases to be a limited
partner.

53-2-602. EFFECT OF DISSOCIATION AS LIMITED PARTNER. (1) Upon a
person's dissociation as a limited partner:
(a) Subject to section 53-2-704, Idaho Code, the person does not
have further rights as a limited partner;
(b) The person's obligation of good faith and fair dealing as a
limited partner under section 53-2-305(2), Idaho Code, continues
only as to matters arising and events occurring before the dissocia-
tion; and
(c) Subject to section 53-2-704, Idaho Code, and part 11 of this
chapter, any transferable interest owned by the person in the
person's capacity as a limited partner immediately before dissocia-
tion is owned by the person as a mere transferee.
(2) A person's dissociation as a limited partner does not of itself
discharge the person from any obligation to the limited partnership or
the other partners which the person incurred while a limited partner.

53-2-603. DISSOCIATION AS GENERAL PARTNER. A person is dissociated from a limited partnership as a general partner upon the occurrence of any of the following events:
(1) The limited partnership's having notice of the person's express will to withdraw as a general partner or on a later date specified by the person;
(2) An event agreed to in the partnership agreement as causing the person's dissociation as a general partner;
(3) The person's expulsion as a general partner pursuant to the partnership agreement;
(4) The person's expulsion as a general partner by the unanimous consent of the other partners if:
   (a) It is unlawful to carry on the limited partnership's activities with the person as a general partner;
   (b) There has been a transfer of all or substantially all of the person's transferable interest in the limited partnership, other than a transfer for security purposes, or a court order charging the person's interest, which has not been foreclosed;
   (c) The person is a corporation and, within ninety (90) days after the limited partnership notifies the person that it will be expelled as a general partner because it has filed a certificate of dissolution or the equivalent, its charter has been revoked, or its right to conduct business has been suspended by the jurisdiction of its incorporation, there is no revocation of the certificate of dissolution or no reinstatement of its charter or its right to conduct business; or
   (d) The person is a limited liability company or partnership that has been dissolved and whose business is being wound up;
(5) On application by the limited partnership, the person's expulsion as a general partner by judicial determination because:
   (a) The person engaged in wrongful conduct that adversely and materially affected the limited partnership activities;
   (b) The person willfully or persistently committed a material breach of the partnership agreement or of a duty owed to the partnership or the other partners under section 53-2-408, Idaho Code; or
   (c) The person engaged in conduct relating to the limited partnership's activities which makes it not reasonably practicable to carry on the activities of the limited partnership with the person as a general partner;
(6) The person's:
   (a) Becoming a debtor in bankruptcy;
   (b) Execution of an assignment for the benefit of creditors;
   (c) Seeking, consenting to, or acquiescing in the appointment of a trustee, receiver, or liquidator of the person or of all or substantially all of the person's property; or
   (d) Failure, within ninety (90) days after the appointment, to have vacated or stayed the appointment of a trustee, receiver, or liquidator of the general partner or of all or substantially all of the person's property obtained without the person's consent or acquiescence, or failing within ninety (90) days after the expiration of a stay to have the appointment vacated;
(7) In the case of a person who is an individual:
(a) The person's death;
(b) The appointment of a guardian or general conservator for the person; or
(c) A judicial determination that the person has otherwise become incapable of performing the person's duties as a general partner under the partnership agreement;
(8) In the case of a person that is a trust or is acting as a general partner by virtue of being a trustee of a trust, distribution of the trust's entire transferable interest in the limited partnership, but not merely by reason of the substitution of a successor trustee;
(9) In the case of a person that is an estate or is acting as a general partner by virtue of being a personal representative of an estate, distribution of the estate's entire transferable interest in the limited partnership, but not merely by reason of the substitution of a successor personal representative;
(10) Termination of a general partner that is not an individual, partnership, limited liability company, corporation, trust, or estate; or
(11) The limited partnership's participation in a conversion or merger under part 11 of this chapter, if the limited partnership:

(a) Is not the converted or surviving entity; or
(b) Is the converted or surviving entity but, as a result of the conversion or merger, the person ceases to be a general partner.

53-2-605. PERSON'S POWER TO DISSOCIATE AS GENERAL PARTNER -- WRONGFUL DISSOCIATION. (1) A person has the power to dissociate as a general partner at any time, rightfully or wrongfully, by express will pursuant to section 53-2-603(1), Idaho Code.
(2) A person's dissociation as a general partner is wrongful only if:
(a) It is in breach of an express provision of the partnership agreement; or
(b) It occurs before the termination of the limited partnership, and:
(i) The person withdraws as a general partner by express will;
(ii) The person is expelled as a general partner by judicial determination under section 53-2-603(5), Idaho Code;
(iii) The person is dissociated as a general partner by becoming a debtor in bankruptcy; or
(iv) In the case of a person that is not an individual, trust other than a business trust, or estate, the person is expelled or otherwise dissociated as a general partner because it willfully dissolved or terminated.
(3) A person that wrongfully dissociates as a general partner is liable to the limited partnership and, subject to section 53-2-1001, Idaho Code, to the other partners for damages caused by the dissociation. The liability is in addition to any other obligation of the general partner to the limited partnership or to the other partners.

53-2-605. EFFECT OF DISSOCIATION AS GENERAL PARTNER. (1) Upon a person's dissociation as a general partner:
(a) The person's right to participate as a general partner in the management and conduct of the partnership's activities terminates;
(b) The person's duty of loyalty as a general partner under section 53-2-408(2)(c), Idaho Code, terminates;
(c) The person's duty of loyalty as a general partner under section 53-2-408(2)(a) and (b), Idaho Code, and duty of care under section 53-2-408(3), Idaho Code, continue only with regard to matters arising and events occurring before the person's dissociation as a general partner;
(d) The person may sign and deliver to the secretary of state for filing a statement of dissociation pertaining to the person and, at the request of the limited partnership, shall sign an amendment to the certificate of limited partnership which states that the person has dissociated; and
(e) Subject to section 53-2-704, Idaho Code, and part 11 of this chapter, any transferable interest owned by the person immediately before dissociation in the person's capacity as a general partner is owned by the person as a mere transferee.

(2) A person's dissociation as a general partner does not of itself discharge the person from any obligation to the limited partnership or the other partners which the person incurred while a general partner.

53-2-606. POWER TO BIND AND LIABILITY TO LIMITED PARTNERSHIP BEFORE DISSOLUTION OF PARTNERSHIP OF PERSON DISSOCIATED AS GENERAL PARTNER. (1) After a person is dissociated as a general partner and before the limited partnership is dissolved, converted under part 11 of this chapter, or merged out of existence under part 11 of this chapter, the limited partnership is bound by an act of the person only if:
(a) The act would have bound the limited partnership under section 53-2-402, Idaho Code, before the dissociation; and
(b) At the time the other party enters into the transaction:
   (i) Less than two (2) years has passed since the dissociation; and
   (ii) The other party does not have notice of the dissociation and reasonably believes that the person is a general partner.

(2) If a limited partnership is bound under subsection (1) of this section, the person dissociated as a general partner which caused the limited partnership to be bound is liable:
(a) To the limited partnership for any damage caused to the limited partnership arising from the obligation incurred under subsection (1) of this section; and
(b) If a general partner or another person dissociated as a general partner is liable for the obligation, to the general partner or other person for any damage caused to the general partner or other person arising from the liability.

53-2-607. LIABILITY TO OTHER PERSONS OF PERSON DISSOCIATED AS GENERAL PARTNER. (1) A person's dissociation as a general partner does not of itself discharge the person's liability as a general partner for an obligation of the limited partnership incurred before dissociation. Except as otherwise provided in subsections (2) and (3) of this section, the person is not liable for a limited partnership's obligation incurred after dissociation.

(2) A person whose dissociation as a general partner resulted in a dissolution and winding up of the limited partnership's activities is liable to the same extent as a general partner under section 53-2-404,
Idaho Code, on an obligation incurred by the limited partnership under section 53-2-804, Idaho Code.

(3) A person that has dissociated as a general partner but whose dissociation did not result in a dissolution and winding up of the limited partnership's activities is liable on a transaction entered into by the limited partnership after the dissociation only if:

(a) A general partner would be liable on the transaction; and
(b) At the time the other party enters into the transaction:
   (i) Less than two (2) years has passed since the dissociation; and
   (ii) The other party does not have notice of the dissociation and reasonably believes that the person is a general partner.

(4) By agreement with a creditor of a limited partnership and the limited partnership, a person dissociated as a general partner may be released from liability for an obligation of the limited partnership.

(5) A person dissociated as a general partner is released from liability for an obligation of the limited partnership if the limited partnership's creditor, with notice of the person's dissociation as a general partner but without the person's consent, agrees to a material alteration in the nature or time of payment of the obligation.

PART 7
TRANSFERABLE INTERESTS AND RIGHTS OF TRANSFEREES AND CREDITORS

53-2-701. PARTNER'S TRANSFERABLE INTEREST. The only interest of a partner which is transferable is the partner's transferable interest. A transferable interest is personal property.

53-2-702. TRANSFER OF PARTNER'S TRANSFERABLE INTEREST. (1) A transfer, in whole or in part, of a partner's transferable interest:

(a) Is permissible;
(b) Does not by itself cause the partner's dissociation or a dissolution and winding up of the limited partnership's activities; and
(c) Does not, as against the other partners or the limited partnership, entitle the transferee to participate in the management or conduct of the limited partnership's activities, to require access to information concerning the limited partnership's transactions except as otherwise provided in subsection (3) of this section, or to inspect or copy the required information or the limited partnership's other records.

(2) A transferee has a right to receive, in accordance with the transfer:

(a) Distributions to which the transferor would otherwise be entitled; and
(b) Upon the dissolution and winding up of the limited partnership's activities the net amount otherwise distributable to the transferor.

(3) In a dissolution and winding up, a transferee is entitled to an account of the limited partnership's transactions only from the date of dissolution.

(4) Upon transfer, the transferor retains the rights of a partner other than the interest in distributions transferred and retains all duties and obligations of a partner.
(5) A limited partnership need not give effect to a transferee's rights under this section until the limited partnership has notice of the transfer.

(6) A transfer of a partner's transferable interest in the limited partnership in violation of a restriction on transfer contained in the partnership agreement is ineffective as to a person having notice of the restriction at the time of transfer.

(7) A transferee that becomes a partner with respect to a transferable interest is liable for the transferor's obligations under sections 53-2-502 and 53-2-509, Idaho Code. However, the transferee is not obligated for liabilities unknown to the transferee at the time the transferee became a partner.

53-2-703. RIGHTS OF CREDITOR OF PARTNER OR TRANSFEREE. (1) On application to a court of competent jurisdiction by any judgment creditor of a partner or transferee, the court may charge the transferable interest of the judgment debtor with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of a transferee. The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect of the partnership and make all other orders, directions, accounts, and inquiries the judgment debtor might have made or which the circumstances of the case may require to give effect to the charging order.

(2) A charging order constitutes a lien on the judgment debtor's transferable interest. The court may order a foreclosure upon the interest subject to the charging order at any time. The purchaser at the foreclosure sale has the rights of a transferee.

(3) At any time before foreclosure, an interest charged may be redeemed:

(a) By the judgment debtor;
(b) With property other than limited partnership property, by one or more of the other partners; or
(c) With limited partnership property, by the limited partnership with the consent of all partners whose interests are not so charged.

(4) This chapter does not deprive any partner or transferee of the benefit of any exemption laws applicable to the partner's or transferee's transferable interest.

(5) This section provides the exclusive remedy by which a judgment creditor of a partner or transferee may satisfy a judgment out of the judgment debtor's transferable interest.

53-2-704. POWER OF ESTATE OF DECEASED PARTNER. If a partner dies, the deceased partner's personal representative or other legal representative may exercise the rights of a transferee as provided in section 53-2-702, Idaho Code, and, for the purposes of settling the estate, may exercise the rights of a current limited partner under section 53-2-304, Idaho Code.

PART 8
DISSOLUTION

53-2-801. NONJUDICIAL DISSOLUTION. Except as otherwise provided in section 53-2-802, Idaho Code, a limited partnership is dissolved, and
its activities must be wound up, only upon the occurrence of any of the following:

(1) The dissolution date, if any, specified in the certificate of limited partnership, provided however, that if a dissolution date is not specified in the certificate of limited partnership, the limited partnership's existence shall continue until the first to occur of the events described in subsections (2) through (6) of this section. If a dissolution date is specified in the certificate of limited partnership, and unless the limited partnership agreement provides otherwise, the certificate of limited partnership may be amended and the existence of the limited partnership may be extended by the vote of all the general partners and of all limited partners owning the rights to receive distributions as limited partners at the time consent is to be effective;

(2) The happening of an event specified in the partnership agreement;

(3) The written consent of all general partners and of all limited partners owning the rights to receive distributions as limited partners at the time consent is to be effective;

(4) After the dissociation of the last remaining general partner, if by the ninetieth day following such dissociation, the limited partners owning a majority of the rights to receive distributions as limited partners have failed to vote to admit one (1) or more general partners;

(5) The passage of ninety (90) days after the dissociation of the limited partnership's last limited partner, unless before the end of the period the limited partnership admits at least one (1) limited partner; or

(6) The signing and filing of a declaration of dissolution by the secretary of state under section 53-2-809(3), Idaho Code.

53-2-802. JUDICIAL DISSOLUTION. On application by at least one (1) general partner and a majority of the limited partners owning the rights to receive distributions as limited partners at the time of the application, the court may order dissolution of a limited partnership if it is not reasonably practicable to carry on the activities of the limited partnership in conformity with the partnership agreement.

53-2-803. WINDING UP. (1) A limited partnership continues after dissolution only for the purpose of winding up its activities.

(2) In winding up its activities, the limited partnership:

(a) May amend its certificate of limited partnership to state that the limited partnership is dissolved, preserve the limited partnership business or property as a going concern for a reasonable time, prosecute and defend actions and proceedings, whether civil, criminal, or administrative, transfer the limited partnership's property, settle disputes by mediation or arbitration, file a statement of termination as provided in section 53-2-203, Idaho Code, and perform other necessary acts; and

(b) Shall discharge the limited partnership's liabilities, settle and close the limited partnership's activities, and marshal and distribute the assets of the partnership.

(3) If a dissolved limited partnership does not have a general partner, a person to wind up the dissolved limited partnership's activities may be appointed by the consent of limited partners owning a majority of the rights to receive distributions as limited partners at
the time the consent is to be effective. A person appointed under this subsection:
(a) Has the powers of a general partner under section 53-2-804, Idaho Code; and
(b) Shall promptly amend the certificate of limited partnership to state:
(i) That the limited partnership does not have a general partner;
(ii) The name of the person that has been appointed to wind up the limited partnership; and
(iii) The street and mailing address of the person.
(4) On the application of any partner, the court may order judicial supervision of the winding up, including the appointment of a person to wind up the dissolved limited partnership's activities, if:
(a) A limited partnership does not have a general partner and within a reasonable time following the dissolution no person has been appointed pursuant to subsection (3) of this section; or
(b) The applicant establishes other good cause.

53-2-804. POWER OF GENERAL PARTNER AND PERSON DISSOCIATED AS GENERAL PARTNER TO BIND PARTNERSHIP AFTER DISSOLUTION. (1) A limited partnership is bound by a general partner's act after dissolution which:
(a) Is appropriate for winding up the limited partnership's activities; or
(b) Would have bound the limited partnership under section 53-2-402, Idaho Code, before dissolution, if, at the time the other party enters into the transaction, the other party does not have notice of the dissolution.
(2) A person dissociated as a general partner binds a limited partnership through an act occurring after dissolution if:
(a) At the time the other party enters into the transaction:
(i) Less than two (2) years have passed since the dissociation; and
(ii) The other party does not have notice of the dissociation and reasonably believes that the person is a general partner; and
(b) The act:
(i) Is appropriate for winding up the limited partnership's activities; or
(ii) Would have bound the limited partnership under section 53-2-402, Idaho Code, before dissolution and at the time the other party enters into the transaction the other party does not have notice of the dissolution.

53-2-805. LIABILITY AFTER DISSOLUTION OF GENERAL PARTNER AND PERSON DISSOCIATED AS GENERAL PARTNER TO LIMITED PARTNERSHIP, OTHER GENERAL PARTNERS, AND PERSONS DISSOCIATED AS GENERAL PARTNER. (1) If a general partner having knowledge of the dissolution causes a limited partnership to incur an obligation under section 53-2-804(1), Idaho Code, by an act that is not appropriate for winding up the partnership's activities, the general partner is liable:
(a) To the limited partnership for any damage caused to the limited partnership arising from the obligation; and
(b) If another general partner or a person dissociated as a general
partner is liable for the obligation, to that other general partner or person for any damage caused to that other general partner or person arising from the liability.

(2) If a person dissociated as a general partner causes a limited partnership to incur an obligation under section 53-2-804(2), Idaho Code, the person is liable:

(a) To the limited partnership for any damage caused to the limited partnership arising from the obligation; and

(b) If a general partner or another person dissociated as a general partner is liable for the obligation, to that other general partner or other person for any damage caused to the general partner or other person arising from the liability.

53-2-806. KNOWN CLAIMS AGAINST DISSOLVED LIMITED PARTNERSHIP. (1) A dissolved limited partnership may dispose of the known claims against it by following the procedure described in subsection (2) of this section.

(2) A dissolved limited partnership may notify its known claimants of the dissolution in a record. The notice must:

(a) Specify the information required to be included in a claim;

(b) Provide a mailing address to which the claim is to be sent;

(c) State the deadline for receipt of the claim, which may not be less than one hundred twenty (120) days after the date the notice is received by the claimant;

(d) State that the claim will be barred if not received by the deadline; and

(e) Unless the limited partnership has been throughout its existence a limited liability limited partnership, state that the barring of a claim against the limited partnership will also bar any corresponding claim against any general partner or person dissociated as a general partner which is based on section 53-2-404, Idaho Code.

(3) A claim against a dissolved limited partnership is barred if the requirements of subsection (2) of this section are met and:

(a) The claim is not received by the specified deadline; or

(b) In the case of a claim that is timely received but rejected by the dissolved limited partnership, the claimant does not commence an action to enforce the claim against the limited partnership within ninety (90) days after the receipt of the notice of the rejection.

(4) This section does not apply to a claim based on an event occurring after the effective date of dissolution or a liability that is contingent on that date.

53-2-807. OTHER CLAIMS AGAINST DISSOLVED LIMITED PARTNERSHIP. (1) A dissolved limited partnership may publish notice of its dissolution and request persons having claims against the limited partnership to present them in accordance with the notice.

(2) The notice must:

(a) Be published at least once in a newspaper of general circulation in the county in which the dissolved limited partnership's principal office is located or, if it has none in this state, in the county in which the limited partnership's designated office is or was last located;

(b) Describe the information required to be contained in a claim and provide a mailing address to which the claim is to be sent;
(c) State that a claim against the limited partnership is barred unless an action to enforce the claim is commenced within five (5) years after publication of the notice; and
(d) Unless the limited partnership has been throughout its existence a limited liability limited partnership, state that the barring of a claim against the limited partnership will also bar any corresponding claim against any general partner or person dissociated as a general partner which is based on section 53-2-404, Idaho Code.
(3) If a dissolved limited partnership publishes a notice in accordance with subsection (2) of this section, the claim of each of the following claimants is barred unless the claimant commences an action to enforce the claim against the dissolved limited partnership within five (5) years after the publication date of the notice:
   (a) A claimant that did not receive notice in a record under section 53-2-806, Idaho Code;
   (b) A claimant whose claim was timely sent to the dissolved limited partnership but not acted on; and
   (c) A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.
(4) A claim not barred under this section may be enforced:
   (a) Against the dissolved limited partnership, to the extent of its undistributed assets;
   (b) If the assets have been distributed in liquidation, against a partner or transferee to the extent of that person's proportionate share of the claim or the limited partnership's assets distributed to the partner or transferee in liquidation, whichever is less, but a person's total liability for all claims under this paragraph does not exceed the total amount of assets distributed to the person as part of the winding up of the dissolved limited partnership; or
   (c) Against any person liable on the claim under section 53-2-404, Idaho Code.

53-2-808. LIABILITY OF GENERAL PARTNER AND PERSON DISSOCIATED AS GENERAL PARTNER WHEN CLAIM AGAINST LIMITED PARTNERSHIP BARRED. If a claim against a dissolved limited partnership is barred under section 53-2-806 or 53-2-807, Idaho Code, any corresponding claim under section 53-2-404, Idaho Code, is also barred.

53-2-809. ADMINISTRATIVE DISSOLUTION. (1) The secretary of state may dissolve a limited partnership administratively if:
   (a) The limited partnership does not deliver its annual report to the secretary of state within sixty (60) days of its due date; or
   (b) The limited partnership is without a registered agent or registered office in this state for sixty (60) days or more.
(2) If the secretary of state determines that a ground exists for administratively dissolving a limited partnership, the secretary of state shall mail a notice of dissolution to the limited partnership.
(3) If within sixty (60) days after service of the copy the limited partnership does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist, the secretary of state shall administratively dissolve the limited partnership by noting the fact of dissolution and the effective date thereof in his
records. The secretary of state shall give notice of the dissolution to the limited partnership by first class mail addressed to its mailing address as indicated on its most recent annual report or, if the limited partnership has not yet filed an annual report, to its principal office.

(4) A limited partnership administratively dissolved continues its existence but may carry on only activities necessary to wind up its activities and liquidate its assets under sections 53-2-803 and 53-2-812, Idaho Code, and to notify claimants under sections 53-2-806 and 53-2-807, Idaho Code.

(5) The administrative dissolution of a limited partnership does not terminate the authority of its registered agent.

53-2-810. REINSTATEMENT FOLLOWING ADMINISTRATIVE DISSOLUTION. (1) A limited partnership administratively dissolved under section 53-2-809, Idaho Code, may apply to the secretary of state for reinstatement within ten (10) years after the effective date of dissolution. The application must:

(a) Recite the name of the limited partnership at the time of its dissolution and the date of its organization;
(b) State that the limited partnership applies for reinstatement;
(c) State that the limited partnership's proposed name satisfies the requirements of section 53-2-108, Idaho Code; and
(d) Be accompanied by a current annual report or appointment of registered agent, as appropriate to the reason for administrative dissolution.

(2) If the secretary of state determines that the application contains the information required by subsection (1) of this section and that the information is correct, he shall cancel the dissolution and prepare a certificate of reinstatement that recites the fact and effective date of the reinstatement, file a copy thereof and return the original to the limited partnership.

(3) When the reinstatement becomes effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the limited partnership resumes carrying on its business as if the administrative dissolution had never occurred.

53-2-811. APPEAL FROM DENIAL OF REINSTATEMENT. (1) If the secretary of state denies a limited partnership's application for reinstatement following administrative dissolution, the secretary of state shall prepare, sign and file a notice that explains the reason or reasons for denial and serve the limited partnership with a copy of the notice.

(2) Within thirty (30) days after service of the notice of denial, the limited partnership may appeal from the denial of reinstatement by petitioning the court to set aside the dissolution. The petition must be served on the secretary of state and contain a copy of the secretary of state's declaration of dissolution, the limited partnership's application for reinstatement, and the secretary of state's notice of denial.

(3) The court may summarily order the secretary of state to reinstate the dissolved limited partnership or may take other action the court considers appropriate.

53-2-812. DISPOSITION OF ASSETS -- WHEN CONTRIBUTIONS REQUIRED. (1) In winding up a limited partnership's activities, the assets of the limited partnership, including the contributions required by this section,
must be applied to satisfy the limited partnership's obligations to creditors, including, to the extent permitted by law, partners that are creditors.

(2) Any surplus remaining after the limited partnership complies with subsection (1) of this section must be paid in cash as a distribution.

(3) If a limited partnership's assets are insufficient to satisfy all of its obligations under subsection (1) of this section, with respect to each unsatisfied obligation incurred when the limited partnership was not a limited liability limited partnership, the following rules apply:

(a) Each person that was a general partner when the obligation was incurred and that has not been released from the obligation under section 53-2-607, Idaho Code, shall contribute to the limited partnership for the purpose of enabling the limited partnership to satisfy the obligation. The contribution due from each of those persons is in proportion to the right to receive distributions in the capacity of general partner in effect for each of those persons when the obligation was incurred.

(b) If a person does not contribute the full amount required under paragraph (a) of this subsection with respect to an unsatisfied obligation of the limited partnership, the other persons required to contribute by paragraph (a) of this subsection on account of the obligation shall contribute the additional amount necessary to discharge the obligation. The additional contribution due from each of those other persons is in proportion to the right to receive distributions in the capacity of general partner in effect for each of those other persons when the obligation was incurred.

(c) If a person does not make the additional contribution required by paragraph (b) of this subsection, further additional contributions are determined and due in the same manner as provided in that paragraph.

(4) A person that makes an additional contribution under subsection (3)(b) or (c) of this section may recover from any person whose failure to contribute under subsection (3)(a) or (b) of this section necessitated the additional contribution. A person may not recover under this subsection more than the amount additionally contributed. A person's liability under this subsection may not exceed the amount the person failed to contribute.

(5) The estate of a deceased individual is liable for the person's obligations under this section.

(6) An assignee for the benefit of creditors of a limited partnership or a partner, or a person appointed by a court to represent creditors of a limited partnership or a partner, may enforce a person's obligation to contribute under subsection (3) of this section.

PART 9
FOREIGN LIMITED PARTNERSHIPS

53-2-901. GOVERNING LAW. (1) The laws of the state or other jurisdiction under which a foreign limited partnership is organized govern relations among the partners of the foreign limited partnership and
between the partners and the foreign limited partnership and the liability of partners as partners for an obligation of the foreign limited partnership.

(2) A foreign limited partnership may not be denied a certificate of authority by reason of any difference between the laws of the jurisdiction under which the foreign limited partnership is organized and the laws of this state.

(3) A certificate of authority does not authorize a foreign limited partnership to engage in any business or exercise any power that a limited partnership may not engage in or exercise in this state.

53-2-902. APPLICATION FOR CERTIFICATE OF AUTHORITY. (1) A foreign limited partnership may apply for a certificate of authority to transact business in this state by delivering an application to the secretary of state for filing. The application must state:

(a) The name of the foreign limited partnership and, if the name does not comply with section 53-2-108, Idaho Code, an alternate name adopted pursuant to section 53-2-905(1), Idaho Code;
(b) The name of the state or other jurisdiction under whose law the foreign limited partnership is organized;
(c) The street and mailing address of the foreign limited partnership's principal office and, if the laws of the jurisdiction under which the foreign limited partnership is organized require the foreign limited partnership to maintain an office in that jurisdiction, the street and mailing address of the required office;
(d) The name and street and mailing address of the foreign limited partnership's initial agent for service of process in this state;
(e) The name and street and mailing address of each of the foreign limited partnership's general partners; and
(f) Whether the foreign limited partnership is a foreign limited liability limited partnership.

(2) A foreign limited partnership shall deliver with the completed application a certificate of existence or a record of similar import signed by the secretary of state or other official having custody of the foreign limited partnership's publicly filed records in the state or other jurisdiction under whose law the foreign limited partnership is organized.

53-2-903. ACTIVITIES NOT CONSTITUTING TRANSACTING BUSINESS. (1) Activities of a foreign limited partnership which do not constitute transacting business in this state within the meaning of this part 9 include:

(a) Maintaining, defending, and settling an action or proceeding;
(b) Holding meetings of its partners or carrying on any other activity concerning its internal affairs;
(c) Maintaining accounts in financial institutions;
(d) Maintaining offices or agencies for the transfer, exchange, and registration of the foreign limited partnership's own securities or maintaining trustees or depositories with respect to those securities;
(e) Selling through independent contractors;
(f) Soliciting or obtaining orders, whether by mail or electronic means or through employees or agents or otherwise, if the orders require acceptance outside this state before they become contracts;
(g) Creating or acquiring indebtedness, mortgages, or security interests in real or personal property;
(h) Securing or collecting debts or enforcing mortgages or other security interests in property securing the debts, and holding, protecting, and maintaining property so acquired;
(i) Conducting an isolated transaction that is completed within thirty (30) days and is not one in the course of similar transactions of a like manner; and
(j) Transacting business in interstate commerce.

(2) For purposes of this part 9, the ownership in this state of income-producing real property or tangible personal property, other than property excluded under subsection (1) of this section, constitutes transacting business in this state.

(3) This section does not apply in determining the contacts or activities that may subject a foreign limited partnership to service of process, taxation, or regulation under any other law of this state.

53-2-904. FILING OF CERTIFICATE OF AUTHORITY. Unless the secretary of state determines that an application for a certificate of authority does not comply with the filing requirements of this chapter, the secretary of state, upon payment of all filing fees, shall file the application, prepare, sign and file a certificate of authority to transact business in this state, and send a copy of the filed certificate, together with a receipt for the fees, to the foreign limited partnership or its representative.

53-2-905. NONCOMPLYING NAME OF FOREIGN LIMITED PARTNERSHIP. (1) A foreign limited partnership whose name does not comply with section 53-2-108, Idaho Code, may not obtain a certificate of authority until it adopts, for the purpose of transacting business in this state, an alternate name that complies with section 53-2-108, Idaho Code. After obtaining a certificate of authority with an alternate name, a foreign limited partnership shall transact business in this state under the name.

(2) If a foreign limited partnership authorized to transact business in this state changes its name to one that does not comply with section 53-2-108, Idaho Code, it may not thereafter transact business in this state until it complies with subsection (1) of this section and obtains an amended certificate of authority.

53-2-906. REVOCATION OF CERTIFICATE OF AUTHORITY. (1) A certificate of authority of a foreign limited partnership to transact business in this state may be revoked by the secretary of state in the manner provided in subsections (2) and (3) of this section if the foreign limited partnership does not:
   (a) Pay, within sixty (60) days after the due date, any fee, tax or penalty due to the secretary of state under this chapter or other law;
   (b) Deliver, within sixty (60) days after the due date, its annual report required under section 53-2-210, Idaho Code;
   (c) Appoint and maintain an agent for service of process as required by section 53-2-114(2), Idaho Code; or
   (d) Deliver for filing a statement of a change under section 53-2-115, Idaho Code, within thirty (30) days after a change has occurred in the name or address of the agent.
(2) In order to revoke a certificate of authority, the secretary of state must prepare, sign, and file a notice of revocation and send a copy to the foreign limited partnership's agent for service of process in this state, or if the foreign limited partnership does not appoint and maintain a proper agent in this state, to the foreign limited partnership's designated office. The notice must state:

(a) The revocation's effective date, which must be at least sixty (60) days after the date the secretary of state sends the copy; and
(b) The foreign limited partnership's failures to comply with subsection (1) of this section which are the reason for the revocation.

(3) The authority of the foreign limited partnership to transact business in this state ceases on the effective date of the notice of revocation unless before that date the foreign limited partnership cures each failure to comply with subsection (1) of this section stated in the notice. If the foreign limited partnership cures the failures, the secretary of state shall so indicate on the filed notice.

53-2-907. CANCELLATION OF CERTIFICATE OF AUTHORITY -- EFFECT OF FAILURE TO HAVE CERTIFICATE. (1) In order to cancel its certificate of authority to transact business in this state, a foreign limited partnership must deliver to the secretary of state for filing a notice of cancellation. The certificate is canceled when the notice becomes effective under section 53-2-206, Idaho Code.

(2) A foreign limited partnership transacting business in this state may not maintain an action or proceeding in this state unless it has a certificate of authority to transact business in this state.

(3) The failure of a foreign limited partnership to have a certificate of authority to transact business in this state does not impair the validity of a contract or act of the foreign limited partnership or prevent the foreign limited partnership from defending an action or proceeding in this state.

(4) A partner of a foreign limited partnership is not liable for the obligations of the foreign limited partnership solely by reason of the foreign limited partnership's having transacted business in this state without a certificate of authority.

(5) If a foreign limited partnership transacts business in this state without a certificate of authority or cancels its certificate of authority, it appoints the secretary of state as its agent for service of process for rights of action arising out of the transaction of business in this state.

53-2-908. ACTION BY ATTORNEY GENERAL. The attorney general may maintain an action to restrain a foreign limited partnership from transacting business in this state in violation of this part 9.

PART 10
ACTIONS BY PARTNERS

53-2-1001. DIRECT ACTION BY PARTNER. (1) Subject to subsection (2) of this section, a partner may maintain a direct action against the limited partnership or another partner for legal or equitable relief, with or without an accounting as to the partnership's activities, to enforce the rights and otherwise protect the interests of the partner, including rights and interests under the partnership agreement or this chapter or
arising independently of the partnership relationship.

(2) A partner commencing a direct action under this section is required to plead and prove an actual or threatened injury that is not solely the result of an injury suffered or threatened to be suffered by the limited partnership.

(3) The accrual of, and any time limitation on, a right of action for a remedy under this section is governed by other law. A right to an accounting upon a dissolution and winding up does not revive a claim barred by law.

53-2-1002. DERIVATIVE ACTION. A partner may maintain a derivative action to enforce a right of a limited partnership if:

(1) The partner first makes a demand on the general partners, requesting that they cause the limited partnership to bring an action to enforce the right, and the general partners do not bring the action within a reasonable time; or

(2) A demand would be futile.

53-2-1003. PROPER PLAINTIFF. A derivative action may be maintained only by a person that is a partner at the time the action is commenced and:

(1) That was a partner when the conduct giving rise to the action occurred; or

(2) Whose status as a partner devolved upon the person by operation of law or pursuant to the terms of the partnership agreement from a person that was a partner at the time of the conduct.

53-2-1004. PLEADING. In a derivative action, the complaint must state with particularity:

(1) The date and content of plaintiff's demand and the general partners' response to the demand; or

(2) Why demand should be excused as futile.

53-2-1005. PROCEEDS AND EXPENSES. (1) Except as otherwise provided in subsection (2) of this section:

(a) Any proceeds or other benefits of a derivative action, whether by judgment, compromise, or settlement, belong to the limited partnership and not to the derivative plaintiff;

(b) If the derivative plaintiff receives any proceeds, the derivative plaintiff shall immediately remit them to the limited partnership.

(2) If a derivative action is successful in whole or in part, the court may award the plaintiff reasonable expenses, including reasonable attorney's fees, from the recovery of the limited partnership.

PART 11
CONVERSION AND MERGER

53-2-1101. DEFINITIONS. In this part 11:

(1) "Constituent limited partnership" means a constituent organization that is a limited partnership.

(2) "Constituent organization" means an organization that is party to a merger.

(3) "Converted organization" means the organization into which a
converting organization converts pursuant to sections 53-2-1102 through 53-2-1105, Idaho Code.

(4) "Converting limited partnership" means a converting organization that is a limited partnership.

(5) "Converting organization" means an organization that converts into another organization pursuant to section 53-2-1102, Idaho Code.

(6) "General partner" means a general partner of a limited partnership.

(7) "Governing statute" of an organization means the statute that governs the organization's internal affairs.

(8) "Organization" means a general partnership, including a limited liability partnership; limited partnership, including a limited liability limited partnership; limited liability company; business trust; corporation; or any other person having a governing statute. The term includes domestic and foreign organizations whether or not organized for profit.

(9) "Organizational documents" means:
(a) For a domestic or foreign general partnership, its partnership agreement;
(b) For a limited partnership or foreign limited partnership, its certificate of limited partnership and partnership agreement;
(c) For a domestic or foreign limited liability company, its articles of organization and operating agreement, or comparable records as provided in its governing statute;
(d) For a business trust, its agreement of trust and declaration of trust;
(e) For a domestic or foreign corporation for profit, its articles of incorporation, bylaws, and other agreements among its shareholders which are authorized by its governing statute, or comparable records as provided in its governing statute; and
(f) For any other organization, the basic records that create the organization and determine its internal governance and the relations among the persons that own it, have an interest in it, or are members of it.

(10) "Personal liability" means personal liability for a debt, liability, or other obligation of an organization which is imposed on a person that co-owns, has an interest in, or is a member of the organization:
(a) By the organization's governing statute solely by reason of the person co-owning, having an interest in, or being a member of the organization; or
(b) By the organization's organizational documents under a provision of the organization's governing statute authorizing those documents to make one (1) or more specified persons liable for all or specified debts, liabilities, and other obligations of the organization solely by reason of the person or persons co-owning, having an interest in, or being a member of the organization.

(11) "Surviving organization" means an organization into which one (1) or more other organizations are merged. A surviving organization may preexist the merger or be created by the merger.

53-2-1102. CONVERSION. (1) An organization other than a limited partnership may convert to a limited partnership, and a limited partnership may convert to another organization pursuant to this section and
sections 53-2-1103 through 53-2-1105, Idaho Code, and a plan of conversion, if:
   (a) The other organization's governing statute authorizes the conversion;
   (b) The conversion is not prohibited by the law of the jurisdiction that enacted the governing statute; and
   (c) The other organization complies with its governing statute in effecting the conversion.
(2) A plan of conversion must be in a record and must include:
   (a) The name and form of the organization before conversion;
   (b) The name and form of the organization after conversion; and
   (c) The terms and conditions of the conversion, including the manner and basis for converting interests in the converting organization into any combination of money, interests in the converted organization, and other consideration; and
   (d) The organizational documents of the converted organization.

53-2-1103. ACTION ON PLAN OF CONVERSION BY CONVERTING LIMITED PARTNERSHIP. (1) Subject to section 53-2-1110, Idaho Code, a plan of conversion must be consented to by all the partners of a converting limited partnership.
   (2) Subject to section 53-2-1110, Idaho Code, and any contractual rights, after a conversion is approved, and at any time before a filing is made under section 53-2-1104, Idaho Code, a converting limited partnership may amend the plan or abandon the planned conversion:
   (a) As provided in the plan; and
   (b) Except as prohibited by the plan, by the same consent as was required to approve the plan.

53-2-1104. FILINGS REQUIRED FOR CONVERSION -- EFFECTIVE DATE. (1) After a plan of conversion is approved:
   (a) A converting limited partnership shall deliver to the secretary of state for filing articles of conversion, which must include:
      (i) A statement that the limited partnership has been converted into another organization;
      (ii) The name and form of the organization and the jurisdiction of its governing statute;
      (iii) The date the conversion is effective under the governing statute of the converted organization;
      (iv) A statement that the conversion was approved as required by this chapter;
      (v) A statement that the conversion was approved as required by the governing statute of the converted organization; and
      (vi) If the converted organization is a foreign organization not authorized to transact business in this state, the street and mailing address of an office which the secretary of state may use for the purposes of section 53-2-1105(3), Idaho Code; and
   (b) If the converting organization is not a converting limited partnership, the converting organization shall deliver to the secretary of state for filing a certificate of limited partnership, which must include, in addition to the information required by section 53-2-201, Idaho Code:
(i) A statement that the limited partnership was converted from another organization;
(ii) The name and form of the organization and the jurisdiction of its governing statute; and
(iii) A statement that the conversion was approved in a manner that complied with the organization's governing statute.

(2) A conversion becomes effective:
(a) If the converted organization is a limited partnership, when the certificate of limited partnership takes effect; and
(b) If the converted organization is not a limited partnership, as provided by the governing statute of the converted organization.

53-2-1105. EFFECT OF CONVERSION. (1) An organization that has been converted pursuant to this part 11 is for all purposes the same entity that existed before the conversion.

(2) When a conversion takes effect:
(a) All property owned by the converting organization remains vested in the converted organization;
(b) All debts, liabilities, and other obligations of the converting organization continue as obligations of the converted organization;
(c) An action or proceeding pending by or against the converting organization may be continued as if the conversion had not occurred;
(d) Except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of the converting organization remain vested in the converted organization;
(e) Except as otherwise provided in the plan of conversion, the terms and conditions of the plan of conversion take effect; and
(f) Except as otherwise agreed, the conversion does not dissolve a converting limited partnership for the purposes of part 8 of this chapter.

(3) A converted organization that is a foreign organization consents to the jurisdiction of the courts of this state to enforce any obligation owed by the converting limited partnership, if before the conversion the converting limited partnership was subject to suit in this state on the obligation. A converted organization that is a foreign organization and not authorized to transact business in this state appoints the secretary of state as its agent for service of process for purposes of enforcing an obligation under this subsection. Service on the secretary of state under this subsection (3) is made in the same manner and with the same consequences as in section 53-2-117(3) and (4), Idaho Code.

53-2-1106. MERGER. (1) A limited partnership may merge with one (1) or more other constituent organizations pursuant to this section and sections 53-2-1107 through 53-2-1109, Idaho Code, and a plan of merger, if:

(a) The governing statute of each of the other organizations authorizes the merger;
(b) The merger is not prohibited by the law of a jurisdiction that enacted any of those governing statutes; and
(c) Each of the other organizations complies with its governing statute in effecting the merger.

(2) A plan of merger must be in a record and must include:
(a) The name and form of each constituent organization;
(b) The name and form of the surviving organization and, if the surviving organization is to be created by the merger, a statement to that effect;
(c) The terms and conditions of the merger, including the manner and basis for converting the interests in each constituent organization into any combination of money, interests in the surviving organization, and other consideration;
(d) If the surviving organization is to be created by the merger, the surviving organization's organizational documents; and
(e) If the surviving organization is not to be created by the merger, any amendments to be made by the merger to the surviving organization's organizational documents.

53-2-1107. ACTION ON PLAN OF MERGER BY CONSTITUENT LIMITED PARTNERSHIP. (1) Subject to section 53-2-1110, Idaho Code, a plan of merger must be consented to by all the partners of a constituent limited partnership.
(2) Subject to section 53-2-1110, Idaho Code, and any contractual rights, after a merger is approved, and at any time before a filing is made under section 53-2-1108, Idaho Code, a constituent limited partnership may amend the plan or abandon the planned merger:
(a) As provided in the plan; and
(b) Except as prohibited by the plan, with the same consent as was required to approve the plan.

53-2-1108. FILINGS REQUIRED FOR MERGER -- EFFECTIVE DATE. (1) After each constituent organization has approved a merger, articles of merger must be signed on behalf of:
(a) Each preexisting constituent limited partnership, by each general partner listed in the certificate of limited partnership; and
(b) Each other preexisting constituent organization, by an authorized representative.
(2) The articles of merger must include:
(a) The name and form of each constituent organization and the jurisdiction of its governing statute;
(b) The name and form of the surviving organization, the jurisdiction of its governing statute, and, if the surviving organization is created by the merger, a statement to that effect;
(c) The date the merger is effective under the governing statute of the surviving organization;
(d) If the surviving organization is to be created by the merger:
   (i) If it will be a limited partnership, the limited partnership's certificate of limited partnership; or
   (ii) If it will be an organization other than a limited partnership, the organizational document that creates the organization;
(e) If the surviving organization preexists the merger, any amendments provided for in the plan of merger for the organizational document that created the organization;
(f) A statement as to each constituent organization that the merger was approved as required by the organization's governing statute;
(g) If the surviving organization is a foreign organization not authorized to transact business in this state, the street and mailing address of an office which the secretary of state may use for
the purposes of section 53-2-1109(2), Idaho Code; and
(h) Any additional information required by the governing statute of any constituent organization.
(3) Each constituent limited partnership shall deliver the articles of merger for filing in the office of the secretary of state.
(4) A merger becomes effective under this part 11:
(a) If the surviving organization is a limited partnership, upon the later of:
   (i) Compliance with subsection (3) of this section; or
   (ii) Subject to section 53-2-206(3), Idaho Code, as specified in the articles of merger; or
(b) If the surviving organization is not a limited partnership, as provided by the governing statute of the surviving organization.

53-2-1109. EFFECT OF MERGER. (1) When a merger becomes effective:
(a) The surviving organization continues or comes into existence;
(b) Each constituent organization that merges into the surviving organization ceases to exist as a separate entity;
(c) All property owned by each constituent organization that ceases to exist vests in the surviving organization;
(d) All debts, liabilities, and other obligations of each constituent organization that ceases to exist continue as obligations of the surviving organization;
(e) An action or proceeding pending by or against any constituent organization that ceases to exist may be continued as if the merger had not occurred;
(f) Except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of each constituent organization that ceases to exist vest in the surviving organization;
(g) Except as otherwise provided in the plan of merger, the terms and conditions of the plan of merger take effect; and
(h) Except as otherwise agreed, if a constituent limited partnership ceases to exist, the merger does not dissolve the limited partnership for the purposes of part 8 of this chapter;
(i) If the surviving organization is created by the merger:
   (i) If it is a limited partnership, the certificate of limited partnership becomes effective; or
   (ii) If it is an organization other than a limited partnership, the organizational document that creates the organization becomes effective; and
(j) If the surviving organization preexists the merger, any amendments provided for in the articles of merger for the organizational document that created the organization become effective.
(2) A surviving organization that is a foreign organization consents to the jurisdiction of the courts of this state to enforce any obligation owed by a constituent organization, if before the merger the constituent organization was subject to suit in this state on the obligation. A surviving organization that is a foreign organization and not authorized to transact business in this state appoints the secretary of state as its agent for service of process for the purposes of enforcing an obligation under this subsection. Service on the secretary of state under this subsection is made in the same manner and with the same consequences as in section 53-2-117(3) and (4), Idaho Code.
53-2-1110. RESTRICTIONS ON APPROVAL OF CONVERSIONS AND MERGERS AND ON RELINQUISHING LLLP STATUS. (1) If a partner of a converting or constituent limited partnership will have personal liability with respect to a converted or surviving organization, approval and amendment of a plan of conversion or merger are ineffective without the consent of the partner, unless:
   (a) The limited partnership's partnership agreement provides for the approval of the conversion or merger with the consent of fewer than all the partners; and
   (b) The partner has consented to the provision of the partnership agreement.
(2) An amendment to a certificate of limited partnership which deletes a statement that the limited partnership is a limited liability limited partnership is ineffective without the consent of each general partner unless:
   (a) The limited partnership's partnership agreement provides for the amendment with the consent of less than all the general partners; and
   (b) Each general partner that does not consent to the amendment has consented to the provision of the partnership agreement.
(3) A partner does not give the consent required by subsection (1) or (2) of this section merely by consenting to a provision of the partnership agreement which permits the partnership agreement to be amended with the consent of fewer than all the partners.

53-2-1111. LIABILITY OF GENERAL PARTNER AFTER CONVERSION OR MERGER. (1) A conversion or merger under this part 11 does not discharge any liability under sections 53-2-404 and 53-2-607, Idaho Code, of a person that was a general partner in or dissociated as a general partner from a converting or constituent limited partnership, but:
   (a) The provisions of this chapter pertaining to the collection or discharge of the liability continue to apply to the liability;
   (b) For the purposes of applying those provisions, the converted or surviving organization is deemed to be the converting or constituent limited partnership; and
   (c) If a person is required to pay any amount under this subsection:
      (i) The person has a right of contribution from each other person that was liable as a general partner under section 53-2-404, Idaho Code, when the obligation was incurred and has not been released from the obligation under section 53-2-607, Idaho Code; and
      (ii) The contribution due from each of those persons is in proportion to the right to receive distributions in the capacity of general partner in effect for each of those persons when the obligation was incurred.
(2) In addition to any other liability provided by law: (a) A person that immediately before a conversion or merger became effective was a general partner in a converting or constituent limited partnership that was not a limited liability limited partnership is personally liable for each obligation of the converted or surviving organization arising from a transaction with a third party after the conversion or merger becomes effective, if, at the time the third party enters into the transaction, the third party:
(i) Does not have notice of the conversion or merger; and
(ii) Reasonably believes that:
   (A) The converted or surviving business is the converting
       or constituent limited partnership;
   (B) The converting or constituent limited partnership is
       not a limited liability limited partnership; and
   (C) The person is a general partner in the converting or
       constituent limited partnership; and
(b) A person that was dissociated as a general partner from a con­
   verting or constituent limited partnership before the conversion or
   merger became effective is personally liable for each obligation of
   the converted or surviving organization arising from a transaction
   with a third party after the conversion or merger becomes effective,
   if:
   (i) Immediately before the conversion or merger became effec­
       tive the converting or surviving limited partnership was not a
       limited liability limited partnership; and
   (ii) At the time the third party enters into the transaction
       less than two (2) years have passed since the person
       dissociated as a general partner and the third party:
       (A) Does not have notice of the dissociation;
       (B) Does not have notice of the conversion or merger; and
       (C) Reasonably believes that the converted or surviving
           organization is the converting or constituent limited
           partnership, the converting or constituent limited part­
           nership is not a limited liability limited partnership,
           and the person is a general partner in the converting or
           constituent limited partnership.

53-2-1112. POWER OF GENERAL PARTNERS AND PERSONS DISSOCIATED AS
GENERAL PARTNERS TO BIND ORGANIZATION AFTER CONVERSION OR MERGER. (1) An
act of a person that immediately before a conversion or merger became
effective was a general partner in a converting or constituent limited
partnership binds the converted or surviving organization after the con­
version or merger becomes effective, if:
(a) Before the conversion or merger became effective, the act would
have bound the converting or constituent limited partnership under
section 53-2-402, Idaho Code; and
(b) At the time the third party enters into the transaction, the
third party:
   (i) Does not have notice of the conversion or merger; and
   (ii) Reasonably believes that the converted or surviving busi­
       ness is the converting or constituent limited partnership and
       that the person is a general partner in the converting or con­
       stituent limited partnership.
(2) An act of a person that before a conversion or merger became
effective was dissociated as a general partner from a converting or con­
stituent limited partnership binds the converted or surviving organiza­
tion after the conversion or merger becomes effective, if:
(a) Before the conversion or merger became effective, the act would
have bound the converting or constituent limited partnership under
section 53-2-402, Idaho Code, if the person had been a general part­
er; and
(b) At the time the third party enters into the transaction, less than two (2) years have passed since the person dissociated as a general partner and the third party:

(i) Does not have notice of the dissociation;
(ii) Does not have notice of the conversion or merger; and
(iii) Reasonably believes that the converted or surviving organization is the converting or constituent limited partnership and that the person is a general partner in the converting or constituent limited partnership.

(3) If a person having knowledge of the conversion or merger causes a converted or surviving organization to incur an obligation under subsection (1) or (2) of this section, the person is liable:

(a) To the converted or surviving organization for any damage caused to the organization arising from the obligation; and
(b) If another person is liable for the obligation, to that other person for any damage caused to that other person arising from the liability.

53-2-1113. PART NOT EXCLUSIVE. This part 11 does not preclude an entity from being converted or merged under other law.

PART 12
MISCELLANEOUS PROVISIONS

53-2-1201. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

53-2-1202. SEVERABILITY CLAUSE. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

53-2-1203. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This chapter modifies, limits, or supersedes the federal electronic signatures in global and national commerce act, 15 U.S.C. section 7001 et seq., but this chapter does not modify, limit, or supersede section 101(c) of that act or authorize electronic delivery of any of the notices described in section 103(b) of that act.

53-2-1204. APPLICATION TO EXISTING RELATIONSHIPS. (1) This chapter governs only:

(a) A limited partnership formed on or after July 1, 2006; and
(b) Except as otherwise provided in subsections (3) and (4) of this section, a limited partnership formed before July 1, 2006, which elects, in the manner provided in its partnership agreement or by law for amending the partnership agreement, to be subject to this chapter.

(2) Except as otherwise provided in subsection (3) of this section, on and after July 1, 2006, this chapter governs all limited partnerships.
(3) With respect to a limited partnership formed before July 1, 2006, the following rules apply except as the partners otherwise elect in the manner provided in the partnership agreement or by law for amending the partnership agreement:

(a) Section 53-2-104(3), Idaho Code, does not apply and the limited partnership has whatever duration it had under the law applicable immediately before July 1, 2006.

(b) The limited partnership is not required to amend its certificate of limited partnership to comply with section 53-2-201(1)(d), Idaho Code.

(c) Sections 53-2-601 and 53-2-602, Idaho Code, do not apply and a limited partner has the same right and power to dissociate from the limited partnership, with the same consequences, as existed immediately before July 1, 2006.

(d) Section 53-2-603(4), Idaho Code, does not apply.

(e) Section 53-2-603(5), Idaho Code, does not apply and a court has the same power to expel a general partner as the court had immediately before July 1, 2006.

(f) Section 53-2-801(4) and (5), Idaho Code, does not apply and the connection between a person's dissociation as a general partner and the dissolution of the limited partnership is the same as existed immediately before July 1, 2006.

(4) With respect to a limited partnership that elects pursuant to subsection (1)(b) of this section to be subject to this chapter, after the election takes effect the provisions of this chapter relating to the liability of the limited partnership's general partners to third parties apply:

(a) Before July 1, 2006, to:
   (i) A third party that had not done business with the limited partnership in the year before the election took effect; and
   (ii) A third party that had done business with the limited partnership in the year before the election took effect only if the third party knows or has received a notification of the election; and

(b) On and after July 1, 2006, to all third parties, but those provisions remain inapplicable to any obligation incurred while those provisions were inapplicable under subsection (4)(a)(ii) of this section.

53-2-1205. SAVINGS CLAUSE. This act does not affect an action commenced, proceeding brought, or right accrued before this act takes effect.

SECTION 3. That Section 30-1-401, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-401. CORPORATE NAME. (1) A corporate name:
   (a) Must contain the word "corporation," "incorporated," "company," or "limited," or the abbreviation "corp.," "inc.," "co.," or "ltd.," or words or abbreviations of like import in another language; provided however, that if the word "company" or its abbreviation is used it shall not be immediately preceded by the word "and" or by an abbreviation of or symbol representing the word "and";
(b) May not contain language falsely stating or implying government affiliation or stating or implying that the corporation is organized for a purpose other than that permitted by section 30-1-301, Idaho Code, and its articles of incorporation.

(2) Except as authorized by subsections (3) and (4) of this section, a corporate name must be distinguishable upon the records of the secretary of state from:

(a) The corporate name of a corporation incorporated or authorized to transact business in this state;
(b) A name reserved or registered under section 30-1-402 or 30-1-403, Idaho Code, or reserved under section 53-203 or 53-2-109 or 53-603, Idaho Code;
(c) The fictitious name adopted by a foreign corporation authorized to transact business in this state because its real name is unavailable;
(d) The corporate name of a nonprofit corporation incorporated or authorized to transact business in this state;
(e) The name of any limited partnership, limited liability partnership or limited liability company which is organized under the laws of this state or registered to do business in this state.

(3) A corporation may apply to the secretary of state for authorization to use a name that is not distinguishable on his records from one or more of the names described in subsection (2) of this section. The secretary of state shall authorize use of the name applied for if:

(a) The other corporation, holder of a reserved or registered name, limited partnership, limited liability partnership or limited liability company consents to the use in writing and submits an undertaking in a form satisfactory to the secretary of state to change its name to a name that is distinguishable upon the records of the secretary of state from the name of the applying corporation; or
(b) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(4) A corporation may use the name, including the fictitious name, of another domestic or foreign corporation or limited liability company that is used in this state if the other corporation or limited liability company is organized or authorized to transact business in this state and the proposed user corporation:

(a) Has merged with the other corporation or limited liability company;
(b) Has been formed by reorganization of the other corporation or limited liability company; or
(c) Has acquired all or substantially all of the assets, including the name, of the other corporation or limited liability company.


(6) Nothing in this section shall abrogate or limit the law as to unfair competition or unfair practice in the use of trade names, nor derogate from the common law, the principles of equity, or the statutes of this state or of the United States with respect to the right to acquire and protect trade names.
(7) The assumption of a name in violation of this section shall not affect or vitiate the corporate existence, but the courts of this state, having equity jurisdiction, may, upon the application of the state, or of any person, unincorporated association, or corporation interested or affected, enjoin such corporation in violation from doing business under any name assumed in violation of this section.

SECTION 4. This act shall be in full force and effect on and after July 1, 2006.

Approved March 22, 2006.

CHAPTER 145
(S.B. No. 1258)

AN ACT
RELATING TO FISH AND GAME; AMENDING SECTION 36-401, IDAHO CODE, TO PROVIDE AN EXCEPTION FROM HUNTING, TRAPPING AND FISHING LICENSE REQUIREMENTS FOR RESIDENTS OF CERTAIN STATE LONG-TERM CARE FACILITIES.

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

SECTION 1. That Section 36-401, Idaho Code, be, and the same is hereby amended to read as follows:

36-401. HUNTING, TRAPPING, FISHING -- LICENSE REQUIREMENT -- EXCEPTIONS. No person shall hunt, trap, or fish for or take any wild animal, bird or fish of this state, without first having procured a license as hereinafter provided. Provided that no license shall be required:

(a) 1. For children under the age of fourteen (14) years who are residents of this state to fish during the open season therefor.
2. For nonresident children under the age of fourteen (14) years to fish during the open season therefor provided they are accompanied by the holder of a valid fishing license, and provided further that any fish caught by such nonresident children shall be included in the bag and possession limit of such license holder.
3. For resident children under the age of twelve (12) years to hunt, take or kill predatory, unprotected birds and animals by means other than with firearms.
4. For resident children under the age of fourteen (14) years to trap muskrats from irrigation ditches or property on which they live during the open season.
5. For children under the age of eighteen (18) years who are residents of a licensed foster home or a children's residential care facility to fish during the open season therefor, provided they are accompanied and supervised by the director, officer, or other employee of the facility where the child resides.

(b) For any person to fish on a "free fishing day" as may be designated by the commission.

(c) Institutional-inmates State Long-term Care Facility Residents.
For any inmate-of-the-state-hospital-north, state-hospital-south, Idaho
state-school-and-hospital- and-state-veterans-homes resident of a state long term-care facility to fish during open seasons, provided said inmate state long-term care facility has a permit therefor from the director. The director is authorized to issue such permits upon the request of the head of the respective institution state long-term care facility having custody of said inmate resident upon a showing that the institution state long-term care facility recommends the issuance of such permit and will assume full responsibility for and control over said inmate any resident while using said permit. For purposes of this subsection only, "state long-term care facility" shall mean the state hospital north, state hospital south, Idaho state school and hospital, and state veterans homes, and "resident" shall mean any individual residing and receiving treatment services at a state long-term care facility.

(d) State Juvenile Corrections Center Students. For students of the state juvenile corrections center, under the supervision of an officer of the center, to fish during the open season.

(e) Boy Scouts. For boy scouts who are official participants in attendance at national or international encampments at Farragut State Park to take fish during the encampment period from Lake Pend Oreille in such areas and such numbers as may be designated by the commission.

(f) Participants in Fish and Game Sponsored Functions. For persons who are official participants in attendance at official department sponsored functions including clinics, courses or other educational events, while under the supervision of a department approved instructor for the function, to fish during any open season, provided that the instructor has been issued an educational fishing permit by the director.

(g) Nothing contained herein shall be construed to prohibit citizens of the United States who are residents of the state of Idaho from carrying arms for the protection of life and property.

Approved March 22, 2006.

CHAPTER 146
(S.B. No. 1259)

AN ACT
RELATING TO WATER DISTRICTS; AMENDING SECTION 42-605, IDAHO CODE, TO REVISE NOTIFICATION PROVISIONS RELATING TO WATER DISTRICT MEETINGS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 42-605, Idaho Code, be, and the same is hereby amended to read as follows:

42-605. DISTRICT MEETINGS -- WATERMASTER AND ASSISTANTS -- ELECTION -- REMOVAL -- OATH AND BOND -- ADVISORY COMMITTEE. (1) There shall be held on the first Monday in March in each year, and, except as provided in subsection (2) of this section, commencing at two o'clock P.M., a meeting of all persons owning or having the use of a water right, in the waters of the stream or water supply comprising such district, which
right has been adjudicated or decreed by the court or is represented by valid permit or license issued by the department of water resources.

(2) Such meeting shall be held at some place within the water district, or at some nearby location convenient to a majority of those entitled to vote thereat, which place shall be designated by the director of the department of water resources. The director shall, between January first and February first of each year, notify at least twenty-one (21) days prior to the meeting date, send notification by regular mail to all persons, companies or corporations known by the director to hold rights to the use of the waters of such district, which right has been adjudicated or decreed by the court or is represented by valid permit or license issued by the department of water resources, of the time, date, location and purpose of the annual meeting. At any annual meeting the water users may vote to waive the requirement for notice by mail and provide for notice to be given for future meetings by publication of the time, date, location and purpose of the meeting in a newspaper or newspapers in general circulation in the district. Published notice shall be made once per week for two (2) consecutive weeks with the second notice appearing at least thirty fourteen (3014) and not more than sixty thirty (630) days prior to the meeting. In water districts whose area includes land in more than four (4) counties the annual meeting shall commence at ten o'clock A.M. instead of two o'clock P.M.: provided, that the water users of any water district may, by resolution adopted at an annual meeting or at a special meeting properly called for that purpose, change the time of day when the meeting shall commence or change the date for annual meetings in subsequent years to any day except Saturday and Sunday between the second Monday of January and the third Monday in March or change both the time and the date, in which case the director of the department of water resources shall send notification at least thirty twenty-one (3021) days prior to said meeting date. At an annual meeting the water users may adopt resolutions to assure or improve the distribution of the waters of the district within state law, and may provide that such resolutions shall continue from year to year.

(3) At the meeting of the water users of a district there shall be elected a watermaster for such water district, who may be authorized to employ such other regular assistants as the water users shall deem necessary, and who, upon appointment by the director of the department of water resources, shall be responsible for distribution of water within said water district, and the water users shall, prior to the election of such watermaster and approval of the employment of assistants, fix the compensation to be paid them during the time actually engaged in the performance of their duties.

(4) Voting shall be by majority vote of the water users present at the meeting unless one (1) or more water users requests voting using the procedure which follows in this subsection. In such case the meeting chairman shall appoint a credentials committee to determine the number of votes each water user present is authorized to cast. If requested, each person present, owning or having the use for the ensuing season of any water right in the stream or water supply comprising such water district, which right has been adjudicated or decreed by the court or is represented by valid permit or license issued by the department of water resources, shall be entitled to a number of votes equal to the average annual dollar amount and any fraction thereof assessed for that person's qualifying water right for the previous five (5) years, or such lesser
number of years as the right has been assessed. If a right has not previously been assessed, a person present, owning or having the use of the right for the ensuing season shall be entitled to a number of votes equal to the dollar amount and any fraction thereof which the right would have been assessed had it existed and been reasonably used when water was available under the priority of the right during the previous season.

(5) At such meeting the water users shall choose a meeting chairman and meeting secretary and shall determine the manner and method of electing the watermaster. The water users shall, at the annual meeting, provide for the water district treasurer functions in accordance with section 42-619, Idaho Code. Within five (5) days after such meeting the meeting chairman and meeting secretary shall forward a certified copy of the minutes of such meeting to the department of water resources. The meeting chairman, or the meeting secretary, if the meeting chairman is not present, from the immediately preceding annual meeting shall call the meeting to order and preside over the election of officers for the meeting.

(6) At such meeting the water users may choose an advisory committee to be composed of members selected as may be determined at the meeting, which committee shall serve as advisors to the director and the watermaster in matters pertaining to the distribution of water within the district. The advisory committee may be authorized to carry out policies as set forth in resolutions duly adopted by the water users at the annual meeting or at a special meeting. The advisory committee may also serve as the local committee to facilitate the rental of stored water if appointed by the water resource board for such purpose under the provisions of section 42-1765, Idaho Code.

(7) A corporation or a water delivery organization, including, but not limited to a corporation, a water company, an irrigation district, an irrigation company or a canal company, shall be considered a person for the purpose of this section and shall cast its vote by someone to be designated by the corporation.

(8) Should said meeting not be held, or should said watermaster not be elected or the watermaster's compensation not be fixed as above provided, then the director of the department of water resources is authorized to appoint a watermaster and fix the watermaster's compensation.

(9) The director of the department of water resources may remove any watermaster whenever such watermaster fails to perform the watermaster's duty, upon complaint in that respect being made to the director in writing, by one (1) person owning or having the right to the use of a water right in such district, which right has been adjudicated or decreed by the court or is represented by valid permit or license issued by the department of water resources provided, that upon investigation the director, after a hearing with the other water users of said district, which shall be held in the district or at some location convenient to the water users of the district, finds such charge to be true, and the director may appoint a successor for the unexpired term.

(10) Before entering upon the duties of the watermaster's office, said watermaster shall take and subscribe an oath before some officer authorized by the laws of the state to administer oaths, to faithfully perform the duties of the watermaster's office, as provided in section 42-607, Idaho Code, and shall file that oath with the department of water resources. Upon appointment by the director of the department of
water resources, the actions taken by a watermaster in fulfillment of
the duties of his office are covered by the state group surety bond as
provided by sections 59-801 through 59-804, Idaho Code.

(11) The director shall call a special meeting of the water users
of a district upon receipt of a written request for such meeting from a
majority of the members of the advisory committee for a district, a
written request from water users representing thirty percent (30\%) or more of the votes cast at the last regular annual meeting, a
written request from the watermaster or on the director's own motion if
the director determines a meeting is necessary to address matters that
cannot be delayed until the next regular annual meeting. Notice of the
time, place and purpose of the special meeting shall be given by the
director in the manner provided in section 42-605(2), Idaho Code subsec-
tion (2) of this section, provided however, that a special meeting
notice shall be sent at least fourteen (14) days prior to the meeting
date.

(12) The water users may, by resolution, authorize the watermaster
to acquire, hold and dispose of such real and personal property, equip­
ment and facilities in the name of the water district as necessary for
the proper distribution of water and shall provide that all such real
and personal property shall remain in the custody of the watermaster and
the watermaster's successor.

Approved March 22, 2006.

CHAPTER 147
(S.B. No. 1260)

AN ACT
RELATING TO HORSE RACING; AMENDING SECTION 54-2502, IDAHO CODE, TO
DEFINE "PARI-MUTUEL" AND "SIMULCAST" AND TO REVISE THE DEFINITION OF
"HORSEMEN'S GROUP."

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

SECTION 1. That Section 54-2502, Idaho Code, be, and the same is
hereby amended to read as follows:

54-2502. DEFINITIONS. Unless the context otherwise requires, words
and phrases as used herein shall mean:
(1) "Commission" means the Idaho state racing commission, hereinaf­
fter created.
(2) "Gross daily receipts" means the total of all sums deposited in
all pools for each race day.
(3) "Horsemen's group" means an organization composed of licensed
owners, breeders, and/or trainers duly registered with the secretary of
state and recognized by the Idaho racing commission, as the majority of
the horsemen at the track.
(4) "Host facility" means the racetrack at which the race is run,
or the facility which is designated as the host facility if the race is
run in a jurisdiction which is not participating in the interstate com­
bined wagering pool.
(5) "Host jurisdiction" means the jurisdiction in which the host facility is located.

(6) "Interstate common wagering pool" means a pari-mutuel pool established in one (1) jurisdiction which is combined with comparable pari-mutuel pools from one (1) or more racing jurisdictions. Such pool is established for the purpose of establishing pay-off prices in the various jurisdictions.

(7) "Pari-mutuel" means any system whereby wagers with respect to the outcome of a race are placed with, or in, a wagering pool conducted by a person licensed or otherwise permitted to do so under state law, and in which the participants are wagering with each other and not against the operator.

(8) "Persons" means and includes individuals, firms, corporations and associations.

(10) "Pool" means the total sum of all moneys wagered in each race for each type of bet. Types of bets include win, place, show, quinella, daily double, exacta, trifecta, etc., and such other types as are approved by the commission from time to time.

(11) "Race meet" means and includes any exhibition of thoroughbred, purebred, and/or registered horse racing, mule racing or dog racing, where the pari-mutuel system of wagering is used. Singular includes the plural and plural includes the singular; and words importing one gender shall be regarded as including all other genders.

(12) "Racing jurisdiction" or "jurisdiction" means a governmental jurisdiction responsible for the regulation of pari-mutuel racing in that jurisdiction.

(13) "Simulcast" means the telecast or other transmission of live audio and visual signals of a race, transmitted from a sending track to a receiving location, for the purpose of wagering conducted on the race at the receiving location.

Approved March 22, 2006.

CHAPTER 148
(S.B. No. 1268)

AN ACT
RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1352, IDAHO CODE, TO REVISE ELIGIBILITY PROVISIONS FOR DISABILITY RETIREMENT.

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

SECTION 1. That Section 59-1352, Idaho Code, be, and the same is hereby amended to read as follows:

59-1352. ELIGIBILITY FOR DISABILITY RETIREMENT. (1) An active member is eligible for disability retirement if the member becomes disabled after at least five (5) years of membership service.

(2) A police officer member, general member, or a paid firefighter hired on or after July 1, 1993, who is not eligible for service retirement is eligible for disability retirement if the member becomes dis-
abled, as provided in section 59-1302(12), Idaho Code, on or after the
first day of employment as a result of bodily injury or disease from an
occupational cause.

(3) Only active members, and inactive members whose last day physically
on the job as an active member was less than one (1) year prior to
application, are eligible to apply for disability retirement.

Approved March 22, 2006.

CHAPTER 149
(S.B. No. 1269)

AN ACT
RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; REPEALING SECTION
59-1335, IDAHO CODE, RELATING TO ACCUMULATED VOLUNTARY CONTRIBUTIONS; AND PROVIDING FOR THE DISTRIBUTION OF FUNDS.

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

SECTION 1. That Section 59-1335, Idaho Code, be, and the same is
hereby repealed.

SECTION 2. Any existing funds contributed under Section 59-1335,
Idaho Code, before July 1, 2006, shall be refunded in a lump-sum payment
to the contributing member.

Approved March 22, 2006.

CHAPTER 150
(S.B. No. 1270)

AN ACT
RELATING TO UNUSED SICK LEAVE FUNDS ADMINISTERED BY THE PUBLIC EMPLOYEE
RETIREMENT SYSTEM; AMENDING SECTION 33-1228, IDAHO CODE, TO REVISE
PROVISIONS APPLICABLE TO THE SEVERANCE ALLOWANCE AT RETIREMENT; AND AMENDING SECTION 67-5339, IDAHO CODE, TO CLARIFY THAT AMOUNTS SHALL
BE DETERMINED BY THE RETIREMENT BOARD, TO PROVIDE THAT AMOUNTS SHALL
BE USED TO PAY PREMIUMS SUBJECT TO APPLICABLE FEDERAL TAX LIMITS FOR
CERTAIN INSURANCE PROGRAMS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 33-1228, Idaho Code, be, and the same is
hereby amended to read as follows:

33-1228. SEVERANCE ALLOWANCE AT RETIREMENT. (1) Upon separation
from public school employment by retirement in accordance with chapter
13, title 59, Idaho Code, an employee's unused sick leave shall be
determined based on accumulated sick leave earned subsequent to July 1,
1976, as provided by section 33-1218, Idaho Code, and shall be reported
by the employer to the Idaho public employee retirement system. A sum
equal to one-half (1/2) of the monetary value of such unused sick leave,
calculated at the rate of pay for such employee at the time of retire­
ment, as determined by the retirement board, shall be transferred from
the sick leave account provided by subsection (2) of this section and
shall be credited to such employee's retirement account. Such sums shall
be used by the Idaho public employees retirement board to continue to
pay, subject to applicable federal tax limits:
(a) Premiums for the retiree and the retiree's dependents at the
rate for the active employee's group health, accident long-term
care, vision, prescription drug and dental insurance programs as
maintained by the employer for the active employees until the
retiree and/or the retiree's spouse becomes eligible for medicare at
which time the district shall make available a supplemental program
to medicare for the eligible individual. Upon the death of the
retiree the surviving spouse's health coverage shall be available
and continued under the same terms and conditions as the retiree.
Coverage may be continued for the retiree's surviving dependent
spouse and dependents until remarriage of the spouse or until the
retiree's surviving dependent spouse is eligible for a group health
program by an employer. The medicare supplement program will provide
the same premium and benefits for all retirees of all the employers
served by the same insurance carrier. However, a school district may
make available to all retirees from that district other benefits in
addition to the medicare supplement program and the retiree or the
district shall pay for such additional benefits.
(b) Premiums at the time of retirement for the retiree for the life
insurance program maintained by the employer which may be reduced to
a minimum of five thousand dollars ($5,000) of coverage.
(2) The retiree may continue to pay the premiums for the health,
accident, dental and life insurance to the extent of the funds credited
to the employee's account pursuant to this section and when these funds
are expended the premiums may be deducted from the retiree's allowance.
Upon a retiree's death, any unexpended sums remaining in the retiree's
account shall revert to the sick leave account. If funds are not avail-
able for payment by the Idaho public employee retirement system from the
retiree's surviving dependent spouse's allowance, the insurance carrier
shall implement a direct billing procedure to permit the retiree's sur-
viving spouse to continue coverage.
(3) Each employer shall contribute to a sick leave account main-
tained by the public employee retirement system exclusively for the pur-
pose of the provisions of this section. The rate of such contribution
each pay period shall consist of a percentage of employees' salaries as
determined by the board, and such rate shall remain in effect until next
determined by the board. Any excess balance in the sick leave account
shall be invested, and the earnings therefrom shall accrue to the sick
leave account except the amount required by the board to defray adminis-
trative expenses. All moneys payable to the sick leave account are
hereby perpetually appropriated to the board, and shall not be included
in its departmental budget.
(4) For purposes of this section public school employment shall be
defined to permit inclusion of employees of organizations funded by
school districts or of contributions of employees of school districts.

SECTION 2. That Section 67-5339, Idaho Code, be, and the same is
hereby amended to read as follows:
67-5339. USE OF UNUSED SICK LEAVE. (1) Upon separation from state employment by retirement in accordance with chapter 13, title 59 or chapter 1, title 33, Idaho Code, an employee's unused sick leave shall be determined based on accumulated sick leave earned subsequent to July 1, 1976, and shall be reported by the employer to the public employee retirement system. Upon separation from state employment by retirement in accordance with chapter 20, title 1, Idaho Code, an employee's unused sick leave shall be determined based on accumulated sick leave earned subsequent to July 1, 2000, and shall be reported by the employer to the public employee retirement system. A sum equal to one-half (1/2), or the maximum amount allowed by subsection (2) of this section, whichever is the lesser, of the monetary value of such unused sick leave, calculated at the rate of pay for such employee at the time of retirement, as determined by the retirement board, shall be transferred from the sick leave account provided by subsection (3) of this section and shall be credited to such employee's retirement account. Such sums shall be used by the Idaho public employee retirement board to pay premiums, subject to applicable federal tax limits, for such group health, accident, dental, vision, long-term care, prescription drug and life insurance programs as may be maintained by the state, to the extent of the funds credited to the employee's account pursuant to this section. Upon an employee's death, any unexpended sums remaining in the account shall revert to the sick leave account.

(2) For the purposes of determining the monetary value of unused sick leave, the maximum unused sick leave which may be considered, shall be:

(a) During the first ten thousand four hundred (10,400) hours of credited state service, the maximum unused sick leave which may be considered shall be four hundred twenty (420) hours;
(b) During the second ten thousand four hundred (10,400) hours of credited state service, the maximum unused sick leave which may be considered shall be four hundred eighty (480) hours;
(c) During the third ten thousand four hundred (10,400) hours of credited state service, the maximum unused sick leave which may be considered shall be five hundred forty (540) hours; and
(d) Thereafter, the maximum unused sick leave which may be considered shall be six hundred (600) hours.

(3) Each employer in state government shall contribute to a sick leave account maintained by the public employee retirement system exclusively for the purpose of the provisions of this section. The rates of such contribution each pay period shall consist of a percentage of employees' salaries as determined by the board, and such rates shall remain in effect until next determined by the board. Any excess balance in the sick leave account shall be invested, and the earnings therefrom shall accrue to the sick leave account except the amount required by the board to defray administrative expenses. All moneys payable to the sick leave account are hereby perpetually appropriated to the board, and shall not be included in its departmental budget. The state insurance fund and public health districts shall be considered employers in state government for purposes of participation under this section.

Approved March 22, 2006.
CHAPTER 151
(S.B. No. 1271)

AN ACT
RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1356, IDAHO CODE, TO REVISE TERMINOLOGY AND TO CLARIFY THAT SUSPENDED BENEFITS ARE CONSIDERED RETIREE BENEFITS IN THE EVENT A DEATH BENEFIT BECOMES PAYABLE.

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

SECTION 1. That Section 59-1356, Idaho Code, be, and the same is hereby amended to read as follows:

59-1356. REEMPLOYMENT OF RETIRED MEMBERS. (1) If an early retired member is reemployed with the same employer within ninety (90) days from retiring, or the early retired member is guaranteed reemployment with the same employer the member shall be considered to have continued in the status of an employee and not to have separated from service. Any retirement allowance payments received by the retired member shall be repaid to the system and the retirement shall be negated. The month of last contribution prior to the negated retirement and the month of initial contribution upon return to reemployment shall be considered consecutive months of contributions in the determination of an appropriate salary base period upon subsequent retirement.

(2) When a retired member meets the definition of an employee as defined in section 59-1302(14)(A)(a), Idaho Code, any benefit payable on behalf of such member shall terminate and any contributions payable by such member under sections 59-1331 through 59-1334, Idaho Code, shall again commence, except as provided in subsection (3) of this section. The terminated suspended benefit, as adjusted pursuant to section 59-1355, Idaho Code, shall resume upon subsequent retirement, along with a separate allowance computed with respect to only that salary and service credited during the period of reemployment. Any death benefit that becomes payable under the suspended benefit shall be payable under section 59-1361(2), Idaho Code. Any death benefit that becomes payable with respect to salary and service accrued during the period of reemployment shall be payable under section 59-1361(3), Idaho Code, if the member dies during the period of reemployment.

(3) If a retired member again becomes employed and an employer certifies to the board that the member does not qualify as an employee as defined in this section and section 59-1302(14)(A)(a), Idaho Code, no contributions shall be made by the member or employer during such reemployment and any benefit payable on behalf of such member shall continue.

(4) For purposes of this section, "same employer" means the employer for which the retired member last worked prior to retirement.

Approved March 22, 2006.
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CHAPTER 152
(S.B. No. 1272)

AN ACT
RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1359, IDAHO CODE, TO FURTHER LIMIT AUTOMATIC SEPARATION BENEFITS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 59-1359, Idaho Code, be, and the same is hereby amended to read as follows:

59-1359. SEPARATION BENEFITS. (a) The separation benefit, if any, shall become payable upon the written request of an inactive member who has been separated from employment. If the person who received a separation benefit is reemployed or reinstated by the same employer within ninety (90) days or is guaranteed a right to employment or reinstatement with the same employer, the person shall repay to the system any separation benefit paid.

(b) A separation benefit shall automatically be payable three (3) years after the person becomes an inactive member if the inactive member is not a vested member, has accumulated contributions of less than one thousand dollars ($1,000), and has been separated from employment and is not reemployed or reinstated by the same employer within ninety (90) days.

(c) For purposes of this section, "separated from employment" means the inactive member terminated all employment with the employer. For purposes of this section, "same employer" means the employer for which the person last worked prior to being separated from employment.

(d) Any member may elect to have eligible rollover distributions paid directly to a specified eligible retirement plan as required by 26 U.S.C. section 401(a)(31).

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

Approved March 22, 2006.

CHAPTER 153
(S.B. No. 1299)

AN ACT
RELATING TO NONPROFIT TIMBER PROTECTIVE ASSOCIATIONS; AMENDING CHAPTER 1, TITLE 38, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 38-104A, IDAHO CODE, TO DEFINE A TERM AND TO PROVIDE SPECIFIED RESTRICTIONS RELATING TO LIABILITY OF NONPROFIT TIMBER PROTECTIVE ASSOCIATIONS WHILE PERFORMING CONTRACTS WITH THE STATE OF IDAHO OR ANY AGENCY OF THE STATE OF IDAHO; AND DECLARING AN EMERGENCY.
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 1, Title 38, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 38-104A, Idaho Code, and to read as follows:

38-104A. NONPROFIT TIMBER PROTECTIVE ASSOCIATIONS -- RESTRICTIONS ON LIABILITY. (1) "Nonprofit timber protective association" means a nonprofit corporation, or nonprofit unincorporated association, that has entered into a contract for the detection, prevention or suppression of forest and range fires with the state of Idaho or any agency of the state of Idaho pursuant to title 38, Idaho Code.

(2) A nonprofit timber protective association and its employees, while acting within the scope of their employment, and while performing a contract with the state of Idaho or any agency of the state of Idaho, without malice or criminal intent, shall not be liable for any claim for bodily or personal injury, death, property damage or other loss that arises out of an act or omission of an employee based upon the exercise or performance, or the failure to exercise or perform, a discretionary function or duty on the part of the nonprofit timber protective association or its employee, whether or not the discretion is abused.

(3) A nonprofit timber protective association and its employees, while acting within the scope of their employment, and while performing a contract with the state of Idaho or any agency of the state of Idaho, shall not be liable for punitive damages on any claim for bodily or personal injury, death, property damage or other loss.

(4) The combined aggregate liability of a nonprofit timber protective association and its employees for damages, costs and attorney's fees for bodily or personal injury, death, property damage, or other loss as a result of any one (1) accident, arising out of the performance of a contract with the state of Idaho or any agency of the state of Idaho, regardless of the number of persons injured, the number of claimants, or the number of properties damaged, shall not exceed the sum of five hundred thousand dollars ($500,000), unless the nonprofit timber protective association has valid and collectible liability insurance coverage in excess of five hundred thousand dollars ($500,000), in which event the combined aggregate liability shall be the remaining available proceeds of such insurance.

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

Approved March 22, 2006.

CHAPTER 154
(S.B. No. 1301)

AN ACT
RELATING TO MANDATORY Minimum SENTENCING; AMENDING SECTION 19-2520C, IDAHO CODE, TO INCREASE THE MANDATORY Minimum TERM OF CONFINEMENT
FOR CERTAIN SEX OFFENDERS TO FIFTEEN YEARS AND TO PROVIDE FOR A MAN-
DATORY MINIMUM TERM OF LIFE IMPRISONMENT FOR CERTAIN REPEAT SEX
OFFENDERS DESIGNATED AS VIOLENT SEXUAL PREDATORS.

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

SECTION 1. That Section 19-2520G, Idaho Code, be, and the same is hereby amended to read as follows:

19-2520G. MANDATORY MINIMUM SENTENCING. (1) Pursuant to section 13, article V of the Idaho constitution, the legislature intends to provide mandatory minimum sentences for repeat offenders who have previously been found guilty of or pleaded guilty to child sexual abuse. The legislature hereby finds and declares that the sexual exploitation of children constitutes a wrongful invasion of a child and results in social, developmental and emotional injury to the child. It is the policy of the legislature to protect children from the physical and psychological damage caused by their being used in sexual conduct. In order to protect children from becoming victims of this type of conduct by perpetrators, it is necessary to provide the mandatory minimum sentencing format contained in subsection (2) of this section. By enacting mandatory minimum sentences, the legislature does not seek to limit the court’s power to impose in any case a longer sentence as provided by law.

(2) Any person who is found guilty of violating the provisions of section 18-8304 (sexual abuse of a child under age sixteen years); 18-1508 (sexual conduct with a minor under sixteen); or 18-1508A (sexual battery of a minor child sixteen or seventeen years of age) or pleads guilty to any offense requiring sex offender registration as set forth in section 18-8304, Idaho Code, or any attempt or conspiracy to commit such a crime, shall be sentenced to a mandatory minimum term of confinement to the custody of the state board of correction for a period of not less than fifteen (15) years, if it is found by the trier of fact that previous to the commission of such crime the defendant has been found guilty of or has pleaded guilty to a violation of any such crime or an offense committed in this state or another state which, if committed in this state, would be punishable pursuant to any of the sections of the require the person to register as a sexual offender as set forth in section 18-8304, Idaho Code, identified in this subsection.

(3) Any person who is found guilty of or pleads guilty to any offense requiring sex offender registration as set forth in section 18-8304, Idaho Code, or any attempt or conspiracy to commit such a crime, shall be sentenced to a mandatory minimum term of confinement to the custody of the state board of correction for a period of not less than life, if it is found by the trier of fact that previous to the commission of such crime the defendant has been and is designated a violent sexual predator as set forth in section 18-8314, Idaho Code, or the equivalent under the laws of another state at the time of committing such offense.

(4) The mandatory minimum term provided in this section shall be imposed where the aggravating factor is separately charged in the information or indictment and admitted by the accused or found to be true by the trier of fact at a trial of the substantive crime. A court shall not have the power to suspend, withhold, retain jurisdiction, or commute a
mandatory minimum sentence imposed pursuant to this section. Any sentence imposed under the provisions of this section shall run consecutive to any other sentence imposed by the court.

Approved March 22, 2006.

CHAPTER 155
(S.B. No. 1302)

AN ACT
RELATING TO DEATH SENTENCES; AMENDING SECTION 19-2827, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO THE JUDICIAL REVIEW OF THE IMPOSITION OF THE DEATH PENALTY.

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

SECTION 1. That Section 19-2827, Idaho Code, be, and the same is hereby amended to read as follows:

19-2827. REVIEW OF DEATH SENTENCES -- PRESERVATION OF RECORDS. (a) Whenever the death penalty is imposed, and upon the judgment becoming final in the trial court, the sentence shall be reviewed on the record by the Supreme Court of Idaho. The clerk of the trial court, within ten (10) days after receiving the transcript, shall transmit the entire record and transcript to the Supreme Court of Idaho and to the attorney general together with a notice prepared by the clerk and, if a jury has been waived for sentencing, a report prepared by the trial judge setting forth the findings required by section 19-2515(8)(db), Idaho Code, and such other matters concerning the sentence imposed as may be required by the Supreme Court. The notice shall set forth the title and docket number of the case, the name of the defendant and the name and address of his attorney(s), a narrative statement of the judgment, the offense, and punishment prescribed. The report may be in the form of a standard questionnaire prepared and supplied by the Supreme Court of Idaho.

(b) The Supreme Court of Idaho shall consider the punishment as well as any errors enumerated by way of appeal.

(c) With regard to the sentence the court shall determine:
   (1) Whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor; and
   (2) Whether the evidence supports the jury's or judge's finding of a statutory aggravating circumstance from among those enumerated in section 19-2515, Idaho Code,

   (3) Whether the sentence of death is excessive.

(d) Both the defendant and the state shall have the right to submit briefs within the time provided by the court, and to present oral argument to the court.

(e) In addition to its authority regarding correction of errors, the court, with regard to review of death sentences, shall be authorized to:

   (1) Affirm the sentence of death; or
   (2) Set the sentence aside and remand the case for resentencing by a jury or, if waived, the trial judge, based-on-the-record-and-argument-of-counsel.
(f) The sentence review shall be in addition to direct appeal, if taken, and the review and appeal shall be consolidated for consideration.

(g) The Supreme Court shall collect and preserve the records of all cases in which the penalty of death was imposed from and including the year 1975.

Approved March 22, 2006.

CHAPTER 156
(S.B. No. 1303)

AN ACT
RELATING TO MISUSE OF PUBLIC FUNDS; AMENDING SECTION 18-5701, IDAHO CODE, TO PROHIBIT THE MISUSE OF CERTAIN PUBLIC FINANCIAL INSTRUMENTS AND DEVICES, TO MAKE A GRAMMATICAL CORRECTION AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 18-5703, IDAHO CODE, TO DEFINE TERMS.

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

SECTION 1. That Section 18-5701, Idaho Code, be, and the same is hereby amended to read as follows:

18-5701. MISUSE OF PUBLIC MONEY BY OFFICERS. Each officer of this state, or of any county, city, town or district of this state, and every other person charged with the receipt, safe-keeping, transfer or disbursement of public moneys, who:

(1) Without authority of law, appropriates the same or any portion thereof to his own use, or to the use of another; or,

(2) Loans the same or any portion thereof; or,

(3) Fails to keep the same in his possession until disbursed or paid out by authority of law; or,

(4) Deposits the same or any portion thereof in any bank, or with any banker or other person, otherwise than on special deposit, or as otherwise authorized by law; or,

(5) Changes or converts any portion thereof from coin into currency, or from currency into coin or other currency, without authority of law; or,

(6) Knowingly keeps any false account, or makes any false entry or erasure in any account of or relating to the same; or,

(7) Fraudulently alters, falsifies, conceals, destroys or obliterates any such account; or,

(8) Willfully refuses or omits to pay over, on demand, any public moneys in his hands, upon the presentation of a draft, order or warrant drawn upon such moneys by competent authority; or,

(9) Willfully omits to transfer the same when such transfer is required by law; or,

(10) Willfully omits or refuses to pay over to any officer or person authorized by law to receive the same, any money received by him under any duty imposed by law so to pay over the same; or
(11) Knowingly uses any financial transaction card, financial transaction card account number or credit account that is issued to or for the benefit of any public entity, office or agency to make any purchase, loan, guarantee or advance of moneys for any personal purpose or for any purpose other than for the use or benefit of the public entity, office or agency;
Is punishable by imprisonment in the state prison for not less than one (1) year nor more than ten (10) years, and is disqualified from holding any office in this state.

SECTION 2. That Section 18-5703, Idaho Code, be, and the same is hereby amended to read as follows:

18-5703. PUBLIE-MONEYS-DEFINED DEFINITIONS. The phrase "public money" as used in this chapter:
(1) "Financial transaction card" means:
(a) Any instrument or device known as a credit card, credit plate, bank services card, banking card, check guarantee card, debit card, telephone credit card or by any other name issued by the issuer for the use of the cardholder in obtaining money, goods, services or anything else of value on credit, or in certifying or guaranteeing to a person or business the availability to the cardholder of the funds on deposit that are equal to or greater than the amount necessary to honor a draft or check payable to the order of such a person or business; or
(b) Any instrument or device used in providing the cardholder access to a demand deposit account or a time deposit account for the purpose of making deposits of money or checks therein, or withdrawing funds in the form of money, money orders, or traveler's checks or other representative of value therefrom or transferring funds from any demand account or time deposit account to any credit card account in full or partial satisfaction of any outstanding balance existing therein.
(2) "Financial transaction card account number" means the account number assigned by an issuer to a financial transaction card to identify and account for transactions involving that financial transaction card.
(3) "Officer of this state, or any county, city, town or district of this state" includes any public servant as defined in section 18-1351, Idaho Code.
(4) "Public money" as used in the two preceding sections includes all bonds and evidences of indebtedness, and all moneys belonging to the state, or any city, county, town or district therein, all financial transaction cards, financial transaction card account numbers and credit accounts issued to or for the benefit of the state or any city, county, town or district therein, and all moneys, bonds and evidences of indebtedness received or held by state, county, district, city or town officers in their official capacity.

Approved March 22, 2006.
AN ACT
RELATING TO CRIMINAL PROCEDURE; AMENDING SECTION 19-2604, IDAHO CODE, TO
SET FORTH PROVISIONS APPLICABLE TO JUDGMENTS FOR OFFENSES REQUIRING
SEX OFFENDER REGISTRATION, TO CLARIFY THE TERM "CONVICTION" AND TO
MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 19-2604, Idaho Code, be, and the same is
hereby amended to read as follows:

19-2604. DISCHARGE OF DEFENDANT -- AMENDMENT OF JUDGMENT. (1) If
sentence has been imposed but suspended, or if sentence has been with­
held, upon application of the defendant and upon satisfactory showing
that the defendant has at all times complied with the terms and condi­
tions upon which he was placed on probation, the court may, if convinced
by the showing made that there is no longer cause for continuing the
period of probation, and if it be compatible with the public interest,
terminate the sentence or set aside the plea of guilty or conviction of
the defendant, and finally dismiss the case and discharge the defendant;
and this shall apply to the cases in which defendants have been con­
victed and granted probation by the court before this law goes into
effect, as well as to cases which arise thereafter. The final dismissal
of the case as herein provided shall have the effect of restoring the
defendant to his civil rights.

(2) If sentence has been imposed but suspended during the first
one hundred and eighty (180) days of a sentence to the custody of the
state board of correction, and the defendant placed upon probation as
provided in subsection 4, of section 19-2601, Idaho Code, upon applica­
tion of the defendant, the prosecuting attorney, or upon the court's own
motion, and upon satisfactory showing that the defendant has at all
times complied with the terms and conditions of his probation, the court
may amend the judgment of conviction from a term in the custody of the
state board of correction to "confinement in a penal facility" for the
number of days served prior to suspension, and the amended judgment may
be deemed to be a misdemeanor conviction.

(3) Subsection (2) of this section shall not apply to any judgment
of conviction for a violation of the--provisions--of--sections--18-1506;
18-1507;--or--18-1508 any offense requiring sex offender registration as
set forth in section 18-8304, Idaho Code. A judgment of conviction for a
violation of the--provisions--of--any--section--listed--in--this--subsection any
offense requiring sex offender registration as set forth in section
18-8304, Idaho Code, shall not be expunged from a person's criminal
record subject to dismissal or reduction under this section. A convic­
tion for the purposes of this chapter means that the person has pled
guilty or has been found guilty, notwithstanding the form of the judg­
ment or withheld judgment.

Approved March 22, 2006.
RELATING TO LIMITATIONS OF ACTIONS; AMENDING SECTION 5-203, IDAHO CODE, TO REVISE CONDITIONS UNDER WHICH ACTIONS TO RECOVER REAL PROPERTY OR POSSESSION OF REAL PROPERTY CAN BE MAINTAINED AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 5-204, IDAHO CODE, TO REVISE CONDITIONS UNDER WHICH ACTIONS OR DEFENSE TO ACTIONS ARISING OUT OF CLAIMS TO TITLE OR RENTS OR PROFITS CAN BE EFFECTUAL; AMENDING SECTION 5-206, IDAHO CODE, TO REVISE EXCEPTION PROVISIONS RELATING TO CONSTRUCTIVE POSSESSION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 5-207, IDAHO CODE, TO REVISE CONDITIONS RELATING TO ADVERSE POSSESSION OF PROPERTY UNDER WRITTEN CLAIMS OF TITLE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 5-210, IDAHO CODE, TO REVISE CONDITIONS RELATING TO ADVERSE POSSESSION OF PROPERTY UNDER ORAL CLAIMS TO TITLE; AMENDING SECTION 5-211, IDAHO CODE, TO REVISE CONDITIONS RELATING TO PRESUMPTION REGARDING POSSESSION AS BETWEEN TENANTS AND LANDLORDS AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 5-213, IDAHO CODE, TO REVISE CONDITIONS RELATING TO THE TOLLING OF STATUTES OF LIMITATION INVOLVING PERSONS UNDER CERTAIN DISABILITIES AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 5-203, Idaho Code, be, and the same is hereby amended to read as follows:

5-203. ACTION TO RECOVER REALTY. No action for the recovery of real property, or for the recovery of the possession thereof, can be maintained, unless it appears that the plaintiff, his ancestor, predecessor or grantor, was seized or possessed of the property in question within five twenty (20) years before the commencement of the action; and this section includes possessory rights to lands and mining claims.

SECTION 2. That Section 5-204, Idaho Code, be, and the same is hereby amended to read as follows:

5-204. ACTION ARISING OUT OF CLAIM TO TITLE OR RENTS OR PROFITS. No cause of action, or defense to an action, arising out of the title to real property, or to rents or profits out of the same, can be effectual unless it appears that the person prosecuting the action, or making the defense, or under whose title the action is prosecuted or the defense is made, or the ancestor, predecessor or grantor, of such person, was seized or possessed of the premises in question within five twenty (520) years before the commencement of the act in respect to which such action is prosecuted or defense made.

SECTION 3. That Section 5-206, Idaho Code, be, and the same is hereby amended to read as follows:

5-206. CONSTRUCTIVE POSSESSION. In every action for the recovery of real property, or the possession thereof, a person establishing a legal
title to the property is presumed to have been possessed thereof within the time required by law, and the occupation of the property by another person is deemed to have been under and in subordination to the legal title, unless it appears that the property has been held and possessed adversely to such legal title, for five twenty (520) years before the commencement of the action.

SECTION 4. That Section 5-207, Idaho Code, be, and the same is hereby amended to read as follows:

5-207. POSSESSION UNDER WRITTEN CLAIM OF TITLE. When it appears that the occupant, or those under whom he claims, entered into the possession of the property under claim of title, exclusive of other right, founding such claim upon a written instrument, as being a conveyance of the property in question, or upon the decree or judgment of a competent court, and that there has been a continued occupation and possession of the property included in such instrument, decree or judgment, or of some part of the property under such claim, for five twenty (520) years, the property so included is deemed to have been held adversely except that when it consists of a tract divided into lots, the possession of one (1) lot is not deemed a possession of any other lot of the same tract.

SECTION 5. That Section 5-210, Idaho Code, be, and the same is hereby amended to read as follows:

5-210. ORAL CLAIM -- POSSESSION DEFINED -- PAYMENT OF TAXES. For the purpose of constituting an adverse possession, by a person claiming title not founded upon a written instrument, judgment or decree, land is deemed to have been possessed and occupied in the following cases only:

1. Where it has been protected by a substantial enclosure.
2. Where it has been usually cultivated or improved.

Provided, however, that in no case shall adverse possession be considered established under the provisions of any sections of this code unless it shall be shown that the land has been occupied and claimed for the period of five twenty (520) years continuously, and the party or persons, their predecessors and grantors, have paid all the taxes, state, county or municipal, which have been levied and assessed upon such land according to law. Provided further, that adverse possession shall not be considered established under the provisions of any sections of this code if a written instrument has been recorded in the real estate records kept by the county recorder of the county in which the property is located and such written instrument declares that it was not the intent of a party to such instrument, by permitting possession or occupation of real property, to thereby define property boundaries or ownership. Provided further, that for purposes of establishing adverse possession pursuant to this section, a person claiming adverse possession must present clear and convincing evidence that the requirements of subsection (1) or (2) of this section have been met.

SECTION 6. That Section 5-211, Idaho Code, be, and the same is hereby amended to read as follows:

5-211. POSSESSION OF TENANT -- PRESUMPTIONS. When the relation of landlord and tenant has existed between any persons, the possession of
the tenant is deemed the possession of the landlord until the expiration of five twenty (520) years from the termination of the tenancy, or, where there has been no written lease, until the expiration of five twenty (520) years from the time of the last payment of rent, notwithstanding that such tenant may have acquired another title, or may have claimed to hold adversely to his landlord. But such presumptions cannot be made after the periods herein limited.

SECTION 7. That Section 5-213, Idaho Code, be, and the same is hereby amended to read as follows:

5-213. PERSONS UNDER DISABILITIES -- RECOVERY OF REAL PROPERTY. If a person entitled to commence an action for the recovery of real property, or for the recovery of the possession thereof, or to make any entry or defense founded on the title to real property, or to rents or services out of the same, be at the time such title first descends or accrues, either:

1. Within the age of majority; or,
2. Insane; or,
3. Imprisoned on a criminal charge, or in execution, upon conviction of a criminal offense, for a term less than for life; or,
4. A married woman, and her husband be a necessary party with her in commencing such action or making such entry or defense.

The term during which such disability continues is not deemed any portion of the time in this title limited for the commencement of such action or the making of such entry or defense, but such action may be commenced, or entry or defense made, within the period of five twenty (20) years after such disability shall cease, or after the death of the person entitled who shall die under such disability; but such action shall not be commenced or entry or defense made after that period.

Approved March 22, 2006.
54-2508. LICENSE -- APPLICATION THEREFOR -- TYPE AND NUMBER OF RACES -- FEE PER DAY -- REFUND -- CANCELLATION -- HEARING -- SIMULCAST PURSE MONEYS FUND. It shall be unlawful for any person to hold any race meet in this state without having first obtained and having in force and effect a license issued by the commission as in this act chapter provided. Every person making application for a license to hold a race meet, under the provisions of this act chapter, shall file an application with the commission which shall set forth the time, place and number of days such will continue, an agreement with a horsemen's group as the term "horsemen's group" is defined in section 54-2502, Idaho Code, and such other information as the commission may require. The agreement shall be reached voluntarily or pursuant to binding arbitration in conformance with chapter 9, title 7, Idaho Code, and shall address, but not be limited to, number of live race days and percentage of the live race and simulcast handle that is dedicated to the live horse race purse structure. In addition, the agreement shall provide that all simulcast purse moneys that are accrued as required by the horsemen's agreement be held in the simulcast purse moneys fund created pursuant to the provisions of this section. Race days agreed upon shall be submitted to the Idaho racing commission for its approval.

No person who has been convicted of any crime involving moral turpitude shall be issued a license of any kind, nor shall any license be issued to any person who has violated the terms or provisions of this act chapter, or any of the rules of the commission, or who has failed to pay any of the fees, taxes or moneys required under the provisions of this act chapter.

All applications to hold race meets shall be submitted to the commission which shall act upon such applications within thirty (30) days. The commission shall be the sole judge of whether or not the race meet shall be licensed and the number of days the meet shall continue.

The license issued shall specify the kind and character of the race meet to be held, the number of days the race meet shall continue and the number of races per day. For those licensees or facilities that have had a total race handle from both live races and simulcast races exceeding five million dollars ($5,000,000) during the last calendar year in operation, the number of races per day shall not be less than eight (8) and the number of days of racing shall not be less than forty-six (46). For those licensees or facilities that have had a total race handle from both live races and simulcast races of five million dollars ($5,000,000) or less during the last calendar year in operation, the number of races per day shall not be less than six (6) and the number of days of racing shall not be less than two (2). The licensee shall pay in advance of the scheduled race meet to the state treasurer a fee of not less than twenty-five dollars ($25.00) for each day of racing, which fees shall be placed in the public school income fund of the state of Idaho. Provided, that if unforeseen obstacles arise, which prevent the holding, or completion of any race meet, the license fee held may be refunded the licensee, if the commission deems the reason for failure to hold or complete the race meet sufficient. Any unexpired license held by any person who violates any of the provisions of this act chapter, pursuant thereto, or who fails to pay to the commission any and all sums required under the provisions of this act chapter, shall be subject to cancellation and revocation by the commission. Such cancellation shall be made only after a summary hearing before the commission, of which three (3)
days' notice in writing shall be given the licensee, specifying the grounds for the proposed cancellation, and at which hearing the licensee shall be given an opportunity to be heard in opposition to the proposed cancellation.

