GENERAL LAWS

OF THE

STATE OF IDAHO

PASSED BY
THE FIRST EXTRAORDINARY SESSION OF THE
FIFTY-EIGHTH IDAHO LEGISLATURE

Convened August 25, 2006
Adjourned August 25, 2006

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

PROCLAMATION

WHEREAS, rising property taxes are a major concern to property owners across the State of Idaho; and

WHEREAS, the Idaho State Legislature has evaluated the issues surrounding property taxes in Idaho for over a year; and

WHEREAS, the issues of property tax relief and safeguarding public education constitute an extraordinary occasion; and

WHEREAS, article 4, section 9 of the Constitution of the State of Idaho empowers the Governor, on extraordinary occasions, to convene the Legislature by proclamation;

NOW, THEREFORE, I, JAMES E. RISCH, Governor of the State of Idaho, by virtue of the authority vested in me by the Constitution and laws of the State of Idaho, do by this Proclamation convene the 58th Idaho Legislature in Extraordinary Session in the Legislative Chambers at the Capitol in Boise City, Ada County, Idaho, at the hour of 8:00 A.M. on the 25th day of August, 2006, to:

Consider for passage RS16445, a copy of which is attached hereto.

The Extraordinary Session of the Legislature convened by this Proclamation shall have no power to legislate on any subject other than that specified herein.

I HEREBY DIRECT AND REQUIRE that a copy of this Proclamation and RS16445 be delivered to the presiding officers of the Idaho Senate and House of Representatives, to each of the members of the 58th Idaho Legislature, and to the Constitutional Officers of the State Government at the earliest practicable time.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 25th day of July in the year of our Lord two thousand and six and of the Independence of the United States of America the two hundred thirty-first and of the Statehood of Idaho the one hundred seventeenth.

/s/ JAMES E. RISCH
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ BEN YSURSA
SECRETARY OF STATE

STATEMENT OF PURPOSE
RS16445

The purposes of the Property Tax Relief Act of 2006 are:

Permanently eliminate the 3 mil education maintenance and operation levy on Idaho real property, which will immediately reduce property taxes $260 million, and replacing that amount with the state sources described below.

Raise the Sales Tax 1% from 5% to 6%, effective October 1, 2006, which will generate approximately $210 million annually.

Protect education funding now and into the future by placing $100 million into the Public Education Stabilization Fund.

Appropriate sufficient funds from the General Fund to accomplish the aforementioned.

Place an advisory question on the November 2006 general election ballot asking Idaho voters:

"Should the State of Idaho keep the property tax relief adopted in August 2006, reducing property taxes by approximately $260 million and protecting funding for public schools by keeping the sales tax at 6%?"

FISCAL IMPACT

Immediately reduces Idaho property taxes $260 million. Commencing October 1, 2006, increases annualized sales tax revenues approximately $210 million, for a net tax reduction of $50 million.

Contact
Name: Gov. James E. Risch
Phone: (208) 334-2100

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ΩΩΩ LEGISLATURE OF THE STATE OF IDAHO ΩΩΩ
Fifty-eighth Legislature First Extraordinary Session - 2006

IN THE _____

_____ BILL NO. _____

BY _____

AN ACT

RELATING TO TAXATION; PROVIDING A SHORT TITLE; AMENDING SECTION 33-701, IDAHO CODE, TO PROVIDE A GRAMMATICAL CORRECTION, TO DELETE REFERENCE TO SCHOOL MAINTENANCE AND OPERATION LEVIES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-802, IDAHO CODE, TO DELETE REFERENCE TO SCHOOL DISTRICT LEVIES THAT MAY BE IMPOSED WITHOUT VOTER APPROVAL, TO DELETE REFERENCE TO THE CREDIT FOR PREPAID TAXES, TO PROVIDE BUDGET STABILIZATION LEVIES FOR CERTAIN DISTRICTS, TO DELETE THE LOCAL DISTRICT CONTRIBUTION FOR SCHOOL FORMULA PURPOSES, TO PROVIDE FOR CHARTER DISTRICT LEVIES FOR MAINTENANCE AND OPERATION CONSISTENT WITH THE DISTRICT'S CHARTER, TO PROVIDE FOR PROPERTY IN A REVENUE ALLOCATION AREA WITHIN A CHARTER DISTRICT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-802A, IDAHO CODE, TO CLARIFY REFERENCES TO SCHOOL LEVIES; AMENDING SECTION 33-808, IDAHO CODE, TO PROVIDE NOTICE BY CHARTER DISTRICTS, TO PROVIDE CORRECT CODE CITATIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-905, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-907, IDAHO CODE, TO PROVIDE THAT BALANCES IN THE FUND THAT ARE IN EXCESS OF A CERTAIN AMOUNT SHALL BE TRANSFERRED TO THE BOND LEVY EQUALIZATION FUND AND TO PROVIDE THAT INTEREST EARNINGS BE RETAINED IN THE PUBLIC EDUCATION STABILIZATION FUND; AMENDING SECTION 33-1002, IDAHO CODE, TO REVISE HOW THE EDUCATIONAL SUPPORT PROGRAM IS CALCULATED, TO PROVIDE ELIGIBILITY FOR CHARTER DISTRICTS TO CONTINUE TO RECEIVE SCHOOL FORMULA MONEYS AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 33-1002A, IDAHO CODE, RELATING TO THE LOCAL DISTRICT CONTRIBUTION REDUCTION AND REPEALING SECTION 33-1002D, IDAHO CODE, RELATING TO PROPERTY TAX REPLACEMENT; AMENDING SECTION 33-1003, IDAHO CODE, TO DELETE REFERENCE TO AN OBSOLETE PROVISION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-1004, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-1408, IDAHO CODE, TO REVISE THE SPECIAL LEVY FOR TUITION AND TO EXEMPT THE LEVY FROM THE THREE PERCENT PROPERTY TAX CAP; AMENDING SECTION 33-5208, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 50-2908, IDAHO CODE, TO DELETE REFERENCE TO PROPERTY TAX FOR SCHOOLS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 63-315, IDAHO CODE, TO PROVIDE APPLICATION TO CHARTER DISTRICTS LEVYING A MAINTENANCE AND OPERATION LEVY IN THE PRIOR CALENDAR YEAR; AMENDING SECTION 63-802A, IDAHO CODE, TO DELETE REFERENCE TO SCHOOL DISTRICT MAINTENANCE AND OPERATION LEVIES, TO PROVIDE APPLICATION TO SCHOOL DISTRICTS AND TO MAKE A TECHNICAL CORRECTION;

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AMENDING SECTION 63-811, IDAHO CODE, TO DELETE REFERENCE TO PROPERTY TAX ALLOCATED FOR SCHOOLS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 63-3619, IDAHO CODE, TO INCREASE THE SALES TAX TO SIX PERCENT; AMENDING SECTION 63-3621, IDAHO CODE, TO INCREASE THE USE TAX TO SIX PERCENT; AMENDING SECTION 63-3638, IDAHO CODE, TO REVISE THE DISTRIBUTION FOR SALES TAX REVENUES, TO DELETE REFERENCE TO MAINTENANCE AND OPERATION TAXES FOR SCHOOL DISTRICTS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 63-3640, IDAHO CODE, TO PROVIDE DATE CHANGES FOR CERTAIN CONTRACTS; APPROPRIATING MONEYS FROM THE GENERAL FUND TO THE PUBLIC SCHOOL INCOME FUND FOR FISCAL YEAR 2007; APPROPRIATING ADDITIONAL MONEYS FROM THE PUBLIC SCHOOL INCOME FUND TO THE EDUCATIONAL SUPPORT PROGRAM/DIVISION OF OPERATIONS FOR FISCAL YEAR 2007; DIRECTING THE STATE CONTROLLER TO TRANSFER MONEYS FROM THE GENERAL FUND TO THE PUBLIC EDUCATION STABILIZATION FUND BY A DATE CERTAIN; STATING LEGISLATIVE FINDINGS, SUBMITTING AN ADVISORY VOTE TO THE ELECTORS, DIRECTING THE SECRETARY OF STATE TO SUBMIT THE QUESTION, STATING THE QUESTION TO BE SUBMITTED, DECLARING THE ADVISORY QUESTION A MEASURE AND MAKING APPLICABLE CERTAIN PROVISIONS GOVERNING ELECTION CAMPAIGN CONTRIBUTIONS AND EXPENDITURES; PROVIDING SEVERABILITY; DECLARING AN EMERGENCY, PROVIDING RETROACTIVE APPLICATION AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. SHORT TITLE. This act may be known and cited as the "Property Tax Relief Act of 2006."

SECTION 2. That Section 33-701, Idaho Code, be, and the same is hereby amended to read as follows:

33-701. FISCAL YEAR -- PAYMENT AND ACCOUNTING OF FUNDS. The fiscal year of each school district shall be a period of twelve (12) months commencing on the first day of July in each year.