The simulcast purse moneys fund is hereby created in the state treasury. Moneys in the fund shall consist of all simulcast purse moneys that are accrued as required by horsemen's agreements. Moneys in the fund are hereby perpetually appropriated to the Idaho state racing commission for distribution pursuant to the provisions of horsemen's agreements and rules of the commission. The commission is authorized to promulgate rules providing for the receipt, deposit, withdrawal and distribution of such moneys. The state treasurer shall invest idle moneys in the fund and any interest received on those investments shall be returned to the fund.

SECTION 2. That Section 54-2512, Idaho Code, be, and the same is hereby amended to read as follows:

54-2512. PARI-MUTUEL BETTING -- OTHER BETTING ILLEGAL. (1) Any licensee conducting a race meet under this act chapter may provide a place or places in the race meet grounds or enclosure at which such licensee may conduct and supervise the use of the pari-mutuel system by patrons on the result of the races conducted by such licensee at such race meet and, upon written application by a licensee and approval by the commission, on the result of simulcast and/or televised races. The commission shall issue no more than one (1) license to simulcast per live race meet licensee and there shall be no more simulcasting sites in the state than there are licensed live race meet sites.

(2) Licenses authorizing simulcast and/or televised races will be regulated by the commission, in addition to its other responsibilities, for the purpose of enhancing, promoting, and protecting the live race industry in the state of Idaho. No license authorizing simulcasting and/or televised races shall be issued to or renewed for persons that are not also licensed to conduct live race meets in the state of Idaho. Persons applying for a simulcast and/or televised race license shall have annually conducted live race meets in the state of Idaho during the preceding two (2) calendar years, and have an agreement reached voluntarily or pursuant to binding arbitration in conformance with chapter 9, title 7, Idaho Code, with a horsemen's group as the term "horsemen's group" is defined in section 54-2502, Idaho Code. The agreement shall address, but not be limited to, number of live race days and percentage of the live race and simulcast handle that is dedicated to the live horse race purse structure. In addition, the agreement shall provide that all simulcast purse moneys that are accrued as required by the horsemen's agreement be held in the simulcast purse moneys fund created pursuant to the provisions of section 54-2508, Idaho Code. Race days agreed upon shall be submitted to the Idaho racing commission for its approval.

(b) In addition to the restrictions recited in paragraph (a) of this subsection, five horse race licensees that have had a total race handle from both live races and simulcast races exceeding five million dollars ($5,000,000) during the last calendar year in operation shall not have a license authorizing simulcasting and/or tele-
vised-races-issued-or-renewed-if-the-licensee-has—not—run—in—the
calendar-year-immediately-preceding-the-year-for-which-the-applica-
tion-for-a-license-is-being-made-for-at-least-ninety-percent—(90%)
of-the-number-of-live-race-days-that-were-conducted-by-that-licensee
in-1989.
(c) The commission may issue a license authorizing simulcast and/or
televised-races-to-a-live-horse-race-licensee-only-after-that-licensee—
has—conducted—at-that—facility—a-minimum-of-forty—(40)—live
horse-races-in-each-of-the-two—(2)—calendar-years—preceeding—the
application-for-such-licensees—The-requirements-of-this-paragraph-are
only-applicable-to-live-horse-race-licensees-who-have-received-their
(3) Such pari-mutuel system conducted at such race meet shall not
under any circumstances, if conducted under the provisions of this act
chapter and in conformity thereto and to the rules of the commission, be
held or construed to be unlawful, other statutes of this state to the
contrary notwithstanding.
(4) The participation by a licensee in an interstate combined
wagering pool does not cause that licensee to be considered to be doing
business in any jurisdiction other than the jurisdiction in which the
licensee is physically located.
(5) Advance deposit wagering on live and/or simulcast horse racing
conducted by licensees is hereby declared to be lawful and within the
scope of the licensee's license. As used in this section, "advance
deposit wagering" means a form of wagering in which an account holder
can deposit money with a licensee and then use the balance to fund
wagers. The bettor can then contact the licensee from a location without
actually being physically present at the licensee's premises in order to
communicate the desired use of those funds for wagering purposes. How-
ever, no wager can be accepted by the licensee that exceeds the amount
in the account held by the licensee for the person placing the wager.
Any advance deposit wagering conducted by a person with a provider out-
side of the state by telephone or other electronic means shall be ille-
gal unless that provider is licensed by the Idaho state racing commis-
sion and provides a source market fee of not less than ten percent (10%)
of the handle forwarded monthly to the commission. All moneys in the
advance deposit wagering accounts held by the commission are hereby con-
tinuously appropriated to the commission for payment as required by this
section. Payments to recipients shall be made annually, but not later
than December 31. Distribution of the source market fee shall be forty
percent (40%) to purses to be deposited directly into the horsemen's
purse account at all tracks weighted by number of races run through the
year of distribution, forty thirty percent (430%) to the simulcast sites
in the state weighted by the annual simulcast handle, five percent (5%)
to the track distribution fund, five percent (5%) to the breed distribu-
tion fund, five percent (5%) to the Idaho state racing commission, and
five percent (5%) to the public school income fund, and ten percent
(10%) for track operating expenses at the live tracks with distribution
weighted on the number of race days. All moneys in the track operating
accounts are hereby continuously appropriated to the commission for pay-
ment as required by this section. For purposes of this section, wagering
instructions concerning funds held in an advance deposit account shall
be deemed to be issued within the licensee's enclosure. As used in this
section, "source market fee" means that part of a wager, made outside of
the state by an Idaho resident, that is returned to the state of Idaho. The commission may promulgate rules pursuant to chapter 52, title 67, Idaho Code, to implement the provisions of this subsection.

(6) Pari-mutuel taxes or commissions may not be imposed on any amounts wagered in an interstate combined wagering pool other than amounts wagered within this jurisdiction.

(7) It shall be unlawful to conduct pool selling, bookmaking, or to circulate handbooks, or to bet or wager on a race of any licensed race meet, other than by the pari-mutuel system; and it shall further be unlawful knowingly to permit any minor to use the pari-mutuel system.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 22, 2006.
ownership on the books of a corporation from the decedent to the succes­
sor or successors upon the presentation of an affidavit as provided in
subsection (a) of this section.

Approved March 22, 2006.

CHAPTER 161
(S.B. No. 1323)

AN ACT RELATING TO TRUSTS; AMENDING SECTION 15-2-511, IDAHO CODE, TO REFERENCE TRUSTS EXECUTED CONCURRENTLY WITH A WILL; AND AMENDING CHAPTER 7, TITLE 15, IDAHO CODE, BY THE ADDITION OF A NEW PART 7, CHAPTER 7, TITLE 15, IDAHO CODE, TO SET FORTH PROVISIONS APPLICABLE TO DRY TRUSTS.

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

SECTION 1. That Section 15-2-511, Idaho Code, be, and the same is hereby amended to read as follows:

15-2-511. TESTAMENTARY ADDITIONS TO TRUSTS.
(1) (a) A will may validly devise property to the trustee of a trust established or to be established:
(i) During the testator's lifetime by the testator or by the testator and some other person or by some other person, including a funded or unfunded life insurance trust, although the trustor has reserved any or all rights of ownership of the insurance contracts; or
(ii) At the testator's death by the testator's devise to the trustee if the trust is identified in the testator's will and its terms are set forth in a written instrument, other than a will, executed before, concurrently with, or after the execution of the testator's will or in another individual's will if that other individual has predeceased the testator, regardless of the existence, size, or character of the corpus of the trust.

(b) The devise is not invalid because the trust is amendable or revocable, or because the trust was amended after the execution of the will or the testator's death.

(2) Unless the testator's will provides otherwise, property devised to a trust described in subsection (1) of this section is not held under a testamentary trust of the testator but it becomes a part of the trust to which it is devised and must be administered and disposed of in accordance with the provisions of the governing instrument setting forth the terms of the trust, including any amendments thereto made before or after the testator's death.

(3) Unless the testator's will provides otherwise a revocation or termination of the trust before the testator's death causes the devise to lapse.
SECTION 2. That Chapter 7, Title 15, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW PART, to be known and designated as Part 7, Chapter 7, Title 15, Idaho Code, and to read as follows:

PART 7.
DRY TRUSTS

15-7-701. DRY TRUSTS. A trust shall be valid and enforceable even though it may not be funded at a given time, or from time to time, or does not have any res or corpus or otherwise contain any asset of any nature.

Approved March 22, 2006.

CHAPTER 162
(S.B. No. 1324)

AN ACT
RELATING TO TRUSTEE POWERS; AMENDING SECTION 15-7-402, IDAHO CODE, TO INCREASE THE COLLECTIVE VALUE OF TRUST ASSETS ALLOWABLE FOR PURPOSES OF TERMINATION AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 15-7-402, Idaho Code, be, and the same is hereby amended to read as follows:

15-7-402. ADDITIONAL POWERS. In addition to the powers provided for in section 15-7-401, Idaho Code, a trustee shall have the following powers:

(1) To sever any trust estate on a fractional share basis into two (2) or more separate trusts for any reason.

(2) To divide a trust into two (2) or more single trusts or consolidate two (2) or more trusts into a single trust, upon those terms and conditions as it considers appropriate, provided that the trustee make a written determination that: (a) division or consolidation is not inconsistent with the intent of the trustor with regard to any trust to be consolidated or divided; (b) division or consolidation would facilitate administration of the trusts; and (c) division or consolidation would be in the best interests of all beneficiaries and not materially impair their respective interests. The trustee shall give written notice of the proposed division or consolidation by personal service or by certified mail to all interested persons of every trust affected by the division or consolidation and to any trustee of such trust(s) who does not join in the notice. The notice shall: (i) state the name and mailing address of the trustee; (ii) include a copy of the governing instrument of each trust to be divided or consolidated; (iii) include a statement of assets and liabilities of each trust to be divided or consolidated, dated within ninety (90) days of the notice; (iv) fully describe the terms and manner of division or consolidation; and (v) state the reasons supporting the proposed division or consolidation. The notice shall advise the
recipient of the right to petition for a judicial determination of the proposed division or consolidation as provided in subsection (3) of this section. The notice shall include a form on which consent or objection to the proposed division or consolidation may be indicated. If the trustee receives written consent to the proposed division or consolidation from all persons entitled to notice, the trustee may divide or consolidate the trusts as provided in the notice. Any person dealing with the trustee of the resulting divided or consolidated trust is entitled to rely on the authority of that trustee to act and is not obliged to inquire into the validity or propriety of the division or consolidation under this section.

(3) Any interested person may petition the court of the county in which the principal place of administration of a trust is located for an order dividing one (1) or more trusts or consolidating two (2) or more trusts. If nonjudicial consolidation has been commenced pursuant to subsection (2) of this section, a petition may be filed under this section unless the trustee has received all necessary consents. The principal place of administration of the trust is the trustee's usual place of business where the records pertaining to the trust are kept, or the trustee's residence if the trustee has no such place of business. At the conclusion of the hearing, if the court finds that the requirements of subsections (2)(a), (b) and (c) of this section have been satisfied, it may direct division of one (1) or more trusts or consolidation of two (2) or more trusts on such terms and conditions as appropriate. The court, in its discretion, may provide for payment from one (1) or more of the trusts of reasonable fees and expenses for any party to the proceeding.

(4) If the net fair market value of the assets of a trust, taken collectively, is less than twenty-five one hundred thousand dollars ($25100,000), the trustee may terminate the trust by the following procedure:

(a) The trustee shall determine a plan for distribution that agrees, as nearly as possible, with the trust's dispositive plan;
(b) The trustee shall give notice, in writing, to all interested persons of its intent to distribute the assets in accordance with the plan unless an interested person objects in writing within thirty (30) days after the date of the notice, containing also in such notice a statement of the provisions of paragraph (e) of this subsection;
(c) If no written objection is received by the trustee within thirty (30) days after the date of the written notice to all interested persons, the trustee shall proceed to distribute the trust assets in accordance with the plan;
(d) If the trustee receives a written objection to the plan within thirty (30) days after the date of the notice, the trustee shall not distribute the assets of the trust, but may then petition the court for an order authorizing distribution in accordance with the plan, and the court shall have plenary authority to approve, modify, or reject the trustee's petition;
(e) For purposes of the thirty (30) day provisions of this subsection, the "date of notice" shall be the later of the date set forth in the notice (if any) or the date of actual mailing, if mailed, or of actual delivery, if delivered in person to the interested person, and provided further that an objection in writing is timely if
mailed within thirty (30) days to the trustee, with the burden of proof of the date of such mailing to be on the interested person.

The existence of a spendthrift or similar provision shall not affect the trustee's powers under this subsection unless the trust instrument specifically provides that the trustee shall not have the power to terminate the trust.

(5) This section applies to all trusts whenever created.

Approved March 22, 2006.

CHAPTER 163
(S.B. No. 1335)

AN ACT
RELATING TO THE UNIFORM PROBATE CODE; AMENDING SECTION 15-1-201, IDAHO CODE, TO REVISE THE DEFINITION FOR "INTERESTED PERSON" AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 15-1-201, Idaho Code, be, and the same is hereby amended to read as follows:

15-1-201. GENERAL DEFINITIONS. Subject to additional definitions contained in the subsequent chapters which are applicable to specific chapters or parts, and unless the context otherwise requires, in this code:

(1) "Application" means a written request to the registrar for an order of informal probate or appointment under part 3 of chapter 3 of this code.

(2) "Augmented estate" means the estate described in section 15-2-202, Idaho Code.

(3) "Beneficiary," as it relates to trust beneficiaries, includes a person who has any present or future interest, vested or contingent, and also includes the owner of an interest by assignment or other transfer and as it relates to a charitable trust, includes any person entitled to enforce the trust.

(4) "Child" includes any individual entitled to take as a child under this code by intestate succession from the parent whose relationship is involved and excludes any person who is only a stepchild, a foster child, a grandchild or any more remote descendant.

(5) "Claims," in respect to estates of decedents and protected persons, includes liabilities of the decedent or protected person whether arising in contract, in tort or otherwise, and liabilities of the estate which arise at or after the death of the decedent or after the appointment of a conservator, including funeral expenses and expenses of administration. The term does not include estate or inheritance taxes, other tax obligations arising from activities or transactions of the estate, demands or disputes regarding title of a decedent or protected person to specific assets alleged to be included in the estate.

(6) "Court" means the court or branch having jurisdiction in matters relating to the affairs of decedents, minors, incapacitated and
disabled persons. This court in this state is known as the district court.

(7) "Conservator" means a person who is appointed by a court to manage the estate of a protected person and includes limited conservators as described by section 15-5-420, Idaho Code.

(8) "Determination of heirship of community property" shall mean that determination required by the provisions of section 15-3-303, Idaho Code, upon an application for informal probate not accompanied by presentation of a will.

(9) "Determination of heirship" shall mean that determination of heirship required by section 15-3-409, Idaho Code, upon a finding of intestacy.

(10) "Devise," when used as a noun, means a testamentary disposition of real or personal property and when used as a verb, means to dispose of real or personal property by will.

(11) "Devisee" means any person designated in a will to receive a devise. In the case of a devise to an existing trust or trustee, or to a trustee or trust described by will, the trust or trustee is the devisee and the beneficiaries are not devisees.

(12) "Disability," with respect to an individual, means any mental or physical impairment which substantially limits one (1) or more major life activities of the individual including, but not limited to, self-care, manual tasks, walking, seeing, hearing, speaking, learning, or working, or a record of such an impairment, or being regarded as having such an impairment. Disability shall not include transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, other sexual behavior disorders, or substance use disorders, compulsive gambling, kleptomania, or pyromania. Sexual preference or orientation is not considered an impairment or disability. Whether an impairment substantially limits a major life activity shall be determined without consideration of the affect of corrective or mitigating measures used to reduce the effects of the impairment.

(13) "Distributee" means any person who has received property of a decedent from his personal representative other than as a creditor or purchaser. A testamentary trustee is a distributee only to the extent of distributed assets or increment thereto remaining in his hands. A beneficiary of a testamentary trust to whom the trustee has distributed property received from a personal representative is a distributee of the personal representative. For the purpose of this provision "testamentary trustee" includes a trustee to whom assets are transferred by will, to the extent of the devised assets.

(14) "Emancipated minor" shall mean any male or female who has been married.

(15) "Estate" means all property of the decedent, including community property of the surviving spouse subject to administration, property of trusts, and property of any other person whose affairs are subject to this code as it exists from time to time during administration.

(16) "Exempt property" means that property of a decedent's estate which is described in section 15-2-403, Idaho Code.

(17) "Fiduciary" includes personal representative, guardian, conservator and trustee.

(18) "Foreign personal representative" means a personal representative of another jurisdiction.
(19) "Formal proceedings" means those conducted before a judge with notice to interested persons.

(20) "Guardian" means a person who has qualified as a guardian of a minor or incapacitated person pursuant to testamentary or court appointment and includes limited guardians as described by section 15-5-304, Idaho Code, but excludes one who is merely a guardian ad litem.

(21) "Heirs" means those persons, including the surviving spouse, who are entitled under the statutes of intestate succession to the property of a decedent.

(22) "Incapacitated person" is as defined in section 15-5-101, Idaho Code.

(23) "Informal proceedings" means those conducted without notice to interested persons by an officer of the court acting as a registrar for probate of a will or appointment of a personal representative.

(24) "Interested person" includes heirs, devisees, children, spouses, creditors, beneficiaries and any others having a property right in or claim against a trust estate or the estate of a decedent, ward or protected person which may be affected by the proceeding. It also includes persons having priority for appointment as personal representative, and other fiduciaries representing interested persons. The meaning as it relates to particular persons may vary from time to time and must be determined according to the particular purposes of, and matter involved in, any proceeding. In a guardianship or conservatorship proceeding, it also includes any governmental agency paying or planning to pay monetary benefits to the ward or protected person and any public or charitable agency that regularly concerns itself with methods for preventing unnecessary or overly intrusive court intervention in the affairs of persons for whom protective orders may be sought and that seeks to participate in the proceedings.

(25) "Issue" of a person means all his lineal descendants of all generations, with the relationship of parent and child at each generation being determined by the definitions of child and parent contained in this code.

(26) "Lease" includes an oil, gas, or other mineral lease.

(27) "Letters" includes letters testamentary, letters of guardianship, letters of administration, and letters of conservatorship.

(28) "Minor" means a male under eighteen (18) years of age or a female under eighteen (18) years of age.

(29) "Mortgage" means any conveyance, agreement or arrangement in which property is used as security.

(30) "Nonresident decedent" means a decedent who was domiciled in another jurisdiction at the time of his death.

(31) "Organization" includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two (2) or more persons having a joint or common interest, or any other legal entity.

(32) "Parent" includes any person entitled to take, or who would be entitled to take if the child died without a will, as a parent under this code by intestate succession from the child whose relationship is in question and excludes any person who is only a stepparent, foster parent, or grandparent.

(33) "Person" means an individual, a corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, governmental subdivision,
agency, or instrumentality, or any other legal or commercial entity.

(34) "Personal representative" includes executor, administrator, successor personal representative, special administrator, and persons who perform substantially the same function under the law governing their status. "General personal representative" excludes special administrator.

(35) "Petition" means a written request to the court for an order after notice.

(36) "Proceeding" includes action at law and suit in equity.

(37) "Property" includes both real and personal property or any interest therein and means anything that may be the subject of ownership.

(38) "Protected person" is as defined in section 15-5-101, Idaho Code.

(39) "Protective proceeding" is as defined in section 15-5-101, Idaho Code.

(40) "Quasi-community property" is the property defined by section 15-2-201, Idaho Code.

(41) "Registrar" refers to magistrates or judges of the district court who shall perform the functions of registrar as provided in section 15-1-307, Idaho Code.

(42) "Security" includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease, collateral trust certificate, transferable share, voting trust certificate or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation, any temporary or interim certificate, receipt or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing.

(43) "Settlement," in reference to a decedent's estate, includes the full process of administration, distribution and closing.

(44) "Special administrator" means a personal representative as described by sections 15-3-614 through 15-3-618, Idaho Code.

(45) "State" includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States.

(46) "Successor personal representative" means a personal representative, other than a special administrator, who is appointed to succeed a previously appointed personal representative.

(47) "Successors" means those persons, other than creditors, who are entitled to property of a decedent under his will or this code.

(48) "Supervised administration" refers to the proceedings described in part 5, chapter 3, of this code.

(49) "Testacy proceeding" means a proceeding to establish a will or determine intestacy.

(50) "Trust" includes any express trust, private or charitable, with additions thereto, wherever and however created. It also includes a trust created or determined by judgment or decree under which the trust is to be administered in the manner of an express trust. "Trust" excludes other constructive trusts, and it excludes resulting trusts, conservatorships, personal representatives, trust accounts as defined in chapter 6 of this code, custodial arrangements pursuant to chapter 8, title 68, Idaho Code, business trusts providing for certificates to be
issued to beneficiaries, common trust funds, voting trusts, security arrangements, liquidation trusts, and trusts for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, or employee benefits of any kind, and any arrangement under which a person is nominee or escrowee for another.

(51) "Trustee" includes an original, additional, or successor trustee, whether or not appointed or confirmed by court.

(52) "Ward" is as defined in section 15-5-101, Idaho Code.

(53) "Will" is a testamentary instrument and includes codicil and any testamentary instrument which merely appoints an executor or revokes or revises another will.

(54) "Separate property" is as defined in section 32-903, Idaho Code.

(55) "Community property" is as defined in section 32-906, Idaho Code.

Approved March 22, 2006.

CHAPTER 164
(S.B. No. 1347)

AN ACT
RELATING TO COMMERCIAL DRIVER'S LICENSES; AMENDING SECTION 49-109, IDAHO CODE, TO REDEFINE "HAZARDOUS MATERIAL" AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-120, IDAHO CODE, TO REDEFINE "SERIOUS TRAFFIC VIOLATION"; AMENDING SECTION 49-240, IDAHO CODE, TO PROVIDE THAT ANY BOND FORFEITURE FOR A TRAFFIC OFFENSE SHALL BE TREATED AS A CONVICTION FOR PERSONS HOLDING A COMMERCIAL DRIVER'S LICENSE; AMENDING SECTION 49-301, IDAHO CODE, TO PROVIDE THAT NO PERSON SHALL OPERATE A COMMERCIAL MOTOR VEHICLE UNLESS SUCH PERSON COMPLIES WITH SPECIFIED CONDITIONS REGARDING A COMMERCIAL DRIVER'S LICENSE AND TO MAKE TECHNICAL CHANGES; AMENDING SECTION 49-315, IDAHO CODE, TO PROVIDE CORRECT REFERENCES TO FEDERAL REGULATIONS; AMENDING SECTION 49-321, IDAHO CODE, TO EXPAND THE DUTIES AND AUTHORITY OF THE IDAHO TRANSPORTATION DEPARTMENT IN FILING ACCIDENT REPORTS AND ABSTRACTS OF COURT RECORDS OF CONVICTION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-323, IDAHO CODE, TO REQUIRE THE IDAHO TRANSPORTATION DEPARTMENT TO FORWARD RECORDS OF IDAHO CONVICTIONS, SUSPENSIONS, DISQUALIFICATIONS AND REVOCATIONS OF NONRESIDENTS TO NONRESIDENTS' STATE OF RESIDENCY; AMENDING SECTION 49-335, IDAHO CODE, TO PROVIDE THAT A COMMERCIAL MOTOR VEHICLE DRIVER SHALL BE DISQUALIFIED FOR NOT LESS THAN ONE YEAR FOR USING ANY MOTOR VEHICLE IN THE COMMISSION OF A FELONY AND TO PROVIDE A CIVIL PENALTY FOR VIOLATION OF AN OUT-OF-SERVICE ORDER; AMENDING SECTION 49-337, IDAHO CODE, TO IMPOSE AN ADDITIONAL CIVIL PENALTY UPON ANY EMPLOYER CONVICTED OF KNOWNLY ALLOWING A VIOLATION OF AN OUT-OF-SERVICE ORDER; AND AMENDING SECTION 49-1416, IDAHO CODE, TO PROVIDE THAT COURTS SHALL NOT ACT TO PREVENT A CONVICTION FROM APPEARING ON THE DRIVING RECORD OF ANY PERSON WHO HOLDS A COMMERCIAL DRIVER'S LICENSE.

Be It Enacted by the Legislature of the State of Idaho:
SECTION 1. That Section 49-109, Idaho Code, be, and the same is hereby amended to read as follows:

49-109. DEFINITIONS -- H. (1) "Habitual violator" means any person who has a driving record which shows a violation point count of eighteen (18) or more points in any consecutive twenty-four (24) month period; or twenty-four (24) or more points in any consecutive thirty-six (36) month period.

(2) "Hazardous material" means any substance or any material as defined in section 1803 of the hazardous material transportation act -- 49 U.S.C. -- as amended -- that has been designated as hazardous under 49 U.S.C. section 5103, and is required to be placarded under subpart F of 49 CFR part 172, or any quantity of material listed as a select agent or toxin under 42 CFR part 73.

(3) "Hazardous waste" means a material that is subject to the hazardous waste manifest requirements of the EPA due to the type and quantity of the material, or which would be subject to these requirements absent an interim authorization to the state under title 40, code of federal regulations or which includes in whole or in part polychlorinated biphenyls which are regulated by title 40, code of federal regulations, part 761.

(4) "Hearing aid dog." (See "Hearing impaired person," section 56-701A, Idaho Code)

(5) "Highway" means the entire width between the boundary lines of every way publicly maintained when any part is open to the use of the public for vehicular travel, with jurisdiction extending to the adjacent property line, including sidewalks, shoulders, berms and rights-of-way not intended for motorized traffic. The term "street" is interchangeable with highway.

(a) Arterial. Any highway designated by the local authority as part of a major arterial system of highways within its jurisdiction.

(b) Controlled-access. Any highway or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the highway except at such points only or in such manner as may be determined by the public authority having jurisdiction over the highway.

(c) Through. Any highway or portion of it on which vehicular traffic is given preferential right-of-way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield the right-of-way to vehicles on the through highway in obedience to a stop sign, yield sign, or other traffic-control device.

SECTION 2. That Section 49-120, Idaho Code, be, and the same is hereby amended to read as follows:

49-120. DEFINITIONS -- S. (1) "Saddlemount combination" means a combination of vehicles in which a truck or truck tractor tows one (1), two (2) or three (3) trucks or truck tractors, each connected by a saddle to the frame or fifth wheel of the vehicle in front of it. The saddle is a mechanism that connects the front axle of the towed vehicle to the frame or fifth wheel of the vehicle in front and functions like a fifth wheel kingpin connection. A smaller vehicle mounted completely on
the frame of either the first or last vehicle may be used in a saddlemount combination.

(2) "Safety glazing materials" means glazing materials so constructed, treated or combined with other materials as to reduce substantially, in comparison with ordinary sheet glass or plate glass, the likelihood of injury to persons by objects from exterior sources or by these safety glazing materials when they may be cracked or broken.

(3) "Safety zone" means the area or space officially set apart within a highway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

(4) "Salvage pool" means a licensed vehicle dealer engaged primarily in the business of disposing of salvage vehicles, recovered stolen vehicles, or both.

(5) "School bus" means every motor vehicle that complies with the color and identification requirements set forth in the most recent edition of "Minimum Standards for School Buses" and is used to transport children to or from school or in connection with school approved activities and includes buses operated by contract carriers.

(6) "Secretary" means the secretary of transportation of the United States.

(7) "Security agreement." (See section 28-9-102, Idaho Code)

(8) "Security interest." (See section 28-1-201, Idaho Code)

(9) "Sell," "sold," "buy," and "purchase," mean and include, as used in sections 49-2401 through 49-2406, Idaho Code, exchange, barter, gift, and offer or contract to sell or buy.

(10) "Semitrailer." (See "Trailer," section 49-121, Idaho Code)

(11) "Serious traffic violation" means conviction of an offense specified in 49 CFR part 383 and including any subsequent amendments thereto while operating a commercial motor vehicle, and shall include driving a commercial motor vehicle:

(a) Without obtaining a commercial driver's license; or
(b) Without having a commercial driver's license in the driver's possession; or
(c) Without the proper license class of commercial driver's license or endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported.

(12) "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for use by pedestrians.

(13) "Signal." (See "Railroad sign," section 49-119, Idaho Code)

(14) "Skills test" means an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle.

(15) "Slow moving vehicle" means any vehicle not normally operated upon the highways.

(16) "Snow tire." (See "Tires," section 49-121, Idaho Code)

(17) "Sold." (See "Sell," "buy," and "purchase," this section)

(18) "Solid rubber tire." (See "Tires," section 49-121, Idaho Code)

(19) "Special license plate" means a license plate that is made available to the public as a personal alternative to the standard issue license plate. No special program fee shall be charged for the registration or plates issued under sections 49-403, 49-403A, 49-404, 49-405, 49-410, 49-415, 49-415A and 49-415B, Idaho Code.
(20) "Special mobile equipment" means every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including: ditch-digging apparatus, well-boring apparatus and road construction and maintenance machinery such as asphalt spreaders, bituminous mixers, bucket loaders, tractors other than truck tractors, ditches, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earth moving carry-alls and scrapers, power shovels and drag lines, and self-propelled cranes, and earth moving equipment. The term does not include travel trailers, dump trucks, truck mounted transit mixers, cranes or shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached.

(21) "Specially constructed vehicle." (See "Vehicle," section 49-123, Idaho Code)

(22) "Stand" or "standing" means the halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

(23) "State" means a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico or a province of Canada.

(24) "Stop" means the act of or complete cessation from movement.

(25) "Stopping" means the act of any halting even momentarily of a vehicle.

(26) "Street." (See "Highways," section 49-109, Idaho Code)

(27) "Street rod" means any pre-1949 vehicle which has had a significant drive train update from a more modern vehicle. Changes may include engine, transmission, rear axle, and other suspension components. The body will be, or resemble the same as the manufacturer's original issue after its first sale after manufacture.

(28) "Studded tire." (See "Tires," section 49-121, Idaho Code)

(29) "Substandard width lane" means a lane that is too narrow for a bicycle and a motor vehicle to travel safely side by side within the lane.

(30) "Supplemental lot" means a physically separate location owned and maintained by a licensed dealer or manufacturer within the same or adjacent county as the principal place of business which meets all the requirements for a principal place of business.

(31) "Suspension of driver's license" means the temporary withdrawal by formal action of the department or as otherwise provided in this title of a person's driver's license or privilege to operate a motor vehicle on the public highways, which temporary withdrawal shall be for a period specifically designated by the department.

(32) "Suspension of vehicle registration" means the temporary withdrawal by formal action of the department or as otherwise provided in this title of a person's vehicle registration or, in the case of fleets of vehicles, all vehicle registrations in each fleet operated by a company. Upon suspension, the privileges of operating the vehicle or vehicles on Idaho highways is terminated until the difficulty that caused the suspension is corrected and notification is provided that the suspension has been lifted.

SECTION 3. That Section 49-240, Idaho Code, be, and the same is hereby amended to read as follows:
49-240. CERTAIN CIRCUMSTANCES FOR FORFEITURE OF BOND FOR TRAFFIC OFFENSES. (1) Whenever a person has received a written uniform misdemeanor traffic citation, summons or complaint containing a notice to appear before a magistrate, and if the attorney prosecuting the case and the defendant concur that it is in the best interest of justice that the defendant may post and forfeit an amount of the bond agreed upon by the parties, the court shall dismiss the charge. When bond is forfeited under the provisions of this subsection, no violation points, as prescribed in section 49-326, Idaho Code, shall accrue. A forfeiture of bond under the provisions of this subsection shall not be recorded as a conviction, but the proceeds of the bond shall be distributed as court costs and fines as though there were a conviction.

(2) The provisions of subsection (1) of this section shall not be available when citations, summons or complaints are written for a violation of the provisions of section 18-8001, 18-8004, 18-8006 or 49-1401, Idaho Code.

(3) Whenever a person who holds a class A, B or C license has received a written uniform traffic citation, summons or complaint containing a notice to appear before a magistrate for an offense arising out of the operation of a commercial motor vehicle, as defined in federal regulation 49 CFR part 383.5; any bond forfeiture shall be treated as though it were a conviction.

SECTION 4. That Section 49-301, Idaho Code, be, and the same is hereby amended to read as follows:

49-301. DRIVERS TO BE LICENSED. (1) No person, except those expressly exempted by the provisions of this chapter, shall drive any motor vehicle upon a highway unless the person has a current and valid Idaho driver's license. Provided however, that those persons holding a restricted school attendance driving permit may drive upon a highway pursuant to the restrictions set forth in section 49-307A, Idaho Code.

(2) No person shall operate a motorcycle upon a highway unless he has a motorcycle endorsement on his valid driver's license. No person shall operate a commercial motor vehicle as defined in section 49-123, Idaho Code, upon a highway unless he has a seasonal or class A, B or C driver's license with required endorsements.

(3) No person shall operate a motor vehicle in violation of any valid restriction identified on or attached to, his valid driver's license.

(4) No person shall receive a class D driver's license unless and until he surrenders to the department all driver's licenses in his possession issued to him by Idaho or any other jurisdiction for use within the United States, or any identification cards issued by any other jurisdiction within the United States, or until he executes an affidavit that he does not possess a driver's license or any identification cards.

(5) No person shall be permitted to have more than one (1) driver's license issued for use within the United States at any time.

(6) No person shall operate a commercial motor vehicle as defined in section 49-123, Idaho Code, upon a highway:

(a) Without obtaining a commercial driver's license.

(b) Without having the appropriate class A, B or C commercial driver's license in the operator's possession.
(c) Without the proper license class of commercial driver's license or endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported.

(d) Unless the operator has a seasonal or class A, B or C driver's license with required endorsements in his possession.

(7) Any holder of a class A, B or C commercial driver's license issued by a jurisdiction other than Idaho shall apply for an Idaho-issued commercial driver's license within thirty (30) days of establishing a domicile in Idaho. In accordance with the federal motor carrier safety regulations, no person shall receive a class A, B or C driver's license unless and until he surrenders to the department all driver's licenses in his possession issued to him by Idaho or any other jurisdiction.

(8) Except as provided in section 49-304, Idaho Code, a violation of this section is a misdemeanor.

SECTION 5. That Section 49-315, Idaho Code, be, and the same is hereby amended to read as follows:

49-315. LICENSES ISSUED TO DRIVERS. (1) The department shall issue to every qualifying applicant a distinguishing driver's license as applied for, which shall bear a distinguishing number assigned to the licensee, the full name, date of birth, Idaho residence address, sex, weight, height, eye color, hair color, color photograph, name of this state, date of issue, date of expiration, license class, endorsements, restrictions, and the applicant's signature. Driver's licenses for persons under eighteen (18) years of age shall include a notation "under 18 until (month, day, year)," and driver's licenses for persons eighteen (18) years of age to twenty-one (21) years of age shall include a notation "under 21 until (month, day, year)." No driver's license shall be valid until it has been signed on the signature line of the license by the licensee.

(2) Every driver's license shall bear a color photograph of the licensee, which shall be taken by the examiner at the time the application is made. The photograph shall be taken without headgear or other clothing or device that disguises or otherwise conceals the face or head of the applicant. A waiver may be granted by the department allowing the applicant to wear headgear or other head covering for medical, religious or safety purposes so long as the face is not disguised or otherwise concealed. At the request of the applicant, a driver's license may contain a statement or indication of the medical condition of the licensee.

(3) The department shall notify the commercial driver license information system that a class A, B or C driver's license has been issued as required by 49 CFR parts 383 and 384.

(4) A licensee applying for a hazardous material endorsement on a driver's license shall have a security background records check and shall receive clearance from the federal transportation security administration before the endorsement can be issued, renewed or transferred as required by 49 CFR part 383, subject to procedures established by the federal transportation security administration.

(5) A licensee who desires to donate any or all organs or tissue in the event of death, and who has completed a document of gift pursuant to the provisions for donation of anatomical gifts as set forth in chapter 34, title 39, Idaho Code, may, at the option of the donor, indicate this
desire on the driver's license by the imprinting of the word "donor" on the license.

(6) A licensee who is a person with a permanent disability may request that the notation "permanently disabled" be imprinted on the driver's license, provided the licensee presents written certification from a licensed physician verifying that the licensee's stated impairment qualifies as a permanent disability according to the provisions of section 49-117, Idaho Code.

SECTION 6. That Section 49-321, Idaho Code, be, and the same is hereby amended to read as follows:

49-321. RECORDS TO BE KEPT BY THE DEPARTMENT. (1) The department shall file every application for a driver's license received by it and shall maintain suitable indices containing:
(a) All applications denied and on each note the reason for denial;
(b) All applications granted;
(c) The name of every licensee whose driver's license has been suspended, revoked, canceled, denied or disqualified by the department and after each name note the reasons for the action;
(d) The driver's license number for the applicant; and
(e) The social security number of the applicant.
(2) The department shall also file all accident reports and abstracts of court records of convictions received by it under the law from any jurisdiction, and is authorized to forward records of convictions, suspensions or disqualifications to any jurisdiction. Records may be in either paper or electronic form and the department shall maintain convenient records or make suitable notations in order that an individual record of each licensee showing the convictions and the traffic accidents in which the licensee has been involved shall be readily ascertainable and available for consideration of the department upon any application for renewal of a driver's license and at other suitable times.
(3) The department of health and welfare, on or about the 25th day of each month shall, upon the request of the department, furnish the department a listing showing the name, age, county of residence, and residence address of each Idaho resident who has died during the preceding month. The listing shall be used only for purposes of updating the driver's license files of the department and shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 7. That Section 49-323, Idaho Code, be, and the same is hereby amended to read as follows:

49-323. SUSPENDING PRIVILEGES OF NONRESIDENTS AND REPORTING CONVICTIONS. (1) The privilege of driving a motor vehicle on the highways given to a nonresident shall be subject to suspension, disqualification or revocation by the department in a like manner and for a like cause as a driver's license issued to a resident may be suspended, disqualified or revoked.
(2) Upon receipt of a record of the conviction, suspension, disqualification or revocation in this state of a nonresident driver for any offense under the motor vehicle laws, the department shall forward a certified copy or electronic transfer of the record of the conviction,
suspension, disqualification or revocation and its cause to the motor
vehicle administrator in the state wherein the person so convicted is a
resident and to the national driver register.

SECTION 8. That Section 49-335, Idaho Code, be, and the same is
hereby amended to read as follows:

49-335. DISQUALIFICATIONS AND PENALTIES -- COMMERCIAL DRIVER'S
LICENSE. (1) Any person who operates a commercial motor vehicle or who
holds a class A, B or C driver's license is disqualified from operating
a commercial motor vehicle for a period of not less than one (1) year if
convicted in the form of a judgment or withheld judgment of a first
violation under any state or federal law of:
(a) Operating a motor vehicle while under the influence of alcohol
or a controlled substance;
(b) Operating a commercial motor vehicle while the alcohol concen­
tration of the person's blood, breath or bodily substance is 0.04 or
more;
(c) Leaving the scene of an accident involving a motor vehicle
driven by the person;
(d) Using a commercial motor vehicle in the commission of any fel‐
ony.
(2) Any person who operates a commercial motor vehicle or who holds
a class A, B or C driver's license is disqualified from operating a com­
mercial motor vehicle for a period of not less than one (1) year if the
person refuses to submit to a test to determine the driver's alcohol
concentration while operating a motor vehicle.
(3) If any of the offenses specified in subsection (1) or (2) of
this section occurred while transporting a hazardous material required
to be placarded, the person is disqualified for a period of not less
than three (3) years.
(4) A person is disqualified for the period of time specified in 49
CFR part 383 if found to have committed two (2) or more of any of the
offenses specified in subsection (1) or (2) of this section, or any com­
bination of those offenses, arising from two (2) or more separate inci­
dents.
(5) A person is disqualified for the period of time specified in 49
CFR part 383 from operating a commercial motor vehicle who uses a motor
vehicle in the commission of any felony involving the manufacture, dis­
tribution, or dispensing of a controlled substance, or possession of a
controlled substance with the intent to manufacture, distribute or dis­
pense such controlled substance.
(6) A person is disqualified from operating a commercial motor
vehicle for a period of not less than sixty (60) days if convicted of
two (2) serious traffic violations, or one hundred twenty (120) days if
convicted of three (3) or more serious traffic violations, committed in
a commercial motor vehicle arising from separate incidents occurring
within a three (3) year period. A conviction for reckless driving shall
be considered a serious traffic violation if committed while operating a
commercial motor vehicle or a noncommercial motor vehicle, as specified
in 49 CFR part 383.
(7) A person who drives, operates, or is in physical control of a
commercial motor vehicle within this state while having any detectable
amount of alcohol in his system or who refuses to submit to an alcohol
test must be placed out of service for twenty-four (24) hours and be subject to the provisions of section 18-8002, Idaho Code.

(8) It is unlawful for a holder of a class A, B or C license to violate an out-of-service order. A person who is convicted in the form of a judgment or withheld judgment of a violation of an out-of-service order while driving a commercial motor vehicle is disqualified for not less than:

(a) Ninety (90) days nor more than one (1) year for a first conviction;
(b) One (1) year nor more than five (5) years for a second conviction arising from separate incidents during any ten (10) year period;
(c) Three (3) years nor more than five (5) years for three (3) or more convictions arising from separate incidents during any ten (10) year period.

(9) A person who is convicted in the form of a judgment or withheld judgment of a violation of an out-of-service order while driving a commercial motor vehicle and while transporting hazardous materials required to be placarded under the hazardous materials transportation act, or while operating motor vehicles designed to transport sixteen (16) or more people including the driver, is disqualified for not less than:

(a) One hundred eighty (180) days nor more than two (2) years for a first conviction;
(b) Three (3) years nor more than five (5) years for subsequent convictions arising from separate incidents in any ten (10) year period.

(10) A person is disqualified from operating a commercial motor vehicle if convicted of a railroad grade crossing violation as specified in 49 CFR part 383 or applicable state laws while operating a commercial motor vehicle. The disqualification shall be for a period of:

(a) Sixty (60) days for a first conviction;
(b) One hundred twenty (120) days for a second conviction during any three (3) year period;
(c) One (1) year for a third or subsequent conviction during any three (3) year period.

(11) A person is additionally disqualified from operating a commercial motor vehicle in accordance with 49 CFR part 383 if such person is convicted of operating a commercial motor vehicle during a time when such person's class A, B or C driving privileges were revoked, suspended or canceled or during a time when such person was disqualified from operating a commercial motor vehicle.

(12) A person is additionally disqualified from operating a commercial motor vehicle in accordance with 49 CFR part 383 if convicted of causing a fatality through the negligent operation of a commercial motor vehicle. Such negligent operation of a commercial motor vehicle may include, but is not limited to, the crimes of motor vehicle manslaughter, homicide by motor vehicle, or negligent homicide by motor vehicle.

(13) In addition to the disqualification periods in subsections (8) and (9) of this section, a driver who is convicted of violating an out-of-service order shall be subject to a civil penalty of not less than one thousand one hundred dollars ($1,100) nor more than two thousand seven hundred fifty dollars ($2,750).
SECTION 9. That Section 49-337, Idaho Code, be, and the same is hereby amended to read as follows:

49-337. EMPLOYEE AND EMPLOYER RESPONSIBILITIES. (1) Any operator of a commercial motor vehicle holding a class A, B or C driver's license issued by this state, and who is convicted of violating any state law or local ordinance in any other state relating to motor vehicle traffic control, other than parking violations, shall notify the department of the conviction in the manner specified by the department within thirty (30) days of the date of conviction.

(2) Any operator of a commercial motor vehicle holding a class A, B or C driver's license issued by this state, and who is convicted of violating any state law or local ordinance relating to motor vehicle traffic control in this or any other state, other than parking violations, shall notify his employer in writing of the conviction within thirty (30) days of the date of conviction.

(3) Each employee whose class A, B or C driver's license is suspended, revoked, denied, refused or canceled by this state or who loses the privilege to operate a commercial motor vehicle in any state for any period, or who is disqualified from operating a commercial motor vehicle for any period, shall notify his employer of that fact before the end of the business day following the day the employee received notice of that fact.

(4) Each person who applies for employment as an operator of a commercial motor vehicle with an employer shall provide notification to the employer, at the time of application, of his previous employment as an operator of a commercial motor vehicle. The period of previous employment of which notification must be given shall be the ten (10) year period ending on the date of application for employment.

(5) No employer shall knowingly allow, permit, require or authorize an employee to operate a commercial motor vehicle in the United States during any period:

(a) In which the employee has a driver's license suspended, revoked or canceled by a state, has lost the privilege to operate a commercial motor vehicle in a state or has been disqualified from operating a commercial motor vehicle; or

(b) In which the employee has more than one (1) driver's license; or

(c) In which the employee, or the motor vehicle being driven, or the motor carrier operation, is subject to an out-of-service order.

(6) An employer who is convicted of a violation of subsection (5)(c) of this section shall be subject to a civil penalty of not less than two thousand seven hundred fifty dollars ($2,750) nor more than eleven thousand dollars ($11,000).

(7) No employer shall knowingly allow, permit, require or authorize an employee to operate a commercial motor vehicle in the United States in violation of any federal, state or local law or federal regulation pertaining to railroad grade crossings. An employer who is convicted of a violation of this subsection (67) shall, in addition to the general penalties provided for in this title, be subject to a civil penalty of not more than ten thousand dollars ($10,000).

(8) Each employer shall require the information specified in subsection (4) of this section to be provided by the employee.
SECTION 10. That Section 49-1416, Idaho Code, be, and the same is hereby amended to read as follows:

49-1416. RECORD OF TRAFFIC CASES -- REPORT OF CONVICTIONS TO DEPARTMENT. (1) Every magistrate or judge of a court shall keep or cause to be kept a record of every traffic complaint, traffic citation, or other legal form of traffic charge deposited with or presented to the court, and shall keep a record of every official action by the court in reference thereto, including a record of every conviction, forfeiture resulting from every traffic complaint or citation deposited with or presented to the court.

(2) Within ten (10) days after a conviction or forfeiture of bail of a person upon a charge of violating any provision of this title or other law regulating the operation of vehicles on highways, the magistrate of the court or clerk of the court of record in which the conviction was had or bail was forfeited shall prepare and immediately forward to the department, either by paper or electronically, an abstract of the record of the court covering the case in which the person was convicted or forfeited bail. The abstract shall be certified by the person required to prepare the abstract to be true and correct. A report need not be made of any conviction involving the illegal parking or standing of a vehicle.

(3) The abstract, whether paper or electronic, shall be made upon a form as prescribed by the supreme court and shall include the name and address of the party charged, the number if any of his driver's license, the registration number of the motor vehicle involved, the nature of the offense, the date of hearing, the plea, the judgment, or whether bail was forfeited, and the amount of the fine or forfeiture as applicable.

(4) Every court of record shall also forward a like report to the department upon the conviction of any person of manslaughter or other felony in the commission of which a vehicle was used.

(5) Courts shall not mask, defer imposition of judgment, or allow the holder of a commercial driver's license to enter into a diversion program that would prevent a conviction in any jurisdiction of a violation committed in any type of motor vehicle of a state or local traffic control law, excluding a parking violation, from appearing on the driver's record.

(6) The failure, refusal, or neglect of any judicial officer to comply with any of the requirements of this section shall constitute misconduct in office and shall be grounds for removal.

(67) The department shall keep all abstracts received in either electronic format or on microfilm, and abstracts shall be open to public inspection during reasonable business hours with the exception of personal information which may be exempt from disclosure as otherwise provided by law.

Approved March 22, 2006.
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CHAPTER 165
(S.B. No. 1348)

AN ACT
RELATING TO HIGHWAY DISTRICTS; AMENDING SECTION 40-1304, IDAHO CODE, TO PROVIDE FOR DETERMINATION AND DECLARATION OF A VACANCY IN THE OFFICE OF HIGHWAY DISTRICT COMMISSIONER AND TO MAKE TECHNICAL CHANGES; AND AMENDING SECTION 40-1305C, IDAHO CODE, TO PROVIDE QUALIFICATIONS FOR THE OFFICE OF HIGHWAY DISTRICT COMMISSIONER AND TO MAKE A TECHNICAL CHANGE.

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

SECTION 1. That Section 40-1304, Idaho Code, be, and the same is hereby amended to read as follows:

40-1304. DIVISION OF DISTRICTS INTO SUBDISTRICTS — VACANCY IN OFFICE OF HIGHWAY COMMISSIONER. (1) At the meeting of the county commissioners at which the highway district is declared organized, the commissioners shall divide the highway district into three (3) subdistricts, as nearly equal in population, area and mileage as practicable, to be known as highway commissioners subdistricts one, two and three. Subdistricts may be revised or modified by the highway district commissioners as changes in conditions demand. Not more than one (1) of the highway district commissioners shall be an elector of the same highway subdistrict. The first highway district commissioners appointed by the governor shall serve until the next highway district election, at which their successors shall be elected. The highway commissioners shall take office on October 1 following their election.

(2) Any vacancy occurring in the office of highway commissioner, other than by expiration of the term of office, shall be determined by the remaining highway district commissioners using the criteria established in section 59-901, Idaho Code. If it is determined that a vacancy has occurred, the commissioners shall declare there is a vacancy and such vacancy shall be filled by the highway district board and be for the balance of the term of the person replaced. If the remaining highway district commissioners are unable to agree on a person to fill the vacancy within ten (10) days after the vacancy occurs, the chairman of the county commissioners of the county with the largest number of electors in the highway district shall then become a member of the highway district board for the purpose of filling the vacancy only. If a majority of the highway district board so constituted shall be unable to agree upon a person to fill the vacancy within ten (10) days, or if two (2) or more vacancies shall occur in the board of highway commissioners at one (1) time, a special election to fill the vacancy shall be called and held in the same manner provided by law for the holding of elections for highway commissioners, except that the date of the election shall be as soon as possible, and all duties imposed by law upon the highway district board in connection with elections shall be performed by the county commissioners.

(3) When there are two (2) or more vacancies on the highway district board at the same time, the chairman of the county commissioners along with the additional county commissioners that the county commis-
sion chairman appoints, and with the remaining highway district commis-
ioner, if applicable, shall constitute a temporary board of highway
district commissioners. The temporary board of highway district commis-
sioners shall perform the duties required by law of a highway district
board of commissioners until the newly elected highway commissioners
take office.

SECTION 2. That Section 40-1305C, Idaho Code, be, and the same is
hereby amended to read as follows:

40-1305C. DECLARATION OF CANDIDACY -- QUALIFICATIONS. (1) Candi-
dates for election as a highway district commissioner shall be nominated
by nominating petitions, each of which shall bear the name of the nomi-
natee, the subdistrict for which the nomination is made, the term for
which nomination is made, bear the signature of not less than five (5)
electors of the candidate's specific subdistrict, and be filed with the
election official of the highway district. The form of the nominating
petition shall be as provided by the county clerk. The nomination shall
be filed not later than 5:00 p.m. on the sixth Friday preceding the
election for which the nomination is made. The election official shall
verify the qualifications of the nominee, and shall not more than seven
(7) days following the filing certify the nominees to be placed on the
ballot.

(2) A nominee shall qualify for the office of highway district com-
misssioner if such nominee:

(a) Has attained the age of twenty-one (21) years at the time of
his election; and

(b) Is a citizen of the United States; and

(c) Is a resident of the highway district commissioner's subdis-

Approved March 22, 2006.
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 54-2004, Idaho Code, be, and the same is hereby amended to read as follows:

54-2004. DEFINITIONS. As used in this chapter:
(1) "Accredited college or university" means an institution accredited by the regional accrediting associations, as reported in the most current publication of the accredited institutions of postsecondary education.
(2) "Active license" means the status of a real estate license that has not been inactivated, expired, terminated, suspended or revoked.
(3) "Associate broker" means an individual who has qualified personally as a real estate broker in Idaho under this chapter, but is licensed under, associated with and represents a designated broker in the performance of any act described in subsection (3t2) of this section.
(4) "Branch office" means an office operated by a licensed real estate broker or licensed legal business entity, separate and apart from the main office. A branch office may be licensed or unlicensed, in accordance with this chapter.
(5) "Brokerage-agreement" means a written contract between a buyer, seller, or both, and a real estate brokerage for agency representation in a regulated real estate transaction.
(6) "Brokerage company" means a real estate business, whether a sole proprietorship, a legal entity, or any other licensed person engaged in acts requiring a real estate license in Idaho, and which is conducting or holding itself out as conducting the business of real estate through a designated broker.
(6) "Brokerage representation agreement" means a written contract between a buyer, seller, or both, and a real estate brokerage for agency representation in a regulated real estate transaction.
(7) "Business conduct and office operations course" means, in reference to a real estate course offering, the component of the advanced real estate course that is required in order to obtain a broker license and that reaches business practices and office operations of the brokerage, including recordkeeping, trust account procedures and the laws governing those practices.
(8) "Business name" means the name in which the brokerage company is licensed by the commission.
(8) "Business opportunity" means and includes an established business, good will of an established business, or any interest therein, or any one (1) or combination thereof, where a sale or transfer of an interest in land including, but not limited to, an assignment of a lease, is involved in the transaction.
(9) "Commission" means the Idaho real estate commission, unless the context clearly indicates a different meaning.
(10) "Commission core course" means, in reference to a real estate course offering, the course containing curriculum, identified by the commission, that stresses current trends in real estate practices and changes in laws in real estate related industries. A core course must contain no more than four (4) classroom hours of instruction.
(11) "Continuing education elective course" means a real estate course offering, other than the commission core course for which con-
tinuing education credit hours may be obtained as provided in section 54-2023, Idaho Code.

(123) "Convicted" means a plea of nolo contendere or guilty, a jury verdict of guilty or a court decision of guilt whether or not a judgment or sentence has been imposed, withheld or suspended.

(134) "Cooperative sale" means a transaction involving two (2) or more brokers.

(145) "Council" means the Idaho real estate education council.

(156) "Dealer in options" means any person, firm, partnership, association or corporation who shall directly or indirectly take, obtain or use options to purchase, exchange, lease option or lease purchase real property or any interest therein for another or others whether or not the options shall be in his or its name and whether or not title to the property shall pass through the name of the person, firm, partnership, association or corporation in connection with the purchase, sale, exchange, lease option or lease purchase of the real property, or interest therein.

(167) "Designated broker" means an individual who is licensed as a real estate broker in Idaho and who is designated by the brokerage company to be responsible for the supervision of the brokerage company and the activities of any associated licensees in accordance with this chapter.

(178) "Distance learning course" means, in relation to a real estate course offering, a real estate course that is delivered, not as a live course, but through a medium in which the instructor and student are separated by distance or time.

(189) "Double contract" means two (2) or more written or unwritten contracts of sale, purchase and sale agreements, loan applications, or any other agreements, one (1) of which is not made known to the prospective loan underwriter or the loan guarantor, to enable the buyer to obtain a larger loan than the true sales price would allow, or to enable the buyer to qualify for a loan which he or she otherwise could not obtain. An agreement or loan application is not made known unless it is disclosed in writing to the prospective loan underwriter or loan guarantor.

(1920) "Executive director" means the executive director of the Idaho real estate commission.

(201) "Expired license" means the status of a license when the license period has expired and the license is not renewed or provisional license granted, and before the license is terminated.

(212) "Fee or commission" means a payment, actual, promised or expected, as compensation for the performance of any act requiring a real estate license.

(223) "Inactive license" means the status of a license that is not expired, terminated, suspended or revoked, and during which inactive period the license holder is not authorized to act as or associate with a designated broker.

(234) "Legal business entity" means and includes any type of corporation, partnership, limited liability company or limited liability partnership, a governmental entity, trust or other entity capable of conducting business.

(245) "Licensee" means any person who is licensed in accordance with this chapter to engage in the business or act in the capacity of real estate broker, associate broker or real estate salesperson.
(256) "Limited broker" means a broker individually qualified to do business in Idaho, but who may not have associate brokers or salespersons licensed with that broker.

(257) "Live presentation" means, in reference to a real estate course offering, a real estate course that is personally presented by the instructor and personally attended by the student at the same facility.

(258) "Main office" means the principal location where the real estate broker is licensed to transact business.

(259) "Person" means and includes an individual, or any legal business entity.

(260) "Primary Idaho license" means an Idaho real estate license that is not contingent upon continuance of a license in another state or jurisdiction.

(261) "Provisional license" means an extension of active licensure, beyond the licensee's expiration date, granted by the commission for the purpose of allowing the licensee to complete the continuing education requirements set forth in section 54-2023, Idaho Code, or for any other purpose allowed by this chapter.

(262) "Real estate broker" means and includes:

(a) Any person other than a real estate salesperson, who, directly or indirectly, while acting for another, for compensation or a promise or an expectation thereof, engages in any of the following: sells, lists, buys, or negotiates, or offers to sell, list, buy or negotiate the purchase, sale, option or exchange of real estate or any interest therein or business opportunity or interest therein for others;

(b) Any actively licensed broker while, directly or indirectly, acting on the broker's own behalf;

(c) Any person who represents to the public that the person is engaged in any of the above activities;

(d) Any person who directly or indirectly engages in, directs, or takes any part in the procuring of prospects, or in the negotiating or closing of any transaction which does or is calculated to result in any of the acts above set forth;

(e) A dealer in options as defined in this section.

(263) "Real estate salesperson" or "salesperson" means any person who has qualified and is licensed as a real estate salesperson in Idaho under this chapter, and is licensed under, associated with, and represents a designated broker in the performance of any act described in subsection (262) of this section.


(265) "Reciprocal license" means an Idaho real estate license that is issued pursuant to the terms of a specific, written reciprocal agreement between Idaho and another state or jurisdiction, and that is contingent upon the licensee's maintaining a license in the other state or jurisdiction.

(266) "Regulated real estate transaction" means those real estate transactions for which a real estate license is required under chapter 20, title 54, Idaho Code.

(267) "Responsible broker" means the designated broker in the regulated real estate transaction who is responsible for the accounting and
transaction files for the transaction, in the manner described in sec-
section 54-2048, Idaho Code.

(37) "Revoked license" means a license that has been permanently
revoked by the issuing authority.

(38) "Sales associate" means a salesperson or an associate broker
licensed under and associated with a designated broker.

(39) "State or jurisdiction" means and includes any of the fifty
states and any foreign jurisdiction that issue real estate licenses
substantially similar to those provided for in this chapter.

(40) "Successfully completed" means, in reference to a real estate
course offering, completing all required course hours and, except where
the licensee seeks continuing education credit for having regularly
attended the live presentation of a course, passing a commission-
approved final examination.

(41) "Surrendered license" means a license that has been voluntarily
terminated or surrendered by a licensee who, at the time of the volun-
tary termination or surrender, was under investigation or named in a
formal administrative complaint.

(42) "Suspended license" means a license that has been temporarily
suspended by the issuing authority.

SECTION 2. That Section 54-2014, Idaho Code, be, and the same is
hereby amended to read as follows:

54-2014. LICENSE EXAMS. (1) Exam required. Unless a written certif-
icate of waiver is obtained from the commission and submitted with the
application, an individual applicant seeking a primary Idaho real estate
license shall take and pass the national portion and the Idaho state
portion of an approved exam administered by or through the commis-
sion. The license applicant shall take and pass the required portion or por-
tions of the exam within no more than twelve (12) months immediately
preceding the date of the license application.

(2) Preregistration Registration for the exam and exam fee. An
individual may preregister to sit and take the exam by submitting a com-
pleted preregistration exam application form and a shall register for
the exam in a manner authorized by the commission and shall pay at the
time of registration the nonrefundable exam fee in an amount established
by motion of the commission, not to exceed one hundred dollars ($100).
The exam application and fee shall be submitted directly to the testing
company administering the exam, or to the commission, as specified by
the commission. Failure to appear for any reason for the exam shall can-
cel the exam application. A new exam application and fee shall be
required to take the exam at a future time.

(3) Walk-in-registration-for-the-exam. An individual may appear at
a testing center and take the exam without having preregistered so long
as seating remains available at the center. The individual shall submit
a completed exam application and a walk-in exam fee in an amount estab-
lished by motion of the commission, not to exceed one hundred ten dol-
ars ($110), at the time the individual is admitted to take the exam.

(4) Waiver of national portion of exam. An individual who has
obtained a written certificate from the commission waiving the national
portion of the exam shall be required to take and pass the Idaho state
portion of the exam only. The certificate of waiver and exam fee shall
be submitted with the application for exam.
(54) Failure to appear for the exam or to pass the exam. An individual who fails to appear for the exam or to pass the exam may reapply register to take another exam. The individual must complete-a-new-exam application register and submit a new exam fee.

(65) The commission shall establish, by motion, fees for the exam which, in its discretion, are sufficient to raise the revenue required to administer the exam. Fees so established shall remain effective from year to year and may be altered only upon proper motion by the commission.

SECTION 3. That Section 54-2015, Idaho Code, be, and the same is hereby amended to read as follows:

54-2015. INDIVIDUALS ACTIVELY LICENSED IN ANOTHER STATE OR JURISDICTION SEEKING PRIMARY IDAHO LICENSURE. (1) An individual who is currently and actively licensed as a real estate broker or salesperson in another state or jurisdiction at the time of application for a primary Idaho real estate license shall meet all qualifications listed in section 54-2012, Idaho Code, for the type of license sought, except that the applicant shall not be required to furnish proof of the educational prerequisites described in subsection (l)(g) of section 54-2012, Idaho Code; provided however, an individual applying to be licensed as a designated broker of a business entity or sole proprietorship, or as a branch office manager of a licensed branch office, shall comply with the requirements of section 54-2016, Idaho Code. In addition, such applicant shall provide a current, certified license history from the other licensing state or jurisdiction, which history shall indicate any disciplinary action taken against the applicant's license by the other licensing state or jurisdiction, and the status and standing of the applicant's license in the other state or jurisdiction.

(2) An individual who holds an active license in good standing in another state or jurisdiction may, upon written request to the commission, obtain a certificate of waiver of the national portion of the exam required for Idaho licensure. A request for waiver shall indicate the individual's mailing address to which the commission is to deliver the certificate of waiver. The certificate of waiver shall be submitted with the application for exam as provided in subsection (43) of section 54-2014, Idaho Code.

(3) An individual who is currently and actively licensed in another state or jurisdiction that administers a real estate exam may be issued a primary Idaho license without further exam or proof of educational prerequisites pursuant to written agreement between Idaho and the other state or jurisdiction, provided that such other state or jurisdiction allows the issuance of real estate licenses in substantially the same manner as set forth in this subsection; provided however, an individual applying to be licensed as a designated broker of a business entity or sole proprietorship, or as a branch office manager of a licensed branch office, shall comply with the requirements of section 54-2016, Idaho Code, notwithstanding the terms of the agreement.

SECTION 4. That Section 54-2018, Idaho Code, be, and the same is hereby amended to read as follows:
54-2018. LICENSE RENEWALS -- INACTIVE LICENSES STATUS -- PERSONAL CHANGES -- EFFECTIVE DATES -- FEES NONREFUNDABLE. (1) Initial license period. Each new license shall be for a period of one (1) year plus the months up to and including the next birth date of the licensee, not to exceed a period of two (2) years, and shall expire on a date to coincide with the last day of the month of the birth date of the licensee. Corporations, partnerships, limited liability companies and other entities defined as "persons" in this chapter shall have established as the equivalent of a birth date, the birth date of its designated broker. Licensed branch offices shall have established as the equivalent of a birth date, the birth date of the designated broker for the branch office.

(2) License renewal. Each license shall be renewable for a period of two (2) years by timely submitting a completed application. Applications must be received at the commission office on or before 5 p.m. of the expiration date.

(a) If renewing an active license, the application shall include:
   (i) Certification that the applicant has met the commission's continuing education requirements as set forth in section 54-2023, Idaho Code;
   (ii) Certification that the applicant has met the mandatory errors and omissions insurance requirement for real estate licensees as set forth in section 54-2013, Idaho Code; and
   (iii) Payment of all renewal fees established by this chapter or by the commission.

(b) If renewing an inactive license, the application shall include payment of all renewal fees established by this chapter or by the commission by rule.

(3) Late renewal. If the licensee fails to submit a completed application for renewal or pay the renewal fee on or before the expiration date, the commission may accept a later application or payment of the fee, subject to such conditions as the commission may require including, but not limited to, the assessment of a late fee; provided that between the license expiration date and the date of renewal of the license, the rights of the licensee under such license shall be expired, and during such period of expiration it shall be unlawful for any licensee to do or attempt to offer to do any of the acts of the kind and nature described in the definitions of real estate broker or real estate salesperson in section 54-2004, Idaho Code, in consideration of compensation of any kind or expectation thereof. An expired license that is not renewed within one (1) year of the expiration date shall be automatically terminated by the commission and may not be renewed.

(4) Active and inactive license status. A licensee who is a designated broker or associated with a designated broker shall hold an active license. A licensee who has paid all applicable fees, who is not associated with a designated broker and who holds a current license that is not revoked, suspended or terminated shall hold his license on inactive status. A licensee seeking to change from active license status to inactive license status shall have the broker submit a change of status application to the commission in the form and manner approved by the commission. During the period that his license is inactive, the licensee shall not engage in the business or act in the capacity of real estate broker, associate broker or salesperson. However, an inactive licensee may receive a referral fee for any referral made during the period his
license was active. A licensee may activate an inactive license by meeting each of the following:

(a) If activating as a sales associate, associating with a designated Idaho broker and having the broker submit an application in the form and manner approved by the commission;
(b) If activating as a designated broker, establishing an office in the manner required by this chapter and submitting an application in the form and manner approved by the commission;
(c) Paying the required fee;
(d) Obtaining and maintaining a policy of errors and omissions insurance as required by section 54-2013, Idaho Code, and in accordance with the rules of the commission and certifying the same; and
(e) Successfully completing any continuing education requirements, as prescribed in section 54-2023, Idaho Code, and certifying the same for the current license period.

(5) Continuing education. A licensee shall not submit an application to renew a license on active status or to activate an inactive license without having obtained the continuing education credit hours required by section 54-2023, Idaho Code. A licensee who violates this subsection (5) shall be subject to disciplinary action by the commission.

(6) Time required. The commission may request satisfactory proof of continuing education compliance from any licensee who has certified to the commission that he has completed the requirement. The request shall state the time within which the proof must be received at the commission office, which time shall not be less than ten (10) business days.

(7) Satisfactory proof. Upon request from the commission, the licensee shall submit satisfactory proof of having met the continuing education requirement set forth in section 54-2023, Idaho Code. "Satisfactory proof" shall, for each course, consist of documentation:

(a) Identifying the licensee, the title of the course or challenge exam, the course certification number, the course provider, the number of classroom hours, the completion date of the course or challenge exam, and including:
   (i) A transcript of the course taken;
   (ii) A letter from the provider verifying successful completion of the course; or
   (iii) A course completion certificate; and
(b) Identifying the course certification approval number to establish that the course is approved for continuing education credit as provided by section 54-2023, Idaho Code. The commission may, in its sole discretion, accept alternative documentation establishing that the course is approved for credit.

(8) Failure to submit proof. A licensee failing to submit satisfactory proof of completing the continuing education requirement after being requested to do so by the commission may have his license inactivated by the commission and shall not be entitled to reactivate the license unless and until he provides to the commission satisfactory proof that he meets the continuing education requirements of section 54-2023, Idaho Code. Nothing in this section shall limit the ability of the commission to investigate or discipline a licensee for violating subsection (5) of this section or for violating any other section of this chapter.

(9) Change in personal information. An individual licensee, whether
active or inactive, shall provide written notice to the commission, in the form and manner approved by the commission, of any change of his personal name, address of personal residence or personal telephone number. Notice shall be provided within ten (10) days of the change. If the licensee has changed his personal name, he shall also submit legal proof of the change and the fee for issuing a new license certificate and, if an active licensee, he shall have the broker submit the written notice of change to the commission. Upon receipt of the new license certificate or upon its effective date, whichever is later, the broker shall remove from public view any license certificate bearing the licensee's former name.

(10) Signature required. No license shall be valid unless the license certificate is signed by the licensee.

(11) Effective dates. A request for licensure or for license changes shall become effective when the proper completed application, attachments and any required fee are received at and approved by the commission. An application that is incomplete or lacking proper the required fees shall be returned to the applicant and no license shall be issued until a completed application and proper all required fees are received at and actually approved by the commission.

(12) Fees nonrefundable. No licensee shall be entitled to a refund of any fee after the license or license change has become effective.

SECTION 5. That Section 54-2023, Idaho Code, be, and the same is hereby amended to read as follows:

54-2023. CONTINUING EDUCATION REQUIREMENTS. Each licensee applying to renew an Idaho real estate license on active status, and each Idaho licensee applying to change from inactive to active license status, shall successfully complete a commission core course, plus the required number of classroom hours of commission-approved or certified continuing education coursework as provided in this section.

(1) Required number of classroom hours. The required number of classroom hours is as follows:

(a) Renewing license on active status. A licensee renewing on active status effective prior to July 1, 2003, must successfully complete a commission core course, plus eight (8) classroom hours of continuing education, on or before the current license expiration date. A licensee renewing on active status effective on or after July 1, 2003, must successfully complete a commission core course, plus sixteen (16) classroom hours of continuing education, on or before the current license expiration date.

(b) Change from inactive to active. Unless the licensee is within the initial licensing period, a licensee changing from inactive to active license status must meet the continuing education requirements for an active license for the current licensing period. If the inactive licensee is within the initial licensing period that began prior to July 1, 2003, he shall complete a commission core course, plus sixteen (16) classroom hours of continuing education, before he can change to active license status. If the inactive licensee is within his initial licensing period, no continuing
education is required to change to active license status.

(2) No duplicate credit. No licensee may obtain continuing education credit for completing:
(a) Any core course curriculum for which he has previously received continuing education credit; or
(b) Any course curriculum for which he has received continuing education credit in the same license period.

(3) Excess credits. The classroom hours shall apply to the license period in which such course is completed; hours completed in excess of those required for the license period shall not accumulate or be credited for the purposes of subsequent license renewal periods.

(4) Commission-ordered education. No licensee shall obtain continuing education credit for education ordered by the commission as part of a disciplinary action.

(5) Obtaining continuing education classroom hours. In order to obtain continuing education classroom hours, a licensee must:
(a) Successfully complete a commission-approved continuing education course;
(b) Successfully complete a commission-approved continuing education challenge exam;
(c) Attend an entire regularly-scheduled meeting of the commission. The licensee shall provide at least seven (7) days' advance notice to the education section of the commission of his intent to attend the meeting. Failure to provide advance notice shall result in no continuing education hours being credited. A maximum of three (3) hours for this activity shall be credited for any one (1) meeting in any one (1) license period;
(d) Successfully complete a commission-approved broker prelicense course, or a commission-approved continuing education challenge exam, in advanced real estate study. Continuing education credit may be obtained for retaking the same broker prelicense course or challenge exam only if completed after five (5) years of completing the previous course or challenge exam; or
(e) Provide to the commission a transcript or course completion certificate of successful completion of any of the following courses without commission preapproval of the curriculum, instructors or providers:
   (i) Professional designation courses. Any course developed by national professional organizations that are required in order to earn professional designations from a national organization in specialized areas of licensed real estate practice;
   (ii) Courses accredited by another profession or jurisdiction. Any course approved by and offered in satisfaction of another professional or occupational licensing authority's education requirements, if the course is within the approved topic areas established by the commission; or
   (iii) Courses offered by an accredited college or university. Any course offered in satisfaction of a degree requirement by an accredited college or university if the course is within the approved topic areas established by the commission.
(f) If a certified course instructor, teach a live course for which continuing education credit may be obtained. Credits shall be granted for the number of classroom hours taught.
(6) Licensee duty to keep satisfactory proof. The licensee shall
keep satisfactory proof of having completed the continuing education requirement and shall submit such proof at the request of the commission as provided in section 54-2018, Idaho Code.

(7) Provisional license -- Extension of time. A three-month extension of time for completing the education requirements may be obtained by submitting with the renewal application, or application to activate, satisfactory evidence showing that the applicant was unable to comply with such education requirements. Such evidence shall be:

(a) Bona fide hardship preventing completion of the reinstatement requirements of an inactive license;
(b) Health reasons preventing attendance or completion;
(c) Active duty in the military service with assignment to a permanent duty station outside of the state during the last twelve (12) months of a license period; or
(d) Other compelling cause beyond the control of the applicant while engaged in the real estate business.

If such an extension is granted, the licensee shall receive a provisional license for a period of time not to exceed three (3) months. No further extension of time may be granted. A license issued or renewed after an extension of time has been granted shall retain the original license expiration date. Failure to satisfy the continuing education requirement within the time granted shall result in the automatic inactivation of the license.

SECTION 6. That Section 54-2027, Idaho Code, be, and the same is hereby amended to read as follows:

54-2027. DUTIES AND REQUIREMENTS OF ALL CERTIFIED COURSE PROVIDERS. Failure of a certified course provider to comply with the following duties and requirements shall be grounds for the commission to withdraw or cancel the provider's certification for cause.

(1) Discrimination prohibited. Each certified course provider shall at all times be in compliance with state and federal laws, rules and regulations regarding all aspects of equal opportunity and protection of civil rights. No course provider shall engage in discriminatory practices, nor allow their course instructor, or method of delivery to violate laws prohibiting discrimination. Each course provider will fully comply with any requirements of the Americans with disabilities act regarding access to and delivery of its courses, including the provision of accessible facilities and reasonable accommodations for students.

(2) Open access to course offerings. Registration and attendance at all certified courses offered for prelicense or continuing education credit shall be open to all persons meeting normal course prerequisites; provided however, a certified course provider located in or affiliated with a licensed real estate brokerage company or professional association may refuse access to any licensee or unlicensed person based on that licensee's or unlicensed person's affiliation with another organization or brokerage company, or the licensee's or unlicensed person's membership status in any professional organization unless such course provider has received financial support from the commission for its particular course offering. Nothing in this section shall restrict a course provider from charging a separate and reasonable course fee to nonaffiliated or nonmember licensees or unlicensed persons.

(3) Disclosure of fees. All fees charged to a student by a course
provider shall be specified separately in writing. If additional fees are charged for supplies, materials or books required for coursework, such fees shall be itemized by the provider and, upon payment of such fees, the supplies, materials or books shall become the property of the student. All fees and the manner in which they are to be paid shall be stated in a student contract, in a form approved by the commission. The student contract shall expressly include the provider’s policy regarding the return of fees in the instance where the student is dismissed or voluntarily withdraws from the course.

(4) Facilities and supportive personnel. The provider shall provide the facilities and all supportive qualified personnel or approved proctors necessary to adequately implement its real estate program.

(5) Student records and other requirements. Each Idaho certified course provider shall comply with the following requirements:

(a) Records. Maintain for each individual student a complete, accurate and detailed record which shall include the total number of hours of instruction undertaken and satisfactorily or unsatisfactorily completed in the area of study;

(b) Course completion lists. Within five (5) working days after conclusion of each course of instruction, the provider shall submit to the council or commission an alphabetical list which shall include the names, addresses, and social security numbers or, if licensed, the license numbers, of the students completing the course of instruction, the name of the course, the name of the instructor, the number of hours included in the course, the date of the course and the location. The list shall be certified by the instructor from whom the students received instruction and an authorized representative of the provider;

(c) Grades. The provider will provide written notification to students who successfully or unsuccessfully complete a course within thirty (30) days of the course completion date;

(d) Evaluations. Upon the conclusion of each course, the provider shall collect written evaluations from students for the course and instructor, using an evaluation form approved by the commission, provided:

(i) For each prelicense course, the provider shall promptly submit the collected student written evaluations to the commission; and

(ii) For each continuing education course, the provider shall keep such evaluations for a period of one (1) year from the course completion date. Upon written request from the commission, the provider shall submit a written summary of the student evaluations for the course and instructor using a form approved by the commission.

(e) Course schedules. Each provider shall submit schedules of courses and instructors as requested by the commission and submit changes promptly as they occur. Whenever there is a change in a course including, but not limited to, a change in curriculum, course length or instructor, the provider shall promptly notify the commission in writing of the change.

(6) Instructor certification not required for continuing education elective courses. A certified provider may offer a continuing education elective course without obtaining approval or certification for the course instructor; provided however, the provider shall maintain resumes
or other biographical information that documents the qualifications of
the instructor to teach the continuing education elective course.

(7) Posting and recording fees. The commission may require that
course providers pay to the commission a nonrefundable posting and
recording fee to defray normal expenses incurred in maintaining the cer­
tificate program. The fee amount shall be established by the commission
by motion.

(8) Advertising restrictions:
(a) Providers may advertise that they are currently certified by
the commission, if current certification has been approved, but no
such advertising may state or imply that the provider is an agency
of the commission or the council;
(b) No course provider shall provide any information to the public
or to prospective students which is misleading in nature. Informa­
tion is misleading when, taken as a whole, there is distinct proba­
bility that it will deceive the persons whom it is intended to
influence.

(9) Changes in certification. Certification shall be granted to the
particular provider for the specific ownership, provider location, and
named individual in charge as designated in the application for certifi­
cation. Any changes in ownership, provider location, or provider name,
or named individual in charge must be submitted for approval to the com­
mision, at least one (1) month in advance of the effective date of the
proposed changes.

SECTION 7. That Section 54-2033, Idaho Code, be, and the same is
hereby amended to read as follows:

54-2033. INSTRUCTOR QUALIFICATIONS. (1) Qualified instructors at
degree-granting institutions. A qualified or full-time instructor or
professor of an accredited college or university in any state or juris­
diction and who teaches real estate-related courses is deemed to be an
approved instructor of such courses, in Idaho, for the purposes of this
chapter.

(2) Other instructor applicants. All other individuals wishing to
teach any real estate courses for credit toward Idaho prelicense
requirements, including the business conduct and office operations
course, or the commission continuing education core course requirements
must first meet the following additional qualifications and receive sep­
arate certification for each course to be taught:
(a) Unless this requirement is waived upon special review of the
commission in the manner stated below, no individual instructor
seeking certification may have had a real estate or other profes­
sional or occupational license suspended or revoked for disciplinary
reasons or have been refused a renewal of a license issued by the
state of Idaho or any other state or jurisdiction. Further, the
individual may not have been convicted, issued any fine, placed on
probation, received a withheld judgment, or completed any sentence
of confinement for or on account of any felony, or any misdemeanor
involving fraud, misrepresentation, or dishonest or dishonorable
dealing, in a court of proper jurisdiction. The failure of a certi­
fied instructor to maintain the qualifications required by this sub­
section shall be grounds for the commission to withdraw or cancel
the instructor's certificate as provided in section 54-2025(3), Idaho Code.

(b) Each applicant for certification shall also:

(i) Submit a properly completed application for instructor certification in the form and manner required by the commission, with all proper required fees;

(ii) File a properly executed "irrevocable consent to service of process" in the manner and form prescribed by the commission and according to section 54-2012(1)(j), Idaho Code;

(iii) Qualify as at least one (1) of the following:

1. An attorney at law actively licensed in any state or jurisdiction with at least five (5) years of active practice in the areas of study proposed to be taught, and who has also successfully completed a commission-approved instructor training course or procedure, including a student an assistant teaching period;

2. An individual currently approved or certified and in good standing as a real estate instructor for the same or similar course material in any other state or jurisdiction;

3. An individual who is appointed to teach a nationally recognized real estate course which is generally accepted in other states or jurisdictions; or

4. An individual with at least five (5) years active real estate-related experience who has also successfully completed a commission-approved instructor training procedure, including a student an assistant teaching period.

SECTION 8. That Section 54-2034, Idaho Code, be, and the same is hereby amended to read as follows:

54-2034. SPECIAL CONSIDERATION -- DISCRETION OF THE COMMISSION. The commission may, in its discretion, make such additional investigation and inquiry relative to the applicant for instructor certification as it shall deem advisable, and if other good cause exists, may deny or accept the application for certification. Based upon an applicant's educational background, experience in related activities, or a review of the applicant's evaluations as a student an assistant teacher, the commission may modify the requirements for instructor certification; such modification may include reducing the requirements or assigning additional requirements for certification.

SECTION 9. That Section 54-2036, Idaho Code, be, and the same is hereby amended to read as follows:

54-2036. CERTIFICATION OF COURSES AND COURSE CONTENT. Every real estate course offered for prelicense or continuing education credit for an Idaho real estate license shall first be certified and accredited by the Idaho real estate commission.

(1) An application for course certification must be submitted in the form and manner required by the commission, with proper the required fees, at least two (2) months prior to contemplated date of the first course offering.

(2) Minimum requirements for course certification:
(a) Each course must be certified individually, offered only through a provider certified or approved in Idaho, and taught by an instructor certified or approved in Idaho in accordance with this chapter.

(b) Each prelicense course must contain at least twenty (20) classroom hours, and each continuing education course must contain at least two (2) classroom hours.

(c) Exam time shall not be included as approved classroom hours of instruction.

(d) A classroom hour is defined as a period of at least fifty (50) minutes of actual instruction.

(e) Distance learning courses. The design and delivery of each distance learning course shall be certified by the national association of real estate license law officials or by another institution whose certification standards are deemed equivalent by the commission. The credit hours for a certified distance learning course shall be based upon the same number of hours which would be credited for an equivalent live course, and must include a commission-approved final exam.

(f) Each prelicense course must include a commission-approved final exam requiring a minimum passing score of seventy percent (70%).

(g) Continuing education course exam.

(i) A licensee may receive continuing education course credit without having to take or pass an exam if the licensee personally attends the entire live presentation of an approved course.

(ii) The commission may substitute all or a portion of the continuing education coursework required when a licensee shows evidence of passing a commission-approved challenge exam.

(h) Exam retake policy. Each certified course provider may, at its option, allow students who complete a course and then fail the initial course exam one (1) opportunity to retake the approved course exam within the following time periods:

(i) Prelicense course exam retakes must occur within one (1) month of the original course exam;

(ii) Continuing education course challenge exam retakes must occur within that course's certification period;

(iii) If a student fails the retake exam for any prelicense or continuing education course, the student must repeat the entire course and pass the final exam to receive credit;

(iv) A course provider shall not permit a student who takes and fails a challenge exam to retake the exam. A student who fails a challenge exam must take the entire course and pass the final exam to receive credit for the course.

(i) Challenge exams. Except where the prelicense requirements have been waived or modified by the commission pursuant to section 54-2022(6), Idaho Code, a student shall not earn credit for any prelicense course by challenging and passing the course exam without otherwise completing all course requirements.

(3) Approved topics. The commission shall establish specific, approved topics for course content for prelicense courses and continuing education courses as it deems appropriate to current real estate practices and laws.

Approved March 22, 2006.
CHAPTER 167
(S.B. No. 1383)

AN ACT
RELATING TO WATER AND SEWER DISTRICTS; AMENDING SECTION 42-3218, IDAHO CODE, TO DELETE CERTAIN PROVISIONS REQUIRING FILINGS WITH THE DISTRICT COURT REGARDING INCLUSIONS OF LAND WITHIN A DISTRICT AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 42-3218, Idaho Code, be, and the same is hereby amended to read as follows:

42-3218. INCLUSION OF PROPERTY PETITIONED -- HEARING -- ORDER -- ANNEXATION OF PROPERTY PETITIONED -- HEARING -- ORDER -- ANNEXATION OF PROPERTY BY ELECTION -- ELECTION PROCEDURE. The boundaries of any district organized under the provisions of this chapter may be changed in the manner herein prescribed, but the change of boundaries of the district shall not impair or affect its organization or its rights in or to property, or any of its rights or privileges whatsoever; nor shall it affect or impair or discharge any contract, obligation, lien or charge for or upon which it might be liable or chargeable had any such change of boundaries not been made.

(a) The owners of real property may file with the board a petition, in writing, praying that such real property be included in the district. The petition shall describe the property owned by the petitioners, and such petition shall be deemed to give assent of the petitioners to the inclusion in said district of the property described in the petition, and shall be accompanied by a reasonable filing fee in an amount to be determined by the board. Such petition must be acknowledged in the same manner that conveyances of land are required to be acknowledged. The secretary of the board shall cause notice of filing of such petition to be given and published in the county in which the property is situated, which notice shall state the filing of such petition, names of petitioners, descriptions of lands mentioned and the prayer of such petitioners; giving notice to all persons interested to appear at the office of the board at the time named in said notice and show cause in writing, if any they have, why the petition should not be granted. The board shall at the time and place mentioned or at such time or times to which the hearing may be adjourned, proceed to hear the petition and all objections thereto, presented, in writing, by any person showing cause why said petition should not be granted. The failure of any person to show cause in writing shall be deemed as an assent on his part to the inclusion of such lands in the district as prayed in the petition. If the petition is granted, the board shall make an order to that effect and, file the same with the clerk of the district court together with a copy of the petition and proof of publication certified by the secretary of the board; The clerk of the district court shall present the same to the court and upon order of the court upon approval of said order, the property shall be included in the district.

(b) The territory adjoining or in close proximity to and in the same county with any district created under the provisions of this chap-
A petition for annexation of real property described in such petition, which has been signed by the owners of not less than sixty percent (60%) of the area in land within the territory to be annexed, and which contains the separate property descriptions of such petitioners, and which is acknowledged in the same manner that conveyances of land are required to be acknowledged, accompanied by a reasonable filing fee in an amount to be determined by the board, may be filed with the board. Upon filing with the board of such a petition, the secretary of the board shall cause notice of filing of such petition to be given and published in the county in which the property is situated, which notice shall state the filing of such petition, names of petitioners, descriptions of lands mentioned and the prayer of such petitioners; giving notice to all persons interested, including the staff and employees of said district and anyone designated by said district, to appear at the office of the board at the time named in said notice and show cause in writing, if any they have, why the petition should not be granted. The board shall at the time and place mentioned or at such time or times to which the hearing may be adjourned, proceed to hear the petition and all objections thereto, presented, in writing, by any person showing cause why said petition shall not be granted. The failure of any person to show cause in writing shall be deemed as an assent to the annexation of such lands into the district as prayed in the petition. The board shall have full discretion to determine if the petition shall be granted. If the petition is granted, the board shall make an order to that effect, and file the same with the clerk of the district court together with a copy of the petition and proof of publication certified by the secretary of the board. The clerk of the district court shall present the same to the court and upon order of the court the property shall be included in the district.

(2) Upon filing with the board of a petition signed by registered voters owning real property residing in the territory to be annexed, who constitute at least twenty percent (20%) of the taxpayers in such territory, praying for an election to determine if annexation shall be made of property designated in such petition, together with payment of a reasonable filing fee in an amount to be determined by the board, the board shall cause notice of filing of such petition to be given and published in the county in which the property is situated, which notice shall state the filing of such petition, names of petitioners, descriptions of lands to be annexed and the prayer of such petition; giving notice to all persons interested, including the staff and employees of said district and anyone designated by said district to appear at the office of the board at the time named in said notice and show cause in writing, if any they have, why the petition shall not be granted. The board shall at the time and place mentioned or at such time or times to which the hearing may be adjourned, proceed to hear the petition and all objections thereto, presented, in writing, by any person showing cause why said petition shall not be granted. The board shall have full discretion to determine if the petition shall be granted, and if such petition is granted, the board shall direct that an election be held, subject to the provisions of section 34-106, Idaho Code. The election shall be conducted in the same manner as general elections in this state, except that the board shall establish as many voting places within such territory proposed to be annexed as are by the board deemed necessary and shall define the bound-
aries of such voting places. The board shall appoint three (3) judges of
election for each voting place, one (1) of whom shall be designated by
the board to be the clerk of such election precinct. Each elector shall
be registered as required by the general election laws and shall have
resided within the area to be annexed for thirty (30) days.

The secretary of the board of directors shall publish notice of the
time and place of such election, in accordance with the provisions of
section 34-1406, Idaho Code. The notice shall particularly describe the
property to be annexed, the name of the district to which the territory
is proposed to be annexed, and the terms and conditions prescribed by
the board under which the property may be annexed. The notice shall des­
ignate the places in the territory where the election will be held, and
shall require the voters to cast ballots which shall contain the words:

For annexation to .... District.
Against annexation to .... District.

The judges of the election shall make their return thereof to the
board of directors of the district, which shall canvass the returns and
render a statement of the results of the election on the records of the
board. If the majority of the votes cast favor annexation, the board
shall enter an order annexing the property described in the notice of
election and upon--the--filing--of--a--copy--thereof--with--the--clerk--of--the
district-court;--and--upon--order--of--the--court;--the--territory--shall--there­
on--become--annexed--to--the--district--and--shall--thenceforth--be--a--part--of
the district.

(c) In all proceedings for inclusion or annexation hereunder, the
board shall have the power to prescribe terms and conditions under which
said property may be included in the district, including the condition
that such property may only be annexed or included within the district
if the property is also established as a water or sewer subdistrict of
the district, pursuant to sections 42-3218A through 42-3218D, Idaho
Code, and may be required to pay the district its pro rata share of con­
struction costs theretofore incurred by the district pursuant to any
bond issue theretofore made or otherwise; provided, however, that such
terms and conditions shall be announced by the board at or before the
hearing to be held pursuant to subparagraphs (a) and (b) above. Within
ten (10) days of the announcement of the terms and conditions under
which the property may be included the majority of the petitioners fil­
ing petitions under the provisions of subparagraphs (a) or (b) may with­
draw their petitions, and no further proceedings shall thereafter be had
by the board upon such petitions.

(d) All public streets, roads, highways or alleys upon or within
which is situated any part of the operative system or equipment of the
district and all public streets, roads, highways and alleys which abut
against or touch property annexed or to be annexed to the district, to
the extent they abut against or touch such property and are not included
in a different district, shall be deemed to be included in the district
as a part of the annexation and shall be included in the legal descrip­
tion and map which the district must file in the offices of the county
assessor, county recorder and the state tax commission as required by
section 63-215, Idaho Code; provided, however, that upon application by
the district to the state tax commission, if the commission finds after
consultation with the county assessor and the county recorder that
exemption from the requirements of this subparagraph (d) will not unduly
burden state and local tax administration, the commission by order may
exempt the district from the requirements of this subparagraph (d), but the district shall be required to comply with section 63-215, Idaho Code.

Approved March 22, 2006.

CHAPTER 168
(S.B. No. 1385)

AN ACT
RELATING TO FISH AND GAME; AMENDING SECTION 36-406, IDAHO CODE, TO REVISE PROVISIONS RELATING TO LICENSES FOR DISABLED PERSONS, TO PROVIDE FOR PERSONS CERTIFIED AS PERMANENTLY DISABLED BY PHYSICIANS, TO REQUIRE THE DEPARTMENT OF FISH AND GAME TO MAINTAIN CERTAIN DISABILITY DETERMINATIONS ON FILE AND TO PROVIDE A CORRECT CODE REFERENCE.

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

SECTION 1. That Section 36-406, Idaho Code, be, and the same is hereby amended to read as follows:

36-406. RESIDENT FISHING, HUNTING AND TRAPPING LICENSES -- FEES.
(a) Adult Licenses -- Combination -- Fishing -- Hunting -- Trapping. A license of the first class may be had by a person possessing the qualifications therein described on payment of a fee as specified in section 36-416, Idaho Code, for a combined fishing and hunting license entitling the purchaser to hunt and fish for game animals, game birds, unprotected and predatory animals and fish of the state, a fee as specified in section 36-416, Idaho Code, for a fishing license entitling the purchaser to fish in the public waters of the state, a fee as specified in section 36-416, Idaho Code, for a hunting license entitling the purchaser to hunt game animals, game birds, unprotected and predatory animals of the state, and a fee as specified in section 36-416, Idaho Code, for a trapping license entitling the purchaser to trap furbearers, unprotected and predatory animals of the state.

(b) Junior Licenses -- Hunting -- Trapping. A license of the second class may be had by a person possessing the qualifications therein described on payment of a fee as specified in section 36-416, Idaho Code, for a hunting license, and a fee as specified in section 36-416, Idaho Code, for a trapping license entitling the purchaser to the same privileges as the corresponding license of the first class provides.

(c) Junior Combination -- Fishing Licenses. A license of the third class may be purchased by a person possessing the qualifications therein described on payment of a fee as specified in section 36-416, Idaho Code, for a combined fishing and hunting license, and a fee as specified in section 36-416, Idaho Code, for a fishing license entitling the purchaser to the same privileges as the corresponding license of the first class provides.

(d) Senior Resident Combination. A license of the fourth class may be had by a person possessing the qualifications therein described on payment of a fee as specified in section 36-416, Idaho Code, for a combined fishing and hunting license entitling the purchaser to the same
privileges as the corresponding license of the first class provides.

(e) Lifetime Licenses -- Combination -- Hunting -- Fishing. A license of the fifth class may be obtained at no additional charge by a person possessing the qualifications therein described for a combined hunting and fishing license, for a hunting license, or for a fishing license, entitling the person to the same privileges as the corresponding license of the first class provides. Lifetime licensees must be certified under the provisions of section 36-4113, Idaho Code, before being issued a license to hunt.

(f) A license of the eighth class may be had by a person possessing the qualifications therein described on payment of a fee as specified in section 36-416, Idaho Code, entitling the purchaser to hunt and fish for game animals, game birds, fish, and unprotected and predatory animals of the state. With payment of the required fee, a person shall receive with this license a deer tag, an elk tag, a bear tag, a turkey tag, a mountain lion tag, an archery hunt permit, a muzzleloader permit, a steelhead trout permit and an anadromous salmon permit. The director shall promptly transmit to the state treasurer all moneys received pursuant to this subsection for deposit as follows:

(i) Four dollars ($4.00) in the set-aside account for the purposes of section 36-111(1)(a), Idaho Code;
(ii) Two dollars ($2.00) in the set-aside account for the purposes of section 36-111(1)(b), Idaho Code;
(iii) One dollar and fifty cents ($1.50) in the set-aside account for the purposes of section 36-111(1)(c), Idaho Code; and
(iv) The balance in the fish and game account.

All persons purchasing a license pursuant to this subsection shall observe and shall be subject to all rules of the commission regarding the fish and wildlife of the state.

If the purchaser of this license does not meet the archery education requirements of section 36-411(b), Idaho Code, then, notwithstanding the provisions of section 36-304, Idaho Code, the archery hunt permit portion of this license is invalid. The fee for this license will not change and the license must be issued without the archery permit validation.

(g) Disabled Persons Licenses -- Combination -- Fishing. A license of the first class may be had by any resident disabled person on payment of a fee as specified in section 36-416, Idaho Code, for a combined fishing and hunting license, and a fee as specified in section 36-416, Idaho Code, for a fishing license, entitling the purchaser to the same privileges as the corresponding license of the first class provides. A disabled person means a person who is deemed disabled by one (1) or more, but not necessarily all, of the following: the railroad retirement board pursuant to title 45 of the United States Code, or certified as eligible for federal supplemental security income (SSI); or social security disability income (SSDI); or a nonservice-connected veterans pension; or a service-connected veterans disability benefit with forty percent (40%) or more disability; or certified as permanently disabled by a physician. Once determination of permanent disability has been made with the department, the determination shall remain on file within the electronic filing system and the license holder shall not be required to present a physician's determination each year or prove their disability each year.

(h) Military Furlough Licenses -- Combination -- Fishing. A license
of the first class may be had by a resident person engaged in the military service of the United States, while on temporary furlough or leave, possessing the qualifications therein described on payment of a fee as specified in section 36-416, Idaho Code, for a combined fishing and hunting license, and as specified in section 36-416, Idaho Code, for a fishing license.

(i) Youth Small Game Licenses -- Hunting. A license of the second class may be had by a resident of ten (10) or eleven (11) years of age on payment of a fee as specified in section 36-416, Idaho Code, provided that the license shall be valid only for hunting upland game birds (including turkeys), migratory game birds, cottontail rabbits, pygmy rabbits, and unprotected and predatory birds and animals of this state while accompanied in the field by the holder of an adult Idaho hunting license.

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dents of a licensed foster home or a children's residential care facility to fish during the open season therefor, provided they are accompanied and supervised by the director, officer, or other employee of the facility where the child resides.

6. For children with life threatening medical conditions participating in a hunt in association with a qualified organization as provided in section 36-408(6), Idaho Code.

(b) For any person to fish on a "free fishing day" as may be designated by the commission.

(c) Institutional Inmates. For any inmate of the state hospital north, state hospital south, Idaho state school and hospital, and state veterans homes to fish during open seasons, provided said inmate has a permit therefor from the director. The director is authorized to issue such permits upon the request of the head of the respective institution having custody of said inmate upon a showing that the institution recommends the issuance of such permit and will assume full responsibility for and control over said inmate while using said permit.

(d) State Juvenile Corrections Center Students. For students of the state juvenile corrections center, under the supervision of an officer of the center, to fish during the open season.

(e) Boy Scouts. For boy scouts who are official participants in attendance at national or international encampments at Farragut State Park to take fish during the encampment period from Lake Pend Oreille in such areas and such numbers as may be designated by the commission.

(f) Participants in Fish and Game Sponsored Functions. For persons who are official participants in attendance at official department sponsored functions including clinics, courses or other educational events, while under the supervision of a department approved instructor for the function, to fish during any open season, provided that the instructor has been issued an educational fishing permit by the director.

(g) Nothing contained herein shall be construed to prohibit citizens of the United States who are residents of the state of Idaho from carrying arms for the protection of life and property.

SECTION 2. That Section 36-408, Idaho Code, be, and the same is hereby amended to read as follows:

36-408. COMMISSION'S AUTHORITY -- TAGS -- PERMITS -- NONRESIDENTS LIMITED -- OUTFITTERS SET-ASIDE. (1) Tags and Permits -- Method of Use. The commission is hereby authorized to prescribe the number and kind of wildlife that may be taken under authority of the several types of tags and permits provided for in this title, and the manner in which said tags and permits shall be used and validated.

(2) Limit -- Licenses, Tags or Permits -- Controlled Hunts. The commission is hereby authorized to establish a limit annually as to the number of each kind and class of licenses, tags, or permits to be sold or issued and is further authorized to limit the number or prohibit entirely, the participation by nonresidents in controlled hunts.

(3) Outfitters Set-aside. When the commission establishes a limit as to the number of nonresident deer tags and nonresident elk tags, it shall set aside annually a maximum of twenty-five percent (25%) of the nonresident deer tag and nonresident elk tag limit. The set-aside tags shall be sold pursuant to commission rule, only to persons that have entered into an agreement for that year to utilize the services of an
outfitter licensed pursuant to chapter 21, title 36, Idaho Code.

In order for a person to purchase any set-aside nonresident deer tag or nonresident elk tag, that person's outfitter must submit an application with the proper fees as required by the director. If any nonresident deer tags or nonresident elk tags set aside pursuant to this subsection are unsold by July 1 of the year in which they were set aside, they may be sold by the department to the general public who are nonresidents. The commission may promulgate all necessary rules to implement the provisions of this subsection.

(4) Deer and Elk Tag Allocation. If the commission limits the number of deer or elk tags available for use in any game management area, unit or zone, the commission may allocate by rule a number of deer or elk tags for use by hunters that have entered into an agreement for that year to utilize the services of an outfitter licensed pursuant to chapter 21, title 36, Idaho Code.

(5) Special Game Tags. The commission is hereby authorized to issue two special bighorn sheep tags per year.

(a) Auction bighorn sheep tag. One special bighorn sheep tag shall be auctioned off by an incorporated nonprofit organization dedicated to wildlife conservation, selected by the commission. The tag shall be issued by the department of fish and game to the highest eligible bidder. No more than five percent (5%) of all proceeds for the tag may be retained by the organization. The tag to be issued pursuant to this subsection shall be taken from the nonresident bighorn sheep tag quota. The net proceeds shall be forwarded to the director for deposit in the fish and game expendable trust account and shall be used for bighorn sheep research and management purposes. Moneys raised pursuant to this subsection may not be used to transplant additional bighorn sheep into that portion of southwest Idaho south of the Snake River and west of U.S. highway no. 93, nor for litigation or environmental impact statements involving bighorn sheep. No transplants of bighorn sheep accomplished with moneys raised pursuant to this subsection shall occur in any area until hearings are conducted in the area.

(b) Lottery bighorn sheep tag. The commission is also authorized to issue one (1) special bighorn sheep tag which will be disposed of by lottery. The lottery permit can be marketed by the department of fish and game or a nonprofit organization dedicated to wildlife conservation selected by the commission. The tag will be issued by the department of fish and game to an eligible person drawn from the lottery provided in this subsection. No more than twenty-five percent (25%) of gross revenue can be retained for administrative costs by the organization. All net proceeds for the tag disposed of by lottery pursuant to this subsection shall be remitted to the department and deposited in the fish and game expendable trust account. Moneys in the account from the lottery bighorn sheep tag shall be utilized by the department in solving problems between bighorn sheep and domestic sheep, solving problems between wildlife and domestic animals or improving relationships between sportsmen and private landowners by being utilized in the veterinarian program established in subsection (e)9. of section 36-106, Idaho Code.

(6) Issuance of free permit or tag to minor children with life threatening medical conditions. Notwithstanding any other provision of law, the commission may issue free big game permits or tags to minor
children who have life threatening medical conditions that have been certified eligible by a qualified organization. The commission may prescribe by rule the manner and conditions of issuing and using the permits or tags authorized under this subsection (6). For purposes of this subsection (6) a "qualified organization" means a nonprofit organization that is qualified under section 501(c)(3) of the Internal Revenue Code and that affords opportunities and experiences to minor children with life threatening medical conditions.

Approved March 22, 2006.

CHAPTER 170
(S.B. No. 1396)

AN ACT
RELATING TO ANIMAL CRUELTY; AMENDING SECTION 25-3501, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO CLARIFY THE AUTHORITY OF CERTAIN AGENCIES OR ENTITIES; AMENDING CHAPTER 35, TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-3501A, IDAHO CODE, TO PROVIDE FOR ENFORCEMENT BY LAW ENFORCEMENT AGENCIES AND ANIMAL CARE AND CONTROL AGENCIES AND TO PROVIDE ENFORCEMENT RESTRICTIONS; AMENDING SECTION 25-3502, IDAHO CODE, TO DEFINE ADDITIONAL TERMS; AMENDING SECTION 25-3504, IDAHO CODE, TO PROVIDE FOR THE POSSESSION AND CARE OF CRUELLY TREATED ANIMALS BY LAW ENFORCEMENT OFFICERS AND ANIMAL CARE AND CONTROL OFFICERS; AMENDING SECTION 25-3505, IDAHO CODE, TO REVISE DUTIES FOR OFFICERS RELATING TO ANIMALS CARRIED IN A CRUEL MANNER AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 25-3511, IDAHO CODE, TO PROVIDE THAT LAW ENFORCEMENT OFFICERS AND ANIMAL CARE AND CONTROL OFFICERS SHALL HAVE SPECIFIED DUTIES RELATING TO ABANDONED AND NEGLECTED ANIMALS AND THE HUMANE DESTRUCTION OF ABANDONED ANIMALS, TO PROVIDE THAT LAW ENFORCEMENT OFFICERS AND ANIMAL CARE AND CONTROL OFFICERS ARE AUTHORIZED TO TAKE CERTAIN ACTIONS RELATING TO OTHER CRUELLY TREATED ANIMALS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 25-3520A, IDAHO CODE, TO PROVIDE FOR THE TERMINATION OF VIOLATORS' RIGHTS TO ANIMALS, TO PROVIDE FOR THE AWARD OF SUCH ANIMALS TO CERTAIN ORGANIZATIONS OR AGENCIES AND TO PROVIDE FOR THE AUTHORITY OF RECIPIENTS OF SUCH ANIMALS; AND AMENDING CHAPTER 35, TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-3520B, IDAHO CODE, TO PROVIDE FOR THE SEIZURE OF CERTAIN ANIMALS, TO PROVIDE THAT THE OWNERS OR KEEPERS OF SEIZED ANIMALS SHALL BE LIABLE FOR REASONABLE COSTS, TO PROVIDE A FORFEITURE PROCESS, TO PROVIDE FOR SECURITY DEPOSITS AND BONDS, TO PROVIDE FOR THE DISPOSITION OF SEIZED ANIMALS, TO PROVIDE FOR LIABILITY OF CERTAIN UNPAID COSTS, TO PROVIDE THAT CERTAIN ANIMALS MAY BE EUTHANIZED AND TO PROVIDE PROCEDURAL GUIDELINES.

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

SECTION 1. That Section 25-3501, Idaho Code, be, and the same is hereby amended to read as follows:
25-3501. ADMINISTRATION. The Idaho state department of agriculture, division of animal industries shall be responsible for the administration of the provisions of this chapter and shall inform the public and animal owners concerning their legal responsibilities, and in cooperation with local law enforcement, investigate and develop cases for prosecution. The division shall be authorized to call upon any peace officer in the state to aid in fulfillment of the requirements of this chapter and refer cases for prosecution to the appropriate authority. The foregoing shall not be construed to preclude county or local officials, acting upon their own authority, from investigating, developing cases and prosecuting violations of this chapter that occur in their jurisdiction. The cost to the department for administering the provisions of this chapter shall be borne by the citizens of this state through the appropriation of general funds for administration, personnel, travel, equipment and supplies. No provision of this chapter relating to law enforcement agencies and animal care and control agencies shall be construed to preclude the authority of agencies or entities recognized in this section.

SECTION 2. That Chapter 35, Title 25, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 25-3501A, Idaho Code, and to read as follows:

25-3501A. ENFORCEMENT -- ENFORCEMENT RESTRICTIONS. (1) Law enforcement agencies and animal care and control agencies that provide law enforcement or animal care and control services to a municipality or county, may enforce the provisions of this chapter in that municipality or county.

(2) Animal care and control officers enforcing this chapter shall comply with the same constitutional and statutory restrictions concerning the execution of police powers imposed on law enforcement officers who enforce this chapter and other criminal laws of the state of Idaho.

(3) In cases where production animals are subject to a violation of section 25-3504, 25-3505 or 25-3511, Idaho Code, law enforcement agencies and animal care and control agencies shall not:

(a) Enforce section 25-3504, 25-3505 or 25-3511, Idaho Code, without first obtaining an inspection and written determination from a department investigator that a violation of one (1) or more of the sections has occurred or is occurring; or

(b) Take a production animal from a production animal facility, pasture, or rangeland for a violation of section 25-3504, 25-3505 or 25-3511, Idaho Code, without first obtaining an inspection and written determination from a department investigator that such action is in the best interest of the animal.

SECTION 3. That Section 25-3502, Idaho Code, be, and the same is hereby amended to read as follows:

25-3502. DEFINITIONS. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) "Abandon" means to completely forsake and desert an animal previously under the custody or possession of a person without making reasonable arrangements for its proper care, sustenance and shelter.
(2) "Animal" means any vertebrate member of the animal kingdom, except man.
(3) "Animal care and control agency" means any agency incorporated under the laws of this state to which a county or municipality has conferred authority to exercise the powers and duties set forth in this chapter based upon the agency's ability to fulfill the purposes of this chapter.
(4) "Companion animal" means those animals including, but not limited to, domestic dogs, domestic cats, rabbits, companion birds, and other animals commonly kept as pets.
(5) "Cruel" or "cruelty" shall mean any or all of the following:
(a) The intentional and malicious infliction of pain, physical suffering, injury or death upon an animal;
(b) To maliciously kill, maim, wound, overdrive, overload, drive when overloaded, overwork, torture, torment, deprive of necessary sustenance, drink or shelter, cruelly beat, mutilate or cruelly kill an animal;
(c) To subject an animal to needless suffering, inflict unnecessary cruelty, drive, ride or otherwise use an animal when same is unfit;
(d) To abandon an animal;
(e) To negligently confine an animal in unsanitary conditions or to negligently house an animal in inadequate facilities; to negligently fail to provide sustenance, water or shelter to an animal.
(6) "Department" means the Idaho state department of agriculture.
(7) "Department investigator" means a person employed by, or approved by, the Idaho state department of agriculture, division of animal industries, to determine whether there has been a violation of this chapter.
(8) "Division" means the division of animal industries of the Idaho state department of agriculture.
(9) "Custodian" means any person who keeps or harbors an animal, has an animal in his care or acts as caretaker of an animal.
(10) "Malicious" or "maliciously" means the intentional doing of a wrongful act without just cause or excuse, with an intent to inflict an injury or death.
(11) "Owner" means any person who has a right of property in an animal.
(12) "Person" means any individual, firm, corporation, partnership, other business unit, society, association or other legal entity, any public or private institution, the state of Idaho, or any municipal corporation or political subdivision of the state.
(13) "Pound" means a place enclosed by public authority for the detention of stray animals.
(14) "Production animal" means, for purposes of this chapter:
(a) The following animals if kept by the owner for the express purpose of producing food or fiber: cattle, sheep, goats, swine, poultry, reptiles;
(b) Furbearing animals kept for the purpose of commercial fur production; and
(c) Equines, domestic cervidae, and members of the camelidae family which includes llamas and alpacas.

SECTION 4. That Section 25-3504, Idaho Code, be, and the same is hereby amended to read as follows:
25-3504. COMMITTING CRUELTY TO ANIMALS. Every person who is cruel to any animal, or causes or procures any animal to be cruelly treated; and whoever, having the charge or custody of any animal, either as owner or otherwise, subjects any animal to cruelty, is, for every such offense, guilty of a misdemeanor and shall, upon conviction, be punished in accordance with section 25-3520A, Idaho Code. Any law enforcement officer or animal care and control officer, subject to the restrictions of section 25-3501A, Idaho Code, may take possession of the animal cruelly treated, and provide care for the same, until final disposition of such animal is determined in accordance with section 25-3520A or 25-3520B, Idaho Code.

SECTION 5. That Section 25-3505, Idaho Code, be, and the same is hereby amended to read as follows:

25-3505. CARRYING IN A CRUEL MANNER -- SEIZURE, EXPENSES, LIEN. Whoever carries or causes to be carried in or upon any vehicle or otherwise any animal in a cruel manner, or knowingly and willfully authorizes or permits it to be subjected to cruelty of any kind, is guilty of a misdemeanor and shall, upon conviction, be punished in accordance with section 25-3520A, Idaho Code. Subject to the restrictions of section 25-3501A, Idaho Code, whenever any such person is taken into custody therefor by any officer, such officer must take charge of such vehicle, and its contents, together with and deposit them in some place of custody, and must take possession of the animal and deposit them in some place of custody. Any necessary expense incurred for taking care of and keeping the same, is a lien thereon, to be paid before the same can be lawfully recovered; and if such expense, or any part thereof remains unpaid, it may be recovered by the person incurring the same, from the owner of such animal, in an action therefor until final disposition of the animal is determined in accordance with section 25-3520A or 25-3520B, Idaho Code.

SECTION 6. That Section 25-3511, Idaho Code, be, and the same is hereby amended to read as follows:

25-3511. PERMITTING ANIMALS TO GO WITHOUT CARE -- ABANDONED ANIMALS TO BE HUMANELY DESTROYED. Every owner, custodian or possessor of any animal, who shall permit the same to be in any building, enclosure, lane, street, square or lot of any city, county or precinct, without proper care and attention, as determined by an Idaho licensed veterinarian, or a representative of the division, shall, on conviction, be deemed guilty of a misdemeanor and shall, upon conviction, be punished in accordance with section 25-3520A, Idaho Code. And it shall be the duty of any peace officer, or officer of any incorporated association qualified as provided by law enforcement officer or animal care and control officer, subject to the restrictions of section 25-3501A, Idaho Code, to take possession of the animal so abandoned or neglected, and care for the same until it is redeemed by the owner or claimant; and the cost of caring for such animal shall be a lien on the same until the charges are paid final disposition of such animal is determined in accordance with section 25-3520A or 25-3520B, Idaho Code. Every sick, disabled, infirm or crippled animal which shall be abandoned in any city, county or precinct, may if after due search no owner can be found
therefor, be humanely destroyed, or other provision made for the animal by or on the order of such officer; and it shall be the duty of all peace-officers, or by an officer of said--incorporated--association law enforcement officers or animal care and control officers, to cause the same to be humanely destroyed, or other provision made therefor, on information of such abandonment. Subject to the restrictions of section 25-3501A, Idaho Code, such officer may likewise take charge of any animal that by reason of lameness, sickness, feebleness or neglect, is unfit for the activity it is performing, or that in any other manner is being cruelly treated; and, if such animal is not then in custody of its owner, such officer shall give notice thereof to such owner, if known, and may provide suitable care for such animal until it is deemed to be in a suitable condition, as determined by an Idaho-licensed veterinarian or a representative of the division, to be delivered to such owner; and any necessary expenses which may be incurred for taking care of and keeping the same shall be a lien thereon, to be paid before the same can be lawfully recovered; if, after due process under final disposition of such animal is determined in accordance with section 25-3520A or 25-3520B, Idaho Code. If, in accordance with this section, a responsible owner cannot be found, the animal may be offered for adoption to a responsible person in lieu of destruction.

SECTION 7. That Section 25-3520A, Idaho Code, be, and the same is hereby amended to read as follows:

25-3520A. PENALTY FOR VIOLATIONS -- TERMINATION OF RIGHTS. (1) Except as provided in section 25-3503, Idaho Code, any person convicted for a first violation of any of the provisions of this chapter shall be punished, for each offense, by a jail sentence of not more than six (6) months or by a fine of not less than one hundred dollars ($100) or more than five thousand dollars ($5,000), or by both such fine and imprisonment.

(2) Except as provided in section 25-3503, Idaho Code, any person convicted of a second violation of any of the provisions of this chapter within ten (10) years of the first conviction, shall be punished for each offense, by a jail sentence of not more than nine (9) months or a fine of not less than two hundred dollars ($200) or more than seven thousand dollars ($7,000) or both fine and imprisonment.

(3) Except as provided in section 25-3503, Idaho Code, any person convicted of a third or subsequent violation, within fifteen (15) years of the first conviction, shall be punished for each offense by a jail sentence of not more than twelve (12) months or a fine of not less than five hundred dollars ($500) or more than nine thousand dollars ($9,000) or both fine and imprisonment.

(4) If a person pleads guilty or is found guilty of an offense under this chapter, the court may issue an order terminating the person's right to possession, title, custody or care of an animal that was involved in the offense or that was owned or possessed at the time of the offense. If a person's right to possession, title, custody or care of an animal is terminated, the court may award the animal to a humane society or other organization that has as its principal purpose the humane treatment of animals, or may award the animal to a law enforcement agency or animal care and control agency. The court's award of custody or care of an animal will grant to the organization or agency
the authority to determine custody, adoption, sale or other disposition of the animal thereafter.

SECTION 8. That Chapter 35, Title 25, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 25-3520B, Idaho Code, and to read as follows:

25-3520B. SEIZURE -- COSTS -- FORFEITURE PROCEEDINGS -- SECURITY DEPOSIT OR BOND -- DISPOSITION -- PROCEDURAL GUIDELINES. (1) Any person having authority to enforce this chapter, in accordance with section 25-3501 or 25-3501A, Idaho Code, who has probable cause to believe there has been a violation of section 25-3504, 25-3505, 25-3506, 25-3507, 25-3510 or 25-3511, Idaho Code, may take custody of the animal involved.

(2) If any animal is seized under this section, the owner or keeper shall be liable for the reasonable costs of the seizure and the care, keeping and disposal of the animal. Reasonable costs shall include, but shall not be limited to, transportation, medical, board, shelter and farrier costs.

(3) If any animal is in the possession of, and being held by, a law enforcement agency or animal care and control agency pursuant to the provisions of this chapter, pending the outcome of a criminal action charging a violation of this chapter, and prior to final disposition of the criminal charge, the animal care and control agency or law enforcement agency may file a petition in the criminal case requesting that the court issue an order forfeiting the animal to the law enforcement agency or animal care and control agency. The petitioner shall serve a true copy of the petition upon the defendant.

(4) Upon receipt of a petition pursuant to subsection (3) of this section, the court shall set a hearing on the petition. The hearing shall be conducted within fourteen (14) days after the filing of the petition, or as soon as practicable. The hearing shall be limited to the question of forfeiture of the animal.

(5) At a hearing conducted pursuant to subsection (4) of this section, the petitioner shall have the burden of establishing probable cause to believe that the animal was subjected to a violation of this chapter. A prior finding of probable cause to proceed on the criminal case will create a permissive inference that probable cause exists for the forfeiture proceeding. After the hearing, if the court finds probable cause exists, the court shall order immediate forfeiture of the animal to the petitioner, unless the defendant, within seventy-two (72) hours of the hearing, posts a security deposit or bond with the municipal or county treasurer in an amount determined by the court to be sufficient to repay all reasonable costs incurred, and anticipated to be incurred, for the care of the animal for at least thirty (30) days inclusive of the day of the initial seizure and may order anticipated costs up to the time set for trial on the criminal case if requested by the petitioner. If, after the hearing, the court finds that no probable cause exists, the animal shall be returned to the owner or keeper of the animal, and the owner or keeper shall not be responsible for any costs of the seizure, care or treatment, unless the person later pleads guilty to or is found guilty of a violation of this chapter.

(6) At the end of the time for which expenses are covered by the security deposit or bond, if the person owning or keeping the animal desires to prevent disposition of the animal, the owner or keeper shall
post a new security deposit or bond with the municipal or county treasur­er which must be received before the expiration date of the previous security deposit or bond. The court may correct, alter or otherwise adjust the new security deposit or bond upon a motion made before the expiration date of the previous security deposit or bond, provided however, no person may file more than one (1) motion seeking an adjustment to the new security deposit or bond.

(7) If a security deposit or bond has been posted in accordance with this section, the law enforcement agency or animal care and control agency may draw from that security deposit or bond reasonable costs in keeping and caring for the animal from the date of the seizure to the date of final disposition of the animal in the criminal action.

(8) At the end of the time for which expenses are covered by the security deposit or bond, or if no security deposit or bond has been posted in accordance with this section, the law enforcement agency or animal care and control agency may determine disposition of the animal. The owner or keeper of the animal shall be liable for all unpaid reasonable costs of the care, keeping or disposal of the animal. Posting of the security deposit or bond shall not prevent the law enforcement agency or animal care and control agency from disposing of the seized or impounded animal before the expiration of the period covered by the security deposit or bond if the court orders the forfeiture of the animal or the owner relinquishes the animal.

(9) Upon resolution of the criminal action, remaining funds deposited with the municipal or county treasurer which have not, and will not be expended in the care, keeping or disposal of the animal shall be remitted to the owner or keeper of the animal.

(10) Irrespective of any other provision of this section, if in the written determination of a licensed veterinarian, the animal is experiencing extreme pain or suffering, or is severely injured or diseased, and therefore not likely to recover, it may be immediately euthanized.

(11) No proceeding under this section shall be used as a basis for a continuance or to delay the criminal case nor shall proceedings in the criminal case, other than dismissal, be used as a basis to delay or continue the forfeiture proceeding as provided for in this section. Proceedings under this section are of a civil nature and governed by the Idaho rules of civil procedure except as to limitations upon the discovery process. Due to the need to conduct any proceeding necessary under this section in an expeditious manner, and the right of any criminal defendant to avoid self-incrimination, any and all discovery requests shall be granted only under authority of the court. Discovery shall be authorized with the intent to provide the necessary information relating directly to the evidence for the probable cause proceeding. In no event shall discovery mechanisms be used to unreasonably burden the opposing party. Discovery mechanisms shall not include the deposition of any party, witness or representative, the use of interrogatories, or the demand to inspect any records outside the immediate reports and financial accountings for the animal in question.

Approved March 22, 2006.
AN ACT
RELATING TO LEAVE OF ABSENCE BY STATE EMPLOYEES AND OFFICERS FOR MILITARY DUTY; AMENDING SECTION 46-216, IDAHO CODE, TO PROVIDE THAT ALL OFFICERS AND EMPLOYEES OF THE STATE OF IDAHO WHO SHALL BE MEMBERS OF THE NATIONAL GUARD OR WHO SHALL BE RESERVISTS IN THE ARMED FORCES OF THE UNITED STATES, SHALL BE ENTITLED EACH CALENDAR YEAR TO FIFTEEN DAYS OF MILITARY LEAVE OF ABSENCE FROM THEIR RESPECTIVE DUTIES WITHOUT LOSS OF PAY, TIME, OR EFFICIENCY RATING DURING WHICH THEY SHALL BE ENGAGED IN MILITARY DUTY ORDERED OR AUTHORIZED UNDER THE PROVISIONS OF LAW.

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

SECTION 1. That Section 46-216, Idaho Code, be, and the same is hereby amended to read as follows:

46-216. LEAVE OF ABSENCE FROM REGULAR DUTIES FOR FIELD-TRAINING MILITARY DUTY. All officers and employees of the state of Idaho who shall be members of the national guard or who shall be reservists in the armed forces of the United States, shall be entitled each calendar year to fifteen (15) days of military leave of absence from their respective duties without loss of pay, time, or efficiency rating on all days during which they shall be engaged in field-training military duty ordered or authorized under the provisions of law, provided that this shall not apply to any period of time spent in active service of the United States, except that a period of fifteen (15) days or less in reserve training in any one (1) calendar year shall not be considered time spent in active service of the United States, for the purposes of this act.


AN ACT
RELATING TO PERSONS IN THE MILITARY; AMENDING SECTION 46-225, IDAHO CODE, TO CLARIFY THAT PERSONS DEPLOYED IN THE MILITARY WHO SHALL ALSO BE OFFICERS OR EMPLOYEES OF THE STATE SHALL BE ENTITLED TO THEIR EXISTING MEDICAL BENEFITS FROM THE STATE FOR THE FIRST THIRTY DAYS OF A DEPLOYMENT AND THIS SHALL NOT DECREASE ANY EXISTING LEAVE BALANCES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 46-225, Idaho Code, be, and the same is hereby amended to read as follows:
46-225. VACATION, SICK LEAVE, BONUS, HEALTH INSURANCE AND ADVANCEMENT UNAFFECTED BY LEAVE OF ABSENCE. Such absence for military training shall not affect the employee's right to receive normal vacation, sick leave, bonus, advancement, and other advantages of his employment normally to be anticipated in his particular position. All officers and employees of the state of Idaho who shall be members of the national guard or who shall be reservists in the armed forces of the United States shall also be entitled to their existing medical benefits for the first thirty (30) days of a deployment ordered or authorized under the provisions of the national defense act, and such entitlement shall not decrease any existing accrued leave balances.

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


CHAPTER 173
(S.B. No. 1316)

AN ACT
RELATING TO PUBLIC SCHOOLS; AMENDING TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 13, TITLE 33, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE LEGISLATIVE FINDINGS, TO DEFINE TERMS, TO PROVIDE FOR QUALIFICATIONS FOR EDUCATIONAL INTERPRETERS, TO PROVIDE EXCEPTIONS, TO PROVIDE FOR CONTINUING TRAINING REQUIREMENTS, AND TO PROVIDE THE STATE BOARD OF EDUCATION WITH RULEMAKING AUTHORITY.

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

SECTION 1. That Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 13, Title 33, Idaho Code, and to read as follows:

CHAPTER 13
EDUCATIONAL INTERPRETERS

33-1301. SHORT TITLE. This chapter shall be known and may be cited as the "Idaho Educational Interpreter Act."

33-1302. LEGISLATIVE FINDINGS. The legislature hereby finds that interpreting services in Idaho public schools, kindergarten through grade twelve (12), for students who are deaf, hard of hearing or deaf-blind need to be improved. The absence of state standards for evaluating educational interpreters allows for inconsistencies in the delivery of educational information to students who are in need of such services. The legislature recognizes that educational interpreters in Idaho public schools must not only interpret the spoken word but must also convey concepts and facilitate the student's understanding of the educational material. The legislature also finds that among the many factors that influence student success, there is a correlation between the academic
achievements of deaf, hard of hearing and deaf-blind students and the competency of their interpreters. Therefore, the legislature finds that Idaho educational public policy is served by establishing standards for persons employed in the Idaho public schools as educational interpreters.

33-1303. DEFINITIONS. The following words and phrases used in this chapter are defined as follows:
(1) "Board" means the state board of education.
(2) "Deaf" means a person who is not able to process information aurally and whose primary means of communication is visual.
(3) "Deaf-blind" means a person who is deaf or hard of hearing and who also has significant visual impairment or is legally blind.
(4) "Educational interpreter" means a person employed in the Idaho public schools, kindergarten through grade twelve (12), to provide interpreting services to students who are deaf, hard of hearing or deaf-blind.
(5) "Educational interpreter performance assessment" means a statistically valid and reliable assessment tool administered by the boys town national research hospital or its successor organization.
(6) "Hard of hearing" means a person who has a hearing deficit, who is able to process information aurally with or without the use of a hearing aid or other device that enhances the ability of the person to hear, and whose primary means of communication may be visual.
(7) "Interpreter education program" means a postsecondary degree program of at least two (2) years in duration that is accredited by the state board of education or an equivalent program accredited by another state, district or territory or by a professional accreditation body.
(8) "Interpreting" means the process of providing accessible communication between and among persons who are deaf, hard of hearing or deaf-blind, and those who are hearing. The process includes, but is not limited to, communication between American sign language or other form of manual communication and English. The process may also involve various other modalities that involve visual, gestural and tactile methods.

33-1304. QUALIFICATION OF EDUCATIONAL INTERPRETERS. (1) Except as provided in this section, no person shall act as an educational interpreter in an Idaho public school unless the person has been qualified to do so. The person shall be qualified if the person:
(a) Has achieved a score of 3.5 or higher on the educational interpreter performance assessment or has achieved a comparable score on an equivalent test as determined by the board; or
(b) Is currently certified by:
   (i) The registry of interpreters for the deaf;
   (ii) The national association of the deaf at a level of III or higher;
   (iii) The registry of interpreters for the deaf, oral transliteration for oral transliterators; or
   (iv) The testing, evaluation, and certification unit for cued language transliterators.
(2) An educational interpreter currently employed in an Idaho public school may continue in the practice of educational interpreting without meeting the requirements of subsection (1) of this section, provided that such requirements are met on or before June 30, 2009.
(3) Effective July 1, 2009, newly-hired educational interpreters, who have not worked in an Idaho public school as an educational interpreter in kindergarten through grade twelve (12) prior to the enactment of this chapter, may apply in writing to the board for emergency authorization to work as an educational interpreter for two (2) years before being required to meet the requirements of subsection (1) of this section. An education interpreter who has received an emergency authorization under this subsection (3) may apply in writing to the board for a one-time, one (1) year extension of the emergency authorization. The board may grant such a one (1) year extension of the emergency authorization for good cause shown.

(4) A graduate of an interpreter education program may serve as an educational interpreter in Idaho public schools, kindergarten through grade twelve (12) before meeting the requirements of subsection (1) of this section for one (1) year following such graduation.

(5) Educational interpreters employed by an Idaho public school in kindergarten through grade twelve (12) must complete a minimum of eighty (80) hours of training in the areas of interpreting or transliterating every five (5) years. This training must be documented and may include home study coursework, seminars, workshops and mentoring programs.

(6) The board is authorized to promulgate rules necessary to implement this chapter.


CHAPTER 174
(H.B. No. 664)

AN ACT
RELATING TO MEDICAID; AMENDING CHAPTER 2, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-209n, IDAHO CODE, TO PROVIDE LEGISLATIVE FINDINGS, TO PROVIDE ELIGIBILITY REQUIREMENTS FOR WORKERS WITH DISABILITIES TO QUALIFY FOR MEDICAID, TO PROVIDE AN EXCEPTION FOR PAYING A MEDICAID PREMIUM AND TO PROVIDE FOR A PREMIUM BASED ON INCOME; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 2, Title 56, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 56-209n, Idaho Code, and to read as follows:

56-209n. MEDICAID FOR WORKERS WITH DISABILITIES. (1) The legislature finds that many individuals with disabilities would like to work but cannot afford to enter the workforce due to the fear of losing necessary medical services received through medicaid. Idaho hereby seeks to avail itself of the opportunity available through the federal ticket to work and work incentives improvement act of 1999, which allows states to establish new medicaid eligibility categories for working people with disabilities whose income or resources would otherwise make them ineligible for medicaid. Eliminating barriers to health care and other needed services and supports and creating financial incentives to work will
greatly improve the short and long-term financial independence and well-being of people with disabilities. Medicaid for workers with disabilities will serve to increase the productivity of Idaho residents with disabilities and thereby enhance the economic and fiscal status of this state.

(2) An individual is eligible to participate in the medicaid for workers with disabilities program if the individual:
   (a) Is at least sixteen (16) years of age and not more than sixty-four (64) years of age;
   (b) Has a disability as defined in title XVI of the federal social security act, as amended. An individual shall be determined to be eligible under this section without regard to his or her ability to engage in, or actual engagement in, substantial gainful activity, as defined in section 223(d)(4) of the social security act (42 U.S.C. section 423(d)(4));
   (c) Is employed, including self-employment, and has provided the department of health and welfare with satisfactory written proof of employment. Hourly wage or hours worked shall not be used to determine employment;
   (d) Has countable resources of ten thousand dollars ($10,000) or less. In calculating resources the following items shall be excluded: a second car, life insurance policies, retirement accounts, beneficial trusts, and any other resources excluded under current rules promulgated by the department of health and welfare for aid to aged, blind and disabled (AABD); and
   (e) Has countable income, after exclusions and disregards as set forth in rules promulgated by the department of health and welfare for participants receiving AABD benefits, which do not exceed five hundred percent (500%) of the federal poverty level.

(3) An eligible individual who has an income as determined pursuant to subsection (2)(e) of this section less than one hundred thirty-three percent (133%) of the federal poverty level shall not be required to pay a premium for medicaid.

(4) The department of health and welfare may require an eligible individual who has an income as determined pursuant to subsection (2)(e) of this section of one hundred thirty-three percent (133%) to two hundred fifty percent (250%) of the federal poverty level to pay a monthly premium as set forth in rules promulgated by the department of health and welfare.

(5) An eligible individual who has an income as determined pursuant to subsection (2)(e) of this section in excess of two hundred fifty percent (250%) of the federal poverty level shall pay to the department of health and welfare a monthly premium as a condition for continued eligibility for medicaid. The monthly premium shall be calculated by multiplying seven and one-half percent (7.5%) by the amount of the individual's income as determined pursuant to subsection (2)(e) of this section which is above two hundred fifty percent (250%) of the federal poverty level.

SECTION 2. This act shall be in full force and effect on and after January 1, 2007.
CHAPTER 175
(H.B. No. 614)

AN ACT
RELATING TO THE BOARD OF PHARMACY; AMENDING SECTION 9-340C, IDAHO CODE, TO PROVIDE A PROPER CODE REFERENCE IN THE PUBLIC RECORDS ACT; AMENDING SECTION 37-2726, IDAHO CODE, TO PERMIT THE BOARD OF PHARMACY TO ESTABLISH THE FORMAT FOR ELECTRONICALLY FILED CONTROLLED SUBSTANCES PRESCRIPTIONS, TO REQUIRE THE BOARD TO ESTABLISH BY RULE THE INFORMATION TO BE SUBMITTED, TO REQUIRE THE BOARD TO CREATE, OPERATE AND MAINTAIN A CONTROLLED SUBSTANCES PRESCRIPTIONS DATABASE, TO PROVIDE FOR PURPOSE AND PROCEDURE, TO SPECIFY THE INDIVIDUALS TO WHOM INFORMATION IN THE DATABASE MUST BE AVAILABLE, TO REQUIRE THE BOARD TO MAINTAIN RECORDS ON INFORMATION DISCLOSED FROM THE DATABASE, TO REQUIRE THE BOARD TO PROMULGATE RULES TO LIMIT DATABASE ACCESS TO AUTHORIZED INDIVIDUALS, TO PROVIDE FOR THE ASSUMPTION OF COSTS ASSOCIATED WITH RECORDING AND SUBMITTING DATA AND TO PROVIDE FOR DEFINITIONS; AND AMENDING SECTION 37-2730A, IDAHO CODE, TO REQUIRE DISCLOSURE PRESCRIPTION TRACKING PROGRAM INFORMATION TO INDIVIDUALS AND PERSONS LISTED, TO PERMIT DISCLOSURE OF INFORMATION TO LISTED AGENCIES AND BOARDS, TO REMOVE ADDITIONAL DISCRETIONARY AUTHORITY TO RELEASE INFORMATION AND TO REMOVE CONFIDENTIALITY PROVISIONS.

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

SECTION 1. That Section 9-340C, Idaho Code, be, and the same is hereby amended to read as follows:

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

1. Except as provided in this subsection, all personnel records of a current or former public official other than the public official's public service or employment history, classification, pay grade and step, longevity, gross salary and salary history, status, workplace and employing agency. All other personnel information relating to a public employee or applicant including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. A public official or authorized representative may inspect and copy his personnel records, except for material used to screen and test for employment.

2. Retired employees' and retired public officials' home addresses, home telephone numbers and other financial and nonfinancial membership records; active and inactive member financial and membership records and mortgage portfolio loan documents maintained by the public employee retirement system. Financial statements prepared by retirement system staff, funding agents and custodians concerning the investment of assets of the public employee retirement system of Idaho are not considered confidential under this chapter.

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

(4) Records of a personal nature as follows:
   (a) Records of personal debt filed with a public agency or independent public body corporate and politic pursuant to law;
   (b) Personal bank records compiled by a public depositor for the purpose of public funds transactions conducted pursuant to law;
   (c) Records of ownership of financial obligations and instruments of a public agency or independent public body corporate and politic, such as bonds, compiled by the public agency or independent public body corporate and politic pursuant to law;
   (d) Records, with regard to the ownership of, or security interests in, registered public obligations;
   (e) Vital statistics records; and
   (f) Military records as described in and pursuant to section 65-301, Idaho Code.

(5) Information in an income or other tax return measured by items of income or sales, which is gathered by a public agency for the purpose of administering the tax, except such information to the extent disclosed in a written decision of the tax commission pursuant to a taxpayer protest of a deficiency determination by the tax commission, under the provisions of section 63-30458, Idaho Code.

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

(7) Employment security information and unemployment insurance benefit information, except that all interested parties may agree to waive the exemption.

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

(9) Unless otherwise provided by agency rule, information obtained as part of an inquiry into a person's fitness to be granted or retain a license, certificate, permit, privilege, commission or position, private association peer review committee records authorized in title 54, Idaho Code. Any agency which has records exempt from disclosure under the provisions of this subsection shall annually make available a statistical summary of the number and types of matters considered and their disposition.
(10) The records, findings, determinations and decisions of any pre-litigation screening panel formed under chapters 10 and 23, title 6, Idaho Code.

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

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

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

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

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

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

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

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

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

(20) Records of the Idaho housing and finance association (IHFA) relating to the following:
   (a) Records containing personal financial, family, health or similar personal information submitted to or otherwise obtained by the IHFA;
   (b) Records submitted to or otherwise obtained by the IHFA with regard to obtaining and servicing mortgage loans and all records relating to the review, approval or rejection by the IHFA of said loans;
(c) Mortgage portfolio loan documents;
(d) Records of a current or former employee other than the employee's duration of employment with the association, position held and location of employment. This exemption from disclosure does not include the contracts of employment or any remuneration, including reimbursement of expenses, of the executive director, executive officers or commissioners of the association. All other personnel information relating to an association employee or applicant including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence, retirement plan information and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. An employee or authorized representative may inspect and copy that employee's personnel records, except for material used to screen and test for employment or material not subject to disclosure elsewhere in the Idaho public records act.

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

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

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

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

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

SECTION 2. That Section 37-2726, Idaho Code, be, and the same is hereby amended to read as follows:

37-2726. FILING PRESCRIPTIONS -- DATABASE. (1) All controlled substances prescriptions shall be filed with the board electronically in a format established by the board or by other method as required by board rule. The board may require the filing of other prescriptions by board rule. The board shall establish by rule the information to be submitted pursuant to the purposes of this section and the purposes set forth in section 37-2730A, Idaho Code.
(2) The board shall create, operate and maintain a controlled substances prescriptions database containing the information submitted pursuant to subsection (1) of this section, to be used for the purposes and subject to the terms, conditions and immunities described in section 37-2730A, Idaho Code. The database information must be made available only to the following:

(a) Authorized individuals employed by the boards responsible for conducting investigations related to the licensing and discipline of practitioners;
(b) Peace officers employed by federal, state and local law enforcement agencies engaged as a specified duty of their employment in enforcing laws regulating controlled substances;
(c) Authorized individuals under the direction of the department of health and welfare for the purpose of monitoring and enforcing that department's responsibilities under the public health, medicare and medicaid laws;
(d) A licensed practitioner having authority to prescribe controlled substances, to the extent the information relates specifically to a current patient of the practitioner, to whom the practitioner is prescribing or considering prescribing any controlled substance;
(e) A licensed pharmacist having authority to dispense controlled substances to the extent the information relates specifically to a current patient to whom the pharmacist is dispensing or considering dispensing any controlled substance;
(f) An individual who is the recipient of a controlled substance prescription entered into the database or that individual's attorney, upon providing evidence satisfactory to the board that the individual requesting the information is in fact the person about whom the data entry was made or the attorney for that person; and

(3) The board must maintain records on the information disclosed from the database, including:
(a) The identification of each individual who requests or receives information from the database and who that individual represents;
(b) The information provided to each such individual; and
(c) The date and time the information is requested or provided.

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

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

(6) The definitions set forth in section 37-2701, Idaho Code, shall apply to this section.

SECTION 3. That Section 37-2730A, Idaho Code, be, and the same is hereby amended to read as follows:

37-2730A. PRESCRIPTION TRACKING PROGRAM. (1) The board shall maintain a program to track the prescriptions for controlled substances that are filed with the board under section 37-2726, Idaho Code, for the purpose of assisting in identifying illegal activity related to the dispensing of controlled substances and for the purpose of assisting the board in providing information to patients, practitioners and pharma-
cists to assist in avoiding inappropriate use of controlled substances. The tracking program and any data created thereby shall be administered by the board.

(2) The board shall use the information obtained through the tracking program in identifying activity it reasonably suspects may be in violation of this chapter or medical assistance law. The board may report this information to the appropriate law enforcement agency, Medicaid or Medicare agency or licensing board. Individuals and persons set forth in section 37-2726(2), Idaho Code. The board may provide the appropriate law enforcement agency, Medicaid or Medicare agency or licensing board with the relevant information in the board's possession, including information obtained from the tracking program, for further investigation, or other appropriate law enforcement or administrative enforcement use.

(3) The board may, in its discretion, authorize release of information from the tracking program to patients, practitioners and pharmacists where release of such information may be of assistance in preventing or avoiding inappropriate use of controlled substances.

(4) Information obtained from the program is confidential and, except as otherwise provided by this section, must not be disclosed by the board or by any recipient of such information from the board, provided however, such information must be disclosed:

(a) Upon the request of a person about whom the information requested concerns or upon the request on his behalf by his attorney or

(b) Upon the lawful order of a court of competent jurisdiction.

(5) Information, which does not identify individual patients, practitioners or dispensing pharmacists or pharmacies, may be released by the board for educational, research or public information purposes.

(6) Unless there is shown malice or criminal intent or gross negligence or reckless, willful and wanton conduct as defined in section 6-904C, Idaho Code, the state of Idaho, the board, any other state agency, or any person, or entity in proper possession of information as herein provided shall not be subject to any liability or action for money damages or other legal or equitable relief by reason of any of the following:

(a) The furnishing of information under the conditions herein provided;

(b) The receiving and use of, or reliance on, such information;

(c) The fact that any such information was not furnished; or

(d) The fact that such information was factually incorrect or was released by the board to the wrong person or entity.

(7) The board may apply for any available grants and accept any gifts, grants or donations to assist in developing and maintaining the program required by this section.

CHAPTER 176
(H.B. No. 607)

AN ACT
RELATING TO SPECIAL MOTOR VEHICLE LICENSE PLATES; AMENDING SECTION 49-402, IDAHO CODE, TO PROVIDE A CODE REFERENCE; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-416E, IDAHO CODE, TO ESTABLISH A BREAST CANCER EDUCATION AND SCREENING SPECIAL LICENSE PLATE PROGRAM; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 49-402, Idaho Code, be, and the same is hereby amended to read as follows:

49-402. ANNUAL REGISTRATION. (1) The annual fee for operating each pickup truck, each neighborhood electric vehicle and each other motor vehicle having a maximum gross weight not in excess of eight thousand (8,000) pounds shall be:

- Vehicles one (1) and two (2) years old $48.00
- Vehicles three (3) and four (4) years old $36.00
- Vehicles five (5) and six (6) years old $36.00
- Vehicles seven (7) and eight (8) years old $24.00
- Vehicles over eight (8) years old $24.00

There shall be twelve (12) registration periods, starting in January for holders of validation registration stickers numbered 1, and proceeding consecutively through December for holders of validation registration stickers numbered 12, each of which shall start on the first day of a calendar month and end on the last day of the twelfth month from the first day of the beginning month. Registration periods shall expire midnight on the last day of the registration period in the year designated by the validation registration sticker. The numeral digit on the validation registration stickers shall, as does the registration card, fix the registration period under the staggered plate system of Idaho for the purpose of reregistration and notice of expiration.

A vehicle that has once been registered for any of the above designated periods shall, upon reregistration, be registered for the period bearing the same number, and the registration card shall show and be the exclusive proof of the expiration date of registration and licensing. Vehicles may be initially registered for less than a twelve (12) month period, or for more than a twelve (12) month period, and the fee prorated on a monthly basis if the fractional registration tends to fulfill the purpose of the monthly series registration system.

(2) For all school buses operated either by a nonprofit, nonpublic school or operated pursuant to a service contract with a school district for transporting children to or from school or in connection with school approved activities, the annual fee shall be twenty-four dollars ($24.00).

(3) For all motorcycles and all-terrain vehicles operated upon the public highways the annual fee shall be nine dollars ($9.00). For operation of an all-terrain vehicle or motorcycle off the public highways, the fee specified in section 67-7122, Idaho Code, shall be paid. Registration exemptions provided in section 49-426(2), (3) and (4), Idaho
apply to all-terrain vehicles and motorcycles used for the purposes described in subsections (2), (3) and (4) of section 49-426, Idaho Code.

(4) For all motor homes the fee shall be as specified in subsection (1) of this section and shall be in addition to the fees provided for in section 49-445, Idaho Code.

(5) Registration fees shall not be subject to refund.

(6) A financial institution or repossession service contracted to a financial institution repossessing vehicles under the terms of a security agreement shall move the vehicle from the place of repossession to the financial institution's place of business on a repossession plate. The repossession plate shall also be used for demonstrating the vehicle to a prospective purchaser for a period not to exceed ninety-six (96) hours. The registration fees for repossession plates shall be as required in subsection (1) of this section for a vehicle one (1) and two (2) years old. All other fees required under chapter 4, title 49, Idaho Code, shall be in addition to the registration fee. The repossession plate shall be issued on an annual basis by the department.

(7) In addition to the annual registration fee in this section, there shall be an initial program fee of twenty-five dollars ($25.00) and an annual program fee of fifteen dollars ($15.00) for all special license plate programs for those license plates issued pursuant to sections 49-404A, 49-407, 49-408, 49-409, 49-41A, 49-416, 49-418 and 49-418D, Idaho Code. For special plates issued pursuant to sections 49-406 and 49-406A, Idaho Code, there shall be an initial program fee of twenty-five dollars ($25.00) but there shall be no annual renewal fee. For special plates issued pursuant to sections 49-416A, 49-416B, 49-416C, 49-416E, 49-417, 49-417A, 49-417B, 49-417C, 49-418A, 49-418B, 49-418C, 49-419, 49-419A, 49-419B, 49-419C, 49-419D, 49-420, 49-420A, 49-420B, 49-420C, 49-420D, 49-420E and 49-420C, Idaho Code, there shall be an initial program fee of thirty-five dollars ($35.00) and an annual program fee of twenty-five dollars ($25.00). The fees contained in this subsection shall be applicable to all new special plate programs. The initial program fee and the annual program fee shall be deposited in the state highway account and shall be used to fund the cost of administration of special license plate programs, unless otherwise specified by law.

SECTION 2. That Chapter 4, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-416E, Idaho Code, and to read as follows:

49-416E. BREAST CANCER EDUCATION AND SCREENING PLATES. (1) On and after January 1, 2007, any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for and, upon department approval, receive special breast cancer education and screening license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of breast cancer education and screening license plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter
4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars ($35.00) for the initial issuance of plates, and twenty-five dollars ($25.00) upon each succeeding annual registration. Ten dollars ($10.00) of the initial fee and ten dollars ($10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-five dollars ($25.00) of each initial fee and fifteen dollars ($15.00) of each renewal fee shall be transferred by the state treasurer for deposit to the Idaho primary care association located in Boise, Idaho, and shall be distributed by the Idaho primary care association as administrator of the funds, to Idaho community health centers to be used for breast cancer education and screening of women who lack insurance coverage or funds to pay for services related to breast cancer education and screening.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(4) The breast cancer education and screening license plate shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. The design and any slogan on the plate shall be acceptable to the governing board of the Idaho primary care association and shall be approved by the Idaho transportation department utilizing a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the Idaho primary care association.

(5) Sample breast cancer education and screening license plates may be purchased for a fee of thirty dollars ($30.00), ten dollars ($10.00) of which shall be deposited in the state highway account and twenty dollars ($20.00) of which shall be transferred to the Idaho primary care association located in Boise, Idaho, and shall be distributed by the association to Idaho community health centers to be used for breast cancer education and screening of women who lack insurance coverage or funds to pay for services related to breast cancer education and screening.

SECTION 3. This act shall be in full force and effect on and after January 1, 2007.


CHAPTER 177
(S.B. No. 1250)

AN ACT
RELATING TO THE JUVENILE CORRECTIONS ACT; AMENDING SECTION 20-510, IDAHO CODE, TO PROVIDE THAT COURTS MAY MAKE PRELIMINARY INQUIRIES TO DETERMINE WHETHER THE INTERESTS OF THE PUBLIC OR OF THE JUVENILE REQUIRE FURTHER ACTION.

Be It Enacted by the Legislature of the State of Idaho:
SECTION 1. That Section 20-510, Idaho Code, be, and the same is hereby amended to read as follows:

20-510. INFORMATION -- INVESTIGATION -- PETITION. Any peace officer, any prosecuting attorney, or any authorized representative of the board of trustees of a school district of this state, having knowledge of a juvenile who is within the purview of this act may file a petition with the court in such form as may be required by the court, except a peace officer may also issue a citation for a curfew violation pursuant to section 20-549, Idaho Code. Said individual or agency shall be responsible for providing the evidence to support the allegations made in the petition, provided this in no way shall relieve peace officers from enforcement of the law as set forth in section 31-2227, Idaho Code. The court shall make a preliminary inquiry to determine whether the interests of the public or of the juvenile require that further action be taken. Such inquiry may be made through the county probation officer or such other agent or investigation officer designated by the court. Thereupon, the court may make such informal adjustment as is practicable, or dismiss the petition, or set the matter for hearing. If an informal adjustment is made, it shall provide for full or partial restitution in the manner and form prescribed by the court when the offense involves loss or damage of property of another. A probation officer shall not file a petition unless the juvenile has previously been under the jurisdiction of the court. The petition and all subsequent court documents shall be entitled "In the interest of ..., a juvenile under eighteen (18) years of age." The petition may be made upon information and belief but it shall be made under oath. It shall set forth plainly: (1) the facts which bring the juvenile within the purview of this act; (2) the name, age, and residence of the juvenile; (3) the names and residences of his parents and spouse, if any; (4) the name and residence of his legal guardian, if there be one, or the person or persons having custody or control of the juvenile, or of the nearest known relative if no parent or guardian can be found. If any of the facts herein required are not known by the petitioner the petition shall so state.

Service of a petition upon the parents, legal guardian or person or persons having custody or control of the juvenile shall subject the parents, legal guardian or person or persons having custody or control of the juvenile to the provisions of this chapter. The petition shall inform the parents, legal guardian or other person legally obligated to care for and support the juvenile that service of the petition upon them shall make them subject to the provisions of this chapter.

Approved March 24, 2006.

CHAPTER 178
(S.B. No. 1312)

AN ACT
RELATING TO CRIMES AND PUNISHMENTS; AMENDING SECTION 18-910, IDAHO CODE, TO INCREASE THE PENALTY FOR ASSAULT WITH INTENT TO COMMIT A SERIOUS FELONY; AMENDING SECTION 18-912, IDAHO CODE, TO INCREASE THE PENALTY FOR BATTERY WITH INTENT TO COMMIT A SERIOUS FELONY; AMENDING SECTION
18-1506, IDAHO CODE, TO INCREASE THE PENALTY FOR SEXUAL ABUSE OF A CHILD UNDER AGE SIXTEEN; AMENDING SECTION 18-1506A, IDAHO CODE, TO INCREASE THE PENALTY FOR RITUALIZED ABUSE OF A CHILD AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 18-1507, IDAHO CODE, TO INCREASE THE PENALTY FOR SEXUAL EXPLOITATION OF A CHILD AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 18-1507A, IDAHO CODE, TO INCREASE THE PENALTY FOR POSSESSION OF SEXUALLY EXPLOITATIVE MATERIAL FOR OTHER THAN A COMMERCIAL PURPOSE; AMENDING SECTION 18-1508A, IDAHO CODE, TO INCREASE THE PENALTY FOR SEXUAL BATTERY OF A MINOR CHILD SIXTEEN OR SEVENTEEN YEARS OF AGE; AMENDING SECTION 18-4116, IDAHO CODE, TO REVISE THE PENALTY FOR INDECENT EXPOSURE; AMENDING SECTION 18-6602, IDAHO CODE, TO INCREASE THE PENALTY FOR INCEST; AMENDING SECTION 18-8307, IDAHO CODE, TO REVISE SEXUAL OFFENDER REGISTRATION REQUIREMENTS; AMENDING SECTION 18-8308, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO VERIFICATION OF SEX OFFENDER ADDRESSES; AMENDING SECTION 18-8309, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO NAME AND ADDRESS CHANGES OF SEXUAL OFFENDERS; AMENDING SECTION 18-8311, IDAHO CODE, TO INCREASE PENALTIES FOR SEXUAL OFFENDERS WHO FAIL TO MEET REGISTRATION, ADDRESS VERIFICATION AND NOTICE REQUIREMENTS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 18-910, Idaho Code, be, and the same is hereby amended to read as follows:

18-910. ASSAULT WITH THE INTENT TO COMMIT A SERIOUS FELONY -- PUNISHMENT. An assault with the intent to commit a serious felony is punishable by imprisonment in the state prison not to exceed ten fifteen (10/15) years.

SECTION 2. That Section 18-912, Idaho Code, be, and the same is hereby amended to read as follows:

18-912. BATTERY WITH THE INTENT TO COMMIT A SERIOUS FELONY -- PUNISHMENT. A battery with the intent to commit a serious felony is punishable by imprisonment in the state prison not to exceed fifteen twenty (15/20) years.

SECTION 3. That Section 18-1506, Idaho Code, be, and the same is hereby amended to read as follows:

18-1506. SEXUAL ABUSE OF A CHILD UNDER THE AGE OF SIXTEEN YEARS. (1) It is a felony for any person eighteen (18) years of age or older, with the intent to gratify the lust, passions, or sexual desire of the actor, minor child or third party, to:
   (a) solicit a minor child under the age of sixteen (16) years to participate in a sexual act, or
   (b) cause or have sexual contact with such minor child, not amounting to lewd conduct as defined in section 18-1508, Idaho Code, or
   (c) make any photographic or electronic recording of such minor child.
   (2) For the purposes of this section "solicit" means any written, verbal, or physical act which is intended to communicate to such minor
child the desire of the actor or third party to participate in a sexual act or participate in sexual foreplay, by the means of sexual contact, photographing or observing such minor child engaged in sexual contact.

(3) For the purposes of this section "sexual contact" means any physical contact between such minor child and any person, which is caused by the actor, or the actor causing such minor child to have self contact.

(4) Any person guilty of a violation of the provisions of this section shall be imprisoned in the state prison for a period not to exceed fifteen twenty-five (15) years.

SECTION 4. That Section 18-1506A, Idaho Code, be, and the same is hereby amended to read as follows:

18-1506A. RITUALIZED ABUSE OF A CHILD -- EXCLUSIONS -- PENALTIES -- DEFINITION. (1) A person is guilty of a felony when he commits any of the following acts with, upon, or in the presence of a child as part of a ceremony, rite or any similar observance:

(a) Actually or in simulation, tortures, mutilates or sacrifices any warm-blooded animal or human being;
(b) Forces ingestion, injection or other application of any narcotic, drug, hallucinogen or anaesthetic for the purpose of dulling sensitivity, cognition, recollection of, or resistance to any criminal activity;
(c) Forces ingestion, or external application, of human or animal urine, feces, flesh, blood, bones, body secretions, nonprescribed drugs or chemical compounds;
(d) Involves the child in a mock, unauthorized or unlawful marriage ceremony with another person or representation of any force or deity, followed by sexual contact with the child;
(e) Places a living child into a coffin or open grave containing a human corpse or remains;
(f) Threatens death or serious harm to a child, his parents, family, pets or friends which instills a well-founded fear in the child that the threat will be carried out; or
(g) Unlawfully dissects, mutilates, or incinerates a human corpse.

(2) The provisions of this section shall not be construed to apply to:

(a) Lawful agricultural, animal husbandry, food preparation or wild game hunting and fishing practices and specifically the branding or identification of livestock;
(b) The lawful medical practice of circumcision or any ceremony related thereto; or
(c) Any state or federally approved, licensed or funded research project.

(3) The penalty upon conviction of a first offense shall be imprisonment in the state prison for a term of not to exceed fifteen (15) years. Upon conviction of a second or subsequent offense, the penalty any person convicted of a violation of this section shall be imprisoned in the state prison for a term of not more than life, imprisonment.

(4) For the purposes of this section, "child" means any person under eighteen (18) years of age.
SECTION 5. That Section 18-1507, Idaho Code, be, and the same is hereby amended to read as follows:

18-1507. SEXUAL EXPLOITATION OF A CHILD. (1) The legislature hereby finds and declares that the commercial sexual exploitation of children constitutes a wrongful invasion of the child's right of privacy and results in social, developmental, and emotional injury to the child; that a child below the age of eighteen (18) years is incapable of giving informed consent to the use of his or her body for a commercial purpose; and that to protect children from commercial sexual exploitation it is necessary to prohibit the production for trade or commerce of material which involves or is derived from such exploitation and to exclude all such material from the channels of trade and commerce.

(2) As used in this section, unless the context otherwise requires:
(a) "Bestiality" means a sexual connection in any manner between a human being and any animal.
(b) "Child" means a person who is less than eighteen (18) years of age.
(c) "Commercial purpose" means the intention, objective, anticipation, or expectation of monetary gain or other material consideration, compensation, remuneration, or profit.
(d) "Erotic fondling" means touching a person's clothed or unclothed genitals or pubic area, developing or undeveloped genitals or pubic area (if the person is a child), buttocks, breasts (if the person is a female), or developing or undeveloped breast area (if the person is a female child), for the purpose of real or simulated overt sexual gratification or stimulation of one (1) or more of the persons involved. "Erotic fondling" shall not be construed to include physical contact, even if affectionate, which is not for the purpose of real or simulated overt sexual gratification or stimulation of one (1) or more of the persons involved.
(e) "Erotic nudity" means the display of the human male or female genitals or pubic area, the undeveloped or developing genitals or pubic area of the human male or female child, the human female breasts, or the undeveloped or developing breast area of the human female child, for the purpose of real or simulated overt sexual gratification or stimulation of one (1) or more of the persons involved.
(f) "Explicit sexual conduct" means sexual intercourse, erotic fondling, erotic nudity, masturbation, sadomasochism, sexual excitement, or bestiality.
(g) "Masturbation" means the real or simulated touching, rubbing, or otherwise stimulating of a person's own clothed or unclothed genitals or pubic area, developing or undeveloped genitals or pubic area (if the person is a child), buttocks, breasts (if the person is a female), or developing or undeveloped breast area (if the person is a female child), by manual manipulation or self-induced or with an artificial instrument, for the purpose of real or simulated overt sexual gratification or arousal of the person.
(h) "Sadomasochism" means:
\[\begin{align*}
&\text{(i) Real or simulated flagellation or torture for the purpose of real or simulated sexual stimulation or gratification; or} \\
&\text{(ii) The real or simulated condition of being fettered,}
\end{align*}\]
bound, or otherwise physically restrained for sexual stimulation or gratification of a person.

(i) "Sexual excitement" means the real or simulated condition of human male or female genitals when in a state of real or simulated overt sexual stimulation or arousal.

(j) "Sexual intercourse" means real or simulated intercourse, whether genital-genital, oral-genital, anal-genital, or oral-anal, between persons of the same or opposite sex, or between a human and an animal, or with an artificial genital.

(k) "Sexually exploitative material" means any photograph, motion picture, videotape, print, negative, slide, or other mechanically, electronically, or chemically reproduced visual material which depicts a child engaged in, participating in, observing, or being used for explicit sexual conduct.

(3) A person commits sexual exploitation of a child if, for any commercial purpose, he knowingly:

(a) Causes, induces, or permits a child to engage in, or be used for, any explicit sexual conduct; or

(b) Prepares, arranges for, publishes, produces, promotes, makes, sells, finances, offers, exhibits, advertises, deals in, possesses, or distributes any sexually exploitative material.

(4) The possession by any person of three (3) or more identical copies of any sexually exploitative material shall create a presumption that such possession is for a commercial purpose.

(5) The sexual exploitation of a child is a felony and shall be punishable by imprisonment in the state prison for a period term not to exceed fifteen thirty (±30) years or by a fine not to exceed twenty-five fifty thousand dollars ($250,000) or by both such fine and imprisonment.

(6) If any provision of this section or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared to be severable.

SECTION 6. That Section 18-1507A, Idaho Code, be, and the same is hereby amended to read as follows:

18-1507A. POSSESSION OF SEXUALLY EXPLOITATIVE MATERIAL FOR OTHER THAN A COMMERCIAL PURPOSE -- PENALTY. (1) It is the policy of the legislature in enacting this section to protect children from the physical and psychological damage caused by their being used in photographic representations of sexual conduct which involves children. It is, therefore, the intent of the legislature to penalize possession of photographic representations of sexual conduct which involves children in order to protect the identity of children who are victimized by involvement in the photographic representations, and to protect children from future involvement in photographic representations of sexual conduct.

(2) Every person who knowingly and willfully has in his possession any sexually exploitative material as defined in section 18-1507, Idaho Code, for other than a commercial purpose, is guilty of a felony, and shall be punished by imprisonment in the state prison for a period not to exceed five ten (510) years and by a fine not to exceed five ten thousand dollars ($510,000).
SECTION 7. That Section 18-1508A, Idaho Code, be, and the same is hereby amended to read as follows:

18-1508A. SEXUAL BATTERY OF A MINOR CHILD SIXTEEN OR SEVENTEEN YEARS OF AGE -- PENALTY. (1) It is a felony for any person at least five (5) years of age older than a minor child who is sixteen (16) or seventeen (17) years of age, who, with the intent of arousing, appealing to or gratifying the lust, passion, or sexual desires of such person, minor child, or third party, to:
   (a) Commit any lewd or lascivious act or acts upon or with the body or any part or any member thereof of such minor child including, but not limited to, genital-genital contact, oral-genital contact, anal-genital contact, oral-anal contact, manual-anal contact or manual-genital contact, whether between persons of the same or opposite sex, or who shall involve such minor child in any act of explicit sexual conduct as defined in section 18-1507, Idaho Code; or
   (b) Solicit such minor child to participate in a sexual act; or
   (c) Cause or have sexual contact with such minor child, not amounting to lewd conduct as defined in paragraph (a) of this subsection; or
   (d) Make any photographic or electronic recording of such minor child.

(2) For the purpose of subsection (b) of this section, "solicit" means any written, verbal or physical act which is intended to communicate to such minor child the desire of the actor or third party to participate in a sexual act or participate in sexual foreplay, by the means of sexual contact, photographing or observing such minor child engaged in sexual contact.

(3) For the purpose of this section, "sexual contact" means any physical contact between such minor child and any person or between such minor children which is caused by the actor, or the actor causing such minor child to have self contact.

(4) Any person guilty of a violation of the provisions of subsection (1)(a) of this section shall be imprisoned in the state prison for a period not to exceed life.

(5) Any person guilty of a violation of the provisions of subsections (1)(b), (1)(c), or (1)(d) of this section shall be imprisoned in the state prison for a period not to exceed fifteen twenty-five (±25) years.

SECTION 8. That Section 18-4116, Idaho Code, be, and the same is hereby amended to read as follows:

18-4116. INDECENT EXPOSURE. Every person who willfully and lewdly, either:
   (1) Exposes his or her genitals, in any public place, or in any place where there is present another person or persons who are offended or annoyed thereby; or,
   (2) Procures, counsels, or assists any person so to expose his or her genitals, where there is present another person or persons who are offended or annoyed thereby is guilty of a misdemeanor.

Any person who pleads guilty to or is found guilty of a violation of subsection (1) or (2) of this section or a similar statute in another state or any local jurisdiction for a second time within five (5) years,
notwithstanding the form of the judgment(s) or withheld judgment(s), is
guilty of a felony and shall be imprisoned in the state prison for a
period not to exceed ten (10) years.

SECTION 9. That Section 18-6602, Idaho Code, be, and the same is
hereby amended to read as follows:

18-6602. INCEST. Persons being within the degrees of consanguinity
within which marriages are declared by law to be incestuous and void,
who intermarry with each other, or who commit fornication or adultery
with each other, are punishable by imprisonment in the state prison for
a term not exceeding twenty-five-(25)-years to exceed life.

SECTION 10. That Section 18-8307, Idaho Code, be, and the same is
hereby amended to read as follows:

18-8307. INITIAL REGISTRATION. (1) Registration—whether initial;
total— or annual shall consist of a form provided by the department and
approved by the attorney general, which shall be signed by the offender
and shall require the following information about the offender:
(a) Name and all aliases which the person has used or under which
the person has been known;
(b) A complete description of the person including the date of
birth and social security number;
(c) Name of each offense enumerated in section 18-8304, Idaho Code,
of which the person was convicted, where each offense was committed,
where the person was convicted of each offense, and the name under
which the person was convicted of each offense;
(d) The name and location of each hospital, jail or penal institu­
tion to which the person was committed for each offense covered
under this chapter;
(e) School or college enrollment; and
(f) Address or physical description of current residence and place
of employment.
(2) At the time of any registration, the sheriff shall obtain a
photograph and fingerprints, in a manner approved by the department, and
may require the offender to provide full palm print impressions of each
hand. An offender A violent sexual predator shall pay a fee of ten dol­
ars ($10.00) to the sheriff at the time of each per registration. All
other offenders shall pay an annual fee of forty dollars ($40.00) to the
sheriff for registration. The sheriff may waive the registration fee if
the violent sexual predator or other offender demonstrates indigency.
The fees collected under this section shall be used by the sheriff to
defray the costs of violent sexual predator and other sexual offender
registration and verification under section 18-8308, Idaho Code.
(3) The sheriff shall forward the completed and signed form, photo­
graph and fingerprints to the department within three (3) working days
of the registration.
(a) The official conducting the initial registration shall ensure
that the notification form is complete and that the offender has
read and signed the form.
(b) No person subject to registration shall furnish false or mis­
leading information when complying with registration and notifica­
tion requirements of this chapter.
(4) (a) Within ten two (102) working days of coming into any county to establish permanent or temporary residence, an offender shall register with the sheriff of the county. The offender thereafter shall update the registration unless the offender is designated as a violent sexual predator, in which case the offender shall register with the sheriff every three (3) months as provided in this section. If the offender intends to reside in another state, the offender shall register in the other state within ten (10) days of moving to that state. 
(b) A nonresident required to register pursuant to section 18-8304(1)(e), Idaho Code, shall register with the sheriff of the county where employed or enrolled as a student within ten two (102) working days of the commencement of employment or enrollment as a student in an educational institution, provided that nonresidents employed in counseling, coaching, teaching, supervising or working with minors in any way, regardless of the period of employment, must register prior to the commencement of such employment.
(5) Annual Registration shall be conducted as follows:
(a) On or about the first day of the month containing the anniversary date of the last registration which required fingerprints and a photograph; For violent sexual predators the department shall mail a nonforwardable notice of annual registration to the offender's last reported address within three (3) months following the last registration;
(b) For all other sex offenders the department shall mail an annual, nonforwardable notice of registration to the offender's last reported address;
(c) Within five (105) days of the mailing date of the notice, the offender shall appear in person at the office of the sheriff with jurisdiction for the purpose of completing the registration process;
(cd) If the notice is returned to the department as not delivered, the department shall inform the sheriff with whom the offender last registered of the returned notice.
(6) The sheriff, or appointed deputies, may visit the residence of a registered sex offender within the county at any reasonable time to verify the address provided at the time of registration.
(7) All written notifications of duty to register as provided herein shall include a warning that it is a felony as provided in section 18-8327, Idaho Code, for an offender to accept employment in any day care center, group day care facility or family day care home, as those terms are defined in chapter 11, title 39, Idaho Code, or to be upon or to remain on the premises of a day care center, group day care facility or family day care home while children are present, other than to drop off or pick up the offender's child or children.

SECTION 11. That Section 18-8308, Idaho Code, be, and the same is hereby amended to read as follows:

18-8308. VERIFICATION OF ADDRESS. OF VIOLENT SEXUAL--PREDATOR. (1) Violent sexual predators. The address or physical residence of an offender designated as a violent sexual predator shall be verified by the department every ninety-(90)-days between annual registrations.
(2a) The procedure for verification shall be as follows:
The department shall mail a nonforwardable notice of address verification quarterly, every thirty (30) days between annual registrations, to each offender designated as a violent sexual predator.

Each offender designated as a violent sexual predator shall complete, sign and return the notice of address verification form to the department within ten seven (107) days of the mailing date of the notice. If the notice of address verification is returned to the department as not delivered, the department shall, within five (5) days, notify the sheriff with whom the offender designated as a violent sexual predator last registered.

The sheriff shall verify the address of the offender by visiting the offender's residence once every six (6) months or, if the offender fails to comply with the provisions of paragraph (a)(ii) of this subsection, at any reasonable time to verify the address provided at registration.

All other sexual offenders. The address or physical residence of any sex offender not designated as a violent sexual predator shall be verified by the department between registrations.

The procedure for verification shall be as follows:

The department shall mail a nonforwardable notice of address verification every four (4) months between annual registrations.

Each offender shall complete, sign and return the notice of address verification form to the department within seven (7) days of the mailing date of the notice. If the notice of address verification is returned as not delivered, the department shall notify the sheriff within five (5) days and the sheriff shall visit the residence of the registered offender at any reasonable time to verify the address provided at registration.

SECTION 12. That Section 18-8309, Idaho Code, be, and the same is hereby amended to read as follows:

18-8309. CHANGE OF ADDRESS OR NAME. (1) If an offender changes address or actual residence, the offender shall provide written notice of the new address within five two (52) working days after the change to the sheriff of the county where the offender is required to register. The notice shall be on a form provided by the department. Within three (3) working days after receipt of the notice, the sheriff shall forward a copy of the notice to the department.

(2) If an offender changes address to another state, the offender shall provide written notice of the new address within five (5) working days after the change to the department.

(3) An offender whose legal name is changed by marriage, judicial order or any other means shall provide written notice of the name change to the sheriff and the department within five two (52) working days of the order, event or other occurrence.

SECTION 13. That Section 18-8311, Idaho Code, be, and the same is hereby amended to read as follows:
18-8311. PENALTIES. (1) An offender subject to registration who fails to register, verify his address, or provide any notice as required by this chapter shall be guilty of a felony and shall be punished by imprisonment in the state prison system for a period not to exceed five ten (510) years and by a fine not to exceed five thousand dollars ($5,000). If the offender is on probation or other supervised release or suspension from incarceration at the time of the violation, the probation or supervised release or suspension shall be revoked and the penalty for violating this chapter shall be served consecutively to the offender's original sentence.

(2) An offender subject to registration under this chapter, who willfully provides false or misleading information in the registration required, shall be guilty of a felony and shall be punished by imprisonment in a state prison for a period not to exceed five ten (510) years and a fine not to exceed five thousand dollars ($5,000).

(3) An offender subject to registration under this chapter, who willfully evades service of the board's notice pursuant to section 18-8319, Idaho Code, shall be guilty of a felony and shall be punished by imprisonment in a state prison for a period not to exceed five ten (510) years and a fine not to exceed five thousand dollars ($5,000).

SECTION 14. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 24, 2006.

CHAPTER 179
(S.B. No. 1318)

AN ACT RELATING TO ESTATE PROPERTY; AMENDING SECTION 15-3-1201, IDAHO CODE, TO SET FORTH PROVISIONS APPLICABLE TO THE RECOVERY OF MEDICAL ASSISTANCE COSTS BY THE DEPARTMENT OF HEALTH AND WELFARE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 56-218, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO THE RECOVERY OF CERTAIN MEDICAL ASSISTANCE; AND AMENDING SECTION 56-218A, IDAHO CODE, TO REVISE A CODE REFERENCE.

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

SECTION 1. That Section 15-3-1201, Idaho Code, be, and the same is hereby amended to read as follows:

15-3-1201. COLLECTION OF PERSONAL PROPERTY BY AFFIDAVIT. (a) Thirty (30) days after the death of a decedent, any person indebted to the decedent or having possession of tangible personal property or an instrument evidencing a debt, obligation, stock or chose in action belonging to the decedent shall make payment of the indebtedness or deliver the tangible personal property or an instrument evidencing a debt, obligation, stock or chose in action to a person or entity claiming to be the successor of the decedent upon being presented an affidavit made by or on behalf of the successor stating that:
(1) The fair market value of the entire estate of the decedent which is subject to probate, wherever located, less liens and encumbrances, does not exceed seventy-five thousand dollars ($75,000); (2) Thirty (30) days have elapsed since the death of the decedent; (3) No application or petition for the appointment of a personal representative or for summary administration is pending or has been granted in any jurisdiction; and (4) The claiming successor is entitled to payment or delivery of the property, including entitlement as a trust pursuant to a will of the decedent. 

(b) A transfer agent of any security shall change the registered ownership on the books of a corporation from the decedent to the successor or successors upon the presentation of an affidavit as provided in subsection (a) of this section. 

(c) For the purposes of this section, for the recovery of medical assistance, the department of health and welfare shall be deemed a successor to the estate provided: 

(1) Prior to the presentation of the affidavit, the department shall give notice, by regular mail, to any person known to the department to be an heir, successor or creditor of the estate, and the department shall certify such notice in writing to the person described in subsection (a) of this section. 

(2) Within sixty (60) days of mailing the notice, any person who claims the right to reimbursement for priority estate expenses, as permitted by section 15-3-805(a)(1) through (4), Idaho Code, may submit a written demand for payment of such expenses, together with any documentation of the expenses, to the department. Upon receipt of the funds, and up to the amount received, the department shall pay priority claims which it determines would be allowed in a probate proceeding, if any. The department shall notify each claimant of the disposition of his claim. The provisions of chapter 52, title 67, Idaho Code, shall apply to determinations made by the department under this section. 

SECTION 2. That Section 56-218, Idaho Code, be, and the same is hereby amended to read as follows:

56-218. RECOVERY OF CERTAIN MEDICAL ASSISTANCE. (1) Except where exempted or waived in accordance with federal law medical assistance pursuant to this chapter paid on behalf of an individual who was fifty-five (55) years of age or older when the individual received such assistance may be recovered from the individual's estate, and the estate of the spouse, if any, for such aid paid to either or both; provided, however, that claim for such medical assistance correctly paid to the individual may be established against the estate of either spouse; but:

(a) There shall be no adjustment or recovery thereof until after the death of both the individual and the spouse, if any, and only at a time when the individual has no surviving child who is under twenty-one (21) years of age or is blind or permanently and totally disabled as defined in 42 U.S.C. 1382c. 

(b) While one (1) spouse survives, except where joint probate will be authorized pursuant to section 15-3-111, Idaho Code, a claim for recovery under this section may be established in the estate of the deceased spouse.
(c) The claim against the estate of the first deceased spouse must be made within the time provided by section 15-3-801(b), Idaho Code, if the estate is administered and actual notice is given to the director as required by subsection (5) of this section. However, if there is no administration of the estate of the first deceased spouse, or if no actual notice is given to the director as required by subsection (5) of this section, no claim shall be required until the time provided for creditor claims in the estate of the survivor. (d) Nothing in this section authorizes the recovery of the amount of any aid from the estate or surviving spouse of a recipient to the extent that the need for aid resulted from a crime committed against the recipient.

(2) Transfers of real or personal property, on or after the lookback dates defined in 42 U.S.C. 1396p, by recipients of such aid, or their spouses, without adequate consideration are voidable and may be set aside by an action in the district court.

(23) Except where there is a surviving spouse, or a surviving child who is under twenty-one (21) years of age or is blind or permanently and totally disabled as defined in 42 U.S.C. 1382c, the amount of any medical assistance paid under this chapter on behalf of an individual who was fifty-five (55) years of age or older when the individual received such assistance is a claim against the estate in any guardianship or conservatorship proceedings and may be paid from the estate.

(3) Nothing in this section authorizes the recovery of the amount of any aid from the estate or surviving spouse of a recipient to the extent that the need for aid resulted from a crime committed against the recipient.

(4) For purposes of this section, the term "estate" shall include:
(a) All real and personal property and other assets included within the individual's estate, as defined for purposes of state probate law; and
(b) Any other real and personal property and other assets in which the individual had any legal title or interest at the time of death (to the extent of such interest), including such assets conveyed to a survivor, heir, or assign of the deceased individual through joint tenancy, tenancy in common, survivorship, life estate, living trust or other arrangement.

(5) Claims made pursuant to this section shall be classified and paid as a debt with preference as defined in section 15-3-805(5), Idaho Code. Any distribution or transfer of the estate prior to satisfying such claim is voidable and may be set aside by an action in the district court. The personal representative of every estate subject to a claim under this section must, within thirty (30) days of the appointment, give notice in writing to the director of his or her appointment to administer the estate. However, if an exempt property allowance claim is made in an estate subject to a claim under this section by one (1) or more persons not described in subsection (2) of this section, then, to the extent such exempt property allowance claim exceeds the fair market value of the actual personal property of the decedent held by the estate subject to a claim under this section (including, but not limited to, such items as household furniture, automobiles, furnishings, appliances, and personal effects), the persons making such exempt property allowance claim must file with the court, and with the personal representative or
administrator of the estate, and with the department, a written statement under oath containing the following:

(a) A statement that no personal property of the decedent has been transferred without adequate consideration to any person or entity, including any one (1) or more of the persons making the exempt property allowance claim, to the actual knowledge of any of the persons making the exempt property allowance claim, within a time period commencing one (1) year prior to the death of the decedent and ending on the date of the statement; or

(b) A statement that personal property of the decedent has been transferred without adequate consideration to any person or entity, including one (1) or more of the persons making the exempt property allowance claim, within a time period commencing one (1) year prior to the death of the decedent and ending on the date of the statement, to the actual knowledge of any of the persons making the exempt property allowance claim, and stating the fair market value of the personal property so transferred, and stating a reasonable description of such property, and stating the method of determining the fair market value of the personal property so transferred.

If the written statement indicates that there has been such a transfer of personal property, then the fair market value of the personal property so transferred shall be subtracted from the remaining exempt property allowance claim, after subtraction of the personal property held by the estate, as described above, and only any still remaining portion of the exempt property claim may be paid by the estate to the persons making the exempt property allowance claim. The statement submitted under paragraph (a) or (b) of this subsection, must be signed under oath by all persons making the exempt property claim.

(6) The department may file a notice of lien against the property of any estate subject to a claim under this section.

(a) In order to perfect a lien against real or personal property, the department shall, within ninety (90) days after the personal representative or successor makes a written request for prompt action to the director, or three (3) years from the death of the individual for whom medical assistance was paid under this chapter, whichever is sooner, file a notice of lien in the same general form and manner as provided in section 56-218A(3)(a), Idaho Code, in the office of the secretary of state, pursuant to section 45-1904, Idaho Code. Failure to file a notice of lien does not affect the validity of claims made pursuant to this section.

(b) The department may release the lien in whole or in part to permit the estate property to be administered by a court-appointed personal representative.

(c) The department may foreclose its lien, without probate, in any of the following circumstances:

(i) Where no personal representative has been appointed after one (1) year from the date of death of the survivor of both the individual and spouse, if any;

(ii) Where the property has been abandoned by the decedent's heirs or successors, if any;

(iii) Where the real property taxes that are due and payable have remained unpaid for two (2) years and, after demand by the department, the heirs or successors, if any, have failed to seek appointment or pay the property taxes; or
Where all parties interested in the estate consent to foreclosure of the lien.

The director shall promulgate rules reasonably necessary to implement this section including, but not limited to, rules establishing undue hardship waivers for the following circumstances:

(a) The only asset of the estate subject to recovery is income-producing property that provides the primary source of support for other family members; or
(b) The estate has a value below an amount specified in the rules; or
(c) Recovery under the lien by the department will entitle cause the heirs of the deceased individual to be eligible for public assistance.

The cause of action to void a transfer without adequate consideration established in this section shall not be deemed to have accrued until the department discovers, or reasonably could have discovered, the facts constituting the transfer without adequate consideration.

SECTION 3. That Section 56-218A, Idaho Code, be, and the same is hereby amended to read as follows:

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

(a) Who is an inpatient in a nursing facility, intermediate care facility for the mentally retarded, or other medical institution, if such individual is required, as a condition of receiving services in such institution under the state plan, to spend for costs of medical care all but a minimal amount of his income required for personal needs; and
(b) With respect to whom the department has determined, after notice and opportunity for hearing, that he cannot reasonably be expected to be discharged from the medical institution and to return home.

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

(a) The spouse of such individual;
(b) Such individual's child under age twenty-one (21) years;
(c) Such individual's child who is blind or permanently and totally disabled as defined in 42 U.S.C. 1382c; or
(d) A sibling of such individual who holds an equity interest in such home and who was residing in such home for a period of at least one (1) year prior to the individual's admission to the medical institution.

(3) (a) The lien shall be perfected by filing in the office of the secretary of state a notice of lien pursuant to section 45-1904, Idaho Code. The notice of lien shall include, in addition to the information required by section 45-1904, Idaho Code, the amount paid or about to be paid by the department on behalf of the individual, and, if applicable, the fact that the amount of the lien may increase over time.
(b) The department shall file any notice of lien under this section
within ninety (90) days of the final determination of the depart-
ment, after hearing if any, required in subsection (1)(b) of this
section, with the exception of property against which the department
is prevented from filing a lien pursuant to subsection (2) of this
section. With respect to the property described in subsection (2) of
this section, the department shall file a notice of lien within
ninety (90) days after the department is notified in writing that
subsection (2) of this section ceases to apply to the property.
(4) Any lien imposed in accordance with subsection (1) of this sec-
tion shall dissolve upon the individual's discharge from the medical
institution and return home.
(5) No recovery shall be made under this section for medical assis-
tance correctly paid except from such individual's estate as defined in
subsection (4) of section 56-218, Idaho Code, and subject to subsections
(9)(d), (5) and (6) of section 56-218, Idaho Code, or upon sale of the
property subject to a lien and may be made only after the death of such
individual's surviving spouse, if any, and only at a time:
(a) When he has no surviving child who is under age twenty-one (21)
years, or who is blind or permanently and totally disabled as
defined in 42 U.S.C. 1382c; or
(b) In the case of a lien on an individual's home under subsection
(1) of this section, when none of the following is lawfully residing
in such home who has lawfully resided in such home on a continuous
basis since the date of the individual's admission to the medical
institution:
(i) A sibling of the individual, who was residing in the
individual's home for a period of at least one (1) year immedi-
ately before the date of the individual's admission to the med-
ical institution; or
(ii) A son or daughter of the individual, who was residing in
the individual's home for a period of at least two (2) years
immediately before the date of the individual's admission to
the medical institution and who establishes to the satisfaction
of the state that he or she provided care to such individual
which permitted such individual to reside at home rather than
in an institution.
(6) The director shall promulgate rules reasonably necessary to
implement this section including, but not limited to, rules establishing
undue hardship waivers, as provided in section 56-218(7), Idaho Code,
and a procedure for notice and opportunity for hearing on the
department's determination that an individual cannot reasonably be
expected to be discharged from a medical institution and to return home.
Approved March 24, 2006.
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 15-5-207, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-207. COURT APPOINTMENT OF GUARDIAN OF MINOR -- PROCEDURE. (1) Proceedings for the appointment of a guardian may be initiated by any relative of the minor, the minor if he is fourteen (14) years of age, a de facto custodian of the minor, or any person interested in the welfare of the minor.

(2) Notice of the time and place of hearing of a petition for the appointment of a guardian of a minor is to be given by the petitioner in the manner prescribed by section 15-1-401 of this code to:

(i) The minor, if he is fourteen (14) or more years of age;
(ii) The person who has had the principal care and custody of the minor during the sixty (60) days preceding the date of the petition;
(iii) The de facto custodian of the minor, if any; and
(iv) Any living parent of the minor; provided however, that the court may waive notice to a living parent of the minor who is, or is alleged to be, the father of the minor if:

(a)(1) The father was never married to the mother of the minor and has failed to register his paternity as provided in section 16-1504(4), Idaho Code; or
(b)(2) The court has been shown to its satisfaction circumstances that would allow the entry of an order of termination of parental rights pursuant to section 16-2005, Idaho Code, even though termination of parental rights is not being sought as to such father.

(c) Upon hearing, if the court finds that a qualified person seeks appointment, venue is proper, the required notices have been given, the requirements of section 15-5-204 of this part have been met, and the welfare and best interests of the minor will be served by the requested appointment, it shall make the appointment. In other cases the court may dismiss the proceedings, or make any other disposition of the matter that will best serve the interest of the minor.

(d) If necessary, the court may appoint a temporary guardian, with the status of an ordinary guardian of a minor, but the authority of a temporary guardian shall not last longer than six (6) months.

(e) The court shall appoint an attorney to represent the minor if the court determines that the minor possesses sufficient maturity to direct the attorney. If the court finds that the minor is not mature enough to direct an attorney, the court shall appoint a guardian ad litem for the minor. The court may decline to appoint an attorney or guardian ad litem if it finds in writing that such appointment is not necessary to serve the best interests of the minor or if the Idaho department of health and welfare has legal custody of the child.

(f) Letters of guardianship must indicate whether the guardian was appointed by will or by court order.

Approved March 24, 2006.
CHAPTER 181  
(S.B. No. 1322)

AN ACT
RELATING TO GUARDIANS AND CONSERVATORS; AMENDING SECTION 54-1142, IDAHO CODE, TO AUTHORIZE GUARDIANS OR CONSERVATORS TO DISPOSE OF A DECEASED PERSON'S REMAINS IN CERTAIN CIRCUMSTANCES; AMENDING SECTION 15-5-306, IDAHO CODE, TO PROVIDE FOR THE CONTINUANCE OF A GUARDIANSHIP IN CERTAIN CIRCUMSTANCES AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 15-5-425, IDAHO CODE, TO PROVIDE FOR CONSERVATOR DISTRIBUTIVE DUTIES AND POWERS IN CERTAIN CIRCUMSTANCES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 54-1142, Idaho Code, be, and the same is hereby amended to read as follows:

54-1142. AUTHORITY IN ABSENCE OF PREARRANGED FUNERAL PLAN. (1) If the decedent has not made a prearranged funeral plan as set forth in section 54-1139, Idaho Code, the right to control the disposition of the remains of a deceased person vests in, and devolves upon the following in the order named:
(a) The person designated in a written document executed by the decedent and acknowledged in the same manner as required for instruments conveying real property, and subject to such limitations, restrictions, or directions, as may be set forth in such document;
(b) The person designated as agent under a durable power of attorney for health care executed by the decedent, unless such durable power of attorney for health care contains express and clear language denying such right;
(c) The person designated in a durable power of attorney executed by the decedent, if such power of attorney contains express and clear language granting such right to the agent named in such power of attorney;
(d) The competent surviving spouse of the decedent;
(e) A majority of the competent surviving adult children of the decedent, provided that less than one-half (1/2) of the competent surviving adult children shall be vested with the right to control the disposition of the remains of the decedent if they have used reasonable efforts to notify all other competent surviving adult children of their instructions to dispose of the decedent's remains and are not aware of any opposition to those instructions on the part of more than one-half (1/2) of all competent surviving adult children;
(f) The competent surviving parents or parent of the decedent, provided that if one (1) of the competent surviving parents is absent, the remaining competent surviving parent shall be vested with the right to control the disposition of the remains of the decedent after reasonable efforts have been made and are unsuccessful in locating the absent competent surviving parent;
(g) The person appointed by a court of competent jurisdiction as the personal representative or administrator of the estate of the decedent;
(h) The person nominated as the personal representative of the estate of the decedent in the will of the decedent;

(i) The competent adult person or persons entitled to inherit from the decedent under the intestate succession laws of the state of Idaho, respectively in the next degree of kinship, provided that if there is more than one (i) competent surviving adult person of the same degree of kinship, the majority of those persons, and provided further that less than the majority of competent surviving adult persons of the same degree of kinship shall be vested with the right to control the disposition of the remains of the decedent if those persons have used reasonable efforts to notify all other competent surviving adult persons of the same degree of kinship of their instructions to dispose of the decedent's remains and are not aware of any opposition to those instructions on the part of one-half (1/2) or more of all competent surviving adult persons of the same degree of kinship;

(2) If the persons listed above fail to exercise their right to dispose of the remains of the deceased person within forty (40) days of the death of the deceased person, the person acting as guardian of the ward at the time of the ward's death, or if no guardian was then acting, the person acting as conservator of the protected person at the time of the protected person's death, has the authority to dispose of the deceased person's remains, including cremation of the remains.

(3) For purposes of this section:

(a) "Adult" means an individual who is eighteen (18) years of age or older;

(b) "Child" means a natural or adopted child of the decedent;

(c) "Competent" means the individual has not been declared incompetent by a court of law, or who has been declared competent by a court of law after a prior declaration of incompetence;

(d) "Durable power of attorney" means a power of attorney described in section 15-5-501, Idaho Code, or any similar document properly executed under the laws of another jurisdiction; and

(e) "Durable power of attorney for health care" means the document described in chapter 45, title 39, Idaho Code, or any similar document properly executed under the laws of another jurisdiction;

(f) "Will" means any testamentary device which is valid under the Idaho probate code, including, but not limited to, sections 15-2-503, 15-2-504 and 15-2-506, Idaho Code, whether or not originally executed in, or under the laws of, the state of Idaho.

(4) (a) A cemetery authority or licensed funeral director or a licensed hospital or its authorized personnel may permit or assist in, and a physician may perform, an autopsy of any remains of a decedent in its custody:
(i) If the decedent, prior to his death, authorizes an autopsy in his will or in another written instrument, including, but not limited to, a durable power of attorney for health care; or
(ii) Upon the receipt of a written authorization signed by, telegraphed from, or received by facsimile transmission from, a person representing himself to be the person who is entitled under this section to control the disposition of the remains of the decedent, or to be a coroner or any other duly authorized public officer; or
(iii) Upon the receipt of an oral authorization obtained by telephone, and recorded on tape or other recording device, from a person representing himself to be the person who is entitled under this section to control the disposition of the remains of the decedent, or to be a coroner or any other duly authorized public officer.

(b) A cemetery authority or a licensed funeral director of a licensed hospital or its authorized personnel is not liable for permitting or assisting, and a physician is not liable for performing, an autopsy pursuant to the authorization provided in paragraph (a) of this subsection unless he has actual notice that such representation is untrue at the time the autopsy is performed. If such authorization is contained in a will, the autopsy may be performed regardless of the validity of the will in other respects and regardless of whether the will may not be offered for, or admitted to, probate until a later date.

(c) This subsection shall not authorize the obtaining of an oral authorization by telephone, recorded on tape or other recording device, for the autopsy of a deceased person if it is made known to the physician who is to perform the autopsy that the deceased person was, at the time of his death, a member of a religion or group which opposes autopsies.

SECTION 2. That Section 15-5-306, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-306. TERMINATION OF GUARDIANSHIP FOR INCAPACITATED PERSON. (1) Subject to subsection (2) of this section, the authority and responsibility of a guardian for an incapacitated person terminates upon the death of the guardian or ward, the determination of incapacity of the guardian, or upon removal or resignation as provided in section 15-5-307 of this Part. Testamentary appointment under an informally probated will terminates if the will is later denied probate in a formal proceeding. Termination does not affect his liability for prior acts nor his obligation to account for funds and assets of his ward.

(2) If the conditions set forth in section 54-1142(1)(j) exist, then the guardianship shall continue as set forth in that section.

SECTION 3. That Section 15-5-425, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-425. DISTRIBUTIVE DUTIES AND POWERS OF CONSERVATOR. (a) A conservator may expend or distribute income or principal of the estate without court authorization or confirmation for the support, education,
care or benefit of the protected person and his dependents in accordance with the following principles:

(1) The conservator is to consider recommendations relating to the appropriate standard of support, education and benefit for the protected person made by a parent or guardian, if any. He may not be surcharged for sums paid to persons or organizations actually furnishing support, education or care to the protected person pursuant to the recommendations of a parent or guardian of the protected person, unless he knows that the parent or guardian is deriving personal financial benefit therefrom, including relief from any personal duty of support, or unless the recommendations are clearly not in the best interests of the protected person.

(2) The conservator is to expend or distribute sums reasonably necessary for the support, education, care or benefit of the protected person with due regard to (A) the size of the estate, the probable duration of the conservatorship and the likelihood that the protected person, at some future time, may be fully able to manage his affairs and the estate which has been conserved for him; (B) the accustomed standard of living of the protected person and members of his household; (C) other funds or sources used for the support of the protected person.

(3) The conservator may expend funds of the estate for the support of persons legally dependent on the protected person and others who are members of the protected person's household who are unable to support themselves, and who are in need of support.

(4) Funds expended under this subsection may be paid by the conservator to any person, including the protected person to reimburse for expenditures which the conservator might have made, or in advance for services to be rendered to the protected person when it is reasonable to expect that they will be performed and where advance payments are customary or reasonably necessary under the circumstances.

(5) A conservator, in discharging the responsibilities conferred by court order and this part, shall implement the principles described in section 15-5-408(a) of this code.

(b) If the estate is ample to provide for the purposes implicit in the distributions authorized by the preceding subsections, a conservator for a protected person other than a minor has power to make gifts to charity and other objects as the protected person might have been expected to make, in amounts which do not exceed in total for any year twenty percent (20%) of the income from the estate.

(c) When a minor who has not been adjudged disabled under subsection (b) of section 15-5-401 of this part attains his majority, his conservator, after meeting all prior claims and expenses of administration, shall pay over and distribute all funds and properties to the former protected person as soon as possible.

(d) When the conservator is satisfied that a protected person's disability (other than minority) has ceased, the conservator, after meeting all prior claims and expenses of administration, shall pay over and distribute all funds and properties to the former protected person as soon as possible.

(e) If a protected person dies, the conservator shall deliver to the court for safekeeping any will of the deceased protected person which may have come into his possession, inform the executor or a beneficiary named therein that he has done so, and retain the estate for
delivery to a duly appointed personal representative of the decedent or other persons entitled thereto. If after forty (40) days from the death of the protected person no other person has been appointed personal representative and no application or petition for appointment is before the court, the conservator may apply to exercise the powers and duties of a personal representative so that he may proceed to administer and distribute the decedent's estate without additional or further appointment. Upon application for an order granting the powers of a personal representative to a conservator, after notice to any person demanding notice under section 15-3-204 of this code and to any person nominated executor in any will of which the applicant is aware, the court may order the conferral of the power upon determining that there is no objection, and indorse the letters of the conservator to note that the formerly protected person is deceased and that the conservator has acquired all of the powers and duties of a personal representative. The making and entry of an order under this section shall have the effect of an order of appointment of a personal representative as provided in section 15-3-308 and parts 6 through 10 of chapter 3 except that the estate in the name of the conservator, after administration, may be distributed to the decedent's successors without prior re-transfer to the conservator as personal representative.

(f) During the period between the death of a protected person and the appointment of a personal representative for the protected person's estate, or the conferral of the powers of a personal representative upon the conservator as provided in this section, the person acting as conservator at the time of the deceased protected person's death shall have the duties and powers of a temporary conservator as set forth in section 15-5-407A, Idaho Code, and the powers set forth in section 54-1142(1)(j), Idaho Code.

Approved March 24, 2006.

CHAPTER 182
(S.B. No. 1326)

AN ACT
RELATING TO GUARDIANSHIPS AND CONSERVATORSHIPS; AMENDING SECTION 15-5-211, IDAHO CODE, TO REVISE VENUE PROVISIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 15-5-313, IDAHO CODE, TO REVISE VENUE PROVISIONS; AMENDING SECTION 15-5-430, IDAHO CODE, TO PROVIDE CODE REFERENCES APPLICABLE TO TERMINATION OF PROCEEDINGS; AMENDING SECTION 15-5-431, IDAHO CODE, TO PROVIDE CODE REFERENCES APPLICABLE TO THE PAYMENT OF DEBT AND DELIVERY OF PROPERTY IN CERTAIN FOREIGN CONSERVATOR CASES; REPEALING SECTION 15-5-432, IDAHO CODE, RELATING TO POWERS OF FOREIGN CONSERVATORS; AMENDING TITLE 15, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 9, TITLE 15, IDAHO CODE, TO SET FORTH PROVISIONS APPLICABLE TO FOREIGN GUARDIANSHIPS, TO PROVIDE FOR JURISDICTION, TO REQUIRE PETITIONS, TO REQUIRE NOTICE, TO PROVIDE FOR HEARINGS, TO SET FORTH REQUIREMENTS FOR RECEIPT AND ACCEPTANCE OF FOREIGN GUARDIANSHIPS, TO PROVIDE FOR REVIEW OF GUARDIANSHIPS, TO SET FORTH PROVISIONS APPLICABLE TO FOREIGN CONSERVATORSHIPS, TO PROVIDE FOR JURISDICTION, TO REQUIRE PETITIONS, TO REQUIRE NOTICE, TO
PROVIDE FOR HEARINGS, TO SET FORTH REQUIREMENTS FOR RECEIPT AND ACCEPTANCE OF FOREIGN CONSERVATORSHIPS AND TO PROVIDE FOR REVIEW OF CONSERVATORSHIPS; AMENDING TITLE 15, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 10, TITLE 15, IDAHO CODE, TO SET FORTH PROVISIONS APPLICABLE TO TRANSFERS OF GUARDIANSHIPS TO FOREIGN JURISDICTIONS, TO PROVIDE FOR JURISDICTION, TO REQUIRE PETITIONS, TO REQUIRE NOTICE, TO PROVIDE FOR HEARINGS, TO SET FORTH REQUIREMENTS FOR TRANSFERS OF GUARDIANSHIPS TO FOREIGN JURISDICTIONS, TO SET FORTH PROVISIONS APPLICABLE TO TRANSFERS OF CONSERVATORSHIPS TO FOREIGN JURISDICTIONS, TO PROVIDE FOR JURISDICTION, TO REQUIRE PETITIONS, TO REQUIRE NOTICE, TO PROVIDE FOR HEARINGS AND TO SET FORTH REQUIREMENTS FOR TRANSFERS OF CONSERVATORSHIPS TO FOREIGN JURISDICTIONS; AND AMENDING TITLE 15, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 11, TITLE 15, IDAHO CODE, TO PROVIDE FOR JURISDICTION, TO REQUIRE PETITIONS AND NOTICE, TO SET FORTH REQUIREMENTS FOR THE TEMPORARY RECOGNITION OF A FOREIGN GUARDIANSHIP, TO PROVIDE FOR JURISDICTION, TO REQUIRE PETITIONS AND NOTICE AND TO SET FORTH REQUIREMENTS FOR THE TEMPORARY RECOGNITION OF A FOREIGN CONSERVATORSHIP.

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

SECTION 1. That Section 15-5-211, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-211. PROCEEDINGS SUBSEQUENT TO APPOINTMENT -- VENUE. (a) The court where the ward resides has concurrent jurisdiction with the court which appointed the guardian, or in which acceptance of a testamentary appointment was filed, over resignation, removal, accounting and other proceedings relating to the guardianship.

(b) If the court located where the ward resides is not the court in which acceptance of appointment is filed, the court in which proceedings subsequent to appointment are commenced shall in all appropriate cases notify the other court, if in this or another state, and after consultation with that court determine whether to retain jurisdiction or transfer the proceedings to the other court, whichever is in the best interests of the ward. A copy of any order accepting a resignation or removing a guardian shall be sent to the court in which acceptance of appointment is filed. If the court in which acceptance of appointment is filed is in another state, the court in this state shall proceed in accordance with chapters 9, 10 and/or 11, title 15, Idaho Code, as appropriate.

SECTION 2. That Section 15-5-313, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-313. PROCEEDINGS SUBSEQUENT TO APPOINTMENT -- VENUE. (a) The court where the ward resides has concurrent jurisdiction with the court which appointed the guardian, or in which acceptance of a testamentary appointment was filed, over resignation, removal, accounting and other proceedings relating to the guardianship, including proceedings to limit the authority previously conferred on a guardian, or to remove limitations previously imposed.

(b) If the court located where the ward resides is not the court in which acceptance of appointment is filed, the court in which proceedings
subsequent to appointment are commenced shall in all appropriate cases notify the other court, if in this or another state, and after consultation with that court determine whether to retain jurisdiction or transfer the proceedings to the other court, whichever may be in the best interest of the ward. A copy of any order accepting a resignation, altering his authority or removing a guardian shall be sent to the court in which acceptance of appointment is filed. If the court in which acceptance of appointment is filed is in another state, the court in this state shall proceed in accordance with chapters 9, 10 and/or 11, title 15, Idaho Code, as appropriate.

SECTION 3. That Section 15-5-430, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-430. TERMINATION OF PROCEEDING. The protected person, his personal representative, the conservator, or any other interested person may petition the court to terminate the conservatorship. A protected person seeking termination is entitled to the same rights and procedure as in an original proceeding for a protective order. The court, upon determining after notice and hearing that the minority or disability of the protected person has ceased or that it would be in the best interests of the protected person to establish the conservatorship in another jurisdiction may terminate the conservatorship and, where appropriate, order initiation of proceedings in another jurisdiction or delivery of the assets to a foreign conservator as set forth in chapters 9, 10 and/or 11, title 15, Idaho Code. Upon termination, title to assets of the estate passes to the former protected person or to his successor subject to provision in the order for expenses of administration or to conveyances from the conservator to the former protected person or his successors, to evidence the transfer.

SECTION 4. That Section 15-5-431, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-431. PAYMENT OF DEBT AND DELIVERY OF PROPERTY TO FOREIGN CONSERVATOR WITHOUT LOCAL PROCEEDINGS. Any person indebted to a protected person, or having possession of property or of an instrument evidencing a debt, stock, or chose in action belonging to a protected person may pay or deliver to a conservator, guardian of the estate or other like fiduciary appointed by a court of the state of residence of the protected person, upon being presented with proof of his appointment and an affidavit made by him or on his behalf stating:

(a) That no protective proceeding relating to the protected person is pending in this state, including any proceeding under chapters 9, 10 and/or 11, title 15, Idaho Code; and

(b) That the foreign conservator is entitled to payment or to receive delivery.

If the person to whom the affidavit is presented is not aware of any protective proceeding pending in this state, payment or delivery in response to the demand and affidavit discharges the debtor or possessor.

SECTION 5. That Section 15-5-432, Idaho Code, be, and the same is hereby repealed.
SECTION 6. That Title 15, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 9, Title 15, Idaho Code, and to read as follows:

CHAPTER 9
FOREIGN GUARDIANSHIPS
AND CONSERVATORSHIPS

PART 1.
RECEIPT AND ACCEPTANCE OF FOREIGN GUARDIANSHIP

15-9-101. JURISDICTION. A guardian who is appointed by a foreign court of competent jurisdiction for an incapacitated person (hereinafter "ward") residing or domiciled in this state may petition to have the guardianship transferred and accepted in this state.

15-9-102. PETITION. (1) The petition for the receipt and acceptance of a foreign guardianship shall be filed in the court where the ward resides or is domiciled or where the ward may reside in the future.

(2) The petition shall include the following:

(a) A certified copy of the foreign guardianship order including:
   (i) All attachments describing the duties and powers of the guardian; and
   (ii) All amendments or modifications to the foreign guardianship order entered subsequent to the original order, including the order to transfer the guardianship, if applicable;

(b) The address of the foreign court from which the guardianship was issued;

(c) A listing of any other guardianship petitions that are pending in any jurisdiction and the names and addresses of the courts where the petitions have been filed;

(d) The petitioner's name, residence, current address and relationship, other than guardian, to the ward;

(e) The name, age, principal residence and current address of the ward;

(f) The name and address of the ward's:
   (i) Spouse; and
   (ii) Adult children or, if the ward has none, the ward's parents and adult siblings or, if the ward has none, at least one adult nearest in kinship to the ward if such adult can be found;

(g) The name and address of the person responsible for the care or custody of the ward if other than the guardian;

(h) The name and address of any legal representative, including a guardian ad litem appointed by the foreign court, for the ward;

(i) The reason(s) for the transfer of the guardianship; and

(j) If the guardian manages any property for the ward, a general statement of the ward's property, its location, and its estimated value including any insurance or pension, and the source and amount of any other anticipated income or receipts.

(3) The petition for receipt and acceptance of a foreign guardianship may be supplemented with other petitions related to the guardianship including a petition to modify the terms of the guardianship.
15-9-103. NOTICE OF PETITION FOR RECEIPT AND ACCEPTANCE OF A FOREIGN GUARDIANSHIP. (1) Notice of the petition for receipt and acceptance of a foreign guardianship shall be served personally on the ward. Except as provided in subsection (3) of this section, failure to serve the ward with the foregoing notice precludes the court from granting the petition. The notice shall be in plain language and large type and shall:
   (a) Include a statement that the ward has a right to a hearing on the petition for receipt and acceptance of a foreign guardianship;
   (b) Inform the ward of procedures to exercise his or her right to a hearing; and
   (c) Describe the consequences of a transfer of the guardianship from the foreign jurisdiction to this state.
(2) Notice of the petition for receipt and acceptance of a foreign guardianship shall be given to the court from which the guardianship is to be transferred. Except as provided in subsection (3) of this section, failure to give the foreign court notice of the petition for receipt and acceptance of a foreign guardianship or to procure the requested certifications and copies of guardianship documents precludes the court from granting the petition. Notice to the foreign court shall include a request that the foreign court:
   (a) Certify:
      (i) That the foreign court has no knowledge that the guardian has engaged in malfeasance, misfeasance or nonfeasance during his or her appointment as guardian;
      (ii) That periodic reports have been filed in a satisfactory manner;
      (iii) That all bond or other security requirements imposed under the guardianship have been performed; and
   (b) Forward copies of all documents filed with the foreign court relevant to the guardianship including, but not limited to:
      (i) The initial petition for guardianship and other filings relevant to the appointment of the guardian;
      (ii) Reports and recommendations of guardians ad litem, court visitors, or other individuals appointed by the foreign court to evaluate the appropriateness of the guardianship;
      (iii) Reports of physical or mental health practitioners describing the capacity of the ward to care for himself or herself or to manage his or her affairs;
      (iv) Periodic status reports on the condition of the ward and the ward's assets; and
      (v) The order to transfer the guardianship, if any.
(3) The court may waive the notice provisions in subsections (1) and (2) of this section if:
   (a) The guardian has filed a petition in the foreign court to transfer and release the guardianship to this state;
   (b) Notice was given to the ward in conjunction with the petition to transfer and release the guardianship; and
   (c) The petitioner provides the court with:
      (i) A certified copy of the petition filed with the foreign court; and
      (ii) Proof of service on the ward. Proof of service shall not be dated more than ninety (90) days before the petition and acceptance of a foreign guardianship is filed in the court.
(4) The petitioner shall give notice of the petition for receipt
and acceptance of a foreign guardianship to all other interested persons named in the petition, including any legal counsel appointed or retained for the ward or any guardian ad litem or court visitor appointed for the ward. The notice shall include a statement informing these persons of the right to object to the receipt and acceptance of the guardianship from the foreign jurisdiction to this state. Failure to give notice under this subsection precludes the receipt and acceptance of the guardianship.