The board of trustees of each school district shall have the following powers and duties:

1. To determine and order paid all lawful expenses for salaries, wages and purchases, whether or not there be money in the treasury for payment of warrants drawn against any fund of the district. Warrants shall be signed by the treasurer of the district and countersigned by the chairman or vice-chairman of the board of trustees.

Whenever any school district has sufficient funds on deposit ~~so~~ to do so, it may pay any allowed claim for salaries, wages or purchases by regular bank check signed by the treasurer or assistant treasurer of the district and countersigned by the chairman, or vice-chairman, of the board of trustees.

The total amount of warrants or orders for warrants drawn on any fund, together with disbursements from such fund in any other manner made, shall not exceed ninety-five percent (95%) of the estimated income and revenue accrued or accruing to such fund for the same school year, until such income and revenue shall have been paid into the treasury to the credit of the district;

2. To invest all or part of any plant facilities reserve fund, or

any fund accumulated for the payment of interest on, and the redemption of, outstanding bonds, or other obligations of the district in bonds or certificates of indebtedness of the United States of America, or in bonds or warrants of the state of Idaho, or in warrants or tax anticipation notes of any county or school district of the state of Idaho, when such investments shall be due and payable on or before the date any plant facilities reserve fund shall be required to be expended or any bonds or other obligations, or interest thereon, of the investing district shall become payable.

Whenever in the judgment of the board of trustees, the proceeds of any bond issue should be temporarily invested pending the expenditure of such proceeds for the purposes for which such bonds were issued, the proceeds may be invested in the manner and form hereinabove prescribed. Any interest, or profits accruing from such investments shall be used for the purposes for which the bonds were issued. Unless otherwise provided by law, any interest or profits accruing from the investment of any funds shall be credited to the general fund of the district;

3. To insure any ~~school-house~~ schoolhouse and other property, and the district, against any loss by fire, casualty, or liability, and the board, its officers and employees, and to preserve its property for the benefit of the district. In case of loss of any insured property, any proceeds from insurance:

(a) m~~M~~ay be expended in constructing a temporary or permanent structure, but no sum greater than the insurance proceeds shall be so expended except upon approval of a majority of the school district electors voting in an election called for that purpose; or

(b) m~~M~~ay be placed in and made a part of the school plant facilities reserve fund of the district, if the district has such a fund; or

(c) m~~M~~ay be placed in a separate account in the bond interest and redemption fund of the district to repay any kind of obligation incurred by the district in replacing or restoring the property for which the insurance proceeds were received, and shall not be included in the computations of bond and bond interest levies as provided in section 33-802A, Idaho Code.

If the proceeds of any insurance received by a school district by reason of loss on real property shall be less than five thousand dollars ($5,000), such proceeds may be credited to the general fund of the district;

4. To pay from the general fund of the district the expense of any member of the board incurred while traveling on the business of the board, or attending any meeting called by the state board of education or by the state superintendent of public instruction, or attending any annual or special meetings of the state school trustees association, and to pay the membership fee of the board of trustees in said association. Whenever any member of the board of trustees resides at such distance from the meeting place of the board as to require, in the judgment of the board, such member to incur extraordinary expense in traveling from his home to and from said meeting place, the board may approve payment to such member of the extraordinary expense incurred in attending any meeting of the board.

For the purpose of this paragraph, the term "expense" or

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"extraordinary expense" shall include allowance for mileage or actual travel expense incurred;

5. To prepare, or cause to be prepared and published, in the manner hereinafter prescribed, within one hundred twenty (120) days from the last day of each fiscal year, an annual statement of financial condition and report of the school district as of the end of such fiscal year in a form prescribed by the state superintendent of public instruction. Such annual statement shall include, but not be limited to, the amounts of money budgeted and received and from what sources, and the amounts budgeted and expended for salaries and other expenses by category. Salaries may be reported in gross amount. Each school district shall have available at the administrative office, upon request, a full and complete list of vendors and the amount paid to each and a list of the number of teachers paid at each of the several stated gross salary levels in effect in the district.

Nothing herein provided shall be construed as limiting any school district as to any additional or supplementary statements and reports it may elect to make for the purpose of informing the public of its financial operations, either as to form, content, method, or frequency; and if all the information required herein to be published shall have been published as provided herein at regular intervals during the fiscal year covering successive portions of the fiscal year, then such information may be omitted from the annual statement of financial condition and report for such portions of the fiscal year as already have been reported.