(5) All persons receiving notice under this section shall have thirty (30) days from the mailing of notice to request a hearing on the petition for receipt and acceptance of the foreign guardianship.

15-9-104. HEARING ON THE PETITION FOR RECEIPT AND ACCEPTANCE OF A FOREIGN GUARDIANSHIP. (1) On motion by the ward, by any person named in the petition, or by any other interested person, or on the court's own motion, the court shall hold a hearing to consider the petition for receipt and acceptance of a foreign guardianship.

(2) If the petition for receipt and acceptance of a foreign guardianship includes a request to modify the provisions of the guardianship, the court shall hold a hearing to consider the petition for receipt and acceptance of a foreign guardianship.

(3) All procedural rights associated with a guardianship hearing before the court shall be observed for any hearings on the petition for receipt and acceptance of a foreign guardianship.

(4) If any interested person receiving notice of the petition for receipt and acceptance of a foreign guardianship challenges the validity of the foreign guardianship or the authority of the foreign court to appoint the guardian, the court may stay this proceeding while the petitioner is afforded the opportunity to have the foreign court hear the challenge and determine its merits.

15-9-105. REQUIREMENTS FOR RECEIPT AND ACCEPTANCE OF A FOREIGN GUARDIANSHIP. (1) The court shall grant the petition for receipt and acceptance of a foreign guardianship provided that:

(a) The guardian is presently in good standing with the foreign court;

(b) The guardian is not moving or has not moved the ward or the ward's property from the foreign jurisdiction for the purpose of avoiding or circumventing the provisions of the guardianship order; and

(c) The transfer of the guardianship from the foreign jurisdiction is in the best interests of the ward.

(2) In granting a petition for receipt and acceptance of a foreign guardianship, the court shall give full faith and credit to the provisions of the foreign guardianship order concerning the determination of the ward's incapacity and the rights, powers and duties of the guardian.

(3) Notwithstanding subsection (2) of this section, the court may modify the provisions of the guardianship with respect to surety bond requirements or other administrative provisions to bring the guardianship into compliance with the laws of this state or the rules of the court.

(4) The court may require the guardian to file an accounting of the ward's property at the time of the transfer from the foreign jurisdiction to the extent the guardian has control thereof.
(5) If the petition for receipt and acceptance of a foreign guardianship is granted, the court shall coordinate with the foreign court to facilitate the orderly transfer of the guardianship. To coordinate the transfer, the court is authorized to:

(a) Delay the effective date of the receipt and acceptance;
(b) Make the receipt and acceptance contingent upon the release of the guardianship or the termination of the guardianship and the discharge of the guardian in the foreign jurisdiction;
(c) Recognize concurrent jurisdiction over the guardianship for a reasonable period of time to permit the foreign court to release the guardianship or to terminate the guardianship and discharge the guardian in the foreign jurisdiction; or
(d) Make other arrangements that, in the sound discretion of the court, are necessary to effectuate the receipt and acceptance of the guardianship.

(6) The denial of a petition for receipt and acceptance of a guardianship does not affect the right of a guardian appointed by a foreign court of competent jurisdiction to petition for guardianship under part 3, chapter 5, title 15, Idaho Code.

15-9-106. REVIEW OF THE GUARDIANSHIP. (1) Within a reasonable period of time after the receipt and acceptance of the foreign guardianship, the court shall review the provisions of the guardianship.

(2) As part of its review, the court shall inform the guardian and ward of services that may be available to the ward.

(3) Upon petition by the guardian, the ward, or by another interested person, the court may modify the type of appointment or powers granted to the guardian in accordance with the provisions of section 15-3-313, Idaho Code.

PART 2.
RECEIPT AND ACCEPTANCE OF FOREIGN CONSERVATORSHIP

15-9-201. JURISDICTION. A conservator who is appointed by a foreign court of competent jurisdiction for an incapacitated person (hereinafter "protected person") residing in or domiciled in this state, may petition to have the conservatorship transferred to and accepted in this state.

15-9-202. PETITION. (1) The petition for the receipt and acceptance of a foreign conservatorship shall be filed in the court where the protected person resides, is domiciled, or where the protected person may reside in the future.

(2) The petition shall include the following:
(a) A certified copy of the foreign conservatorship order, including:
   (i) All attachments describing the duties and powers of the conservator; and
   (ii) All amendments or modifications to the foreign conservatorship order entered subsequent to the original order, including the order to transfer the conservatorship, if applicable;
(b) The address of the foreign court from which the conservatorship was issued;
(c) A listing of any other conservatorship petitions that are pending in any jurisdiction and the names and addresses of the courts
(c) where the petitions have been filed;
(d) The petitioner's name, residence, current address and relationship, other than guardian, to the protected person;
(e) The name, age, principal residence and current address of the protected person;
(f) The name and address of the protected person's:
   (i) Spouse; and
   (ii) Adult children or, if the protected person has none, the protected person's parents and adult siblings or, if the protected person has none, at least one (1) adult nearest in kinship to the protected person if such person can be found;
(g) The name and address of the person responsible for the care or custody of the protected person, if other than the conservator;
(h) The name and address of any legal representative, including a guardian ad litem appointed by the foreign court, for the protected person;
(i) The reason(s) for the transfer of the conservatorship; and
(j) A general statement of the protected person's property, its location, and its estimated value including any insurance or pension, and the source and amount of any other anticipated income or receipts.

(3) The petition for receipt and acceptance of a foreign conservatorship may be supplemented with other petitions related to the conservatorship, including a petition to modify the terms of the conservatorship.

15-9-203. NOTICE OF PETITION FOR RECEIPT AND ACCEPTANCE OF A FOREIGN CONSERVATORSHIP. (1) Notice of the petition for receipt and acceptance of a foreign conservatorship shall be served personally on the protected person. Except as provided in subsection (3) of this section, failure to serve the protected person with the foregoing notice precludes the court from granting the petition. The notice shall be in plain language and large type and shall:
   (a) Include a statement that the protected person has a right to a hearing on the petition for receipt and acceptance of a foreign conservatorship;
   (b) Inform the protected person of procedures to exercise his or her right to a hearing; and
   (c) Describe the consequences of a transfer of the conservatorship from the foreign jurisdiction to this state.

(2) Notice of the petition for receipt and acceptance of a foreign conservatorship shall be given to the court from which the guardianship is to be transferred. Except as provided in subsection (3) of this section, failure to give the foreign court notice of the petition for receipt and acceptance of a foreign conservatorship or to procure the requested certifications and copies of conservatorship documents precludes the court from granting the petition. Notice to the foreign court shall include a request that the foreign court:
   (a) Certify:
      (i) That the foreign court has no knowledge that the conservator has engaged in malfeasance, misfeasance or nonfeasance during his or her appointment as conservator;
      (ii) That periodic reports have been filed in a satisfactory manner;
(iii) That all bond or other security requirements imposed under the conservatorship have been performed; and

(b) Forward copies of all documents filed with the foreign court relevant to the conservatorship including, but not limited to:

(i) The initial petition for conservatorship and other filings relevant to the appointment of the conservator;
(ii) Reports and recommendations of guardians ad litem, court visitors, or other individuals appointed by the foreign court to evaluate the appropriateness of the conservatorship;
(iii) Reports of physical or mental health practitioners describing the capacity of the protected person to care for himself or herself or to manage his or her affairs;
(iv) Periodic status reports on the condition of the protected person and the protected person's assets; and
(v) The order to transfer the conservatorship, if any.

(3) The court may waive the notice provisions in subsections (1) and (2) of this section if:

(a) The conservator has filed a petition in the foreign court to transfer and release the conservatorship to this state;
(b) Notice was given to the protected person in conjunction with the petition to transfer and release the conservatorship; and
(c) The petitioner provides the court with:

(i) A certified copy of the petition filed with the foreign court; and
(ii) Proof of service on the protected person. Proof of service shall not be dated more than ninety (90) days before the petition and acceptance of a foreign conservatorship is filed in the court.

(4) The petitioner shall give notice of the petition for receipt and acceptance of a foreign conservatorship to all other interested persons named in the petition, including any legal counsel appointed or retained for the protected person or any guardian ad litem or court visitor appointed for the protected person. The notice shall include a statement informing these persons of the right to object to the receipt and acceptance of the conservatorship from the foreign jurisdiction to this state. Failure to give notice under this subsection precludes the receipt and acceptance of the conservatorship.

(5) All persons receiving notice under this section shall have thirty (30) days from the mailing of notice to request a hearing on the petition for receipt and acceptance of the foreign conservatorship.

15-9-204. HEARING ON THE PETITION FOR RECEIPT AND ACCEPTANCE OF A FOREIGN CONSERVATORSHIP. (1) On motion by the protected person, by a person named in the petition, or by any other interested person, or on the court's own motion, the court shall hold a hearing to consider the petition for receipt and acceptance of a foreign conservatorship.

(2) If the petition for receipt and acceptance of a foreign conservatorship includes a request to modify the provisions of the guardianship, the court shall hold a hearing to consider the petition for receipt and acceptance of a foreign conservatorship.

(3) All procedural rights associated with a conservatorship hearing before the court shall be observed for any hearings on the petition for receipt and acceptance of a foreign conservatorship.

(4) If any interested person receiving notice of the petition for
receipt and acceptance of a foreign conservatorship challenges the validity of the foreign conservatorship or the authority of the foreign court to appoint the conservator, the court may stay this proceeding while the petitioner is afforded the opportunity to have the foreign court hear the challenge and determine its merits.

15-9-205. REQUIREMENTS FOR RECEIPT AND ACCEPTANCE OF FOREIGN CONSERVATORSHIP. (1) The court shall grant the petition for receipt and acceptance of a foreign conservatorship provided that:
   (a) The conservator is presently in good standing with the foreign court;
   (b) The conservator is not moving or has not moved the protected person or the protected person's property from the foreign jurisdiction for the purpose of avoiding or circumventing the provisions of the conservatorship order; and
   (c) The transfer of the conservatorship from the foreign jurisdiction is in the best interests of the protected person.

   (2) In granting a petition for receipt and acceptance of a foreign conservatorship, the court shall give full faith and credit to the provisions of the foreign conservatorship order concerning the determination of the protected person's incapacity and the rights, powers and duties of the conservator.

   (3) Notwithstanding subsection (2) of this section, the court may modify the provisions of the conservatorship with respect to surety bond requirements or other administrative provisions to bring the conservatorship into compliance with the laws of this state or the rules of the court.

   (4) The court may require the conservator to file an accounting of the protected person's property at the time of the transfer from the foreign jurisdiction to the extent the conservator has control thereof.

   (5) If the petition for receipt and acceptance of a foreign conservatorship is granted, the court shall coordinate with the foreign court to facilitate the orderly transfer of the conservatorship. To coordinate the transfer, the court is authorized to:
      (a) Delay the effective date of the receipt and acceptance;
      (b) Make the receipt and acceptance contingent upon the release of the conservatorship or the termination of the conservatorship and the discharge of the conservator in the foreign jurisdiction;
      (c) Recognize concurrent jurisdiction over the conservatorship for a reasonable period of time to permit the foreign court to release the conservatorship or to terminate the conservatorship and discharge the conservator in the foreign jurisdiction; or
      (d) Make other arrangements that, in the sound discretion of the court, are necessary to effectuate the receipt and acceptance of the conservatorship.

   (6) The denial of a petition for receipt and acceptance of a conservatorship does not affect the right of a conservator appointed by a foreign court of competent jurisdiction to petition for conservatorship under part 4, chapter 5, title 15, Idaho Code.

15-9-206. REVIEW OF THE CONSERVATORSHIP. (1) Within a reasonable period of time after the receipt and acceptance of the foreign conservatorship, the court shall review the provisions of the conservatorship.

   (2) As part of its review, the court shall inform the conservator...
and protected person of services that may be available to the protected person.

(3) Upon petition by the conservator, by the protected person, or by another interested person, the court may modify the type of appointment or powers granted to the conservator in accordance with the provisions of part 4, chapter 5, title 15, Idaho Code.

SECTION 7. That Title 15, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 10, Title 15, Idaho Code, and to read as follows:

CHAPTER 10
TRANSFERS OF GUARDIANSHIPS AND CONSERVATORSHIPS TO A FOREIGN JURISDICTION

PART 1.
TRANSFER OF GUARDIANSHIP TO A FOREIGN JURISDICTION

15-10-101. JURISDICTION. (1) A guardian may petition the court to transfer a guardianship to a foreign court of competent jurisdiction if the ward has moved permanently to the foreign jurisdiction.

(2) The ward may be presumed to have moved permanently to a foreign jurisdiction if:

(a) He or she has resided in the foreign jurisdiction for more than twelve (12) consecutive months;

(b) The guardian notifies the court that the ward intends to move or has moved permanently to the foreign jurisdiction; or

(c) A foreign court of competent jurisdiction notifies the court of the filing of a petition for guardianship of the ward in the foreign jurisdiction.

(3) To facilitate the transfer, the court may order the guardian to file a petition for receipt and acceptance of the guardianship by the foreign jurisdiction.

(4) If the foreign jurisdiction does not have a procedure for receiving and accepting a foreign guardianship, the court may order the guardian to file a petition for guardianship in the foreign jurisdiction.

15-10-102. PETITION TO TRANSFER A GUARDIANSHIP TO A FOREIGN JURISDICTION. The petition to transfer a guardianship to a foreign jurisdiction shall be filed in the court that issued the guardianship order. The petition to transfer the guardianship shall include the following:

(1) Name and address of the foreign court to which the guardianship will be transferred;

(2) New or proposed address of the ward;

(3) Reason(s) for moving the ward;

(4) A certified copy of the petition for receipt and acceptance of a foreign guardianship, or petition for guardianship, if previously filed in the foreign court; and

(5) A statement of the ward's expressions of approval or disapproval concerning the transfer.
15-10-103. NOTICE OF PETITION TO TRANSFER A GUARDIANSHIP TO A FOREIGN JURISDICTION. (1) Notice of the petition to transfer a guardianship to a foreign jurisdiction shall be served personally on the ward. The notice shall be in plain language and large type and shall:

(a) Include a statement that the ward has a right to a hearing on the petition to transfer the guardianship;
(b) Inform the ward of procedures to exercise his or her right to a hearing; and
(c) Describe the consequences of a transfer of the guardianship.

(2) Notice of the petition to transfer a guardianship shall be given to the foreign court to which the guardianship is to be transferred. Except as provided in subsection (6) of this section, failure to give the foreign court notice of the petition to transfer the guardianship precludes the court from granting the petition.

(3) The petitioner shall give notice of the petition to transfer the guardianship to a foreign jurisdiction. The notice shall include a statement informing these persons of the right to object to the transfer of the guardianship to a foreign jurisdiction. Failure to give notice under this subsection (3) precludes the transfer of the guardianship. The notice shall be given to:

(a) The ward's spouse;
(b) The ward's adult children or, if the ward has none, the ward's parents and adult siblings or, if the ward has none, at least one adult nearest in kinship to the ward if such adult can be found;
(c) The ward's legal representatives, if any, including the guardian ad litem appointed by the court;
(d) The person responsible for the care or custody of the ward; and
(e) Other persons as directed by the court.

(4) Except as provided in subsection (1) of this section, notice of the petition to transfer a guardianship to a foreign jurisdiction shall be made according to section 15-5-309, Idaho Code.

(5) All persons to whom notice is given under this section shall have thirty (30) days from the mailing of the notice to request a hearing on the petition to transfer the guardianship to a foreign jurisdiction.

(6) The court may waive the notice requirement in subsections (1) through (3) of this section if:

(a) The guardian has filed a petition for receipt and acceptance of a foreign guardianship, or a petition for guardianship, in the foreign court;
(b) Notice was given to the ward and all interested persons in conjunction with the petition for receipt and acceptance of a foreign guardianship; and
(c) The petitioner provides the court with proof of service on the ward and all interested persons. Proof of service shall be dated not more than ninety (90) days before the petition to transfer the guardianship was filed in the court.

15-10-104. HEARING ON THE PETITION TO TRANSFER A FOREIGN GUARDIANSHIP. (1) On the court's own motion or on a motion by the ward or by any interested person named in the petition, or by any other interested person, the court may hold a hearing to consider the petition to transfer the guardianship to a foreign jurisdiction.
(2) All procedural rights associated with a guardianship hearing before the court shall be observed for any hearings on the petition for transfer of a guardianship to a foreign jurisdiction.

15-10-105. REQUIREMENTS TO TRANSFER THE GUARDIANSHIP TO A FOREIGN JURISDICTION. (1) The court shall transfer a guardianship to a foreign court of competent jurisdiction if:
(a) The guardian is presently in good standing with the court;
(b) The guardian is not moving or has not moved the ward or the ward's property to the foreign jurisdiction for the purpose of avoiding or circumventing the provisions to the guardianship order; and
(c) The transfer of the guardianship to the foreign jurisdiction is in the best interests of the ward.
(2) The court shall coordinate efforts with the foreign court to facilitate the orderly transfer of the guardianship. To coordinate the transfer, the court may:
(a) Notify the foreign court:
   (i) Of any significant problems that may have occurred;
   (ii) That periodic reports and accountings have been filed in a satisfactory manner; and
   (iii) That all bond and other security requirements imposed under the guardianship have been performed;
(b) Forward copies of all documents filed with the court relevant to the guardianship including, but not limited to:
   (i) The initial petition for guardianship and other filings relevant to the appointment of the guardian;
   (ii) Reports and recommendations of guardians ad litem, court visitors, or other individuals appointed by the court to evaluate the appropriateness of the guardianship;
   (iii) Reports of physical or mental health practitioners describing the capacity of the ward to care for himself or herself or to manage the ward's affairs;
   (iv) Periodic status reports on the condition of the ward and the ward's assets; and
(c) Require the guardian to file an accounting of the ward's property at the time of the transfer to the foreign jurisdiction.
(3) As necessary to coordinate the transfer of the guardianship, the court is authorized to:
(a) Delay the effective date of the transfer;
(b) Make the transfer contingent upon the acceptance of the guardianship or appointment of the guardian in the foreign jurisdiction;
(c) Recognize concurrent jurisdiction over the guardianship for a reasonable period of time to permit the foreign court to accept the guardianship or appoint the guardian in the foreign jurisdiction; or
(d) Make other arrangements that, in the sound discretion of the court, are necessary to transfer the guardianship.

PART 2.
TRANSFER OF CONSERVATORSHIP TO A FOREIGN JURISDICTION

15-10-201. JURISDICTION. (1) A conservator may petition the court to transfer a conservatorship to a foreign court of competent jurisdic-
tion if the protected person has moved permanently to the foreign juris-
diction. 
(2) The protected person may be presumed to have moved permanently
to a foreign jurisdiction if:
(a) He or she has resided in the foreign jurisdiction for more than
twelve (12) consecutive months;
(b) The conservator notifies the court that the protected person
intends to move or has moved permanently to the foreign jurisdic-
tion; or
(c) A foreign court of competent jurisdiction notifies the court of
the filing of a petition for conservatorship of the protected person
in the foreign jurisdiction.
(3) To facilitate the transfer, the court may order the conservator
to file a petition for receipt and acceptance of the conservatorship by
the foreign jurisdiction.
(4) If the foreign jurisdiction does not have a procedure for
receiving and accepting a foreign conservatorship, the court may order
the conservator to file a petition for conservatorship in the foreign
jurisdiction.

15-10-202. PETITION TO TRANSFER A CONSERVATORSHIP TO A FOREIGN
JURISDICTION. The petition to transfer a conservatorship to a foreign
jurisdiction shall be filed in the court that issued the conservatorship
order. The petition to transfer the conservatorship shall include the
following:
(1) Name and address of the foreign court to which the conservator-
ship will be transferred;
(2) New or proposed address of the protected person;
(3) Reason(s) for moving the protected person;
(4) A certified copy of the petition for receipt and acceptance of
a foreign conservatorship, or petition for conservatorship, if previ-
ously filed in the foreign court; and
(5) A statement of the protected person's expressions of approval
or disapproval concerning the transfer.

15-10-203. NOTICE OF PETITION TO TRANSFER A CONSERVATORSHIP TO A
FOREIGN JURISDICTION. (1) Notice of the petition to transfer a conserva-
torship to a foreign jurisdiction shall be served personally on the pro-
tected person. The notice shall be in plain language and large type and
shall:
(a) Include a statement that the protected person has a right to a
hearing on the petition to transfer the conservatorship;
(b) Inform the protected person of procedures to exercise his or
her right to a hearing; and
(c) Describe the consequences of a transfer of the conservatorship.
(2) Notice of the petition to transfer a conservatorship shall be
given to the foreign court to which the conservatorship is to be trans-
ferred. Except as provided in subsection (6) of this section, failure to
give the foreign court notice of the petition to transfer the conserva-
torship precludes the court from granting the petition.
(3) The petitioner shall give notice of the petition to transfer
the conservatorship to a foreign jurisdiction. The notice shall include
a statement informing these persons of the right to object to the trans-
fer of the conservatorship to a foreign jurisdiction. Failure to give
notice under this subsection (3) precludes the transfer of the conservatorship. The notice shall be given to:
(a) The protected person's spouse;
(b) The protected person's adult children or, if the protected person has none, the protected person's parents and adult siblings or, if the protected person has none, at least one (1) adult nearest in kinship to the protected person if such adult can be found;
(c) The protected person's legal representatives, if any, including the conservator ad litem appointed by the court;
(d) The person responsible for the care or custody of the protected person; and
(e) Other persons as directed by the court.
(4) Except as provided in subsection (1) of this section, notice of the petition to transfer a conservatorship to a foreign jurisdiction shall be made according to section 15-5-404, Idaho Code.
(5) All persons to whom notice is given under this section have thirty (30) days from the mailing of the notice to hearing on the petition to transfer the conservatorship to a foreign jurisdiction.
(6) The court may waive the notice requirement in subsections (1) through (3) of this section if:
(a) The conservator has filed a petition for receipt and acceptance of a foreign conservatorship, or a petition for conservatorship, in the foreign court;
(b) Notice was given to the protected person and all interested persons in conjunction with the petition for receipt and acceptance of a foreign conservatorship; and
(c) The petitioner provides the court with proof of service on the protected person and all interested persons. Proof of service shall be dated not more than ninety (90) days before the petition to transfer the conservatorship was filed in the court.

15-10-204. HEARING ON THE PETITION TO TRANSFER A FOREIGN CONSERVATORSHIP. (1) On the court's own motion or on a motion by the protected person or by any interested person named in the petition, or by any other interested person, the court may hold a hearing to consider the petition to transfer the conservatorship to a foreign jurisdiction.
(2) All procedural rights associated with a conservatorship hearing before the court shall be observed for any hearings on the petition for transfer of a conservatorship to a foreign jurisdiction.

15-10-205. REQUIREMENTS TO TRANSFER THE CONSERVATORSHIP TO A FOREIGN JURISDICTION. (1) The court shall transfer a conservatorship to a foreign court of competent jurisdiction if:
(a) The conservator is presently in good standing with the court;
(b) The conservator is not moving or has not moved the protected person or the protected person's property to the foreign jurisdiction for the purpose of avoiding or circumventing the provisions to the conservatorship order; and
(c) The transfer of the conservatorship to the foreign jurisdiction is in the best interests of the protected person.
(2) The court shall coordinate efforts with the foreign court to facilitate the orderly transfer of the conservatorship. To coordinate the transfer, the court may:
(a) Notify the foreign court:
   (i) Of any significant problems that may have occurred;
   (ii) That periodic reports and accountings have been filed in a satisfactory manner; and
   (iii) That all bond and other security requirements imposed under the conservatorship have been performed;
(b) Forward copies of all documents filed with the court relevant to the conservatorship including, but not limited to:
   (i) The initial petition for conservatorship and other filings relevant to the appointment of the conservator;
   (ii) Reports and recommendations of conservators ad litem, court visitors, or other individuals appointed by the court to evaluate the appropriateness of the conservatorship;
   (iii) Reports of physical or mental health practitioners describing the capacity of the protected person to care for himself or herself or to manage the protected person's affairs;
   (iv) Periodic status reports on the condition of the protected person and the protected person's assets; and
(c) Require the conservator to file an accounting of the protected person's property at the time of the transfer to the foreign jurisdiction.
(3) As necessary to coordinate the transfer of the conservatorship, the court is authorized to:
   (a) Delay the effective date of the transfer;
   (b) Make the transfer contingent upon the acceptance of the conservatorship or appointment of the conservator in the foreign jurisdiction;
   (c) Recognize concurrent jurisdiction over the conservatorship for a reasonable period of time to permit the foreign court to accept the conservatorship or appoint the conservator in the foreign jurisdiction; or
   (d) Make other arrangements that, in the sound discretion of the court, are necessary to transfer the conservatorship.

SECTION 8. That Title 15, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 11, Title 15, Idaho Code, and to read as follows:

CHAPTER 11
TEMPORARY RECOGNITION OF FOREIGN GUARDIANSHIPS AND CONSERVATORSHIPS

PART 1.
TEMPORARY RECOGNITION OF FOREIGN GUARDIANSHIPS

15-11-101. JURISDICTION. A guardian who is appointed by a foreign court of competent jurisdiction for an incapacitated person (hereinafter "ward") temporarily located in this state or whose property is located in this state, may petition to have the guardianship recognized in this state. For purposes of this part, "temporary" means a period of time not to exceed twelve (12) consecutive months.
15-11-102. PETITION AND NOTICE. (1) The petition for temporary recognition of a foreign guardianship shall be filed in the court where the ward or the ward's property is located.

(2) The petition shall include the following:
   (a) A certified copy of the foreign guardianship order including:
       (i) All attachments describing the duties and powers of the guardian; and
       (ii) All amendments or modifications to the foreign guardianship order entered subsequent to the original order;
   (b) The address of the foreign court from which the guardianship order was issued;
   (c) The name of the judicial officer who authorized the foreign guardianship;
   (d) An explanation of the need for temporary recognition of the foreign guardianship at this time; and
   (e) A general statement of the ward's property located in this state and its estimated value.

(3) Notice of the petition for temporary recognition of a foreign guardianship shall be given to the foreign court from which the guardianship orders were issued. Failure to give the foreign court notice of the petition for temporary recognition of a foreign guardianship precludes the court from granting the petition.

15-11-103. REQUIREMENTS FOR TEMPORARY RECOGNITION OF A FOREIGN GUARDIANSHIP. (1) Upon satisfaction of the notice and petition requirements in section 15-11-102, Idaho Code, the foreign guardian shall be appointed guardian of the ward in this state without further notice or hearing. The guardianship shall be valid for up to twelve (12) months from the date of the appointment. Upon such appointment, the foreign guardian may deal with the ward in the same manner as a resident guardian. The foreign guardian shall account to the court of his or her original appointment for his or her actions in this state regarding the ward. The court, as a condition of appointment, may require the foreign guardian to appoint a resident agent for service of process and post an adequate surety bond or other security device to insure the faithful performance of his or her duties.

(2) A certified copy of the approved account shall be filed with the court prior to the discharge of the foreign guardian as guardian in this state.

PART 2.
TEMPORARY RECOGNITION OF FOREIGN CONSERVATORSHIPS

15-11-201. JURISDICTION. A conservator who is appointed by a foreign court of competent jurisdiction for an incapacitated person (hereinafter "protected person") temporarily located in this state or whose property is located in this state, may petition to have the conservatorship recognized in this state. For purposes of this part, "temporary" means a period of time not to exceed twelve (12) consecutive months.

15-11-202. PETITION AND NOTICE. (1) The petition for temporary recognition of a foreign conservatorship shall be filed in the court where the protected person or the protected person's property is located.
(2) The petition shall include the following:
(a) A certified copy of the foreign conservatorship order including:
   (i) All attachments describing the duties and powers of the conservator; and
   (ii) All amendments or modifications to the foreign conservatorship order entered subsequent to the original order;
(b) The address of the foreign court from which the conservatorship order was issued;
(c) The name of the judicial officer who authorized the foreign conservatorship;
(d) An explanation of the need for temporary recognition of the foreign conservatorship at this time; and
(e) A general statement of the protected person's property located in this state and its estimated value.

(3) Notice of the petition for temporary recognition of a foreign conservatorship shall be given to the foreign court from which the conservatorship orders were issued. Failure to give the foreign court notice of the petition for temporary recognition of a foreign conservatorship precludes the court from granting the petition.

15-11-203. REQUIREMENTS FOR TEMPORARY RECOGNITION OF A FOREIGN CONSERVATORSHIP. (1) Upon satisfaction of the notice and petition requirements in section 15-11-202, Idaho Code, the foreign conservator shall be appointed conservator of the protected person in this state without further notice or hearing. The conservatorship shall be valid for up to twelve (12) months from the date of the appointment. Upon such appointment, the foreign conservator may deal with the protected person in the same manner as a resident conservator. The foreign conservator shall account to the court of his or her original appointment for his or her actions in this state regarding the protected person. The court, as a condition of appointment, may require the foreign conservator to appoint a resident agent for service of process and post an adequate surety bond or other security device to insure the faithful performance of his or her duties.

(2) A certified copy of the approved account shall be filed with the court prior to the discharge of the foreign conservator as conservator in this state.

Approved March 24, 2006.

CHAPTER 183
(S.B. No. 1328)
AN ACT RELATING TO GUARDIANSHIPS; AMENDING SECTION 15-5-202, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO THE TESTAMENTARY APPOINTMENT OF A GUARDIAN FOR A MINOR.

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

SECTION 1. That Section 15-5-202, Idaho Code, be, and the same is hereby amended to read as follows:
15-5-202. TESTAMENTARY APPOINTMENT OF GUARDIAN OF MINOR. The parent of a minor may appoint by will a guardian of an unmarried minor subject by will, subject to the right of the minor under section 15-5-203, Idaho Code, a testamentary appointment becomes effective upon the filing of the guardian's acceptance in the court in which the will is probated, if, before acceptance, both parents are dead, if both parents are dead, an effective appointment becomes effective at the decedent's death, no parent who died later has priority of the minor was alive who had a right to appoint a guardian for the minor. This state recognizes a testamentary appointment effected by filing the guardian's acceptance under a will probated in another state which is the testator's domicile. Written notice of acceptance of the appointment must be given by the guardian to the minor and to the person having his care or to his nearest adult relation immediately upon acceptance of appointment.

Approved March 24, 2006.

CHAPTER 184
(S.B. No. 1336)

AN ACT
RELATING TO THE IDAHO CRIMINAL GANG ENFORCEMENT ACT; AMENDING TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 85, TITLE 18, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROVIDE FOR EXTENDED SENTENCES, TO PROHIBIT THE RECRUITMENT OF GANG MEMBERS, TO PROHIBIT SUPPLYING FIREARMS TO A CRIMINAL GANG AND TO PERMIT THE ADOPTION OF LOCAL ORDINANCES; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 85, Title 18, Idaho Code, and to read as follows:

CHAPTER 85
IDAHO CRIMINAL GANG ENFORCEMENT ACT

18-8501. SHORT TITLE. This chapter shall be known and may be cited as the "Idaho Criminal Gang Enforcement Act."

18-8502. DEFINITIONS. As used in this chapter:
(1) "Criminal gang" means an ongoing organization, association, or group of three (3) or more persons, whether formal or informal, that has a common name or common identifying sign or symbol, whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity, having as one (1) of its primary activities the commission of one (1) or more of the criminal acts enumerated in subsection (3) of this section.
(2) "Criminal gang member" means any person who engages in a pattern of criminal gang activity and who meets two (2) or more of the following criteria:
(a) Admits to gang membership;
(b) Is identified as a gang member;
(c) Resides in or frequents a particular gang's area and adopts its style of dress, its use of hand signs, or its tattoos, and associates with known gang members;
(d) Has been arrested more than once in the company of identified gang members for offenses that are consistent with usual gang activity;
(e) Is identified as a gang member by physical evidence such as photographs or other documentation; or
(f) Has been stopped in the company of known gang members four (4) or more times.

(3) "Pattern of criminal gang activity" means the commission, attempted commission, or solicitation of two (2) or more of the following offenses, provided that the offenses are committed on separate occasions or by two (2) or more gang members:
(a) Robbery, as provided in section 18-6501, Idaho Code;
(b) Arson, as provided in sections 18-801 through 18-804, Idaho Code;
(c) Burglary, as provided in sections 18-1401, 18-1403, 18-1405 and 18-1406, Idaho Code;
(d) Murder or manslaughter, as provided, respectively, in sections 18-4001 and 18-4006, Idaho Code;
(e) Any violation of the provisions of chapter 27, title 37, Idaho Code, that involves possession with intent to deliver, distribution, delivery or manufacturing of a substance prohibited therein;
(f) Any unlawful use of a weapon that is a felony pursuant to chapter 33, title 18, Idaho Code;
(g) Assault and battery, as provided in chapter 9, title 18, Idaho Code;
(h) Criminal solicitation, as provided in section 18-2001, Idaho Code;
(i) Computer crime, as provided in section 18-2202, Idaho Code;
(j) Theft, as provided in sections 18-2401 and 18-2403, Idaho Code;
(k) Evidence falsified or concealed and witnesses intimidated or bribed, as provided in sections 18-2601 through 18-2606, Idaho Code;
(l) Forgery and counterfeiting, as provided in sections 18-3601 through 18-3603 and sections 18-3605 through 18-3616, Idaho Code;
(m) Gambling, as provided in section 18-2802, Idaho Code;
(n) Kidnapping, as provided in sections 18-4501 through 18-4503, Idaho Code;
(o) Mayhem, as provided in section 18-5001, Idaho Code;
(p) Prostitution, as provided in sections 18-5601 through 18-5614, Idaho Code;
(q) Rape, as provided in sections 18-6101, 18-6108 and 18-6110, Idaho Code;
(r) Racketeering, as provided in section 18-7804, Idaho Code;
(s) Malicious harassment, as provided in section 18-7902, Idaho Code;
(t) Terrorism, as provided in section 18-8103, Idaho Code; or
(u) Money laundering and illegal investment, as provided in section 18-8201, Idaho Code.

18-8503. EXTENDED SENTENCE. (1) A person who is convicted of any felony or misdemeanor enumerated in section 18-8502(3), Idaho Code, that is knowingly committed for the benefit or at the direction of, or in association with, any criminal gang or criminal gang member, in addition to the punishment provided for the commission of the underlying offense, shall be punished as follows:
   (a) Any person who is convicted of a misdemeanor shall be punished by an additional term of imprisonment in the county jail for not more than one (1) year.
   (b) Any person who is convicted of a felony shall be punished by an extended term of not more than two (2) years in prison.
   (c) If the underlying offense described in section 18-8502(3), Idaho Code, is a felony and committed on the grounds of, or within one thousand (1,000) feet of, a public or private elementary, secondary or vocational school during hours when the facility is open for classes or school-related programs or when minors are using the facility, the extended term shall be not less than one (1) year and not more than four (4) years.

   (2) This section does not create a separate offense but provides an additional penalty for the primary offense, the imposition of which is contingent upon the finding of the prescribed facts.

   (3) The court shall not impose an extended penalty pursuant to this section unless:
      (a) The indictment or information charging the defendant with the primary offense alleges that the primary offense was committed knowingly for the benefit or at the direction of, or in association with, a criminal gang or criminal gang member with the specific intent to promote, further or assist the activities of the criminal gang; and
      (b) The trier of fact finds the allegation to be true beyond a reasonable doubt.

   (4) The imposition or execution of the sentences provided in this section may not be suspended.

   (5) An extended sentence provided in this section shall run consecutively to the sentence provided for the underlying offense.

18-8504. RECRUITING CRIMINAL GANG MEMBERS. (1) A person commits the offense of recruiting criminal gang members by:

   (a) Knowingly soliciting, inviting, encouraging or otherwise causing a person to actively participate in a criminal gang; or
   (b) Knowingly using force, threats, violence or intimidation directed at any person, or by the infliction of bodily injury upon any person, to actively participate in a criminal gang.

   (2) A person convicted of a violation of this section shall be imprisoned for a term not to exceed ten (10) years.

   (3) This section shall not be construed to limit prosecution under any other provision of law.

18-8505. SUPPLYING FIREARMS TO A CRIMINAL GANG. (1) A person commits the offense of supplying firearms to a criminal gang if the person
knows an individual is a gang member and supplies, sells or gives possession or control of any firearm to that gang member.

(2) Subsection (1) of this section shall not apply to a person who is convicted as a principal to the offense committed by the recipient of the firearm.

(3) A person convicted of a violation of this section shall be imprisoned for a term not to exceed ten (10) years or be fined an amount not to exceed fifty thousand dollars ($50,000), or both.

18-8506. ADOPTION OF LOCAL REGULATIONS. This chapter does not prevent any county, city or other political subdivision from adopting and enforcing ordinances or resolutions consistent with this chapter relating to criminal gangs and criminal gang violations.

SECTION 2. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 24, 2006.
secutive months of contributions in the determination of an appropriate salary base period upon subsequent retirement.

(2) Except as provided in subsection (3) of this section, when a retired member meets the definition of an employee as defined in section 59-1302(14)(A)(a), Idaho Code, any benefit payable on behalf of such member shall terminate and any contributions payable by such member under sections 59-1331 through 59-1334, Idaho Code, shall again commence, except as provided in subsection (3) of this section. The terminated benefit, as adjusted pursuant to section 59-1355, Idaho Code, shall resume upon subsequent retirement, along with a separate allowance computed with respect to only that salary and service credited during the period of reemployment.

(3) If a retired member, who is receiving a benefit that is not reduced under section 59-1346, Idaho Code, and who has been retired for more than six (6) months, again becomes employed and an employer certifies to the board that the member does not qualify as an employee as defined in this section and section 59-1302(14)(A)(b), Idaho Code, as a result of being elected to a public office other than an office held prior to retirement, the retired member may elect to continue receiving benefits and not accrue additional service, in which event no contributions shall be made by the member or employer during such reemployment and any benefit payable on behalf of such member shall continue.

(4) For purposes of this section, "same employer" means the employer for which the retired member last worked prior to retirement.

Approved March 24, 2006.

CHAPTER 186
(S.B. No. 1371)

AN ACT
RELATING TO WORKER'S COMPENSATION; AMENDING SECTION 72-410, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THOSE PERSONS DEEMED AS DEPENDENTS AND ENTITLED TO CERTAIN INCOME BENEFITS; AND AMENDING SECTION 72-412, IDAHO CODE, TO CLARIFY THE APPLICATION OF CERTAIN PROVISIONS RELATING TO INCOME BENEFITS FOR DEATH, TO PROVIDE THAT INCOME BENEFITS FOR DEATH SHALL BE PAYABLE TO CERTAIN CHILDREN ENROLLED AS STUDENTS IN ACCREDITED EDUCATIONAL INSTITUTIONS OR ACCREDITED VOCATIONAL TRAINING PROGRAMS, TO PROVIDE A RESTRICTION ON A SPECIFIED EXTENSION OF BENEFITS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 72-410, Idaho Code, be, and the same is hereby amended to read as follows:

72-410. DEPENDENTS. The following persons, and they only, shall be deemed dependents and entitled to income benefits under the provisions of this act:

(1) A child: if under eighteen (18) years of age; or incapable of self-support and unmarried; whether or not actually dependent upon the deceased or disabled employee.
(a) Under eighteen (18) years of age, or incapable of self-support and unmarried, whether or not actually dependent upon the deceased employee;  
(b) Under twenty-three (23) years of age if a full-time student and as provided for in section 72-412(3), Idaho Code.  
(2) The widow or widower only if living with the deceased or living apart from the deceased for justifiable cause, or actually dependent, wholly or partially, upon the deceased.  
(3) A parent or grandparent only if actually dependent, wholly or partially, upon the deceased.  
(4) A grandchild, brother or sister only if under eighteen (18) years of age, or incapable of self-support, and actually dependent wholly upon the deceased.  

SECTION 2. That Section 72-412, Idaho Code, be, and the same is hereby amended to read as follows:  

72-412. PERIODS OF INCOME BENEFITS FOR DEATH. The income benefits for death herein provided for shall be payable during the following periods:  
(1) To a widow or widower, until death or remarriage, but in no case to exceed five hundred (500) weeks.  
(2) Unless as otherwise provided in subsection (3) of this section, to or for a child, until eighteen (18) years of age, and if incapable of self-support after age eighteen (18) years for an additional period not to exceed five hundred (500) weeks, deducting the period benefits which were paid prior to eighteen (18) years of age. Provided, income benefits payable to or for any child shall cease when such child marries.  
(3) To or for a child after age eighteen (18) years who is enrolled as a full-time student in any accredited educational institution, or accredited vocational training program, until such child ceases to be so enrolled or reaches the age of twenty-three (23) years, whichever occurs first. Provided, in the event the child reaches the age of twenty-three (23) years during the quarter or semester in which the child is enrolled, benefits shall continue until the completion of the quarter or semester in which the child reached the age of twenty-three (23) years. This extension of benefits to the age of twenty-three (23) years shall not apply if the accident causing the injury or manifestation of the occupational disease occurred prior to December 31, 2006.  
(4) To a parent or grandparent, during the continuation of a condition of actual dependency, but in no case to exceed five hundred (500) weeks.  
(45) To or for a grandchild, brother or sister, during dependency as hereinbefore defined, but in no case to exceed five hundred (500) weeks.  
(56) In case death occurs after a period of disability, either total or partial, the period of disability shall be deducted from the total periods of compensation respectively stated in this section.  

Approved March 24, 2006.
CHAPTER 187  
(S.B. No. 1416)  

AN ACT  
RELATING TO THE IDAHO MILLENNIUM FUND; AMENDING CHAPTER 18, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-1801, IDAHO CODE, TO CREATE THE IDAHO MILLENNIUM PERMANENT ENDOWMENT FUND; AMENDING CHAPTER 18, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-1802, IDAHO CODE, TO PROVIDE FOR AN ANNUAL DISTRIBUTION FROM THE IDAHO MILLENNIUM PERMANENT ENDOWMENT FUND TO THE IDAHO MILLENNIUM INCOME FUND; AMENDING SECTION 67-1801, IDAHO CODE, TO PROVIDE FOR DISTRIBUTION OF MONEYS TO THE IDAHO MILLENNIUM FUND, TO PROVIDE A CORRECT CODE REFERENCE AND TO REDESIGNATE THE SECTION; AMENDING SECTION 67-1803, IDAHO CODE, TO PROVIDE FOR AN ANNUAL DISTRIBUTION FROM THE IDAHO MILLENNIUM FUND AND TO REDESIGNATE THE SECTION; AMENDING CHAPTER 18, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-1805, IDAHO CODE, TO PROVIDE A FUND BALANCE LIMIT IN THE IDAHO MILLENNIUM FUND AND TO PROVIDE FOR TRANSFER TO THE IDAHO MILLENNIUM PERMANENT ENDOWMENT FUND OF ANY AMOUNT EXCEEDING THE STATUTORY LIMIT; AMENDING SECTION 67-1802, IDAHO CODE, TO PROVIDE THAT THE IDAHO MILLENNIUM INCOME FUND SHALL CONSIST OF DISTRIBUTIONS FROM THE IDAHO MILLENNIUM PERMANENT ENDOWMENT FUND, TO REVISE THE USES OF THE FUND AND TO REDESIGNATE THE SECTION; AMENDING SECTIONS 67-1804, 67-1805 AND 67-1806, IDAHO CODE, TO REDESIGNATE THE SECTIONS; PROVIDING AN EFFECTIVE DATE; AND DIRECTING THE STATE TREASURER TO TRANSFER TEN MILLION DOLLARS OF THE IDAHO MILLENNIUM FUND BALANCE TO THE IDAHO MILLENNIUM PERMANENT ENDOWMENT FUND UPON ADOPTION OF SENATE JOINT RESOLUTION NO. 107 BY THE ELECTORATE OF THE STATE OF IDAHO.  

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

SECTION 1. That Chapter 18, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-1801, Idaho Code, and to read as follows:

67-1801. IDAHO MILLENNIUM PERMANENT ENDOWMENT FUND. (1) There is hereby created in the state treasury the "Idaho Millennium Permanent Endowment Fund." The fund shall consist of eighty percent (80%) of the moneys received by the state of Idaho on and after January 1, 2007, pursuant to the master settlement agreement entered into between tobacco product manufacturers and the state of Idaho, and such moneys as may be provided by legislative appropriations or otherwise directed to the fund by the legislature, including other moneys or assets that the fund receives by bequest or donation.  

(2) The moneys received annually for deposit to the fund, including earnings, shall forever remain inviolate and intact. No portion of the fund shall ever be transferred to any other fund, or used, or appropriated, except as allowed by the provisions of section 18, article VII of the constitution of the state of Idaho and as directed by the provisions of section 67-1802, Idaho Code.  

(3) Fund assets shall be invested by the state treasurer according to the standards of the Idaho uniform prudent investor act, chapter 5,
title 68, Idaho Code, and the state treasurer is hereby granted author-
ity to invest the assets of the fund in any investment instruments
authorized by the standards of the Idaho uniform prudent investor act.

SECTION 2. That Chapter 18, Title 67, Idaho Code, be, and the same
is hereby amended by the addition thereto of a NEW SECTION, to be known
and designated as Section 67-1802, Idaho Code, and to read as follows:

67-1802. DISTRIBUTION FROM THE IDAHO MILLENNIUM PERMANENT ENDOWMENT
FUND. On the first business day of July, or as soon thereafter as possi-
ble, the state treasurer shall distribute to the Idaho millennium income
fund five percent (5%) of the Idaho millennium permanent endowment
fund’s average monthly fair market value of the first twelve (12) months
of the preceding twenty-four (24) months. Provided however, the distribu-
tion shall not exceed the Idaho millennium permanent endowment fund’s
fair market value on the first business day in July.

SECTION 3. That Section 67-1801, Idaho Code, be, and the same is
hereby amended to read as follows:

67-1803. IDAHO MILLENNIUM FUND. There is hereby created in the
state treasury the "Idaho Millennium Fund." The fund shall consist of
20% twenty percent (20%) of the moneys distributed to received by the
state of Idaho on and after January 1, 2007, pursuant to the master set-
tlement agreement entered into between tobacco product manufacturers and
various states, including Idaho, and such moneys as may be provided by
legislative appropriations or otherwise directed to the fund by the leg-
islature including other moneys or assets that the fund receives by
bequest or donation. Money in the fund is not subject to appropriation
or distribution, except as provided in sections 67-1802, and 67-1803;
Idaho Code. Fund assets shall be invested by the state treasurer accord-
ing to the standards of the Idaho uniform prudent investor act, chapter
5, title 68, Idaho Code, and the state treasurer is hereby granted the
authority to invest the assets of the Idaho millennium fund in any
investment instruments authorized by the standards of the Idaho uniform
prudent investor act.

SECTION 4. That Section 67-1803, Idaho Code, be, and the same is
hereby amended to read as follows:

67-18034. DISTRIBUTION OF FUNDS FROM THE IDAHO MILLENNIUM FUND. On
the first business day of July, or as soon thereafter as possible, the
state treasurer shall distribute to the Idaho millennium income fund
five percent (5%) of the Idaho millennium fund’s average monthly fair
market value for the first twelve (12) months of the preceding twenty-
four (24) months. Provided however, that the distribution shall not
exceed the Idaho millennium fund’s fair market value on the first busi-
ness day in July.

SECTION 5. That Chapter 18, Title 67, Idaho Code, be, and the same
is hereby amended by the addition thereto of a NEW SECTION, to be known
and designated as Section 67-1805, Idaho Code, and to read as follows:
67-1805. IDAHO MILLENNIUM FUND BALANCE LIMITATION. The balance of the Idaho millennium fund shall not exceed one hundred million dollars ($100,000,000) as determined on the day following the distribution to the Idaho millennium income fund as required by the provisions of section 67-1804, Idaho Code. Any amount in excess of the one hundred million dollar ($100,000,000) limit shall be transferred by the state treasurer to the Idaho millennium permanent endowment fund created in section 67-1801, Idaho Code.

SECTION 6. That Section 67-1802, Idaho Code, be, and the same is hereby amended to read as follows:

67-18026. IDAHO MILLENNIUM INCOME FUND. There is hereby created in the state treasury the "Idaho Millennium Income Fund." The fund shall consist of distributions from the Idaho millennium permanent endowment fund, the Idaho millennium fund and such moneys that may be provided by legislative appropriations. The Idaho millennium income fund shall be managed by the state treasurer and shall retain its own earnings. The uses of this fund shall be determined by legislative appropriation; provided that such appropriations may only be granted on a one-time basis through June 30, 2004.

SECTION 7. That Section 67-1804, Idaho Code, be, and the same is hereby amended to read as follows:

67-18047. JOINT MILLENNIUM FUND COMMITTEE -- CREATION AND APPOINTMENT OF MEMBERS. There is hereby created the joint millennium fund committee, hereafter referred to as the committee. The committee shall consist of ten (10) members, each of whom shall be a member of the legislature. The committee members shall be appointed as follows: three (3) members shall be appointed by the president pro tempore of the senate, one (1) of whom shall be cochair of the committee; two (2) members shall be appointed by the minority leader of the senate; three (3) members shall be appointed by the speaker of the house of representatives, one (1) of whom shall be cochair of the committee; and two (2) members shall be appointed by the minority leader of the house of representatives. The term of a member of the committee shall coincide with the term of election to the legislature. A vacancy during the term of a member of the committee shall be filled by the appointing authority of that member, and members may be reappointed to a subsequent term.

SECTION 8. That Section 67-1805, Idaho Code, be, and the same is hereby amended to read as follows:

67-18058. POWERS AND DUTIES OF THE COMMITTEE. The committee shall have the following powers and duties:
(1) To meet not less than two (2) times each year;
(2) To establish rules for governance and operation of committee proceedings;
(3) To request applications for funding from the Idaho millennium income fund;
(4) To meet to hear testimony and to consider applications for funding from the Idaho millennium income fund;
(5) To evaluate the actual and potential success of programs funded with moneys from the Idaho millennium income fund; and

(6) To present recommendations annually to the legislature for the use of the moneys in the Idaho millennium income fund.

SECTION 9. That Section 67-1806, Idaho Code, be, and the same is hereby amended to read as follows:

67-1806. SUPPORT AND STAFF FOR THE COMMITTEE. The legislative services office shall provide for the support and staffing of the committee as the committee may require in the performance of its duties.

SECTION 10. This act shall be in full force and effect on and after the date of adoption of Senate Joint Resolution No. 107 by the electorate of the state of Idaho as required by law.

SECTION 11. Upon the adoption of Senate Joint Resolution No. 107 by the electorate of the state of Idaho as required by law, the State Treasurer shall transfer ten million dollars of the fund balance of the Idaho Millennium Fund to the Idaho Millennium Permanent Endowment Fund.

Approved March 24, 2006.

CHAPTER 188
(S.B. No. 1422)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR MEDICAL ASSISTANCE SERVICES FOR ADMINISTRATION AND MANAGEMENT FOR FISCAL YEAR 2006; REDUCING THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR MEDICAL ASSISTANCE SERVICES FOR PROVIDER PAYMENTS FOR FISCAL YEAR 2006; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 375, Laws of 2005, there is hereby appropriated to the Department of Health and Welfare for Medical Assistance Services for administration and medical management the following amounts to be expended according to the designated expense class from the listed funds for the period July 1, 2005, through June 30, 2006:

FOR:

<table>
<thead>
<tr>
<th>Operating Expenditures</th>
<th>$550,000</th>
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</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>$135,000</td>
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<tr>
<td>Cooperative Welfare Fund (Federal)</td>
<td>415,000</td>
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<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$550,000</strong></td>
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</table>
SECTION 2. The appropriation to the Department of Health and Welfare made in Section 2, Chapter 375, Laws of 2005, is hereby reduced by the following amount from Medical Assistance Services for provider payments according to the designated expense class from the listed funds for the period July 1, 2005, through June 30, 2006:

FOR:
Trustee and Benefit Payments $32,749,300
FROM:
General Fund $3,706,700
Cooperative Welfare Fund (Dedicated) 4,432,300
Cooperative Welfare Fund (Federal) 24,610,300
TOTAL $32,749,300

SECTION 3. GENERAL FUND TRANSFERS. As appropriated, the State Controller shall make transfers from the General Fund to the Cooperative Welfare Fund, periodically, as requested by the director of the Department of Health and Welfare and approved by the Board of Examiners.

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

Approved March 24, 2006.

CHAPTER 189
(S.B. No. 1430)

AN ACT
APPROPRIATING MONEYS TO THE LEGISLATIVE COUNCIL FOR FISCAL YEAR 2007; DIRECTING THE ALLOCATION OF SALARY SAVINGS; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; AND EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES.

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

SECTION 1. There is hereby appropriated to the Legislative Council the following amounts to be expended from the listed funds for the period July 1, 2006, through June 30, 2007:

A. LEGISLATIVE SERVICES OFFICE:
FROM:
General Fund $3,824,200
Economic Recovery Reserve Fund 25,000
Miscellaneous Revenue Fund 44,800
Professional Services Fund 1,135,100
TOTAL $5,029,100

B. LEGISLATIVE TECHNOLOGY:
FROM:
General Fund $512,000
Economic Recovery Reserve Fund 50,000
TOTAL $562,000
C. OFFICE OF PERFORMANCE EVALUATIONS:
FROM:
General Fund $736,700
Economic Recovery Reserve Fund 260,000
TOTAL $996,700

SECTION 2. The Legislative Services Office and the Office of Performance Evaluations are hereby directed to allocate salary savings, based on performance, to provide for employee salary needs before other operational budget priorities are considered. Where applicable, employees whose salaries are below the midpoint of their pay grade or occupational groups with significant turnover rates shall be considered first in the order of salary savings distributions.

SECTION 3. There is hereby reappropriated to the Legislative Council the unexpended and unencumbered balance of any appropriation contained in Section 1, Chapter 231, Laws of 2005, to be used for nonrecurring expenditures for the period July 1, 2006, through June 30, 2007.

SECTION 4. The intent of the Health Care Expenditure Study for which $250,000 is appropriated in Section 1 of this act in the Office of Performance Evaluations, is to contract with a private professional entity to identify and quantify current public health care spending in Idaho. Such spending would include Medicaid, public employee health care, indigent health care, tax credits and exemptions, administrative expense, special health programs for identified populations, and estimates of inefficiencies and waste. However, any expenditure of these funds, as well as the final scope and definition of this project shall be subject to the approval of the Joint Legislative Oversight Committee pursuant to Section 67-460, Idaho Code.

Approved March 24, 2006.

CHAPTER 190
(S.B. No. 1431)

AN ACT
RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISION OF WELFARE; AMENDING SECTION 1, CHAPTER 397, LAWS OF 2005, TO REVISE THE APPROPRIATION MADE TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISION OF WELFARE FOR FISCAL YEAR 2006; TO AUTHORIZE ADDITIONAL FULL-TIME EQUIVALENT POSITIONS FOR FISCAL YEAR 2006; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 1, Chapter 397, Laws of 2005, is hereby amended to read as follows:
SECTION 1. There is hereby appropriated to the Department of Health and Welfare for the Division of Welfare the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2005, through June 30, 2006:

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CHAPTER 191
(S.B. No. 1432)

AN ACT

APPROPRIATING MONEYS FOR THE COMMISSION ON AGING FOR FISCAL YEAR 2007; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; DIRECTING THE ALLOCATION OF SALARY SAVINGS; AND EXPRESSING LEGISLATIVE INTENT REGARDING THE QUALITY OF SERVICES PROVIDED TO SENIORS.

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

SECTION 1. There is hereby appropriated to the Office of the Governor for the Commission on Aging the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2006, through June 30, 2007:

<table>
<thead>
<tr>
<th>FOR PERSONNEL OPERATING FOR TRUSTEE AND</th>
<th>FOR CAPITAL BENEFIT</th>
<th>FOR TRUSTEE AND</th>
</tr>
</thead>
<tbody>
<tr>
<td>FOR GOVERNOR</td>
<td>FOR OPERATING</td>
<td>FOR CAPITAL BENEFIT</td>
</tr>
<tr>
<td>TOTAL</td>
<td>EXPENDITURES</td>
<td>OUTLAY PAYMENTS</td>
</tr>
<tr>
<td>COMMISSION ON AGING:</td>
<td></td>
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<tr>
<td>FROM:</td>
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</tr>
<tr>
<td>General Fund</td>
<td>$ 507,900</td>
<td>$ 62,000</td>
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<tr>
<td>Federal Grant Fund</td>
<td>454,200</td>
<td>286,800</td>
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<tr>
<td>Miscellaneous Revenue Fund</td>
<td>50,000</td>
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<tr>
<td>Economic Recovery Reserve Fund</td>
<td>3,600</td>
<td>6,200</td>
</tr>
<tr>
<td>TOTAL</td>
<td>$1,012,100</td>
<td>$437,400</td>
</tr>
</tbody>
</table>

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Commission on Aging is authorized no more than fifteen and thirty-five hundredths (15.35) full-time equivalent positions at any point during the period July 1, 2006, through June 30, 2007, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. The Commission on Aging is hereby directed to allocate salary savings, based on performance, to provide for employee salary needs before other operational budget priorities are considered. Where applicable, employees whose salaries are below the midpoint of their pay grade or occupational groups with significant turnover rates shall be considered first in the order of salary savings distributions.

SECTION 4. It is the intent of the Legislature that the Commission on Aging, in conjunction with the area agencies on aging, continues to strive to maintain the quality of services provided to seniors, whether in their own homes or in senior centers. Senior centers provide nutri-
tional services and socialization opportunities to our senior citizens that are invaluable and the Legislature commends the contributions of the workers and volunteers who support our senior centers.

Approved March 24, 2006.

CHAPTER 192
(S.B. No. 1434)

AN ACT
APPROPRIATING MONEYS TO THE DIVISION OF BUILDING SAFETY FOR FISCAL YEAR 2007; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; DIRECTING ALLOCATION OF SALARY SAVINGS; AND DIRECTING A REPORT ON CONTRACTING SERVICES.

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

SECTION 1. There is hereby appropriated to the Division of Building Safety in the Department of Self-Governing Agencies the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2006, through June 30, 2007:

<table>
<thead>
<tr>
<th>FROM:</th>
<th>FOR PERSONNEL COSTS</th>
<th>FOR OPERATING EXPENDITURES</th>
<th>FOR CAPITAL OUTLAY</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electrical Fund</td>
<td>$3,422,400</td>
<td>$1,037,900</td>
<td>$89,600</td>
<td>$4,549,900</td>
</tr>
<tr>
<td>Building Fund</td>
<td>753,300</td>
<td>286,600</td>
<td>9,000</td>
<td>1,048,900</td>
</tr>
<tr>
<td>Plumbing Fund</td>
<td>2,098,600</td>
<td>869,800</td>
<td>42,300</td>
<td>3,010,700</td>
</tr>
<tr>
<td>Manufactured Housing Fund</td>
<td>65,000</td>
<td>23,500</td>
<td>1,000</td>
<td>89,500</td>
</tr>
<tr>
<td>Public Works Contractors</td>
<td>204,400</td>
<td>257,500</td>
<td>7,900</td>
<td>469,800</td>
</tr>
<tr>
<td>Licensing Fund</td>
<td>204,400</td>
<td>257,500</td>
<td>7,900</td>
<td>469,800</td>
</tr>
<tr>
<td>Miscellaneous Revenue/</td>
<td>452,000</td>
<td>189,800</td>
<td>28,900</td>
<td>670,700</td>
</tr>
<tr>
<td>Industrial Safety Fund</td>
<td>452,000</td>
<td>189,800</td>
<td>28,900</td>
<td>670,700</td>
</tr>
<tr>
<td>Miscellaneous Revenue/</td>
<td>296,600</td>
<td>94,400</td>
<td>29,300</td>
<td>420,300</td>
</tr>
<tr>
<td>Logging Fund</td>
<td>296,600</td>
<td>94,400</td>
<td>29,300</td>
<td>420,300</td>
</tr>
<tr>
<td>Miscellaneous Revenue/</td>
<td>12,300</td>
<td>6,100</td>
<td>200</td>
<td>18,600</td>
</tr>
<tr>
<td>Building Bureau NCSBCS Fund</td>
<td>12,300</td>
<td>6,100</td>
<td>200</td>
<td>18,600</td>
</tr>
<tr>
<td>Miscellaneous Revenue/</td>
<td>30,100</td>
<td>15,800</td>
<td>600</td>
<td>46,500</td>
</tr>
<tr>
<td>Heating, Ventilation and Air</td>
<td>1,121,200</td>
<td>741,200</td>
<td>66,500</td>
<td>1,928,900</td>
</tr>
<tr>
<td>Conditioning Board Fund</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
FOR PERSONNEL FOR OPERATING FOR CAPITAL TOTAL
COSTS EXPENDITURES OUTLAY
Elevator Safety Fund 184,100 76,000 2,900 263,000
Federal Grant Fund 71,800 49,200 1,900 122,900
TOTAL $8,711,800 $3,647,800 $280,100 $12,639,700

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Division of Building Safety in the Department of Self-Governing Agencies is authorized no more than one hundred fifty-two and one-tenth (152.1) full-time equivalent positions at any point during the period July 1, 2006, through June 30, 2007, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. The Division of Building Safety is hereby directed to allocate salary savings, based on performance, to provide for employee salary needs before other operational budget priorities are considered. Where applicable, employees whose salaries are below the midpoint of their pay grade or occupational groups with significant turnover rates shall be considered first in the order of salary savings distributions.

SECTION 4. In light of the continued growth of the Division of Building Safety's FTP count and in the spirit of ensuring sufficient resources for inspection services, the Division of Building Safety is directed to report to the Joint Finance-Appropriations Committee during the 2006 interim on the feasibility of contracting inspection-related services. As part of its research into this report, the Division is requested to study the practices of the state of Minnesota and its construction-related inspection programs, e.g., electrical, plumbing, HVAC, etc.

Approved March 24, 2006.

CHAPTER 193
(S.B. No. 1435)

AN ACT
APPROPRIATING MONEYS TO THE PUBLIC HEALTH TRUST FUND FOR THE PUBLIC HEALTH DISTRICTS FOR FISCAL YEAR 2007.

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

SECTION 1. There is hereby appropriated $9,587,800 from the General Fund to be deposited in the Public Health Trust Fund for the period July 1, 2006, through June 30, 2007.

Approved March 24, 2006.
AN ACT

APPROPRIATING MONEYS TO THE DIVISION OF VETERANS SERVICES WITHIN THE DEPARTMENT OF SELF-GOVERNING AGENCIES FOR FISCAL YEAR 2007; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND DIRECTING THE ALLOCATION OF SALARY SAVINGS.

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

SECTION 1. There is hereby appropriated to the Division of Veterans Services within the Department of Self-Governing Agencies the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2006, through June 30, 2007:

<table>
<thead>
<tr>
<th>FROM:</th>
<th>FOR PERSONNEL COSTS</th>
<th>FOR OPERATING EXPENDITURES</th>
<th>FOR CAPITAL OUTLAY</th>
<th>FOR TRUSTEE AND BENEFIT PAYMENTS</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund $1,425,100</td>
<td>$44,600</td>
<td>$1,610,700</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Miscellaneous Revenue Fund 9,723,300</td>
<td>3,843,000</td>
<td>$200,700</td>
<td>395,700</td>
<td>13,767,000</td>
<td></td>
</tr>
<tr>
<td>Veterans Services Endowment Income Fund</td>
<td>395,700</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Federal Grant 3,934,200</td>
<td>1,500,200</td>
<td>$200,700</td>
<td>$44,600</td>
<td>5,434,400</td>
<td></td>
</tr>
<tr>
<td>TOTAL $15,082,600</td>
<td>$5,879,900</td>
<td>$200,700</td>
<td>$44,600</td>
<td>$21,207,800</td>
<td></td>
</tr>
</tbody>
</table>

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Division of Veterans Services is authorized no more than three hundred six and thirty hundredths (306.30) full-time equivalent positions at any point during the period July 1, 2006, through June 30, 2007, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. The Division of Veterans Services is hereby directed to allocate salary savings, based on performance, to provide for employee salary needs before other operational budget priorities are considered. Where applicable, employees whose salaries are below the midpoint of their pay grade or occupational groups with significant turnover rates shall be considered first in the order of salary savings distributions.

Approved March 24, 2006.
CHAPTER 195
(H.B. No. 443, As Amended in the Senate)

AN ACT
RELATING TO THE INCOME TAX; AMENDING SECTION 63-3024, IDAHO CODE, TO PROVIDE THAT SUBSEQUENT CHANGES TO THE CONSUMER PRICE INDEX SHALL NOT AFFECT INCOME TAX BRACKETS; AMENDING SECTION 63-3029B, IDAHO CODE, TO REQUIRE REPORTING OF RECAPTURE OF PROPERTY TAX ON QUALIFIED INVESTMENTS; AMENDING SECTION 63-3035, IDAHO CODE, TO CONFORM THE DUE DATE OF ELECTRONICALLY FILED WITHHOLDING REPORTS BY EMPLOYERS TO THE FEDERAL DUE DATE; AMENDING SECTION 63-3044, IDAHO CODE, TO DELETE REFERENCES TO THE ASSESSMENT OF TAX; AMENDING SECTION 63-3045A, IDAHO CODE, TO PROVIDE PROVISIONS RELATING TO THE ASSESSMENT OF TAX, THE RECORD OF ASSESSMENT AND PENALTIES AND ADDITIONS TO TAX; AMENDING SECTION 63-2906, IDAHO CODE, TO PROVIDE A CROSS-REFERENCE TO THE IDAHO SMALL EMPLOYER INCENTIVE ACT; AMENDING SECTION 63-4406, IDAHO CODE, TO PROVIDE A CROSS-REFERENCE TO THE CORPORATE HEADQUARTERS INCENTIVE ACT; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-3024, Idaho Code, be, and the same is hereby amended to read as follows:

63-3024. INDIVIDUALS' TAX AND TAX ON ESTATES AND TRUSTS. For taxable year 2001, and each taxable year thereafter, a tax measured by Idaho taxable income as defined in this chapter is hereby imposed upon every individual, trust, or estate required by this chapter to file a return.

(a) The tax imposed upon individuals, trusts and estates shall be computed at the following rates:

<table>
<thead>
<tr>
<th>Idaho taxable income is:</th>
<th>The rate is:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than $1,000</td>
<td>One and six-tenths percent (1.6%)</td>
</tr>
<tr>
<td>$1,000 but less than $2,000</td>
<td>$16, plus three and six-tenths percent (3.6%) of the amount over $1,000</td>
</tr>
<tr>
<td>$2,000 but less than $3,000</td>
<td>$52, plus four and one-tenth percent (4.1%) of the amount over $2,000</td>
</tr>
<tr>
<td>$3,000 but less than $4,000</td>
<td>$93, plus five and one-tenth percent (5.1%) of the amount over $3,000</td>
</tr>
<tr>
<td>$4,000 but less than $5,000</td>
<td>$144, plus six and one-tenth percent (6.1%) of the amount over $4,000</td>
</tr>
<tr>
<td>$5,000 but less than $7,500</td>
<td>$205, plus seven and one-tenth percent (7.1%) of the amount over $5,000</td>
</tr>
<tr>
<td>$7,500 but less than $20,000</td>
<td>$383, plus seven and four-tenths percent (7.4%) of the amount over $7,500</td>
</tr>
<tr>
<td>Over $20,000</td>
<td>$1,308, plus seven and eight-tenths percent (7.8%) of the amount over $20,000</td>
</tr>
</tbody>
</table>

For taxable year 2000 and each year thereafter, the state tax commission shall prescribe a factor which shall be used to compute the Idaho income tax brackets provided in subsection (a) of this section. The factor shall provide an adjustment to the Idaho tax brackets so that inflation will not result in a tax increase. The Idaho tax brackets
shall be adjusted as follows: multiply the bracket amounts by the percentage (the consumer price index for the calendar year immediately preceding the calendar year to which the adjusted brackets will apply divided by the consumer price index for calendar year 1998). For the purpose of this computation, the consumer price index for any calendar year is the average of the consumer price index as of the close of the twelve (12) month period for the immediately preceding calendar year, without regard to any subsequent adjustments, as adopted by the state tax commission. This adoption shall be exempt from the provisions of chapter 52, title 67, Idaho Code. The consumer price index shall mean the consumer price index for all U.S. urban consumers published by the United States department of labor. The state tax commission shall annually include the factor as provided in this subsection to multiply against Idaho taxable income in the brackets above to arrive at that year's Idaho taxable income for tax bracket purposes.

(b) In case a joint return is filed by husband and wife pursuant to the provisions of section 63-3031, Idaho Code, the tax imposed by this section shall be twice the tax which would be imposed on one-half (1/2) of the aggregate Idaho taxable income. For the purposes of this section, a return of a surviving spouse, as defined in section 2(a) of the Internal Revenue Code, and a head of household, as defined in section 2(b) of the Internal Revenue Code, shall be treated as a joint return and the tax imposed shall be twice the tax which would be imposed on one-half (1/2) of the Idaho taxable income.

(c) In the case of a trust that is an electing small business trust as defined in section 1361 of the Internal Revenue Code, the special rules for taxation of such trusts contained in section 641 of the Internal Revenue Code shall apply except that the maximum individual rate provided in this section shall apply in computing tax due under this chapter.

(d) The state tax commission shall compute and publish Idaho income tax liability for taxpayers at the midpoint of each bracket of Idaho taxable income in fifty dollar ($50.00) steps to fifty thousand dollars ($50,000), rounding such calculations to the nearest dollar. Taxpayers having income within such brackets shall file returns based upon and pay taxes according to the schedule thus established. The state tax commission shall promulgate rules defining the conditions upon which such returns shall be filed.

SECTION 2. That Section 63-3029B, Idaho Code, be, and the same is hereby amended to read as follows:

63-3029B. INCOME TAX CREDIT FOR CAPITAL INVESTMENT. (1) At the election of the taxpayer there shall be allowed, subject to the applicable limitations provided herein as a credit against the income tax imposed by chapter 30, title 63, Idaho Code, an amount equal to the sum of:

(a) The tax credit carryovers; and
(b) The tax credit for the taxable year.

(2) The maximum allowable amount of the credit for the current taxable year shall be three percent (3%) of the amount of qualified investments made during the taxable year.

(3) As used in this section "qualified investment" means certain property which:
(a) (i) Is eligible for the federal investment tax credit, as defined in sections 46(c) and 48 of the Internal Revenue Code subject to the limitations provided for certain regulated companies in section 46(f) of the Internal Revenue Code and is not a motor vehicle under eight thousand (8,000) pounds gross weight; or
(ii) Is qualified broadband equipment as defined in section 63-30291, Idaho Code; and
(b) Is acquired, constructed, reconstructed, erected or placed into service after December 31, 1981; and
(c) Has a situs in Idaho.
(4) (a) For qualified investments placed in service in 2003 and thereafter, a taxpayer, other than a person whose rate of charge or rate of return, or both, is regulated or limited according to federal or state law, may elect, in lieu of the credit provided by this section, a two (2) year exemption from all taxes on personal property on the qualified investment. The exemption from personal property tax shall apply to the year the election is filed as provided in this section and the immediately following year. The election provided by this paragraph is available only to a taxpayer whose Idaho taxable income, before application of net operating losses carried back or forward, in the second preceding taxable year in which the investment is placed in service is negative.
(b) The election shall be made in the form prescribed by the state tax commission and shall include a specific description and location of all qualified investments placed into service and located in the jurisdiction of the assessing authority, a designation of the specific assets for which the exemption is claimed, and such other information as the state tax commission may require. The election must be made by including the election form with the listing of personal property required by section 63-302, Idaho Code, or, in the case of operating property assessed under chapter 4, title 63, Idaho Code, with the operator's statement required by section 63-404, Idaho Code. Once made the election is irrevocable. If no election is made, the election is not otherwise available. A copy of the election form must also be attached to the original income tax return due for the taxable year in which the claim was made.
(c) The state tax commission and the various county assessors are authorized to exchange information as necessary to properly coordinate the exemption provided in this subsection. Information disclosed to county officials under this subsection may be used only to determine the validity or amount of a taxpayer's entitlement to the exemption provided in this section, and is not otherwise subject to public disclosure as provided in section 9-3400, Idaho Code.
(d) In the event that an investment in regard to which the election under this subsection was made is determined by the state tax commission:
   (i) To not be a qualified investment, or
   (ii) To have ceased to qualify during the recapture period, or
   (iii) To be otherwise not qualified for the election, the taxpayer shall be subject to recapture of the property tax benefit.
(e) The benefit to be recaptured in subsection (4)(d) of this section shall be computed in the manner required in subsection (7) of
this section and such recapture amount shall be subject to assessment in the same manner as a deficiency in tax under this chapter. For purposes of calculating the recapture, the property tax benefit shall be:

(i) In the case of locally assessed property located in a single county or nonapportioned centrally assessed property, the market value of exempted property times the average property tax levy for that county in the year or years for which the exemption was claimed.

(ii) In the case of other centrally assessed property and property located in more than one (1) county, the market value of exempted property times the average urban property tax levy of the state as determined by the state tax commission in each of the years for which the exemption was claimed.

(f) In the event that a recapture of the exemption is required under this subsection (4), the person claiming the exemption shall report the event to the state tax commission in the manner the state tax commission may by rule require. The report shall be due no later than the due date of that person's income tax return under this chapter for the taxable year in which the event occurs. The recapture amount is due and payable with the report. Any amount of recapture not paid is a deficiency within the meaning of section 63-3044, Idaho Code.

(g) All moneys collected by the state tax commission pursuant to this subsection, which amounts are continuously appropriated for this purpose, shall be deposited with the state treasurer and placed in the state refund account, as provided by section 63-3067, Idaho Code, to be remitted to the county within which the property was located that was not a qualified investment or ceased to qualify during the recapture period. The county shall distribute this remittance to all appropriate taxing districts based on the proportion each appropriate taxing district's levy is to the total of all the levies of the taxing districts for the tax code area where the property was located for each year the exemption was granted. If any taxing district is dissolved or disincorporated, the proportionate share of the remittance to be distributed to that taxing district shall be deposited in the county current expense fund.

(gh) For purposes of the limitation provided by section 63-802, Idaho Code, moneys received pursuant to this subsection shall be treated as property tax revenue by taxing districts.

(5) Notwithstanding the provisions of subsections (1) and (2) of this section, the amount of the credit allowed shall not exceed fifty percent (50%) of the tax liability of the taxpayer. The tax liability of the taxpayer shall be the tax after deducting the credit allowed by section 63-3029, Idaho Code.

(6) If the sum of credit carryovers from the credit allowed by subsection (2) of this section and the amount of credit for the taxable year from the credit allowed by subsection (2) of this section exceed the limitation imposed by subsection (5) of this section for the current taxable year, the excess attributable to the current taxable year's credit shall be an investment credit carryover to the fourteen (14) succeeding taxable years. In the case of a group of corporations filing a combined report under section 63-3027, Idaho Code, or sections 63-3027B through 63-3027E, Idaho Code, credit earned by one (1) member of the
group but not used by that member may be used by another member of the group, subject to the provisions of subsection (5) of this section, instead of carried over. The entire amount of unused credit shall be carried forward to the earliest of the succeeding years, wherein the oldest available unused credit shall be used first, so long as the qualified investment property for which the unused credit was granted still maintains Idaho situs. For a combined group of corporations, credit carried forward may be claimed by any member of the group unless the member who earned the credit is no longer included in the combined group.

(7) Any recapture of the credit allowed by subsection (2) of this section on property disposed of or ceasing to qualify, prior to the close of the recapture period, shall be determined according to the applicable recapture provisions of the Internal Revenue Code. In the case of a unitary group of corporations, the increase in tax due to the recapture of investment tax credit must be reported by the member of the group who earned the credit regardless of which member claimed the credit against tax.

(8) For the purpose of determining whether property placed in service is a "qualified investment" as defined in subsection (3) of this section, the provisions of section 49 of the Internal Revenue Code shall be disregarded. "Qualified investment" shall not include any amount for which a deduction is allowed under section 179 of the Internal Revenue Code in computing taxable income.

(9) For purposes of this section, property has a situs in Idaho during a taxable year if it is used in Idaho at any time during the taxable year. Property not used in Idaho during a taxable year does not have a situs in Idaho in the taxable year during which the property is not used in Idaho or in any subsequent taxable year. No credit or carryover of credit is permitted under this section if the credit or carryover relates to property that does not have a situs in Idaho during the taxable year for which the credit or carryover is claimed. The Idaho situs of property must be established by records maintained by the taxpayer which are created reasonably contemporaneously with the use of the property.

(10) In the case of property used both in and outside Idaho, the taxpayer, electing to claim the credit provided in this section, must elect to compute the qualified investment in property with a situs in Idaho for all such investments first qualifying during that year in one (1), but only one (1), of the following ways:

(a) The amount of each qualified investment in a specific asset shall be separately computed based on the percentage of the actual use of the property in Idaho by using a measure of the use, such as total miles or total machine hours, that most accurately reflects the beneficial use during the taxable year in which it is first acquired, constructed, reconstructed, erected or placed into service; provided, that the asset is placed in service more than ninety (90) days before the end of the taxable year. In the case of assets acquired, constructed, reconstructed, erected or placed into service within ninety (90) days prior to the end of the taxable year in which the investment first qualifies, the measure of the use of that asset within Idaho for that year shall be based upon the percentage of use in Idaho during the first ninety (90) days of use of the asset;

(b) The investment in qualified property used both inside and out-
side Idaho during the taxable year in which it is first acquired, constructed, reconstructed, erected or placed into service shall be multiplied by the percent of the investment that would be included in the numerator of the Idaho property factor determined pursuant to section 63-3027, Idaho Code, for the same year.

(11) Only for the purposes of subsections (3)(a) and (8) of this section, references to sections of the "Internal Revenue Code" mean the sections referred to as they existed in the Internal Revenue Code of 1986 prior to November 5, 1990.

SECTION 3. That Section 63-3035, Idaho Code, be, and the same is hereby amended to read as follows:

63-3035. STATE WITHHOLDING TAX ON PERCENTAGE BASIS -- WITHHOLDING, COLLECTION AND PAYMENT OF TAX. (a) Every employer who is required under the provisions of the Internal Revenue Code to withhold, collect and pay income tax on wages or salaries paid by such employer to any employee (other than employees specified in Internal Revenue Code section 3401(a)(2)) shall, at the time of such payment of wages, salary, bonus or other emolument to such employee, deduct and retain therefrom an amount substantially equivalent to the tax reasonably calculated by the state tax commission to be due from the employee under this chapter. The state tax commission shall prepare tables showing amounts to be withheld, and shall supply same to each employer subject to this section. In the event that an employer can demonstrate administrative inconvenience in complying with the exact requirements set forth in these tables, he may, with the consent of the state tax commission and upon application to it, use a different method which will produce substantially the same amount of taxes withheld. Every employer making payments of wages or salaries earned in Idaho, regardless of the place where such payment is made:

(1) shall be liable to the state of Idaho for the payment of the tax required to be deducted and withheld under this section and shall not be liable to any individual for the amount deducted from his wages and paid over in compliance or intended compliance with this section;
(2) must pay to the state tax commission monthly on or before the 20th day of the succeeding month, or at such other times as the state tax commission may allow, an amount of tax which, under the provisions of this chapter, he is required to deduct and withhold;
(3) shall register with the state tax commission, in the manner prescribed by it, to establish an employer's withholding account number. The account number will be used to report all amounts withheld, for the annual reconciliation required in this section, and for such other purposes relating to withholding as the state tax commission may require; and
(4) must, notwithstanding the provisions of paragraphs (1) and (2) of this subsection, if the amount of withholding of such employer for the preceding twelve (12) month period equals or exceeds two hundred forty thousand dollars ($240,000) per annum or an average of twenty thousand dollars ($20,000) per month per annum, pay to the state tax commission on the basis of withholding periods which begin on the 16th day of the month and end on the 15th day of the following month, and payment shall be made not later than five (5) days
after the end of the withholding period.

(5) If a payment required pursuant to subsection (a)(2) or (a)(4) of this section is not made or is made delinquently or if made is not equal to the withholding required under this section the state tax commission may treat the failure as a failure to file a return and may take administrative and judicial actions as authorized by this chapter in the case of a failure to file a return. Interest, at the rate provided by section 63-3045, Idaho Code, shall apply to any such underpayment.

(6) Commencing in 2006, the state tax commission shall determine whether the threshold amounts established by subsection (a)(4) of this section must be adjusted to reflect fluctuations in the cost of living. The commission shall base its determination on the cumulative effect of the annual cost-of-living percentage modifications determined by the United States secretary of health and human services pursuant to 42 USC 415(i). When the cumulative percentage applied to the monthly threshold amount equals or exceeds five thousand dollars ($5,000), the commission shall promulgate a rule adjusting the monthly threshold amount by five thousand dollars ($5,000) and making the necessary proportional adjustment to the annual threshold amount. The rule shall be effective for the next succeeding calendar year and each year thereafter until again adjusted by the commission. The tax commission shall determine subsequent adjustments in the same manner, in each case using the year of the last adjustment as the base year.

(b) (1) In addition to the payments required pursuant to subsections (a)(2) and (a)(4) of this section, every employer shall file a return upon such form as shall be prescribed by the state tax commission, but not more frequently than annually, or as required pursuant to any agreement between the state tax commission and the department of labor under section 63-30358, Idaho Code, unless a shorter filing period and due date is prescribed by the state tax commission. The return shall be due on the last day of the month following the end of the period to which the return relates. The return shall show, for the period to which it relates, the total amount of wages, salary, bonus or other emolument paid to his employees, the amount deducted therefrom in accordance with the provisions of the Internal Revenue Code, the amount deducted therefrom in accordance with the provisions of this section, the amount of any previous payments made pursuant to this section, and such pertinent and necessary information as the state tax commission may require.

(2) Every employer making a declaration of withholding as provided herein shall furnish to the employees annually, but not later than thirty (30) days after the end of the calendar year, a record of the amount of tax withheld from such employee on forms to be prescribed, prepared and furnished by the state tax commission and on or before the last day of February every employer shall file a copy thereof with the state tax commission. Every employer who is required, under Internal Revenue Code section 6011, to file returns on magnetic media, or--in--other machine readable form or electronic means, as defined in the Idaho uniform electronic transaction act, may be required by rules of the state tax commission to file corresponding state returns on similar magnetic media, or--other machine readable form or electronic means. Such rules may provide a different due
date for such returns which shall be no later than the date employers are required to file such returns with the internal revenue service or the social security administration.

(c) All moneys deducted and withheld by every employer shall immediately upon such deduction be state money and every employer who deducts and retains any amount of money under the provisions of this chapter shall hold the same in trust for the state of Idaho and for the payment thereof to the state tax commission in the manner and at the times in this chapter provided. Any employer who does not possess real property situated within the state of Idaho, which, in the opinion of the state tax commission, is of sufficient value to cover his probable tax liability, may be required to post a surety bond in such sum as the state tax commission shall deem adequate to protect the state.

(d) The provisions of this chapter relating to additions to tax in case of delinquency, and penalties, shall apply to employers subject to the provisions of this section and for these purposes any amount deducted, or required to be deducted and remitted to the state tax commission under this section, shall be considered to be the tax of the employer and with respect to such amount he shall be considered the taxpayer.

(e) Amounts deducted from wages of an employee during any calendar year in accordance with the provisions of this section shall be considered to be in part payment of the tax imposed on such employee for his tax year which begins within such calendar year and the return made by the employer under this subsection (e) shall be accepted by the state tax commission as evidence in favor of the employee of the amount so deducted from his wages. Where the total amount so deducted exceeds the amount of tax on the employee, based on his Idaho taxable income, or where his income is not taxable under this chapter, the state tax commission shall, after examining the annual return filed by the employee in accordance with this chapter, but not later than sixty (60) days after the filing of each return, refund the amount of the excess deducted.

(f) This section shall in no way relieve any taxpayer from his obligation of filing a return at the time required under this chapter, and, should the amount withheld under the provisions of this section be insufficient to pay the total tax of such taxpayer, such unpaid tax shall be paid at the time prescribed by section 63-3034, Idaho Code.

(g) An employee receiving wages shall on any day be entitled to not more than, but may claim fewer than, the number of withholding exemptions to which he is entitled under the Internal Revenue Code for federal income tax withholding purposes.

(h) An employer shall use the exemption certificate filed by the employee with the employer under the withholding exemption provisions of the Internal Revenue Code in determining the amount of tax to be withheld from the employee's wages or salary under this chapter. The tax commission may redetermine the number of withholding exemptions to which an employee is entitled under subsection (g) of this section, and the state tax commission may require such exemption certificate to be filed on a form prescribed by the commission in any circumstance where the commission finds that the exemption certificate filed for Internal Revenue Code purposes does not properly reflect the number of withholding exemptions to which the employee is entitled under this chapter. In no event shall any employee give an exemption certificate which claims a
higher number of withholding exemptions than the number to which the employee is entitled by subsection (g) of this section.

SECTION 4. That Section 63-3044, Idaho Code, be, and the same is hereby amended to read as follows:

63-3044. DEFICIENCY IN TAX. (1) As used in this act in respect of a tax imposed by this act the term "deficiency" means:

(a1) The amount by which the tax imposed by this act exceeds the amount shown as the tax by the taxpayer upon his return; but the amount so shown on the return shall first be increased by the amounts previously assessed (or collected without assessment) as a deficiency, and decreased by the amounts previously abated, credited, refunded, or otherwise repaid in respect of such tax; or,

(b2) If no amount is shown as the tax by the taxpayer upon his return, or if no return is made by the taxpayer, then the amount by which the tax exceeds the amounts previously assessed (or collected without assessment) as a deficiency; but such amounts previously assessed, or collected without assessment, shall first be decreased by the amounts previously abated, credited, refunded, or otherwise repaid in respect of such tax; or,

(c3) Any amount of tax which is due and unpaid.

(2) A tax assessment shall be made by recording the liability of the taxpayer, along with an identification of the taxpayer, the character of the liability assessed, the taxable period, if applicable, and the amount of the assessment. The assessment shall be kept and maintained in a record in the office of the state tax commission in accordance with rules prescribed by the tax commission. Upon request of the taxpayer, the tax commission shall furnish the taxpayer a copy of the record of assessment. No tax commission activities to enforce collection of tax may be conducted, nor may a proceeding to collect a tax be instituted, until an assessment of the tax has been made in accordance with the provisions of this section. Taxes and related interest may be assessed immediately upon receipt of a tax return, amended return, or other consent signed by the taxpayer or the taxpayer's authorized representative showing the taxes due. The tax commission may presume that the signature is the signature of the taxpayer or the taxpayer's authorized representative until the contrary is established by a preponderance of the evidence.

(3) The making of an assessment is not required before the tax commission may conduct audits and investigations or make inquiries of taxpayers or other persons relating to matters within the tax commission's jurisdiction. The making of an assessment is not required before the tax commission may file a judicial action under section 63-3030A or 63-3064, Idaho Code, or actions for injunctive or declaratory relief.

SECTION 5. That Section 63-3045A, Idaho Code, be, and the same is hereby amended to read as follows:

63-3045A. MATHEMATICAL-ERROR—ASSESSMENT OF TAX. (1) Except as provided in subsection (2) of this section, no tax commission activities to enforce collection of tax may be conducted, nor may a proceeding to collect a tax be instituted, until taxes are assessed in accordance with the provisions of this section.
(a) Taxes and related interest, including revisions for mathematical errors, are assessed immediately upon receipt of a tax return, amended return or other consent signed by the taxpayer or the taxpayer's authorized representative showing the taxes due. The tax commission may presume that the signature is the signature of the taxpayer or the taxpayer's authorized representative until the contrary is established by a preponderance of the evidence.

(ab) In the event that the amount of tax is understated on the taxpayer's return due to a mathematical error, the state tax commission shall notify the taxpayer that an amount of tax in excess of that shown on the return is due and has been asserted. Such a notice of additional tax due shall not be considered a notice of a deficiency nor shall the taxpayer have any right of protest or appeal as in the case of a deficiency based on such notice, and the assessment and collection of the amount of tax erroneously omitted in the return is not prohibited by any provision of this chapter.

(bc) The amount of tax which is shown to be due on the return (including revisions for mathematical errors) shall be deemed to be assessed on the date of filing of the return including any amended returns showing an increase of tax. In the case of a return properly filed without the computation of the tax, the tax computed by the state tax commission shall be deemed to be assessed on the date when payment is due. Any amount paid as a tax or in respect of a tax, other than amounts withheld at the source or paid as estimated income tax, shall be deemed to be assessed upon the date of receipt of payment, notwithstanding any other provisions of this chapter.

(cd) For all other purposes of this chapter, a tax is deemed assessed when:

(i) The taxpayer fails to file a protest with the state tax commission within the time prescribed in section 63-3045, Idaho Code, or an action in district court or the board of tax appeals within the time prescribed in subsection (a) of section 63-3049, Idaho Code; or

(ii) Upon conclusion of any such proceeding for any amount upheld at that conclusion of such proceeding.

(2) An assessment is not required before the tax commission may conduct audits and investigations or make inquiries of taxpayers or other persons relating to matters within the tax commission's jurisdiction. The making of an assessment is not required before the tax commission may file a judicial action under section 63-3030A or 63-3064, Idaho Code, or actions for injunctive or declaratory relief.

(3) When taxes and related interest have been assessed, the state tax commission shall create a record of assessment by recording the liability of the taxpayer along with an identification of the taxpayer, the character of the liability assessed, the taxable period, if applicable, and the amount of the assessment. The record of an assessment shall be kept and maintained in a record in the office of the state tax commission in accordance with rules prescribed by the state tax commission. Upon request of the taxpayer, the state tax commission shall furnish the taxpayer a copy of the record of assessment.

(4) Penalties and additions to tax in the case of a deficiency shall be assessed in the same manner as the taxes and related interest.
SECTION 6. That Section 63-2906, Idaho Code, be, and the same is hereby amended to read as follows:

63-2906. LIMITATIONS, AND OTHER PROVISIONS ON CREDITS AGAINST INCOME TAXES. (1) In addition to other needed rules, the state tax commission may promulgate rules prescribing:
(a) In the case of S corporations, partnerships, trusts or estates, a method of attributing a credit under this chapter to the shareholders, partners or beneficiaries in proportion to their share of the income from the S corporation, partnership, trust or estate; and
(b) The method by which the carryover of credits and the duty to recapture credits shall survive and be transferred in the event of reorganizations, mergers or liquidations.
(2) In the case of a unitary group of corporations filing a combined report under subsection (t) of section 63-3027, Idaho Code, credits against income tax provided by sections 63-2903, 63-2904 and 63-2905, Idaho Code, earned by one (1) member of the group but not used by that member may be used by another member of the group, subject to the limitation in subsection (3) of this section, instead of carried over. For a combined group of corporations, credit carried forward may be claimed by any member of the group unless the member or members who earned the credit are no longer included in the combined group.
(3) The total of all credits allowed by sections 63-2903, 63-2904 and 63-2905, Idaho Code, together with any credits carried forward under subsection (4) of this section shall not exceed the amount of tax due under sections 63-3024, 63-3025 and 63-3025A, Idaho Code, after allowance for all other credits permitted by this chapter, chapter 44, title 63, Idaho Code, and the Idaho income tax act.
(4) If the credits exceed the limitation under subsection (3) of this section, the excess amount may be carried forward for a period that does not exceed:
(a) The next fourteen (14) taxable years in the case of credits allowed by sections 63-2903 and 63-2904, Idaho Code; or
(b) The next ten (10) taxable years in the case of credits allowed by section 63-2905, Idaho Code.

SECTION 7. That Section 63-4406, Idaho Code, be, and the same is hereby amended to read as follows:

63-4406. LIMITATIONS, AND OTHER PROVISIONS ON CREDITS AGAINST INCOME TAXES. (1) In addition to other needed rules, the state tax commission may promulgate rules prescribing:
(a) In the case of S corporations, partnerships, trusts or estates, a method of attributing a credit under this chapter to the shareholders, partners or beneficiaries in proportion to their share of the income from the S corporation, partnership, trust or estate; and
(b) The method by which the carryover of credits and the duty to recapture credits shall survive and be transferred in the event of reorganizations, mergers or liquidations.
(2) In the case of a unitary group of corporations filing a combined report under subsection (t) of section 63-3027, Idaho Code, credits against income tax provided by sections 63-4403, 63-4404 and 63-4405, Idaho Code, earned by one (1) member of the group but not used by that member may be used by another member of the group, subject to
the limitation in subsection (3) of this section, instead of carried over. For a combined group of corporations, credit carried forward may be claimed by any member of the group unless the member or members who earned the credit are no longer included in the combined group.

(3) The total of all credits allowed by sections 63-4403, 63-4404 and 63-4405, Idaho Code, together with any credits carried forward under subsection (4) of this section shall not exceed the amount of tax due under sections 63-3024, 63-3025 and 63-3025A, Idaho Code, after allowance for all other credits permitted by this chapter, chapter 29, title 63, Idaho Code, and the Idaho income tax act.

(4) If the credits exceed the limitation under subsection (3) of this section, the excess amount may be carried forward for a period that does not exceed:
   (a) The next fourteen (14) taxable years in the case of credits allowed by sections 63-4403 and 63-4404, Idaho Code; or
   (b) The next ten (10) taxable years in the case of credits allowed by section 63-4405, Idaho Code.

SECTION 8. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2006.

Approved March 24, 2006.

CHAPTER 196
(H.B. No. 472, As Amended)

AN ACT
RELATING TO THE CIGARETTE TAX; AMENDING SECTION 63-2512, IDAHO CODE, TO REVISE THE PENALTY FOR POSSESSING MORE THAN TEN PACKAGES OF UNSTAMPED CIGARETTES FROM A CRIMINAL MISDEMEANOR TO A CIVIL PENALTY AND TO PROVIDE APPLICATION TO VARIOUS RETAILERS.

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

SECTION 1. That Section 63-2512, Idaho Code, be, and the same is hereby amended to read as follows:

63-2512. PENALTIES. The penalties herein prescribed are not intended as exclusive, but are in addition and supplemental to any and all other existing remedies and procedures prescribed by law for the enforcement of the revenue laws of this state.
   (a) Any person who shall forge or counterfeit an Idaho cigarette stamp shall be guilty of a felony and upon conviction thereof shall be punished in accordance with the provisions of the criminal code, and additionally shall be ineligible to have issued him or to hold any state license or permit to sell or vend goods or merchandise of any kind or type, or to be employed by or work in any manner for any person who sells cigarettes for a period of five (5) years thereafter.
   (b) The possession, purchase or consumption by any person of more than ten (10) packages of cigarettes without Idaho cigarette stamps is a
misdemeanor prohibited. Any person upon conviction who possesses, purchases or consumes more than ten (10) packages of cigarettes without Idaho cigarette stamps shall be subject to a fine of five dollars ($5.00) civil penalty equal to three (3) times the amount of tax due for each full or partial package of unstamped cigarettes in his possession in excess of ten (10), but the maximum punishment for each offense shall not exceed a fine of three-hundred-dollars ($300.00) or imprisonment in the county jail not to exceed ninety (90) days or both. In no event shall the penalty be less than fifty dollars ($50.00). Such penalty shall be assessed and collected, as provided in section 63-2516, Idaho Code.

The penalty imposed by this subsection shall apply to persons acquiring cigarettes from internet, catalog, telephone and facsimile retailers.

(c) Failure to possess a valid permit, as required by section 63-2503, Idaho Code, shall be punishable by the imposition of civil penalties at the rate of twenty-five dollars ($25.00) per day, per violation, and such penalty shall be assessed and collected, as provided in section 63-2516, Idaho Code.

(d) All violations of the provisions of this chapter for which criminal penalties are not otherwise imposed shall be misdemeanors and punishable in accordance with the provisions of the criminal code.

(e) The provisions of this section shall be applicable to all proceedings pending before the state tax commission, the board of tax appeals, or the courts of this state on the effective date of this act.

Approved March 24, 2006.

CHAPTER 197
(H.B. No. 514)

AN ACT
RELATING TO PEST CONTROL; REPEALING SECTION 22-2011, IDAHO CODE, RELATING TO COMPENSATION FOR THE LOSS OR DESTRUCTION OF INFESTED OR INFECTED PLANTS, PLANT PRODUCTS OR OTHER ARTICLES; REPEALING SECTION 22-2019, IDAHO CODE, RELATING TO INFESTATIONS AND PEST CONTROL COSTS; AMENDING CHAPTER 20, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-2019, IDAHO CODE, TO PROVIDE A PROCEDURE RELATING TO INFESTATIONS OF CERTAIN PESTS, TO PROVIDE FOR PAYMENT OF COSTS RELATING TO CONTROL AND ERADICATION, TO PROVIDE FOR DEFICIENCY WARRANTS, TO DESCRIBE CONTROL AND ERADICATION COSTS, TO AUTHORIZE THE DIRECTOR TO COOPERATE WITH OTHER AGENCIES AND PRIVATE CITIZENS IN CONTROL AND ERADICATION EFFORTS AND TO PROVIDE THAT ALL FUTURE APPROPRIATIONS FOR THE DEPARTMENT OF AGRICULTURE SHALL TAKE ACCOUNT OF AND PROVIDE FOR PEST CONTROL EXPENSES.

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

SECTION 1. That Section 22-2011, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Section 22-2019, Idaho Code, be, and the same is hereby repealed.
SECTION 3. That Chapter 20, Title 22, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 22-2019, Idaho Code, and to read as follows:

22-2019. INFESTATIONS -- CONTROL AND ERADICATION COSTS -- DEFICIENCY WARRANTS -- COOPERATION WITH OTHER ENTITIES AND CITIZENS. Whenever the director determines that there exists the threat of an infestation of grasshoppers, crickets or exotic plant pests on state-owned land, private, range or agricultural land, and that the infestation is of such a character as to be a menace to state, private, range or agricultural land, the director shall cause the infestation to be controlled and eradicated, using such funds as have been appropriated or may hereafter be made available for such purposes. Provided however, that whenever the cost of control and eradication exceeds the funds appropriated or otherwise available for that purpose, the state board of examiners may authorize the issuance of deficiency warrants against the general fund for up to five million dollars ($5,000,000) in any one (1) year for such control and eradication. Control and eradication costs may include, but are not limited to, costs for survey, detection, inspection, diagnosis, treatment, and disposal of infected or infested plants and plant materials, cleaning and disinfecting of infected premises and indemnity paid to owners for infected or infested plants and plant materials destroyed by order of the director. The director, in executing the provisions of this chapter insofar as it relates to control and eradication, shall have the authority to cooperate with federal, state, county and municipal agencies and private citizens in control and eradication efforts; provided, that in the case of joint federal/state programs the state funds shall only be used to pay the state's share of the cost of the control and eradication efforts. Such moneys as the state shall thus become liable for shall be paid as a part of the expenses of the department of agriculture out of appropriations which shall be made by the legislature for that purpose from the general fund of the state. In all appropriations hereafter made for expenses of the department of agriculture, account shall be taken of and provision made for this item of expense.

Approved March 24, 2006.

CHAPTER 198
(H.B. No. 515)

AN ACT
RELATING TO THE STATE BRAND BOARD; AMENDING SECTION 25-1145, IDAHO CODE, TO INCREASE FEES FOR FILING BRAND RENEWAL APPLICATIONS AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 25-1160, IDAHO CODE, TO INCREASE CERTAIN FEES RELATING TO BRAND INSPECTIONS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 25-1145, Idaho Code, be, and the same is hereby amended to read as follows:
25-1145. RENEWAL OF BRANDS. (1) On July 1, 1995, and at the end of each recording period of an original application pursuant to section 25-1144, Idaho Code, and at the end of each successive period thereafter on the first day of July, the recording of every brand in the office of the state brand inspector shall be renewed upon application for such renewal by the owner. The fee of the state brand inspector for filing each such renewal application shall be not more than fifty seventy-five dollars ($5075.00) and it shall be the duty of the state brand inspector to furnish without further or other charge one (1) certified copy of the certificate of such brand to the owner thereof upon his request, and for each additional certified copy the state brand inspector shall be paid a reasonable fee as determined by the state brand board not to exceed one dollar and fifty cents ($1.50) for the additional certified copy. The fee for recording each renewal shall be paid coincident with the filing of the application therefor.

(2) Each application for the renewal and the record of renewal of each brand shall be made in the same manner as is provided by law for the filing of an original application for the recording of a brand.

(3) If an application for the renewal of any brand shall not be made and the fee therefor paid within the period of six (6) months after the expiration date for such renewal, then such brand may be allotted by the state brand inspector to any other person who shall apply therefor.

SECTION 2. That Section 25-1160, Idaho Code, be, and the same is hereby amended to read as follows:

25-1160. BRAND INSPECTION FEES. (1) The maximum fee which shall be charged by the state brand inspector and his deputies for brand inspection shall be:

(a) One dollar and twenty-five cents ($1.0025) for each head of cattle;
(b) One dollar and fifty cents ($1.50) for each head of horses, mules and asses.

(2) A minimum fee of ten twenty dollars ($120.00) shall be charged by the state brand inspector and his deputies for each brand inspection certificate issued, whether for cattle, horses, mules or asses, or a combination thereof. The minimum brand inspection fee shall apply only in those cases when a brand inspector must travel from his assigned duty post.

(3) The minimum fee for brand inspection services at any normally scheduled livestock auction sale is fifty dollars ($50.00) per day, and shall be paid by the livestock auction sale, whether or not the inspection fees received from the owners of livestock inspected equals the minimum fee. If the fees paid by the owners of livestock inspected at the sale exceed the minimum fee, the actual amount of fees collected shall be paid, rather than the minimum amount.

(4) The fee for brand inspection services at any livestock auction sale which is not a normally scheduled livestock auction sale shall be:

(a) Eighteen dollars ($18.00) per hour for each hour that each brand inspector spends engaged in the performance of brand inspection services at the livestock auction sale;
(b) A mileage rate as established by the state board of examiners per mile per vehicle for each mile that said brand inspector(s) must travel to and from the sale from his assigned duty post.
The minimum fee, not including mileage, shall be the actual hours worked, or thirty-six dollars ($36.00) per day, or the inspection fees as set forth in subsection (1) of this section, whichever is greater.

(5) The state brand board may adopt a schedule or schedules of fees which are below the maximum fees and may adjust such schedule or schedules from time to time whenever such board finds that the cost of administering and enforcing the laws of the state of Idaho for brand inspection of livestock can be maintained with such below-maximum fees. All such fees shall be paid by the owner of the cattle, horses, mules and asses and credited to the state brand account.

(6) All brand inspection fees, and all other fees required by law to be collected by the brand inspector, are due and payable at the time of inspection, but the brand board may, by rules, allow all of such fees to be paid on a schedule that requires payment at least monthly, after receiving a request for such delayed payment schedule and after such request is approved by the state brand inspector. The brand board may require a security deposit to ensure the prompt payment of all fees owed to the state. Failure to pay as required shall be cause for the brand inspector to file an action in the district court of the county wherein the inspection was made for the amount of all fees owed, plus all costs and reasonable attorney's fees associated with the action plus interest at the rate specified in section 28-22-104, Idaho Code, on the amount owed from the due date.

(7) Any brand inspector who must travel beyond the border of the state of Idaho to investigate a possible violation of this chapter is entitled to a mileage rate, as established by the state board of examiners, per mile per vehicle for each mile that the brand inspector must travel to and from his assigned duty post, and eighteen dollars ($18.00) per hour for each hour that each brand inspector spends engaged in the investigation. The minimum fee for each brand inspector, not including mileage, shall be the actual hours worked, or thirty-six dollars ($36.00) per day, or the hourly inspection fees, whichever is greater.

Approved March 24, 2006.

CHAPTER 199
(H.B. No. 522)

AN ACT
RELATING TO ORGANIZATION OF RECIPROCAL INSURERS; AMENDING SECTION 41-2908, IDAHO CODE, TO PROVIDE THAT A SUBSCRIBER TO A DOMESTIC RECIPROCAL INSURER PROPOSING TO TRANSACT WORKER'S COMPENSATION INSURANCE, WHICH SUBSCRIBER IS A CORPORATION, LIMITED LIABILITY COMPANY OR OTHER LEGAL ENTITY RECOGNIZED BY THE STATE OF IDAHO AS A SEPARATE ENTITY, SHALL BE CONSIDERED AS ONE SUBSCRIBER, REGARDLESS OF THE NUMBER OF ITS WHOLLY OWNED SUBSIDIARIES AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 41-2908, Idaho Code, be, and the same is hereby amended to read as follows:
41-2908. ORGANIZATION OF RECIPROCAL INSURER. (1) Twenty-five (25) or more persons domiciled in this state, or employers in this state having aggregate payrolls of not less than one and one-half million dollars ($1,500,000) and proposing to transact wage'r's compensation insurance only, may organize a domestic reciprocal insurer and make application to the director for a certificate of authority to transact insurance. A subscriber that is a corporation, limited liability company or other legal entity recognized by the state of Idaho as a separate entity, shall be considered as one (1) subscriber, regardless of the number of its wholly owned subsidiaries.

(2) The proposed attorney shall fulfill the requirements of and shall execute and file with the director when applying for a certificate of authority, a declaration setting forth:

(a) The name of the insurer;
(b) The location of the insurer's principal office, which shall be the same as that of the attorney and shall be maintained within this state;
(c) The kinds of insurance proposed to be transacted;
(d) The names and addresses of the original subscribers;
(e) The designation and appointment of the proposed attorney and a copy of the power of attorney;
(f) The names and addresses of the officers and directors of the attorney, if a corporation, or its members, if a firm;
(g) The powers of the subscribers' advisory committee; and the names and terms of office of the members thereof;
(h) That all moneys paid to the reciprocal shall, after deducting therefrom any sum payable to the attorney, be held in the name of the insurer and for the purposes specified in the subscribers' agreement;
(i) A copy of the subscribers' agreement;
(j) A statement that each of the original subscribers has in good faith applied for insurance of a kind proposed to be transacted, and that the insurer has received from each such subscriber the full premium or premium deposit required for the policy applied for, for a term of not less than six (6) months at an adequate rate theretofore filed with and approved by the director;
(k) A statement of the financial condition of the insurer, a schedule of its assets, and a statement that the surplus as required in section 41-313 or 41-313A, Idaho Code, is on hand; and
(l) A copy of each policy, endorsement and application form it then proposes to issue or use.

Such declaration shall be acknowledged by the attorney in the manner required for the acknowledgment of deeds.

Approved March 24, 2006.
CLARIFICATION FOR CO-OWNERS OR MULTIPLE OWNERS OF PARCELS OF LAND; AND AMENDING SECTION 43-112, IDAHO CODE, TO PROVIDE A PROCEDURE FOR ELECTIONS IN IRRIGATION DISTRICTS HAVING ADOPTED A VOTING SYSTEM WHERE VOTES ARE BASED ON ACRES OF ASSESSED LAND AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 43-111, Idaho Code, be, and the same is hereby amended to read as follows:

43-111. QUALIFICATIONS OF VOTERS -- VOTES BASED ON ASSESSED ACRES. (1) No person shall be entitled to vote at any election held under the provisions of this title for the purpose of electing directors, for the purpose of determining whether indebtedness shall be created or bonds issued by the district, or for any other purpose, unless he shall possess all the qualifications required of electors under the general laws of the state, and own land within the district, or the proposed district, and be a resident of the county in which the district, or a portion thereof, is located for a period of thirty (30) or more days next preceding the election; provided that, in districts of fifteen thousand (15,000) acres or less, the bylaws may, by resolution of two-thirds (2/3) of the board and adoption by two-thirds (2/3) of the electors voting in a district election conducted in accordance with the general election laws of the state applicable to irrigation districts, set forth a provision allowing a district landowner to vote, if the landowner possesses all the qualifications required of electors under the general laws of the state and has resided within fifteen (15) miles of the district for a period of at least thirty (30) days prior to the election.

(2) After approval by a majority of the electors voting upon the issue in a district election conducted using the elector criteria of subsection (1) of this section, in subsequent district elections, a person having the qualifications described in subsection (1) of this section shall have the right to cast one (1) vote for each acre of assessed land and a proportionate vote for each fraction of an acre of assessed land owned by him within the district. Co-owners or multiple owners of parcels of land shall cast no more than the total number of votes represented by the acres or fraction of acres of assessed land within the district.

SECTION 2. That Section 43-112, Idaho Code, be, and the same is hereby amended to read as follows:

43-112. CONDUCT OF ELECTIONS. (1) Such election shall be conducted as nearly as practicable in accordance with the general laws of the state: provided, no particular form of ballot shall be required, and that the provisions of the election laws as to the form and distribution of ballots shall not apply.

Said board of county commissioners shall establish one (1) or more election precincts, not exceeding seven (7), as may be necessary, and define the boundaries thereof, which boundaries, when the district is divided into precincts, shall be the same as the division boundaries above-provided for and which said precincts may thereafter be changed by the board of directors of such district as may be necessary: provided,
that districts containing more than ten thousand (10,000) acres shall have not less than three (3), nor more than seven (7) voting precincts. Said board shall also appoint three (3) judges of election for each such election precinct, who shall perform the same duties as near as may be as judges of election, under the general laws of the state.

(2) When an irrigation district has duly adopted the voting system set forth in subsection (2) of section 43-111, Idaho Code, and a person seeks to vote at any district election, following completion of an electors oath as required by section 43-113, Idaho Code, one (1) of the judges of election shall deliver to the elector the number of ballots for the votes the elector is entitled to cast, as shown by the registrar's list of assessed lands within the district.

Approved March 24, 2006.

CHAPTER 201
(H.B. No. 567)

AN ACT
RELATING TO THE COMMISSION ON AGING; AMENDING SECTION 67-5008, IDAHO CODE, TO INCLUDE THE OMBUDSMAN PROGRAM AS ONE FOR WHICH GRANTS OR CONTRACTS MAY BE UTILIZED.

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

SECTION 1. That Section 67-5008, Idaho Code, be, and the same is hereby amended to read as follows:

67-5008. PROGRAMS FOR OLDER PERSONS. The commission shall upon reviewing recommendations from local area councils on aging, as required by the Older Americans Act of 1965, as amended, allocate to local designated area agencies grants or contracts for the following purposes:

(1) Transportation -- For operating expenses only.
(2) Congregate meals -- For direct costs to provide nutritionally balanced meals to older persons at congregate meal sites.
(3) In-home services -- For direct provision of case management, homemaker, chore, telephone reassurance, home delivered meals, friendly visiting, shopping assistance, in-home respite and other in-home services to older persons living in noninstitutional circumstances. Fees for specific services shall be based upon a variable schedule, according to rules established by the Idaho commission on aging, based upon ability to pay for such services.
(4) Adult day care -- For direct services to older persons and their caregivers.
(5) Ombudsman -- For provision of ombudsman services as described in section 67-5009, Idaho Code.

Approved March 24, 2006.
AN ACT
RELATING TO THE IDAHO HORSE BOARD; AMENDING SECTION 25-2505, IDAHO CODE, TO REVISE PROVISIONS RELATING TO ASSESSMENTS ON HORSES, TO PROVIDE THAT IDAHO HORSE BOARD PAID ASSESSMENT CARDS SHALL BE EVIDENCE TO THE STATE BRAND BOARD THAT ASSESSMENTS HAVE BEEN PAID AND TO PROVIDE A PERIOD OF VALIDITY FOR IDAHO HORSE BOARD PAID ASSESSMENT CARDS; AND AMENDING SECTION 25-2510, IDAHO CODE, TO REVISE PROVISIONS AND PROCEDURES REGARDING REFERENDUMS RELATING TO HORSE OWNER MANDATORY ASSESSMENTS.

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

SECTION 1. That Section 25-2505, Idaho Code, be, and the same is hereby amended to read as follows:

25-2505. ASSESSMENTS -- COLLECTION. (1) There is hereby levied and imposed upon all horses an assessment of three dollars ($31.00) per head to be paid by the owner. The assessment shall revert increase to one three dollars ($31.00) per head if the a referendum held as provided in section 25-2510(1), Idaho Code, results in a majority vote opposing favoring the three dollar ($31.00) per head assessment. A reversion-to-a one-dollar-($1.00)-assessment-shall-be-effective-on-the-date-the-director--of--the-department-of-agriculture-announces-as-provided-in-section 25-2510,---idaho-code,---that-the-referendum-resulted--in--a--majority--vote opposing-the-three-dollar-($31.00)-assessment.

(2) The assessment levied and imposed in this section shall be collected on all brand inspections completed on horses in the state of Idaho. Any person may purchase an Idaho horse board paid assessment card for one hundred dollars ($100) from the Idaho horse board. The paid assessment card shall be evidence to the state brand board, by and through the state brand inspector or a designated agent thereof, at the time a brand inspection fee is collected as provided in section 25-1160, Idaho Code, that the assessment due pursuant to this section has been paid. A paid assessment card shall be valid for a period of one (1) year from the date of purchase.

(3) The state brand inspector shall collect the assessment in addition to, at the same time, and in the same manner as the fee charged for state brand inspections. The assessment so collected belongs to and shall be paid to the Idaho horse board, either directly or later by remittance together with a report detailing collection of the assessment. The board shall reimburse the state brand inspector for the reasonable and necessary expenses incurred for such collection, in an amount determined by the board and the inspector.

SECTION 2. That Section 25-2510, Idaho Code, be, and the same is hereby amended to read as follows:

25-2510. REFERENDUM FOR HORSE OWNERS. (1) Within--three--(3)--years from-july-1,-2006--a A referendum shall may be held at the discretion of the horse board to determine if horse owners favor an increase from one
dollar ($1.00) to three dollars ($3.00) in the mandatory assessment prescribed in section 25-2505, Idaho Code. The question shall be submitted to all horse owners who had a brand inspection the year prior to the referendum. Horse owners who have been issued a lifetime brand inspection after July 1, 2002, are also eligible to participate in the referendum and may do so by requesting a ballot from the Idaho horse board. The Idaho horse board shall publish notice of the referendum once a week for four (4) consecutive weeks, with the last notice being published one (1) week prior to the referendum, in a newspaper of general circulation in each county in the state. The notice shall set forth the process and procedures for voting. Any horse owner eligible to vote in the referendum, and who wishes to vote, shall contact the Idaho horse board for an official ballot as set forth in the notice. Voting on the referendum shall be open for thirty (30) days. Voting shall be by secret ballots upon which the words "Do you favor the increase from one dollar ($1.00) to three dollars ($3.00) in the mandatory assessment to fund the Idaho Horse Board?" are printed with a square before each of the printed words "YES" and "NO" with directions to insert an "X" mark in the square before the proposition which the voter favors. If a majority of the referendum vote is in favor of the mandatory assessment of three dollars ($3.00), the provisions of section 25-2505, Idaho Code, shall be extended indefinitely or until such time that the horse board deems it necessary to hold another referendum on the issue. If a majority of the referendum vote is against the three dollar ($3.00) assessment, provided in section 25-2505, Idaho Code, the assessment shall revert to remain at one dollar ($1.00). If the referendum receives a majority vote in favor of the increase, the assessment shall be increased to three dollars ($3.00) on the date the director of the department of agriculture announces the results of the referendum.

(2) After five (5) years from the effective date of the referendum required in subsection (1) of this section, and every five (5) years thereafter, a referendum on the continuation of the mandatory assessment to fund the Idaho horse board may be held at the petition of horse owners, or at the request of the Idaho horse board. The question shall be submitted to all horse owners who paid an assessment the year before the referendum and by owners who hold a lifetime brand inspection issued since July 1, 1993. The question shall be submitted by secret ballots upon which the words, "Do you favor the continuation of a mandatory assessment to fund the Idaho Horse Board?" are printed with a square before each of the printed words "YES" and "NO" with directions to insert an "X" mark in the square before the question which the voter favors. If a majority of the referendum vote is in favor of continuing the mandatory assessment, all of the provisions of chapter 25, title 25, Idaho Code, shall continue. If a majority of the referendum vote is against continuing the mandatory assessment, the assessment imposed in section 25-2505, Idaho Code, shall cease to be mandatory on the date the director of the department of agriculture announces the results of the referendum vote. The procedures necessary to initiate a referendum under this subsection are as follows:

(a) A referendum shall be held if the Idaho department of agriculture receives a petition requesting such a referendum signed by ten percent (10%) or more of horse owners who have had a brand inspection, in either of the two (2) immediate past years; or

(b) A referendum shall be held if the Idaho department of agricultu-
ture receives a written request for such referendum from the Idaho horse board.

(3) Any referendum held pursuant to subsections (1) and (2) of this section shall be conducted as follows:
   (a) Any referendum must be supervised by the Idaho department of agriculture.
   (b) Any referendum shall be held, and the result determined and declared by the director of the department of agriculture, and recorded in the office of the secretary of state.
   (c) Notice of any referendum must be given by the Idaho horse board in the manner determined by it set forth in subsection (1) of this section. The ballots must be prepared by the Idaho horse board and forwarded be made available to eligible owners. Returned ballots shall be delivered to the Idaho department of agriculture, main office.
   (d) The Idaho horse board shall pay the costs of any referendum.

Approved March 24, 2006.

CHAPTER 203
(H.B. No. 613, As Amended)

AN ACT
RELATING TO THE BOARD OF PHARMACY; AMENDING SECTION 37-2709, IDAHO CODE, TO PROVIDE FOR A COMMON DRUG NAME AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 37-2709, Idaho Code, be, and the same is hereby amended to read as follows:

37-2709. SCHEDULE III. (a) Schedule III shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.
   (b) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, (whether optical or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
   (1) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in schedule II which compounds, mixtures, or preparations were listed on August 25, 1971, as excepted compounds under C.F.R. Sec. 308.32, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances.
   (2) Benzedrine; 
   (3) Chlorphentermine; 
   (4) Clortermine;
(5) Phendimetrazine.
(c) Depressants. Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:
(1) Any compound, mixture or preparation containing:
   i. Amobarbital;
   ii. Secobarbital;
   iii. Pentobarbital or any salt thereof and any one (1) or more other active medicinal ingredients which are not listed in any schedule.
(2) Any suppository dosage form containing:
   i. Amobarbital;
   ii. Secobarbital;
   iii. Pentobarbital or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository.
(3) Any substance which contains any quantity of a derivative of barbituric acid or any salt thereof;
(4) Chlorhexadol;
(5) Any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under section 505 of the federal food, drug, and cosmetic act;
(6) Ketamine, its salts, isomers, and salts of isomers - 7285.
(7) Lysergic acid;
(8) Lysergic acid amide;
(9) Methyprylon;
(10) Sulfondiethylmethane;
(11) Sulfonmethane;
(12) Sulfonmethane;
(13) Tiletamine and zolazepam or any salt thereof.
(d) Nalorphine.
(e) Narcotic drugs.
(1) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:
   i. Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;
   ii. Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;
   iii. Not more than 300 milligrams of dihydrocodeinone, commonly known as hydrocodone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;
   iv. Not more than 300 milligrams of dihydrocodeinone, com-
monly known as hydrocodone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;
(v) Not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;
(vi) Not more than 300 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one (1) or more ingredients in recognized therapeutic amounts;
(vii) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;
(viii) Not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or per 100 grams with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(2) Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts, as set forth below:

(i) Buprenorphine.
(ii) [Reserved].

(f) Anabolic steroids and human growth hormones. Any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins and corticosteroids) that promotes muscle growth including any salt, ester or isomer of a drug or substance listed in this paragraph, if that salt, ester or isomer promotes muscle growth.

(1) Boldenone;
(2) Chlorotestosterone (4-chlorotestosterone);
(3) Chorionic gonadotropin;
(4) Clostebol;
(5) Dehydrochlormethyltestosterone;
(6) Dihydrotestosterone (4-dihydrotestosterone);
(7) Drostanolone;
(8) Ethylestrenol;
(9) Fluoxymesterone;
(10) Formebulone;
(11) Human growth hormones;
(12) Mesterolone;
(13) Methandienone;
(14) Methandrostanone;
(15) Methandriol;
(16) Methandrostenolone;
(17) Methenolone;
(18) Methyltestosterone;
(19) Mibolerone;
(20) Nandrolone;
(21) Norethandrolone;
(22) Oxandrolone;
(23) Oxymesterone;
(24) Oxymetholone;
(25) Stanolone;  
(26) Stanozolol;  
(27) Testolactone;  
(28) Testosterone;  
(29) Testosterone cypionate;  
(30) Testosterone enanthate;  
(31) Testosterone propionate;  
(32) Trenbolone.

Anabolic steroids that are expressly intended for administration through implants to cattle or other nonhuman species, and that are approved by the federal Food and Drug Administration for such use, shall not be classified as controlled substances under this act and shall not be governed by its provisions.

In addition to the penalties prescribed in article IV of the uniform controlled substances act, any person shall be guilty of a felony who prescribes, dispenses, supplies, sells, delivers, manufactures or possesses with the intent to prescribe, dispense, supply, sell, deliver or manufacture anabolic steroids or any other human growth hormone for purposes of enhancing performance in an exercise, sport or game or hormonal manipulation intended to increase muscle mass, strength or weight without a medical necessity as determined by a physician.

(g) Hallucinogenic substances.

(1) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in the federal Food and Drug Administration approved product - 7369. (Some other names for dronabinol: (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran -1-ol or (-)-delta-9-(trans)-tetrahydrocannabinol).

(h) Other substances. Unless specifically excepted, or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substance, including its salts:

(1) Butorphanol.

(i) The board may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsections (b) and (c) of this section from the application of all or any part of this act if the compound, mixture, or preparation contains one (1) or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

Approved March 24, 2006.

CHAPTER 204
(H.B. No. 634, As Amended)

AN ACT
RELATING TO EXPRESSIONS OF APOLOGY, CONDOLENCE AND SYMPATHY; AMENDING CHAPTER 2, TITLE 9, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 9-207, IDAHO CODE, TO PROVIDE THAT EXPRESSIONS OF APOLOGY, CONDOLENCE AND SYMPATHY MADE BY HEALTH CARE PROFESSIONALS SHALL BE INAD-
MISSIBLE IN CERTAIN CIRCUMSTANCES, TO PROVIDE FOR ADMISSIONIBILITY OF A STATEMENT OF FAULT AND TO DEFINE TERMS; AND TO PROVIDE AN EFFECTIVE DATE AND APPLICATION.

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

SECTION 1. That Chapter 2, Title 9, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 9-207, Idaho Code, and to read as follows:

9-207. ADMISSIONIBILITY OF EXPRESSIONS OF APOLOGY, CONDOLENCE AND SYM­PATHY. (1) In any civil action brought by or on behalf of a patient who experiences an unanticipated outcome of medical care, or in any arbitra­tion proceeding related to, or in lieu of, such civil action, all state­ments and affirmations, whether in writing or oral, and all gestures or conduct expressing apology, sympathy, commiseration, condolence, compas­sion, or a general sense of benevolence, including any accompanying explanation, made by a health care professional or an employee of a health care professional to a patient or family member or friend of a patient, which relate to the care provided to the patient, or which relate to the discomfort, pain, suffering, injury, or death of the patient as the result of the unanticipated outcome of medical care shall be inadmissible as evidence for any reason including, but not limited to, as an admission of liability or as evidence of an admission against interest.

(2) A statement of fault which is otherwise admissible and is part of or in addition to a statement identified in subsection (1) of this section shall be admissible.

(3) For the purposes of this section, unless the context otherwise requires:

(a) "Health care professional" means any person licensed, certified, or registered by the state of Idaho to deliver health care and any clinic, hospital, nursing home, ambulatory surgical center or other place in which health care is provided. The term also includes any professional corporation or other professional entity comprised of such health care professionals as permitted by the laws of Idaho.

(b) "Unanticipated outcome" means the outcome of a medical treat­ment or procedure that differs from an expected, hoped for or desired result.

SECTION 2. This act shall be in full force and effect and shall apply to civil actions filed on or after July 1, 2006.

Approved March 24, 2006.

CHAPTER 205
(H.B. No. 637)

AN ACT
RELATING TO PUBLIC WORKS; AMENDING SECTION 67-5708B, IDAHO CODE, TO SPECIFY THOSE REAL PROPERTIES AND IMPROVEMENTS THAT CONSTITUTE FACILITIES NEEDS RELATING TO THE DEPARTMENT OF WATER RESOURCES AND
THE WATER RESOURCE BOARD; AND AMENDING SECTION 67-5711, IDAHO CODE, TO PROVIDE AN EXEMPTION FROM SPECIFIED ADMINISTRATION AND REVIEW OF CERTAIN PUBLIC WORKS PROJECTS FOR THE DEPARTMENT OF WATER RESOURCES AND THE WATER RESOURCE BOARD AND TO PROVIDE THAT CERTAIN REQUIREMENTS APPLY TO THE DEPARTMENT OF WATER RESOURCES AND THE WATER RESOURCE BOARD RELATING TO THE LETTING OF CONTRACTS FOR PUBLIC WORKS.

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

SECTION 1. That Section 67-57088, Idaho Code, be, and the same is hereby amended to read as follows:

67-57088. FACILITIES NEEDS PLANNING. All state agencies shall prepare and maintain a five (5) year facilities needs plan and report such projected facilities needs at their annual budget hearings. State agencies shall prepare such five (5) year plan utilizing guidelines for facilities needs planning established by the department of administration. Any state agency that has unused, underused or available building space shall notify the department of administration and seek opportunities to co-occupy those facilities or any newly acquired or leased facilities with other state agencies.

Each state agency shall provide a copy of its facilities needs plan report to the department of administration. The department of administration shall prepare a five (5) year statewide facilities needs plan incorporating the facilities needs plans of the state agencies and report such facilities needs in its annual budget hearings.

For purposes of this section, the term "state agency" shall mean all state departments, agencies and institutions, excluding state institutions of higher education. For purposes of this section, the term "facilities needs" shall mean the state agency's need to own, operate or occupy real property and improvements including administrative office buildings, structures and parking lots, to assist it in its operation as a state agency. Facilities needs shall not include the ownership, operation or occupying of real property or improvements by a state agency where such ownership, operation or occupying is a function of the agency's purpose, such as real property and improvements, other than administrative office buildings, structures and parking lots described above under the jurisdiction and control of the Idaho transportation department, the department of fish and game, the department of parks and recreation, and the department of lands, and the department of water resources and water resource board.

The department may promulgate rules and prescribe necessary procedures to implement the provisions of this section.

SECTION 2. That Section 67-5711, Idaho Code, be, and the same is hereby amended to read as follows:

67-5711. CONSTRUCTION, ALTERATION, EQUIPPING, FURNISHING AND REPAIR OF PUBLIC BUILDINGS AND WORKS. The director of the department of administration, or his designee, of the state of Idaho, is authorized and empowered, subject to the approval of the permanent building fund advisory council, to provide or secure all plans and specifications for, to let all contracts for, and to have charge of and supervision of the con-
construction, alteration, equipping and furnishing, repair, maintenance other than preventive maintenance of any and all buildings, improvements of public works of the state of Idaho, the cost of which construction, alteration, equipping and furnishing, repair, maintenance other than preventive maintenance exceeds the sum of one hundred thousand dollars ($100,000) for labor, materials and equipment, which sum shall exclude design costs, bid advertising and related bidding expenses, provided, that the director or his designee, and permanent building fund advisory council shall, in the letting of contracts under this section, comply with the procedure for the calling of bids provided in section 67-5711C, Idaho Code; provided, however, that this section shall not apply to the construction, alteration, equipping or furnishing or repair or maintenance other than preventive maintenance of public buildings under the jurisdiction and control of the board of regents of the university of Idaho; provided further, that the bidding procedures required by this section and section 67-5711C, Idaho Code, shall not apply to performance contracts as provided in section 67-5711D, Idaho Code; provided further, that public works for the Idaho transportation department, the department of fish and game, the department of parks and recreation, and the department of lands, the department of water resources and water resource board, except for administrative office buildings and all associated improvements, are exempt from the provisions of this section that relate to the administration and review of such projects by the director of the department of administration or his designee and by the permanent building fund advisory council. This exemption shall not relieve the Idaho transportation department, the department of fish and game, the department of parks and recreation, the department of lands, and the department of water resources and water resource board in the letting of contracts for public works, from complying with the procedures of section 67-5711C, Idaho Code, related to the advertising and bidding for contracts. The permanent building fund advisory council may adopt rules consistent with existing law, including rules for a program of inspection and maintenance, to carry out the provisions of this chapter.

Approved March 24, 2006.

CHAPTER 206  
(H.B. No. 649)

AN ACT
RELATING TO WORKER'S COMPENSATION; AMENDING SECTION 72-102, IDAHO CODE, TO DEFINE ADDITIONAL TERMS; AMENDING SECTION 72-432, IDAHO CODE, TO PROHIBIT BALANCE BILLING; AMENDING SECTION 20-245, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 72-436, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 72-438, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 72-451, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE.

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

SECTION 1. That Section 72-102, Idaho Code, be, and the same is hereby amended to read as follows:
72-102. DEFINITIONS. Words and terms used in the worker's compensa-
tion law, unless the context otherwise requires, are defined in the sub-
sections which follow:
(1) "Alien" means a person who is not a citizen, a national or a 
resident of the United States or Canada. Any person not a citizen or 
national of the United States who relinquishes or is about to relinquish 
his residence in the United States shall be regarded as an alien.
(2) "Balance billing" means charging, billing, or otherwise 
attempting to collect directly from an injured employee payment for med-
ical services in excess of amounts allowable in compensable claims as 
provided by rules promulgated by the commission pursuant to section 
72-508, Idaho Code.
(3) "Beneficiary" means any person who is entitled to income bene-
fits or medical and related benefits under this law.
(4) "Burial expenses" means a sum, not to exceed six thousand dol-
lars ($6,000) for funeral and burial or cremation, together with the 
actual expenses of transportation of the employee's body to his place of 
residence within the United States or Canada.
(5) "Commission" means the industrial commission.
(6) "Community service worker" means:
(a) Any person who has been convicted of a criminal offense, any 
juvenile who has been found to be within the purview of chapter 5, 
title 20, Idaho Code, and who has been informally diverted under the 
provisions of section 20-511, Idaho Code, or any person or youth who 
has been diverted from the criminal or juvenile justice system and 
who performs a public service for any department, institution, office, college, university, authority, division, board, bureau, 
commission, council, or other entity of the state, or any city, 
county, school district, irrigation district or other taxing dis-
trict authorized to levy a tax or an assessment or any other politi-
cal subdivision or any private not-for-profit agency which has 
elected worker's compensation insurance coverage for such person; or 
(b) Parolees under department of correction supervision, probation-
ers under court order or department of correction supervision and 
offender residents of community work centers under the direction or 
order of the board of correction who are performing public service 
or community service work for any of the entities specified in para-
graph (56)(a) of this section other than the department of correc-
tion.
(7) "Compensation" used collectively means any or all of the 
income benefits and medical and related benefits and medical ser-
vices.
(8) "Custom farmer" means a person who contracts to supply oper-
ated equipment to a proprietor of a farm for the purpose of performing 
part or all of the activities related to raising or harvesting agricul-
tural or horticultural commodities.
(9) "Death" means death resulting from an injury or occupational 
disease.
(10) Dependency limitations.
(a) "Adopted" and "adoption" include cases where persons are 
treated as adopted as well as those of legal adoption unless legal 
adoption is specifically provided.
(b) "Brother" and "sister" include stepbrothers and stepsisters, half brothers and half sisters, and brothers and sisters by adoption.

(c) "Child" includes adopted children, posthumous children, and acknowledged illegitimate children, but does not include stepchildren unless actually dependent.

(d) "Grandchild" includes children of legally adopted children and children of stepchildren, but does not include stepchildren of children, stepchildren of stepchildren, or stepchildren of adopted children unless actually dependent.

(e) "Parent" includes stepparents and parents by adoption.

(f) "Grandparent" includes parents of parents by adoption, but does not include parents of stepparents, stepparents of parents, or stepparents of stepparents.

(101) "Disability," for purposes of determining total or partial temporary disability income benefits, means a decrease in wage-earning capacity due to injury or occupational disease, as such capacity is affected by the medical factor of physical impairment, and by pertinent nonmedical factors as provided in section 72-430, Idaho Code.

(102) "Employee" is synonymous with "workman" and means any person who has entered into the employment of, or who works under contract of service or apprenticeship with, an employer. It does not include any person engaged in any of the excepted employments enumerated in section 72-212, Idaho Code, unless an election as provided in section 72-213, Idaho Code, has been filed. Any reference to an employee who has been injured shall, where the employee is dead, include a reference to his dependents as herein defined, if the context so requires, or, where the employee is a minor or incompetent, to his committee or guardian or next friend.

(103) (a) "Employer" means any person who has expressly or impliedly hired or contracted the services of another. It includes contractors and subcontractors. It includes the owner or lessee of premises, or other person who is virtually the proprietor or operator of the business there carried on, but who, by reason of there being an independent contractor or for any other reason, is not the direct employer of the workers there employed. If the employer is secured, it means his surety so far as applicable.

(b) "Professional employer" means a professional employer as defined in chapter 24, title 44, Idaho Code.

(c) "Temporary employer" means the employer of temporary employees as defined in section 44-2403(7), Idaho Code.

d) "Work site employer" means the client of the temporary or professional employer with whom a worker has been placed.

(134) "Farm labor contractor" means any person or his agent or subcontractor who, for a fee, recruits and employs farm workers and performs any farm labor contracting activity.

(145) "Gender and number." The masculine gender includes the feminine and neuter; "husband" or "wife" includes "spouse"; the singular number includes plural and the plural the singular.

(156) "Income benefits" means payments provided for or made under the provisions of this law to the injured employee disabled by an injury or occupational disease, or his dependents in case of death, excluding medical and related benefits.

(167) "Independent contractor" means any person who renders service
for a specified recompense for a specified result, under the right to control or actual control of his principal as to the result of his work only and not as to the means by which such result is accomplished. For the purposes of worker's compensation law, a custom farmer is considered to be an independent contractor.

(188) "Injury" and "accident."
(a) "Injury" means a personal injury caused by an accident arising out of and in the course of any employment covered by the worker's compensation law.
(b) "Accident" means an unexpected, undesigned, and unlooked for mishap, or untoward event, connected with the industry in which it occurs, and which can be reasonably located as to time when and place where it occurred, causing an injury.
(c) "Injury" and "personal injury" shall be construed to include only an injury caused by an accident, which results in violence to the physical structure of the body. The terms shall in no case be construed to include an occupational disease and only such nonoccupational diseases as result directly from an injury.

(189) "Manifestation" means the time when an employee knows that he has an occupational disease, or whenever a qualified physician shall inform the injured worker that he has an occupational disease.

(1920) "Medical and related benefits" means payments provided for or made for medical, hospital, burial and other services as provided in this law other than income benefits.

(201) "Medical services" means medical, surgical, dental or other attendance or treatment, nurse and hospital service, medicines, apparatus, appliances, prostheses, and related services, facilities and supplies.

(222) "Occupational diseases."
(a) "Occupational disease" means a disease due to the nature of an employment in which the hazards of such disease actually exist, are characteristic of, and peculiar to the trade, occupation, process, or employment, but shall not include psychological injuries, disorders or conditions unless the conditions set forth in section 72-451, Idaho Code, are met.
(b) "Contracted" and "incurred," when referring to an occupational disease, shall be deemed the equivalent of the term "arising out of and in the course of" employment.
(c) "Disablement," except in the case of silicosis, means the event of an employee's becoming actually and totally incapacitated because of an occupational disease from performing his work in the last occupation in which injuriously exposed to the hazards of such disease, and "disability" means the state of being so incapacitated.
(d) "Disablement," in the case of silicosis, means the event of first becoming actually incapacitated, because of such disease, from performing any work in any remunerative employment; and "disability" means the state of being so incapacitated.
(e) "Silicosis" means the characteristic fibrotic condition of the lungs caused by the inhalation of silicon dioxide (SiO₂) dust.

(232) "Outworker" means a person to whom articles or materials are furnished to be treated in any way on premises not under the control or management of the person who furnished them.

(234) "Person" means the state or any political subdivision thereof, or any individual, partnership, firm, association, trust, corporation,
including the state insurance fund, or any representative thereof.

(245) "Physician" means medical physicians and surgeons, ophthalmologists, otolaryngologists, dentists, osteopaths, osteopathic physicians and surgeons, optometrists, podiatrists, chiropractic physicians, and members of any other healing profession licensed or authorized by the statutes of this state to practice such profession within the scope of their practice as defined by the statutes of this state and as authorized by their licenses.

(26) "Provider" means any person, firm, corporation, partnership, association, agency, institution, or other legal entity providing any kind of medical services related to the treatment of an injured employee which are compensable under Idaho's worker's compensation law.

(257) "Secretary" means the secretary of the commission.

(268) "Self-insurer" means an employer who has been authorized under the provisions of this law to carry his own liability to his employees covered by this law.

(279) "State" includes any state, district, commonwealth, zone or territory of the United States or any province of Canada.

(2830) "Surety" means any insurer authorized to insure or guarantee payment of worker's compensation liability of employers in any state; it also includes the state insurance fund, a self-insurer and an inter-insurance exchange.

(2931) "United States," when used in a geographic sense, means the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone and the territories of the United States.

(302) "Wages" and "wage earning capacity" prior to the injury or disablement from occupational disease mean the employee's money payments for services as calculated under section 72-419, Idaho Code, and shall additionally include the reasonable market value of board, rent, housing, lodging, fuel, and other advantages which can be estimated in money which the employee receives from the employer as part of his remuneration, and gratuities received in the course of employment from others than the employer. "Wages" shall not include sums which the employer has paid to the employee to cover any special expenses entailed on him by the nature of his employment.

(313) "Wages" and "wage earning capacity" after the injury or disablement from occupational disease shall be presumed to be the actual earnings after the injury or disablement, which presumption may be overcome by showing that those earnings do not fairly and reasonably represent wage earning capacity; in such a case wage earning capacity shall be determined in the light of all factors and circumstances which may affect the worker's capacity to earn wages.

(324) "Work experience student" means any person enrolled in the public school districts of this state and who, as part of his instruction, is enrolled in a class or program for academic credit and for which the student is employed by, or works for, a private or governmental entity. The student need not receive wages from the private or governmental entity in order to be classified as a work experience student.

(335) "Worker's compensation law" or "workmen's compensation law" means and includes the worker's compensation law of this state and any like or similar law of any state, United States, territory, or province of Canada.
SECTION 2. That Section 72-432, Idaho Code, be, and the same is hereby amended to read as follows:

72-432. MEDICAL SERVICES, APPLIANCES AND SUPPLIES -- REPORTS. (1) Subject to the provisions of section 72-706, Idaho Code, the employer shall provide for an injured employee such reasonable medical, surgical or other attendance or treatment, nurse and hospital services, medicines, crutches and apparatus, as may be reasonably required by the employee's physician or needed immediately after an injury or manifestation of an occupational disease, and for a reasonable time thereafter. If the employer fails to provide the same, the injured employee may do so at the expense of the employer.

(2) The employer shall also furnish necessary replacements or repairs of appliances and prostheses, unless the need therefor is due to lack of proper care by the employee. If the appliance or prosthesis is damaged or destroyed in an industrial accident, the employer, for whom the employee was working at the time of accident, will be liable for replacement or repair, but not for any subsequent replacement or repair not directly resulting from the accident.

(3) In addition to the income benefits otherwise payable, the employee who is entitled to income benefits shall be paid an additional sum in an amount as may be determined by the commission as by it deemed necessary, as a medical service, when the constant service of an attendant is necessary by reason of total blindness of the employee or the loss of both hands or both feet or the loss of use thereof, or by reason of being paralyzed and unable to walk, or by reason of other disability resulting from the injury or disease actually rendering him so helpless as to require constant attendance. The commission shall have authority to determine the necessity, character and sufficiency of any medical services furnished or to be furnished and shall have authority to order a change of physician, hospital or rehabilitation facility when in its judgment such change is desirable or necessary.

(4) (a) The employee upon reasonable grounds, may petition the commission for a change of physician to be provided by the employer; however, the employee must give written notice to the employer or surety of the employee's request for a change of physicians to afford the employer the opportunity to fulfill its obligations under this section. If proper notice is not given, the employer shall not be obligated to pay for the services obtained. Nothing in this section shall limit the attending physician from arranging for consultation, referral or specialized care without permission of the employer. Upon receiving such written notice, the employer shall render its written decision on the claimant's request within fourteen (14) days. If any dispute arises over the issue of a request for change of physician, the industrial commission shall conduct an expedited hearing to determine whether or not the request for change of physician should be granted, and shall render a decision within fourteen (14) days after the filing of the response by the employer.

(b) The industrial commission shall, no later than December 31, 1997, promulgate a rule for the expeditious handling of a petition for change of physician pursuant to this section. Nothing herein shall prevent the commission from making periodic amendments, as may become necessary, to any rule for a petition for change of physician.
(5) Any employee who seeks medical care in a manner not provided for in this section, or as ordered by the industrial commission pursuant to this section, shall not be entitled to reimbursement for costs of such care.

(6) No provider shall engage in balance billing as defined in section 72-102, Idaho Code.

(7) An employee shall not be responsible for charges of physicians, hospitals or other providers of medical services to whom he has been referred for treatment of his injury or occupational disease by an employer designated physician or by the commission, except for charges for personal items or extended services which the employee has requested for his convenience and which are not required for treatment of his injury or occupational disease.

(7a) The employer or surety shall not be subject to tort liability to any health care provider for complying with the provisions of this law.

(8) Nothing in this chapter shall be construed to require a workman who in good faith relies on Christian Science treatment by a duly accredited Christian Science practitioner to undergo any medical or surgical treatment, providing that neither he nor his dependents shall be entitled to income benefits of any kind beyond those reasonably expected to have been paid had he undergone medical or surgical treatment, and the employer or insurance carrier may pay for such spiritual treatment.

(9) The commission shall promulgate rules requiring physicians and other practitioners providing treatment to make regular reports to the commission containing such information as may be required by the commission. The commission shall promulgate such rules with the counsel, advice, cooperation and expertise of representatives of industry, labor, sureties and the legal and medical professions as well as institutions, hospitals and clinics having physical rehabilitation facilities.

(10) All medical information relevant to or bearing upon a particular injury or occupational disease shall be provided to the employer, surety, manager of the industrial special indemnity fund, or their attorneys or authorized representatives, the claimant, the claimant’s attorneys or authorized representatives, or the commission without liability on the part of the physician, hospital or other provider of medical services and information developed in connection with treatment or examination for an injury or disease for which compensation is sought shall not be privileged communication. When a physician or hospital willfully fails to make a report required under this section, after written notice by the commission that such report is due, the commission may order forfeiture of all or part of payments due for services rendered in connection with the particular case. An attorney representing the employer, surety, claimant or industrial special indemnity fund shall have the right to confer with any health care provider without the presence of the opposing attorney, representative or party, except for a health care provider who is retained only as an expert witness.

(11) Physicians or others providing services under this section shall assist in the rehabilitation program provided in section 72-501A, Idaho Code. They shall cooperate with specialists from the commission’s rehabilitation staff and with employer rehabilitation personnel in furthering the physical or vocational rehabilitation of the employee. The extension of total temporary disability benefits during retraining as authorized by section 72-450, Idaho Code, shall be the responsibility of
the commission, however, the physician shall inform the commission as soon as it is medically apparent that the employee may be unable to return to the job in which he sustained injury or occupational disease following treatment and maximum recovery.

(123) An injured employee shall be reimbursed for his expenses of necessary travel in obtaining medical care under this section. Reimbursement for transportation expenses, if the employee utilizes a private vehicle, shall be at the mileage rate allowed by the state board of examiners for state employees; provided however, that the employee shall not be reimbursed for the first fifteen (15) miles of any round trip, nor for traveling any round trip of fifteen (15) miles or less. Such distance shall be calculated by the shortest practical route of travel.

(134) An employee who leaves the locality where employed at the time of the industrial accident, or manifestation of an occupational disease, or the locality in which the employee is currently receiving medical treatment for the injury, shall give timely notice to the employer and surety of the employee's leaving the locality. The employer or surety may require the claimant to report to the treating physician for examination prior to leaving the locality, if practical. If an examination by the treating physician is not practical prior to leaving the locality, the employer or surety may assist in arranging an examination by an appropriate physician in the new locality. After receiving notice of relocation, the employer or surety shall have the same responsibility to furnish care as set forth in subsection (1) of this section.

SECTION 3. That Section 20-245, Idaho Code, be, and the same is hereby amended to read as follows:

20-245. OFFENDER LABOR ON STATE AND COMMUNITY SERVICE PROJECTS. (1) Offender labor on state projects. The state board of correction shall have the authority to use, under such rules as they may prescribe, the labor of offenders either within or without the walls of the penitentiary and on all public works done under the direct control of the state; that offender labor under control of the state board of correction shall manufacture and repair state highway signs, except for highways and projects where federal regulations would prohibit the use of signs so manufactured; provided, that so far as practicable any manufacture conducted within the walls shall be in connection with metal motor license plates, road or street signs furnished by the state or used by its municipalities, wearing apparel, articles and containers, for state use in the various departments or institutions of the state not for sale upon the open market. When any product produced by the offender shall be used by any department or other institution of the state, the current appropriation shall receive from such department or institution such reimbursement therefor as may be fixed by the state board of correction with the approval of the state board of examiners.

(2) Offender labor on community service projects. The state board of correction shall have the authority to assign parolees under department of correction supervision, probationers under court order or department of correction supervision and offender residents of community work centers under the direction or order of the board of correction, as community service workers as set forth in section 72-102(56), Idaho Code. The state board of correction shall have the authority to charge offenders performing community service work an hourly fee in an amount
to be determined by the state insurance fund, to be remitted to the state insurance fund for purposes of providing worker's compensation insurance for parolees, probationers or community work center residents assigned as community service workers.

SECTION 4. That Section 72-436, Idaho Code, be, and the same is hereby amended to read as follows:

72-436. BURIAL EXPENSES. If death results from the injury within four (4) years, the employer shall pay to the person entitled to compensation, or if there is none then to the personal representative of the deceased employee, the actual amount of burial expenses as defined in section 72-102(34), Idaho Code.

SECTION 5. That Section 72-438, Idaho Code, be, and the same is hereby amended to read as follows:

72-438. OCCUPATIONAL DISEASES. Compensation shall be payable for disability or death of an employee resulting from the following occupational diseases:

(1) Poisoning by lead, mercury, arsenic, zinc, or manganese, their preparations or compounds in any occupation involving direct contact therewith, handling thereof, or exposure thereto.

(2) Carbon monoxide poisoning or chlorine poisoning in any process or occupation involving direct exposure to carbon monoxide or chlorine in buildings, sheds, or inclosed places.

(3) Poisoning by methanol, carbon bisulphide, hydrocarbon distillates (naphthas and others) or halogenated hydrocarbons, or any preparations containing these chemicals or any of them, in any occupation involving direct contact therewith, handling thereof, or exposure thereto.

(4) Poisoning by benzol or by nitro, amido, or amino-derivatives of benzol (dinitro-benzol, anilin and others) or their preparations or compounds in any occupation involving direct contact therewith, handling thereof, or exposure thereto.

(5) Glanders in the care or handling of any equine animal or the carcass of any such animal.

(6) Radium poisoning by or disability due to radioactive properties of substances or to Roentgenray (X-ray) in any occupation involving direct contact therewith, handling thereof, or exposure thereto.

(7) Poisoning by or ulceration from chromic acid or bichromate of ammonium, potassium, or sodium or their preparations, or phosphorus preparations or compounds, in any occupation involving direct contact therewith, handling thereof, or exposure thereto.

(8) Ulceration due to tar, pitch, bitumen, mineral oil, or paraffin, or any compound product, or residue of any of these substances, in any occupation involving direct contact therewith, handling thereof, or exposure thereto.

(9) Dermatitis venenata, that is, infection or inflammation of the skin, furunculosis excepted, due to oils, cutting compounds, lubricants, liquids, fumes, gases, or vapors in any occupation involving direct contact therewith, handling thereof or exposure thereto.
(10) Anthrax occurring in any occupation involving the handling of or exposure to wool, hair, bristles, hides, skins, or bodies of animals either alive or dead.

(11) Silicosis in any occupation involving direct contact with, handling of, or exposure to dust of silicon dioxide ($SiO_2$).

(12) Cardiovascular or pulmonary or respiratory diseases of a paid fireman, employed by a municipality, village or fire district as a regular member of a lawfully established fire department, caused by over-exertion in times of stress or danger or by proximate exposure or by cumulative exposure over a period of four (4) years or more to heat, smoke, chemical fumes or other toxic gases arising directly out of, and in the course of, his employment.

(13) Acquired immunodeficiency syndrome (AIDS), AIDS related complexes (ARC), other manifestations of human immunodeficiency virus (HIV) infections, infectious hepatitis viruses and tuberculosis in any occupation involving exposure to human blood or body fluids.

Recognizing that additional toxic or harmful substances or matter are continually being discovered and used or misused, the above enumerated occupational diseases are not intended to be exclusive, but such additional diseases shall not include hazards which are common to the public in general and which are not within the meaning of section 72-102(2)(t)(a), Idaho Code, and the diseases enumerated in subsection (12) of this section pertaining to paid firemen shall not be subject to the limitations prescribed in section 72-439, Idaho Code.

SECTION 6. That Section 72-451, Idaho Code, be, and the same is hereby amended to read as follows:

72-451. PSYCHOLOGICAL ACCIDENTS AND INJURIES. Psychological injuries, disorders or conditions shall not be compensated under this title, unless the following conditions are met:

(1) Such injuries of any kind or nature emanating from the workplace shall be compensated only if caused by accident and physical injury as defined in section 72-102(158)(a) through (158)(c), Idaho Code, or only if accompanying an occupational disease with resultant physical injury, except that a psychological mishap or event may constitute an accident where: (i) it results in resultant physical injury so long as the psychological mishap or event meets the other criteria of this section, and (ii) it is readily recognized and identifiable as having occurred in the workplace, and (iii) it must be the product of a sudden and extraordinary event; and

(2) No compensation shall be paid for such injuries arising from conditions generally inherent in every working situation or from a personnel related action including, but not limited to, disciplinary action, changes in duty, job evaluation or employment termination; and

(3) Such accident and injury must be the predominant cause as compared to all other causes combined of any consequence for which benefits are claimed under this section; and

(4) Where psychological causes or injuries are recognized by this section, such causes or injuries must exist in a real and objective sense; and

(5) Any permanent impairment or permanent disability for psychological injury recognizable under the Idaho worker's compensation law must be based on a condition sufficient to constitute a diagnosis using the
terminology and criteria of the American psychiatric association's diagnostic and statistics manual of mental disorders, third edition revised, or any successor manual promulgated by the American psychiatric association, and must be made by a psychologist, or psychiatrist duly licensed to practice in the jurisdiction in which treatment is rendered; and

(6) Clear and convincing evidence that the psychological injuries arose out of and in the course of the employment from an accident or occupational disease as contemplated in this section is required.

Nothing herein shall be construed as allowing compensation for psychological injuries from psychological causes without accompanying physical injury.

This section shall apply to accidents and injuries occurring on or after July 1, 1994, and to causes of action for benefits accruing on or after July 1, 1994, notwithstanding that the original worker's compensation claim may have occurred prior to July 1, 1994.

Approved March 24, 2006.

CHAPTER 207
(H.B. No. 652)

AN ACT
RELATING TO ASSETS AND LIABILITIES OF INSURANCE COMPANIES; AMENDING SECTION 41-603, IDAHO CODE, TO PERMIT DOMESTIC INSURANCE COMPANIES TO TREAT GOODWILL, TRADE NAMES AND OTHER LIKE INTANGIBLE ASSETS AS ALLOWED ASSETS CONSISTENT WITH THE INDUSTRY'S ACCOUNTING STANDARDS IN ANY DETERMINATION OF THE FINANCIAL CONDITION OF AN INSURER AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 41-603, Idaho Code, be, and the same is hereby amended to read as follows:

41-603. ASSETS NOT ALLOWED. In addition to assets impliedly excluded by the provisions of section 41-601, Idaho Code, of this chapter, the following expressly shall not be allowed as assets in any determination of the financial condition of an insurer:

(1) Good will, trade names and other like intangible assets, except as expressly permitted and as prescribed by the national association of insurance commissioners' accounting practices and procedures.

(2) Advances to officers (other than policy loans) whether secured or not, and advances to employees, agents and other persons on personal security only.

(3) Stock of such insurer, owned by it, or any material equity therein or loans secured thereby, or any material proportionate interest in such stock acquired or held through the ownership by such insurer of an interest in another firm, corporation or business unit.

(4) Furniture, fixtures, furnishings, safes, vehicles (except as authorized in paragraph (12), section 41-601, Idaho Code), libraries, stationery, literature, and other equipment, machines, and supplies (other than data processing and accounting systems authorized under sec-
tion 41-601(11), Idaho Code), except in the case of title insurers such materials and plants as the insurer is expressly authorized to invest in under section 41-726, of this Idaho Code, and except, in the case of any insurer, such personal property as the insurer is permitted to hold pursuant to chapter 7, title 41, of this Idaho Code, or which is reasonab­ly necessary for the maintenance and operation of real estate law­fully acquired and held by the insurer other than real estate used by it for home office, branch office and similar purposes.

(5) The amount, if any, by which the aggregate book value of investments is carried in the ledger assets of the insurer exceeds the aggregate value thereof as determined under this code.

Approved March 24, 2006.

CHAPTER 208
(H.B. No. 653)

AN ACT
RELATING TO LIABILITY INSURANCE; AMENDING CHAPTER 16, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-1608A, IDAHO CODE, TO REQUIRE DEALERS AND VEHICLE MANUFACTURERS TO OBTAIN LIABILITY INSURANCE AS A CONDITION OF LICENSURE, TO REQUIRE MINIMUM COVERAGE AMOUNTS AND TO REQUIRE THAT CERTIFICATES OF INSURANCE BE FILED WITH THE IDAHO TRANSPORTATION DEPARTMENT.

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

SECTION 1. That Chapter 16, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-1608A, Idaho Code, and to read as follows:

49-1608A. DEALER AND MANUFACTURER LIABILITY INSURANCE. Every dealer and vehicle manufacturer shall, as a condition of issuance or renewal of a dealer or vehicle manufacturer license by the department, continuously provide insurance against loss resulting from liability imposed by law for bodily injury or death or damage to property suffered by any person arising out of the ownership, maintenance or use of vehicles owned by or under the control of the licensee and used in conduct of the business of the dealer or vehicle manufacturer. Such insurance shall be in an amount not less than twenty-five thousand dollars ($25,000) because of bodily injury to or death of one (1) person in any one (1) accident and, subject to the limit for one (1) person, in the amount of fifty thousand dollars ($50,000) because of bodily injury to or death of two (2) or more persons in any one (1) accident, and in the amount of fifteen thousand dollars ($15,000) because of injury to or destruction of property of others in any one (1) accident. The applicant for a dealer or vehicle manufacturer license shall maintain on file with the department a certificate of liability insurance, issued by an insurance or surety company authorized to do business in this state or by an authorized agent of such company, in such form as may be prescribed by the director of the department of insurance as set forth in section 49-1231, Idaho Code.

Approved March 24, 2006.
AN ACT
RELATING TO STATE INCOME TAX CREDITS; AMENDING SECTION 63-3029C, IDAHO CODE, TO PROVIDE AN INCOME TAX CREDIT FOR CHARITABLE CONTRIBUTIONS MADE BY A TAXPAYER TO A PROJECT SAFE PLACE LOCATED WITHIN THE STATE OF IDAHO; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

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

63-3029C. INCOME TAX CREDIT FOR CERTAIN CHARITABLE CONTRIBUTIONS -- LIMITATION. At the election of the taxpayer, there shall be allowed, subject to the applicable limitations provided herein, as a credit against the income tax imposed by chapter 30, title 63, Idaho Code, an amount equal to fifty percent (50%) of the aggregate amount of charitable contributions made by such taxpayer during the year to the anchor house or its foundation, to the children's home society of Idaho, inc., to the Idaho youth ranch or its foundation, to kinderhaven or its foundation, to the women's and children's alliance or its foundation, to children's village, inc. or its foundation, to gem youth services or its foundation, to the hope house, inc. or its foundation, to the north Idaho children's home or its foundation, to a project safe place located within the state of Idaho, to a center for independent living located within the state of Idaho, to a nonprofit substance abuse center licensed by the department of health and welfare, or to a nonprofit rehabilitation facility located within the state of Idaho or its foundation.

(1) In the case of a taxpayer other than a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed twenty percent (20%) of such taxpayer's total income tax liability imposed by section 63-3024, Idaho Code, for the year, or one hundred dollars ($100), whichever is less.

(2) In the case of a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed ten percent (10%) of such corporation's total income or franchise tax liability imposed by sections 63-3025 and 63-3025A, Idaho Code, for the year, or five hundred dollars ($500), whichever is less.

(3) For the purposes of this section, "center for independent living" shall mean a private, nonprofit, nonresidential organization in which at least fifty-one percent (51%) of the principal governing board, management and staff are individuals with disabilities and that:

(a) Is designed and operated within a local community by individuals with disabilities;
(b) Provides an array of independent living services and programs; and
(c) Is cross-disability.

(4) For the purposes of this section, "nonprofit rehabilitation facility" means only a facility that is accredited by the commission on
accreditation of rehabilitation facilities or another accreditation organization recognized by the state of Idaho.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2006.

Approved March 24, 2006.

CHAPTER 210
(H.B. No. 696)

AN ACT
RELATING TO DEVELOPMENT OF ENERGY SYSTEMS BY COUNTIES; AMENDING SECTION 31-869, IDAHO CODE, TO AUTHORIZE COUNTIES TO ESTABLISH, CREATE, DEVELOP, ACQUIRE, OWN, MAINTAIN AND OPERATE OR CONTRACT FOR THE OWNERSHIP, OPERATION AND MAINTENANCE OF CERTAIN ELECTRICAL GENERATION PLANTS NOT TO EXCEED TWENTY-FIVE MEGAWATTS IN CAPACITY WHICH USE AS A FUEL SOURCE LANDFILL GAS, WOOD WASTE OR OTHER BIOMASS FUELS, TO PROVIDE THAT ALL THE ELECTRICITY PRODUCED FROM THE ELECTRICAL GENERATION FACILITY SHALL BE SOLD BY THE COUNTY AT WHOLESALE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 31-869, Idaho Code, be, and the same is hereby amended to read as follows:

31-869. DEVELOPMENT OF ENERGY SYSTEMS. The boards of county commissioners of their respective counties are empowered to establish, create, develop, own, maintain and operate or contract for the ownership, operation and maintenance of energy facilities as follows:

(1) Geothermal energy systems for heating for the benefit of the county and the residents of the county.

(2) Electrical generation plants not to exceed twenty-five (25) megawatts in capacity which use as a fuel source landfill gas, wood waste or other biomass fuels. All the electricity produced from the electrical generation facility shall be sold by the county at wholesale.

Approved March 24, 2006.

CHAPTER 211
(H.B. No. 706)

AN ACT
RELATING TO SALES TAX; AMENDING SECTION 63-36220, IDAHO CODE, TO EXEMPT FROM TAXATION SALES TO OR PURCHASES BY NONPROFIT ORGANIZATIONS OFFERING FREE DENTAL CLINIC SERVICES TO CHILDREN AND TO MAKE A TECHNICAL CORRECTION; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 63-36220, Idaho Code, be, and the same is hereby amended to read as follows:

63-36220. EXEMPT PRIVATE AND PUBLIC ORGANIZATIONS. (1) There are exempted from the taxes imposed by this chapter:

(a) Sales to or purchases by hospitals, health-related entities, educational institutions, forest protective associations and canal companies which are nonprofit organizations; and

(b) Donations to, sales to, and purchases by the Idaho Foodbank Warehouse, Inc.; and

(c) Donations to, sales to, and purchases by food banks or soup kitchens of food or other tangible personal property used by food banks or soup kitchens in the growing, storage, preparation or service of food, but not including motor vehicles or trailers; and

(d) Sales of clothes to, donations of clothes to, and purchases of clothes by nonsale clothiers; and

(e) Sales to or purchases by centers for independent living; and

(f) Sales to or purchases by the state of Idaho and its agencies and its political subdivisions; and

(g) Sales to or purchases by volunteer fire departments or licensed emergency medical service agencies; and

(h) Sales to or purchases by a qualifying senior citizen center; and

(i) Sales to or purchases by the Blind Services Foundation, Inc.; and

(j) Sales to or purchases by nonprofit organizations offering free dental clinic services to children.

(2) As used in this section, these words shall have the following meanings:

(a) "Educational institution" shall mean nonprofit colleges, universities, public charter schools organized pursuant to chapter 52, title 33, Idaho Code, and other primary and secondary schools, the income of which is devoted solely to education and in which systematic instruction in the usual branches of learning is given. This definition does not include schools primarily teaching business, dancing, dramatics, music, cosmetology, writing, gymnastics, exercise and other special accomplishments nor parent-teacher associations, parent groups, alumni or other auxiliary organizations with purposes related to the educational function of an institution or collective group of institutions.

(b) "Hospital" shall include nonprofit institutions licensed by the state for the care of ill persons. It shall not extend to nursing homes or similar institutions.

(c) "Health-related entities" shall mean the Idaho Cystic Fibrosis Foundation, Idaho Epilepsy League, Idaho Lung Association, March of Dimes, American Cancer Society, Mental Health Association, The Arc, The Children's Home Society of Idaho, American Heart Association, Idaho Ronald McDonald House, United Cerebral Palsy, Arthritis Foundation, Muscular Dystrophy Foundation, National Multiple Sclerosis Society, Rocky Mountain Kidney Association, American Diabetes Association, Easter Seals, Idaho Community Action Agencies, Idaho Primary Care Association and community health centers who are members
of the Idaho Primary Care Association, the Idaho Diabetes Youth Programs, Special Olympics Idaho, the Idaho Women's and Children's Alliance, and the Family Services Alliance of Southeast Idaho, together with said entities' local or regional chapters or divisions.

(d) "Canal companies" shall include nonprofit corporations which are incorporated solely for the purpose of operating and maintaining and are engaged solely in operation and maintenance of dams, reservoirs, canals, lateral and drainage ditches, pumps or pumping plants.

(e) "Forest protective associations" shall mean associations whose purpose is the furnishing, operating and maintaining of a protective system for the detection, prevention and suppression of forest or range fires. Forest protective associations shall include only those associations with which the state of Idaho has contracted or become a member of pursuant to chapter 1, title 38, Idaho Code.

(f) "Food banks or soup kitchens" shall mean any nonprofit corporation or association, other than the Idaho Foodbank Warehouse, Inc., one of whose regular activities is the furnishing or providing of food or food products to others without charge.

(g) "Nonsale clothier" shall mean any nonprofit corporation or association one of whose primary purposes is the furnishing or providing of clothes to others without charge.

(h) "Clothes" shall mean garments in general, designed or intended to be worn by humans and shall include footwear in addition to wearing apparel.

(i) "Center for independent living" shall mean a private, nonprofit, nonresidential organization in which at least fifty-one percent (51%) of the principal governing board, management and staff are individuals with disabilities and that:

1. Is designed and operated within a local community by individuals with disabilities;
2. Provides an array of independent living services and programs; and
3. Is cross-disability.

(j) "Political subdivision" means:

1. A governmental organization which:
   1. Embraces a certain territory,
   2. Is organized for public advantage and not in the interest of private individuals or classes,
   3. Has been delegated functions of government, and
   4. Has the statutory power to levy taxes; or
2. A public health district created by section 39-408, Idaho Code; or
3. A soil conservation district as defined in section 22-2717, Idaho Code; or
4. A drainage district created pursuant to chapter 29, title 42, Idaho Code; or
5. An irrigation district created pursuant to title 43, Idaho Code; or
6. A state grazing board created by section 57-1204, Idaho Code; or
7. A water measurement district created pursuant to section 42-705 or 42-706, Idaho Code; or
(viii) A ground water management district created pursuant to chapter 51, title 42, Idaho Code.

(k) "Agency of the state of Idaho" shall mean an office or organization created by the constitution or statutes of this state and constituting a component part of the executive, judicial or legislative branch of the government of this state.

(l) "Volunteer fire department" means an entity exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code and which primarily provides fire protection, or fire prevention on a not-for-profit basis to surrounding residents.

(m) "Licensed emergency medical service agency (EMS)" means an emergency medical service licensed by the EMS bureau of the department of health and welfare and which is exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code and which provides emergency medical services on a not-for-profit basis to surrounding residents.

(n) "Qualifying senior citizen center" means an entity exempt from income tax pursuant to section 501(c)(3) of the Internal Revenue Code and which is a community facility for the organization and provision of a broad spectrum of services, which shall include provision of health (including mental health), social, nutritional, and educational services and the provision of facilities for recreational activities for older individuals.

(3) The exemption granted by subsection (1)(f) of this section does not include any association or other organization whose members are political subdivisions or state agencies unless the organization is expressly created under the joint powers provision of sections 67-2328 through 67-2333, Idaho Code.

(4) The exemptions granted by subsection (1) of this section do not include the use of tangible personal property by a contractor used to improve real property of an exempt entity when such use is within the definition provided by section 63-3615(b), Idaho Code, whether the use tax liability is included in a contract total or stated separately in a contract.

(5) There is exempted from the taxes imposed in this chapter, the renting of a place to sleep to an individual by the Idaho Ronald McDonald House.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to July 1, 2005.

Approved March 24, 2006.

CHAPTER 212
(H.B. No. 722)

AN ACT
RELATING TO INSURANCE TRADE PRACTICES AND FRAUDS; AMENDING SECTION 41-1314, IDAHO CODE, TO PROVIDE THAT A LIFE INSURER, PROPERTY INSURER OR CASUALTY INSURER, OR PRODUCERS WHO ARE MARKETING LIFE INSURANCE, PROPERTY INSURANCE OR CASUALTY INSURANCE, SHALL NOT BE
PROHIBITED FROM PROVIDING TO A POLICYHOLDER OR PROSPECTIVE POLICYHOLDER OF LIFE, PROPERTY OR CASUALTY INSURANCE, INDUCEMENTS OF AN AGGREGATE VALUE OF FIFTY DOLLARS OR LESS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 41-1314, Idaho Code, be, and the same is hereby amended to read as follows:

41-1314. REBATES -- ILLEGAL INDUCEMENTS. (1) Except as otherwise expressly provided by law, no person shall knowingly make, permit to be made, or offer to make any contract or of insurance, or of annuity, or agreement as to such contract, other than as plainly expressed in the contract issued thereon, or pay or allow, or give or offer to pay, allow, or give, directly or indirectly, as inducement to such insurance or annuity or in connection therewith, any rebate of premiums payable on the contract, or of any agent's, solicitor's, or broker's commission related thereto, or any special favor or advantage in the dividends or other benefits thereon, or any paid employment or contract for services of any kind, or any valuable consideration or inducement whatever not specified in the contract; or directly or indirectly give, or sell, or purchase or offer or agree to give, sell, purchase, or allow as inducement to such insurance or annuity or in connection therewith, any rebate of premiums payable on the contract, or of any form or nature promising returns and profits, or any stocks, bonds, or other securities, or interest present or contingent therein or as measured thereby, of any insurer or other person, or any dividends or profits accrued or to accrue thereon; or offer, promise or give anything of value whatsoever not specified in the contract. Nor shall any insured, annuitant, or policyholder or employee thereof, or prospective insured, annuitant or policyholder, or employee thereof, knowingly accept or receive, directly or indirectly, any such prohibited contract, agreement, rebate, advantage, employment, or other inducement.

(2) Nothing in this section shall be construed as prohibiting the payment of commissions or other compensation to duly licensed agents, solicitors, or brokers, or as prohibiting any insurer from allowing or returning to its participating policyholders, members or subscribers, the usual and ordinary dividends, savings, or unabsorbed premium deposits.

(3) Nothing in this section shall be construed as prohibiting a life insurer, property insurer or casualty insurer, or producers who are marketing life insurance, property insurance or casualty insurance, from providing to a policyholder or prospective policyholder of life, property or casualty insurance, any prizes, goods, wares, merchandise, articles or property of an aggregate value of fifty dollars ($50.00) or less.

(4) Extension of credit for the payment of premium beyond the customary premium payment period without charging and collecting interest at a reasonable rate per annum on the amount of credit so extended and for the duration of such credit is prohibited under this section.

Approved March 24, 2006.
CHAPTER 213  
(H.B. No. 724)  

AN ACT  
RELATING TO LOCAL LAND USE PLANNING; AMENDING SECTION 67-6506, IDAHO CODE, TO STRIKE AN EXCEPTION ALLOWING MEMBERS OF GOVERNING BOARDS TO TESTIFY OR PRESENT EVIDENCE IN PUBLIC HEARINGS OR SIMILAR PUBLIC PROCESSES IN WHICH THEY HAVE ACKNOWLEDGED NONPARTICIPATION IN THE MATTER DUE TO A CONFLICT OF INTEREST.

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

SECTION 1. That Section 67-6506, Idaho Code, be, and the same is hereby amended to read as follows:

67-6506. CONFLICT OF INTEREST PROHIBITED. A governing board creating a planning, zoning, or planning and zoning commission, or joint commission shall provide that the area and interests within its jurisdiction are broadly represented on the commission. A member or employee of a governing board, commission, or joint commission shall not participate in any proceeding or action when the member or employee or his employer, business partner, business associate, or any person related to him by affinity or consanguinity within the second degree has an economic interest in the procedure or action. Any actual or potential interest in any proceeding shall be disclosed at or before any meeting at which the action is being heard or considered. For purposes of this section the term "participation" means engaging in activities which constitute deliberations pursuant to the open meeting act. No member of a governing board or a planning and zoning commission with a conflict of interest shall participate in any aspect of the decision-making process concerning a matter involving the conflict of interest. A member with a conflict of interest shall not be prohibited from testifying at, or presenting evidence to, a public hearing or similar public process after acknowledging nonparticipation in the matter due to a conflict of interest. A knowing violation of this section shall be a misdemeanor.

Approved March 24, 2006.

CHAPTER 214  
(H.B. No. 734)  

AN ACT  
RELATING TO MENTAL ILLNESS; AMENDING SECTION 39-4501, IDAHO CODE, TO REMOVE LANGUAGE REFERENCING MEDICAL ATTENDANCE UPON THE MENTALLY ILL; AMENDING SECTION 66-317, IDAHO CODE, TO REVISE THE DEFINITION FOR "VOLUNTARY PATIENT" AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 66-318, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO THE AUTHORITY TO ADMIT VOLUNTARY PATIENTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 66-324, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO THE AUTHORITY TO RECEIVE INVOLUNTARY PATIENTS; AMENDING SECTION 66-326, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO A
DETENTION WITHOUT A HEARING AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 66-341, IDAHO CODE, TO REVISE EXEMPTIONS FROM LIABILITY; AND AMENDING SECTION 66-601, IDAHO CODE, TO REVISE A CODE REFERENCE.

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

SECTION 1. That Section 39-4501, Idaho Code, be, and the same is hereby amended to read as follows:

39-4501. PURPOSES — APPLICATION. (1) The primary purposes of this chapter are:
   (a) To provide and codify Idaho law concerning consent for the furnishing of hospital, medical, dental or surgical care, treatment or procedures, and concerning what constitutes an informed consent for such care, treatment or procedures; and
   (b) To provide certainty and clarity in the law of medical consent in the furtherance of high standards of health care and its ready availability in proper cases.

   (2) Nothing in this chapter shall be deemed to amend or repeal the provisions of chapter 3, title 66, Idaho Code, as those provisions pertain to medical-attendance-upon or hospitalization of the mentally ill, nor the provisions of chapter 6, title 18, Idaho Code, pertaining to the provision of examinations, prescriptions, devices and informational materials regarding prevention of pregnancy or pertaining to therapeutic abortions and consent to the performance thereof.

   (3) Nothing in this chapter shall be construed to permit or require the provision of health care for a patient in contravention of the patient’s stated or implied objection thereto upon religious grounds nor shall anything in this chapter be construed to require the granting of permission for or on behalf of any patient who is not able to act for himself by his parent, spouse or guardian in violation of the religious beliefs of the patient or the patient's parent or spouse.

SECTION 2. That Section 66-317, Idaho Code, be, and the same is hereby amended to read as follows:

66-317. DEFINITIONS. As used in this chapter, terms shall have the following meanings:
   (a1) "Department director" means the director of the state department of health and welfare.
   (b2) "Voluntary patient" means an individual admitted to a facility for evaluation pursuant to section 18-211 or 20-520, Idaho Code, or admitted to a facility for observation, diagnosis, evaluation, care or treatment pursuant to section 66-318, Idaho Code.
   (c3) "Involuntary patient" means an individual committed pursuant to section 18-212, 66-329 or 66-1201, Idaho Code, or committed pursuant to section 16-1619 or 20-520, Idaho Code, and admitted to a facility for the treatment of minors.
   (d4) "Licensed physician" means an individual licensed under the laws of this state to practice medicine or a medical officer of the government of the United States while in this state in the performance of his official duties.
(e5) "Designated examiner" means a psychiatrist, psychologist, psychiatric nurse, or social worker and such other mental health professionals as may be designated in accordance with rules promulgated pursuant to the provisions of chapter 52, title 67, Idaho Code, by the department of health and welfare. Any person designated by the department director will be specially qualified by training and experience in the diagnosis and treatment of mental or mentally related illnesses or conditions.

(f6) "Dispositioner" means a designated examiner employed by or under contract with the department of health and welfare and designated by the department director to determine the appropriate location for care and treatment of involuntary patients.

(g7) "Facility" means any public or private hospital, sanatorium, institution, mental health center or other organization designated in accordance with rules adopted by the board of health and welfare as equipped to initially hold, evaluate, rehabilitate or to provide care or treatment, or both, for the mentally ill.

(h8) "Lacks capacity to make informed decisions about treatment" means the inability, by reason of mental illness, to achieve a rudimentary understanding after conscientious efforts at explanation of the purpose, nature, and possible significant risks and benefits of treatment.

(i9) "Inpatient treatment facility" means a facility in which an individual receives medical and mental treatment for not less than a continuous twenty-four (24) hour period.

(j10) "Supervised residential facility" means a facility, other than the individual's home, in which the individual lives and in which there lives, or are otherwise on duty during the times that the individual's presence is expected, persons who are employed to supervise, direct, treat or monitor the individual.

(k11) "Likely to injure himself or others" means either:

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

(b) A substantial risk that physical harm will be inflicted by the proposed patient upon another as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm.

(l12) "Mentally ill" means a person, who as a result of a substantial disorder of thought, mood, perception, orientation, or memory, which grossly impairs judgment, behavior, capacity to recognize and adapt to reality, requires care and treatment at a facility.

(ml3) "Gravely disabled" means a person who, as the result of mental illness, is in danger of serious physical harm due to the person's inability to provide for any of his basic needs for nourishment, or essential medical care, or shelter or safety.

(n14) "Outpatient commitment" means a court order directing a person to comply with specified mental health treatment requirements, not involving the continuous supervision of a person in an inpatient setting, that are reasonably designed to alleviate or to reduce a person's illness or disability, or to maintain or prevent deterioration of the person's mental or emotional functioning. The specified requirements may include, but need not be limited to, taking prescribed medication, reporting to a facility to permit monitoring of the person's condition,
or participating in individual or group therapy or in educational or vocational programs. Outpatient commitment may be up to one (1) year.

(c) "Protection and advocacy system" means the agency designated by the governor as the state protection and advocacy system pursuant to 42 U.S.C. section 15043 and 42 U.S.C. sections 10801 et seq.

SECTION 3. That Section 66-318, Idaho Code, be, and the same is hereby amended to read as follows:

66-318. AUTHORITY TO ADMIT VOLUNTARY PATIENTS -- DENIAL OF ADMISSION. (a) The director of any facility may admit as a voluntary patient the following persons for observation, diagnosis, evaluation, care or treatment of mental illness:

1. Any person who is eighteen (18) years of age or older;
2. Any individual fourteen (14) to eighteen (18) years of age who may apply to be admitted for observation, diagnosis, evaluation, and care or treatment and the facility director will notify the parent, parents or guardian of the individual of the admission; a parent or guardian may apply for the individual's release and the facility director will release the patient within three (3) days, excluding Saturdays, Sundays and legal holidays, of the application for discharge, unless the time period for diagnosis, evaluation, care or treatment is extended pursuant to section 66-320, Idaho Code;
3. Any emancipated minor;
4. Any individual under fourteen (14) years of age upon application of the individual's parent or guardian, provided that admission to an inpatient facility shall require a recommendation for admission by a designated examiner;
5. Any individual who lacks capacity to make informed decisions about treatment upon application of the individual's guardian; provided that admission to an inpatient facility shall require a recommendation for admission by a designated examiner; or
6. Any individual confined for examination pursuant to section 18-211 or 20-520, Idaho Code.

(b) The director of any facility must refuse admission to any applicant under this section whenever:
1. The applicant is determined not to be in need of observation, diagnosis, evaluation, care or treatment at the facility;
2. The applicant lacks capacity to make informed decisions about treatment unless the application is made by a guardian with authority to consent to treatment; or
3. The applicant's welfare or the welfare of society, or both, are better protected by the provisions of section 66-329, Idaho Code.

SECTION 4. That Section 66-324, Idaho Code, be, and the same is hereby amended to read as follows:

66-324. AUTHORITY TO RECEIVE INVOLUNTARY PATIENTS. The director of any facility is authorized to receive therein for observation, diagnosis, evaluation, care and treatment any individual:
(1) Committed to the department director pursuant to sections 16-1619, 20-520, 18-212, 18-214 or 66-329, or Idaho Code;
(2) Transferred pursuant to section 66-1201, Idaho Code; or
(3) Detained or transferred pursuant to section 66-326, Idaho Code.

SECTION 5. That Section 66-326, Idaho Code, be, and the same is hereby amended to read as follows:

66-326. DETENTION WITHOUT HEARING. (a1) No person shall be taken into custody or detained as an alleged emergency patient for observation, diagnosis, evaluation, care or treatment of mental illness unless and until the court has ordered such apprehension and custody under the provisions outlined in section 66-329, Idaho Code; provided, however, that a person may be taken into custody by a peace officer and placed in a facility, or the person may be detained at a hospital at which the person presented or was brought to receive medical or mental health care, if the peace officer or a physician medical staff member of such hospital has reason to believe that the person is gravely disabled due to mental illness or the person's continued liberty poses an imminent danger to that person or others, as evidenced by a threat of substantial physical harm; provided, under no circumstances shall the proposed patient be detained in a nonmedical unit used for the detention of individuals charged with or convicted of penal offenses. Whenever a person is taken into custody or detained under this section without court order, the evidence supporting the claim of grave disability due to mental illness or imminent danger must be presented to a duly authorized court within twenty-four (24) hours from the time the individual was placed in custody or detained.

(b2) If the court finds the individual to be gravely disabled due to mental illness or imminently dangerous under subsection (a1) of this section, the court shall issue a temporary custody order requiring the person to be held in a facility, and requiring an examination of the person by a designated examiner within twenty-four (24) hours of the entry of the order of the court. Under no circumstances shall the proposed patient be detained in a nonmedical unit used for the detention of individuals charged with or convicted of penal offenses.

(c3) Where an examination is required under subsection (b2) of this section, the designated examiner shall make his findings and report to the court within twenty-four (24) hours of the examination.

(d4) If the designated examiner finds, in his examination under this section, that the person is mentally ill, and either is likely to injure himself or others or is gravely disabled due to mental illness, the prosecuting attorney shall file, within twenty-four (24) hours of the examination of the person, a petition with the court requesting the patient's detention pending commitment proceedings pursuant to the provisions of section 66-329, Idaho Code. Upon the receipt of such a petition, the court shall order his detention to await hearing which shall be within five (5) days (including Saturdays, Sundays and legal holidays) of the detention order. If no petition is filed within twenty-four (24) hours of the designated examiner's examination of the person, the person shall be released from the facility.

(e5) Any person held in custody under the provisions of this section shall have the same protection and rights which are guaranteed to a person already committed to the department director. Upon taking a per-
son into custody, notice shall be given to the person's immediate relatives of the person's physical whereabouts and the reasons for detaining or taking the person into custody.

(6) Nothing in this section shall preclude a hospital from transferring a person who has been detained under this section to another facility that is willing to accept the transferred individual for purposes of observation, diagnosis, evaluation, care or treatment.

SECTION 6. That Section 66-341, Idaho Code, be, and the same is hereby amended to read as follows:

66-341. EXEMPTIONS FROM LIABILITY. No agency, public or private facility, nor an employee of a public or private facility, nor the superintendent, professional person in charge, or attending staff of any such facility, nor any public official performing functions necessary to the administration of this chapter, nor a peace officer responsible for detaining or transporting a person pursuant to this chapter, shall be civilly or criminally liable for detaining, failing to detain, diagnosing, transporting, treating or releasing a person pursuant to this chapter; provided that such duties were performed according to the procedures of this chapter in good faith and without gross negligence.

SECTION 7. That Section 66-601, Idaho Code, be, and the same is hereby amended to read as follows:

66-601. DEFINITIONS. For the purposes of this chapter, the following definitions shall apply:

(1) "Agent" means an adult properly appointed to make mental health treatment decisions for a principal under a declaration for mental health treatment and also means an alternative agent.

(2) "Attending physician" means the licensed physician who has primary responsibility for the care and treatment of the declarant.

(3) "Facility" means:
   (a) A designated treatment facility, as defined in section 66-317(g), Idaho Code;
   (b) A nursing home; or
   (c) An assisted living home.

(4) "Incapable" means that, by order of a court in a guardianship proceeding under section 66-322, Idaho Code, or in the opinion of two physicians that include a psychiatrist, or in the opinion of a physician and a professional mental health clinician, a person's ability to receive and evaluate information effectively or communicate decisions is impaired to such an extent that the person currently lacks the capacity to make mental health treatment decisions.

(5) "Mental health treatment" means electroconvulsive treatment, treatment with psychotropic medication or short-term admission to a treatment facility for a period not to exceed seventeen (17) days.

(6) "Mental illness" means a substantial disorder of thought, mood, perception, orientation or memory, which grossly impairs judgment, behavior, or capacity to recognize and adapt to reality.

(7) "Professional mental health clinician" means an individual who holds an earned master's level or higher degree in social work from an accredited program; a registered nurse with an earned master's degree or higher degree in nursing with a specialization in psychiatric or mental
health nursing from an accredited program; an individual who holds an earned master's level or higher degree in psychology from an accredited program; or an individual who holds an earned master's level or higher degree in counseling, marriage and family therapy or other closely related degree. Additionally, professionals in each category must have at least two (2) years experience in a clinical mental health setting.

Approved March 24, 2006.

CHAPTER 215
(H.B. No. 788)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR PSYCHIATRIC HOSPITALIZATION IN THE COMMUNITY HOSPITALIZATION PROGRAM FOR FISCAL YEAR 2006; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR PSYCHIATRIC HOSPITALIZATION IN THE STATE HOSPITAL SOUTH PROGRAM FOR FISCAL YEAR 2006; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 396, Laws of 2005, there is hereby appropriated to the Department of Health and Welfare for psychiatric hospitalization in the Community Hospitalization Program the following amount to be expended according to the designated expense class from the listed fund for the period July 1, 2005, through June 30, 2006:
 FOR:  
Trustee and Benefit Payments $1,718,700
FROM:  
General Fund $1,718,700

SECTION 2. In addition to the appropriation made in Section 4, Chapter 396, Laws of 2005, there is hereby appropriated to the Department of Health and Welfare for psychiatric hospitalization in the State Hospital South Program the following amount to be expended according to the designated expense class from the listed fund for the period July 1, 2005, through June 30, 2006:
 FOR:  
Personnel Costs $980,000
FROM:  
Cooperative Welfare Fund (Dedicated) $980,000

SECTION 3. GENERAL FUND TRANSFERS. As appropriated, the State Controller shall make transfers from the General Fund to the Cooperative Welfare Fund, periodically, as requested by the director of the Department of Health and Welfare and approved by the Board of Examiners.
SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 24, 2006.

CHAPTER 216
(H.B. No. 412)

AN ACT
RELATING TO BRUCELLOSIS; AMENDING SECTION 25-610, IDAHO CODE, TO REVISE VETERINARIAN DUTIES RELATING TO THE BRANDING OF POSITIVE REACTORS.

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

SECTION 1. That Section 25-610, Idaho Code, be, and the same is hereby amended to read as follows:

25-610. BRANDING OF POSITIVE REACTORS -- REVOKING ACCREDITATION OF VETERINARIANS FOR NONCOMPLIANCE. It shall further be the duty of each veterinarian in the state of Idaho, upon the receipt of such brucellosis test chart from the laboratory, to brand clearly or have branded in his presence with a letter "BU" not less than three (3) inches high, upon the left jaw; in accordance with the U.S. department of agriculture's publication entitled "brucellosis eradication: uniform methods and rules, effective October 1, 2003," and place an official brucellosis reactor tag in the left ear of any animals which show a positive reaction to the test in accordance with the code of federal regulation definition for a reactor. A statement that such reactors have been so branded will be made on the said chart and a copy mailed to the department within forty-eight (48) hours after receipt of said chart. A copy of any brucellosis test chart which does not show positive reactors shall also be mailed to the department within forty-eight (48) hours after receipt of said chart. Failure on the part of any veterinarian authorized by law to make blood tests, appraise reactors, vaccinate cattle or other animals, or issue quarantines shall be cause for revocation of accreditation if he fails to comply with all provisions of this law, and such veterinarian shall no longer be allowed to perform any duties for the state of Idaho until he has been reinstated.

Approved March 30, 2006.

CHAPTER 217
(H.B. No. 466)

AN ACT
RELATING TO THE CARBON SEQUESTRATION ADVISORY COMMITTEE; AMENDING SECTION 22-5202, IDAHO CODE, TO REVISE PROVISIONS RELATING TO COMMITTEE MEMBERSHIP.
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 22-5202, Idaho Code, be, and the same is hereby amended to read as follows:

22-5202. CARBON SEQUESTRATION ADVISORY COMMITTEE CREATED -- MEMBERSHIP -- COMPENSATION -- ADMINISTRATIVE ASSISTANCE. (1) The carbon sequestration advisory committee is hereby created. The committee shall consist of the following sixteen nineteen (169) members, to be appointed by and serve at the pleasure of the governor:
(a) The chairman of the soil conservation commission or his designee;
(b) The director of the department of agriculture or his designee;
(c) The director of the department of environmental quality or his designee;
(d) The director of the department of lands or his designee;
(e) One (1) member representing the University of Idaho college of agriculture;
(f) One (1) member representing an entity which generates electrical energy;
(g) Two (2) members who are producers of field crops, at least one (1) of whom actively employs a minimum tillage management system in his farming operation;
(h) Two (2) members who are producers of livestock, at least one (1) of whom is actively involved in implementing a rangeland improvement plan;
(i) One (1) member with expertise in carbon sequestration marketing or trading;
(j) One (1) member representing soil conservation districts, as defined in section 22-2717, Idaho Code;
(k) One (1) member representing the biofuels industry;
(l) One (1) member representing the transportation industry;
(m) One (1) member representing an environmental protection or conservation organization; and
(n) One (1) member representing nonindustrial private forest landowners;
(o) One (1) member representing American Indian tribal interests;
(p) One (1) member whose expertise is geology; and
(q) One (1) member whose expertise is economics.
(2) Members of the committee shall be compensated as provided in section 59-509(b), Idaho Code.
(3) The soil conservation commission shall assist the committee with administrative support as reasonably requested by the committee.

Approved March 30, 2006.
67-6529E, IDAHO CODE, TO PROVIDE THAT REQUESTS BY BOARDS OF COUNTY COMMISSIONERS FOR SUITABILITY DETERMINATIONS BY SITE ADVISORY TEAMS SHALL INCLUDE THE ACTUAL ANIMAL CAPACITY OF THE FACILITY.

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

SECTION 1. That Section 67-6529C, Idaho Code, be, and the same is hereby amended to read as follows:

67-6529C. DEFINITIONS. As used in this act, the following definitions shall apply:

(1) "Animat--unit" means a unit of measurement for any animal feeding operation calculated by adding the following numbers: The number of slaughter--and--feeder--cattle multiplied by one--(1)--, plus the number of young--slaughter--or--feeder--cattle less than twelve--(12--)--months--of--age multiplied by six--tenths--(0.6), plus the number of mature--dairy--cattle multiplied by one--and--four--tenth--(1.4), plus the number of young--dairy--cattle multiplied by six--tenths--(0.6), plus the number of swine weighing over--twenty--five--(25)--kilograms, approximately--fifty--five--(55)--pounds, multiplied by four--tenths--(0.4), plus the number of weaned--swine--weighing--under--twenty--five--(25)--kilograms, multiplied by one--tenth--(0.1), plus the number of--sheep--multiplied--by--one--tenth--(0.1), plus the number of--horses--multiplied--by--two--(2), plus the number of--chickens--multiplied--by--one--hundredth--(0.01);

(2) "CAFO," also referred to as "concentrated animal feeding operation" or "confined animal feeding operation," means a lot or facility where the following conditions are met:

(a) Animals have been, are, or will be stabled or confined and fed or maintained for a total of ninety--(90)--consecutive days or more in any twelve--month--period;

(b) Crops, vegetation, forage growth or postharvest residues are not sustained in the normal growing season over any portion of the lot or facility; and

(c) The lot or facility is designed to confine or actually does confine an equivalent of one--thousand--(1,000) animat--units--or--more as many as or more than the numbers of animals specified in any of the following categories: seven hundred--(700)--mature--dairy--cows, whether milked or dry; one thousand--(1,000)--veal--calves; one thousand--(1,000)--cattle other than mature--dairy--cows or veal--calves; two thousand--five--hundred--(2,500)--swine each weighing fifty--five--(55)--pounds or more; ten thousand--(10,000)--swine each weighing less than fifty--five--(55)--pounds; five hundred--(500)--horses; ten thousand--(10,000)--sheep or lambs; or eighty--two--thousand--(82,000)--chickens.

Two or more concentrated animal feeding operations under common ownership are considered, for the purposes of this definition, to be a single animal feeding operation if they adjoin each other or if they use a common area or system for the disposal of wastes;

(32) "CAFO site advisory team" shall mean representatives of the Idaho department of agriculture, Idaho department of environmental quality and Idaho department of water resources who review a site proposed for a CAFO, determine environmental risks and submit a suitability determination to a county. The department of agriculture shall serve as the lead agency for the team;

(42) "Environmental risk" shall mean that risk to the environment
deemed posed by a proposed CAFO site, as determined and categorized by
the CAFO site advisory team and set forth in the site advisory team’s
suitability determination report;

(54) "Suitability determination" shall mean that document created
and submitted by the CAFO site advisory team after review and analysis
of a proposed CAFO site that identifies the environmental risk catego-
ries related to a proposed CAFO site, describes the factors that con-
tribute to the environmental risks and sets forth any possible mitiga-
tion of risk.

SECTION 2. That Section 67-6529E, Idaho Code, be, and the same is
hereby amended to read as follows:

67-6529E. PROCESS FOR COUNTY REQUEST -- CONTENTS OF THE REQUEST.
(1) A board of county commissioners shall submit its request for a suit-
ability determination by a site advisory team in writing to the director
of the department of agriculture and shall support its request by the
adoption of a resolution.

(2) Information in the request shall include, but not be limited
to, the relevant legal description and address of a proposed facility,
the actual animal-unit capacity of the facility, the types of animals to
be confined at the proposed facility, all information related to water
and water rights of the facility, any relevant vicinity maps and any
other information relevant to the site that will assist the site advi-
sory team in issuing its suitability determination. The board of county
commissioners shall also provide the site advisory team with a copy of
the odor management plan for the CAFO, if required to be submitted by
the site applicant at the time of application.

Approved March 30, 2006.
production expenditures may qualify for a rebate of sales or use taxes paid on such purchases if the purchaser develops, with such tangible personal property or qualifying media production project expenditures in Idaho, the production in Idaho of a media production project and if the purchase or use of such tangible personal property is subject to the sales and use tax. To be eligible for the rebate pursuant to this section, a media production company shall submit to the department of commerce and labor information required by the director of the department of commerce and labor to demonstrate conformity with the requirements of this section and shall have expended or will expend a minimum of two hundred thousand dollars ($200,000) on qualifying media production project expenses in Idaho within a consecutive thirty-six (36) month period for each media production project. Application for the rebate shall be made within thirty-six (36) months of the expenditure qualifying for the rebate. The department of commerce and labor shall determine eligibility of the company and shall report this information to the state tax commission in a manner and at a time upon which the department of commerce and labor and the tax commission shall agree. The department of commerce and labor may charge an application fee not in excess of five hundred dollars ($500) for a media production company’s application to be qualified for the sales tax rebate pursuant to this section.

(2) To receive the rebate pursuant to this section, the media production company shall apply to the state tax commission on forms and in the manner the commission requires. The application shall include a certification of the amount of expenditures made in Idaho with respect to the purchase of tangible personal property by the media production company by the director of the department of commerce and labor or the director's designee. The rebate shall be paid within sixty (60) days from the date the tax commission receives a qualified application. If the rebate is not paid within that period, the amount owed to the taxpayer shall accrue interest at the rate provided in section 63-3045, Idaho Code.

(3) As used in this section:
(a) "Media production project" is defined as the production of a single project through a variety of techniques and media including live action camera work, animation, computer-generated imagery or other recorded work during the process of preproduction, production and postproduction, that are intended to be exhibited in theaters, licensed for exhibition on television or cable stations or networks, licensed for or produced for sale or rental to home or commercial viewing markets or a future viewing or listening medium. Products of a media production project include feature films, videos, television series or movies, industrials and education programs or shows, video or computer games, and documentaries, but shall not include production of news and athletic event programming, political advertisements, family or personal productions, filming of live staged events to which tickets are sold or any material of an indecent or obscene nature as provided in chapter 41, title 18, Idaho Code. "Media production project" includes "preproduction," "production," and "postproduction."
(b) "Postproduction" means the final stage in a media production project after principal photography, including editing, the addition of sound/visual effects and musical scoring, mixing and dubbing and distributing.
(c) "Preproduction" means the planning stage in a media production project after the project is financed and before principal photography or actual shooting commences, including script treatment and editing/rewriting, scheduling, set design and construction, casting, budgeting and financial planning, and scouting or selection of locations.

(d) "Production" means the general process of putting a media production project together, including casting, set construction, principal photography and shooting.

(e) "Qualifying media production project expenditures" in Idaho includes, but is not limited to, wages from eleven dollars ($11.00) per hour to one hundred twenty-five dollars ($125) per hour, fringe benefits, commissions or fees and per diem expenses for labor paid in Idaho; contract labor paid in Idaho; equipment rentals and purchases during preproduction, production and postproduction such as grip, lighting, editing, camera, communication and computers; film, videotape stock or digital recording medium and processing and transfer costs; expendables such as gaffer's tape or gel; wardrobe and costuming; makeup and hairdressing supplies; set construction and set decoration materials, prop rentals and purchases, including lumber and construction materials, tools and equipment; stage, location site and office space rentals, equipment and expendables; vehicle, truck, boat and aircraft rentals, leases and purchases; food purchased for cast and crew; airfare or other travel purchased through an Idaho based travel agency; insurance and completion bond coverage purchased through an Idaho based agency; lodging expenses for hotels, motels, apartments and houses; motor vehicle expenses, including gas, oil, servicing and reimbursed mileage; laundry and dry cleaning; and shipping services.

(4) Any rebate paid shall be subject to recapture by the commission at one hundred percent (100%) in the event that the tax incentive criteria are not met at the project site during the project period or in the event that the media production company did not otherwise qualify. Any recapture amount due under this section shall be a deficiency in tax for the period in which the disqualification first occurs for purposes of section 63-3629, Idaho Code, and may be enforced and collected in the manner provided by the Idaho sales tax act in which the disqualification first occurs for purposes of section 63-3629, Idaho Code, and may be enforced and collected in the manner provided by the Idaho sales tax act.

SECTION 2. The provisions of this act shall be null, void and of no force and effect on and after July 1, 2011. By January 2 of each year, the Department of Commerce and Labor shall provide an annual report of the results of all media production projects that have applied to participate in the media production project tax rebate contained in Section 63-3622TT, Idaho Code, to the Governor and the Legislature.

Approved March 30, 2006.
AN ACT
RELATING TO DUTIES OF THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE;
AMENDING SECTION 22-103, IDAHO CODE, TO REQUIRE THE DIRECTOR TO
COOPERATE WITH SPECIFIED ENTITIES TO ENCOURAGE THE GROWTH OF AGRICULTURAL TECHNOLOGY IN THE STATE AND TO PROTECT THE INTEGRITY OF EXISTING AGRICULTURE AND AGRICULTURAL MARKETING CHANNELS; AND
DECLARING AN EMERGENCY.

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

SECTION 1. That Section 22-103, Idaho Code, be, and the same is hereby amended to read as follows:

22-103. DUTIES OF DIRECTOR. The director of the department of agriculture shall execute the powers and discharge the duties vested by law in him or in the department, including, but not limited to, the following:

(1) Pursuant to chapter 53, title 67, Idaho Code, hire, assign duties and evaluate the performance of all employees of the department.

(2) Designate employees for special assignment, office or function as the needs of the department may require.

(3) Acquire, generate, develop and disseminate information and data concerning agricultural pursuits, productivity and product quality.

(4) Encourage and promote in every practical manner, the interests of agriculture, horticulture, apiculture, aquaculture, the livestock industries, poultry and fowl raising, wool and fur-bearing animals and their allied industries.

(5) Assist, encourage and promote the organization of farmers' institutes, agricultural, horticultural, management or cooperative societies and organizations for the benefit of agricultural pursuits in this state.

(6) Promote improved methods of production, storage, sales and marketing of agricultural industries.

(7) Establish and promulgate standards of construction, use and sanitation of open and closed receptacles for farm products, and standards for grade or other classification of farm products.

(8) Prescribe and promulgate rules governing marks, brands and labels, and the registration thereof, for use upon receptacles for farm products.

(9) Promote, in the interest of the public, economical and efficient use of products and commodities used in the production of agricultural, horticultural, meats and other products and farm commodities and their distribution.

(10) Cooperate with producers, processors and consumers in devising and maintaining economical and efficient systems of distribution, and to assist in the reduction of waste and expense incidental to the marketing of agricultural products.

(11) Gather and diffuse timely information and statistics concerning supply, demand, prevailing prices and commercial movement of agricultural products.
(12) Maintain a market news service, including information concerning crops, freight rates, commission rates and such other information as may be of service to producers and consumers, and to act as a clearing-house for information between producers and consumers.

(13) Cooperate with the secretary, colleges and universities, experiment stations, and other agencies which cooperate in devising, research and development and utilization of improved agricultural production and other activities.

(14) Investigate the practices, methods of factors, management techniques of commission merchants, track buyers and others who receive, solicit, buy, sell, handle on commission or otherwise, or deal in grains, eggs, livestock, vegetables or other products used as human foods, to the end that distribution of such commodities through such factors, commission merchants, track buyers and others be efficiently and economically accomplished without hardship, waste or fraud.

(15) Enter and inspect any right-of-way of any irrigation canal, railway, public highway, field, orchard, nursery, fruit or vegetable packing house, store room, sales room, storage facility, depot or other place where fruits and vegetables are grown or stored and to inspect fruits, trees, plants, vines, shrubs or other articles within the state, and if such places or articles are infested with pests, insects or their eggs or larvae, or with any contagious or transmittable diseases injurious to plant life, to abate or eradicate the same as a nuisance.

(16) Provide treatment for and prevent the spread of infectious or communicable diseases among bees, livestock, fur-bearing animals or domestic animals through the systematic and periodic inspection, testing or treatment of such bees and animals at the expense of the owner thereof.

(17) Protect the livestock interests of the state from losses due to disease or hazards to animal health and communicable to humans through agricultural products. The director is authorized to regulate, as deemed necessary, commercial livestock truck washing facilities. This includes permitting for the treatment or disposal, at any location, of any wash water generated by the facility. This subsection preempts Idaho department of environmental quality's authority to issue land application permits and to do plan and specification reviews under section 39-118, Idaho Code, for livestock truck wash facilities, but does not affect any other authority of the Idaho department of environmental quality.

(18) Maintain recording of earmarks, eartags or other identifying marks not covered under any other provisions of law.

(19) Purchase, lease, hold, sell, and dispose of real and personal property of the department when, in the judgment of the director, such transactions promote the purposes for which the department is established.

(20) Contract with any state agency, federal agency or agency of another state concerning any matter, program or cooperative effort within the scope and jurisdiction of its authority pursuant to law.

(21) Assist in the improvement of country life, farm occupations and to cooperate in effectuating equality of opportunity of those employed in agricultural pursuits in the state of Idaho.

(22) Investigate diseases, contamination of livestock and poultry, agricultural, horticultural, and farm products, suspected to be infected or contaminated by bacterial, viral, protozoal, parasitic, chemical, nuclear, botanical or other disease-producing agents, or carrying a res-
idue of any such disease-producing agent or chemical in excess of any tolerance established by federal or state law or regulation and to examine, conduct tests, and issue "hold orders" on any livestock, poultry, agricultural, horticultural or farm products as deemed necessary to effectuate a diagnosis of disease, contamination or chemical level to safeguard and protect animal and man. And additionally, authorize and implement a predator control program on state and private lands using any kind of toxic material or substance suitable for such purpose. Any toxic material or substance shall be approved for use by the director. In order to carry out the provisions of this subsection (22), the director shall prescribe and promulgate rules pursuant to chapter 52, title 67, Idaho Code.

(23)Prescribe by rule an interest charge which may be assessed on all accounts which are thirty (30) days past due from the initial billing date or the assessment due date. The interest rate charged shall not exceed twelve percent (12%) per annum.

(24)To take all steps that are deemed necessary to prevent and control damage or conflicts on federal, state, or other public or private lands caused by predatory animals, rodents, or birds, including threatened or endangered wildlife within the state of Idaho as are established by federal or state law, federal or state regulation, or county ordinance, that are injurious to animal husbandry, agriculture, horticulture, forestry, wildlife and human health and safety.