The annual statement of financial condition and report shall be published within the time above prescribed in one (1) issue of a newspaper printed and published within the district, or, if there be none, then in a newspaper as provided in section 60-106, Idaho Code, published within the district, or, if there be none, then in a newspaper as provided in section 60-106, Idaho Code, in the county in which the school district is located, or, if more than one (1) newspaper is published in said district or county, then in the newspaper most likely to give best general notice of the contents of such annual statement of financial condition and report to the residents of said district; provided, that if no newspaper is published in the district or county, then such statement of financial condition and report shall be published in a newspaper as provided in section 60-106, Idaho Code, most likely to give best general notice of the contents to the residents of said district.

The chairman, clerk and treasurer of each school district shall certify the annual statement of financial condition and report to be true and correct, and the certification shall be included in each published statement.

In the event the board of trustees of any school district shall fail to prepare or cause to be prepared or to publish the annual statement of financial condition and report as herein required, the state superintendent of public instruction shall cause the same to be prepared and published, and the cost thereof shall be an obligation of the school district. One (1) copy of the annual statement of financial condition and report shall be retained in the office of the clerk of the board of school trustees, where the same shall be open at all times to examination and inspection by any person;

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6. To cause to be made a full and complete audit of the financial statements of the district as required in section 67-450B, Idaho Code.

The auditor shall be employed on written contract.

One (1) copy of the audit report shall be filed with the state department of education, after its acceptance by the board of trustees, but not later than October 15;

7. To file annually with the state department of education such financial and statistical reports as said state superintendent of public instruction may require;

8. To order and have destroyed any canceled check or warrant, or any form of claim or voucher which has been paid, at any time after five (5) years from the date the same was canceled and paid;

9. To review the school district budget periodically and make appropriate budget adjustments to reflect the availability of funds and the requirements of the school district. ~~Revenue--derived--from--maintenance--and--operation--levies--made--pursuant-to-section-33-802-2,-Idaho Code,-shall-be-excluded-from-budget--adjustments--as--provided--in--this paragraph.~~ Any person or persons proposing a budget adjustment under this section shall notify in writing each member of the board of trustees one (1) week prior to the meeting at which such proposal will be made. Prior to the final vote on such a proposal, notice shall be posted and published once, as prescribed in section 33-402, Idaho Code. A budget adjustment shall not be approved unless voted affirmatively by sixty percent (60%) of the members of the board of trustees. Such amended budgets shall be submitted to the state superintendent of public instruction;

10. To invest any money coming into the hands of the school district in investments permitted by section 67-1210, Idaho Code. Unless otherwise provided by law, any interest or profits accruing from the investment of any funds shall be credited to the general fund of the district.

SECTION 3. That Section 33-802, Idaho Code, be, and the same is hereby amended to read as follows:

33-802. SCHOOL LEVIES. Any tax levied for school purposes shall be a lien on the property against which the tax is levied. The board of trustees shall determine the levies upon each dollar of taxable property in the district for the ensuing fiscal year as follows:

(1~~.~~) Bond, Interest and Judgment Obligation Levies. Such levies as shall be required to satisfy all maturing bond, bond interest, and judgment obligations.

(2~~.~~) ~~Maximum-School-Maintenance-and-Operation~~ Budget Stabilization Levies. ~~Such--levies--for--maintaining-and-operating-the-schools-of-the district-and-for-the-payment-of-tuition-and-transportation,-that-do--not exceed--an--amount--equal-to-four-tenths-of-one-percent-(.4%)-during-tax year-1994,-and-do-not-exceed-an-amount-equal-to-three-tenths-of-one-percent-(.3%)-during-tax-year-1995-and-thereafter,-applied-to-the-actual-or adjusted-market-value-for-assessment-purposes-of-the--district--as--such valuation--existed--on--December-31-of-the-previous-year,-but-allowances necessary-as-a-credit-for-prepaid-taxes,-as-provided-in-section-63-1607, Idaho-Code,-shall-not-be-included-in-such-maximum-levies.-Provided--however,--that-in-the-event-property-within-a-district's-boundaries-is-con-~~

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~~tained in a revenue allocation area established under chapter 29, title 50, Idaho Code, and such revenue allocation area has given notice of termination thereunder, then, only for the purpose of determining the levy described in this subsection, the district may add the increment value, as defined in section 50-2903, Idaho Code, to the actual or adjusted market value for assessment purposes of the district as such value existed on December 31 of the previous year.~~