(25)To administer oaths, certify to all official acts and subpoena any person in this state as a witness; to compel through subpoena the production of books, papers, and records; and to take the testimony of any person on deposition in the same manner as prescribed by law in the procedure before the courts of this state. A subpoena issued by the director shall extend to all parts of the state and may be served by any person authorized to do so. All powers of the director enumerated in this subsection (25) with respect to administering oaths, power of subpoena, and other powers in hearings on complaints shall likewise be applicable to hearings held on applications for the issuance or renewal of licenses.

(26)To appoint, as necessary, committees for the purpose of advising the director on any and all matters relating to agricultural programs within the Idaho department of agriculture.

(27)Cooperate with producers, industry and technology groups, and other agencies to encourage the growth of technology within the state's agricultural industries while protecting, as necessary, the integrity of existing agriculture and agricultural marketing channels.

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

Approved March 30, 2006.
CHAPTER 221
(H.B. No. 541)

AN ACT
RELATING TO STATE PARKS; AMENDING SECTION 67-4237, IDAHO CODE, TO PROVIDE THAT PARKING VIOLATIONS IN STATE PARKS SHALL BE ENFORCED BY QUALIFIED EMPLOYEES OF THE DEPARTMENT OF PARKS AND RECREATION DELEGATED WITH ENFORCEMENT AUTHORITY BY THE DIRECTOR OF THE DEPARTMENT OF PARKS AND RECREATION.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 67-4237, Idaho Code, be, and the same is hereby amended to read as follows:

67-4237. PARKING VIOLATIONS. (1) If any vehicle, as defined in chapter 1, title 49, Idaho Code, is stopped, standing, or parked in an illegal or unauthorized manner within a state park and the operator cannot be identified readily, the fact that the vehicle is registered or leased in the name of a person shall be prima facie evidence that such person was in control of the vehicle at the time it was parked, unless that person can prove to the satisfaction of the court the vehicle was driven and stopped, placed or parked by an unauthorized person.

(2) The provisions of this section shall be enforced by commissioned peace officers of the Idaho state police, qualified employees of the department of parks and recreation authorized delegated with enforcement authority by the director of the Idaho state police department of parks and recreation pursuant to section 67-4239, Idaho Code, the sheriff and his deputies of any county in the state and any peace officer of the state of Idaho.

(3) Any violation of the provisions of this section shall be an infraction and punishable as provided in section 18-113A, Idaho Code.

Approved March 30, 2006.

CHAPTER 222
(H.B. No. 545)

AN ACT
RELATING TO WATER; AMENDING CHAPTER 14, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-1406B, IDAHO CODE, TO PROVIDE FOR SPECIFIED NORTHERN IDAHO WATER RIGHTS ADJUDICATIONS; AMENDING SECTION 42-1414, IDAHO CODE, TO REVISE FEE PROVISIONS FOR FILING NOTICE OF CLAIMS WITH THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES; AND AMENDING SECTION 42-1425, IDAHO CODE, TO PROVIDE LEGISLATIVE FINDINGS RELATING TO ACCOMPLISHED TRANSFERS AND THE PUBLIC INTEREST REGARDING NORTHERN IDAHO ADJUDICATIONS, TO PROVIDE THAT CERTAIN CHANGES OF PLACE OF USE, POINTS OF DIVERSION, NATURE OR PURPOSE OF USE, OR PERIOD OF USE OF A WATER RIGHT MAY BE CLAIMED IN THE NORTHERN IDAHO ADJUDICATIONS AND TO PROVIDE FOR OBJECTIONS TO RECOMMENDATIONS FOR SPECIFIED ACCOMPLISHED CHANGES.
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 14, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-1406B, Idaho Code, and to read as follows:

42-1406B. NORTHERN IDAHO WATER RIGHTS ADJUDICATIONS -- COMMENCEMENT. (1) Effective management of the waters of northern Idaho requires that a comprehensive determination of the nature, extent and priority of the rights of all users of surface and ground water be determined. Therefore, the director of the department of water resources shall petition the district court to commence adjudications within the terms of the McCarran amendment, 43 U.S.C. section 666, of the water rights from surface water and ground water sources in northern Idaho through initiation of three (3) proceedings. Separate petitions shall be filed for water rights adjudications for each of the following river basins, and related ground water sources whether or not hydraulically connected to a surface water source, within Idaho: the Coeur d'Alene-Spokane river basin, the Palouse river basin, and the Kootenai and Clark Fork-Pend Oreille river basins. The filing of each petition shall be contingent on legislative funding approval. Each petition shall describe the boundaries of the water source or water sources to be adjudicated.

(2) The adjudication shall be brought in any district court in which any part of the water source is located or before a court of special jurisdiction for water right adjudications. Unless otherwise ordered by the supreme court, special jurisdiction for the water rights general adjudications authorized by this section shall reside in the Snake River Basin Adjudication district court of the fifth judicial district of the state of Idaho, in and for the county of Twin Falls. The clerk of the district court in which the petition is filed shall send to the supreme court a true and certified copy of the petition. The supreme court, by order, shall assign the judge to preside over the general adjudication. Venue of the general adjudication shall be determined by order or rule of the supreme court and venue of hearings under the general adjudication shall be determined by order of the presiding judge.

(3) Upon issuance of an order by the district court which authorizes the director to commence an investigation and determination of the various water rights to be adjudicated from the water source or water sources, and which defines the boundaries of the source or sources within the state to be adjudicated, the director of the department of water resources shall proceed in the manner provided under the provisions of chapter 14, title 42, Idaho Code, to the extent not inconsistent with the provisions of this section.

SECTION 2. That Section 42-1414, Idaho Code, be, and the same is hereby amended to read as follows:

42-1414. FEES FOR FILING NOTICE OF CLAIMS WITH THE DIRECTOR. (1) In order to provide an adequate and equitable cost-sharing formula for financing the costs of adjudicating water rights the department of water resources shall accept no notice of claim required under the provisions of section 42-1409, Idaho Code, unless such notice of claim is submitted with a filing fee based upon the fee schedule set forth below. Failure to pay the variable water use fee in accordance with the timetable pro-
vided shall be cause for the department to reject and return the notice of claim to the claimant. The fee schedule set forth below applies to adjudication proceedings commenced or enlarged on or after January 1, 1985.

(a) Flat fee per claim filed:
   (i) Claims for domestic and/or stock watering rights based on permit, license, decree or statutory claim $250.00
   (ii) Claims for all other rights $5100.00

(b) Additional variable water use fee for claims filed based upon acreage, power generating capacity, c.f.s., or equivalent volume of water:
   (i) Irrigation use (one fee irrespective of number of claims): $2.00 per acre
   (ii) Power: $3.507.00 per kilowatt of capacity (manufacturer's nameplate rating)
   (iii) Aquaculture: $20.00 per c.f.s.
   (iv) Municipal, industrial, commercial, mining, heating, cooling: $200.00 per c.f.s.
   (v) Public instream flow, public lake level maintenance, wildlife: $200.00 per c.f.s.

(c) Payment--of--a--variable--water--use--fee--of--more--than--one--thousand--dollars--($1,000)---may--be--spread--out--over--as--many--as--five--(5)--annual--equat--payments--with--ten--percent--(10%)--interest--accruing--on--the--unpaid--balance. All fees collected by the department pursuant to this section shall be placed in the water resources adjudication account established in section 42-1777, Idaho Code.

(2) If a claimant increases in an amended notice of claim the amount of water claimed, the amount of land irrigated, or the kilowatt capacity of the generating facility, the claimant shall pay upon filing the amended notice of claim an additional variable fee in accordance with the rates set forth in subsection (1) of this section. Claimants shall be entitled to a return of filing fees or late fees only where the fee was miscalculated at the time the original or amended notice of claim was filed.

(3) If a claimant files a notice of claim after the date set by the director in the notice mailed or served in accordance with subsections (2), (3), or (4) of section 42-1408, Idaho Code, or with subsection (7) of section 42-1409, Idaho Code, the claimant shall pay the fee set forth in subsection (1) of this section, and in addition, the amount of fifty one hundred dollars ($50,100) or fifteen percent (15%) of the original filing fee, whichever is greater. The director may waive the late processing fee or a portion thereof for good cause.

SECTION 3. That Section 42-1425, Idaho Code, be, and the same is hereby amended to read as follows:

42-1425. ACCOMPLISHED TRANSFERS. (1) Legislative findings regarding accomplished transfers and the public interest.
(a) The legislature finds and declares that prior to the commencement of the Snake River basin adjudication, and the northern Idaho adjudications, many persons entitled to the use of water or owning land to which water has been made appurtenant either by decree of the court or under provisions of the constitution and statutes of this state changed the place of use, point of diversion, nature or
purpose of use, or period of use of their water rights without compliance with the transfer provisions of sections 42-108 and 42-222, Idaho Code.

(b) The legislature finds that many of these changes occurred with the knowledge of other water users and that the water has been distributed to the right as changed. The legislature further finds and declares that the continuation of the historic water use patterns resulting from these changes is in the local public interest provided no other existing water right was injured at the time of the change. Denial of a claim based solely upon a failure to comply with sections 42-108 and 42-222, Idaho Code, where no injury or enlargement exists, would cause significant undue financial impact to a claimant and the local economy. Approval of the accomplished transfer through the procedure set forth in this section avoids the harsh economic impacts that would result from a denial of the claim.

(c) The legislature further finds and declares that examination of these changes by the director through the procedures of section 42-222, Idaho Code, would be impractical and unduly burdensome. The more limited examination of these changes provided for in this section, constitutes a reasonable procedure for an expeditious review by the director while ensuring that the changes do not injure other existing water rights or constitute an enlargement of use of the original right.

(2) Any change of place of use, point of diversion, nature or purpose of use or period of use of a water right by any person entitled to use of water or owning any land to which water has been made appurtenant either by decree of the court or under the provisions of the constitution and statutes of this state, prior to November 19, 1987, the date of commencement of the Snake River basin adjudication, and prior to January 1, 2006, for the northern Idaho adjudications authorized by section 42-14068, Idaho Code, may be claimed in the applicable general adjudication even though the person has not complied with sections 42-108 and 42-222, Idaho Code, provided no other water rights existing on the date of the change were injured and the change did not result in an enlargement of the original right. Except for the consent requirements of section 42-108, Idaho Code, all requirements of sections 42-108 and 42-222, Idaho Code, are hereby waived in accordance with the following procedures:

(a) If an objection is filed to a claim recommendation for accomplished change of place of use, point of diversion, nature or purpose of use or period of use, the district court shall remand the water right to the director for further hearing to determine whether the change injured a water right existing on the date of the change or constituted an enlargement of the original right. After a hearing, the director shall submit a supplemental report to the district court setting forth his findings and conclusions. If the claimant or any person who filed an objection to the accomplished transfer is aggrieved by the director's determination, they may seek review before the district court. If the change is disallowed, the claimant shall be entitled to resume use of the original water right, provided such resumption of use will not cause injury or can be mitigated to prevent injury to existing water rights. The unapproved change shall not be deemed a forfeiture or abandonment of the original water right.
(b) This section is not applicable to any claim based upon an enlargement of use.

Approved March 30, 2006.

CHAPTER 223
(H.B. No. 562, As Amended)

AN ACT
RELATING TO USE OF DEALER AND MANUFACTURER LICENSE PLATES; AMENDING SECTION 49-1627, IDAHO CODE, TO PROVIDE THAT DEALER AND MANUFACTURER PLATES MAY BE USED ON LADEN VEHICLES OPERATED BY THE MANUFACTURER, DEALER OR HIS LICENSED VEHICLE SALESMAN, IN CONNECTION WITH THE MANUFACTURER'S OR DEALER'S BUSINESS AND TO PROVIDE THAT A DEALER PLATE MAY BE USED ON A LADEN TRAILER IN CONNECTION WITH A MANUFACTURER'S OR DEALER'S BUSINESS TO MOVE VEHICLES OR TRAILERS FROM A MANUFACTURER TO A DEALER, FROM DEALERSHIP TO DEALERSHIP OR FROM A DEALERSHIP TO OFF-SITE LOCATIONS IN PROMOTION OF THE DEALER'S BUSINESS AS LONG AS THE POWER UNIT IS PROPERLY LICENSED UNDER CHAPTER 4, TITLE 49, IDAHO CODE.

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

SECTION 1. That Section 49-1627, Idaho Code, be, and the same is hereby amended to read as follows:

49-1627. USE OF DEALER AND MANUFACTURER LICENSE PLATE. (1) Any dealer or manufacturer license plate issued may, during the calendar year for which issued, be transferred from one owned or operated by such manufacturer or dealer, in pursuance of his business as a manufacturer or dealer.

(2) Dealer plates shall not be used on vehicles under the following circumstances:

(a) On work or service vehicles not held in stock for sale;
(b) On leased or rented vehicles owned by the licensed manufacturer or dealer;
(c) On a laden vehicle designed for transportation of cargo, unless the manufacturer or dealer has complied with section 49-434, Idaho Code, except as provided in subsection (3) of this section;
(d) On vehicles which have been sold;
(e) On vehicles used by the licensee for furtherance of another business;
(f) On vehicles owned by a licensed wholesaler used for personal use;
(g) On vehicles owned by a licensed wholesaler, operated by their licensed salesmen, used for personal use.

(3) Dealer and manufacturer plates may be used on laden vehicles operated by the manufacturer, dealer or his licensed vehicle salesman, in connection with the manufacturer's or dealer's business. A dealer plate may be used on a laden trailer in connection with a manufacturer's or dealer's business to move vehicles or trailers from a manufacturer to a dealer, from dealership to dealership or from a dealership to off-site
locations in promotion of the dealer's business as long as the power
unit is properly licensed under chapter 4, title 49, Idaho Code. A
dealer plate may be used on a vehicle assigned for personal use on a
full-time basis to the dealer, or licensed full-time vehicle salesman.
This personal use exception applies only to the manufacturer, dealer, or
licensed full-time vehicle salesman personally, and any other persons,
including members of their families, are excluded. A prospective pur­
chaser of a vehicle may have possession of the vehicle with a dealer
plate for not more than ninety-six (96) hours or may operate the vehicle
when accompanied by the manufacturer, dealer or a licensed vehicle
salesman.

(4) Licensed part-time vehicle salesmen may use a dealer plate on a
vehicle that is offered for sale only to demonstrate the vehicle to a
purchaser, but not for personal use. Other employees or authorized per­
sons, not licensed as a vehicle salesman, may use a dealer plate when
testing the mechanical operation of a vehicle or for the necessary oper­
ation in pursuance of the dealer's business, including the delivery and
pickup of vehicles owned or purchased by that manufacturer or dealer.

(5) Vehicle manufacturers and dealers shall keep a written record
of the vehicles upon which dealer's number plates are used for personal
use on a full-time basis, and the time during which each plate is used.
The record shall be open to inspection by any peace officer or any offi­
cer or employee of the department.

(6) No manufacturer or dealer shall cause or permit any vehicle
owned by them to be operated or moved upon a public highway without dis­
playing upon the vehicle a license plate issued to that person, either
under the provisions of this section or section 49-428, Idaho Code,
except as otherwise authorized in section 49-431, Idaho Code.

Approved March 30, 2006.

CHAPTER 224
(H.B. No. 582)

AN ACT
RELATING TO DRIVING UNDER THE INFLUENCE OF INTOXICATING SUBSTANCES;
AMENDING SECTION 18-8002, IDAHO CODE, TO REVISE DESCRIPTIVE LAN­
GUAGE, TO PROVIDE FOR A CIVIL PENALTY FOR REFUSAL TO SUBMIT TO EVI­
DENTIARY TESTING AND TO PROVIDE FOR THE DISTRIBUTION AND COLLECTION
OF PENALTY MONEYS.

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

SECTION 1. That Section 18-8002, Idaho Code, be, and the same is
hereby amended to read as follows:

18-8002. TESTS OF DRIVER FOR ALCOHOL CONCENTRATION, PRESENCE OF
DRUGS OR OTHER INTOXICATING SUBSTANCES -- PENALTY AND SUSPENSION UPON
REFUSAL OF TESTS. (1) Any person who drives or is in actual physical
control of a motor vehicle in this state shall be deemed to have given
his consent to evidentiary testing for concentration of alcohol as
defined in section 18-8004, Idaho Code, and to have given his consent to
evidentiary testing for the presence of drugs or other intoxicating substances, provided that such testing is administered at the request of a peace officer having reasonable grounds to believe that person has been driving or in actual physical control of a motor vehicle in violation of the provisions of section 18-8004, Idaho Code, or section 18-8006, Idaho Code.

(2) Such person shall not have the right to consult with an attorney before submitting to such evidentiary testing.

(3) At the time evidentiary testing for concentration of alcohol, or for the presence of drugs or other intoxicating substances is requested, the person shall be informed that if he refuses to submit to or if he fails to complete, evidentiary testing:
   (a) He is subject to a civil penalty of two hundred fifty dollars ($250) for refusing to take the test;
   (b) His driver's license will be seized by the peace officer and a temporary permit will be issued; provided, however, that no peace officer shall issue a temporary permit pursuant to this section to a driver whose driver's license or permit has already been and is suspended or revoked because of previous violations, and in no instance shall a temporary permit be issued to a driver of a commercial vehicle who refuses to submit to or fails to complete an evidentiary test;
   (b) He has the right to request a hearing within seven (7) days to show cause why he refused to submit to, or complete evidentiary testing;
   (c) If he does not request a hearing or does not prevail at the hearing, the court shall sustain the civil penalty and his driver's license will be suspended absolutely for one hundred eighty (180) days if this is his first refusal and one (1) year if this is his second refusal within five (5) years; and
   (d) After submitting to evidentiary testing he may, when practicable, at his own expense, have additional tests made by a person of his own choosing.

(4) If the motorist refuses to submit to or complete evidentiary testing after the information has been given in accordance with subsection (3) above:
   (a) He shall be fined a civil penalty of two hundred fifty dollars ($250) and his driver's license or permit shall be seized by the peace officer and forwarded to the court and a temporary permit shall be issued by the peace officer which allows him to operate a motor vehicle until the date of his hearing, if a hearing is requested, but in no event for more than thirty (30) days; provided, however, that no peace officer shall issue a temporary permit pursuant to this section to a driver whose driver's license or permit has already been and is suspended or revoked because of previous violations and in no instance shall a temporary permit be issued to a driver of a commercial vehicle who refuses to submit to or fails to complete an evidentiary test;
   (b) A written request may be made within seven (7) calendar days for a hearing before the court; if requested, the hearing must be held within thirty (30) days of the seizure unless this period is, for good cause shown, extended by the court for one (1) additional thirty (30) day period. The court, in granting such an extension, may, for good cause shown, extend the defendant's temporary driving
privileges for one (1) additional thirty (30) day period. The hearing shall be limited to the question of why the defendant did not submit to, or complete, evidentiary testing, and the burden of proof shall be upon the defendant; the court shall sustain a two hundred fifty dollar ($250) civil penalty immediately and suspend all his driving privileges immediately for one hundred eighty (180) days for a first refusal and one (1) year for a second refusal within five (5) years unless it finds that the peace officer did not have legal cause to stop and request him to take the test or that the request violated his civil rights;

(c) If a hearing is not requested by written notice to the court concerned within seven (7) calendar days, upon receipt of a sworn statement by the peace officer of the circumstances of the refusal, the court shall sustain a two hundred fifty dollar ($250) civil penalty and suspend his driving privileges for one hundred eighty (180) days for a first refusal and one (1) year for a second refusal within five (5) years, during which time he shall have absolutely no driving privileges of any kind; and

(d) After submitting to evidentiary testing at the request of the peace officer, he may, when practicable, at his own expense, have additional tests made by a person of his own choosing. The failure or inability to obtain an additional test or tests by a person shall not preclude the admission of results of evidentiary testing for alcohol concentration or for the presence of drugs or other intoxicating substances taken at the direction of the peace officer unless the additional test was denied by the peace officer.

(5) Any sustained civil penalty or suspension of driving privileges under this section or section 18-8002A, Idaho Code, shall be a civil penalty separate and apart from any other suspension imposed for a violation of other Idaho motor vehicle codes or for a conviction of an offense pursuant to this chapter, and may be appealed to the district court.

(6) No hospital, hospital officer, agent, or employee, or health care professional licensed by the state of Idaho, whether or not such person has privileges to practice in the hospital in which a body fluid sample is obtained or an evidentiary test is made, shall incur any civil or criminal liability for any act arising out of administering an evidentiary test for alcohol concentration or for the presence of drugs or other intoxicating substances at the request or order of a peace officer in the manner described in this section and section 18-8002A, Idaho Code: provided, that nothing in this section shall relieve any such person or legal entity from civil liability arising from the failure to exercise the community standard of care.

(a) This immunity extends to any person who assists any individual to withdraw a blood sample for evidentiary testing at the request or order of a peace officer, which individual is authorized to withdraw a blood sample under the provisions of section 18-8003, Idaho Code, regardless of the location where the blood sample is actually withdrawn.

(b) A peace officer is empowered to order an individual authorized in section 18-8003, Idaho Code, to withdraw a blood sample for evidentiary testing when the peace officer has probable cause to believe that the suspect has committed any of the following offenses:
(i) Aggravated driving under the influence of alcohol, drugs or other intoxicating substance as provided in section 18-8006, Idaho Code;
(ii) Vehicular manslaughter as provided in subsections (3)(a), (b) and (c) of section 18-4006, Idaho Code;
(iii) Aggravated operating of a vessel on the waters of the state while under the influence of alcohol, drugs or other intoxicating substances as provided in section 67-7035, Idaho Code; or
(iv) Any criminal homicide involving a vessel on the waters of the state while under the influence of alcohol, drugs or other intoxicating substances.
(c) Nothing herein shall limit the discretion of the hospital administration to designate the qualified hospital employee responsible to withdraw the blood sample.
(d) The law enforcement agency that requests or orders withdrawal of the blood sample shall pay the reasonable costs to withdraw such blood sample, perform laboratory analysis, preserve evidentiary test results, and testify in judicial proceedings.
(e) The withdrawal of the blood sample may be delayed or terminated if:
   (i) In the reasonable judgment of the hospital personnel withdrawal of the blood sample may result in serious bodily injury to hospital personnel or other patients; or
   (ii) The licensed health care professional treating the suspect believes the withdrawal of the blood sample is contraindicated because of the medical condition of the suspect or other patients.
(7) "Actual physical control" as used in this section and section 18-8002A, Idaho Code, shall be defined as being in the driver's position of the motor vehicle with the motor running or with the motor vehicle moving.
(8) Any written notice required by this section shall be effective upon mailing.
(9) For the purposes of this section and section 18-8002A, Idaho Code, "evidentiary testing" shall mean a procedure or test or series of procedures or tests, including the additional test authorized in subsection (10) of this section, utilized to determine the concentration of alcohol or the presence of drugs or other intoxicating substances in a person.
(10) A person who submits to a breath test for alcohol concentration, as defined in subsection (4) of section 18-8004, Idaho Code, may also be requested to submit to a second evidentiary test of blood or urine for the purpose of determining the presence of drugs or other intoxicating substances if the peace officer has reasonable cause to believe that a person was driving under the influence of any drug or intoxicating substance or the combined influence of alcohol and any drug or intoxicating substance. The peace officer shall state in his or her report the facts upon which that belief is based.
(11) Notwithstanding any other provision of law to the contrary, the civil penalty imposed under the provisions of this section must be paid, as ordered by the court, to the county justice fund or the county current expense fund where the incident occurred. If a person does not pay the civil penalty imposed as provided in this section within thirty (30)
days of the imposition, unless this period has been extended by the court for good cause shown, the prosecuting attorney representing the political subdivision where the incident occurred may petition the court in the jurisdiction where the incident occurred to file the order imposing the civil penalty as an order of the court. Once entered, the order may be enforced in the same manner as a final judgment of the court. In addition to the civil penalty, attorney's fees, costs and interest may be assessed against any person who fails to pay the civil penalty.

Approved March 30, 2006.

CHAPTER 225
(H.B. No. 594)

AN ACT
RELATING TO NOXIOUS WEEDS; AMENDING SECTION 22-2402, IDAHO CODE, TO DEFINE TERMS AND TO REVISE DEFINITIONS; AMENDING SECTION 22-2403, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS AND TO REVISE THE DUTIES OF THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE RELATING TO NOXIOUS WEEDS; AMENDING SECTION 22-2404, IDAHO CODE, TO REVISE THE DIRECTOR'S AUTHORIZED POWERS RELATING TO NOXIOUS WEEDS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 22-2405, IDAHO CODE, TO REVISE THE DUTIES OF COUNTIES RELATING TO NOXIOUS WEEDS; AMENDING SECTION 22-2407, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE PURPOSES OF NOXIOUS WEED CONTROL AS IT REGARDS LANDOWNERS AND CITIZENS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-2409, IDAHO CODE, TO PROVIDE AND REVISE PENALTY PROVISIONS FOR VIOLATIONS; AND AMENDING SECTION 22-2411, IDAHO CODE, TO PROVIDE THAT THE CONTROL OF NOXIOUS AQUATIC PLANTS MAY BE CARRIED OUT UNDER THE GENERAL SUPERVISION OF PUBLIC BODIES.

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

SECTION 1. That Section 22-2402, Idaho Code, be, and the same is hereby amended to read as follows:

22-2402. DEFINITIONS. As used in this chapter:
(1) "Agency" means:
(a) In the case of the federal government, any authority which exercises administrative control over defined areas of federal lands within the state of Idaho;
(b) In the case of the state of Idaho, any department, board, commission, or institution;
(c) In the case of local government, cities, counties and any legal subdivisions thereof, drainage districts, irrigation districts, canal companies, highway districts, or any special taxing district.
(2) "Applicable fund or account" means:
(a) In the case of the state of Idaho, the noxious weed account, which is hereby created and established in the dedicated fund and which shall be used exclusively for the purposes prescribed by this chapter;
(b) In each county, the noxious weed fund, which is hereby created
and established and shall be maintained in each county and which shall be used exclusively for the purposes prescribed by this chapter.

(3) "Aquatic plant" means any plant growing in, or closely associated with, the aquatic environment and includes, but is not limited to, riparian plants.

(4) "Containment" means halting the spread of a weed infestation beyond specified boundaries.

(5) "Control" means any or all of the following: prevention, rehabilitation, eradication or modified treatments.

(6) "Control authority" means:
   (a) On the state level, the director of the department of agriculture;
   (b) On the county level, the board of county commissioners.

(7) "Cooperative weed management area (CWMA)" means a distinguishable hydrologic, vegetative or geographic zone based upon geography, weed infestations, climate or human-use patterns. Cooperative weed management areas may be composed of a portion of a county, a county, portions of several counties, or portions of one (1) or more states.

(8) "Department" means the Idaho department of agriculture.

(9) "Director" means the director of the department of agriculture or the director's designated agent.

(10) "Eradication" means the complete elimination of all aboveground plant growth of a target noxious weed species for a period of two (2) years based on absence as determined by a visual inspection by the control authority during the current growing season.

(11) "Integrated weed management plan (IWMP)" means a plan developed to manage, control or eradicate a noxious weed(s) from a cooperative weed management area or other weed management area. Integrated weed management strategies may include, but are not limited to, prevention, cultural, mechanical, chemical and biological methods.

(12) "Land" means all soil or water or other growing medium.

(13) "Landowner" means:
   (a) The person who holds legal title to the land, except that portion for which another person has the right to exclude others from possession of the parcel; or
   (b) A person with an interest in a parcel of land such that the person has the right to exclude others from possession of the parcel.

(14) "Modified treatment" means treatment specified in an integrated weed management plan.

(15) "Noxious weed" means any plant having the potential to cause injury to public health, crops, livestock, land or other property; and which is designated as noxious by the director.

(16) "Person" means any individual, partnership, firm, agency, corporation, company, society or association.

(17) "Prevention" means:
   (a) Any action that reduces the potential for the introduction or establishment of a plant species in areas not currently infested with that species; or
   (b) Any action that deters the spread of noxious weeds.

(18) "Quarantine" means the regulation of the production, movement, or existence of plants, plant products, animals, animal products, or any other article or material, or the normal activity of persons, to prevent
or limit introduction or spread of noxious weeds.

(169) "Restoration" means the process of reconditoning formerly weed infested land to a productive or desirable condition.

(20) "Riparian" means the green, vegetated areas along the edge of water bodies like rivers, creeks, canals, lakes, springs, sloughs, potholes and wetlands. They are the transition zone between upland and aquatic ecosystems. Underlying saturated soil is a key feature in riparian areas.

(177) "Special-management-zone" is an area wherein specific requirements of this chapter may be modified.

(1821) "State noxious weed advisory committee" means an advisory committee appointed by the director to advise and to assist in development, modification and direction of a statewide noxious weed management strategy.

(22) "Waters" means all the accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof which are wholly or partially within, which flow through, or which border upon the state.

(195) "Weed--control" means any or all of the following: prevention, restoration, eradication, or modified treatments specified in a special management zone.

(203) "Weed control advisory committee" means a committee established by weed control agencies or authorities, at the county level, or a steering committee of a cooperative weed management area, to develop and to recommend implementation of integrated weed management plans and strategies.

SECTION 2. That Section 22-2403, Idaho Code, be, and the same is hereby amended to read as follows:

22-2403. ENFORCEMENT OF CHAPTER VESTED IN DIRECTOR -- STATE DUTIES.
(1) The duty of enforcing this chapter and carrying out its provisions is vested in the director.
(2) The director shall:
(a) Determine what weeds are noxious for the purposes of this chapter; and
(b) Compile and keep current a list of such noxious weeds or group of noxious weeds, which list shall be published and incorporated in the rules and regulations of the director; and
(c) Make and publish such rules and regulations as in the director's judgment are necessary to carry out the provisions of this chapter; and
(d) Employ a statewide weed coordinator to carry out the director's duties and responsibilities; and
(e) Publish a list of items capable of disseminating noxious weeds, and designate treatment of such articles as in the director's opinion would prevent such dissemination; and
(f) Consult with affected county control authorities before establishing a special management zone; and
(g) Consult and coordinate with other weed management agencies and authorities in the designation and development of cooperative weed management areas and development and implementation of integrated weed management plans; and
(g) Assist all landowners, managers and lessees in the state of Idaho, including, but not limited to, all state natural resource management agencies, state water resource management entities, as well as public and private land management firms and private landowners, in coping with the growth of noxious weeds, including noxious aquatic weeds.

SECTION 3. That Section 22-2404, Idaho Code, be, and the same is hereby amended to read as follows:

22-2404. STATE POWERS. (1) The director is authorized to: (a) Investigate the subject of noxious weeds; and (b) Require information, annual work plans and reports from each county and from each state agency as to the presence of noxious weeds and other information relative to noxious weeds and the control thereof; and (c) To cooperate with agencies and persons in carrying out the director's duties under this chapter, and to conduct matters outside this state in the interest of state noxious weed control; and (d) Advise and confer as to the extent of noxious weed infestations and the methods of control; and (e) Establish minimum requirements and proficiency Assist counties in the training of county weed superintendents; and (f) Call and attend meetings and conferences dealing with the subject of noxious weeds; and (g) Disseminate information and conduct educational campaigns independently or in cooperation with others; and (h) Appoint a state noxious weed advisory committee, as provided by section 22-103, Idaho Code, to aid in the development and implementation of a statewide noxious weed management strategy, aid in evaluation of cost share projects and research proposals, and advise the director on matters pertaining to the state noxious weed program; and (i) Procure materials and equipment; and (j) Inspect and certify Idaho crops and imports and exports to verify freedom from noxious weeds, and authorize others to conduct such inspections and certification; and (k) Enter on any public or private land at reasonable times for the purpose of carrying out the provisions of this chapter; and (l) Apply to any court of competent jurisdiction for a search warrant authorizing access to any land where access was denied and sought for the purposes set forth in this chapter. The court may, upon such application, issue the search warrant for the purposes requested; and (m) Perform such other acts as may be necessary or appropriate to the administration of the provisions of this chapter; and (n) Cooperate with the federal government or any established agency thereof in any program of noxious weed control which shall be deemed advisable for the welfare of the people of the state of Idaho, accept any advisable program and make any necessary regulations rules which are not in contradiction to the purposes of this chapter; and (o) Accept any gift, grant, contract or other funds, or grants-in-aid from the federal government or other entities for noxious weed
control purposes and account for such moneys as prescribed by the state controller, and all such funds are hereby appropriated to the purpose for which they are received; and

(p) Initiate agreements with federal agencies in accordance with applicable federal laws; and

(q) Control noxious weeds on federal land within the state, with or without reimbursement, and with the consent of the federal agency involved; and

(r) Take any appropriate action necessary to control or quarantine noxious weed infestations whenever an actual or potential emergency situation exists concerning noxious weed infestations anywhere in the state; and

(s) Permit modification of specific noxious weed control requirements in certain areas, after consulting with the county control authority and designating the area as a special management zone; and

(t) Initiate cooperative agreements with other agencies and states for the establishment and support of cooperative weed management areas; and

(u) Aid other weed control agencies or authorities in developing and implementing integrated weed management plans for control of noxious weeds; and

(v) Temporarily designate a weed as noxious for up to fifteen (15) months, after publication in a newspaper of general circulation serving the area of infestation; and

(w) Authorize the issuance of deficiency warrants for the purposes of defraying excess costs for the control of noxious weeds for emergency situations, in the event the actual cost for the control of noxious weeds in any one (1) year exceeds the appropriations made for that purpose. When so authorized the state controller shall draw deficiency warrants against the general account.

(2) If at any time the director determines that the county commissioners have failed to cooperate or carry out their duties and responsibilities as a control authority, the director shall notify them of the deficiency, and suggest corrective action. If the situation is not satisfactorily corrected within seven (7) days after the time outlined in the director's corrective action plan, the director shall initiate appropriate action and charge to the county all expenses including the hiring of necessary labor and equipment. Quarantine of specific crops or potential noxious weed propagating activities may be a part of the control program.

SECTION 4. That Section 22-2405, Idaho Code, be, and the same is hereby amended to read as follows:

22-2405. COUNTY DUTIES. (1) The county control authority shall:

(a) Carry out the duties and responsibilities vested in the county under this chapter and rules prescribed by the director; and

(b) Establish and maintain a coordinated program for control of noxious weeds in the county; employ a county weed superintendent, who may be a superintendent for more than one (1) county and who shall be qualified to detect and treat noxious weeds; and

(c) Designate one (1) of its members as the liaison between the county weed superintendent and the county commissioners; and
(d) Provide operational and educational funds for the county weed superintendent; and
(e) Be authorized to initiate cooperative agreements with other agencies or counties for the designation of or participation in cooperative weed management areas for control of noxious weeds.

(2) A general notice for control of noxious weeds shall be published between March 1 and April 30, in a newspaper of general circulation within the county. The notice shall contain the list of noxious weeds and identify those known to be in the county, and shall stipulate the obligation to control. Failure to publish the notice for control or serve individual notices herein provided does not relieve any person from full compliance with this chapter thereunder. In all cases said published notice shall be deemed legal and sufficient notice.

(3) Whenever any county finds it necessary to secure more prompt or definite control of noxious weeds than is accomplished by the general notice, it shall cause individual notices on a form prescribed by the director to be served upon the landowner and where possible on the operator of the land giving specific instructions when and how certain named noxious weeds are to be controlled. The individual notice shall also contain information concerning the right to appeal pursuant to section 22-2408, Idaho Code. Individual notices shall be applicable only to the current growing season.

(4) Whenever the landowner of any nonfederal land or nonfederally administered land on which noxious weeds are present has neglected or failed to initiate control as required pursuant to this chapter within five (5) working days from receipt of an individual notice given pursuant to this section, the county having jurisdiction shall have proper control methods used on such land, including necessary destruction of crops, and shall advise the landowner of the cost incurred in connection with such operation. The cost of any such control shall be at the expense of the landowner. If the costs have not been paid to the control authority within sixty (60) days, the control authority may direct that suit be brought in a court of competent jurisdiction for the unpaid charges. On private lands, if unpaid for sixty (60) days or longer the amount of such expense shall become a lien upon the property; and thereafter the lien shall be subject to collection by the county by sale of the property in the same manner as for delinquent taxes. Nothing contained in this section shall be construed to require satisfaction of the imposed obligation by the sale of property or to bar the application of any other available remedy.

(5) Amounts collected under the provisions of this section shall be deposited to the noxious weed fund of the county and shall be accounted for as prescribed by the county auditor. Disbursements from the noxious weed fund shall be made only for noxious weed control purposes.

(6) The county weed superintendent shall:
(a) Examine all land within the county for the purpose of determining whether the provisions of this chapter and rules of the director have been complied with; and
(b) Compile data and submit reports as the director or county may require; and
(c) Implement enforcement action as outlined in this chapter; and
(d) Consult, advise and provide direction on matters pertaining to the most effective and most practical methods of noxious weed control; and
(e) Investigate or aid in the investigation and prosecution of any violation of the provisions of this chapter; and
(f) Meet--certification--requirements--as-prescribed-by-the-regulations-of-the-director; and
(g) Make recommendations regarding establishment of special management zones; and
(h) Make recommendations regarding establishment of cooperative weed management areas; and
(i) Participate on weed control advisory committees to develop and implement noxious weed control strategies for cooperative weed management areas, at the discretion of the county weed control authority.

SECTION 5. That Section 22-2407, Idaho Code, be, and the same is hereby amended to read as follows:

22-2407. LANDOWNER AND CITIZEN DUTIES. (1) It shall be the duty and responsibility of all landowners to control noxious weeds on their land and property, in accordance with this chapter and with rules and regulations promulgated by the director.

(2) The cost of controlling noxious weeds shall be the obligation of the landowner.

(3) Noxious weed control must be for prevention, eradication, or restoration rehabilitation, control or containment efforts. However, areas may be modified from the eradication requirement after-the-director-has-determined-them-to-be-unreasonable-for-short-term-eradication and-has-designated-the-area-as-a-special-management-zone if the landowner is a participant in a county-approved weed management plan or county-approved cooperative weed management area.

(4) The landowner shall reimburse the county control authority for work done because of failure to comply with a five (5) day notice, as outlined in section 22-2405, Idaho Code.

(5) If an article is infested with noxious weeds, it shall not be moved from designated premises until it is treated in accordance with the applicable regulations rules, or in accordance with the written permission of a control authority.

SECTION 6. That Section 22-2409, Idaho Code, be, and the same is hereby amended to read as follows:

22-2409. PENALTIES FOR VIOLATIONS. (1) Any person knowing of the existence of any noxious weeds on lands owned or controlled--by--him--who-fails--to--control--such--weeds--in--accordance--with--this chapter--or--any--person--who--introduces--upon--any--land--under--quarantine--or--who moves--or--causes--to--be--moved--any--article--covered--by--this--chapter--except as--provided--or--who--prevents--or--threatens--to--prevent--entry--upon--land--as provided--in--this--chapter--or--who--interferes--with--the--carrying--out--of--the provisions--of--this--chapter--or--who--violates--any--of--the--provisions--of--this chapter--shall--be--guilty--of--a--misdemeanor--and--shall--be--subject--to--a--fine not--to--exceed--one--thousand--dollars--($1,000) or--up--to--one--(1) year--in jail--or--both--such--fine--and--imprisonment--for--each--violation who violates
any provision of this chapter, or any rules promulgated hereunder for carrying out the provisions of this chapter, or who fails or refuses to comply with any requirements herein specified, or who interferes with the control authority as defined in section 22-2402, Idaho Code, its agents or employees, in the execution, or on account of the execution of their duties under this chapter or rules promulgated hereunder, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than three thousand dollars ($3,000) or be imprisoned in a county jail for not more than twelve (12) months or be subject to both such fine and imprisonment.

(2) Any person who violates or fails to comply with any provision of this chapter or any rules promulgated hereunder may be assessed a civil penalty by the control authority of not more than ten thousand dollars ($10,000) for each offense and shall be liable for reasonable attorney's fees.

(a) Assessment of a civil penalty may be made in conjunction with any other administrative action.

(b) No civil penalty may be assessed unless the person charged was given notice and opportunity for a hearing pursuant to the Idaho administrative procedure act.

(c) If the control authority is unable to collect such penalty or if any person fails to pay all or a set portion of the civil penalty as determined by the control authority, it may recover such amount by action in the appropriate district court.

(d) Any person against whom the control authority has assessed a civil penalty under the provisions of this section may, within thirty (30) days of the final action by the control authority making the assessment, appeal the assessment to the district court of the county in which the violation is alleged by the control authority to have occurred.

(e) All civil penalties collected pursuant to this section shall be remitted to the applicable fund or account as defined in section 22-2402, Idaho Code.

(3) Nothing in this chapter shall be construed as requiring the control authority to report minor violations for prosecution when the control authority believes that the public interest will be best served by suitable warnings or other administrative action.

(4) The director—or—a control authority may bring an action to enforce the provisions of this chapter, and the penalty provided for under this section.

SECTION 7. That Section 22-2411, Idaho Code, be, and the same is hereby amended to read as follows:

22-2411. DELEGATION OF AUTHORITY. The director of the department of agriculture may delegate in writing its authority, or any part thereof, under this chapter to any instrumentality or entity as an agent and servant of the state whose principal purpose is to establish and maintain a uniform and reasonable system of inspection and certification of crops, plants, plant parts or products thereof. Any agent designated hereunder shall be a servant of the state of Idaho and shall be acting in an official capacity for the state of Idaho and under the supervision of the director consistent with this chapter. The delegated instrumentality or entity as agent and servant of the state shall be an entity of the state
AN ACT
RELATING TO ANIMALS; AMENDING SECTION 25-236, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE POSSESSION, SALE, TRADE, BARTER, EXCHANGE AND IMPORTATION OF CERTAIN ANIMALS IN IDAHO; AMENDING SECTION 25-3001, IDAHO CODE, TO REVISE THE DEFINITION OF DOMESTIC FUR-BEARING ANIMALS, TO REVISE PROVISIONS RELATING TO THOSE PREMISES DEEMED FARMS, FUR FARMS OR FUR RANCHES AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 36-711, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE DEFINITIONS OF DOMESTIC FUR-BEARING ANIMALS AND DOMESTIC CERVIDAE.

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

SECTION 1. That Section 25-236, Idaho Code, be, and the same is hereby amended to read as follows:

25-236. POSSESSION, SALE, TRADE, BARTER, EXCHANGE AND IMPORTATION OF ANIMALS. (a) No person shall possess, offer for sale, trade, barter, exchange or importation into the state of Idaho any fox, skunk or raccoon, except as provided in subsection (b2) or (3) of this section.

(b2) An animal specified in subsection (a) of this section may be offered for sale, trade, barter, exchange or importation into the state of Idaho for commercial fur farming without the requirement of a permit; but an animal specified in subsection (a) hereof may be offered for sale, trade, barter, exchange or importation into the state to a public park, zoo, museum or educational institution for educational, scientific or exhibition purposes only if the organization possesses a permit from the department of agriculture. The department of agriculture may refuse to issue a permit if the department finds that the organization requesting the permit does not have physical facilities adequate to maintain the animal in health and safety and to prevent the escape of the animal from confinement. Fur farms may possess or import any domestic fur-bearing animals with a certificate of veterinary inspection and domestic fur-bearing animals may be sold, traded, bartered or exchanged between fur farms in Idaho.

(3) Public parks, zoos, museums, and educational institutions may possess or import the animals listed in subsection (1) of this section only if the entity possesses a permit from the department of agriculture and the imported animal is accompanied by a certificate of veterinary inspection. The department of agriculture may refuse to issue a permit if the department finds that the entity requesting the permit does not
have physical facilities adequate to maintain the animal in health and safety and to prevent the escape of the animal from confinement. Public parks, zoos, museums, and educational institutions that possess a permit from the department of agriculture may sell, trade, barter or exchange any of the animals listed in subsection (1) of this section with any other entity that has a valid permit from the department of agriculture.

SECTION 2. That Section 25-3001, Idaho Code, be, and the same is hereby amended to read as follows:

25-3001. FUR FARMING DEEMED AGRICULTURAL PURSUIT. It shall be lawful for any person, persons, association or corporations to engage in the business of propagating, breeding, owning or controlling domestic fur-bearing animals, which are defined as fox, mink, chinchilla, karakul, marten, fisher, muskrat, nutria, beaver, bobcat, and all other fur-bearing animals; the department of agriculture may designate by rule, breed and raised in captivity for breeding or other useful purposes the purpose of harvesting pelts or providing replacement animals to fur farms that harvest pelts as their primary activity. For the purposes of all classification and administration of the laws of the state of Idaho, and all administrative orders and rules pertaining thereto, the breeding, raising, producing or marketing of such animals or their products by the producer shall be deemed an agricultural pursuit; such animals shall be deemed livestock and their products shall be deemed agricultural products; the persons engaged in such agricultural pursuits shall be deemed farmers, fur farmers, fur breeders, or fur ranchers; the premises within which such pursuit is conducted and domestic fur-bearing animals are raised for the purpose of harvesting pelts or providing replacement animals to fur farms that harvest pelts as their primary activity shall be deemed farms, fur farms, or fur ranches.

SECTION 3. That Section 36-711, Idaho Code, be, and the same is hereby amended to read as follows:

36-711. REGULATION OF DOMESTIC FUR-BEARING ANIMALS AND DOMESTIC CERVIDAE. The authority to regulate the breeding, raising, producing, marketing or any other phase of the production or distribution, of domestic fur-bearing animals as defined in chapter 30, title 25, Idaho Code, and domestic cervidae as defined in chapter 37, title 25, Idaho Code, or the products thereof, is vested in the department of agriculture. Nothing in this section shall limit or affect the powers or duties of the fish and game commission and the department of fish and game relating to nondomestic fur-bearing animals and cervidae or the capture and taking thereof. As used in this section, "domestic fur-bearing animal" means fox, mink, chinchilla, karakul, marten, fisher, muskrat, nutria, beaver, and all other fur-bearing animals raised in captivity for breeding or other useful purposes; "domestic cervidae" as used in this section means fallow deer (dama-dama), elk (cervus-elaphus) and reindeer (rangifer-tarandus) but shall not include red deer (ursian cervidae) or any subspecies or hybrids thereof; Reindeer (rangifer tarandus) shall not be held for domestic purposes north of the Salmon River.

Approved March 30, 2006.
CHAPTER 227
(H.B. No. 602, As Amended)

AN ACT
RELATING TO MOTOR VEHICLE REGISTRATION; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-454, IDAHO CODE, TO ESTABLISH THE PROJECT CHOICE FEE, TO PROVIDE FOR DEPOSIT OF THE FEE, TO PROVIDE FOR APPLICATION AND TO STATE THE PURPOSES OF THE FEE; AMENDING SECTION 49-402B, IDAHO CODE, TO REFERENCE THE PROJECT CHOICE FEE FOR PURPOSES OF BIENNIAL REGISTRATION; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 4, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-454, Idaho Code, and to read as follows:

49-454. PROJECT CHOICE FEE. (1) A project choice program fee of three dollars ($3.00) shall be collected in addition to each registration fee assessed pursuant to section 49-402(1), (2) or (3), 49-411, 49-412 or 49-434(1), Idaho Code. Such fees shall be deposited to the Idaho law enforcement fund established in section 67-2914, Idaho Code.

(2) The project choice program fee shall be collected and deposited pursuant to subsection (1) of this section for registrations for calendar year 2007 and thereafter.

(3) The project choice fee shall be used, subject to appropriation, exclusively for the purposes of creating a career ladder within the Idaho state police and to provide salaries to encourage the hiring and retention of trained and qualified employees for Idaho state police positions.

SECTION 2. That Section 49-402B, Idaho Code, be, and the same is hereby amended to read as follows:

49-402B. OPTIONAL BIENNIAL REGISTRATION. (1) At the option of the applicant, any vehicle registered under the provisions of section 49-402(1) through (5), Idaho Code, may be registered for a period of two (2) years for a fee that is double the fee currently assessed for annual registration of the vehicle in section 49-402, Idaho Code.

(2) If any vehicle registered under a special license plate program is registered for a two (2) year period as provided in this section, the registrant shall also be required to pay the special programs fees for a two (2) year period.

(3) The additional fee collected for emergency medical services pursuant to section 49-452, Idaho Code, or project choice pursuant to section 49-454, Idaho Code, shall also be doubled for any registration issued under the provisions of this section.

(4) The administrative fee collected for issuance of a motor vehicle registration shall be the same as for an annual registration and shall not be doubled or in any way increased solely because of registration under the provisions of this section.
SECTION 3. This act shall be in full force and effect on and after January 1, 2007.

Approved March 30, 2006.

CHAPTER 228
(H.B. No. 624, As Amended in the Senate)

AN ACT
RELATING TO SCHOOL PROPERTY; AMENDING SECTION 33-601, IDAHO CODE, TO PROVIDE THAT SCHOOL PROPERTY WITH AN ESTIMATED VALUE OF LESS THAN FIVE HUNDRED DOLLARS MAY BE DISPOSED OF BY AN EMPLOYEE OF THE DISTRICT EMPOWERED BY THE BOARD TO DISPOSE OF SUCH PROPERTIES PROVIDED THE BOARD HAS BEEN NOTIFIED PRIOR TO DISPOSAL OF SAID PROPERTY.

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

SECTION 1. That Section 33-601, Idaho Code, be, and the same is hereby amended to read as follows:

33-601. REAL AND PERSONAL PROPERTY -- ACQUISITION, USE OR DISPOSAL OF SAME. The board of trustees of each school district shall have the following powers and duties:

1. To rent to or from others, school buildings or other property used, or to be used, for school purposes.

2. To contract for the construction, repair, or improvement of any real property, or the acquisition, purchase or repair of any equipment, or other personal property necessary for the operation of the school district.

Except for the purchase of curricular materials as defined in section 33-118A, Idaho Code, such contract shall be executed in accordance with the provisions of chapter 28, title 67, Idaho Code.

3. To designate and purchase any real property necessary for school purposes or in the operation of the district, or remove any building, or dispose of any real property. Prior to, but not more than one (1) year prior to, any purchase or disposal of real property, the board shall have such property appraised by an appraiser certified in the state of Idaho, which appraisal shall be entered in the records of the board of trustees, and shall be used to establish the value of the real property. The board of trustees shall determine the size of the site necessary for school purposes. The site shall be located within the incorporated limits of any city within the district; provided, however, that if the board finds that it is not in the best interests of the electors and the students of the district to locate the site within the incorporated limits of a city, the board, by duly adopted resolution setting forth the reasons for its finding, may designate a site located elsewhere within the district. In elementary school districts, except upon removal for highway purposes, a site may be designated or changed only after approval of two-thirds (2/3) or more of the electors voting at the annual meeting.

4. (a) To convey, except as provided by paragraph (b) of this subsection, by deed, bill of sale, or other appropriate instrument, all
of the estate and interest of the district in any property, real or personal. In elementary school districts, except such conveyance as is authorized by subsection 6. of this section, any of the transactions authorized in this subsection shall be subject to the approval of two-thirds (2/3) or more of the electors voting at the annual meeting.

Prior to such sale or conveyance, the board shall have the property appraised pursuant to this section, which appraisal shall be entered in the records of the board of trustees. The property may be sold at public auction or by sealed bids, as the board of trustees shall determine, to the highest bidder. Such property may be sold for cash or for such terms and conditions as the board of trustees shall determine for a period not exceeding ten (10) years, with the annual rate of interest on all deferred payments not less than seven percent (7%) per annum. The title to all property sold on contract shall be retained in the name of the school district until full payment has been made by the purchaser, and title to all property sold under a note and mortgage or deed of trust shall be transferred to the purchaser at the point of sale under the terms and conditions of the mortgage or deed of trust as the board of trustees shall determine. Notice of the time and the conditions of such sale shall be published twice, and proof thereof made, in accordance with subsections g. and h. of section 33-402, Idaho Code, except that when the appraised value of the property is less than one thousand dollars ($1,000), one (1) single notice by publication shall be sufficient and the property shall be sold by sealed bids or at public auction.

The board of trustees may accept the highest bid, may reject any bid, or reject all bids. If the real property was donated to the school district the board may, within a period of one (1) year from the time of the appraisal, sell the property without additional advertising or bidding. Otherwise, the board of trustees must have new appraisals made and again publish notice for bids, as before. If, thereafter, no satisfactory bid is made and received, the board may proceed under its own direction to sell and convey the property. In no case shall any real property of the school district be sold for less than its appraisal.

The board of trustees may sell personal property, with an estimated value of less than one thousand dollars ($1,000), without appraisal, by sealed bid or at public auction, provided that there has been not less than one (1) published advertisement prior to the sale of said property. If the board, by a unanimous vote of those members present, finds that the property has an estimated value of less than five hundred dollars ($500), and is of insufficient value to defray the costs of arranging a sale, the property may be disposed of in the most cost-effective and expedient manner by an employee of the district empowered for that purpose by the board, provided however, such employee shall notify the board prior to disposal of said property.

(b) Real and personal property may be exchanged hereunder for other property. Provided, however, that aside from the provisions of this paragraph, any school district may by a vote of one-half (1/2) plus one (1) of the members of the full board of trustees, by resolution duly adopted, authorize the transfer or conveyance of any real or
personal property owned by such school district to the government of the United States, any city, county, the state of Idaho, any hospital district organized under chapter 13, title 39, Idaho Code, any other school district, any library district, any community college district, or any recreation district, with or without any consideration accruing to the school district, when in the judgment of the board of trustees it is for the interest of such school district that said transfer or conveyance be made. Prior to any transfer or conveyance of any real or personal property pursuant to this paragraph 4.(b), the board shall have the property appraised by an appraiser certified in the state of Idaho, which appraisal shall be entered in the records of the board of trustees, and shall be used to establish the value of the real or personal property.

5. To enter into contracts with any city located within the boundaries of the school district for the joint purchase, construction, development, maintenance and equipping of playgrounds, ball parks, swimming pools, and other recreational facilities upon property owned either by the school district or the city.

6. To convey rights-of-way and easements for highway, public utility, and other purposes over, upon or across any school property and, when necessary to the use of such property for any such purpose, to authorize the removal of school buildings to such new location, or locations, as shall be determined by the board of trustees, and such removal shall be made at no cost or expense to the school district.

7. To authorize the use of any school building of the district as a community center, or for any public purpose, and to establish a policy of charges, if any, to be made for such use.

8. To exercise the right of eminent domain under the provisions of chapter 7, title 7, Idaho Code, for any of the uses and purposes provided in section 7-701, Idaho Code.

9. If there is a great public calamity, such as an extraordinary fire, flood, storm, epidemic, or other disaster, or if it is necessary to do emergency work to prepare for national or local defense, or it is necessary to do emergency work to safeguard life, health or property, the board of trustees may pass a resolution declaring that the public interest and necessity demand the immediate expenditure of public money to safeguard life, health or property. Upon adoption of the resolution, the board may expend any sum required in the emergency without compliance with this section.

Approved March 30, 2006.

CHAPTER 229
(H.B. No. 638)
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 57-1503, Idaho Code, be, and the same is hereby amended to read as follows:

57-1503. WATERWAYS IMPROVEMENT FUND ADVISORY COMMITTEE. The director park and recreation board of the department of parks and recreation shall appoint a six (6) member advisory committee which shall be compensated as provided in section 59-509(f), Idaho Code. The committee shall act in an advisory capacity to the department on matters relating to evaluation of applications for grants to be awarded from the state waterways improvement fund. Criteria for determining awards shall be as prescribed by the department. One (1) member shall be chosen from each of the districts described in section 67-4221, Idaho Code. Each member shall be an active recreational boater and be a resident of the region. The terms of the appointment shall be three (3) years, except that the initial appointees shall commence on the date of appointment and shall be of staggered lengths so that the term of two (2) members will expire annually.

SECTION 2. That Section 67-4223, Idaho Code, be, and the same is hereby amended to read as follows:

67-4223. POWERS OF BOARD. The park and recreation board shall:

(a) Adopt, amend or rescind rules as may be necessary for the proper administration of the provisions of sections 67-4218, et seq., Idaho Code, and the use and protection of park and recreational areas subject to its jurisdiction. A violation of any rule promulgated by the board pursuant to this provision which concerns the use and protection of park and recreation areas is an infraction.

(b) Make expenditures for the acquisition, leasing, care, control, supervision, improvement, development, extension and maintenance of all lands under the control of the department and to make arrangements, agreements, contracts or commitments, which may or may not involve expenditures or transfer of funds, with the head of any state institution, department or agency for the improvement or development of lands or properties under the control of the board, or any other department or agency of the state of Idaho.

(c) Appoint advisory, local and regional park and recreational councils, to consider, study and advise in the work of the department for the extension, development, use and maintenance of any areas which are to be considered as future park or recreational sites or which are designated as park recreational areas.

(d) Appoint a six (6) member recreational vehicle advisory committee, who shall be compensated as provided in section 59-509(f), Idaho Code, and act in an advisory capacity to the board on matters relating to the development and improvement of recreational vehicle related facilities and services as provided in subsection (e) of this section. Each member of the advisory committee shall be representative of recreational vehicle users with one (1) from each of the districts described
in section 67-4221, Idaho Code. The terms of appointment shall be concurrent with the incumbent park and recreation board member from the respective districts three (3) years, except that the initial appointees shall commence on the date of appointment and shall be of staggered lengths so that the term of two (2) members will expire annually.

(e) Administer the funds derived from the recreational vehicle account established in section 49-448, Idaho Code, to provide financial assistance in the form of grants to public entities for the acquisition, lease, development, improvement, operations and maintenance of facilities and services designed to promote the health, safety and enjoyment of recreational vehicle users. Up to fifteen percent (15%) of the recreational vehicle account generated each year may be used by the department to defray recreational vehicle program administrative costs. Any moneys unused at the end of the fiscal year shall be returned to the state treasurer for deposit in the recreational vehicle account.

(f) Cooperate with the United States and its agencies and local governments of the state for the purpose of acquiring, leasing, supervising, improving, developing, extending or maintaining lands which are designated as state parks, state monuments or state recreational areas and to secure agreements or contracts with the United States and its agencies or local governments of the state for the accomplishment of the purposes of sections 67-4218, et seq., Idaho Code.

(g) Construct, lease or otherwise establish public park or recreational privileges, facilities and conveniences and to operate said recreational services and to make and collect reasonable charges for their use or to enter into contracts for their operation. The board may discount fees in order to offer use incentives to generate additional revenue for operation of the state park system. The net proceeds derived shall be credited to the park and recreation account established in section 67-4225, Idaho Code, and are hereby specifically appropriated to defray the cost of the public park or recreational services. The department is specifically authorized to enter into contracts with the United States and its agencies which require that the state expend any excess of revenue above expenses for improvements of the recreational or park area from which the excess was derived.

(1) The board may provide for waiver of fees to any resident of Idaho who is a disabled veteran and whose disability is rated at one hundred percent (100%) or higher, permanent and total.

(2) The board may provide for a reduction of no more than fifty percent (50%) of the fee charged for recreational vehicle camping, effective Monday night through Thursday night, for any senior citizen who possesses a valid federal "golden age passport" or other equivalent successor, as issued by a federally-operated facility where an entrance fee is charged.

(3) If any state recognizes senior citizens by offering a special park pass for use in that state, the board may provide for a reduction of no more than fifty percent (50%) of the fee charged for recreational vehicle camping, effective Monday night through Thursday night, for any person who possesses such a state park pass.

(h) Prepare, maintain and keep up-to-date a comprehensive plan for the provision of the outdoor recreational resources of the state; to develop, operate and maintain or enter into leases or agreements with local governments for the operation and maintenance of outdoor recreational areas and facilities of the state, and to acquire lands, waters
and interests in lands and waters for such areas and facilities.

(i) Apply to any appropriate agency or officer of the United States for participation by the department or a political subdivision of the state or the receipt of aid from any federal program respecting outdoor recreation. It may enter into contracts and agreements with the United States or any appropriate agency thereof, keep financial and other records relating thereto and furnish to appropriate officials and agencies of the United States reports and information as may be reasonably necessary to enable officials and agencies to perform their duties under such programs. In connection with obtaining the benefits of any program, the park and recreation board shall coordinate its activities with and represent the interests of all agencies and subdivisions of the state having interests in the planning, development and maintenance of outdoor recreational resources and facilities.

(j) Obligate the state regarding the responsible management of any federal funds transferred to it for the purpose of any federal enactment and, in accordance with the exercise of this responsibility, the state hereby consents to be sued in any United States district court for the recovery of any federal funds that the responsible federal official, department or agency finds have been misused or disposed of contrary to the agreement with the federal official, department or agency or contrary to the provisions of federal enactment or applicable federal regulations.

(k) Cooperate and contract with and receive and expend aid, donations and matching funds from the government of the United States, receive and expend funds from the STORE and to receive and expend donations from other sources to acquire, develop, operate and maintain outdoor recreational areas and facilities of the state and, when authorized or directed by any act of congress or any rule or regulation of any agency of the government of the United States, to expend funds donated or granted to the state of Idaho by the federal government for such purposes.

Provided, however, the park and recreation board shall make no commitment or enter into any agreement pursuant to an exercise of authority under sections 67-4218, et seq., Idaho Code, until it has determined that sufficient funds are available to it for meeting the state's share, if any, of project costs. It is legislative intent that, to the extent as may be necessary to assure the proper operation and maintenance of areas and facilities acquired or developed pursuant to any program participated in by this state under authority of sections 67-4218, et seq., Idaho Code, such areas and facilities shall be publicly maintained for outdoor recreational purposes. The park and recreation board may enter into and administer agreements with the United States or any appropriate agency thereof for planning, acquisition and development projects involving participating federal-aid funds or state funds on behalf of any subdivision or subdivisions of this state. Provided, that the subdivision or subdivisions give necessary assurances to the park and recreation board that they have available sufficient funds to meet their shares, if any, of the cost of the project and that the acquired or developed areas will be operated and maintained at the expense of the subdivision or subdivisions for public outdoor recreational use.

(l) Establish, develop, supervise and maintain through cooperative agreement, lease, purchase or other arrangement the Idaho recreation trail system, with the advice of the coordinator created in section
67-4233, Idaho Code, and consistent with the goals of recreation, transportation and public access to outdoor areas.

(m) Enter into agreements with cities, counties, recreation districts or other political subdivisions of the state to cost-effectively provide recreational facilities, opportunities and services to the citizens of the state.

SECTION 3. That Section 67-7128, Idaho Code, be, and the same is hereby amended to read as follows:

67-7128. OFF-ROAD MOTOR VEHICLE ADVISORY COMMITTEE -- CREATION -- SELECTION -- TERM OF OFFICE -- DUTY. (1) The park and recreation board shall appoint an off-road motor vehicle advisory committee (ORMV) of nine (9) members. The membership of the advisory committee shall consist of three (3) members each from northern Idaho, southwestern Idaho, and southeastern Idaho. Two (2) members from each area shall represent the following groups: motorbikes or ATV riders and snowmobilers. One (1) member interested in ORMV projects shall be appointed from each area without regard to the recreational activity in which that member participates and shall represent interests other than motorbike or ATV riders and snowmobilers. Each member of the advisory committee shall be chosen by the park and recreation board to serve a term of four three (43) years, except that the term of the initial appointees shall commence on the date of appointment and shall be of staggered lengths. Each member of the advisory committee shall be a qualified elector of the state. Duties shall include:

(a) Representing the best interests of the ORMV users and activities which they represent in the district from which they are appointed;
(b) Advising the department as to whether proposed ORMV projects meet the needs of ORMV users in that area;
(c) Advising the department as to how funds can be used to rehabilitate areas on public or private lands and how the department can assist in the enforcement of laws and regulations governing the use of off-road vehicles in the state of Idaho;
(d) The three (3) motorbike or all-terrain vehicle representatives from the ORMV advisory committee shall advise the department on matters relating to the use of moneys in the motorbike recreation account as provided for in section 67-7127, Idaho Code.

(2) The department may reimburse members of the ORMV advisory committee for reasonable expenses incurred in the conduct of their official duties; prescribed committee shall be compensated as provided in section 59-509(bf), Idaho Code, and authorized by the department.

Approved March 30, 2006.

CHAPTER 230
(H.B. No. 640)

AN ACT RELATING TO FISH AND GAME; AMENDING SECTION 36-112, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY, TO PROVIDE A CORRECT CODE REFERENCE, AND
TO REVISE PROVISIONS RELATING TO THE TRANSFER OF MONEYS INTO THE ANIMAL DAMAGE CONTROL FUND.

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

SECTION 1. That Section 36-112, Idaho Code, be, and the same is hereby amended to read as follows:

36-112. ANIMAL DAMAGE CONTROL ACCOUNT FUND. (1) The animal damage control account fund is hereby established in the state treasury. Moneys in the account fund are subject to appropriation to the state animal damage control board established by section 25-2626A, Idaho Code, for the control of predatory animals and birds. In addition to moneys transferred into the fund pursuant to section 36-115(c), Idaho Code, the state controller shall annually, by August 1 of each year, transfer the sum of fifty one hundred thousand dollars ($5100,000) from the fish and game account fund to the animal damage control account fund. The state animal damage control board in using these moneys shall follow fish and game commission direction on actions regarding predatory animals or birds forwarded by the department by the same date.

(2) Beginning July 1, 1997, and each year thereafter, the state controller shall transfer an additional fifty thousand dollars ($50,000) from the fish and game account fund to the animal damage control account fund by August 1. The additional moneys transferred shall be used for three years beginning July 1, 1997 to fund animal damage control efforts in conjunction with research projects to best accomplish the protection of upland game and big game animals from predation. The animal damage control board shall follow fish and game commission direction regarding expenditures of these moneys. Upon the completion of the three-year period, the additional moneys transferred annually shall be added to the animal damage control account for use and appropriation as provided in subsection (1) of this section.

Approved March 30, 2006.

CHAPTER 231
(H.B. No. 648, As Amended in the Senate)

AN ACT
RELATING TO WORKER'S COMPENSATION; AMENDING SECTION 72-204, IDAHO CODE, TO PROVIDE THAT PERSONS PERFORMING SERVICE IN THE COURSE OF THE BUSINESS OF AN EMPLOYER ARE COVERED UNDER PRIVATE EMPLOYMENT PROVISIONS, TO REVISE THE DEFINITION FOR "EMPLOYMENT" AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 72-212, IDAHO CODE, TO REMOVE AN EXEMPTION FROM COVERAGE RELATING TO EMPLOYMENT NOT CARRIED ON BY THE EMPLOYER FOR THE SAKE OF PECUNIARY GAIN.

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

SECTION 1. That Section 72-204, Idaho Code, be, and the same is hereby amended to read as follows:

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72-204. PRIVATE EMPLOYMENT -- COVERAGE. The following shall consti-
tute employees in private employment and their employers subject to the
provisions of this law:

(1) A person performing service in the course of the trade, busi-
ness, profession or occupation of an employer.

(2) A person, including a minor, whether lawfully or unlawfully
employed, in the service of an employer under any contract of hire or
apprenticeship, express or implied, and all helpers and assistants of
employees whether paid by the employer or employee, if employed with the
knowledge, actual or constructive, of the employer.

(3) An officer of a corporation.

(4) "Employment," in the case of private employers, includes
employment only in a that trade, business, profession or occupation
which is carried on by the employer for-the-sake-of-pecuniary-gain and
also includes any of the pursuits specified in section 72-212, Idaho
Code, when the employer shall have elected to come under the law as pro-
vided in section 72-213, Idaho Code.

SECTION 2. That Section 72-212, Idaho Code, be, and the same is
hereby amended to read as follows:

72-212. EXEMPTIONS FROM COVERAGE. None of the provisions of this
law shall apply to the following employments unless coverage thereof is
elected as provided in section 72-213, Idaho Code.

(1) Household domestic service.

(2) Casual employment.

(3) Employment of outworkers.

(4) Employment of members of an employer's family dwelling in his
household.

(5) Employment of members of an employer's family not dwelling in
his household if the employer is the owner of a sole proprietorship,
provided the family member has filed with the commission a written dec-
laration of his election for exemption from coverage. For the purposes
of this subsection, "member of an employer's family" means a natural
person or the spouse of a natural person who is related to the employer
by blood, adoption or marriage within the first degree of consanguinity
or a grandchild or the spouse of a grandchild.

(6) Employment which is not carried on by the employer for-the-sake
of pecuniary-gain:

(a) Employment as the owner of a sole proprietorship; employment of
a working member of a partnership or a limited liability company;
employment of an officer of a corporation who at all times during the
period involved owns not less than ten percent (10%) of all of the
issued and outstanding voting stock of the corporation and, if the cor-
poration has directors, is also a director thereof.

(b) Employment for which a rule of liability for injury, occupa-
tional disease, or death is provided by the laws of the United States.

(98) Employment as a pilot of an aircraft, while actually operating
an aircraft for the purpose of applying fertilizers or pesticides to
agricultural crops, shall be exempt from the provisions of the worker's
compensation law, provided that:

(a) The industrial commission has issued to the agent submitting
the policy, written approval of a policy of insurance that will pro-
vide benefits in an amount of not less than: twenty-five thousand
dollars ($25,000) accidental death and dismemberment, ten thousand dollars ($10,000) medical expense payments, and five hundred dollars ($500) per month disability income for a minimum of forty-eight (48) months; and
(b) Once the policy has been approved by the industrial commission, proof of coverage for the specified pilot has been filed with the commission prior to the pilot actually operating an aircraft. Provided however, the agent issuing the policy shall obtain approval of the policy of insurance, and proof of coverage for each pilot insured under the policy shall be filed with the commission, each calendar year. The exemption shall be effective on the date the commission receives proof of coverage for the specified pilot, but no earlier than the date written approval of the policy was issued by the commission.

(409) Associate real estate brokers and real estate salesmen. Service performed by an individual for a real estate broker as an associate real estate broker or as a real estate salesman, if all such service performed by such individual for such person is performed for remuneration solely by way of commission.

(410) Volunteer ski patrollers.

(421) Officials of athletic contests involving secondary schools, as defined in section 33-119, Idaho Code.

Approved March 30, 2006.
requested, permit one (1) person authorized by any candidate to be present to watch-the-receiving-and-counting-of-votes serve as a watcher to observe the counting of votes. Challengers or watchers may work in various shifts throughout the day. However, each candidate may have only one (1) challenger and only one (1) watcher at the polling place at any given time.

b. (2) Where the issue before the electors of a school district is other than the election of officers, the clerk of the school district shall upon receipt of a written request, such request to be received no later than five (5) days prior to the date of voting on the issue or issues, direct that the election judges permit one (1) pro and one (1) con person to be at the polling place for the purpose of challenging voters and to watch-the-receiving-and-counting-of-votes serve as a watcher to observe the counting of votes. Such authorization shall be evidenced in writing signed by the requesting person and shall state which position relative to the issue or issues the person represents. Challengers or watchers may work in various shifts throughout the day. Persons who are authorized to serve as challengers or watchers shall wear a visible name tag which includes their respective titles. Persons permitted-to-be-present-to-watch-the-counting-of-votes-shall-not-absent themselves until-the-polls-are-closed. Challengers or watchers shall not be a candidate at the election where they are serving as a challenger or watcher.

SECTION 2. That Section 33-406, Idaho Code, be, and the same is hereby amended to read as follows:

33-406. ABSENTEE VOTING. For the purposes of this section the term "clerk" shall mean the clerk of the board of county commissioners whenever an election involves changing the boundaries of school districts, or the creation of new school districts by consolidation of districts or division of a district. In all other school elections the term "clerk" shall mean the clerk of the board of trustees of the school district.

In any school election, a qualified school elector who expects to be absent from-the-district-on-the-day-of-the-election, or who will be unable, because of physical disability or blindness, to go to the polling-place, may vote in such election by absentee ballot in the manner herein provided.

Any such elector may make written application to the clerk for a ballot or ballots of the kind or kinds to be voted on at such election, which application shall contain the name of the elector, the trustee zone of the district in which he resides, and his present address. The application for an absent elector's ballot shall be filed with the clerk not later than 5:00 p.m. of the day before the election.

The clerk receiving such application shall, not more than twenty-eight (28) days prior to the day of the election, deliver to said applicant elector personally or by mail to the mailing address given in the application, postage prepaid, a ballot or ballots, one (1) of each kind thereof, to be voted on in the election, and a form of oath of qualification.

The elector shall vote in secret and shall enclose his ballot or ballots in an envelope to be supplied by the clerk and seal the same. The elector shall then place the secrecy envelope in a return envelope, together with the form of oath of qualification executed by him, and...
address and mail, or deliver, the same to the clerk. The absentee ballot must be received by the clerk, not later than 8:00 p.m. on the day of the election, before such ballot may be counted.

Any elector physically unable to mark his own ballot may receive assistance in marking his ballot from the officer delivering same or an available person of his own choosing. In the event the officer is requested to render assistance in marking an absent elector's ballot, the officer shall ascertain the desires of the elector and shall vote the applicant's ballot accordingly. No election officer or any other person assisting a disabled voter shall attempt to influence the vote of such elector in any manner.

The written applications shall be kept by the clerk as a part of the records of the election and he shall, on the day of the election and before the polling places are closed, deliver to the proper board of election all such envelopes together with a list, compiled and signed by him, of the electors making application to vote in absentia.

The board of election shall verify all return envelopes delivered to it by the clerk against the names appearing on the said list, open the return envelopes and examine the elector's oath. If these are found to be in order, the ballots shall remain in the secrecy envelopes and be placed in the ballot box in the same manner as though the elector were personally present and voting; and the voter's name shall thereupon be subscribed in any polling book or other record kept at such election.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 30, 2006.

CHAPTER 233
(H.B. No. 676, As Amended in the Senate)

AN ACT
RELATING TO PROPERTY TAXATION; REPEALING SECTION 63-602FF, IDAHO CODE, RELATING TO PARTIAL EXEMPTION FOR PARCELS OF LAND IN A RURAL HOME SITE DEVELOPMENT PLAT; AMENDING SECTION 63-604, IDAHO CODE, TO PROVIDE THAT IF LAND QUALIFIED FOR THE EXEMPTION IN SECTION 63-602FF, IDAHO CODE, IN 2005, THE LAND WILL QUALIFY IN 2006 FOR THE SPECULATIVE PORTION OF AGRICULTURAL LAND EXEMPTION UPON THE FILING OF A STATEMENT BY THE OWNER WITH THE BOARD OF COUNTY COMMISSIONERS THAT THE LAND WILL BE ACTIVELY DEVOTED TO AGRICULTURE IN 2006, TO PROVIDE THAT PLATTING LAND ACTIVELY DEVOTED TO AGRICULTURE DOES NOT ALONE CAUSE THE LAND TO LOSE ITS ACTIVELY DEVOTED TO AGRICULTURE STATUS AND TO PROVIDE AN ADDITIONAL DEFINITION; AMENDING SECTION 63-602K, IDAHO CODE, TO REVISE A DEFINITION; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

SECTION 1. That Section 63-602FF, Idaho Code, be, and the same is hereby repealed.
SECTION 2. That Section 63-604, Idaho Code, be, and the same is hereby amended to read as follows:

63-604. LAND ACTIVELY DEVOTED TO AGRICULTURE DEFINED. (1) For property tax purposes, land which is actively devoted to agriculture shall be eligible for appraisal, assessment and taxation as agricultural property each year it meets one (1) or more of the following qualifications:
   (a) The total area of such land, including the homesite, is more than five (5) contiguous acres, and is actively devoted to agriculture which means:
      (i) It is used to produce field crops including, but not limited to, grains, feed crops, fruits and vegetables; or
      (ii) It is used to produce nursery stock as defined in section 22-2302(11), Idaho Code; or
      (iii) It is used by the owner for the grazing of livestock to be sold as part of a for-profit enterprise, or is leased by the owner to a bona fide lessee for grazing purposes; or
      (iv) It is in a cropland retirement or rotation program.
   (b) The area of such land is five (5) contiguous acres or less and such land has been actively devoted to agriculture within the meaning of subsection (1)(a) of this section during the last three (3) growing seasons; and
      (i) It agriculturally produces for sale or home consumption the equivalent of fifteen percent (15%) or more of the owner's or lessee's annual gross income; or
      (ii) It agriculturally produced gross revenues in the immediately preceding year of one thousand dollars ($1,000) or more. When the area of land is five (5) contiguous acres or less, such land shall be presumed to be nonagricultural land until it is established that the requirements of this subsection have been met.
   (2) Land shall not be classified or valued as agricultural land which is part of a platted subdivision with stated restrictions prohibiting its use for agricultural purposes, whether within or without a city.
   (3) Land utilized for the grazing of a horse or other animals kept primarily for personal use or pleasure rather than as part of a bona fide for-profit enterprise shall not be considered to be land actively devoted to agriculture.
   (4) Land actively devoted to agriculture, having previously qualified for exemption under this section in the preceding year, or which would have qualified under this section during the current year, shall not lose such qualification due to the owner's or lessee's absence in the current year by reason of active military service in a designated combat zone, as defined in section 112 of the Internal Revenue Code. If an owner fails to timely apply for exemption as required in this section solely by reason of active duty in a designated combat zone, as defined in section 112 of the Internal Revenue Code, and the land would otherwise qualify for exemption under this section, then the board of county commissioners of the county in which the land actively devoted to agriculture is located shall refund property taxes, if previously paid, in an amount equal to the exemption which would otherwise have applied.
   (5) If the land qualified for exemption pursuant to section 63-602FF, Idaho Code, in 2005, then the land will qualify in 2006 for
the exemption pursuant to section 63-602K, Idaho Code, upon the filing of a statement by the owner with the board of county commissioners that the land will be actively devoted to agriculture pursuant to this section in 2006.

(6) For purposes of this section, the act of platting land actively devoted to agriculture does not, in and of itself, cause the land to lose its status as land being actively devoted to agriculture if the land otherwise qualifies for the exemption under this section.

(7) As used in this section:
(a) "Contiguous" means being in actual contact or touching along a boundary or at a point, except no area of land shall be considered not contiguous solely by reason of a roadway or other right-of-way;
and.
(b) "For-profit" means the enterprise will, over some period of time, make or attempt to make a return of income exceeding expenses.
(c) "Platting" means the filing of the drawing, map or plan of a subdivision or a replatting of such, including certification, descriptions and approvals with the proper county or city official.

SECTION 3. That Section 63-602K, Idaho Code, be, and the same is hereby amended to read as follows:

63-602K. PROPERTY EXEMPT FROM TAXATION -- SPECULATIVE PORTION OF VALUE OF AGRICULTURAL LAND. (1) The speculative portion of the value of land actively devoted to agriculture is exempt from taxation.

(2) "Land actively devoted to agriculture" shall mean that property defined by section 63-604, Idaho Code. For purposes of this section, the act of platting land actively devoted to agriculture does not, in and of itself, cause the land to lose its status as land being actively devoted to agriculture if the land otherwise qualifies for the exemption under this section.

(3) "Speculative portion" shall mean that portion of the value of agricultural land which represents the excess over the actual use value of such land established by comparable sales data compared to value established by capitalization of economic rent or long-term average crop rental at a capitalization rate which shall be the rate of interest charged by the Spokane office of the farm credit system averaged over the immediate past five (5) years plus a component for the local tax rate.

(4) The state tax commission shall adopt rules implementing this section which shall provide the procedure by which it shall establish economic rent, average crop rental and capitalization rates and for the publication of crop prices and the discount rate to be used to determine the capitalization rate.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2006.

Approved March 30, 2006.
AN ACT
RELATING TO PROPERTY TAXES; AMENDING CHAPTER 7, TITLE 63, IDAHO CODE,
BY THE ADDITION OF NEW SECTIONS 63-712, 63-713, 63-714, 63-715,
63-716, 63-717, 63-718, 63-719, 63-720 AND 63-721, IDAHO CODE, TO
PROVIDE A SHORT TITLE, TO PROVIDE FOR DEFINITIONS, TO PROVIDE FOR
APPLICATION FOR DEFERRAL OF PROPERTY TAX, TO PROVIDE FOR PROCEDURES
AND APPEALS, TO PROVIDE FOR A DEFERRAL OF PROPERTY TAXES AND INTER-
EST AND LIENS RELATING TO THE DEFERRAL, TO PROVIDE FOR REIMBURSEMENT
BY THE STATE TAX COMMISSION OF LOCAL TAXES DEFERRED AND TO PROVIDE A
LIMIT TO THE DEFERRAL AND PAYMENT OF TAXES NOT DEFERRED, TO PROVIDE
FOR EVENTS TERMINATING THE DEFERRAL AND TO PROVIDE FOR PAYMENT OF
DEFERRED TAXES AND INTEREST AND TO PROVIDE FOR DISTRIBUTION AND
APPROPRIATION OF PAYMENTS RECEIVED, TO PROVIDE FOR A TAX DEED IN THE
EVENT OF FAILURE TO PAY DEFERRED TAXES, TO PROVIDE FOR RECOVERY OF
AMOUNTS SUBJECT TO RECOVERY AND TO PROVIDE A MISDEMEANOR PENALTY FOR
KNOWINGLY FILING A FALSE CLAIM; AMENDING SECTION 63-3638, IDAHO
CODE, TO REVISE DISTRIBUTION FOR REIMBURSEMENT PAYMENTS FOR PROPERTY
TAX RELIEF AND TAX DEFERRALS; DECLARING AN EMERGENCY AND PROVIDING A
RETROACTIVE EFFECTIVE DATE.

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

SECTION 1. That Chapter 7, Title 63, Idaho Code, be, and the same
is hereby amended by the addition thereto of NEW SECTIONS, to be known
and designated as Sections 63-712, 63-713, 63-714, 63-715, 63-716,
63-717, 63-718, 63-719, 63-720 and 63-721, Idaho Code, and to read as
follows:

63-712. SHORT TITLE. The provisions of sections 63-712 through
63-721, Idaho Code, shall be known and may be cited as the "Property Tax
Deferral Act."

63-713. DEFINITIONS. In addition to the definitions in section
63-701, Idaho Code, the following definitions apply to sections 63-712
through 63-721, Idaho Code.

(1) "Qualified claimant" means an individual who is a claimant who
applies for and properly receives property tax relief under the provi-
sions of sections 63-701 through 63-710, Idaho Code.

(2) "Qualified property" means property for which:
(a) A qualified claimant is eligible to receive benefits under the
provisions of sections 63-701 through 63-710, Idaho Code, for the
year for which the qualified claimant applies for a deferral of pay-
ment of property tax; and
(b) Is owned only by the qualified claimant and his or her spouse
and is not subject to a trust or life estate or other ownership held
by a person who is not the qualified claimant or his or her spouse.

63-714. APPLICATION -- DEFERRAL OF PROPERTY TAX. (1) A qualified
claimant may elect, upon the application for property tax relief filed
under section 63-703, Idaho Code, to defer payment of any property tax
due after application of all benefits available under section 63-704, Idaho Code. The state tax commission shall prescribe the form and manner by which the election must be made and may require that the application include information establishing the outstanding balance of any encumbrances, proof of insurance of an amount adequate for the amount of deferred tax and interest, and such other information as the state tax commission reasonably determines to be necessary. The state tax commission may require written or other proof of the encumbrances or casualty insurance in such form as the state tax commission may determine.

(2) No application for deferral of property taxes shall be granted if:

(a) The application fails to show sufficient equity in that property after consideration of encumbrances that are superior to any liens for deferral to secure the payment of all existing deferrals granted in the property; or

(b) The application fails to show proof of insurance of an amount adequate for the amount of the deferred tax and interest; or

(c) The result would be to defer property taxes which, together with the amount of property tax and interest previously deferred on the same property, would exceed fifty percent (50%) of the qualified claimant's proportional share of the market value of the qualified property.

63-715. PROCEDURES -- APPEALS. Elections for deferral of payment of property tax shall be subject to the provisions of section 63-706, Idaho Code, and if approved by the county board of equalization, shall be included on the property tax reduction roll and processed and reviewed as provided in section 63-707, Idaho Code, for claims for property tax relief.

63-716. DEFERRAL -- INTEREST -- LIEN -- PRIORITY. (1) Upon approval by both the county board of equalization and the state tax commission, payment of any amount of property tax due for the year to which the election relates, after application of the property tax relief available under sections 63-701 through 63-710, Idaho Code, and subject to the limitation in section 63-717(2), Idaho Code, in regard to the qualified property subject to the election, shall be deferred until the deferral is terminated under section 63-718, Idaho Code.

(2) During the period of deferral, interest shall accrue on the amount deferred at the annual rate of six percent (6%) annually.

(3) The lien imposed by section 63-206, Idaho Code, shall continue to be a lien on the property in the amount of deferred taxes and interest thereon. The state tax commission shall file with the county recorder of the county in which the property is located a notice of lien for deferred property taxes. Notwithstanding the provisions of section 63-206, Idaho Code, the lien for deferred taxes and interest shall not be a first and prior lien, but shall take its priority from the date and time of filing of the notice of lien.

63-717. REIMBURSEMENT BY STATE TAX COMMISSION. (1) By no later than December 20 of each year, the state tax commission shall pay to the county tax collector of each county one-half (1/2) of the amount due each county as reimbursement for property taxes deferred as provided in sections 63-712 through 63-721, Idaho Code, as shown on the property tax
reduction roll required under section 63-707, Idaho Code, as modified by actions of the state tax commission relating to claims approved or disapproved by the state tax commission, and shall pay the second one-half (1/2) of such amount by not later than June 20 of the following year. The payments may be combined with payments made under section 63-709, Idaho Code.

(2) The total amount of reimbursement payable to all counties under this section shall not exceed five hundred thousand dollars ($500,000) in regard to property taxes for one (1) calendar year. In the event that the amount of taxes approved for deferral exceeds five hundred thousand dollars ($500,000), the amount of taxes deferred for each qualifying property shall be reduced proportionately and the balance of property tax not deferred shall be entered on the property tax notice required by section 63-902, Idaho Code, and shall be payable as required by chapter 9, title 63, Idaho Code.

63-718. EVENTS TERMINATING DEFERRAL -- PAYMENT OF DEFERRED TAX AND INTEREST. (1) A deferral of property tax payments shall terminate on the earlier of:
   (a) Voluntary payment of the full amount of deferred tax and interest to the state tax commission;
   (b) The death of the qualified claimant. In the case of more than one (1) qualified claimant, the death of the last surviving qualified claimant;
   (c) A sale or other transfer of title to the property or any part of the property except a transfer of title to a surviving spouse of a deceased qualified claimant;
   (d) The property no longer qualifies for the exemption provided in section 63-602G, Idaho Code, for residential improvements;
   (e) A determination by the state tax commission under section 63-720, Idaho Code, that the deferral of property tax payments was erroneously granted to a person who is not a qualified claimant or in regard to property that is not qualified property.

(2) When a deferral of property tax is terminated any unpaid amount of deferred tax and interest shall be paid to the state tax commission no later than one hundred eighty (180) days after the termination.

(3) Any payments of deferred property tax received by the state tax commission under this section or under sections 63-719 and 63-720, Idaho Code, shall be distributed to the property tax deferral recovery fund which is hereby created. Amounts in the property tax deferral recovery fund are hereby continuously appropriated for the purposes of section 63-3638(5), Idaho Code.

63-719. TAX DEED FOR DEFICIENCY IN REPAYMENT. Any amount of deferred tax due under section 63-718, Idaho Code, which is not paid to the state tax commission on the due date, is a delinquency subject to the provisions of chapter 10, title 63, Idaho Code, except that references to county and county officials in that chapter shall be taken as references to the state tax commission.

63-720. RECOVERY OF ERRONEOUS AND OTHER IMPROPER DEFERRALS. (1) In addition to the provisions of section 63-719, Idaho Code, the state tax commission may recover deferrals of tax payments made under sections 63-712 through 63-721, Idaho Code, from any person who elected the
deferral under section 63-714, Idaho Code, if the commission determines that:

(a) A deferral was granted to a person who is not a qualified claimant or in regard to property that is not qualified property, or

(b) The owner of the property subject to the deferral possesses insufficient equity in that property, after consideration of encumbrances that are superior to any liens for deferral, to secure the payment of all existing deferrals granted in the property.

(2) The deficiency determination, collection, and enforcement procedures provided by the Idaho income tax act, sections 63-3039, 63-3042, 63-3043 through 63-3064, Idaho Code, shall apply and be available to the commission for enforcement and collection under sections 63-712 through 63-721, Idaho Code, and such sections shall, for this purpose, be considered part of sections 63-712 through 63-721, Idaho Code. Wherever liens or any other proceedings are defined as income tax liens or proceedings, they shall, when applied in enforcement or collection under sections 63-712 through 63-721, Idaho Code, be described as tax deferral liens and proceedings. In connection with such sections, a deficiency shall consist of any amount subject to recovery under this section together with any interest and penalty due thereon.

63-721. KNOWINGLY FILING A FALSE CLAIM A MISDEMEANOR. Every person who applies for deferral of taxes under section 63-714, Idaho Code, knowing that the person for whom the application is made is not a qualified claimant or knowing that the property is not qualified property, is guilty of a misdemeanor and on conviction thereof shall be punished as provided for misdemeanors in section 18-303, Idaho Code.

SECTION 2. That Section 63-3638, Idaho Code, be, and the same is hereby amended to read as follows:

63-3638. SALES TAX -- DISTRIBUTION. All moneys collected under this chapter, except as may otherwise be required in sections 63-3203 and 63-3709, Idaho Code, shall be distributed by the tax commission as follows:

(1) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized under this chapter by the commission shall be paid through the state refund account, and those moneys are continuously appropriated.

(2) Five million dollars ($5,000,000) per year is continuously appropriated and shall be distributed to the permanent building fund, provided by section 57-1108, Idaho Code.

(3) Four million eight hundred thousand dollars ($4,800,000) per year is continuously appropriated and shall be distributed to the water pollution control account established by section 39-3605, Idaho Code.

(4) An amount equal to the sum required to be certified by the chairman of the Idaho housing and finance association to the state tax commission pursuant to section 67-6211, Idaho Code, in each year is continuously appropriated and shall be paid to any capital reserve fund, established by the Idaho housing and finance association pursuant to section 67-6211, Idaho Code. Such amounts, if any, as may be appropriated hereunder to the capital reserve fund of the Idaho housing and finance association shall be repaid for distribution under the provisions of this section, subject to the provisions of section 67-6215,
Idaho Code, by the Idaho housing and finance association, as soon as possible, from any moneys available therefor and in excess of the amounts which the association determines will keep it self-supporting.

(5) An amount equal to the sum required by the provisions of sections 63-709 and 63-717, Idaho Code, after allowance for the amount appropriated by section 63-718(3), Idaho Code, is continuously appropriated and shall be paid as provided by sections 63-709 and 63-717, Idaho Code.

(6) An amount required by the provisions of chapter 53, title 33, Idaho Code.

(7) An amount required by the provisions of chapter 87, title 67, Idaho Code.

(8) One dollar ($1.00) on each application for certificate of title or initial application for registration of a motor vehicle, snowmobile, all-terrain vehicle or other vehicle processed by the county assessor or the Idaho transportation department excepting those applications in which any sales or use taxes due have been previously collected by a retailer, shall be a fee for the services of the assessor of the county or the Idaho transportation department in collecting such taxes, and shall be paid into the current expense fund of the county or state highway account established in section 40-702, Idaho Code.

(9) Thirteen and three-quarters percent (13.75%) is continuously appropriated and shall be distributed to the revenue sharing account which is created in the state treasury, and the moneys in the revenue sharing account will be paid in installments each calendar quarter by the tax commission as follows:

(a) Twenty-eight and two-tenths percent (28.2%) shall be paid to the various cities as follows:

(i) Fifty percent (50%) of such amount shall be paid to the various cities, and each city shall be entitled to an amount in the proportion that the population of that city bears to the population of all cities within the state; and

(ii) Fifty percent (50%) of such amount shall be paid to the various cities, and each city shall be entitled to an amount in the proportion that the preceding year's market value for assessment purposes for that city bears to the preceding year's market value for assessment purposes for all cities within the state.

(b) Twenty-eight and two-tenths percent (28.2%) shall be paid to the various counties as follows:

(i) One million three hundred twenty thousand dollars ($1,320,000) annually shall be distributed one forty-fourth (1/44) to each of the various counties; and

(ii) The balance of such amount shall be paid to the various counties, and each county shall be entitled to an amount in the proportion that the population of that county bears to the population of the state;

(c) Thirty-five and nine-tenths percent (35.9%) of the amount appropriated in this subsection (9) shall be paid to the several counties for distribution to the cities and counties as follows:

(i) Each city and county which received a payment under the provisions of section 63-3638(e), Idaho Code, during the fourth quarter of calendar year 1999, shall be entitled to a like amount during succeeding calendar quarters.
(ii) If the dollar amount of money available under this sub-section (9)(c) in any quarter does not equal the amount paid in the fourth quarter of calendar year 1999, each city's and county's payment shall be reduced proportionately.

(iii) If the dollar amount of money available under this sub-section (9)(c) in any quarter exceeds the amount paid in the fourth quarter of calendar year 1999, each city and county shall be entitled to a proportionately increased payment, but such increase shall not exceed one hundred five percent (105%) of the total payment made in the fourth quarter of calendar year 1999.

(iv) If the dollar amount of money available under this sub-section (9)(c) in any quarter exceeds one hundred five percent (105%) of the total payment made in the fourth quarter of calendar year 1999, any amount over and above such one hundred five percent (105%) shall be paid fifty percent (50%) to the various cities in the proportion that the population of the city bears to the population of all cities within the state, and fifty percent (50%) to the various counties in the proportion that the population of a county bears to the population of the state; and

(d) Seven and seven-tenths percent (7.7%) of the amount appropriated in this subsection (9) shall be paid to the several counties for distribution to special purpose taxing districts as follows:

(i) Each such district which received a payment under the provisions of section 63-3638(e), Idaho Code, during the fourth quarter of calendar year 1999, shall be entitled to a like amount during succeeding calendar quarters.

(ii) If the dollar amount of money available under this sub-section (9)(d) in any quarter does not equal the amount paid in the fourth quarter of calendar year 1999, each special purpose taxing district's payment shall be reduced proportionately.

(iii) If the dollar amount of money available under this sub-section (9)(d) in any quarter exceeds the amount distributed under paragraph (i) of this subsection (9)(d), each special purpose taxing district shall be entitled to a share of the excess based on the proportion each such district's current property tax budget bears to the sum of the current property tax budgets of all such districts in the state. The state tax commission shall calculate district current property tax budgets to include any unrecovered foregone amounts as determined under section 63-802(1)(e), Idaho Code. When a special purpose taxing district is situated in more than one (1) county, the tax commission shall determine the portion attributable to the special purpose taxing district from each county in which it is situated.

(iv) If special purpose taxing districts are consolidated, the resulting district is entitled to a base amount equal to the sum of the base amounts which were received in the last calendar quarter by each district prior to the consolidation.

(v) If a special purpose taxing district is dissolved or disincorporated, the state tax commission shall continuously distribute to the board of county commissioners an amount equal to the last quarter's distribution prior to dissolution or
disincorporation. The board of county commissioners shall determine any redistribution of moneys so received.

(vi) Taxing districts formed after January 1, 2001, are not entitled to a payment under the provisions of this subsection (9)(d).

(vii) For purposes of this subsection (9)(d), a special purpose taxing district is any taxing district which is not a city, a county or a school district.

(10) Amounts calculated in accordance with section 2, chapter 356, Laws of 2001, for annual distribution to counties and other taxing districts beginning in October 2001 for replacement of property tax on farm machinery and equipment exempted pursuant to section 63-602EE, Idaho Code. For nonschool districts, the state tax commission shall distribute one-fourth (1/4) of this amount certified quarterly to each county. For school districts, the state tax commission shall distribute one-fourth (1/4) of the amount certified quarterly to each school district. For nonschool districts, the county auditor shall distribute to each district within thirty (30) calendar days from receipt of moneys from the tax commission. Moneys received by each taxing district for replacement shall be utilized in the same manner and in the same proportions as revenues from property taxation. The moneys remitted to the county treasurer for replacement of property exempt from taxation pursuant to section 63-602EE, Idaho Code, may be considered by the counties and other taxing districts and budgeted at the same time, in the same manner and in the same year as revenues from taxation on personal property which these moneys replace. If taxing districts are consolidated, the resulting district is entitled to an amount equal to the sum of the amounts which were received in the last calendar quarter by each district pursuant to this subsection prior to the consolidation. If a taxing district is dissolved or disincorporated, the state tax commission shall continuously distribute to the board of county commissioners an amount equal to the last quarter's distribution prior to dissolution or disincorporation. The board of county commissioners shall determine any redistribution of moneys so received. If a taxing district annexes territory, the distribution of moneys received pursuant to this subsection shall be unaffected. Taxing districts formed after January 1, 2001, are not entitled to a payment under the provisions of this subsection. School districts shall receive an amount determined by multiplying the sum of the year 2000 school district levy plus .001 times the market value on December 31, 2000, in the district of the property exempt from taxation pursuant to section 63-602EE, Idaho Code. For school districts, beginning January 1, 2002, only the portion of property tax replacement received to replace property exempt from taxation pursuant to section 63-602EE, Idaho Code, based on the tax year 2000 tax charges for maintenance and operation as limited by sections 33-802 2. and 33-1002D, Idaho Code, shall not be subtracted from the maximum school district maintenance and operation property taxes permitted in accordance with section 33-802 2., Idaho Code. For purposes of the limitation provided by section 63-802, Idaho Code, moneys received pursuant to this section as property tax replacement for property exempt from taxation pursuant to section 63-602EE, Idaho Code, shall be treated as property tax revenues.

(11) Any moneys remaining over and above those necessary to meet and reserve for payments under other subsections of this section shall be distributed to the general fund.
SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2006.

Approved March 30, 2006.

CHAPTER 235
(H.B. No. 684)

AN ACT
RELATING TO THE IDAHO COMMISSION FOR LIBRARIES; AMENDING THE HEADING FOR CHAPTER 25, TITLE 33, IDAHO CODE; AMENDING SECTION 33-2501, IDAHO CODE, TO STATE A PURPOSE AND TO ESTABLISH A COMMISSION FOR LIBRARIES; AMENDING SECTION 33-2502, IDAHO CODE, TO PROVIDE FOR THE BOARD OF LIBRARY COMMISSIONERS; AMENDING SECTION 33-2503, IDAHO CODE, TO ASSIGN POWERS TO THE BOARD AND TO PROVIDE CORRECT TERMINOLOGY; REPEALING SECTION 33-2504, IDAHO CODE; AMENDING CHAPTER 25, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-2504, IDAHO CODE, TO PROVIDE FOR THE EMPLOYMENT OF AND POWERS OF A QUALIFIED STATE LIBRARIAN; AMENDING SECTIONS 33-2505, 33-2506, 33-2611 AND 33-2612, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTIONS 33-2613, 33-2614, 33-2616 AND 33-2617, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-2618, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 33-2619, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTIONS 33-2702, 33-2703, 33-2705 AND 33-2706, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-2707, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTIONS 33-2708, 33-2709 AND 33-2711, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTIONS 33-2716 AND 33-2717, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTIONS 33-2718, 33-2724, 33-2726, 33-4803 AND 63-3029A, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AND AMENDING SECTION 67-5205, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That the Heading for Chapter 25, Title 33, Idaho Code, be, and the same is hereby amended to read as follows:

CHAPTER 25
STATE-LIBRARY COMMISSION FOR LIBRARIES

SECTION 2. That Section 33-2501, Idaho Code, be, and the same is hereby amended to read as follows:

33-2501. STATE-LIBRARY COMMISSION FOR LIBRARIES ESTABLISHED. The state of Idaho recognizes that libraries are uniquely suited to making the benefits of information and information technologies available to
the citizens of the state of Idaho. Therefore, the Idaho state--library commission for libraries is hereby established for the purpose of assisting libraries to build the capacity to better serve their clientele.

SECTION 3. That Section 33-2502, Idaho Code, be, and the same is hereby amended to read as follows:

33-2502. STATE--LIBRARY BOARD OF LIBRARY COMMISSIONERS -- MEMBERSHIP -- OFFICERS -- MEETINGS -- COMPENSATION. The state--library Idaho commission for libraries shall be governed by the state--library board of library commissioners. The state--library board of library commissioners shall be maintained within the office of the state board of education and shall consist of the state--superintendent--of--public--instruction--or the--superintendent's--designee--as--ex-officio--member; and five (5) members commissioners appointed by the state board of education. On the first Monday of July, 1998, the state board of education shall annually appoint one (1) member commissioner for a term of three (3) years; one (1) member for a term of four (4) years; and one (1) member for a term of five (5) years. Thereafter, the state board of education shall annually appoint one (1) member to the state library board to serve for a term of five (5) years. The state library board of library commissioners shall annually elect a chairman, vice chairman, secretary and other officers as it deems reasonably necessary. The state--library board of library commissioners shall meet at least twice each year. Members Commissioners shall be compensated as provided by section 59-509(n), Idaho Code.

SECTION 4. That Section 33-2503, Idaho Code, be, and the same is hereby amended to read as follows:

33-2503. STATE--LIBRARY BOARD OF LIBRARY COMMISSIONERS -- POWERS AND DUTIES. The state--library board of library commissioners is designated as the policymaking body for the Idaho state--library commission for libraries. The state--library board of library commissioners shall have the following powers and duties:

(1) To foster and promote library service in the state of Idaho.
(2) To promulgate all rules and make policies and rules governing the use of the state--library and its--materials as necessary for the proper conduct of its business.
(3) To employ a qualified librarian to serve as the chief executive officer of the state--library. The librarian shall be a graduate of an accredited--library--school.
(4) To receive donations of money, books; materials and other real and personal property, for the benefit of the Idaho state--library commission for libraries. Title to donations in any form shall vest in the state of Idaho. Donations shall be held and controlled by the state--library board of library commissioners.
(5) To promote and facilitate the establishment, use, and cooperation of libraries throughout the state so all Idahoans have access to the resources of those libraries.
(6) To provide services to state--government--employees and the public as the Idaho state--government--information--center.
(7) To support or deliver statewide library programs and services.
(86) To accept, receive, administer and expend, in accordance with the terms thereof, any moneys, materials or other aid granted, appropriated, or made available to Idaho by the United States, or any of its agencies, or by any other public or private source, for library purposes. The board of library commissioners is authorized to file any accounts required with reference to receiving and administering all such moneys, materials and other aid.