~~3. Authorized School Maintenance and Operation Levies. Such levies for maintaining and operating the schools of the district and for the payment of tuition and transportation that do not exceed one hundred eleven percent (111%) of the local district's contribution authorized in subsection 2. of section 33-1002, Idaho Code. Implementation of the provisions of this subsection shall be authorized only after approval by a majority of the district's electors voting on the question. Levies otherwise authorized by law shall not require an election~~ School districts not receiving state equalization funds in fiscal year 2006 may authorize a budget stabilization levy for calendar year 2006 and each year thereafter. Such levies shall not exceed the difference between the amount of equalized funds that the state department of education estimates the school district will receive in fiscal year 2007, based on the school district's fiscal year 2006 reporting data, and the combined amount of money the school district would have received from its maintenance and operation levy and state property tax replacement funds in fiscal year 2007 under the laws of the state of Idaho as they existed prior to amendment by the first extraordinary session of the fifty-eighth Idaho legislature. The state department of education shall notify the state tax commission and affected counties and school districts of the maximum levy amounts permitted, by no later than September 1, 2006.

~~4.~~(3) Supplemental Maintenance and Operation Levies. No levy in excess of the levy permitted by ~~subsection 2. or 3. of~~ this section shall be made by a noncharter ~~school~~ district unless such a supplemental levy in a specified amount and for a specified time not to exceed two (2) years be first authorized through an election held pursuant to chapter 4, title 33, Idaho Code, and approved by a majority of the district electors voting in such election. A levy approved pursuant to this subsection may be reduced by a majority vote of the board of trustees in the second year.

~~5.~~(4) Charter District Supplemental Maintenance and Operation. Levies pursuant to the respective charter of any such charter district shall be first authorized through an election held pursuant to chapter 4, title 33, Idaho Code, and approved by a majority of the district electors voting in such election.

~~6. The Local District Contribution. The local school district contribution levy is the amount utilized for calculating local district participation in the educational foundation program, which is applied to the adjusted market value for assessment purposes, as such valuation existed on December 31 of the previous year, together with the increment value, as defined in section 50-2903, Idaho Code, if applicable under the circumstance described in subsection 2. of this section, relating to termination of a revenue allocation area.~~

~~7.~~(5) The board of trustees of any school district that has, for at

least seven (7) consecutive years, been authorized through an election held pursuant to chapter 4, title 33, Idaho Code, to certify a supplemental levy that has annually been equal to or greater than twenty percent (20%) of the total general maintenance and operation fund, may submit the question of an indefinite term supplemental levy to the electors of the school district. Such question shall clearly state the dollar amount that will be certified annually and that the levy will be for an indefinite number of years. The question must be approved by a majority of the district electors voting on the question in an election held pursuant to chapter 4, title 33, Idaho Code. The levy approved pursuant to this subsection may be reduced by a majority vote of the board of trustees during any fiscal year.

(6) A charter district may levy for maintenance and operations if such authority is contained within its charter. In the event property within a charter district's boundaries is contained in a revenue allocation area established under chapter 29, title 50, Idaho Code, and such revenue allocation area has given notice of termination thereunder, then, only for the purpose of determining the levy described in this subsection, the district may add the increment value, as defined in section 50-2903, Idaho Code, to the actual or adjusted market value for assessment purposes of the district as such value existed on December 31 of the previous year.

SECTION 4. That Section 33-802A, Idaho Code, be, and the same is hereby amended to read as follows:

33-802A. COMPUTATION OF BOND AND BOND INTEREST LEVIES. When the board of trustees of any school district determines and makes ~~the~~ a levy ~~required~~ allowed by section 33-802, Idaho Code, and incorporates such levy as a part of the school district's budget to service all maturing bond and bond interest payments for the ensuing fiscal year, it shall take into consideration any state bond levy equalization funds provided pursuant to section 33-906, Idaho Code, and any balances remaining or that may remain in its bond interest and redemption fund after meeting its bond and bond interest obligations for its current fiscal year. The levy so made for the ensuing fiscal year shall be an amount which, together with any state bond levy equalization funds provided pursuant to section 33-906, Idaho Code, and the balance in its bond interest and redemption fund remaining after meeting its current fiscal year bond and bond interest obligations, shall satisfy all maturing bond and bond interest payments for at least the ensuing twelve (12) months, and not to exceed the ensuing twenty-one (21) months counted from July 1 of the current calendar year.

SECTION 5. That Section 33-808, Idaho Code, be, and the same is hereby amended to read as follows:

33-808. NOTICE OF ADJUSTMENT TO MARKET VALUE FOR ASSESSMENT PURPOSES UPON TERMINATION OF A REVENUE ALLOCATION AREA. (1) A ~~school~~ charter district with a maintenance and operation levy in the immediately previous year that shall adjust its market value for assessment purposes in accordance with the provisions of section 33-802 ~~2.~~(6),

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Idaho Code, relating to termination of a revenue allocation area, shall advertise its action by publishing in at least the newspaper of largest paid circulation published in the county of the district, or if there is no such newspaper, then in a newspaper published nearest to the district where the advertisement is required to be published.

(2) For purposes of this section, the definition of "newspaper" shall be as established in sections 60-106 and 60-107, Idaho Code; provided further, that the newspaper of largest circulation shall be established by the statement of average annual paid weekday circulation listed on the newspaper's sworn statement of ownership that was filed with the United States post office on a date most recently preceding the date on which the advertisement required in this section is to be published. The advertisement shall be run when the school district ascertains that it will adjust its market value for assessment purposes in accordance with the provisions of section 33-802 ~~2.~~(6), Idaho Code, relating to termination of a revenue allocation area, and shall be published once a week for two (2) weeks following action by the board of trustees.

(3) The form and content of the notice shall be substantially as follows:

NOTICE OF PROPERTY TAX ADJUSTMENT BY SCHOOL BOARD

The (insert name of the school district) hereinafter the "District," has increased its market value for assessment purposes as of December 31, ..., by the amount of the increment value of the (insert name of Redevelopment Agency Revenue Allocation Area) on such date, in accordance with the provisions of Section 33-802, Idaho Code, because the revenue allocation area gave notice of termination pursuant to Section 50-2903, Idaho Code, and as a result thereof property taxes on the incremental value of the revenue allocation area will not be collected and distributed to the District. Section 33-802, Idaho Code, permits the District to replace those funds by adjusting its market value as described herein. The total amount of dollars in property taxes to be directly collected by the District pursuant to this action is estimated to be $.....

SECTION 6. That Section 33-905, Idaho Code, be, and the same is hereby amended to read as follows:

33-905. SCHOOL DISTRICT BUILDING ACCOUNT -- PAYMENTS TO ACCOUNT -- MONEYS APPROPRIATED TO STATE BOARD -- APPLICATION FOR MONEYS -- PAYMENTS TO DISTRICTS -- REPORTS ON APPLICATIONS -- USES OF MONEYS. (1) The state of Idaho, in order to fulfill its responsibility to establish and maintain a general, uniform and thorough system of public, free common schools, hereby creates and establishes the school district building account in the state treasury. The school district building account shall have paid into it such appropriations or revenues as may be provided by law.

(2) By not later than August 31, moneys in the account pursuant to distribution from section 67-7434, Idaho Code, the lottery dividends and interest earned thereon, shall be distributed to each of the several

school districts, in the proportion that the average daily attendance of that district for the previous school year bears to the total average daily attendance of the state during the previous school year. For the purposes of this subsection (2) only, the Idaho school for the deaf and the blind shall be considered a school district, and shall receive a distribution based upon the average daily attendance of the school. ~~Average daily~~ attendance shall be calculated as provided in section 33-1002 ~~5.~~(3), Idaho Code.

(3) Any other state moneys that may be made available shall be distributed to meet the requirements of section 33-1019, Idaho Code. If the amount of such funds exceeds the amount needed to meet the provisions of section 33-1019, Idaho Code, then the excess balance shall be transferred to the public education stabilization fund.

(4) All payments from the school district building account shall be paid out directly to the school district in warrants drawn by the state controller upon presentation of proper vouchers from the state board of education. Pending payments out of the school district building account, the moneys in the account shall be invested by the state treasurer in the same manner as provided under section 67-1210, Idaho Code, with respect to other idle moneys in the state treasury. Interest earned on the investments shall be returned to the school district building account.

(5) Payments from the school district building account received by a school district shall be used by the school district for the purposes authorized in section 33-1019, Idaho Code, up to the level of the state match so required. Any payments from the school district building account received by a school district that are in excess of the state match requirements of section 33-1019, Idaho Code, may be used by the school district for the purposes authorized in section 33-1102, Idaho Code.

SECTION 7. That Section 33-907, Idaho Code, be, and the same is hereby amended to read as follows:

33-907. PUBLIC EDUCATION STABILIZATION FUND. There is hereby created in the state treasury a fund to be known as the public education stabilization fund, which shall function as a fund detail of the public school income fund. The fund shall consist of moneys transferred to the fund according to the provisions of sections 33-905 and 33-1018, Idaho Code, and any other moneys made available through legislative transfers or appropriations. Moneys in the fund are hereby continuously appropriated for the purposes stated in sections 33-1018 and 33-1018B, Idaho Code, and shall only be expended for the purposes stated in sections 33-1018, 33-1018A and 33-1018B, Idaho Code. Any accumulated balances in the fund that are in excess of ~~five~~ eight and one-third percent (58.334%) of the current fiscal year's total ~~general fund~~ appropriation of state funds for public school support shall be transferred to the bond levy equalization fund. Interest earned from the investment of moneys in the fund shall be ~~credited to~~ retained in the ~~public school income~~ fund.