(97) To assist in the establishment of financing of a statewide program of cooperative library services, which may be in cooperation with any taxing unit, or public or private agency.

(108) To contract with other libraries or agencies, within or without the state of Idaho, to render library services to people of the state of Idaho. The state library board of library commissioners shall have authority to reasonably compensate other library units or agencies for the cost of the services provided by the other library unit or agency under any such contract. Such contracts and compensation shall be exempt from the provisions of chapter 57, title 67, Idaho Code.

SECTION 5. That Section 33-2504, Idaho Code, be, and the same is hereby repealed.

SECTION 6. That Chapter 25, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-2504, Idaho Code, and to read as follows:

33-2504. STATE LIBRARIAN APPOINTED BY BOARD OF LIBRARY COMMISSIONERS -- QUALIFICATIONS -- POWERS. The board of library commissioners shall employ a qualified state librarian to serve as its chief executive officer. The state librarian shall be a graduate of an accredited library school.

The state librarian shall, subject to the provisions of chapter 53, title 67, Idaho Code, employ and fix the compensation of all other employees of the commission who shall be directly responsible to the state librarian.

SECTION 7. That Section 33-2505, Idaho Code, be, and the same is hereby amended to read as follows:

33-2505. STATE LIBRARIAN -- DEPOSITORY FOR PUBLIC DOCUMENTS -- DISTRIBUTION. It shall be the duty of the head of every agency, board, bureau, commission or department of the state of Idaho, including all state supported institutions of higher education in Idaho, to deposit with the librarian of the Idaho state library commission for libraries twenty (20) copies of all documents, reports, surveys, monographs, serial publications, compilations, pamphlets, bulletins, leaflets, circulars, maps, charts or broadsides of a public nature which it produces for public distribution. The deposit of information with the state librarian is intended to allow the information to be used and distributed to academic, regional, public, and special libraries in Idaho, the Library of Congress, and to others within the discretion of the state librarian.
SECTION 8. That Section 33-2506, Idaho Code, be, and the same is hereby amended to read as follows:

33-2506. LIBRARY SERVICES IMPROVEMENT FUND -- ESTABLISHED. (1) Policy. The state of Idaho recognizes its responsibility to provide library services to people in all areas of the state. The state acknowledges that the ability of each Idahoan to access information has a critical impact on the state's economic development, educational success, provision for an informed electorate, and overall quality of life. Realizing that libraries of all types and in all parts of the state must be able to interact and cooperate in order to respond to these informational needs, the state of Idaho hereby creates and establishes in the state treasury the library services improvement fund.

(2) Purpose. The purpose of the library services improvement fund is to further the development of library services for all the people of Idaho. Moneys in the library services improvement fund are appropriated to and may be expended by the state library board of library commissioners at any time for the purposes provided in this section.

(3) Appropriations and revenues. The library services improvement fund shall have paid into it such appropriations as may be provided or other moneys and donations described in section 33-2503, Idaho Code.

(4) Payments.
   (a) All payments from the library services improvement fund shall be paid out in warrants drawn by the state controller upon presentation of proper vouchers from the state library board of library commissioners. Pending payments out of the library services improvement fund, the moneys in the fund shall be invested by the state treasurer in the same manner as provided under section 67-1210, Idaho Code, with respect to idle moneys in the state treasury. Interest earned on the investments shall be returned to the library services improvement fund.
   (b) No library entity is automatically entitled to receive any payments from the library services improvement fund. The state library board of library commissioners shall establish the criteria upon which actual need is to be determined in accordance with the purposes set forth in this section.
   (c) Payments from the library services improvement fund may be used only for the purposes approved by the state library board of library commissioners. Funding decisions shall be solely within the discretion of the state library board of library commissioners.

SECTION 9. That Section 33-2611, Idaho Code, be, and the same is hereby amended to read as follows:

33-2611. REPORTS OF TRUSTEES. The board of trustees shall annually, not later than the first day of January, file with the state library board of library commissioners a report of the operations of the library for the fiscal year just ended. The report shall be of such form and contain such information as the state library board of library commissioners may require, but in all cases must include a complete accounting of all financial transactions for the fiscal year being reported. The board shall also report to the city council and mayor as required in section 50-210, Idaho Code.
SECTION 10. That Section 33-2612, Idaho Code, be, and the same is hereby amended to read as follows:

33-2612. REGIONAL LIBRARY SYSTEMS -- PURPOSE -- BOUNDARIES. It is the purpose of this act to provide a method by which the library boards which govern Idaho's libraries, now or hereafter established in accordance with the Idaho Code, may contract to form regional library systems, in order to provide improved library and information services for residents of a multi-county region. The boundaries for library regions in Idaho shall be established by the Idaho state-library board of library commissioners.

SECTION 11. That Section 33-2613, Idaho Code, be, and the same is hereby amended to read as follows:

33-2613. DEFINITIONS. As used in this act, unless the context otherwise requires:

(a) "Library board" means the five (5) citizens appointed, or elected, to govern a public library, a school community library, or a library district, in accordance with chapters 26 and 27, title 33, Idaho Code.

(b) "Participating board" or "participating library" means a board or library or district which is cooperating and participating in a regional library system.

(c) "Region" means that geographic area, with boundaries established by the state-library board of library commissioners, wherein library units are encouraged to work together.

(d) "Regional system" means two (2) or more library boards formally contracting a system approved by the state-library board of library commissioners, officially designated as a regional library system under this act, and therein working together in specific efforts to extend and improve library services to their resident constituents.

(e) "System board" means the governing board comprised of representatives of library boards in a regional system, and which is authorized to direct and plan library service for a regional system to the extent and in the manner provided by this act.

SECTION 12. That Section 33-2614, Idaho Code, be, and the same is hereby amended to read as follows:

33-2614. PETITION FOR ESTABLISHMENT. Any two (2) or more library boards may petition the state-library board of library commissioners for the establishment of a regional system. Such petition shall be prepared in cooperation with the state librarian, on forms provided by the state library commission for libraries, and shall include but shall not be limited to the following information:

(a) A statement of purpose and an outline of the proposed program of the regional system.

(b) A list of the participating libraries, with a listing of the current tax levy and budget of each such participant; the names and addresses of the members of each library board, and a letter or resolution from each such board regarding participation in the regional system.

(c) A list of the counties in the geographic region as a whole,
the number of persons who are within taxing districts supporting existing libraries, and the number of persons outside such districts but within a county in the region, and thus potentially eligible for service from the regional system being established.

(d4) Proposed number of persons to be on the initial system board of directors.

(e5) Proposed headquarters for the regional system, accompanied by a copy of a resolution by the governing authority for that library approving its designation as headquarters and, if a member of the staff of the headquarters is to be the administrator of the system, including approval of such designation.

The state-library board of library commissioners shall consider any petition presented to it as provided in this act, and if it approves such petition it shall adopt a resolution officially designating such particular regional library system, describing the territory thereof, and designating the headquarters and the initial number of directors for the system board.

SECTION 13. That Section 33-2616, Idaho Code, be, and the same is hereby amended to read as follows:

33-2616. POWERS AND DUTIES OF THE SYSTEM BOARD. The system board shall serve as a liaison agency between the participating libraries and their governing bodies and library boards. The system board shall make such bylaws, rules and regulations as may be necessary for its own government and that of the regional system, none of which shall deprive any participating library board of any of its powers or property.

The system board shall have the following powers and responsibilities, all of which relate to the functioning of the regional system and the management and control of its funds and property;

(a1) To develop a long-range plan of service for the regional system, and annually to submit to the state-library board of library commissioners any changes in said long-range plan, and a detailed plan of proposed system development and service for the following year.

(b2) To provide improved library service for residents of the regional system, in cooperation with participating libraries, and to this end to purchase books and other library materials, supplies and equipment, for the system services, and to employ such personnel as the system board finds necessary.

(c3) To set the administrator's hours and rate of compensation for regional system duties, and to delegate such administrative powers as the board deems in the best interest of the system.

(d4) To enter into contracts to receive service from or to give service to other libraries, or agencies, within the state or interstate, and to file copies of such contracts with the state-library board of library commissioners.

(e5) To be a public corporation, as is provided for library districts, and to contract in the name of the "Board of directors of the ... regional library system, Idaho" and in that name to sue and be sued and to take any action authorized by law.

(f6) To acquire by purchase, lease, or otherwise, and to own and hold real and personal property and to construct buildings for the use of the regional system, and to sell, exchange or otherwise dispose of property real or personal when no longer required by the system, and to
insure the real and personal property of the system.

(g7) To have control of the expenditure of all funds of the regional system, to accept by gift or donation any funds and real or personal property under such terms as may be a condition of the gift.

(h8) To exercise such other powers, not inconsistent with law, necessary for the effective use and management of the regional system.

SECTION 14. That Section 33-2617, Idaho Code, be, and the same is hereby amended to read as follows:

33-2617. FINANCE OF REGIONAL SYSTEMS -- BUDGETS -- PARTICIPATING AND NONPARTICIPATING UNITS. Each regional system may be financed by any combination of available funds, federal, state, local, public and/or private. Counties, cities and library districts are hereby authorized and empowered to join in the creation, development, operation and maintenance of regional systems, and to appropriate and allocate funds for the support of such systems. All funds collected or contributed for the support of each regional system shall be controlled and administered under the direction of the system board, following procedures outlined in the library district statutes, and as directed by the state--library board of library commissioners.

(a1) Participating Units. Participating boards shall continue to control the funds appropriated or contributed for the support of the participating libraries, but may expend all or any part thereof for library services to be furnished by the regional system. Each participating board shall prepare its own annual budget as required by the Idaho Code, and said budget may include anticipated revenues or expenditures for regional system services. Tax levies made pursuant to each such budget shall be certified as provided by law.

(b2) System Budget. Each system board shall prepare a preliminary budget for the system for the coming year, and shall by the last day of April forward said budget to the boards of participating libraries. This budget shall be published, and a hearing held thereon before the last day of May.

(c3) Non-Participating Nonparticipating Areas. The system board shall also prepare a list of those areas within each county of the library region wherein public libraries, library districts, school-community libraries, or association libraries are not maintained as authorized in the Idaho Code. Such lists shall be forwarded to the state library board of library commissioners and to the board of county commissioners of each affected county. The system board shall include in its preliminary budget an estimate of the kinds of services which the system could provide to those areas without established libraries, and the cost of such services, and shall forward this to the appropriate boards of county commissioners.

SECTION 15. That Section 33-2618, Idaho Code, be, and the same is hereby amended to read as follows:

33-2618. ADDITION TO OR WITHDRAWAL FROM A REGIONAL SYSTEM. (1) After the establishment of a regional system as provided in this act, the board of any library which is not a part of the system, and which is within the boundaries of a library region as established by the Idaho state--library board of library commissioners, may petition the state
Petitions for addition shall be prepared and processed as provided in this act for initial petitions, except that prior approval in writing shall be obtained by the petitioning board from the regional system board, and shall be attached to the petition when it is submitted to the state-library board of library commissioners.

(2) After the establishment of a regional system as provided in this act, a participating library board may petition the state-library board of library commissioners for withdrawal from the system. A petition for withdrawal must be received by the state-library board of library commissioners at least sixty (60) days before the end of the fiscal year of the system.

All assets of a participating library remain the property of that library, and if a unit withdraws from a system the disposal of the joint assets of the system shall be determined by the state-library board of library commissioners, who shall give consideration to such items as the amount of funds raised from each unit of the system, and the ability of the units to make further use of such property or equipment for library purposes.

SECTION 16. That Section 33-2619, Idaho Code, be, and the same is hereby amended to read as follows:

33-2619. ADMINISTRATION OF ACT BY STATE-LIBRARY BOARD OF LIBRARY COMMISSIONERS. The Idaho state-library board of library commissioners shall administer the provisions of this act, and shall adopt such rules and regulations as are necessary for approval of regional system petitions, review and amendment of regional system plans and contracts, and such other matters as the state-library board of library commissioners may deem advisable.

SECTION 17. That Section 33-2702, Idaho Code, be, and the same is hereby amended to read as follows:

33-2702. DEFINITIONS. As used in this chapter:

(1) "Administrative only district" is a library district that does not serve the public directly and has no direct service outlets or collections, but which contracts with other library entities to provide various public library services.

(2) "City library" means a library established by a city ordinance and operating under the provisions of chapter 26, title 33, Idaho Code.

(3) "Home county" means the county where the designated district headquarters is located when a public library district's boundaries include territory located in more than one (1) county.

(4) "Library director" or "library director team" means an employee or group of employees of a public library district charged with the administration and management of library services for that district.

(5) "Public library district trustee" means a qualified elector living within the boundaries of a public library district who is elected or appointed temporarily to fulfill the duties described in this chapter related to the governance of a public library district.

(6) "Public library service" means the provision of planned collections of materials and information services provided by a library estab-
lished under the provisions of chapter 26 or 27, title 33, Idaho Code, and paid for primarily through tax support provided under these statutes. These services shall be provided at a facility, accessible to the public at regularly scheduled hours and set aside for this purpose. The services shall be governed by a citizen board appointed or elected for this purpose and shall be administered and operated by paid staff who have received appropriate training in library skills and management. The services shall meet standards established by the state-library board of library commissioners.

(7) "Qualified elector" means any person voting, or offering to vote, at an election to create a library district, add territory thereto, or elect trustees thereof. A qualified elector must be, at the time of the election, a resident of the area involved for thirty (30) days prior to the date of the election, registered and an elector within the meaning of section 2, article VI, of the Constitution of the state of Idaho.

SECTION 18. That Section 33-2703, Idaho Code, be, and the same is hereby amended to read as follows:

33-2703. LIBRARY DISTRICTS -- TERRITORY -- ESTABLISHMENT -- LIMITATIONS. A library district may be established by vote of the qualified electors of the proposed district in an election called and held as provided by this chapter, with the following limitations:

(1) The district may include incorporated or unincorporated territory or both in one (1) or more counties and may include any of the area thereof except as may be excluded by this section, and as finally fixed and determined by the board of county commissioners.

(2) The territory of the district shall be continuous, and no territory of an incorporated municipality shall be divided.

(3) In the initial establishment of a library district the following may be excluded:

(a) A municipality which is already providing library service as established according to section 33-2603, Idaho Code; or

(b) A library district which is already providing library service as established in accordance with the provisions of this chapter.

(4) If, subsequent to the establishment of a library district, any area thereof is annexed to a municipality which maintains a tax-supported library, this area shall cease to be a part of the library district and the city council of the municipality shall so notify the board of county commissioners.

(5) Any proposed library district shall have a population of more than one thousand five hundred (1,500) and an annual budget of not less than twenty-five thousand dollars ($25,000) from ad valorem revenues. Any proposed library district not meeting the above criteria may apply to the state-library board of library commissioners for an exemption.

SECTION 19. That Section 33-2705, Idaho Code, be, and the same is hereby amended to read as follows:

33-2705. CONDUCT OF ELECTION. Upon the county commissioners having made the order referred to in subsection (5) of section 33-2704, Idaho Code, the clerk of the board of county commissioners shall cause to be published a notice of an election to be held for the purpose of deter-
mining whether or not the proposed library district shall be established under the provisions of this chapter. The date of this election shall be the next uniform election date as provided for in section 34-106, Idaho Code. Whenever more than one (1) petition is presented to the county commissioners calling for an election to create library districts, the first presented shall take precedence. Notice of the election shall be given, the election shall be conducted, and the returns thereof canvassed as provided for in chapter 14, title 34, Idaho Code, and under the general election laws of the state of Idaho. The ballot shall contain the words "(Name) Library District--Yes" and "(Name) Library District--No," each followed by a box wherein the voter may express his choice by marking a cross "X." The board or boards of election shall make returns and certify the results to the boards of county commissioners within three (3) days after the election, and the board of county commissioners shall, within seven (7) days after the election, canvass the returns. If a majority of all votes cast be in the affirmative, the board of county commissioners shall, within seven (7) days after the returns have been canvassed, enter an order declaring the library district established, designating its name and boundaries including a map prepared in a draftsmanlike manner. The board of county commissioners shall transmit a copy of the order to the county recorder, county assessor, and the state tax commission in a timely manner, but no later than December 15, in the calendar year in which the election was held. A copy of the order shall also be transmitted to the state-library board of library commissioners.

SECTION 20. That Section 33-2706, Idaho Code, be, and the same is hereby amended to read as follows:

33-2706. ESTABLISHMENT OF LIBRARY DISTRICT EMBRACING MORE THAN ONE COUNTY. When the proposed library district embraces more than one (1) county, the petition and procedure for praying for the establishment of the district shall be carried forward in each county as though that county were the only county affected. Each petition shall designate the same home county for the proposed district.

The board of county commissioners of the home county shall advise with the board of county commissioners in any other county affected to the end that the election shall be held in each county on the same day. The board of county commissioners in each county shall proceed in the conduct of the election as though the election were being held only in that county as set forth in section 33-2705, Idaho Code. After the canvass of the returns, the results in each other county shall be certified to the board of county commissioners of the home county, together with all ballots and tally sheets. The board of county commissioners of the home county shall canvass all returns and certify the results of the election to the board of county commissioners of any other county affected. The proposal shall be deemed approved only if a majority of all votes cast in each county were cast in the affirmative. If this is the case, the board of county commissioners of the home county shall enter an order declaring the library district to be created, designating its name and boundaries, including a map prepared in a draftsmanlike manner. A certified copy of the order shall be transmitted by the board of county commissioners to the county recorder, the county assessor and the state tax commission in a timely manner, but no later than December
15, in the calendar year in which the election was held. A copy of this order shall also be transmitted to the board(s) of county commissioners of any other county affected, which shall enter the order in its minutes. A copy of this order shall also be transmitted to the state library board of library commissioners.

SECTION 21. That Section 33-2707, Idaho Code, be, and the same is hereby amended to read as follows:

33-2707. ADDITION OF TERRITORY NOT HAVING A TAX SUPPORTED LIBRARY TO A LIBRARY DISTRICT -- PETITIONS AND SIGNATURES -- ELECTION. (1) Any area which does not have a tax supported library and which is contiguous to an existing library district may become a part of the district by petition and election.

(2) A petition may arise as set forth in section 33-2704, Idaho Code, in the area seeking to become a part of the library district. A true copy of the petition shall be transmitted to the board of trustees of the district, and to the board of county commissioners in each county affected. The board of trustees of the library district may approve or disapprove the petition, and shall give notice of its decision to the board of county commissioners in each county affected.

(3) When the notice carries the approval of the board of trustees of the district, the board of county commissioners in the county in which the petition arose shall enter its order calling for an election on the question. The election shall be held in the area described in the petition. Notice of the election shall be given, the election shall be conducted on the next uniform election date as provided in section 34-106, Idaho Code, and the returns thereof canvassed as provided in section 33-2705, Idaho Code. The ballot shall bear the question: "Shall .... become a part of the .... (Name) Library District .... Yes" and "Shall .... become a part of the .... (Name) Library District .... No," each followed by a box in which the voter may express his choice by marking a cross "X." The proposal shall be deemed approved only if the majority of the votes cast in the area seeking to become a part thereof is in the affirmative.

(4) If the proposal has been approved by the majority herein required, the board of county commissioners of the home county of the district shall enter its order amending the boundaries of the district, including a map prepared in a draftsmanlike manner. A copy of this order shall be transmitted to the board of trustees of the library district, to each board of county commissioners of the county in which the district lies, and to the state-library board of library commissioners.

(5) The board of trustees of the library shall transmit a certified copy of this order to the county recorder, the county assessor of the home county and to the state tax commission in a timely manner, but no later than December 15, in the calendar year in which the election was held.

(6) Addition of new territory to an existing library district shall not be considered an initial establishment. The existing board of trustees shall continue to serve for the terms for which elected. When a vacancy occurs appointment shall be made as provided in section 33-2716, Idaho Code.
SECTION 22. That Section 33-2708, Idaho Code, be, and the same is hereby amended to read as follows:

33-2708. ADDITION OF TERRITORY NOT HAVING A TAX SUPPORTED LIBRARY TO A LIBRARY DISTRICT -- ALTERNATE METHOD. (1) An alternate method of adding territory to a library district may be initiated by a petition or petitions as set forth in section 33-2704, Idaho Code, except that the petitions must be signed by sixty percent (60%) of the qualified electors in the area to be annexed.

(2) A true copy of the petitions shall be transmitted to the board of trustees of the library district and to the board of county commissioners in each county affected. The board of trustees may approve or disapprove the petition, and shall give notice of its decision to the board of county commissioners in each county affected.

(3) When the notice carries the approval of the board of trustees of the district, the board of county commissioners of the county in which the petition arose shall proceed with the required hearing and resolution as outlined in section 33-2704, Idaho Code.

(4) When the proposal has the approval of the board of county commissioners, the board of trustees of the district and the board of county commissioners shall follow these procedures:

(a) If the proposal has been approved by the majority herein required, the board of county commissioners of the home county of the district shall enter its order amending the boundaries of the district, including a map drawn in a draftsmanlike manner, and transmit a copy of the order to the board of county commissioners in the county in which the petition arose. A copy of this order shall also be sent to the state library board of library commissioners.

(b) The board of trustees of the library district shall transmit a copy of the order to the county recorder, the county assessor of the home county, and the state tax commission in a timely manner, but no later than December 15, in the calendar year in which the order was granted.

(c) Addition of new territory to an existing library district shall not be considered an initial establishment. The existing board of trustees shall continue to serve for the terms for which elected. When a vacancy occurs, appointment shall be made as provided in section 33-2716, Idaho Code.

SECTION 23. That Section 33-2709, Idaho Code, be, and the same is hereby amended to read as follows:

33-2709. EXISTING TAX-SUPPORTED CITY LIBRARIES MAY JOIN LIBRARY DISTRICTS. Any tax-supported city library may join an established library district by majority vote of the qualified electors of the city according to procedure set forth in section 33-2707, Idaho Code. A true copy of the petition and the district library board's notice of approval or disapproval shall be sent to the city council. When the notice carries the approval of the district library board, the city council shall conduct the election and give notice of the results to the library district board and the board of county commissioners.

If the proposal has been approved by the majority required, the board of county commissioners of the home county of the district shall enter its order amending the boundaries of the district, including a map
drawn in a draftsmanlike manner, and a copy shall be transmitted to the board of trustees of the library district, to the board of county commissioners of the county in which the petition arose, and to the state library board of library commissioners.

The board of trustees of the library district shall transmit a copy of the order to the county recorder, the county assessor of the home county and the state tax commission in a timely manner, but no later than December 15, in the year in which the election was held.

Addition of new territory to an existing library district shall not be considered an initial establishment. The existing district board of trustees shall continue to serve for the terms for which elected. When a vacancy occurs, appointment shall be made as provided in section 33-2716, Idaho Code.

SECTION 24. That Section 33-2711, Idaho Code, be, and the same is hereby amended to read as follows:

33-2711. CONSOLIDATION OF LIBRARY DISTRICTS. When there are two (2) or more library districts, which have at least one (1) common boundary, the boards of trustees of the library districts, meeting together, may determine that it is in the best interest of library service that the districts be consolidated, as herein provided.

The boards of trustees shall jointly prepare a petition describing the boundaries of the existing library districts, the names of the existing library districts, and praying for the reorganization of the territory therein described as one (1) or more library districts to be known as the "... (Name) Library District" and with boundaries as set forth in the petition.

The petition shall be signed by the chairpersons of the library boards upon majority approval of the respective boards involved in the consolidation.

The petition shall be forwarded to the clerk of the board of county commissioners in all counties affected, who shall verify the signatures, and shall file the petition. Thereupon, the board of county commissioners in all counties affected shall proceed with the hearing and resolution as outlined in section 33-2704, Idaho Code. Upon completion of the hearing, the board of county commissioners shall issue an order granting the petition.

In the order granting the petition of consolidation, the board of county commissioners in all counties affected shall certify the new boundaries and the name of the district.

A copy of the order shall be transmitted to the board of trustees of the library districts involved, and to the state library board of library commissioners.

Other notices required by law shall be filed by the board of trustees of the district, including a legal description and map of altered boundaries prepared in a draftsmanlike manner to be filed with the board(s) of county commissioners, the county recorder, the county assessor of the home county, the state library board of library commissioners, and the state tax commission in a timely manner, but no later than December 15, of the year in which consolidation takes place.

The board of county commissioners of the home county of the consolidated public library district shall within ten (10) days take action to reaffirm members of the board of trustees, or to appoint members of the
board, who shall be chosen from the members of the boards initiating the consolidation. These trustees shall serve until the next annual election of trustees or until their successors are elected and qualified as in section 33-2715, Idaho Code. The board of trustees shall take the oath of office as outlined in section 33-2715, Idaho Code.

SECTION 25. That Section 33-2716, Idaho Code, be, and the same is hereby amended to read as follows:

33-2716. BOARD OF TRUSTEES -- NOMINATION AND ELECTION -- RECALL -- VACANCIES. (1) The procedure for nomination and election of trustees of a library district shall be as provided for in chapter 14, title 34, Idaho Code, and in the general election laws of Idaho. If any two (2) or more candidates for the same trustee position have an equal number of votes, the board of trustees shall determine the winner by a toss of a coin.

(2) Notwithstanding the limitations of chapter 17, title 34, Idaho Code, each library district trustee shall be subject to recall following procedures as closely as possible to the procedures described for the recall of county commissioners pursuant to chapter 17, title 34, Idaho Code.

Individuals signing a petition to recall a library trustee or voting in an election to recall a library trustee shall meet the requirements of section 33-2702, Idaho Code.

If, pursuant to section 33-2717, Idaho Code, no election was held for the trustee being recalled:

(a) The number of district electors required to sign the petition seeking a recall election must be not less than fifty (50), or twenty percent (20%) of the number of votes cast in the last trustee election held in the library district, whichever is the greater.

(b) To recall any trustee, a majority of the votes cast at the recall election must be in favor of the recall, and additionally, the number of votes cast in the recall election must equal or exceed the number of votes cast in the last trustee election held in the library district.

(3) A vacancy shall be declared by the board of trustees when any nominee has been elected but has failed to qualify for office, or within thirty (30) days of when any trustees shall (a) die; (b) resign from office; (c) no longer reside in his respective trustee zone of residence; (d) no longer be a resident or qualified elector of the public library district; (e) refuse to serve as trustee; (f) without excuse acceptable to the board of trustees, fail to attend two (2) consecutive regular meetings of the board; or (g) be recalled and discharged from office as provided in this chapter.

A declaration of vacancy shall be made at any regular or special meeting of the board of trustees, at which any of the above-mentioned conditions is determined to exist.

The board of trustees shall appoint to fill the vacancy, a person qualified to serve as trustee of the public library district, provided there remains in membership on the board of trustees a majority of the membership thereof, and the board shall notify the state-library board of library commissioners of the appointment. This appointment shall be made within sixty (60) days of the declaration of vacancy. In the event
that the board of trustees fails to exercise their authority, appoint­ments shall be made by the board of county commissioners of the home county in which the district is located within thirty (30) days after the expiration of the sixty (60) days allowed for trustees for this action.

Any person appointed as provided in this chapter shall serve until the next annual election of public library district trustees following the appointment. At the annual election a trustee shall be elected to complete the unexpired term of the office which was declared vacant filled by appointment.

The elected trustee shall assume office at the first annual meeting of the public library district following the election.

SECTION 26. That Section 33-2717, Idaho Code, be, and the same is hereby amended to read as follows:

33-2717. BOARD OF TRUSTEES -- ONE NOMINATION -- NO ELECTION. In any election for the office of trustee it is not necessary to conduct an election if:

(1) After the expiration of the date for filing written nominations only one (1) candidate has been nominated for each position to be filled; and, there has been no declaration of intent to be a write-in candidate filed as provided in section 33-2717A, Idaho Code; or

(2) If no candidate has filed a written nomination and only one candidate for each position to be filled has filed a declaration of intent to be a write-in candidate as provided in section 33-2717A, Idaho Code. If either of these conditions are present, the board of trustees shall no later than seven (7) days before the scheduled date of the election declare the candidate elected as trustee, and the clerk of the library board shall immediately make and deliver to this person a certificate of election. The clerk of the library board shall also notify the clerk of the county commissioners of the home county and the state library commission for libraries. The procedure set forth in this section shall not apply to any other library district election.

SECTION 27. That Section 33-2718, Idaho Code, be, and the same is hereby amended to read as follows:

33-2718. CREATION OF TRUSTEE ZONES. Each library district may be divided into five (5) trustee zones with each zone having approximately the same population. To the maximum extent possible, boundaries of trustee zones shall follow the existing boundaries of the electoral precincts of the county. They shall be revised, as necessary, to equalize population and to follow new electoral precinct boundaries following the publication of the report of each decennial census. In order for a library district to be divided into trustee zones, the board of trustees shall pass a motion declaring the district to be divided into trustee zones and providing a legal description of each trustee zone. The board of trustees shall transmit the motion along with the legal description of the trustee zones to the board or boards of county commissioners in the county or counties where the library district is contained and to the state library board of library commissioners. The board or boards of county commissioners shall have forty-five (45) days from the receipt of the motion and legal description to reject, by adoption of a motion, the
establishment of trustee zones proposed by formal motion of the board of trustees of the library district. If the board or boards of county commissioners do not reject the establishment of the trustee zones within the time limit specified, they shall be deemed to be in full force and effect. If a library district is contained in more than one (1) county, a motion of rejection adopted by one (1) board of county commissioners shall be sufficient to keep the trustee zone plan from going into effect. A board of county commissioners shall notify the library board of trustees in writing if a proposal is rejected.

If a proposal for the establishment of trustee zones is rejected by a board of county commissioners, the boundaries of the trustee zones, if any, shall return to the dimensions they were before the rejection. Trustee zones may be redefined and changed, but not more than once every two (2) years after a new set of trustee zones are formally established and in full force and effect.

At the next regular meeting of the board of trustees of the library district following the creation of trustee zones, the public library district board shall appoint from its membership or from other qualified electors resident in each trustee zone, a person from that zone to serve as a trustee until the next regularly scheduled trustee election from that zone. The initial election of trustees for the trustee zones shall be for terms of one (1), two (2), three (3), four (4) and five (5) years respectively, with each zone being assigned an initial term length by a random drawing of the numbers one (1) through five (5). Thereafter, a trustee from each zone shall be elected once every five (5) years on a rotating basis with one (1) zone voting each year. Only residents of the zone electing a trustee may vote. The elector must be a resident of the same trustee zone as the candidate or candidates for library district trustee for whom the elector offers to vote for at least thirty (30) days preceding the election in which the elector desires to vote.

SECTION 28. That Section 33-2724, Idaho Code, be, and the same is hereby amended to read as follows:

33-2724. TAXES FOR THE SUPPORT OF LIBRARY DISTRICT -- TAX ANTICIPATION LOANS -- CARRY OVER AUTHORITY -- CAPITAL ASSETS REPLACEMENT AND REPAIR FUND. (1) Any tax levied for library district purposes shall be a lien upon the property against which the tax is levied. The board of trustees shall determine and levy a tax upon each dollar of assessed valuation of property within the district for the ensuing fiscal year as shall be required to satisfy all maturing bond, bond interest, and judgment obligations. For the maintenance and operation of the library district, the board of trustees may also levy upon the taxable property within the district a tax not to exceed six hundredths percent (.06%) of market value for assessment purposes. These levies shall be certified to the board of county commissioners of each county in which the district may lie, not later than the second Monday in September of each year.

(2) In the first year after establishment, the board of a district may, for the purpose of organization and to finance general preliminary expenses of the district and before making a tax levy, incur an indebtedness not exceeding in the aggregate a sum equal to six hundredths percent (.06%) on each one dollar ($1.00) of market value for assessment purposes of all taxable property within the district. To repay the organization indebtedness incurred, the board shall have authority to levy
and collect an additional tax not to exceed two hundredths percent (.02%) per annum on each one dollar ($1.00) of market value for assessment purposes of all taxable property within the district. This additional levy shall not be used for any purpose other than repayment of the organizational indebtedness and interest thereon. This additional levy may be imposed for three (3) years.

(3) Library districts may accumulate fund balances at the end of a fiscal year and carry over these fund balances into the ensuing fiscal year, sufficient to achieve or maintain library district operations on a cash basis. A fund balance is the excess of the assets of a fund over its liabilities and reserves.

(4) The board of trustees of a library district may establish a capital assets replacement and repair fund within the library district budget for which district moneys may be budgeted and carried over from year to year. Disbursements from the fund may be made as the board may determine to maintain, repair, or replace the capital assets of the district to remodel or repair any existing library building; to furnish and equip any existing library building; and to purchase or replace major appliances and vehicles necessary to maintain and operate the services of the district. Moneys from the capital assets replacement and repair fund may not be used for the purchase of land or to build new library facilities or to build additions to current library facilities. Moneys in the fund may be invested in the manner provided in section 57-127, Idaho Code. In any year in which there is a capital assets replacement and repair fund in a library district, the amount held in the fund shall be reported in the library district's budget hearing announcement, along with a list of capital items which may eventually be replaced or repaired with moneys from the fund. The fund shall be included in the annual report filed with the state-library board of library commissioners and in the audit required in section 33-2726, Idaho Code.

SECTION 29. That Section 33-2726, Idaho Code, be, and the same is hereby amended to read as follows:

33-2726. FISCAL YEAR -- ANNUAL REPORTS -- AUDIT. The fiscal year of each library district shall commence on the first day of October of each year. The board of trustees of each library district shall annually, not later than the first day of January, file with the state-library board of library commissioners a report of the operations of the district for the fiscal year just ended. The report shall be on the form and contain the information that the state-library board of library commissioners requires, but in all cases must include a complete accounting of all financial transactions for the fiscal year being reported.

The board of trustees of each library district shall cause to be made a full and complete audit of the books and accounts of the district as required in section 67-4508, Idaho Code.

SECTION 30. That Section 33-4803, Idaho Code, be, and the same is hereby amended to read as follows:

33-4803. DEFINITIONS. As used in this chapter:

(1) "Educational segments" are, individually, the public elementary and secondary school system, the Idaho school for the deaf and blind, the professional-technical education system, the state-library commis-
sion for libraries, the state historical society, Idaho public television, the community colleges, the four-year colleges and universities, the state department of education and the office of the state board of education.

(2) "Libraries" means district, city, school/community libraries, and the state library commission for libraries as described in chapters 25, 26 and 27, title 33, Idaho Code.

(3) "Technology" means all present and future forms of computer hardware, computer software and services used or required for automated data processing, computer-related office automation or telecommunications.

(4) "Telecommunications" means all present and future forms of hardware, software or services used or required for transmitting voice, data, video or images over a distance.

SECTION 31. That Section 63-3029A, Idaho Code, be, and the same is hereby amended to read as follows:

63-3029A. INCOME TAX CREDIT FOR CHARITABLE CONTRIBUTIONS -- LIMITATION. At the election of the taxpayer, there shall be allowed, subject to the applicable limitations provided herein, as a credit against the income tax imposed by chapter 30, title 63, Idaho Code, an amount equal to fifty percent (50%) of the aggregate amount of charitable contributions made by such taxpayer during the year to a nonprofit corporation, fund, foundation, trust, or association organized and operated exclusively for the benefit of institutions of higher learning located within the state of Idaho, including a university related research park, to nonprofit private or public institutions of elementary, secondary, or higher education or their foundations located within the state of Idaho, to Idaho education public broadcast system foundations within the state of Idaho, to the Idaho state historical society or its foundation, to the Idaho state library, commission for libraries and to public libraries or their foundations and library districts or their foundations located within the state of Idaho, and to nonprofit public or private museums or their foundations located within the state of Idaho.

(1) In the case of a taxpayer other than a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed twenty percent (20%) of such taxpayer's total income tax liability imposed by section 63-3024, Idaho Code, for the year, or one hundred dollars ($100), whichever is less.

(2) In the case of a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed ten percent (10%) of such corporation's total income or franchise tax liability imposed by sections 63-3025 and 63-3025A, Idaho Code, for the year, or one thousand dollars ($1,000), whichever is less.

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

(a) It maintains a regular faculty and curriculum and has a regularly enrolled body of students in attendance at the place where its educational activities are carried on.

(b) It regularly offers education above the twelfth grade.

(c) It is accredited by the northwest association of schools and colleges, or by the state board of education.
For the purposes of this section, a nonprofit institution of secondary or higher education means a private nonprofit secondary or higher educational institution located within the state of Idaho, which is accredited by the northwest association of schools and colleges, or by the state board of education. A nonprofit private institution of elementary education means a private nonprofit elementary educational institution located within the state of Idaho and approved by the state board of education.

SECTION 32. That Section 67-5205, Idaho Code, be, and the same is hereby amended to read as follows:

67-5205. FORMAT -- COSTS -- DISTRIBUTION -- FUNDS. (1) The administrative code and the permanent supplements thereto shall be published in such a manner that every agency has an opportunity to procure at reasonable cost from the coordinator, individual printed pamphlet copies of the rules and statements of policy of such agency published by authority of this chapter. No administrative rule or statement of policy published in the administrative code or the permanent supplements shall be reset or otherwise reprinted at public expense upon a format distinct from that of the administrative code without a certification by the coordinator that such special format is necessary for the effective performance by the agency of its functions.

(2) The prices to be charged for individual copies of and subscriptions to the administrative code, the permanent supplements thereto and the bulletin, for reprints and bound volumes thereof and for pamphlet rules and statements of policy, which prices may be fixed without reference to the restrictions placed upon and fixed for the sale of other publications of the state, and the number of copies which shall be distributed free for official use, in addition to those free copies required to be as provided in this section, shall be set by rules promulgated by the coordinator. The coordinator may set prices without reference to the restrictions placed upon the sale of other publications of the state. Free copies shall be distributed by the coordinator, as follows:

(a) One (1) to each county clerk for the use of the county law library.
(b) One (1) each to the senate and the house of representatives.
(c) One (1) to the attorney general.
(d) One (1) to the legislative services office.
(e) One (1) each to the state universities and colleges, and one (1) to each community college.
(f) One (1) to the state law library.
(g) One (1) to the state library commission for libraries.
(h) One (1) each to the following state depository libraries: Boise Public Library, East Bonner County Library, Idaho Falls Public Library, Lewiston City Library, Pocatello Library, Albertson College Library, Ricks College Brigham Young University-Idaho Library and Twin Falls Public Library.

In addition to those free copies required to be distributed by this section, the coordinator shall provide to the legislature free copies of all rules subject to review by the legislature pursuant to section 67-5291, Idaho Code, and may distribute other free copies for official use.
(3) Without limiting the generality of the provisions of subsection (2) of this section, the rules of the coordinator may provide for volume discounts to be available to established law book publishers who agree to incorporate fully administrative rules, the permanent supplements thereto and the bulletin into their general scheme of promotion and distribution, and may provide for the free reciprocal exchange of publications between this state and other states and foreign jurisdictions. The provisions of this section include the authority to exchange, display, access and publish texts through electronic media.

(4) There is hereby created in the state treasury the administrative code fund. All moneys received from the production of rules, the sale of the administrative code, the permanent supplements thereto, or the bulletin, and for providing electronic access, shall be deposited in the fund. All agencies which have any material published in the bulletin, administrative code or supplements thereto, or newspapers, are hereby authorized and directed to pay out of their appropriations to the coordinator their respective shares of the costs of publication and distribution of such material. All moneys placed in the fund may be appropriated to the coordinator for the administration of the provisions of this chapter, and for the publication and distribution of the bulletin, administrative code or supplements thereto, as authorized in this chapter.

The coordinator shall charge an annual fee to each participating agency for each page published in the administrative code not to exceed fifty-six dollars ($56.00) per page. In addition, the coordinator shall charge a fee to each participating agency for each page published in the bulletin not to exceed sixty-one dollars ($61.00) per page. A fee per page may be charged even though less than a full page of publication is required, and each participating agency shall promptly pay into the administrative code fund such charge.

Approved March 30, 2006.

CHAPTER 236
(H.B. No. 686)

AN ACT
RELATING TO TAXATION; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3622SS, IDAHO CODE, TO PROVIDE AN EXEMPTION FROM TAXATION FOR CERTAIN FEES AND MEMBERSHIP DUES RELATED TO NONPROFIT HUNTING OR SHOOTING SPORTS; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

SECTION 1. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3622SS, Idaho Code, and to read as follows:

63-3622SS. HUNTING OR SHOOTING SPORTS. There is exempted from the taxes imposed by this chapter any fees that may be charged for the use of the facility at shooting ranges or shooting competitions by nonprofit
organizations or membership dues charged by nonprofit hunting or shooting sports organizations.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to July 1, 2002.

Approved March 30, 2006.

CHAPTER 237
(H.B. No. 687)

AN ACT
RELATING TO THE SALES AND USE TAX; AMENDING SECTION 63-3622R, IDAHO CODE, TO PROVIDE THAT THE SALE OR PURCHASE OF A GLIDER KIT SHALL BE EXEMPT FROM THE SALES AND USE TAX WHEN THE GLIDER KIT WILL BE USED TO ASSEMBLE A GLIDER KIT VEHICLE, WHICH WILL BE IMMEDIATELY REGISTERED UNDER THE INTERNATIONAL REGISTRATION PLAN OR SIMILAR PROPORTIONAL OR PRO RATA REGISTRATION SYSTEM.

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

SECTION 1. That Section 63-3622R, Idaho Code, be, and the same is hereby amended to read as follows:

63-3622R. MOTOR VEHICLES, USED MANUFACTURED HOMES, VESSELS, ALL-TERRAIN VEHICLES, TRAILERS, OFF-ROAD MOTORCYCLES, AND SNOWMOBILES AND GLIDER KITS. There are exempted from the taxes imposed by this chapter:

(a) Sales to nonresidents of motor vehicles, trailers, vessels, all-terrain vehicles (ATVs), motorcycles intended for off-road use and snowmobiles, for use outside of this state even though delivery be made within this state, but only when:

(1) The motor vehicles, vessels, ATVs, motorcycles intended for off-road use, snowmobiles or trailers will be taken from the point of delivery in this state directly to a point outside this state; and

(2) The motor vehicles, vessels, ATVs, motorcycles intended for off-road use, snowmobiles and trailers will be registered immediately under the laws of another state, will be titled in another state if required to be titled in that state, will not be used in this state more than sixty (60) days in any twelve (12) month period, and will not be required to be titled under the laws of this state.

(3) For the purpose of this subsection (a), the term "all-terrain vehicle" or "ATV" means any recreational vehicle with three (3) or more tires, weighing under eight hundred fifty (850) pounds, forty-eight (48) inches or less in width, having a wheelbase of sixty-one (61) inches or less, traveling on low-pressure tires of ten (10) psi or less.

(4) For the purpose of this section, the term "vessel" means any boat intended to carry one (1) or more persons upon the water which is either:
(i) Sold together with a motor, or
(ii) Eleven (11) feet in length or more, but shall not include canoes, kayaks or inflatable boats, unless such canoes, kayaks or inflatable boats are sold together with a motor.

(b) Sale of used manufactured homes, whether or not such used manufactured homes are sold for use outside this state, and whether or not such used manufactured homes are sold by a dealer. Every manufactured home sale after its sale as a "new manufactured home," as defined in section 63-3606, Idaho Code, is a sale as a used manufactured home.

(c) Sale or lease of motor vehicles with a maximum gross registered weight over twenty-six thousand (26,000) pounds, which shall be immediately registered under the international registration plan or similar proportional or pro rata registration system, whether or not base plated in Idaho, and the sale or lease of trailers which are part of a fleet of vehicles registered under such proportional or pro rata registration system when such vehicles and trailers are substantially used in interstate commerce. If such a motor vehicle or trailer is not substantially used in interstate commerce during any annual registration period under the international registration plan, it shall be deemed used in Idaho and subject to the use tax under section 63-3621, Idaho Code. For the purpose of this subsection, "substantially used in interstate commerce" means that the vehicles or trailers will be part of a fleet with a minimum of ten percent (10%) of the miles operated by the fleet accrued outside of Idaho in any annual registration period under the international registration plan.

(d) The sale or purchase of a glider kit as defined in section 49-123, Idaho Code, when the glider kit will be used to assemble a glider kit vehicle, which will be immediately registered under a plan defined in subsection (c) of this section.

(e) The use or other consumption of a motor vehicle temporarily donated to a driver's education program sponsored by a nonprofit educational institution as defined in section 63-36220, Idaho Code.

Approved March 30, 2006.
uniform amount not to exceed one dollar ($1.00) per month per access line, and such fee shall be used exclusively to finance the initiation, maintenance, operation, enhancement and governance of a consolidated emergency communications system and provide for the reimbursement of telecommunications providers for implementing enhanced consolidated emergency systems as provided for in section 31-4804A, Idaho Code. All emergency communications fees collected and expended pursuant to this section shall be audited by an independent, third party auditor ordinarily retained by the governing board for auditing purposes. The purpose of the audit as related to emergency communications systems is to verify the accuracy and completeness of fees collected and costs expended.

(2) The fee shall be collected from customers on a monthly basis by all telecommunications providers that make available access lines to persons within the county, or 911 service area, and may be listed as a separate item on customers' monthly bills.

(3) The telecommunications providers shall remit such fee to the county treasurer's office or the administrator for the 911 service area based upon the 911 service area from which the fees were collected. In the event the telecommunications provider remits such fees based upon the emergency communications fee billed to the customer, a deduction shall be allowed for uncollected amounts when such amounts are treated as bad debt for financial reporting purposes.

(4) From every remittance to the governing body made on or before the date when the same becomes due, the telecommunications provider required to remit the same shall be entitled to deduct and retain one percent (1%) of the collected amount as the cost of administration for collecting the charge. Telecommunications providers will be allowed to list the surcharge as a separate item on the telephone subscriber's bill, and shall have no obligation to take any legal action to enforce the collection of any charge, nor be held liable for such uncollected amounts.

(5) Use of fees. The emergency communications fee provided hereunder shall be used only to pay for the lease, purchase or maintenance of emergency communications equipment for basic and enhanced consolidated emergency systems, including necessary computer hardware, software, database provisioning, training, salaries directly related to such systems, costs of establishing such systems, management, maintenance and operation of hardware and software applications and agreed-to reimbursement costs of telecommunications providers related to the operation of such systems. All other expenditures necessary to operate such systems and other normal and necessary safety or law enforcement functions including, but not limited to, those expenditures related to overhead, staffing, dispatching, administrative and other day to day operational expenditures, shall continue to be paid through the general funding of the respective governing boards; provided however, that any governing body using the emergency communication fee to pay the salaries of dispatchers as of March 1, 2006, may continue to do so until the beginning of such governing body's 2007 fiscal year.

Approved March 30, 2006.
AN ACT
RELATING TO REPORTING OF DEATHS; AMENDING SECTION 19-4301A, IDAHO CODE, TO REQUIRE NOTIFICATION TO CERTAIN OFFICIALS, TO MAKE A GRAMMATICAL CHANGE AND TO PROVIDE PENALTIES.

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

SECTION 1. That Section 19-4301A, Idaho Code, be, and the same is hereby amended to read as follows:

19-4301A. DEATHS TO BE REPORTED TO LAW ENFORCEMENT OFFICIALS AND CORONER. (1) Where any death occurs which is would be subject to investigation by the coroner under section 19-4301(1), Idaho Code, the person who finds or has custody of the body shall promptly notify either the coroner, who shall notify the appropriate law enforcement agency, or a law enforcement officer or agency, which shall notify the coroner. Pending arrival of the law enforcement officers, the person finding or having custody of the body shall take reasonable precautions to preserve the body and body fluids and the scene of the event shall not be disturbed by anyone until authorization is given by the law enforcement officer conducting the investigation.

(2) Except as otherwise provided in subsection (3) of this section, any person who fails to notify the coroner or law enforcement pursuant to subsection (1) of this section shall be guilty of a misdemeanor and shall be punished by up to one (1) year in the county jail or by a fine not to exceed one thousand dollars ($1,000), or by both such imprisonment and fine.

(3) Any person who, with the intent to prevent discovery of the manner of death, fails to notify or delays notification to the coroner or law enforcement pursuant to subsection (1) of this section, shall be guilty of a felony and shall be punished by imprisonment in the state prison for a term not to exceed ten (10) years or by a fine not to exceed fifty thousand dollars ($50,000) or by both such fine and imprisonment.

Approved March 30, 2006.

CHAPTER 240
(H.B. No. 712)

AN ACT
RELATING TO PROPRIETARY SCHOOLS; AMENDING SECTION 33-107, IDAHO CODE, TO REVISE AND CLARIFY THE POWERS OF THE STATE BOARD OF EDUCATION RELATING TO MAINTAINING REGISTERS OF POSTSECONDARY EDUCATIONAL INSTITUTIONS AND PROPRIETARY SCHOOLS APPROVED BY THE BOARD, TO DETERMINE ACCEPTANCE OF ACADEMIC CREDITS FOR PUBLIC POSTSECONDARY EDUCATIONAL INSTITUTIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-2401, IDAHO CODE, TO REVISE THE DEFINITIONS OF "ACCRREDITED," "AGENT," "COURSE OF STUDY," "DEGREE" AND "PROPRIETARY SCHOOL," TO
DEFINE "COURSE" AND "POSTSECONDARY EDUCATIONAL INSTITUTION" AND TO DELETE THE DEFINITIONS OF "PERSON," "PRINCIPAL," "REGISTRANT" AND "STUDENT"; REPEALING SECTION 33-2402, IDAHO CODE, RELATING TO SCHOOLS AND COURSES EXEMPTED; AMENDING CHAPTER 24, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-2402, IDAHO CODE, TO PROVIDE FOR REGISTRATION OF POSTSECONDARY EDUCATIONAL INSTITUTIONS AND ASSESSMENT OF AN ANNUAL REGISTRATION FEE; REPEALING SECTION 33-2403, IDAHO CODE, RELATING TO FEDERAL REQUIREMENTS AND STATE POSTSECONDARY REVIEW; AMENDING CHAPTER 24, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-2403, IDAHO CODE, TO PROVIDE FOR REGISTRATION OF PROPRIETARY SCHOOLS AND ASSESSMENT OF AN ANNUAL REGISTRATION FEE; REPEALING SECTION 33-2404, IDAHO CODE, RELATING TO REGISTRATION; AMENDING SECTION 33-2405, IDAHO CODE, TO PROVIDE PROPER TERMINOLOGY, TO ALLOW THE STATE BOARD OF EDUCATION TO SET BY RULE THE ANNUAL AGENT'S PERMIT FEE, TO REDESIGNATE THE SECTION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-2406, IDAHO CODE, TO PROVIDE PROPER TERMINOLOGY, TO PROVIDE THAT COURSES OF A PROPRIETARY SCHOOL WILL NOT BE ACCEPTED FOR TRANSFER INTO ANY IDAHO PUBLIC POSTSECONDARY EDUCATIONAL INSTITUTION AND TO REDESIGNATE THE SECTION; AMENDING SECTION 33-2407, IDAHO CODE, TO PROVIDE PROPER TERMINOLOGY, TO REDESIGNATE THE SECTION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-2408, IDAHO CODE, TO REVISE INFORMATION REQUIRED ON AN APPLICATION, TO PROVIDE PROPER TERMINOLOGY AND TO REDESIGNATE THE SECTION; AMENDING SECTION 33-2409, IDAHO CODE, TO PROVIDE PROPER TERMINOLOGY AND TO REDESIGNATE THE SECTION; AND AMENDING CHAPTER 24, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-2409, IDAHO CODE, TO PROVIDE FOR ENFORCEMENT OF ANY VIOLATION OF THE PROVISIONS OF CHAPTER 24, TITLE 33, IDAHO CODE.

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

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

33-107. GENERAL POWERS AND DUTIES OF THE STATE BOARD. The state board shall have power to:

1. perform all duties prescribed for it by the school laws of the state;
2. acquire, hold and dispose of title, rights and interests in real and personal property;
3. have general supervision, through its executive departments and offices, of all entities of public education supported in whole or in part by state funds;
4. delegate to its executive secretary, to its executive officer, or to such other administrators as the board may appoint, such powers as said officers require to carry out the policies, orders and directives of the board;
5. through its executive departments and offices;
   a. enforce the school laws of the state,
   b. study the educational conditions and needs of the state and recommend to the legislature needed changes in existing laws or additional legislation;
6. in addition to the powers conferred by chapter 24, title 33, Idaho Code.
(a) Maintain a register of courses and programs offered anywhere in the state of Idaho by postsecondary institutions which are (1) located outside the state of Idaho and are offering courses or programs for academic credit or otherwise; or (2) located within the state of Idaho but not accredited by a regional or national accrediting agency recognized by the board and are offering courses for academic credit. The acceptance of academic or nonacademic credit at public postsecondary institutions in Idaho is the prerogative of the state board of education; provided, however, credit transferred into Idaho public postsecondary institutions from nonaccredited postsecondary institutions can be accepted only upon positive review and recommendation by the individual postsecondary institutions and with the approval of the state board of education. A nonaccredited postsecondary institution is one which is not accredited by a regional accrediting agency recognized by the state board or the United States department of education postsecondary educational institutions approved to provide programs and courses that lead to a degree or which provide, offer and sell degrees in accordance with the procedures established in chapter 24, title 33, Idaho Code.

(b) Require compliance by institutions which desire to offer courses or programs in Idaho with the standards and procedures established in chapter 24, title 33, Idaho Code; or those standards, procedures and criteria set by the board. Determine whether to accept academic credit at public postsecondary educational institutions in Idaho. Academic credit shall not be transferred into any Idaho public postsecondary institution from a postsecondary educational institution or other entity that is not accredited by an organization recognized by the board.

(c) Violation of the provisions of this act will be referred to the attorney general for appropriate action, including but not limited to, injunctive relief. Maintain a register of proprietary schools approved to conduct, provide, offer or sell a course or courses of study in accordance with the procedures established in chapter 24, title 33, Idaho Code.

(7) Prescribe the courses and programs of study to be offered at the public institutions of higher education, after consultation with the presidents of the affected institutions;

(8) Approve new courses and programs of study to be offered at community colleges organized pursuant to chapter 21, title 33, Idaho Code, when the courses or programs of study are academic in nature and the credits derived therefrom are intended to be transferable to other state institutions of higher education for credit toward a baccalaureate degree, and when the courses or programs of study have been authorized by the board of trustees of the community college.

SECTION 2. That section 33-2401, Idaho Code, be, and the same is hereby amended to read as follows:

33-2401. DEFINITIONS. For the purposes of chapter 24, title 33, Idaho Code, the following words have the following meanings:

(1) "Accredited" means that a school postsecondary educational institution has been recognized or approved as meeting the standards established by an accrediting agency recognized by the board, or the United States department of education;
(2) "Agent" means any individual within the state of Idaho who solicits students for courses in Idaho or on behalf of a proprietary school.

(3) "Agent's permit" means a nontransferable written document issued to an agent by the board.

(4) "Board" means the state board of education.

(5) "Course" means instruction imparted in a series of lessons or class meetings to meet an educational objective.

(6) "Course or courses of study" means either a single course or a set of related courses for which a student enrolls, either for academic credit or otherwise.

(7) "Degree" means any academic, vocational, professional-technical or honorary title or designation, mark, appellation, series of letters, numbers or words such as, but not limited to, "bachelor's," "master's," "doctorate," or "fellow," which signifies, purports, or is generally taken to signify satisfactory completion of the requirements of an academic, vocational, professional-technical, educational or professional program of study beyond the secondary school level or for a recognized title conferred for meritorious recognition and an associate of arts or associate of science degree awarded by a community college or other public or private postsecondary educational institution or other entity which may be used for any purpose whatsoever.

The state of Idaho recognizes and confirms the authority of any board of directors, board of trustees or comparable authority of an accredited school to confer degrees consistent with the requirements specified by the accrediting agency of the school.

(8) "Person conducting courses" means any individual or other legal entity conducting courses.

(9) "Proprietary school" means any postsecondary educational institution means any person conducting courses an individual, or educational, business or other entity, whether legally constituted or otherwise, which maintains a presence within, or which operates or purports to operate, from a location within the state of Idaho, and which provides courses or programs that lead to a degree, or which provides, offers or sells degrees.

(10) "Registrar" means a person or principal who has been issued a certificate authorizing the conduct of courses.

(11) "Student" means an Idaho resident enrolled in a proprietary school.

SECTION 3. That Section 33-2402, Idaho Code, be, and the same is hereby repealed.
SECTION 4. That Chapter 24, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-2402, Idaho Code, and to read as follows:

33-2402. REGISTRATION OF POSTSECONDARY EDUCATIONAL INSTITUTIONS. (1) Unless exempted as provided herein, each postsecondary educational institution which maintains a presence within the state of Idaho, or which operates or purports to operate from a location within the state of Idaho, shall register annually with and hold a valid certificate of registration issued by the board. A public postsecondary educational institution or agency supported primarily by taxation from either the state of Idaho or a local source in Idaho shall not be required to register under this section. The board may exempt a nonprofit postsecondary educational institution from the registration requirement in accordance with standards and criteria established in rule by the board. The board may permit a postsecondary educational institution required to register under this section to instead register as a proprietary school under section 33-2403, Idaho Code, in accordance with standards and criteria established in rule by the board.

(2) The board shall prescribe by rule the procedure for registration, which shall include, but is not limited to, a description of each degree, course or program, for academic credit or otherwise, that a postsecondary educational institution intends to conduct, provide, offer or sell. Such rule shall also prescribe the standards and criteria to be utilized by the board for recognition of accreditation organizations.

(3) The board may deny the registration of a postsecondary educational institution that does not meet accreditation requirements or other standards and criteria established in rule by the board. The administrative procedure act, chapter 52, title 67, Idaho Code, shall apply to any denial of registration under this section.

(4) The board shall assess an annual registration fee on each postsecondary educational institution required to be registered under this section based on the respective degrees, courses or programs that each such postsecondary educational institution intends to conduct, provide, offer or sell, not to exceed one hundred dollars ($100) for each degree, course or program. Such annual registration fee shall be collected by the board and shall be dedicated for use by the board in connection with its responsibilities under this chapter.

SECTION 5. That Section 33-2403, Idaho Code, be, and the same is hereby repealed.

SECTION 6. That Chapter 24, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-2403, Idaho Code, and to read as follows:

33-2403. REGISTRATION OF PROPRIETARY SCHOOLS. (1) Unless exempted as provided in subsection (4) of this section, each proprietary school which maintains a presence within the state of Idaho, or which operates or purports to operate from a location within the state of Idaho, shall register annually with and hold a valid certificate of registration issued by the board or its designee.

(2) The board shall prescribe by rule the procedure for registration, which shall include, but is not limited to, a description of each
course or program, for academic credit or otherwise, that a proprietary school intends to conduct, provide, offer or sell.

(3) The board may deny the registration of a proprietary school that does not meet the standards or criteria established in rule by the board. The administrative procedure act, chapter 52, title 67, Idaho Code, shall apply to any denial of registration under this section.

(4) The following individuals or entities are specifically exempt from the registration provisions required by this section:

(a) An individual or entity that offers instruction or training solely avocational or recreational in nature, as determined by the board.
(b) An individual or entity that offers courses recognized by the board which comply in whole or in part with the compulsory education law.
(c) An individual or entity that offers a course or courses of study sponsored by an employer for the training and preparation of its own employees, and for which no tuition fee is charged to the student.
(d) An individual or entity which is otherwise regulated, licensed or registered with another state agency pursuant to title 54, Idaho Code.
(e) Aviation school or instructors approved by and under the supervision of the federal aviation administration.
(f) An individual or entity that offers intensive review courses designed to prepare students for certified public accountancy tests, public accountancy tests, law school aptitude tests, bar examinations or medical college admissions tests, or similar instruction for test preparation.
(g) An individual or entity offering only workshops or seminars lasting no longer than three (3) calendar days.
(h) A parochial or denominational institution providing instruction or training relating solely to religion and for which degrees are not granted.
(i) An individual or entity that offers postsecondary credit through a consortium of public and private colleges and universities under the auspices of the western governors.

(5) The board shall assess an annual registration fee on each proprietary school required to be registered under this section. Such annual registration fee shall be composed of a fixed portion in an amount not to exceed one hundred dollars ($100) for each proprietary school, and a variable portion based on the respective course or courses of study that each such proprietary school intends to conduct, provide, offer or sell, not to exceed one hundred dollars ($100) for each course or courses of study. Such annual registration fee shall be collected by the board and shall be dedicated for use by the board in connection with its responsibilities under this chapter.

SECTION 7. That Section 33-2404, Idaho Code, be, and the same is hereby repealed.

SECTION 8. That Section 33-2405, Idaho Code, be, and the same is hereby amended to read as follows:
33-24054. AGENT'S PERMIT. No individual may act as an agent of a proprietary school required to be registered under the provisions of this chapter unless that individual holds a valid agent's permit issued by the board and maintains at all times a surety bond as described in section 33-24056, Idaho Code.

The application for an agent's permit shall be furnished by the board and shall include the following:

1. A statement signed by the applicant that he or she has read the provisions of this chapter and the rules promulgated pursuant thereto.

2. An annual fee of twenty-five dollars ($25.00) for each permit not to exceed fifty dollars ($50.00). The board shall set the amount of such annual agent's permit fee.

All agent's permits shall be renewed annually upon reapplication and proper qualifications on the first day of July. If courses are solicited or sold by more than one (1) agent, a separate permit is required for each agent.

The agent's permit shall consist of a pocket card and shall bear the name and address of the agent, the name and address of the principal proprietary school, and a statement that the bearer is an authorized agent of the principal proprietary school, and may solicit and sell courses for the principal proprietary school. The agent shall surrender the agent's permit to the principal proprietary school upon termination of employment.

An agent representing more than one (1) institution proprietary school shall obtain a separate agent's permit for each institution proprietary school represented.

No individual shall be issued an agent's permit if he or she has been previously found in any judicial or administrative proceeding to have violated this chapter.

An agent's permit shall be valid for the state's fiscal year in which it is issued, unless sooner revoked or suspended by the board for fraud or misrepresentation in connection with the solicitation for the sale of any course of study, for any violation of the provisions of this chapter or rules promulgated pursuant to this chapter, or for the existence of any condition in respect to the agent or the proprietary school he or she represents, which if in existence at the time the agent's permit was issued, would have been grounds for denial for the agent's permit.

The agent shall carry the agent's permit with him or her for identification purposes when engaged in the solicitation for the sale and the selling of courses of study away from the premises of the proprietary school, and shall produce the agent's permit for inspection upon request.

The administrative procedure act, chapter 52, title 67, Idaho Code, shall apply to any denial of an agent's permit or proceeding to revoke or suspend an agent's permit of the board conducted pursuant to this section.

The issuance of an agent's permit pursuant to this section shall not be interpreted as, and it shall be unlawful for any individual holding any agent's permit to expressly or impliedly represent by any means whatever, that the board has made any evaluation, recognition, accreditation or endorsement of any proprietary school or of any course of study being offered for sale by the agent or of any such proprietary school. Any oral or written statement, advertisement or solicitation by
any proprietary school or agent which refers to the board shall state:

"(Name of school) is registered with the State Board of Education in accordance with Section 33-24043, Idaho Code."

It shall be unlawful for any agent holding an agent's permit under the provisions of this section to expressly or impliedly represent, by any means whatsoever, that the issuance of the agent's permit constitutes an assurance by the board that any course of study being offered for sale by the individual agent or proprietary school will provide and require of the student a course of education or training necessary to reach a professional, education, or vocational objective, or will result in employment or personal earning for the student, or that the board has made any evaluation, recognition, accreditation, or endorsement of any course of study being offered for sale by the agent or proprietary school.

No agent shall make any untrue or misleading statement or engage in sales, collection, credit, or other practices of any type that are illegal, false, deceptive, misleading or unfair.

The board shall maintain records for five (5) years of each application for an agent's permit, each bond, and each issuance, denial, termination, suspension and revocation of an agent's permit.

The board or a student may bring an action pursuant to the Idaho rules of civil procedure for an agent's violation of the provisions of this chapter or any rule promulgated pursuant to this chapter, or any fraud or misrepresentation. The court shall determine which party is the "prevailing party" and the prevailing party shall be entitled to the recovery of damages, reasonable attorney's fees and costs both at trial and on appeal.

Additionally, any principal or agent who violates the provisions of this section is also guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six (6) months, or by a fine not exceeding five thousand dollars ($5,000), or both.

SECTION 9. That Section 33-2406, Idaho Code, be, and the same is hereby amended to read as follows:

33-24065. PURCHASE STATEMENT. At the time of depositing any moneys to purchase the product of any proprietary school, the proprietary school shall require the student to execute the following statement on an appropriate form which shall be maintained on record by the proprietary school in the individual student's file:

"I understand that (Name of institution proprietary school) is registered with the State Board of Education in accordance with Section 33-24043, Idaho Code. I also understand that the State Board of Education has not accredited or endorsed any course of study being offered by (Name of institution proprietary school), and that these courses will not be accepted for transfer into any Idaho public postsecondary institution."

SECTION 10. That Section 33-2407, Idaho Code, be, and the same is hereby amended to read as follows:

33-24076. SURETY BOND. A surety bond issued by an insurer duly authorized to do business in this state in favor of the state of Idaho..."
for the indemnification of any person student for any loss suffered as a result of the occurrence, during the period of coverage, of any fraud or misrepresentation used in connection with the solicitation for the sale or the sale of any course of study, or as a result of any violation of this chapter or the rules promulgated pursuant to this chapter shall be required of an agent. The term of the bond shall extend over the period of the permit. The bond shall be supplied by the proprietary school.

The bond shall provide for liability in the penal sum of one hundred thousand dollars ($100,000) for those a proprietary schools with one hundred (100) or more students; fifty thousand dollars ($50,000) for those a proprietary schools with fifty (50) to ninety-nine (99) students; twenty-five thousand dollars ($25,000) for those a proprietary schools with less than fifty (50) students. Notwithstanding the above, for those a proprietary schools that submits evidence acceptable to the board that the total unearned tuition of the proprietary school will not exceed ten thousand dollars ($10,000) at any given time during the period of registration, a bond in the penal sum of ten thousand dollars ($10,000) may be provided, regardless of the number of students.

The board may submit a demand upon the surety on the bond on behalf of a student or students when it is reasonably believed that a loss has occurred due to fraud or misrepresentation used in connection with the solicitation for the sale or the sale of any course of study, or as a result of any violation of the provisions of this chapter or the rules promulgated pursuant to this chapter.

Neither the principal nor surety on the bond may terminate the coverage of the bond, except upon giving one hundred twenty (120) days' prior written notice to the board, and contemporaneously surrendering all agents' permits.

Each proprietary school shall certify, at the time of registration, the number of students presently enrolled at the proprietary school and shall make available, upon request of the board, proof of enrollment numbers.

SECTION 11. That Section 33-2408, Idaho Code, be, and the same is hereby amended to read as follows:

33-24087. STUDENT TUITION RECOVERY ACCOUNT -- CONDITIONS FOR RECOVERY. (1) There is hereby created in the state treasury the student tuition recovery account to be administered by the board for the purpose of relieving or mitigating pecuniary losses suffered by any Idaho-resident-who-is-a student of a proprietary school registered under the provisions of this chapter and who meets either of the following conditions:

(a) The student was enrolled in a proprietary school prior to the school's closure, had prepaid tuition, and suffered loss as a result of:

(i) The closure of the proprietary school; or
(ii) The proprietary school's breach or anticipatory breach of the agreement for the course of study.

For the purpose of this section, "closure" includes closure of a branch or satellite campus, the termination of either the correspondence or residence portion of a home study or correspondence course, and the termination of a course of study for some or all of the students enrolled in the course before the time the students have satisfactorily
completed the program, or before a student who has been continuously enrolled in a course of study had been permitted to complete all the educational services and classes that comprise the course.

(b) The student obtained a judgment against the institution proprietary school for any violation of the provisions of this chapter or rules promulgated pursuant to this chapter, and the student certifies that the judgment cannot be collected after diligent collection efforts.

(2) Payments from the account to any student shall be subject to rules and conditions as the board shall prescribe.

(a) The proprietary school shall provide to the board at the time of the proprietary school's closure the names and addresses of persons who were students of the proprietary school within sixty (60) days prior to its closure, and shall notify these students within thirty (30) days prior to the proprietary school's closure, of their rights under the student tuition recovery account and how to apply for payment.

(b) If the proprietary school fails to comply with the provisions of this section, the board shall attempt to obtain the names and addresses of these students and shall notify them, within ninety (90) days of the proprietary school's closure, of their rights under the student tuition recovery account and how to apply for payment. The board may require the proprietary school to reimburse the board for all reasonable costs and expenses incurred in notifying students.

(c) The board shall develop a form fully explaining a student's rights, which shall be used by the proprietary school or the board to comply with the notice requirement. The form shall include or be accompanied by a claim application form and an explanation of how to complete the application.

(d) Students filing for payment from the student tuition account as a result of the closure of a proprietary school must submit the claim within one (1) year from the proprietary school's or board's service of notice on the student or within two (2) years of the closure of the proprietary school, whichever is earlier.

(3) Students entitled to payment shall file with the state board of education a verified application including, but not limited to each of the following:

(a) The student's name, address, telephone number and social security number.

(b) If any portion of the tuition was paid from the proceeds of a loan, the name of the lender and any state or federal agency that guaranteed the loan.

(c) The amount of the prepaid tuition.

(d) The dates the student started and ceased attending the proprietary school.

(e) A description of the reasons the student ceased attending the proprietary school.

(f) If the student ceased attending because of a breach or anticipatory breach, a statement describing in detail the nature of the economic loss incurred.

(4) Students entitled to payment based on a judgment shall file with the board a verified application indicating the student's name, address, telephone number and social security number.
tion, the amount of the judgment obtained against the proprietary school, a statement that the judgment cannot be collected, and a description of the efforts attempted to enforce the judgment. The application shall be accompanied by a certified copy of the judgment and any other documents indicating the student's efforts made to enforce the judgment. The application shall be filed with the board within two (2) years after the date upon which the judgment became final.

(5) If the board pays the claim, the amount of the payment shall be the total amount of the student's economic loss, although the amount of the payment shall in no event exceed the amount of the student's tuition and cost of equipment and materials related to the course of study plus interest on all student loans used to pay tuition, equipment and materials. Upon payment of the claim, the board shall be subrogated to all of the student's rights against the proprietary school to the extent of the amount of the payment. If the board receives several claims from students, the payment of which cannot be totally covered by the student tuition recovery account, the claims shall receive a prorata share of the account.

(6) If the board denies a claim, the board shall notify the student of the denial and of the student's right to request a hearing within thirty (30) days. The hearing shall be held pursuant to the administrative procedure act, chapter 52, title 67, Idaho Code. If a hearing is not requested the board's decision shall be final.

(7) It is the intent of the legislature that, when a student is enrolled in a proprietary school that closes prior to the completion of the student's program, the student shall have the option for a teach-out at another proprietary school with a comparable course of study. The board shall seek to promote teach-out opportunities whenever possible, with the student to be informed by the board that he or she has the option of either payment from the account or a teach-out which shall be funded from the account.

(8) No liability accrues to the state of Idaho from claims made against the student tuition recovery account.

SECTION 12. That Section 33-2409, Idaho Code, be, and the same is hereby amended to read as follows:

33-2409B. ASSESSMENT FOR STUDENT TUITION RECOVERY ACCOUNT. The board shall assess each registered proprietary school which collects any moneys in advance of rendering services, an amount equal to one-tenth of one percent (.1%) of the total course cost for each student enrolled. The assessment per student shall not be less than one dollar ($1.00), and not more than four dollars ($4.00). In addition, for each student who prepays an institution proprietary school an amount in excess of four thousand dollars ($4,000), the board shall assess the proprietary school one-half of one percent (.5%) of the prepaid amount which exceeds four thousand dollars ($4,000). The board shall promulgate rules regarding collection and administration of the student tuition account.

At any time that the balance is in excess of fifty thousand dollars ($50,000), the board shall suspend collection, except as provided in the event of a newly registered proprietary school or the transfer of ownership of a proprietary school as provided in this section, until such time as the balance is again below fifty thousand dollars ($50,000).
Newly registered proprietary schools shall, regardless of the balance in the account, contribute the assessment set forth in this section for two (2) consecutive years.

If fifty-one percent (51%) or more of the ownership interest in a proprietary school is conveyed through sale or other means into different ownership, the new owner shall commence contributions under the provisions applying to a new applicant.

No more than ten percent (10%) per fiscal year shall be used for the administration of the tuition recovery program. The interest earned on money in the account shall be credited to the account.

In the event of a closure of a proprietary school registered under the provisions of this chapter, any assessments which have been made against those proprietary schools, but have not been paid into the account, shall be recovered to the extent feasible, or any payments from the student tuition recovery account made to students on behalf of any proprietary school may be recovered from that proprietary school by appropriate action taken by the board. The moneys so deposited in the student tuition recovery account shall be exempt from execution and shall not be the subject of litigation or liability on the part of creditors of those proprietary schools or students.

SECTION 13. That Chapter 24, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-2409, Idaho Code, and to read as follows:

33-2409. ENFORCEMENT. Any violation of the provisions of this chapter shall be referred to the attorney general by the board for appropriate action including, but not limited to, injunctive relief.

Approved March 30, 2006.
autopsy of the body, provided a definitive diagnosis has not been made prior to death and provided further that the person or persons having the highest authority under the provisions of section 54-1142, Idaho Code, do not refuse the performance of such autopsy. The state epidemiologist, in ordering an autopsy pursuant to this section, shall require the person or entity performing the autopsy to report the findings of such autopsy to the department of health and welfare.

Approved March 30, 2006.

CHAPTER 242
(H.B. No. 729)

AN ACT
RELATING TO INCOME TAXES; AMENDING SECTION 63-3004, IDAHO CODE, TO UPDATE REFERENCES TO THE INTERNAL REVENUE CODE; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-3004, Idaho Code, be, and the same is hereby amended to read as follows:

63-3004. INTERNAL REVENUE CODE. (a) The term "Internal Revenue Code" means the Internal Revenue Code of 1986 of the United States, as amended, and in effect on the first day of January, 20056.
(b) Provisions of the Internal Revenue Code amended, deleted, or added prior to the effective date of the latest amendment to this section shall be applicable for Idaho income tax purposes on the effective date provided for such amendments, deletions, or additions, including retroactive provisions.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2006.

Approved March 30, 2006.

CHAPTER 243
(H.B. No. 738, As Amended)

AN ACT
RELATING TO HEALTH QUALITY PLANNING; AMENDING CHAPTER 10, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-1054, IDAHO CODE, TO SET FORTH LEGISLATIVE INTENT, TO ESTABLISH THE HEALTH QUALITY PLANNING COMMISSION WITHIN THE DEPARTMENT OF HEALTH AND WELFARE, TO PROVIDE FOR COMMISSION MEMBERSHIP AND MEETINGS, TO SET FORTH PROVISIONS APPLICABLE TO FUNDING AND TO SET FORTH COMMISSION DUTIES.
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 10, Title 56, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 56-1054, Idaho Code, and to read as follows:

56-1054. HEALTH QUALITY PLANNING. (1) It is the intent of the legislature that the department of health and welfare ("the department") promote improved quality of care and improved health outcomes through investment in health information technology and in patient safety and quality initiatives in the state of Idaho.

(a) Coordinated implementation of health information technology in Idaho will establish widespread use of networked electronic health information or health records to allow quick, reliable and secure access to that information in order to promote patient safety and best practices in health care. This goal is consistent with the mission of the office of the national coordinator for health information technology, established by the president of the United States in 2004, to provide leadership for the development and nationwide implementation of an interoperable health information technology infrastructure to improve the quality and efficiency of health care and the ability of consumers to manage their care and safety.

(b) Coordinated implementation of statewide patient safety standards will identify uniform indicators of and standards for clinical quality and patient safety as well as uniform requirements for reporting provider achievement of those indicators and standards.

(2) There is hereby created and established within the department a health quality planning commission ("the commission").

(a) By May 1, 2006, and as needed after that date, the governor shall appoint eleven (11) voting members upon assurance of equitable geographic and rural representation, comprising members of the public and private sectors with expertise in health information technology and clinical quality and patient safety. The membership shall represent all major participants in the health care delivery and financing systems. A majority of the commission shall be health care providers or employees of health care providers. One (1) member shall be an Idaho resident representing the public interest. The commission chairperson shall be appointed by the director of the department.

(b) Members of the commission shall be appointed for a term of one (1) year. The term of office shall commence on July 1, 2006, and shall expire on June 30, 2007.

(c) The commission shall meet monthly and at the call of the chairperson.

(d) Each member of the commission shall be compensated as provided by section 59-509(d), Idaho Code.

(e) Upon the occurrence or declaration of a vacancy in the membership of the commission, the department shall notify the represented entity of that fact in writing and the represented entity shall, within sixty (60) days thereafter, nominate at least one (1) and not more than three (3) persons to fill the vacancy and shall forward the nominations to the governor, who shall appoint from among the nominees a person to be a member of the commission to fill the vacancy.
(f) Members of the commission may be removed by the governor for substantial neglect of duty, gross misconduct in office, or the inability to discharge the duties described in this section, after written notice and opportunity for response.  
(g) A majority of the members of the commission shall constitute a quorum for the transaction of all business and the carrying out of commission duties.  
(3) The department may dedicate funding to the operations of the commission, subject to appropriation from the legislature. The department shall seek federal matching funds and additional private sector funding for commission operations.  
(4) The commission shall perform the following duties related to health information technology planning:
(a) Develop and issue a request or requests for proposals from health care information and communications technology contractors to perform a study on health information technology in Idaho;  
(b) Award a contract or contracts for the performance of the study to a nationally recognized expert or experts in health information technology;  
(c) Oversee and coordinate contractor performance;  
(d) Provide quarterly progress reports to the director of the department and to the legislative health care task force, including an interim status report due to the director and the legislative health care task force by November 30, 2006. The final report of the commission shall be due to the director and the legislative health care task force on June 30, 2007. The final report shall review the contractor study and make recommendations regarding implementation of a plan for the creation of a health information technology system as described in subsection (4)(f)(ii) of this section;  
(e) Widely disseminate requests, including through electronic media, for the active participation of private groups and organizations in the development of the plan. Before submitting the final plan to the director of the department, the commission shall issue drafts of the plan for public review and shall hold at least one (1) public meeting to receive public comments on the plan;  
(f) Develop and submit a final plan that shall include, but not be limited to:
(i) An analysis of existing health information technology in Idaho and of national trends in the development of health information technology systems;  
(ii) A plan for developing a uniform, statewide, flexible and interoperable health information technology system to be used by providers, patients and payers, including a unique patient identifier for all patients;  
(iii) Identification of all major participants in the health care delivery and financing systems that would be affected by the health information technology system;  
(iv) Analysis of the feasibility of incorporating existing infrastructure into the recommended system, analysis of improvements and additions to the existing infrastructure needed to implement the recommended system, and identification of potential obstacles to implementation, such as privacy and security laws, and recommended solutions;  
(v) Development of recommended organizational and governance
structures for implementation and maintenance of the system;
(vi) A business plan for financing the development and main-
tenance of the technology system, including identification of
government and private funding and including consideration of
appropriate user fees;
(vii) A timetable for implementation of the technology system;
(viii) A means to assess the measurable ability of the recom-
mended system to improve the quality of health care through
access to reliable, evidence-based current treatment guide-
lines; and
(ix) Provisions to ensure that the system meets the health
information technology needs of rural Idahoans; and

(g) Issue grants to selected providers including, but not limited
to, primary care providers, in order to support the adoption of
health information technology. The commission shall develop criteria
for the selection of grantees providers.

(5) The commission shall perform the following duties related to
health quality and patient safety planning, provided that performance of
these duties may include contracting with and supervising independent
entities for the performance of some or all of these duties:
(a) Analyze existing clinical quality assurance and patient safety
standards and reporting;
(b) Identify best practices in clinical quality assurance and
patient safety standards and reporting;
(c) Recommend a mechanism or mechanisms for the uniform adoption of
certain best practices in clinical quality assurance and patient
safety standards and reporting including, but not limited to, the
creation of regulatory standards;
(d) Recommend a mechanism or mechanisms to promote public under-
standing of provider achievement of clinical quality and patient
safety standards;
(e) Recommend a sustainable structure for leadership of ongoing
clinical quality and patient safety improvement in Idaho;
(f) Provide quarterly progress reports to the director of the
department and to the legislative health care task force, including
an interim status report due to the director and the legislative
health care task force by November 30, 2006. The final report of the
commission shall be due to the director and the legislative health
care task force on June 30, 2007;
(g) Recommend a method of acquiring and analyzing data necessary to
fulfill the commission's duties as set forth in this section; and
(h) Enhance public health through means such as population-based
epidemiological studies and the maintenance of statistical databases
and registries, including the creation of a health data authority if
appropriate, provided that the privacy of individuals shall be main-
tained in all instances where personal identification is not
required for public health necessity.

Approved March 30, 2006.
AN ACT
RELATING TO THE IDAHO STATE BOARD OF EDUCATION; AMENDING SECTION 33-120, IDAHO CODE, TO PERMIT THE BOARD TO ADOPT RULES TO PROVIDE FOR A STUDENT INFORMATION MANAGEMENT SYSTEM; AMENDING SECTION 33-210, IDAHO CODE, TO PROVIDE A CODE REFERENCE; AMENDING SECTION 33-512, IDAHO CODE, TO REMOVE REFERENCE TO THE STUDENT INFORMATION MANAGEMENT SYSTEM AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-515, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 33-1001, IDAHO CODE, TO REMOVE THE DEFINITION FOR THE STUDENT INFORMATION MANAGEMENT SYSTEM AND FOR RELATED DEFINITIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-1004G, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AND AMENDING SECTION 33-1204, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE.

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

SECTION 1. That Section 33-120, Idaho Code, be, and the same is hereby amended to read as follows:

33-120. UNIFORM REPORTING. (1) The state superintendent of public instruction shall prescribe forms and format for uniform accounting for financial and statistical reports and performance measurements to provide consistent and uniform reporting by school districts.
(2) The state board of education may adopt rules pursuant to the provisions of chapter 52, title 67, Idaho Code, and under authority of section 33-105, Idaho Code, to provide for and implement a student information management system.

SECTION 2. That Section 33-210, Idaho Code, be, and the same is hereby amended to read as follows:

33-210. STUDENTS USING OR UNDER THE INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCES. (1) It is legislative intent that parental involvement in all aspects of a child's education in the public school system remain a priority. Substance abuse prevention programs and counseling for students attending public schools are no exception. Consequently, it is the duty of the board of trustees of each school district, including specially chartered school districts, and governing boards of charter schools, to adopt and implement policies specifying how personnel shall respond when a student discloses or is reasonably suspected of using or being under the influence of alcohol or any controlled substance defined by section 37-2732C, Idaho Code. Such policies shall include provisions that anonymity will be provided to the student on a faculty "need to know" basis, when a student voluntarily discloses using or being under the influence of alcohol or any controlled substance while on school property or at a school function, except as deemed reasonably necessary to protect the health and safety of others. Notification of the disclosure and availability of counseling for students shall be provided to parents, the legal guardian or child's custodian. However, once a student is reasonably suspected of using or being under the influence of
alcohol or a controlled substance in violation of section 37-2732C, Idaho Code, regardless of any previous voluntary disclosure, the school administrator or designee shall contact the student's parent, legal guardian or custodian, and report the incident to law enforcement. The fact that a student has previously disclosed use of alcohol or a controlled substance shall not be deemed a factor in determining reasonable suspicion at a later date.

(2) In addition to policies adopted pursuant to this section, students may, at the discretion of the district board of trustees or governing board of a charter school, be subject to other disciplinary or safety policies, regardless whether the student voluntarily discloses or is reasonably suspected of using or being under the influence of alcohol or a controlled substance in violation of district or charter school policy or section 37-2732C, Idaho Code.

(3) The district board of trustees or the governing board of the charter school shall ensure that procedures are developed for contacting law enforcement and the student's parent, legal guardian or custodian regarding a student reasonably suspected of using or being under the influence of alcohol or a controlled substance. District and charter school policies formulated to meet the provisions of section 37-2732C, Idaho Code, and this section shall be made available to each student, parent, guardian or custodian by August 31, 2002, and thereafter as provided by section 33-512(6r), Idaho Code.

(4) Any school district employee or independent contractor of an educational institution who has a reasonable suspicion that a student is using or is under the influence of alcohol or a controlled substance and, acting upon that suspicion, reports that suspicion to a school administrator or initiates procedures adopted by the board of trustees or governing board of the charter school pursuant to this section, shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report. Any person who reports in bad faith or with malice shall not be protected by this section. Employees and independent contractors of educational institutions who intentionally harass a student through the misuse of the authority provided in this section shall not be immune from civil liability arising from the wrongful exercise of that authority and shall be guilty of a misdemeanor punishable by a fine not to exceed three hundred dollars ($300).

(5) For the purposes of this section, the following definitions shall apply:
(a) "Reasonable suspicion" means an act of judgment by a school employee or independent contractor of an educational institution which leads to a reasonable and prudent belief that a student is in violation of school board or charter school governing board policy regarding alcohol or controlled substance use, or the "use" or "under the influence" provisions of section 37-2732C, Idaho Code. Said judgment shall be based on training in recognizing the signs and symptoms of alcohol and controlled substance use.
(b) "Intentionally harass" means a knowing and willful course of conduct directed at a specific student which seriously alarms, annoys, threatens or intimidates the student and which serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress.
(c) "Course of conduct" means a pattern or series of acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally and statutorily protected activity is not included within the meaning of "course of conduct."

SECTION 3. That Section 33-512, Idaho Code, be, and the same is hereby amended to read as follows:

33-512. GOVERNANCE OF SCHOOLS. The board of trustees of each school district shall have the following powers and duties:
(1) To fix the days of the year and the hours of the day when schools shall be in session. However:
(a) Each school district shall annually adopt and implement a school calendar which provides its students at each grade level with the following minimum number of instructional hours:

<table>
<thead>
<tr>
<th>Grades</th>
<th>Hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>9-12</td>
<td>990</td>
</tr>
<tr>
<td>4-8</td>
<td>900</td>
</tr>
<tr>
<td>1-3</td>
<td>810</td>
</tr>
<tr>
<td>K</td>
<td>450</td>
</tr>
</tbody>
</table>
(b) School assemblies, testing and other instructionally related activities involving students directly may be included in the required instructional hours.
(c) When approved by a local school board, annual instructional hour requirements stated in paragraph (a) may be reduced as follows:
(i) Up to a total of twenty-two (22) hours to accommodate staff development activities conducted on such days as the local school board deems appropriate.
(ii) Up to a total of eleven (11) hours of emergency school closures due to adverse weather conditions and facility failures.
However, transportation to and from school, passing times between classes, recess and lunch periods shall not be included.
(d) Student and staff activities related to the opening and closing of the school year, grade reporting, program planning, staff meetings, and other classroom and building management activities shall not be counted as instructional time or in the reductions provided in paragraph (c)(i) of this section.
(e) For multiple shift programs, this rule applies to each shift (i.e., each student must have access to the minimum annual required hours of instruction).
(f) The instructional time requirement for grade 12 students may be reduced by action of a local school board for an amount of time not to exceed eleven (11) hours of instructional time.
(g) The state superintendent of public instruction may grant an exemption from the provisions of this section for an individual building within a district, when the closure of that building, for unforeseen circumstances, does not affect the attendance of other buildings within the district.
(2) To adopt and carry on, and provide for the financing of, a total educational program for the district. Such programs in other than elementary school districts may include education programs for out-of-school youth and adults; and such districts may provide classes in kindergarten;
(3.) To provide, or require pupils to be provided with, suitable textbooks and supplies, and for advice on textbook selections may appoint a textbook adoption committee as provided in section 33-512A, Idaho Code;

(4.) To protect the morals and health of the pupils;

(5.) To exclude from school, children not of school age;

(6.) To prescribe rules for the disciplining of unruly or insubordinate pupils, such rules to be included in a district discipline code adopted by the board of trustees and a summarized version thereof to be provided in writing at the beginning of each school year to the teachers and students in the district in a manner consistent with the student's age, grade and level of academic achievement;

(7.) To exclude from school, pupils with contagious or infectious diseases who are diagnosed or suspected as having a contagious or infectious disease or those who are not immune and have been exposed to a contagious or infectious disease; and to close school on order of the state board of health or local health authorities;

(8.) To equip and maintain a suitable library or libraries in the school or schools and to exclude therefrom, and from the schools, all books, tracts, papers, and catechisms of sectarian nature;

(9.) To determine school holidays. Any listing of school holidays shall include not less than the following: New Year's Day, Memorial Day, Independence Day, Thanksgiving Day, and Christmas Day. Other days listed in section 73-108, Idaho Code, if the same shall fall on a school day, shall be observed with appropriate ceremonies; and any days the state board of education may designate, following the proclamation by the governor, shall be school holidays;

(10.) To erect and maintain on each schoolhouse or school grounds a suitable flagstaff or flagpole, and display thereon the flag of the United States of America on all days, except during inclement weather, when the school is in session; and for each Veterans Day, each school in session shall conduct and observe an appropriate program of at least one class period remembering and honoring American veterans;

(11.) To prohibit entrance to each schoolhouse or school grounds, to prohibit loitering in schoolhouses or on school grounds and to provide for the removal from each schoolhouse or school grounds of any individual or individuals who disrupt the educational processes or whose presence is detrimental to the morals, health, safety, academic learning or discipline of the pupils. A person who disrupts the educational process or whose presence is detrimental to the morals, health, safety, academic learning or discipline of the pupils or who loiters in schoolhouses or on school grounds, is guilty of a misdemeanor.

(12.) To supervise and regulate, including by contract with established entities, those extracurricular activities which are by definition outside of or in addition to the regular academic courses or curriculum of a public school, and which extracurricular activities shall not be considered to be a property, liberty or contract right of any student, and such extracurricular activities shall not be deemed a necessary element of a public school education, but shall be considered to be a privilege.

(13.) To govern the school district in compliance with state law and rules of the state board of education.

(14.) To submit to the superintendent of public instruction not later than July 1 of each year documentation which meets the reporting
requirements of the federal gun-free schools act of 1994 as contained within the federal improving America's schools act of 1994.

(15) To require that all persons hired for the first time by the district or who have been in the employ of the district five (5) years or less, undergo a criminal history check as provided in section 33-130, Idaho Code. All such employees who are required to undergo a criminal history check shall obtain the history check within three (3) months of starting employment, or for employees with five (5) years or less with the district, within three (3) months from the date such employee is notified that he must undergo a criminal history check. Such employees shall pay the cost of the criminal history check. If the criminal history check shows that the employee has been convicted of a felony crime enumerated in section 33-1208, Idaho Code, it shall be grounds for immediate termination, dismissal or other personnel action of the district, except that it shall be the right of the school district to evaluate whether an individual convicted of one (1) of these crimes and having been incarcerated for that crime shall be hired. The district may require any or all persons who have been employed continuously with the same district for more than five (5) years, to undergo a criminal history check as provided in section 33-130, Idaho Code. If the district elects to require criminal history checks of such employees, the district shall pay the costs of the criminal history check or reimburse employees for such cost. A substitute teacher who has undergone a criminal history check at the request of one (1) district in which he has been employed as a substitute shall not be required to undergo an additional criminal history check at the request of any other district in which he is employed as a substitute if the teacher has obtained a criminal history check within the previous three (3) years. If the district next employing the substitute still elects to require another criminal history check within the three (3) year period, that district shall pay the cost of the criminal history check or reimburse the substitute teacher for such cost.

(16) Each board of trustees of a school district shall be responsible for developing a system for registering volunteers or contractors consistent with maintaining a safe environment for their students.

(17) To ensure that each school district, including specially chartered school districts, participates in the Idaho student information management system (iSIMS) to the full extent of its availability. The terms "Idaho student information management system," "appropriate access," and "real-time" shall have such meanings as the terms are defined in section 33-1001, Idaho Code.

(18) To provide support for teachers in their first two (2) years in the profession in the areas of: administrative and supervisory support, mentoring, peer assistance and professional development.

SECTION 4. That Section 33-515, Idaho Code, be, and the same is hereby amended to read as follows:

33-515. ISSUANCE OF RENEWABLE CONTRACTS. During the third full year of continuous employment by the same school district, including any specially chartered district, each certificated employee named in subsection (17-6) of section 33-1001, Idaho Code, and each school nurse and school librarian shall be evaluated for a renewable contract and shall, upon having been offered a contract for the next ensuing year, having
given notice of acceptance of renewal and upon signing a contract for a fourth full year, be placed on a renewable contract status with said school district subject to the provisions included in this chapter.

After the third full year of employment and at least once annually, the performance of each such certificated employee, school nurse, or school librarian shall be evaluated according to criteria and procedures established by the board of trustees in accordance with general guidelines approved by the state board of education. Except as otherwise provided, that person shall have the right to automatic renewal of contract by giving notice, in writing, of acceptance of renewal. Such notice shall be given to the board of trustees of the school district then employing such person not later than the first day of June preceding the expiration of the term of the current contract. Except as otherwise provided by this paragraph, the board of trustees shall notify each person entitled to be employed on a renewable contract of the requirement that such person must give the notice hereinabove and that failure to do so may be interpreted by the board as a declination of the right to automatic renewal or the offer of another contract. Such notification shall be made, in writing, not later than the fifteenth day of May, in each year, except to those persons to whom the board, prior to said date, has sent proposed contracts for the next ensuing year, or to whom the board has given the notice required by this section.

Any contract automatically renewed under the provisions of this section shall be for the same length as the term stated in the current contract and at a salary no lower than that specified therein, to which shall be added such increments as may be determined by the statutory or regulatory rights of such employee by reason of training, service, or performance.

Nothing herein shall prevent the board of trustees from offering a renewed contract increasing the salary of any certificated person, or from reassigning an administrative employee to a nonadministrative position with appropriate reduction of salary from the preexisting salary level. In the event the board of trustees reassigns an administrative employee to a nonadministrative position, the board shall give written notice to the employee which contains a statement of the reasons for the reassignment. The employee, upon written request to the board, shall be entitled to an informal review of that decision. The process and procedure for the informal review shall be determined by the local board of trustees.

Before a board of trustees can determine not to renew for reasons of an unsatisfactory report of the performance of any certificated person whose contract would otherwise be automatically renewed, or to renew the contract of any such person at a reduced salary, such person shall be entitled to a reasonable period of probation. This period of probation shall be preceded by a written notice from the board of trustees with reasons for such probationary period and with provisions for adequate supervision and evaluation of the person's performance during the probationary period. Such period of probation shall not affect the person's renewable contract status. Consideration of probationary status for certificated personnel is consideration of the status of an employee within the meaning of section 67-2345, Idaho Code, and may be held in executive session. If the consideration results in probationary status, the individual on probation shall not be named in the minutes of the meeting. A record of the decision shall be placed in the teacher's personnel file.
If the board of trustees takes action to immediately discharge or discharge upon termination of the current contract a certificated person whose contract would otherwise be automatically renewed, or to renew the contract of any such person at a reduced salary, the action of the board shall be consistent with the procedures specified in section 33-513(5), Idaho Code, and furthermore, the board shall notify the employee in writing whether there is just and reasonable cause not to renew the contract or to reduce the salary of the affected employee, and if so, what reasons it relied upon in that determination.

If the board of trustees, for reasons other than unsatisfactory service, for the ensuing contract year, determines to change the length of the term stated in the current contract, reduce the salary or not renew the contract of a certificated person whose contract would otherwise be automatically renewed, nothing herein shall require a probationary period.

SECTION 5. That Section 33-1001, Idaho Code, be, and the same is hereby amended to read as follows:

33-1001. DEFINITIONS. The following words and phrases used in this chapter are defined as follows:

(1) "Administrative schools" means and applies to all elementary schools and kindergartens within a district that are situated ten (10) miles or less from both the other elementary schools and the principal administrative office of the district and all secondary schools within a district that are situated fifteen (15) miles or less from other secondary schools of the district.

(2) "Average daily attendance" or "pupils in average daily attendance" means the aggregate number of days enrolled students are present, divided by the number of days of school in the reporting period; provided, however, that students for whom no Idaho school district is a home district shall not be considered in such computation.

(3) "Elementary grades" or "elementary average daily attendance" means and applies to students enrolled in grades one (1) through six (6) inclusive, or any combination thereof.

(4) "Elementary schools" are schools that serve grades one (1) through six (6) inclusive, or any combination thereof.

(5) "Elementary/secondary schools" are schools that serve grades one (1) through twelve (12) inclusive, or any combination thereof.

(6) "Homebound student" means any student who would normally and regularly attend school, but is confined to home or hospital because of an illness or accident for a period of ten (10) or more consecutive days.

(7) "Idaho-student-information-management-system-(ISIMS)" means--a secure, centralized data system where--public--school--information is stored, accessed and analyzed--The system is comprised of two (2)-parts the-first-part-includes-a-uniform-package-of-software-applications--used by--all--public--schools--in--Idaho--for--student--related--administrative-functions--The-software-applications-shall-handle-such-functions-as--student-scheduling,--grade-reporting,--attendance,--recordkeeping,--student-achievement--and--teacher--resources--the-second-part-is-a-data-warehouse-where--public-school-data-are-stored-and-contains-a-number-of-report-generating--software-applications.--Related-definitions-within-the-context--of--ISIMS are:
(a) "Appropriate-access" means secure, legally-authorized-access-to information-on-the-system-consistent-with-the-user's-role-as-deter-
mined-by-rule-of-the-state-board-of-education-and
(b) "Real-time" means immediate-access-to--current--information--on
the-system.

33-1004G. EARLY RETIREMENT INCENTIVE ADMINISTRATIVE STAFF
EXCLUDED. (1) Except as provided in subsection (8) of this section, each
certificated employee of an Idaho public school district as defined in

SECTION 6. That Section 33-1004G, Idaho Code, be, and the same is
hereby amended to read as follows:

33-1004G. EARLY RETIREMENT INCENTIVE -- ADMINISTRATIVE STAFF
EXCLUDED. (1) Except as provided in subsection (8) of this section, each
certificated employee of an Idaho public school district as defined in
section 33-1001(17-6), Idaho Code, is eligible for an early retirement incentive, provided they meet the following criteria:

(a) The employee has completed a minimum of ten (10) years of continuous full-time certified employment, which may include time spent on a sabbatical leave, in Idaho public school districts at the time of application.

(b) The employee is not eligible for unreduced service, early or disability retirement from the public employee retirement system of Idaho at the time of application.

(c) The employee is fifty-five (55) years old before September 1 of the year the application is made; provided that persons turning fifty-six (56) years old or greater between August 15 and 31, 2000, will be eligible to receive the retirement incentive option percentage provided in this section that reflects their age on August 15, 2000.

(d) The employee submits his/her application to the state superintendent of public instruction on or before April 1 of the year of application.

(e) The employee is contracted with an Idaho public school district for the entire school year during the year of application and has not been terminated or on a leave of absence for the current or upcoming school year.

(2) (a) Full-time qualifying applicants shall receive as a one (1) time incentive the following amount of the employee's qualifying salary allocation as provided in section 33-1004E, Idaho Code:

- at 55 years of age 55% of allocation
- at 56 years of age 50% of allocation
- at 57 years of age 45% of allocation
- at 58 years of age 40% of allocation
- at 59 years of age 30% of allocation
- at 60 years of age 30% of allocation
- at 61 years of age 20% of allocation
- at 62 years of age 20% of allocation
- at 63 years of age and over 0% of allocation

(b) Certified employees working less than full-time in the application year will have the incentive payment prorated according to their full-time equivalent (FTE) percentage.

(c) Incentive payments for certified employees not placed on the experience and education multiplier table as provided in section 33-1004A, Idaho Code, will be calculated using the BA column of the table.

(3) Incentives and the employer's share of FICA benefits shall be paid by the state department of education to the Idaho public school district with which the applicant was last contracted on or before July 31 of the year of application and acceptance.

(4) Incentives shall be considered additional compensation flowing from the employment relationship and subject to federal and state tax laws. Incentives shall not be considered salary for purposes of the public employee retirement system.

(5) Any employee receiving an early retirement incentive as provided in this section shall not be eligible for future employment with an Idaho school district where such employment would again qualify him/her for participation in the state retirement system.

(6) Any applicant choosing to withdraw their application must...
notify the state superintendent of public instruction in writing no later than June 20 in the year of application.

(7) A special application of the early retirement incentive shall supersede the limitations of this section to the extent necessary to comply with this subsection. An otherwise qualified certificated employee who becomes medically unable to work prior to July 1 of any year shall be eligible to apply for the early retirement incentive for which the employee would have been eligible retroactive to April 1.

(8) Administrative staff shall not be allowed to participate in the early retirement incentive program as provided in this section and such staff are hereby excluded from participation in the program.

SECTION 7. That Section 33-1204, Idaho Code, be, and the same is hereby amended to read as follows:

33-1204. VALIDITY, DURATION, RENEWAL AND LAPSE OF CERTIFICATES. The state board of education shall by rule provide for the validity, duration, renewal and lapse of certificates.

If the holder of a certificate who has undergone a criminal history check pursuant to district policy as provided in subsection (15) of section 33-512, Idaho Code, is found to have been convicted of any felony crime enumerated in section 33-1208, Idaho Code, the certificate shall be revoked or suspended as provided in this chapter.

Approved March 30, 2006.