SECTION 8. That Section 33-1002, Idaho Code, be, and the same is

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hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

(i~~.~~) For expenditure as provided by the public school technology program;

(j~~.~~) For the support of provisions that provide a safe environment conducive to student learning and maintain classroom discipline, an allocation of $300 per support unit; and

(k~~.~~) Any additional amounts as required by statute to effect administrative adjustments or as specifically required by the provisions of any bill of appropriation;

to secure the ~~state~~ total educational support distribution funds.

(3~~.~~) ~~Local--Districts'--Contribution-Calculation.-Without-including any-allowance-as-a-credit-for--prepaid--taxes--as--provided--by--section 63-1607,--Idaho--Code,--the--local--districts'-contribution-shall-be-the amount-appropriated-pursuant--to--section--33-1002D,--Idaho--Code,--plus three-tenths--percent--(.3%)--during--fiscal--year-2003-04-and-each-year thereafter,-of-the-total-state-adjusted-market-value-for-assessment-purposes-for-the-previous-year-with-such-value-being-determined-by-the-provisions-of-section-63-315,-Idaho-Code,--and--four-tenths--percent--(.4%) during--fiscal-year-1994-95-and-each-year-thereafter,-of-the-cooperative electrical-associations'-property-values-that-have-been-derived-from-the taxes-paid-in-lieu-of-property-taxes-for-the-previous-year--as--provided in--section--63-3502,-Idaho-Code-,-less-any--maintenance--and-operations levy-funds-credited-as-a-reduction-against-state-funds-provided-for-students-attending-school-in-another-state.~~

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~~4.--Educational-Support-Program-Distribution-Funds.--Add--the--local districts'--contribution,--subsection--3.-of-this-section,-and-the-state educational-support--program--funds,--subsection--1.--of--this--section, together--to--secure--the-total-educational-support-program-distribution funds.~~

~~5.~~ Average Daily Attendance. The total state average daily attendance shall be the sum of the average daily attendance of all of the school districts of the state. The state board of education shall establish rules setting forth the procedure to determine average daily attendance and the time for, and method of, submission of such report. Average daily attendance calculation shall be carried out to the nearest hundredth. Computation of average daily attendance shall also be governed by the provisions of section 33-1003A, Idaho Code.

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

COMPUTATION OF KINDERGARTEN SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Units Allowed
41 or more	40.....	1 or more as computed
31 - 40.99 ADA....	-.....	1
26 - 30.99 ADA....	-.....	.85
21 - 25.99 ADA....	-.....	.75
16 - 20.99 ADA....	-.....	.6
8 - 15.99 ADA....	-.....	.5
1 - 7.99 ADA....	-.....	count as elementary

COMPUTATION OF ELEMENTARY SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
300 or more ADA.....		15
	..23...grades 4,5 & 6....	
	..22...grades 1,2 & 3....1994-95	
	..21...grades 1,2 & 3....1995-96	
	..20...grades 1,2 & 3....1996-97 and each year thereafter.	
160 to 299.99 ADA...	20.....	8.4
110 to 159.99 ADA...	19.....	6.8
71.1 to 109.99 ADA...	16.....	4.7
51.7 to 71.0 ADA...	15.....	4.0
33.6 to 51.6 ADA...	13.....	2.8
16.6 to 33.5 ADA...	12.....	1.4
1.0 to 16.5 ADA...	n/a.....	1.0

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COMPUTATION OF SECONDARY SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
750 or more	18.5.....	47
400 - 749.99 ADA....	16.....	28
300 - 399.99 ADA....	14.5.....	22
200 - 299.99 ADA....	13.5.....	17
100 - 199.99 ADA....	12.....	9
99.99 or fewer	Units allowed as follows:	
Grades 7-12	.....	8
Grades 9-12	.....	6
Grades 7- 9	.....	1 per 14 ADA
Grades 7- 8	.....	1 per 16 ADA

COMPUTATION OF EXCEPTIONAL EDUCATION SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
14 or more	14.5.....	1 or more as computed
12 - 13.99....	-.....	1
8 - 11.99....	-.....	.75
4 - 7.99....	-.....	.5
1 - 3.99....	-.....	.25

COMPUTATION OF ALTERNATIVE SCHOOL SECONDARY SUPPORT UNITS

Pupils in Attendance	Attendance Divisor	Minimum Units Allowed
12 or more.....	12.....	1 or more as computed

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

~~7.~~(5) State Distribution Factor per Support Unit. Divide educational support program distribution funds, after subtracting the amounts necessary to pay the obligations specified in subsection (2~~.~~) of this section, by the total state support units to secure the state distribution factor per support unit.