CHAPTER 245
(H.B. No. 762)

AN ACT
RELATING TO UNIFORM CONTROLLED SUBSTANCES; AMENDING SECTION 37-27328, IDAHO CODE, TO REVISE PENALTIES APPLICABLE TO THE MANUFACTURE, POSSESSION AND OTHER PROHIBITED ACTIONS RELATED TO SPECIFIED AMOUNTS OF PSEUDOEPHEDRINE.

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

SECTION 1. That Section 37-27328, Idaho Code, be, and the same is hereby amended to read as follows:

37-27328. TRAFFICKING -- MANDATORY SENTENCES. (a) Except as authorized in this chapter, and notwithstanding the provisions of section 37-2732, Idaho Code:

(1) Any person who knowingly manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, one (1) pound of marijuana or more, or twenty-five (25) marijuana plants or more, as defined in section 37-2701, Idaho Code, is guilty of a felony, which felony shall be known as "trafficking in marijuana." If the quantity of marijuana involved:

(A) Is one (1) pound or more, but less than five (5) pounds, or consists of twenty-five (25) marijuana plants or more but fewer than fifty (50) marijuana plants, regardless of the size
or weight of the plants, such person shall be sentenced to a mandatory minimum fixed term of imprisonment of one (1) year and fined not less than five thousand dollars ($5,000);  

(B) Is five (5) pounds or more, but less than twenty-five (25) pounds, or consists of fifty (50) marijuana plants or more but fewer than one hundred (100) marijuana plants, regardless of the size or weight of the plants, such person shall be sentenced to a mandatory minimum fixed term of imprisonment of three (3) years and fined not less than ten thousand dollars ($10,000);  

(C) Is twenty-five (25) pounds or more, or consists of one hundred (100) marijuana plants or more, regardless of the size or weight of the plants, such person shall be sentenced to a mandatory minimum fixed term of imprisonment of five (5) years and fined not less than fifteen thousand dollars ($15,000).  

(D) The maximum number of years of imprisonment for trafficking in marijuana shall be fifteen (15) years, and the maximum fine shall be fifty thousand dollars ($50,000).  

(E) For the purposes of this section, the weight of the marijuana is its weight when seized or as determined as soon as practicable after seizure, unless the provisions of subsection (c) of this section apply.  

(2) Any person who knowingly manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, twenty-eight (28) grams or more of cocaine or of any mixture or substance containing a detectable amount of cocaine is guilty of a felony, which felony shall be known as "trafficking in cocaine." If the quantity involved:  

(A) Is twenty-eight (28) grams or more, but less than two hundred (200) grams, such person shall be sentenced to a mandatory minimum fixed term of imprisonment of three (3) years and fined not less than ten thousand dollars ($10,000);  

(B) Is two hundred (200) grams or more, but less than four hundred (400) grams, such person shall be sentenced to a mandatory minimum fixed term of imprisonment of five (5) years and fined not less than fifteen thousand dollars ($15,000);  

(C) Is four hundred (400) grams or more, such person shall be sentenced to a mandatory minimum fixed term of imprisonment of ten (10) years and fined not less than twenty-five thousand dollars ($25,000).  

(D) The maximum number of years of imprisonment for trafficking in cocaine shall be life, and the maximum fine shall be one hundred thousand dollars ($100,000).  

(3) Any person who knowingly manufactures or attempts to manufacture methamphetamine and/or amphetamine is guilty of a felony which shall be known as "trafficking in methamphetamine and/or amphetamine by manufacturing." Any person convicted of trafficking in methamphetamine and/or amphetamine by attempted manufacturing shall be sentenced to a mandatory minimum fixed term of imprisonment of two (2) years and not to exceed fifteen (15) years imprisonment and fined not less than ten thousand dollars ($10,000). Any person convicted of trafficking in methamphetamine and/or amphetamine by manufacturing shall be sentenced to a mandatory minimum fixed term of imprisonment of five (5) years and not to exceed life imprisonment.
and fined not less than twenty-five thousand dollars ($25,000). The maximum number of years of imprisonment for trafficking in methamphetamine and/or amphetamine by manufacturing shall be life, and the maximum fine shall be one hundred thousand dollars ($100,000).

(4) Any person who knowingly delivers, or brings into this state, or who is knowingly in actual or constructive possession of, twenty-eight (28) grams or more of methamphetamine or amphetamine or of any mixture or substance containing a detectable amount of methamphetamine or amphetamine is guilty of a felony, which felony shall be known as "trafficking in methamphetamine or amphetamine." If the quantity involved:

(A) Is twenty-eight (28) grams or more, but less than two hundred (200) grams, such person shall be sentenced to a mandatory minimum fixed term of imprisonment of three (3) years and fined not less than ten thousand dollars ($10,000);

(B) Is two hundred (200) grams or more, but less than four hundred (400) grams, such person shall be sentenced to a mandatory minimum fixed term of imprisonment of five (5) years and fined not less than fifteen thousand dollars ($15,000);

(C) Is four hundred (400) grams or more, such person shall be sentenced to a mandatory minimum fixed term of imprisonment of ten (10) years and fined not less than twenty-five thousand dollars ($25,000);

(D) The maximum number of years of imprisonment for trafficking in methamphetamine or amphetamine shall be life, and the maximum fine shall be one hundred thousand dollars ($100,000).

(5) Any person who knowingly manufactures, delivers, brings into this state, or who is knowingly in actual or constructive possession of the below-specified quantities of any of the following immediate precursors to methamphetamine or amphetamine (namely ephedrine, methyamine, methyl formamide, phenylacetic acid, phenylacetone, or pseudoephedrine) as defined in section 37-2707(g)(1), Idaho Code, or any compound, mixture or preparation which contains a detectable quantity of these substances, is guilty of a felony which shall be known as "trafficking in immediate precursors of methamphetamine or amphetamine." If the quantity:

(A) Of ephedrine is five hundred (500) grams or more;

(B) Of methylamine is one-half (1/2) pint or more;

(C) Of methyl formamide is one-quarter (1/4) pint or more;

(D) Of phenylacetic acid is five hundred (500) grams or more;

(E) Of phenylacetone is four hundred (400) grams or more;

(F) Of pseudoephedrine is five hundred (500) grams or more;

such person shall be sentenced to a mandatory minimum fixed term of imprisonment of ten (10) years and fined not less than twenty-five thousand dollars ($25,000). The maximum number of years of imprisonment for trafficking in immediate precursors of methamphetamine or amphetamine in the quantities specified in paragraphs (A) through (F) of this subsection (5) shall be life, and the maximum fine shall be one hundred thousand dollars ($100,000). If the quantity of pseudoephedrine is twenty-five (25) grams or more, but less than five hundred (500) grams, such person shall be sentenced to a term of imprisonment of up to ten (10) years and fined not more than twenty-five thousand dollars ($25,000).

(6) Any person who knowingly manufactures, delivers or brings into
this state, or who is knowingly in actual or constructive possession of, two (2) grams or more of heroin or any salt, isomer, or salt of an isomer thereof, or two (2) grams or more of any mixture or substance containing a detectable amount of any such substance is guilty of a felony, which felony shall be known as "trafficking in heroin." If the quantity involved:

(A) Is two (2) grams or more, but less than seven (7) grams, such person shall be sentenced to a mandatory minimum fixed term of imprisonment of three (3) years and fined not less than ten thousand dollars ($10,000);

(B) Is seven (7) grams or more, but less than twenty-eight (28) grams, such person shall be sentenced to a mandatory minimum fixed term of imprisonment of ten (10) years and fined not less than fifteen thousand dollars ($15,000);

(C) Is twenty-eight (28) grams or more, such person shall be sentenced to a mandatory minimum fixed term of imprisonment of fifteen (15) years and fined not less than twenty-five thousand dollars ($25,000).

(D) The maximum number of years of imprisonment for trafficking in heroin shall be life, and the maximum fine shall be one hundred thousand dollars ($100,000).

(7) A second conviction for any trafficking offense as defined in subsection (a) of this section shall result in a mandatory minimum fixed term that is twice that otherwise required under this section.

(8) Notwithstanding any other provision of law, with respect to any person who is found to have violated the provisions of this section, adjudication of guilt or the imposition or execution of sentence shall not be suspended, deferred, or withheld, nor shall such person be eligible for parole prior to serving the mandatory minimum fixed term of imprisonment prescribed in this section. Further, the court shall not retain jurisdiction.

(b) Any person who agrees, conspires, combines or confederates with another person or solicits another person to commit any act prohibited in subsection (a) of this section is guilty of a felony and is punishable as if he had actually committed such prohibited act.

(c) For the purposes of subsections (a) and (b) of this section the weight of the controlled substance as represented by the person selling or delivering it is determinative if the weight as represented is greater than the actual weight of the controlled substance.

Approved March 30, 2006.

CHAPTER 246
(S.B. No. 1275)

AN ACT
RELATING TO THE PEACE OFFICERS STANDARDS AND TRAINING COUNCIL; AMENDING SECTION 19-5109, IDAHO CODE, TO PROVIDE THAT THE COUNCIL MAY IMPLEMENT TRAINING AND STANDARDS FOR EMPLOYEES OF THE IDAHO DEPARTMENT OF JUVENILE CORRECTIONS WHO ARE ENGAGED IN THE DIRECT CARE AND MANAGEMENT OF JUVENILES.
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 19-5109, Idaho Code, be, and the same is hereby amended to read as follows:

19-5109. POWERS OF THE COUNCIL -- STANDARDS OF TRAINING, EDUCATION AND EMPLOYMENT OF PEACE OFFICERS -- CERTIFICATION -- PENALTIES. (a) It shall be the duty of and the council shall have the power:

(1) To establish the requirements of minimum basic training which peace officers shall complete in order to be eligible for permanent employment as peace officers, and the time within which such basic training must be completed. One (1) component of minimum basic training shall be a course in the investigation of and collection of evidence in cases involving an allegation of sexual assault or battery.

(2) To establish the requirements of minimum education and training standards for employment as a peace officer in probationary, temporary, part-time, and/or emergency positions.

(3) To establish the length of time a peace officer may serve in a probationary, temporary, and/or emergency position.

(4) To approve, deny approval or revoke the approval of any institution or school established by the state or any political subdivision or any other party for the training of peace officers.

(5) To establish the minimum requirements of courses of study, attendance, equipment, facilities of all approved schools, and the scholastic requirement, experience and training of instructors at all approved schools.

(6) To establish such other requirements for employment, retention and promotion of peace officers, including minimum age, physical and mental standards, citizenship, moral character, experience and such other matters as relate to the competence and reliability of peace officers.

(7) To certify peace officers as having completed all requirements established by the council in order to be eligible for permanent employment as peace officers in this state.

(8) To receive and file for record copies of merit regulations or local ordinances passed by any political subdivision.

(9) To maintain permanent files and transcripts for all peace officers certified by the council to include any additional courses or advance courses of instruction successfully completed by such peace officers while employed in this state.

(10) To receive applications for financial assistance from the state and from political subdivisions and disburse available state funds to the state and to political subdivisions for salaries and allowable living expenses or any part thereof, as authorized by the council, incurred while in attendance at approved training programs and schools. The annual reimbursements authorized by this section shall not exceed the funds available for such purpose and authorized by section 31-3201B, Idaho Code.

(11) To allow a peace officer of a federally recognized Indian tribe within the boundaries of this state to attend the peace officer standards and training academy if said peace officer meets minimum physical and educational requirements of the academy. The Indian tribal law enforcement agency shall reimburse the peace officer
standards and training academy for the officer's training. Upon satisfac­tory completion of the peace officer standards and training academy, the tribal peace officer shall receive a certificate of satisfactorily completing the academy.

(b) After January 1, 1974, any peace officer as defined in section 19-5101(d), Idaho Code, employed after January 1, 1974, except any elected official or deputy serving civil process, the deputy director of the Idaho state police, or any person serving under a temporary commis­sion with any law enforcement agency in times of natural or man-caused disaster declared to be an emergency by the board of county commis­sioners or by the governor of the state of Idaho, or those peace officers whose primary duties involve motor vehicle parking and animal control pursuant to city or county ordinance, or any peace officer acting under a special deputy commission from the Idaho state police, shall be certi­fied by the council within one (1) year of employment; provided, how­ever, that the council may establish criteria different than that required of other peace officers for certification of city police chiefs or administrators within state agencies having law enforcement powers, who, because of the number of full-time peace officers they supervise, have duties which are primarily administrative. Any such chief of police or state agency administrator employed in such capacity prior to July 1, 1987, shall be exempt from certification.

(c) No peace officer shall have or exercise any power granted by any statute of this state to peace officers unless such person shall have been certified by the council within one (1) year of the date upon which such person commenced employment as a peace officer, except in cases where the council, for good cause and in writing, has granted additional time to complete such training. The council may decertify any officer who pleads guilty or is found guilty, regardless of the form of judgment or withheld judgment of:

(1) Any felony or offense which would be a felony if committed in this state;
(2) Any misdemeanor;
(3) Any unlawful use, possession, sale or delivery of any con­trolled substance; or who
(4) Willfully or otherwise falsifies or omits any information to obtain any certified status; or who
(5) Violates any of the standards of conduct as established by the council's code of ethics, as adopted and amended by the council.

All proceedings taken by the council shall be done in accordance with chapter 52, title 67, Idaho Code.

(d) Any law enforcement agency as defined in section 19-5101(c), Idaho Code, in which any peace officer shall resign as a result of any disciplinary action or in which a peace officer's employment is termi­nated as a result of any disciplinary action, shall, within thirty (30) days of such action, make a report to the council.

(e) The council shall, pursuant to the requirements of this sec­tion, establish minimum basic training and certification standards for county detention officers that can be completed within one (1) year of employment as a county detention officer.

(f) The council may, upon recommendation of the juvenile training council and pursuant to the requirements of this section, implement min­imum basic training and certification standards for juvenile detention officers, and--for juvenile probation officers, and employees of the
Idaho department of juvenile corrections who are engaged in the direct care and management of juveniles.

(g) The council may, upon recommendation of the correction standards and training counsel, and pursuant to the requirements of this section, establish minimum basic training and certification standards for state correction officers and for adult probation and parole officers.

Approved March 30, 2006.

CHAPTER 247
(S.B. No. 1295)

AN ACT
RELATING TO THE INDUSTRIAL SPECIAL INDEMNITY FUND; AMENDING SECTION 72-327, IDAHO CODE, TO REMOVE OBSOLETE REFERENCES, TO REVISE THE CALCULATION OF ASSESSMENTS AND TO PROVIDE FOR THE REPORTING OF BENEFITS PAID DURING A ONE YEAR PERIOD.

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

SECTION 1. That Section 72-327, Idaho Code, be, and the same is hereby amended to read as follows:

72-327. ASSESSMENT -- METHOD OF CALCULATION AND PRORATION -- TIME FOR PAYMENT. (1) The state insurance fund, every authorized self-insurer and every surety authorized under the Idaho insurance code or by the director of the department of insurance to transact worker's compensation insurance in Idaho, in addition to all other payments required by statute, shall, within thirty-(30)-days-after-April 1, 1998, and within thirty (30) days subsequent to September 1 and April 1 of each successive year, thereafter, pay to the industrial commission for deposit in the industrial special indemnity fund an assessment as follows:

(a) The total annual assessment payable in the manner set forth in this section shall be equal in amount to two (2) times the amount of all expenses of the industrial special indemnity fund incurred during the immediately preceding fiscal year less the existing cash balance of the industrial special indemnity fund as of the thirtieth day of June of the immediately preceding fiscal year;
(b) The total annual assessment shall be apportioned on a pro rata percentage basis among and between the state insurance fund, every authorized self-insurer and every surety authorized under the Idaho insurance code or by the director of the department of insurance to transact worker's compensation insurance in Idaho based upon the proportionate share of the total gross amount of indemnity benefits paid on Idaho worker's compensation claims during the applicable reporting period;
(c) The amount of each responsible entity's or person's assessment which is due and payable within thirty (30) days subsequent to September 1 and April 1 of any year shall be calculated by dividing one-half (1/2) of the total annual assessment amount by the responsible party's proportionate share of the total gross amount of
indemnity benefits paid during the preceding period of time from January 1 through June-30 December 31. The amount of each responsible entity's or person's assessment which is due and payable within thirty-(30)—days subsequent to April-1 of any year shall be calculated by dividing one-half-(1/2)—of the total applicable—assessment amount—by—the—responsible-entity's—or—person's—proportionate—share of the total gross indemnity benefits paid on open worker's—compensation—claims—during—the—preceding—period—of—time—from—July-1 through-December-31. In no case shall the amount of any such assessment be less than two hundred dollars ($200).

(2) In arriving at the total gross amount of indemnity benefits paid, the amount of indemnity benefits shall include those payments provided for or made under the provisions of the worker's compensation law with respect to "income benefits" as defined in section 72-102, Idaho Code.

(3) For the purposes of this section, the responsible entities or persons shall report to the industrial commission their total gross indemnity benefits paid during the six twelve (612) month period from July January 1 through December 31 no later than January March 31 of the next succeeding year, and shall report their total gross indemnity benefits paid during the six-(6)—month-period-from-January-1-through-June-30 no-later-than-July-31-of-said-year.

(4) A penalty for the late filing of any report required by this section will be assessed in accordance with the rules of the industrial commission.

(5) The industrial special indemnity fund shall certify to the industrial commission annually the amount of the assessment payable under this section and the industrial commission shall prepare and submit to each responsible entity or person notice of its pro rata amount payable hereunder on or before April 1, 1998, and thereafter on or before September 1 and April 1 of each succeeding year.

(6) For the purposes of this section, the cash balance of the industrial special indemnity fund in any fiscal year shall mean all money deposited or invested by the state treasurer to the credit of the industrial special indemnity fund pursuant to sections 72-325 and 72-326, Idaho Code, and all interest earned thereon.

(7) For purposes of this section, the term "fiscal year" shall mean that period of time commencing upon July 1 in any year and ending upon June 30 of the next succeeding year.

Approved March 30, 2006.

CHAPTER 248
(S.B. No. 1296)

AN ACT
RELATING TO ACTIONS FOR FORCIBLE ENTRY AND UNLAWFUL DETAINER; AMENDING SECTION 6-310, IDAHO CODE, TO PROVIDE FOR ACTIONS AND NOTICE WHEN A TENANT IS A TENANT AT SUFFERANCE; AMENDING SECTION 6-311, IDAHO CODE, TO PROVIDE APPLICATION OF THE STATUTE ON CONTINUANCES TO A PERSON WHO IS IN POSSESSION OF THE PROPERTY AND IS A TENANT AT SUF-
FERANCE; AMENDING SECTION 6-311A, IDAHO CODE, TO PROVIDE FOR A TRIAL WITHOUT A JURY IF THE TENANT IS A TENANT AT SUFFERANCE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 6-310, Idaho Code, be, and the same is hereby amended to read as follows:

6-310. ACTION FOR POSSESSION -- COMPLAINT -- SUMMONS. In an action exclusively for possession of a tract of land of five (5) acres or less for the nonpayment of rent, or on the grounds that a landlord has reasonable grounds to believe that any person is, or has been, engaged in the unlawful delivery, production or use of a controlled substance on the leased premises during the term for which the premises are let to the tenant, or in the event the tenant is a tenant at sufferance pursuant to subsection (11) of section 45-1506, Idaho Code, it is sufficient to state in the complaint:

(1) A description of the premises with convenient certainty;
(2) That the defendant is in possession of the premises;
(3) That the defendant entered upon the premises, holds the premises, and is in default of the payment of rent or that the landlord has reasonable grounds to believe that any person is, or has been, engaged in the unlawful delivery, production or use of a controlled substance on the leased premises during the term for which the premises are let to the tenant;
(4) That all notices required by law have been served upon the defendant in the required manner or no notice is required because the defendant is a tenant at sufferance pursuant to subsection (11) of section 45-1506, Idaho Code; and
(5) That the plaintiff is entitled to the possession of the premises. Upon filing the complaint, a summons must be issued, served and returned as in other actions, provided, however, that at the time of issuance of the summons, the court shall schedule a trial within twelve (12) days from the filing of the complaint and the service of the summons, complaint and trial setting on the defendant shall be not less than five (5) days before the day of trial appointed by the court.

SECTION 2. That Section 6-311, Idaho Code, be, and the same is hereby amended to read as follows:

6-311. CONTINUANCE. In an action exclusively for possession of a tract of land of five (5) acres or less for the nonpayment of rent or if a landlord has alleged that the landlord has reasonable grounds to believe that any person is, or has been, engaged in the unlawful delivery, production, or use of a controlled substance during the term for which the premises are let to the tenant, or if the person is in possession of the property and is a tenant at sufferance pursuant to subsection (11) of section 45-1506, Idaho Code, no continuance shall be granted for a longer period than two (2) days unless the defendant applying therefor gives an undertaking to the adverse party with good and sufficient security, to be approved by the court, conditioned for the payment of the rent that may accrue if judgment is rendered against the defendant.
SECTION 3. That Section 6-311A, Idaho Code, be, and the same is hereby amended to read as follows:

6-311A. JUDGMENT ON TRIAL BY COURT. In an action exclusively for possession of a tract of land of five (5) acres or less for the nonpayment of rent or on the grounds that the landlord has reasonable grounds to believe that a person is, or has been, engaged in the unlawful delivery, production, or use of a controlled substance on the leased premises during the term for which the premises are let to the tenant, or if the tenant is a tenant at sufferance pursuant to subsection (11) of section 45-1506, Idaho Code, the action shall be tried by the court without a jury. If, after hearing the evidence the court concludes that the complaint is not true, it shall enter judgment against the plaintiff for costs and disbursements. If the court finds the complaint true or if judgment is rendered by default, it shall render a general judgment against the defendant and in favor of the plaintiff, for restitution of the premises and the costs and disbursements of the action. If the court finds the complaint true in part, it shall render judgment for the restitution of such part only, and the costs and disbursements shall be taxed as the court deems just and equitable. No provision of this law shall be construed to prevent the bringing of an action for damages.

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

Approved March 30, 2006.

CHAPTER 249
(S.B. No. 1297)

AN ACT
RELATING TO CRIMINAL JUDGMENTS; AMENDING SECTION 19-2520, IDAHO CODE, TO REMOVE LANGUAGE REQUIRING A NOTICE OF INTENT TO SEEK ENHANCED PENALTIES IN CERTAIN CASES AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 19-2520, Idaho Code, be, and the same is hereby amended to read as follows:

19-2520. EXTENDED SENTENCE FOR USE OF FIREARM OR DEADLY WEAPON. Any person convicted of a violation of sections 18-905 (aggravated assault defined), 18-907 (aggravated battery defined), 18-909 (assault with intent to commit a serious felony defined), 18-911 (battery with intent to commit a serious felony defined), 18-1401 (burglary defined), 18-1508(3), 18-1508(4), 18-1508(5), 18-1508(6) (lewd conduct with minor or child under sixteen), 18-2501 (rescuing prisoners), 18-2505 (escape by one charged with or convicted of a felony), 18-2506 (escape by one charged with or convicted of a misdemeanor), 18-4003 (degrees of murder), 18-4006 (manslaughter), 18-4015 (assault with intent to murder), 18-4501 (kidnapping defined), 18-5001 (mayhem defined), 18-6101 (rape
defined), 18-6501 (robbery defined), 37-2732(a) (delivery, manufacture or possession of a controlled substance with intent to deliver) or 37-2732B (trafficking), Idaho Code, who displayed, used, threatened, or attempted to use a firearm or other deadly weapon while committing or attempting to commit the crime, shall be sentenced to an extended term of imprisonment. The extended term of imprisonment authorized in this section shall be computed by increasing the maximum sentence authorized for the crime for which the person was convicted by fifteen (15) years.

For the purposes of this section, "firearm" means any deadly weapon capable of ejecting or propelling one (1) or more projectiles by the action of any explosive or combustible propellant, and includes unloaded firearms and firearms which are inoperable but which can readily be rendered operable.

The additional terms provided in this section shall not be imposed unless the fact of displaying, using, threatening, or attempting to use a firearm or other deadly weapon while committing the crime is separately charged in the information or indictment and admitted by the accused or found to be true by the trier of fact at the trial of the substantive crime; provided, however, that the prosecutor shall give notice to the defendant of intent to seek an enhanced penalty at or before the preliminary hearing or before a waiver of the preliminary hearing, if any.

This section shall apply even in those cases where the use of a firearm is an element of the offense.

Approved March 30, 2006.

CHAPTER 250
(S.B. No. 1321)

AN ACT
RELATING TO TRUSTS; AMENDING SECTION 68-119, IDAHO CODE, TO REVISE APPLICABILITY; AND AMENDING CHAPTER 1, TITLE 68, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 68-120, IDAHO CODE, TO PROVIDE THAT THE DOCTRINE OF WORTHIER TITLE SHALL NOT BE APPLIED.

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

SECTION 1. That Section 68-119, Idaho Code, be, and the same is hereby amended to read as follows:

68-119. APPLICABILITY. The provisions of sections 68-114 through 68-11920, Idaho Code, shall apply to all trusts, whether established pursuant to Idaho law or established pursuant to the law of another state or jurisdiction.

SECTION 2. That Chapter 1, Title 68, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 68-120, Idaho Code, and to read as follows:

68-120. DOCTRINE OF WORTHIER TITLE INAPPLICABLE. The doctrine of worthier title shall not be applied as a rule of law or as a rule of
construction. Language in a governing instrument describing the benefici­
ciaries of a disposition as the transferor's heirs, heirs at law, next of kin, distributees, relatives or family, or language of similar import, shall not create or presumptively create a reversionary interest in the transferor.

Approved March 30, 2006.

CHAPTER 251
(S.B. No. 1331)

AN ACT
RELATING TO PAROLE; AMENDING SECTION 20-223, IDAHO CODE, TO REFERENCE MENTAL HEALTH PROFESSIONALS DESIGNATED BY THE DEPARTMENT OF CORRECTION FOR PURPOSES OF EXAMINATION AND EVALUATION AND TO PROVIDE THAT NO PERSON MAKING AN EVALUATION SHALL BE HELD FINANCIALLY LIABLE FOR DENIAL OF PAROLE OR FOR FUTURE ACTS OF A PAROLEE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 20-223, Idaho Code, be, and the same is hereby amended to read as follows:

20-223. PAROLE AND RULES GOVERNING -- RESTRICTIONS PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION. (a) Subject to section 19-2513, Idaho Code, the commission shall have the power to establish rules, policies or procedures in compliance with chapter 52, title 67, Idaho Code, under which any prisoner, excepting any under sentence of death, may be allowed to go upon parole but to remain while on parole in the legal custody and under the control of the board and subject to be taken back into confinement at the direction of the commission. Any prisoner who is granted parole under the interstate compact may be required to post a bond prior to release or prior to such acceptance under the interstate compact; such bond may be posted by the prisoner, the prisoner's family, or other interested party. Failure to successfully complete parole, the amount of the bond will be returned, less an amount for administrative costs as determined by commission rule, in compliance with chapter 52, title 67, Idaho Code. Funds collected through the bonding process will be placed in a separate commission receipts fund which is hereby created in the state treasury, and utilized for the extradition of said parole violators.

(b) No person serving a sentence for rape, incest, committing a lewd act upon a child, crime against nature, or with an intent or an assault with intent to commit any of the said crimes or whose history and conduct indicate to the commission that he is a sexually dangerous person, shall be released on parole except upon the examination and evaluation of one (1) or more psychiatrists or psychologists or mental health professionals designated for this purpose by the department of correction to be selected by the commission and such evaluation shall be duly considered by the commission in making its parole determination. The commission may, in its discretion, likewise require a similar exami-
nation and evaluation for persons serving sentences for crimes other than those above enumerated. No psychiatrist or psychologist person making such evaluation shall be held financially responsible to any person for denial of parole by the commission or for the results of the future acts of such person if he be granted parole.

(c) Before considering the parole of any prisoner, the commission shall afford the prisoner the opportunity to be interviewed by the commission, a commissioner or other designated commission staff. A designated report prepared by commission staff or a designated department of correction employee which is specifically to be used by the commission in making a parole determination shall be exempt from public disclosure; such reports contain information from the presentence investigation report, medical or psychological information, victim information, designated confidential witness information and criminal history information. A parole shall be ordered when, in the discretion of the commission, it is in the best interests of society, and the commission believes the prisoner is able and willing to fulfill the obligations of a law-abiding citizen. Such determination shall not be a reward of clemency and it shall not be considered to be a reduction of sentence or a pardon. The commission may also by its rules, policies or procedures fix the times and conditions under which any application denied may be reconsidered. No action may be maintained against the commission and/or any of its members in any court in connection with any decision taken by the commission to parole a prisoner and neither the commission nor its members shall be liable in any way for its action with respect thereto.

(d) In making any parole or commutation decision with respect to a prisoner, the commission shall consider the compliance of the prisoner with any order of restitution which may have been entered according to section 19-5304, Idaho Code. The commission may make compliance with such an order of restitution a condition of parole.

(e) Except as provided in subsection (a) of this section, no provision of chapter 52, title 67, Idaho Code, shall apply to the commission.

(f) Subject to the limitations of this subsection and notwithstanding any fixed term of confinement or minimum period of confinement as provided in section 19-2513, Idaho Code, the commission may parole an inmate for medical reasons. A prisoner may be considered for medical parole only when the prisoner is permanently incapacitated or terminally ill and when the commission reasonably believes the prisoner no longer poses a threat to the safety of society. For the purposes of this section "permanently incapacitated" shall mean a person who, by reason of an existing physical condition which is not terminal, is permanently and irreversibly physically incapacitated. For the purposes of this section "terminally ill" shall mean a person who has an incurable condition caused by illness or disease and who is irreversibly terminally ill.

(g) The commission shall prepare and send to the house and senate judiciary committees annually a report containing the names, medical condition and current status of all persons granted parole pursuant to subsection (f) of this section.

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

Approved March 30, 2006.
AN ACT
RELATING TO THE UNIFORM INTERSTATE FAMILY SUPPORT ACT; AMENDING SECTION 7-1058, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 7-1001, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE DEFINITIONS AND TO REVISE A CODE REFERENCE; AMENDING SECTION 7-1002, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 7-1003, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS APPLICABLE TO REMEDIES; AMENDING SECTION 7-1004, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE DESCRIPTIVE LANGUAGE AND TO REVISE PROVISIONS APPLICABLE TO BASES FOR JURISDICTION OVER NONRESIDENTS; AMENDING SECTION 7-1005, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE DESCRIPTIVE LANGUAGE AND TO SET FORTH THE DURATION OF PERSONAL JURISDICTION; AMENDING SECTION 7-1006, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 7-1007, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE DESCRIPTIVE LANGUAGE AND TO REMOVE LANGUAGE REFERENCING A PETITION OR COMPARABLE PLEADING; AMENDING SECTION 7-1008, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE DESCRIPTIVE LANGUAGE AND TO REVISE PROVISIONS APPLICABLE TO JURISDICTION TO MODIFY CHILD SUPPORT ORDERS; AMENDING SECTION 7-1009, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE DESCRIPTIVE LANGUAGE AND TO REVISE PROVISIONS APPLICABLE TO JURISDICTION TO ENFORCE CHILD SUPPORT ORDERS; AMENDING SECTION 7-1010, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE DESCRIPTIVE LANGUAGE AND TO REVISE PROVISIONS APPLICABLE TO DETERMINING CONTROLLING CHILD SUPPORT ORDERS; AMENDING SECTION 7-1011, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REMOVE REFERENCES TO MULTIPLE REGISTRATIONS, PETITIONS OR ORDERS; AMENDING SECTION 7-1012, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS APPLICABLE TO CREDIT FOR PAYMENTS; AMENDING CHAPTER 10, TITLE 7, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 7-1014, IDAHO CODE, TO PROVIDE FOR APPLICATION TO NONRESIDENTS SUBJECT TO PERSONAL JURISDICTION; AMENDING CHAPTER 10, TITLE 7, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 7-1015, IDAHO CODE, TO PROVIDE FOR JURISDICTION TO MODIFY SPOUSAL SUPPORT ORDERS; AMENDING SECTION 7-1013, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS APPLICABLE TO PROCEEDINGS; AMENDING SECTION 7-1014, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE DESCRIPTIVE LANGUAGE; AMENDING SECTION 7-1015, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS RELATING TO APPLICATION OF LAW; AMENDING SECTION 7-1016, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS APPLICABLE TO DUTIES OF INITIATING TRIBUNALS; AMENDING SECTION 7-1017, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS APPLICABLE TO THE DUTIES AND POWERS OF RESPONDING TRIBUNALS; AMENDING SECTION 7-1018, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REFERENCE THE TRIBUNAL; AMENDING SECTION 7-1019, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS APPLICABLE TO DUTIES OF SUPPORT ENFORCEMENT AGENCIES; AMENDING SECTION 7-1020, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE DUTIES OF THE ATTORNEY GENERAL; AMENDING SECTION 7-1021, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 7-1022, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE DUTIES OF THE STATE INFORMATION
AGENCY; AMENDING SECTION 7-1023, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS APPLICABLE TO PLEADINGS AND ACCOMPANYING DOCUMENTS; AMENDING SECTION 7-1024, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS APPLICABLE TO THE NONDISCLOSURE OF CERTAIN INFORMATION; AMENDING SECTION 7-1025, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE CODE REFERENCES; AMENDING SECTION 7-1026, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS APPLICABLE TO LIMITED IMMUNITY OF PETITIONERS; AMENDING SECTION 7-1027, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 7-1028, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS APPLICABLE TO SPECIAL RULES OF EVIDENCE AND PROCEDURE; AMENDING SECTION 7-1029, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS APPLICABLE TO COMMUNICATIONS BETWEEN TRIBUNALS; AMENDING SECTION 7-1030, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 7-1031, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS APPLICABLE TO RECEIPT AND DISBURSEMENT OF PAYMENTS; AMENDING SECTION 7-1032, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS APPLICABLE TO PETITIONS TO ESTABLISH SUPPORT ORDERS; AMENDING SECTION 7-1033, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS APPLICABLE TO AN EMPLOYER'S RECEIPT OF AN INCOME-WITHHOLDING ORDER OF ANOTHER STATE; AMENDING SECTION 7-1034, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS APPLICABLE TO AN EMPLOYER'S COMPLIANCE WITH AN INCOME-WITHHOLDING ORDER OF ANOTHER STATE; AMENDING SECTION 7-1035, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE DESCRIPTIVE LANGUAGE AND TO REVISE PROVISIONS APPLICABLE TO AN EMPLOYER'S COMPLIANCE WITH TWO OR MORE INCOME-WITHHOLDING ORDERS; AMENDING SECTION 7-1036, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS APPLICABLE TO IMMUNITY FROM CIVIL LIABILITY; AMENDING SECTION 7-1037, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 7-1038, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS APPLICABLE TO CONTESTS BY OBLIGORS; AMENDING SECTION 7-1039, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE A REFERENCE TO A SUPPORT ENFORCEMENT AGENCY; AMENDING SECTION 7-1040, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 7-1041, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS APPLICABLE TO THE PROCEDURE TO REGISTER AN ORDER FOR ENFORCEMENT; AMENDING SECTION 7-1042, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE CODE REFERENCES; AMENDING SECTION 7-1043, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS APPLICABLE TO CHOICE OF LAW; AMENDING SECTION 7-1044, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS APPLICABLE TO NOTICE OF REGISTRATION OF ORDER; AMENDING SECTION 7-1045, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS APPLICABLE TO THE PROCEDURE TO CONTEST THE VALIDITY OR ENFORCEMENT OF A REGISTERED ORDER; AMENDING SECTION 7-1046, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS APPLICABLE TO CONTESTS OF REGISTRATION OR ENFORCEMENT; AMENDING SECTION 7-1047, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 7-1048, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE CODE REFERENCES AND TO MAKE A GRAMMATICAL CHANGE; AMENDING SECTION 7-1049, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE AND PROVIDE CODE REFERENCES; AMENDING SECTION 7-1050, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS APPLICABLE TO THE MODIFICATION OF A CHILD SUPPORT ORDER OF
ANOTHER STATE; AMENDING SECTION 7-1051, IDAHO CODE, TO REDESIGNATE
THE SECTION AND TO REVISE PROVISIONS APPLICABLE TO THE RECOGNITION
OF AN ORDER MODIFIED IN ANOTHER STATE; AMENDING SECTION 7-1052,
IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS
APPLICABLE TO JURISDICTION TO MODIFY SUPPORT ORDERS IN CERTAIN
CASES; AMENDING SECTION 7-1053, IDAHO CODE, TO REDESIGNATE THE SEC-
TION AND TO REVISE PROVISIONS APPLICABLE TO NOTICES OF MODIFICATION;
AMENDING CHAPTER 10, TITLE 7, IDAHO CODE, BY THE ADDITION OF A NEW
SECTION 7-1057, IDAHO CODE, TO PROVIDE FOR JURISDICTION TO MODIFY A
CHILD SUPPORT ORDER OF A FOREIGN COUNTRY OR POLITICAL SUBDIVISION;
AMENDING SECTION 7-1054, IDAHO CODE, TO REDESIGNATE THE SECTION AND
TO REVISE PROVISIONS APPLICABLE TO PROCEEDINGS TO DETERMINE PARENT-
AGE; AMENDING SECTION 7-1055, IDAHO CODE, TO REDESIGNATE THE SECTION
AND TO REVISE PROVISIONS APPLICABLE TO GROUNDS FOR RENDITION;
AMENDING SECTION 7-1056, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO
REVISE PROVISIONS APPLICABLE TO CONDITIONS OF RENDITION; AMEND-
ing SECTION 7-1057, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE
PROVISIONS APPLICABLE TO UNIFORMITY OF APPLICATION AND CONSTRUCTION;
AMENDING SECTION 7-1059, IDAHO CODE, TO REDESIGNATE THE SECTION; AND
PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 7-1058, Idaho Code, be, and the same is
hereby amended to read as follows:

7-105801. SHORT TITLE. This chapter may be cited as the uniform
interstate family support act.

SECTION 2. That Section 7-1001, Idaho Code, be, and the same is
hereby amended to read as follows:

7-10012. DEFINITIONS. In this chapter:
(1) "Child" means an individual, whether over or under the age of
majority, who is or is alleged to be owed a duty of support by the
individual's parent or who is or is alleged to be the beneficiary of a
support order directed to the parent.
(2) "Child support order" means a support order for a child,
including a child who has attained the age of majority under the law of
the issuing state.
(3) "Duty of support" means an obligation imposed or imposable by
law to provide support for a child, spouse, or former spouse, including
an unsatisfied obligation to provide support.
(4) "Home state" means the state in which a child lived with a par-
ent or a person acting as parent for at least six (6) consecutive months
immediately preceding the time of filing of a petition or comparable
pleading for support and, if a child is less than six (6) months old,
the state in which the child lived from birth with any of them. A period
of temporary absence of any of them is counted as part of the six (6)
month or other period.
(5) "Income" includes earnings or other periodic entitlements to
money from any source and any other property subject to withholding for
support under the law of this state.
(6) "Income-withholding order" means an order or other legal proc-
(7) "Initiating state" means a state from which a proceeding is forwarded or in which a proceeding is filed for forwarding to a responding state under this chapter or a law or procedure substantially similar to this chapter, or under a law or procedure substantially similar to the uniform reciprocal enforcement of support act, or the revised uniform reciprocal enforcement of support act.

(8) "Initiating tribunal" means the authorized tribunal in an initiating state.

(9) "Issuing state" means the state in which a tribunal issues a support order or renders a judgment determining parentage.

(10) "Initiating Issuing tribunal" means the tribunal that issues a support order or renders a judgment determining parentage.

(11) "Law" includes decisional and statutory law and rules and regulations having the force of law.

(12) "Obligee" means:
(a) An individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage has been rendered;
(b) A state or political subdivision to which the duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee; or
(c) An individual seeking a judgment determining parentage of the individual's child.

(13) "Obligor" means an individual, or the estate of a decedent:
(a) Who owes or is alleged to owe a duty of support;
(b) Who is alleged but has not been adjudicated to be a parent of a child; or
(c) Who is liable under a support order.

(14) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity.

(15) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(16) "Register" means to record a support order or judgment determining parentage in the district court.

(17) "Registering tribunal" means a tribunal in which a support order is registered.

(18) "Responding state" means a state in which a proceeding is filed or to which a proceeding is forwarded for filing from an initiating state under this chapter or a law or procedure substantially similar to this chapter, or under a law or procedure substantially similar to the uniform reciprocal enforcement of support act, or the revised uniform reciprocal enforcement of support act.

(19) "Responding tribunal" means the authorized tribunal in a responding state.

(20) "Spousal-support order" means a support order for a spouse or former spouse of the obligor.

(21) "State" means a state of the United States, the District of
Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term "state" includes:

(a) An Indian tribe; and

(b) A foreign jurisdiction country or political subdivision that:
   (i) Has been declared to be a foreign reciprocating country or political subdivision under federal law;
   (ii) Has established a reciprocal arrangement for child support with this state as provided in section 7-1023, Idaho Code; or
   (iii) Has enacted a law or established procedures for the issuance and enforcement of support orders which are substantially similar to the procedures under this chapter, or the procedures under the Uniform Reciprocal Enforcement of Support Act or the Revised Uniform Enforcement of Support Act.

(202) "Support enforcement agency" means a public official or agency authorized to seek:

(a) Enforcement of support orders or laws relating to the duty of support;
(b) Establishment or modification of child support;
(c) Determination of parentage; or
(d) To locate Location of obligors or their assets; or
(e) Determination of the controlling child support order.

(223) "Support order" means a judgment, decree, or order, or directive, whether temporary, final, or subject to modification, issued by a tribunal for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, or reimbursement, and may include related costs and fees, interest, income withholding, attorney's fees, and other relief.

(224) "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.

SECTION 3. That Section 7-1002, Idaho Code, be, and the same is hereby amended to read as follows:

7-10023. TRIBUNALS OF THIS STATE. The district courts are the tribunals of this state.

SECTION 4. That Section 7-1003, Idaho Code, be, and the same is hereby amended to read as follows:

7-10034. REMEDIES CUMULATIVE. (1) Remedies provided by this chapter are cumulative and do not affect the availability of remedies under other law, including the recognition of a support order of a foreign country or political subdivision on the basis of comity.

(2) This chapter does not:
(a) Provide the exclusive method of establishing or enforcing a support order under the law of this state; or
(b) Grant a tribunal of this state jurisdiction to render judgment or issue an order relating to child custody or visitation in a proceeding under this chapter.
SECTION 5. That Section 7-1004, Idaho Code, be, and the same is hereby amended to read as follows:

7-10045. BASIS BASES FOR JURISDICTION OVER NONRESIDENT. (1) In a proceeding to establish, or enforce, or modify a support order or to determine parentage, a tribunal of this state may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

(1a) The individual is personally served with notice within this state;
(1b) The individual submits to the jurisdiction of this state by consent in a record, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;
(1c) The individual resided with the child in this state;
(1d) The individual resided in this state and provided prenatal expenses or support for the child;
(1e) The child resides in this state as a result of the acts or directives of the individual;
(1f) The individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse;
(1g) The individual asserted parentage in the registry maintained in this state by the vital statistics unit of the department of health and welfare provided in section 16-1513, Idaho Code; or
(1h) There is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.

(2) The bases of personal jurisdiction set forth in subsection (1) of this section or in any other law of this state may not be used to acquire personal jurisdiction for a tribunal of the state to modify a child support order of another state unless the requirements of section 7-1053 or 7-1057, Idaho Code, are met.

SECTION 6. That Section 7-1005, Idaho Code, be, and the same is hereby amended to read as follows:

7-10056. PROCEDURE-WHEN-EXERCISING DURATION OF PERSONAL JURISDICTION OVER NONRESIDENT. A tribunal of this state exercising personal jurisdiction over a nonresident under section 7-1004, Idaho Code, may apply section 7-1020, Idaho Code, to receive evidence from another state; section 7-1030, Idaho Code, to obtain discovery through a tribunal of another state; in all other respects, sections 7-103 through 7-1054, Idaho Code, do not apply and the tribunal shall apply the procedure and substantive law of this state, including the rules of choice of law other than those established by this chapter. Personal jurisdiction acquired by a tribunal of this state in a proceeding under this chapter or other law of this state relating to a support order continues as long as a tribunal of this state has continuing, exclusive jurisdiction to modify its order or continuing jurisdiction to enforce its order as provided in sections 7-1009, 7-1010 and 7-1015, Idaho Code.

SECTION 7. That Section 7-1006, Idaho Code, be, and the same is hereby amended to read as follows:
7-10067. INITIATING AND RESPONDING TRIBUNAL OF THIS STATE. Under this chapter, a tribunal of this state may serve as an initiating tribunal to forward proceedings to another state and as a responding tribunal for proceedings initiated in another state.

SECTION 8. That Section 7-1007, Idaho Code, be, and the same is hereby amended to read as follows:

7-10078. SIMULTANEOUS PROCEEDINGS. IN ANOTHER STATE. (1) A tribunal of this state may exercise jurisdiction to establish a support order if the petition or comparable pleading is filed after a petition or comparable pleading is filed in another state only if:
   (a) The petition or comparable pleading in this state is filed before the expiration of the time allowed in the other state for filing a responsive pleading challenging the exercise of jurisdiction by the other state;
   (b) The contesting party timely challenges the exercise of jurisdiction in the other state; and
   (c) If relevant, this state is the home state of the child.

(2) A tribunal of this state may not exercise jurisdiction to establish a support order if the petition or comparable pleading is filed before a petition or comparable pleading is filed in another state if:
   (a) The petition or comparable pleading in the other state is filed before the expiration of the time allowed in this state for filing a responsive pleading challenging the exercise of jurisdiction by this state;
   (b) The contesting party timely challenges the exercise of jurisdiction in this state; and
   (c) If relevant, the other state is the home state of the child.

SECTION 9. That Section 7-1008, Idaho Code, be, and the same is hereby amended to read as follows:

7-10089. CONTINUING, EXCLUSIVE JURISDICTION TO MODIFY CHILD SUPPORT ORDER. (1) A tribunal of this state issuing that has issued a child support order consistent with the law of this state has and shall exercise continuing, exclusive jurisdiction over a to modify its child support order if the order is the controlling order and:
   (a) As long as at the time of the filing of a request for modification this state remains the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or
   (b) Until each individual party has filed written consent with the tribunal of this state for a tribunal of another state to modify the order and assume continuing, exclusive jurisdiction. Even if this state is not the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued, the parties consent in a record or in open court that the tribunal of this state may continue to exercise jurisdiction to modify its order.

(2) A tribunal of this state issuing that has issued a child support order consistent with the law of this state may not exercise its...
continuing, exclusive jurisdiction to modify the order if: the-order-has
been-modified-by-a-tribunal-of-another-state-pursuant-to-this-chapter-or
a-law-substantially-similar-to-this-chapter

(a) All of the parties who are individuals file consent in a record
with the tribunal of this state that a tribunal of another state
that has jurisdiction over at least one (1) of the parties who is an
individual or that is located in the state of residence of the child
may modify the order and assume continuing, exclusive jurisdiction;
or
(b) Its order is not the controlling order.

(3) If a child-support-order-of-this-state-is-modified-by-a-tribu-
nal-of-another-state-pursuant-to-this-chapter-or-a-law-substantially
similar-to-this-chapter; a tribunal of this state loses its continuing,
exclusive jurisdiction with regard to prospective enforcement of-the
order-issued-in-this-state; and-may-only:

(a) Enforce-the-order-that-was-modified-as-to-amounts-accruing
before-the-modification;
(b) Enforce-nonmodified-aspects-of-that-order; and
(c) Provide-other-appropriate-relief-for-violations-of-that-order
which-occurred-before-the-effective-date-of-the-modification;

(4) A-tribunal-of-this-state-shall-recognize-the-continuing-exclu-
sive-jurisdiction-of-a tribunal of another state which has issued a
child support order pursuant to this chapter or a law substantially sim-
ilar to this chapter that modifies a child support order of a tribunal
of this state, tribunals of this state shall recognize the continuing,
exclusive jurisdiction of the tribunal of the other state.

(4) A tribunal of this state that lacks continuing, exclusive
jurisdiction to modify a child support order may serve as an initiating
tribunal to request a tribunal of another state to modify a support
order issued in that state.

(5) A temporary support order issued ex parte or pending resolution
of a jurisdictional conflict does not create continuing, exclusive
jurisdiction in the issuing tribunal.

(6) A-tribunal-of-this-state-issuing-a-support-order-consistent
with-the-law-of-this-state-has-continuing; exclusive-jurisdiction-over-a
spousal-support-order-throughout-the-existence-of-the-support-obliga-
tion. A-tribunal-of-this-state-may-not-modify-a-spousal-support-order
issued-by-a-tribunal-of-another-state-having-continuing; exclusive
jurisdiction-over-that-order-under-the-law-of-that-state.

SECTION 10. That Section 7-1009, Idaho Code, be, and the same is
hereby amended to read as follows:

7-1009(10). ENFORCEMENT-AND-MODIFICATION-OF-SUPPORT-ORDER-BY-TRIBUNAL
HAVING CONTINUING JURISDICTION TO ENFORCE CHILD SUPPORT ORDER. (1) A
tribunal of this state that has issued a child support order consistent
with the law of this state may serve as an initiating tribunal to
request a tribunal of another state to enforce; or--modify-a-support
order-issued-in-that-state

(a) The order if the order is the controlling order and has not
been modified by a tribunal of another state that assumed jurisdic-
tion pursuant to this chapter; or
(b) A money judgment for arrears of support and interest on the order accrued before a determination that an order of another state is the controlling order.

(2) A tribunal of this state having continuing, exclusive jurisdiction over a support order may act as a responding tribunal to enforce or modify—that the order. If a party subject to the continuing, exclusive jurisdiction of the tribunal no longer resides in the issuing state, in subsequent proceedings the tribunal may apply section 7-1028, Idaho Code, to receive evidence from another state and section 7-1030, Idaho Code, to obtain discovery through a tribunal of another state.

(3) A tribunal of this state which lacks continuing, exclusive jurisdiction over a spousal support order may not serve as a responding tribunal to modify a spousal support order of another state.

SECTION 11. That Section 7-1010, Idaho Code, be, and the same is hereby amended to read as follows:

7-10101. RECOGNITION DETERMINATION OF CONTROLLING CHILD SUPPORT ORDERS. (1) If a proceeding is brought under this chapter and only one tribunal has issued a child support order, the order of that tribunal is controlling controls and must be so recognized.

(2) If a proceeding is brought under this chapter, and two (2) or more child support orders have been issued by tribunals of this state or another state with regard to the same obligor and same child, a tribunal of this state having personal jurisdiction over both the obligor and individual obligee shall apply the following rules in determining and by order shall determine which order to recognize for purposes of continuing, exclusive jurisdiction controls:

(a) If only one (1) of the tribunals would have continuing, exclusive jurisdiction under this chapter, the order of that tribunal is controlling and must be so recognized;

(b) If more than one (1) of the tribunals would have continuing, exclusive jurisdiction under this chapter:

(i) An order issued by a tribunal in the current home state of the child must be recognized controls, but

(ii) If an order has not been issued in the current home state of the child, the order more most recently issued is controlling and must be recognized controls;

(c) If none of the tribunals would have continuing, exclusive jurisdiction under this chapter, the tribunal of this state having jurisdiction over the parties must shall issue a child support order, which is controlling and must be recognized controls.

(3) If two (2) or more child support orders have been issued for the same obligor and same child, and if the obligor or the individual obligee resides in this state, upon request of a party may request who is an individual or a support enforcement agency, a tribunal of this state to having personal jurisdiction over both the obligor and the obligee who is an individual shall determine which order controls and must be recognized under subsection (2) of this section. The request must be accompanied by a certified copy of every support order in effect. Every party whose rights may be affected by a determination of the controlling order must be given notice of the request for that determination. The request may be filed with a registration for enforcement or registration for modification pursuant to sections 7-1043.
through 7-1057, Idaho Code, or may be filed as a separate proceeding.

(4) A request to determine which is the controlling order must be accompanied by a copy of every child support order in effect and the applicable record of payments. The requesting party shall give notice of the request to each party whose rights may be affected by the determination.

(5) The tribunal that issued the controlling order that must be recognized as controlling under subsection (1), (2) or (3) of this section is the tribunal that has continuing, exclusive jurisdiction in accordance with the extent provided in section 7-10089 or 7-1010, Idaho Code.

(6) A tribunal of this state which determines by order the identity of which is the controlling child-support order under subsections (2)(a) or (2)(b) or (3) of this section or which issues a new controlling child-support order under subsection (2)(c) of this section shall include state in that order:

(a) The basis upon which the tribunal made its determination;
(b) The amount of prospective support, if any; and
(c) The total amount of consolidated arrears and accrued interest, if any, under all of the orders after all payments made are credited as provided in section 7-1013, Idaho Code.

(7) Within thirty (30) days after issuance of the an order determining the identity of which is the controlling order, the party obtaining that the order shall file a certified copy of it with in each tribunal that had issued or registered an earlier order of child support. Failure of the party or support enforcement agency obtaining the order that fails to file a certified copy as required subjects that party is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises, but that The failure has no effect on to file does not affect the validity or enforceability of the controlling order.

(8) An order that has been determined to be the controlling order, or a judgment for consolidated arrears of support and interest, if any, made pursuant to this section must be recognized in proceedings under this chapter.

SECTION 12. That Section 7-1011, Idaho Code, be, and the same is hereby amended to read as follows:

7-1011. MULTIPLE CHILD SUPPORT ORDERS FOR TWO OR MORE OBLIGEES. In responding to multiple registrations or petitions for enforcement of two (2) or more child support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one (1) of which was issued by a tribunal of another state, a tribunal of this state shall enforce those orders in the same manner as if the multiple orders had been issued by a tribunal of this state.

SECTION 13. That Section 7-1012, Idaho Code, be, and the same is hereby amended to read as follows:

7-1012. CREDIT FOR PAYMENTS. A tribunal of this state shall credit amounts collected and credited for a particular period pursuant to any child support order against the amounts owed for the same period under any other child support order for support of the same child issued
by a tribunal of this or another state. The amounts accruing or accruing for the same period under a support order issued by the tribunal of this state.

SECTION 14. That Chapter 10, Title 7, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 7-1014, Idaho Code, and to read as follows:

7-1014. APPLICATION OF CHAPTER TO NONRESIDENT SUBJECT TO PERSONAL JURISDICTION. A tribunal of this state exercising personal jurisdiction over a nonresident in a proceeding under this chapter, under other law of this state relating to a support order, or recognizing a support order of a foreign country or political subdivision on the basis of comity may receive evidence from another state pursuant to section 7-1031, Idaho Code, communicate with a tribunal of another state pursuant to section 7-1032, Idaho Code, and obtain discovery through a tribunal of another state pursuant to section 7-1033, Idaho Code. In all other respects, sections 7-1016 through 7-1058, Idaho Code, do not apply and the tribunal shall apply the procedural and substantive law of this state.

SECTION 15. That Chapter 10, Title 7, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 7-1015, Idaho Code, and to read as follows:

7-1015. CONTINUING, EXCLUSIVE JURISDICTION TO MODIFY SPOUSAL SUPPORT ORDER. (1) A tribunal of this state issuing a spousal support order consistent with the law of this state has continuing, exclusive jurisdiction to modify the spousal support order throughout the existence of the support obligation.

(2) A tribunal of this state may not modify a spousal support order issued by a tribunal of another state having continuing, exclusive jurisdiction over that order under the law of that state.

(3) A tribunal of this state that has continuing, exclusive jurisdiction over a spousal support order may serve as:
   (a) An initiating tribunal to request a tribunal of another state to enforce the spousal support order issued in this state; or
   (b) A responding tribunal to enforce or modify its own spousal support order.

SECTION 16. That Section 7-1013, Idaho Code, be, and the same is hereby amended to read as follows:

7-10136. PROCEEDINGS UNDER THIS CHAPTER. (1) Except as otherwise provided in this chapter, sections 7-10136 through 7-1034, Idaho Code, apply to all proceedings under the provisions of this chapter.

(2) This chapter provides for the following proceedings:
   (a) Establishment of an order for spousal support or child support pursuant to section 7-1032, Idaho Code;
   (b) Enforcement of a support order and income withholding order of another state without registration pursuant to sections 7-1033 through 7-1039, Idaho Code;
An individual petitioner or a support enforcement agency may commence initiate a proceeding authorized under this chapter by filing a petition in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state which has or can obtain personal jurisdiction over the respondent.

SECTION 17. That Section 7-1014, Idaho Code, be, and the same is hereby amended to read as follows:

7-10147. ACTION PROCEEDING BY MINOR PARENT. A minor parent, or a guardian or other legal representative of a minor parent, may maintain a proceeding on behalf of or for the benefit of the minor's child.

SECTION 18. That Section 7-1015, Idaho Code, be, and the same is hereby amended to read as follows:

7-10158. APPLICATION OF LAW OF THIS STATE. Except as otherwise provided in this chapter, a responding tribunal of this state shall:

1. Apply the procedural and substantive law, including the rule on choice of law, generally applicable to similar proceedings originating in this state and may exercise all powers and provide all remedies available in those proceedings; and

2. Determine the duty of support and the amount payable in accordance with the law and support guidelines of this state.

SECTION 19. That Section 7-1016, Idaho Code, be, and the same is hereby amended to read as follows:

7-10169. DUTIES OF INITIATING TRIBUNAL. (1) Upon the filing of a petition authorized in this chapter, an initiating tribunal of this state shall forward three copies of the petition and its accompanying documents:

(a) To the responding tribunal or appropriate support enforcement agency in the responding state; or

(b) If the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

(2) If a responding state has not enacted this chapter or a law or procedure substantially similar to this chapter requested by the
responding tribunal, a tribunal of this state may shall issue a certificate or other documents and make findings required by the law of the responding state. If the responding state is a foreign jurisdiction or political subdivision, upon request the tribunal may shall specify the amount of support sought, convert that amount into the equivalent amount in the foreign currency under applicable official or market exchange rate as publicly reported, and provide any other documents necessary to satisfy the requirements of the responding state.

SECTION 20. That Section 7-1017, Idaho Code, be, and the same is hereby amended to read as follows:

7-1017. DUTIES AND POWERS OF RESPONDING TRIBUNAL. (1) When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly pursuant to section 7-10136(32), Idaho Code, it shall cause the petition or pleading to be filed and notify the petitioner where and when it was filed.

(2) A responding tribunal of this state, to the extent otherwise authorized not prohibited by other law, may do one (1) or more of the following:

(a) Issue or enforce a support order, modify a child support order, determine the controlling child support order, or render a judgment to determine parentage;
(b) Order an obligor to comply with a support order, specifying the amount and the manner of compliance;
(c) Order income withholding;
(d) Determine the amount of any arrearages, and specify a method of payment;
(e) Enforce orders by civil or criminal contempt, or both;
(f) Set aside property for satisfaction of the support order;
(g) Place liens and order execution on the obligor's property;
(h) Order an obligor to keep the tribunal informed of the obligor's current residential address, telephone number, employer, address of employment, and telephone number at the place of employment;
(i) Issue a bench warrant for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the bench warrant in any local and state computer systems for criminal warrants;
(j) Order the obligor to seek appropriate employment by specified methods;
(k) Award reasonable attorney's fees and other fees and costs; and
(1) Grant any other available remedy.

(3) A responding tribunal of this state shall include in a support order issued under this chapter, or in the documents accompanying the order, the calculations on which the support order is based.

(4) A responding tribunal of this state may not condition the payment of a support order issued under this chapter upon compliance by a party with provisions for visitation.

(5) If a responding tribunal of this state issues an order under this chapter, the tribunal shall send a copy of the order to the petitioner and the respondent and to the initiating tribunal, if any.

(6) If requested to enforce a support order, arrears, or judgment or modify a support order stated in a foreign currency, a responding tribunal of this state shall convert the amount stated in the foreign
currency to the equivalent amount in dollars under the applicable official or market exchange rate as publicly reported.

SECTION 21. That Section 7-1018, Idaho Code, be, and the same is hereby amended to read as follows:

7-10218. INAPPROPRIATE TRIBUNAL. If a petition or comparable pleading is received by an inappropriate tribunal of this state, it the tribunal shall forward the pleading and accompanying documents to an appropriate tribunal in this state or another state and notify the petitioner where and when the pleading was sent.

SECTION 22. That Section 7-1019, Idaho Code, be, and the same is hereby amended to read as follows:

7-101922. DUTIES OF SUPPORT ENFORCEMENT AGENCY. (1) A support enforcement agency of this state, upon request, shall provide services to a petitioner in a proceeding under the provisions of this chapter.

(2) A support enforcement agency of this state that is providing services to the petitioner as appropriate shall:

(a) Take all steps necessary to enable an appropriate tribunal in this state or another state to obtain jurisdiction over the respondent;
(b) Request an appropriate tribunal to set a date, time and place for a hearing;
(c) Make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;
(d) Within two (2) days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written notice in a record from an initiating, responding, or registering tribunal, send a copy of the notice to the petitioner;
(e) Within two (2) days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written communication in a record from the respondent or the respondent's attorney, send a copy of the communication to the petitioner; and
(f) Notify the petitioner if jurisdiction over the respondent cannot be obtained.

(3) A support enforcement agency of this state that requests registration of a child support order in this state for enforcement or for modification shall make reasonable efforts:

(a) To ensure that the order to be registered is the controlling order; or
(b) If two (2) or more child support orders exist and the identity of the controlling order has not been determined, to ensure that a request for such a determination is made in a tribunal having jurisdiction to do so.

(4) A support enforcement agency of this state that requests registration and enforcement of a support order, arrears, or judgment stated in a foreign currency shall convert the amounts stated in the foreign currency into the equivalent amounts in dollars under the applicable official or market exchange rate as publicly reported.

(5) A support enforcement agency of this state shall issue or request a tribunal of this state to issue a child support order and an income-withholding order that redirect payment of current support,
arrears, and interest if requested to do so by a support enforcement agency of another state pursuant to section 7-1034, Idaho Code.

(6) This chapter does not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

SECTION 23. That Section 7-1020, Idaho Code, be, and the same is hereby amended to read as follows:

7-10203. DUTY OF ATTORNEY GENERAL. (1) If the attorney general determines that the support enforcement agency is neglecting or refusing to provide services to an individual, the attorney general may order the agency to perform its duties under this chapter or may provide those services directly to the individual.

(2) The attorney general may determine that a foreign country or political subdivision has established a reciprocal arrangement for child support with this state and take appropriate action for notification of the determination.

SECTION 24. That Section 7-1021, Idaho Code, be, and the same is hereby amended to read as follows:

7-10214. PRIVATE COUNSEL. An individual may employ private counsel to represent the individual in proceedings authorized by this chapter.

SECTION 25. That Section 7-1022, Idaho Code, be, and the same is hereby amended to read as follows:

7-10225. DUTIES OF STATE INFORMATION AGENCY. (1) The central registry in the bureau of child support of the department of health and welfare is the state information agency under this chapter.

(2) The state information agency shall:

(a) Compile and maintain a current list, including addresses, of the tribunals in this state which have jurisdiction under this chapter and any other support enforcement agencies in this state and transmit a copy to the state information agency of every other state;

(b) Maintain a register of names and addresses of tribunals and support enforcement agencies received from other states;

(c) Forward to the appropriate tribunal in the place county in this state in which the individual obligee who is an individual or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under this chapter received from an initiating tribunal or the state information agency of the initiating state;

(d) Obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental
records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and social security.

SECTION 26. That Section 7-1023, Idaho Code, be, and the same is hereby amended to read as follows:

7-10236. PLEADINGS AND ACCOMPANYING DOCUMENTS. (1) In a proceeding under this chapter, a petitioner seeking to establish or modify a support order, or to determine parentage, in a proceeding under this chapter or to register and modify a support order of another state must verify the file a petition. Unless otherwise ordered under section 7-10247, Idaho Code, the petition or accompanying documents must provide, so far as known, the name and residential address, and social security numbers of the obligor and the obligee or the parent and alleged parent, and the name, sex, residential address, and date of birth of each child for whom whose benefit support is sought or whose parentage is to be determined. Unless filed at the time of registration, the petition must be accompanied by a certified copy of any support order in effect known to have been issued by another tribunal. The petition may include any other information that may assist in locating or identifying the respondent.

(2) The petition must specify the relief sought. The petition and accompanying documents must conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency.

SECTION 27. That Section 7-1024, Idaho Code, be, and the same is hereby amended to read as follows:

7-10247. NONDISCLOSURE OF INFORMATION IN EXCEPTIONAL CIRCUMSTANCES. Upon a finding, which may be made ex parte, that the health, safety, or liberty of a party or child would be unreasonably put at risk by the disclosure of identifying information, or if an existing order so provides, a tribunal shall order that the address of the child or party or other identifying information not be disclosed in a pleading or other document filed in a proceeding under this chapter. If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of specific identifying information, that information must be sealed and may not be disclosed to the other party or the public. After a hearing in which a tribunal takes into consideration the health, safety, or liberty of the party or child, the tribunal may order disclosure of information that the tribunal determines to be in the interest of justice.

SECTION 28. That Section 7-1025, Idaho Code, be, and the same is hereby amended to read as follows:

7-10258. COSTS AND FEES. (1) The petitioner may not be required to pay a filing fee or other costs.

(2) If an obligee prevails, a responding tribunal may assess against an obligor filing fees, reasonable attorney's fees, other costs, and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal may not assess fees,
costs, or expenses against the obligee or the support enforcement agency of either the initiating or the responding state, except as provided by other law. Attorney's fees may be taxed as costs, and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of support owed to the obligee has priority over fees, costs and expenses.

(3) The tribunal shall order the payment of costs and reasonable attorney's fees if it determines that a hearing was requested primarily for delay. In a proceeding under sections 7-10403 through 7-10537, Idaho Code, a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

SECTION 29. That Section 7-1026, Idaho Code, be, and the same is hereby amended to read as follows:

7-1026. LIMITED IMMUNITY OF PETITIONER. (1) Participation by a petitioner in a proceeding under this chapter before a responding tribunal, whether in person, by private attorney, or through services provided by the support enforcement agency, does not confer personal jurisdiction over the petitioner in another proceeding.

(2) A petitioner is not amenable to service of civil process while physically present in this state to participate in a proceeding under this chapter.

(3) The immunity granted by this section does not extend to civil litigation based on acts unrelated to a proceeding under this chapter committed by a party while physically present in this state to participate in the proceeding.

SECTION 30. That Section 7-1027, Idaho Code, be, and the same is hereby amended to read as follows:

7-1027. NONPARENTAGE AS DEFENSE. A party whose parentage of a child has been previously determined by or pursuant to law may not plead nonparentage as a defense to a proceeding under this chapter.

SECTION 31. That Section 7-1028, Idaho Code, be, and the same is hereby amended to read as follows:

7-1028. SPECIAL RULES OF EVIDENCE AND PROCEDURE. (1) The physical presence of the petitioner a nonresident party who is an individual in a responding tribunal of this state is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage.

(2) A verified petition. An affidavit, a document substantially complying with federally mandated forms, and or a document incorporated by reference in any of them, which would not be excluded under the hearsay rule if given in person, is admissible in evidence if given under oath of perjury of a party or witness residing in another state.

(3) A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it, and is admissible to show whether payments were made.

(4) Copies of bills for testing for parentage, and for prenatal and postnatal health care of the mother and child, furnished to the adverse
party at least ten (10) days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.

(5) Documentary evidence transmitted from another state to a tribunal of this state by telephone, telecopier, or other means that do not provide an original writing record may not be excluded from evidence on an objection based on the means of transmission.

(6) In a proceeding under this chapter, a tribunal of this state may permit a party or witness residing in another state to be deposed or to testify under penalty of perjury by telephone, audiovisual means, or other electronic means at a designated tribunal or other location in that state. A tribunal of this state shall cooperate with tribunals of other states in designating an appropriate location for the deposition or testimony.

(7) If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

(8) A privilege against disclosure of communications between spouses does not apply in a proceeding under this chapter.

(9) The defense of immunity based upon the relationship of husband and wife or parent and child does not apply in a proceeding under this chapter.

(10) A voluntary acknowledgment of paternity, certified as a true copy, is admissible to establish parentage of the child.

SECTION 32. That Section 7-1029, Idaho Code, be, and the same is hereby amended to read as follows:

7-10329. COMMUNICATIONS BETWEEN TRIBUNALS. A tribunal of this state may communicate with a tribunal of another state or foreign country or political subdivision in writing a record, or by telephone or other means, to obtain information concerning the laws, of that state, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding in the other state or foreign country or political subdivision. A tribunal of this state may furnish similar information by similar means to a tribunal of another state or foreign country or political subdivision.

SECTION 33. That Section 7-1030, Idaho Code, be, and the same is hereby amended to read as follows:

7-10330. ASSISTANCE WITH DISCOVERY. A tribunal of this state may:

(1) Request a tribunal of another state to assist in obtaining discovery; and

(2) Upon request, compel a person over whom it has jurisdiction to respond to a discovery order issued by a tribunal of another state.

SECTION 34. That Section 7-1031, Idaho Code, be, and the same is hereby amended to read as follows:

7-10331. RECEIPT AND DISBURSEMENT OF PAYMENTS. (1) A support enforcement agency or tribunal of this state shall disburse promptly any amounts received pursuant to a support order, as directed by the order. The agency or tribunal shall furnish to a requesting party or tribunal
of another state a certified statement by the custodian of the record of the amounts and dates of all payments received.

(2) If neither the obligor, nor the obligee who is an individual, nor the child resides in this state, upon request from the support enforcement agency of this state or another state, the support enforcement agency of this state or a tribunal of this state shall:

(a) Direct that the support payment be made to the support enforcement agency in the state in which the obligee is receiving services; and

(b) Issue and send to the obligor's employer a conforming income-withholding order or an administrative notice of change of payee, reflecting the redirected payments.

(3) The support enforcement agency of this state receiving redirected payments from another state pursuant to a law similar to subsection (2) of this section shall furnish to a requesting party or tribunal of the other state a certified statement by the custodian of the record of the amount and dates of all payments received.

SECTION 35. That Section 7-1032, Idaho Code, be, and the same is hereby amended to read as follows:

7-10325. PETITION TO ESTABLISH SUPPORT ORDER. (1) If a support order entitled to recognition under this chapter has not been issued, a responding tribunal of this state may issue a support order if:

(a) The individual seeking the order resides in another state; or

(b) The support enforcement agency seeking the order is located in another state.

(2) The tribunal may issue a temporary child support order if the tribunal determines that such an order is appropriate and the individual ordered to pay is:

(a) The respondent has signed a verified statement acknowledging parentage as a presumed father of the child;

(b) The respondent has been determined by or pursuant to law to be the parent. Petitioning to have his paternity adjudicated; or

(c) There is other clear and convincing evidence that the respondent is the child's parent. Identified as the father of the child through genetic testing;

(d) An alleged father who has declined to submit to genetic testing;

(e) Shown by clear and convincing evidence to be the father of the child;

(f) An acknowledged father as provided by applicable state law;

(g) The mother of the child; or

(h) An individual who has been ordered to pay child support in a previous proceeding and the order has not been reversed or vacated.

(3) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to section 7-10320, Idaho Code.

SECTION 36. That Section 7-1033, Idaho Code, be, and the same is hereby amended to read as follows:
7-10336. EMPLOYER'S RECEIPT OF INCOME-WITHHOLDING ORDER OF ANOTHER STATE. An income-withholding order issued in another state may be sent by or on behalf of the obligee, or by the support enforcement agency, to the person or-entity defined as the obligor's employer under the provisions of chapter 12, title 73, Idaho Code, without first filing a petition or comparable pleading or registering the order with a tribunal of this state.

SECTION 37. That Section 7-1034, Idaho Code, be, and the same is hereby amended to read as follows:

7-10347. EMPLOYER'S COMPLIANCE WITH INCOME-WITHHOLDING ORDER OF ANOTHER STATE. (1) Upon receipt of an income-withholding order, the obligor's employer shall immediately provide a copy of the order to the obligor.

(2) The employer shall treat an income-withholding order issued in another state which appears regular on its face as if it has had been issued by a tribunal of this state.

(3) Except as otherwise provided by in subsection (4) of this section and section 7-10358, Idaho Code, the employer shall withhold and distribute the funds as directed in the withholding order by complying with the terms of the order, as applicable, that which specify:

(a) The duration and the amount of periodic payments of current child support, stated as a sum certain;

(b) The person or agency designated to receive payments and the address to which the payments are to be forwarded;

(c) Medical support, whether in the form of periodic cash payment, stated as a sum certain, or ordering the obligor to provide health insurance coverage for the child under a policy available through the obligor's employment;

(d) The amount of periodic payments of fees and costs for a support enforcement agency, the issuing tribunal, and the obligee's attorney, stated as sums certain; and

(e) The amount of periodic payments of arrears and interest on arrears, stated as sums certain.

(4) The employer shall comply with the law of the state of the obligor's principal place of employment for withholding from income with respect to:

(a) The employer's fee for processing an income-withholding order;

(b) The maximum amount permitted to be withheld from the obligor's income; and

(c) The time periods within which the employer must implement the withholding order and forward the child support payment.

SECTION 38. That Section 7-1035, Idaho Code, be, and the same is hereby amended to read as follows:

7-10358. EMPLOYER'S COMPLIANCE WITH MULTIPLE TWO OR MORE INCOME-WITHHOLDING ORDERS. If an obligor's employer receives multiple two or more income-withholding orders to-withhold-support-from with respect to the earnings of the same obligor, the employer shall-be deemed-to-have-satisfied satisfies the terms of the multiple orders if
the employer complies with the law of the state of the obligor's principal place of employment to establish the priorities for withholding and allocating income withheld for multiple two (2) or more child support obligees, is-complied-with.

SECTION 39. That Section 7-1036, Idaho Code, be, and the same is hereby amended to read as follows:

7-10369. IMMUNITY FROM CIVIL LIABILITY. An employer who complies with an income-withholding order issued by in another state in accordance with this article sections 7-1036 through 7-1042, Idaho Code, is not subject to civil liability to any an individual or agency with regard to the employer's withholding of child support from the obligor's income.

SECTION 40. That Section 7-1037, Idaho Code, be, and the same is hereby amended to read as follows:

7-103740. PENALTIES FOR NONCOMPLIANCE. An employer who willfully fails to comply with an income-withholding order issued by another state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of this state.

SECTION 41. That Section 7-1038, Idaho Code, be, and the same is hereby amended to read as follows:

7-103841. CONTEST BY OBLIGOR. (1) An obligor may contest the validity or enforcement of an income-withholding order issued in another state and received directly by an employer in this state by registering the order in a tribunal of this state and filing a contest to that order as provided in sections 7-1043 through 7-1057, Idaho Code, or otherwise contesting the order in the same manner as if the order had been issued by a tribunal of this state. Section-7-1043,-Idaho-Code,-applies-to--the contest.

(2) The obligor shall give notice of the contest to:
(a) A support enforcement agency providing services to the obligee;
(b) Each employer which that has directly received an income-withholding order relating to the obligor; and
(c) The person or-agency designated to receive payments in the income-withholding order; or, if no person is designated, to the obligee.

SECTION 42. That Section 7-1039, Idaho Code, be, and the same is hereby amended to read as follows:

7-103942. ADMINISTRATIVE ENFORCEMENT OF ORDERS. (1) A party or support enforcement agency seeking to enforce a support order or an income-withholding order, or both, issued by a tribunal of another state may send the documents required for registering the order to a support enforcement agency of this state.

(2) Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of
this state to enforce a support order or an income-withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to this chapter.

SECTION 43. That Section 7-1040, Idaho Code, be, and the same is hereby amended to read as follows:

7-10403. REGISTRATION OF ORDER FOR ENFORCEMENT. A support order or an income-withholding order issued by a tribunal of another state may be registered in this state for enforcement.

SECTION 44. That Section 7-1041, Idaho Code, be, and the same is hereby amended to read as follows:

7-10414. PROCEDURE TO REGISTER ORDER FOR ENFORCEMENT. (1) A support order or income-withholding order of another state may be registered in this state by sending the following documents records and information to the district court in this state:

(a) A letter of transmittal to the tribunal requesting registration and enforcement;
(b) Two (2) copies, including one (1) certified copy, of all the orders to be registered, including any modification of the order;
(c) A sworn statement by the party-seeking person requesting registration or a certified statement by the custodian of the records showing the amount of any arrearage;
(d) The name of the obligor and, if known:
   (i) The obligor's address and social-security-number;
   (ii) The name and address of the obligor's employer and any other source of income of the obligor; and
   (iii) A description and the location of property of the obligor in this state not exempt from execution; and
(e) Except as otherwise provided in section 7-1027, Idaho Code, the name and address of the obligee and, if applicable, the agency or person to whom support payments are to be remitted.
(2) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as a foreign judgment, together with one (1) copy of the documents and information, regardless of their form.
(3) A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this state may be filed at the same time as the request for registration or later. The pleading must specify the grounds for the remedy sought.
(4) If two (2) or more orders are in effect, the person requesting registration shall:
   (a) Furnish to the tribunal a copy of every support order asserted to be in effect in addition to the documents specified in this section;
   (b) Specify the order alleged to be the controlling order, if any; and
   (c) Specify the amount of consolidated arrears, if any.
(5) A request for determination of which is the controlling order may be filed separately or with a request for registration and enforce-
ment or for registration and modification. The person requesting registration shall give notice of the request to each party whose rights may be affected by the determination.

SECTION 45. That Section 7-1042, Idaho Code, be, and the same is hereby amended to read as follows:

7-10425. EFFECT OF REGISTRATION FOR ENFORCEMENT. (1) A support order or income-withholding order issued in another state is registered when the order is filed in the registering tribunal of this state.

(2) A registered order issued in another state is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this state.

(3) Except as otherwise provided in sections 7-10403 through 7-10537, Idaho Code, a tribunal of this state shall recognize and enforce, but may not modify, a registered order if the issuing tribunal had jurisdiction.

SECTION 46. That Section 7-1043, Idaho Code, be, and the same is hereby amended to read as follows:

7-10436. CHOICE OF LAW. (1) Except as otherwise provided in subsection (4) of this section, the law of the issuing state governs:

(a) The nature, extent, amount, and duration of current payments and other obligations of support under a registered support order;

(b) The computation and payment of arrearages and accrual of interest on the arrearages under the support order; and

(c) The existence and satisfaction of other obligations under the support order.

(2) In a proceeding for arrearages under a registered support order, the statute of limitations under the laws of this state or of the issuing state, whichever is longer, applies.

(3) A responding tribunal of this state shall apply the procedures and remedies of this state to enforce current support and collect arrearages and interest due on a support order of another state registered in this state.

(4) After a tribunal of this state determines which is the controlling order and issues an order consolidating arrears, if any, a tribunal of this state shall prospectively apply the law of the controlling order, including its law on interest on arrears, on current and future support, and on consolidated arrears.

SECTION 47. That Section 7-1044, Idaho Code, be, and the same is hereby amended to read as follows:

7-10447. NOTICE OF REGISTRATION OF ORDER. (1) When a support order or income-withholding order issued in another state is registered, the registering tribunal shall notify the nonregistering party. The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(2) The notice must inform the nonregistering party:
(a) That a registered order is enforçable as of the date of registra­tion in the same manner as an order issued by a tribunal of this state; 
(b) That a hearing to contest the validity or enforcement of the registered order must be requested within twenty (20) days after the date-of-mailing-or-personal-service-of-the notice; 
(c) That failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages; and precludes further contest of that order with respect to any matter that could have been asserted; and 
(d) Of the amount of any alleged arrearages. 
(3) If the registering party asserts that two (2) or more orders are in effect, a notice must also: 
(a) Identify the two (2) or more orders and the order alleged by the registering person to be the controlling order and the consolidated arrearages, if any; 
(b) Notify the nonregistering party of the right to a determination of which is the controlling order; 
(c) State that the procedures provided in subsection (2) of this section apply to the determination of which is the controlling order; and 
(d) State that failure to contest the validity or enforcement of the order alleged to be the controlling order in a timely manner may result in confirmation that the order is the controlling order. 
(4) Upon registration of an income-withholding order for enforce­ment, the registering tribunal shall notify the obligor's employer pursu­ant to the provisions of chapter 12, title 73, Idaho Code. 

SECTION 48. That Section 7-1045, Idaho Code, be, and the same is hereby amended to read as follows: 

7-10458. PROCEDURE TO CONTEST VALIDITY OR ENFORCEMENT OF REGISTERED ORDER. (1) A nonregistering party seeking to contest the validity or enforcement of a registered order in this state shall request a hearing within twenty (20) days after the date-of-mailing-or-personal-service-of-the notice of the registration. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompli­ance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to section 7-10469, Idaho Code. 
(2) If the nonregistering party fails to contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law. 
(3) If a nonregistering party requests a hearing to contest the validity or enforcement of a the registered order, the registering trib­unal shall schedule the matter for hearing and give notice to the par­ties of the date, time, and place of the hearing. 

SECTION 49. That Section 7-1046, Idaho Code, be, and the same is hereby amended to read as follows: 

7-10469. CONTEST OF REGISTRATION OR ENFORCEMENT. (1) A party contesting the validity or enforcement of a registered order or seeking to
vacate the registration has the burden of proving one (1) or more of the following defenses:
(a) The issuing tribunal lacked personal jurisdiction over the contesting party;
(b) The order was obtained by fraud;
(c) The order has been vacated, suspended, or modified by a later order;
(d) The issuing tribunal has stayed the order pending appeal;
(e) There is a defense under the law of this state to the remedy sought;
(f) Full or partial payment has been made; or
(g) The statute of limitation under section 7-10436, Idaho Code, precludes enforcement of some or all of the alleged arrearages; or
(h) The alleged controlling order is not the controlling order.

(2) If a party presents evidence establishing a full or partial defense under subsection (1) of this section, a tribunal may stay enforcement of the registered order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered order may be enforced by all remedies available under the law of this state.

(3) If the contesting party does not establish a defense under subsection (1) of this section to the validity or enforcement of the order, the registering tribunal shall issue an order confirming the order.

SECTION 50. That Section 7-1047, Idaho Code, be, and the same is hereby amended to read as follows:

7-104750. CONFIRMED ORDER. Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

SECTION 51. That Section 7-1048, Idaho Code, be, and the same is hereby amended to read as follows:

7-104851. PROCEDURE TO REGISTER CHILD SUPPORT ORDER OF ANOTHER STATE FOR MODIFICATION. A party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another state shall register the that order in this state in the same manner provided in sections 7-10483 through 7-105346, Idaho Code, if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or later. The pleading must specify the grounds for modification.

SECTION 52. That Section 7-1049, Idaho Code, be, and the same is hereby amended to read as follows:

7-104952. EFFECT OF REGISTRATION FOR MODIFICATION. A tribunal of this state may enforce a child support order of another state registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of this state, but the registered order may be modified only if the requirements of section 7-10583, 7-1055 or 7-1057, Idaho Code, have been met.
SECTION 53. That Section 7-1050, Idaho Code, be, and the same is hereby amended to read as follows:

7-10503. MODIFICATION OF CHILD SUPPORT ORDER OF ANOTHER STATE. (1) After If section 7-1055, Idaho Code, does not apply, except as otherwise provided in section 7-1057, Idaho Code, upon petition a tribunal of this state may modify a child support order issued in another state has—been which is registered in this state, unless the provisions of section 7-1052, Idaho Code, apply, the responding tribunal of this state may modify that order only if, after notice and hearing, it finds that:

(a) The following requirements are met:

(i) Neither The child, nor the individual obligee who is an individual, and nor the obligor do-not resides in the issuing state;

(ii) A petitioner who is a nonresident of this state seeks modification; and

(iii) The respondent is subject to the personal jurisdiction of the tribunal of this state; or

(b) An individual party or This state is the state of residence of the child, or a party who is an individual is subject to the personal jurisdiction of the tribunal of this state, and all of the individuals who are individuals have filed a written consents in a record in the issuing tribunal providing that for a tribunal of this state may to modify the support order and assume continuing jurisdiction over the order. However, if the issuing state is a foreign jurisdiction which has not enacted this chapter, the written consent of the individual party residing in this state is not required for the tribunal to assume jurisdiction to modify the child support order.

(2) Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by a tribunal of this state and the order may be enforced and satisfied in the same manner.

(3) Except as otherwise provided in section 7-1057, Idaho Code, a tribunal of this state may not modify any aspect of a child support order that may not be modified under the law of the issuing state, including the duration of the obligation to support. If two or more tribunals have issued child support orders for the same obligor and same child, the order that is controlling controls and must be so recognized under the provisions of section 7-1010, Idaho Code, establishes the nonmodifiable aspects of the support order which are nonmodifiable.

(4) In a proceeding to modify a child support order, the law of the state that is determined to have issued the initial controlling order governs the duration of the obligation of support. The obligor's fulfillment of the duty of support established by that order precludes imposition of a further obligation of support by a tribunal of this state.

(5) On the issuance of an order by a tribunal of this state modifying a child support order issued in another state, a the tribunal of this state becomes the tribunal of having continuing, exclusive jurisdiction.
SECTION 54. That Section 7-1051, Idaho Code, be, and the same is hereby amended to read as follows:

7-10514. RECOGNITION OF ORDER MODIFIED IN ANOTHER STATE. If a child support order issued by a tribunal of this state shall recognize a modification of its earlier child support order is modified by a tribunal of another state which assumed jurisdiction pursuant to this chapter, the uniform interstate family support act, or a law substantially similar to this chapter and, upon request, except as otherwise provided in this chapter, shall a tribunal of this state:

(1) May enforce the order that was modified only as to amounts arrears and interest accruing before the modification;
(2) Enforce only nonmodifiable aspects of that order;
(3) May provide other appropriate relief only for violations of that order which occurred before the effective date of the modification; and
(4) Shall recognize the modifying order of the other state, upon registration, for the purpose of enforcement.

SECTION 55. That Section 7-1052, Idaho Code, be, and the same is hereby amended to read as follows:

7-10525. JURISDICTION TO MODIFY SUPPORT ORDER OF ANOTHER STATE WHEN INDIVIDUAL PARTIES RESIDE IN THIS STATE. (1) If all of the individual parties who are individuals reside in this state and the child does not reside in the issuing state, a tribunal of this state has jurisdiction to enforce and to modify the issuing state's child support order in a proceeding to register that order.

(2) A tribunal of this state exercising jurisdiction as provided in under this section shall apply the provisions of sections 7-1001 through 7-10125 and sections 7-1043 through 7-1057, Idaho Code, and this section and the procedural and substantive law of this state to the proceeding for enforcement or modification. Sections 7-10130 through 7-103942, Idaho Code, and sections 7-10542 through 7-10560, Idaho Code, do not apply, and the tribunal shall apply the procedural and substantive law of this state.

SECTION 56. That Section 7-1053, Idaho Code, be, and the same is hereby amended to read as follows:

7-10536. NOTICE TO ISSUING TRIBUNAL OF MODIFICATION. Within thirty (30) days after issuance of a modified child support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal which that had continuing, exclusive jurisdiction over the earlier order and in each tribunal in which the party knows that the earlier order has been registered. Failure of the party obtaining who obtains the order and fails to file a certified copy as required subjects—that—that party is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises, but that the failure has no effect on file does not affect the validity or enforceability of the modified order of the new tribunal of having continuing, exclusive jurisdiction.
SECTION 57. That Chapter 10, Title 7, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 7-1057, Idaho Code, and to read as follows:

7-1057. JURISDICTION TO MODIFY CHILD SUPPORT ORDER OF FOREIGN COUNTRY OR POLITICAL SUBDIVISION. (1) If a foreign country or political subdivision that is a state will not or may not modify its order pursuant to its laws, a tribunal of this state may assume jurisdiction to modify the child support order and bind all individuals subject to the personal jurisdiction of the tribunal whether or not the consent to modification of a child support order otherwise required of the individual pursuant to section 7-1053, Idaho Code, has been given or whether the individual seeking modification is a resident of this state or of the foreign country or political subdivision.

(2) An order issued pursuant to this section is the controlling order.

SECTION 58. That Section 7-1054, Idaho Code, be, and the same is hereby amended to read as follows:

7-1054. PROCEEDING TO DETERMINE PARENTAGE. (1) A tribunal court of this state authorized to determine parentage of a child may serve as an initiating or a responding tribunal in a proceeding to determine parentage brought under this chapter or a law or procedure substantially similar to this chapter, or under a law or procedure substantially similar to the uniform reciprocal enforcement of support act, or the revised uniform reciprocal enforcement of support act to determine that the petitioner is a parent of a particular child or to determine that a respondent is a parent of that child.

(2) In a proceeding to determine parentage, a responding tribunal of this state shall apply the provisions of chapter 11, title 7, Idaho Code, and the rules of this state on choice of law.

SECTION 59. That Section 7-1055, Idaho Code, be, and the same is hereby amended to read as follows:

7-1055. GROUNDS FOR RENDITION. (1) For purposes of sections 7-1055 and 7-10560, Idaho Code, "governor" includes an individual performing the functions of governor or the executive authority of a state covered by this chapter.

(2) The governor of this state may:
(a) Demand that the governor of another state surrender an individual found in the other state who is charged criminally in this state with having failed to provide for the support of an obligee; or
(b) On the demand by of the governor of another state, surrender an individual found in this state who is charged criminally in the other state with having failed to provide for the support of an obligee.

(3) A provision for extradition of individuals not inconsistent with this chapter applies to the demand even if the individual whose surrender is demanded was not in the demanding state when the crime was allegedly committed and has not fled therefrom.
SECTION 60. That Section 7-1056, Idaho Code, be, and the same is hereby amended to read as follows:

7-1056. CONDITIONS OF RENDITION. (1) Before making a demand that the governor of another state surrender an individual charged criminally in this state with having failed to provide for the support of an obligee, the governor of this state may require a prosecutor of this state to demonstrate that at least sixty (60) days previously the obligee had initiated proceedings for support pursuant to this chapter or that the proceeding would be of no avail.

(2) If, under this chapter or a law substantially similar to this chapter, the uniform-reciprocal-enforcement-of-support-act; or the revised-uniform-reciprocal-enforcement-of-support-act; the governor of another state makes a demand that the governor of this state surrender an individual charged criminally in that state with having failed to provide for the support of a child or other individual to whom a duty of support is owed, the governor may require a prosecutor to investigate the demand and report whether a proceeding for support has been initiated or would be effective. If it appears that a proceeding would be effective but has not been initiated, the governor may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

(3) If a proceeding for support has been initiated and the individual whose rendition is demanded prevails, the governor may decline to honor the demand. If the petitioner prevails and the individual whose rendition is demanded is subject to a support order, the governor may decline to honor the demand if the individual is complying with the support order.

SECTION 61. That Section 7-1057, Idaho Code, be, and the same is hereby amended to read as follows:

7-1057. UNIFORMITY OF APPLICATION AND CONSTRUCTION. This chapter shall be applied and construed to effectuate its general purpose to make uniform consideration must be given to the need to promote uniformity of the law with respect to the subject of this chapter matter among the states enacting that enact it.

SECTION 62. That Section 7-1059, Idaho Code, be, and the same is hereby amended to read as follows:

7-1059. SEVERABILITY. If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

SECTION 63. This act shall be in full force and effect on and after July 1, 2007.

Approved March 30, 2006.
Chapter 253
(S.B. No. 1334)

An act relating to paid firemen; amending chapter 211, laws of 1990, by the addition of a new section 8, chapter 211, laws of 1990, to set forth application of specified provisions; amending section 8, chapter 211, laws of 1990, to redesignate the section; declaring an emergency and providing retroactive application.

Be it enacted by the legislature of the State of Idaho:

SECTION 1. That chapter 211, laws of 1990, be, and the same is hereby amended by the addition thereto of a new section, to be known and designated as section 8, chapter 211, laws of 1990, and to read as follows:

SECTION 8. The provisions of section 6 of this act shall be deemed to apply to all paid firemen hired on or after July 1, 1978, and before October 1, 1980, who are incapacitated in the performance of duty and whose retirement date was prior to April 3, 1990, provided however, that no interest shall accrue on any benefit payments due such firemen pursuant to this section 8, and provided further that no such benefit payments made pursuant to this section 8, shall be considered underpayments under section 59-1327(6), Idaho code.

SECTION 2. That section 8, chapter 211, laws of 1990, be, and the same is hereby amended to read as follows:

SECTION 89. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to April 3, 1990.

Approved March 30, 2006.

Chapter 254
(S.B. No. 1351)

An act relating to regulation of alcohol; amending chapter 6, title 23, Idaho code, by the addition of a new section 23-616, Idaho code, to define terms, to prohibit alcohol without liquid device with exceptions, to provide rules, to provide penalties and to provide that an alcohol without liquid device that is not authorized is declared to be a public nuisance and shall be referred to as a liquor nuisance.

Be it enacted by the legislature of the State of Idaho:
SECTION 1. That Chapter 6, Title 23, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 23-616, Idaho Code, and to read as follows:

23-616. ALCOHOL WITHOUT LIQUID DEVICE. (1) As used in this section:
(a) "Alcohol without liquid device" means any machine, device or process that mixes an alcoholic product with oxygen or another gas to produce vaporized alcohol for the purpose of consumption through inhalation.
(b) "Vaporized alcohol" means an alcoholic product created by mixing alcohol with oxygen or another gas to produce a vapor or mist for the purpose of consumption through inhalation.
(2) A person shall not use or offer for use, possess, purchase, sell or offer for sale an alcohol without liquid device. A premise licensed pursuant to chapter 9, 10 or 13, title 23, Idaho Code, shall not use or offer for use, possess, purchase, sell or offer for sale an alcohol without liquid device.
(3) The Idaho state police may promulgate rules to allow for the possession, sale or use of an alcohol without liquid device by certain hospitals, universities, or pharmaceutical or biotechnology companies for bona fide research or medical purposes.
(4) A person who violates this section shall be guilty of a misdemeanor. Upon conviction or a finding of guilt of a second or subsequent violation of this section, the defendant shall be punished by a fine of not less than three hundred dollars ($300), nor more than one thousand dollars ($1,000) or by imprisonment in the county jail for not less than three (3) months, nor more than one (1) year, or by both such fine and imprisonment.
(5) An alcohol without liquid device as defined in this section and except as in this section authorized is hereby declared to be a public nuisance and in this title is referred to as a liquor nuisance pursuant to section 23-701, Idaho Code.

Approved March 30, 2006.

CHAPTER 255
(S.B. No. 1352)

AN ACT
RELATING TO IRRIGATION DISTRICTS; AMENDING SECTION 43-707A, IDAHO CODE, TO INCREASE THE MAXIMUM HANDLING CHARGES IRRIGATION DISTRICTS ARE AUTHORIZED TO CHARGE RELATING TO DRAFTS OR CHECKS THAT ARE REFUSED BY BANKS OR OTHER ENTITIES ON WHICH THE DRAFTS OR CHECKS ARE DRAWN.

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

SECTION 1. That Section 43-707A, Idaho Code, be, and the same is hereby amended to read as follows:

43-707A. ACCEPTANCE OF BANK DRAFTS OR CHECKS. (1) Notwithstanding any other provisions of title 43, Idaho Code, irrigation district treasurers may accept personal or other nonguaranteed forms of bank drafts
or checks if (1) the remitter identifies by legal description the parcel for which the payment is tendered, (2) the amount for which the draft or check is presented is the exact amount of the assessment due, including, where a delinquency exists and a tax deed has not been issued, penalties, interest and county redemption fees. The following procedures shall be followed in processing payments by bank drafts or checks:

(a) The assessment number of the identified parcel shall be entered on the draft or check.

(b) The treasurer shall prepare the current tax receipt or redemption certificate or both, and deliver them to the remitter. Such receipts shall be invalid, and shall so state, if payment of the draft or check is refused by the bank or other entity on which it is drawn. Any drafts or checks upon which payment has been refused will be noted in the records of the treasurer and notice of nonpayment shall be delivered to the county recorder. The notation and notice of nonpayment shall be sufficient reversal of any entries made upon the books of the district treasurer and upon the lien records of the county recorder.

(c) Notice shall be sent to the remitter that payment has not been received, that receipts and releases are therefore invalid and withdrawn and that the draft or check can be redeemed by payment with United States currency or a guaranteed bank draft or money order in the amount of the original draft or check plus the additional interest accrued, plus a repetition of the county filing fees and plus a handling charge not to exceed ten twenty-five dollars ($1025.00).

(2) Full compliance with procedures enumerated in this section shall exempt the treasurer from any personal liability for the acceptance of bank drafts or checks.

Approved March 30, 2006.

CHAPTER 256
(S.B. No. 1353)

AN ACT
RELATING TO WATER; AMENDING SECTION 42-201, IDAHO CODE, TO PROVIDE FOR THE EXCLUSIVE AUTHORITY OF THE DEPARTMENT OF WATER RESOURCES RELATING TO THE APPROPRIATION OF PUBLIC SURFACE AND GROUND WATERS OF THE STATE, TO PROHIBIT OTHER INSTRUMENTALITIES OR POLITICAL SUBDIVISIONS OF THE STATE FROM TAKING ANY ACTION TO PROHIBIT, RESTRICT OR REGULATE THE APPROPRIATION OF PUBLIC SURFACE OR GROUND WATERS OF THE STATE AND TO PROVIDE THAT ANY SUCH PROHIBITION, RESTRICTION OR REGULATION SHALL BE NULL AND VOID.

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

SECTION 1. That Section 42-201, Idaho Code, be, and the same is hereby amended to read as follows:

42-201. WATER RIGHTS ACQUIRED UNDER CHAPTER -- ILLEGAL APPLICATION OF WATER. (1) All rights to divert and use the waters of this state for beneficial purposes shall hereafter be acquired and confirmed under the
provisions of this chapter and not otherwise. And after the passage of this title all the waters of this state shall be controlled and administered in the manner herein provided. Such appropriation shall be perfected only by means of the application, permit and license procedure as provided in this title; provided, however, that in the event an appropriation has been commenced by diversion and application to beneficial use prior to the effective date of this act it may be perfected under such method of appropriation.

(2) No person shall use the public waters of the state of Idaho except in accordance with the laws of the state of Idaho. No person shall divert any water from a natural watercourse or apply water to land without having obtained a valid water right to do so, or apply it to purposes for which no valid water right exists.

(3) Notwithstanding the provisions of subsection (2) of this section, water may be used at any time, with or without a water right, to extinguish an existing fire on private or public lands, structures, or equipment, or to prevent an existing fire from spreading to private or public lands, structures, or equipment endangered by an existing fire.

(4) This title delegates to the department of water resources exclusive authority over the appropriation of the public surface and ground waters of the state. No other agency, department, county, city, municipal corporation or other instrumentality or political subdivision of the state shall enact any rule or ordinance or take any other action to prohibit, restrict or regulate the appropriation of the public surface or ground waters of the state, and any such action shall be null and void.

Approved March 30, 2006.

CHAPTER 257
(S.B. No. 1373)

AN ACT
RELATING TO LEAVES OF ABSENCE FOR ORGAN DONATIONS; AMENDING CHAPTER 53, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5343, IDAHO CODE, TO PROVIDE A LEAVE OF ABSENCE FOR ORGAN DONATION BY A FULL-TIME STATE EMPLOYEE, TO PROVIDE LIMITATIONS AND TO PROVIDE PROCEDURES; AND AMENDING CHAPTER 16, TITLE 59, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 59-1608, IDAHO CODE, TO PROVIDE A LEAVE OF ABSENCE FOR ORGAN DONATION BY A FULL-TIME NONCLASSIFIED OFFICER OR NONCLASSIFIED EMPLOYEE, TO PROVIDE LIMITATIONS AND TO PROVIDE PROCEDURES.

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

SECTION 1. That Chapter 53, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-5343, Idaho Code, and to read as follows:

67-5343. LEAVE OF ABSENCE FOR ORGAN DONATION. (1) A full-time employee shall be granted a leave of absence for the time specified for the following purposes:
(a) Five (5) workdays to serve as a bone marrow donor if the employee provides the appointing authority written verification that the employee is to serve as a bone marrow donor; and
(b) Thirty (30) workdays to serve as a human organ donor if the employee provides the appointing authority written verification that the employee is to serve as a human organ donor.

(2) An employee who is granted a leave of absence pursuant to the provisions of this section shall receive his compensation without interruption during the leave of absence. For purposes of determining longevity, performance, pay advancement and performance awards and for receipt of any benefit that may be affected by a leave of absence, the service of the employee shall be considered uninterrupted by the leave of absence.

(3) The appointing authority shall not penalize an employee for requesting or obtaining a leave of absence pursuant to the provisions of this section.

(4) The leave authorized by this section may be requested by the employee only if the employee is the person who is serving as the donor.

SECTION 2. That Chapter 16, Title 59, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 59-1608, Idaho Code, and to read as follows:

59-1608. LEAVE OF ABSENCE FOR ORGAN DONATION. (1) A full-time non-classified officer or full-time nonclassified employee shall be granted a leave of absence for the time specified for the following purposes:
(a) Five (5) workdays to serve as a bone marrow donor if the officer or employee provides the appointing authority written verification that the employee is to serve as a bone marrow donor; and
(b) Thirty (30) workdays to serve as a human organ donor if the officer or employee provides the appointing authority written verification that the employee is to serve as a human organ donor.

(2) An officer or employee who is granted a leave of absence pursuant to the provisions of this section shall receive his compensation without interruption during the leave of absence. For purposes of determining longevity, performance, pay advancement and performance awards and for receipt of any benefit that may be affected by a leave of absence, the service of the officer or employee shall be considered uninterrupted by the leave of absence.

(3) The appointing authority shall not penalize an officer or employee for requesting or obtaining a leave of absence pursuant to the provisions of this section.

(4) The leave authorized by this section may be requested by the officer or employee only if the officer or employee is the person who is serving as the donor.

Approved March 30, 2006.