~~8.~~(6) ~~District--Share--of--State-Funds-for-Educational-Support-Program.-Ascertain-a-district's-share-of-state-funds--for--the--educational support-program-as-follows:~~

~~a.--District--Contribution-Calculation.-Without-including-any-allowance-as-a-credit-for-prepaid-taxes,-as-provided-in-section--63-1607, Idaho--Code,-the-district-contribution-calculation-shall-be-the-rate determined-under-subsection-3.-of-this-section.~~

~~b.~~ District Support Units. The number of support units for each school district in the state shall be determined as follows:

(a) (~~1~~i) Divide the actual average daily attendance, excluding students approved for inclusion in the exceptional child educational program, for the administrative schools and each of the separate schools and attendance units by the appropriate divisor from the tables of support units in this section, then add the quotients to obtain the district's support units allowance for regular students, kindergarten through grade 12 including alternative school secondary students. Calculations in application of this subsection shall be carried out to the nearest tenth.

(~~2~~ii) Divide the combined totals of the average daily attendance of all preschool, handicapped, kindergarten, elementary, secondary and juvenile detention center students approved for inclusion in the exceptional child program of the district by the appropriate divisor from the table for computation of exceptional education support units to obtain the number of support units allowed for the district's approved exceptional child program. Calculations for this subsection shall be carried out to the nearest tenth when more than one (1) unit is allowed.

(~~3~~iii) The total number of support units of the district shall be the sum of the total support units for regular students, subsection ~~8.b.(1)~~(6)(a)(i) of this section, and the support units allowance for the approved exceptional child program, subsection ~~8.b.(2)~~(6)(a)(ii) of this section.

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

~~d.~~(c) District Share. ~~To secure~~ ~~t~~The district's share of state apportionment~~, subtract the amount of the local district contribution calculation, subsection 3. of this section, from~~ is the amount of the total district allowance, subsection ~~8.c.~~(6)(b) of this section.

~~e.~~(d) Adjustment of District Share. The contract salary of every noncertificated teacher shall be subtracted from the district's share as calculated from the provisions of subsection ~~8.d.~~(6)(c) of this section.

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

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tax computation ratio multiplied by the actual or adjusted market value for assessment purposes as such values existed on December 31 of the prior calendar year.

SECTION 9. That Sections 33-1002A and 33-1002D, Idaho Code, be, and the same are hereby repealed.

SECTION 10. That Section 33-1003, Idaho Code, be, and the same is hereby amended to read as follows:

33-1003. SPECIAL APPLICATIONS OF EDUCATIONAL SUPPORT PROGRAM. (1~~.~~) Decrease in Average Daily Attendance. — Any school district which has a decrease in total average daily attendance of one percent (1%) of its average daily attendance in the then current school year from the total average daily attendance used for determining the allowance in the educational support program for the school year immediately preceding, the allowance of funds from the educational support program may be based on the average daily attendance of the school year immediately preceding, less one percent (1%). When this provision is applied, the decrease in average daily attendance shall be proportionately distributed among the various categories of support units that are appropriate for the district.

(2~~.~~) Application of Support Program to Separate Schools/Attendance Units in District.

(a~~.~~) Separate Elementary School. — Any separate elementary school shall be allowed to participate in the educational support program as though the school were the only elementary school operated by the district.

(b~~.~~) Hardship Elementary School. — Upon application of the board of trustees of a school district, the state board of education is empowered to determine that a given elementary school or elementary schools within the school district, not otherwise qualifying, are entitled to be counted as a separate elementary school as defined in section 33-1001, Idaho Code, when, in the discretion of the state board of education, special conditions exist warranting the retention of the school as a separate attendance unit and the retention results in a substantial increase in cost per pupil in average daily attendance above the average cost per pupil in average daily attendance of the remainder of the district's elementary grade school pupils. An elementary school operating as a previously approved hardship elementary school shall continue to be considered as a separate attendance unit, unless the hardship status of the elementary school is rescinded by the state board of education.

(c~~.~~) Separate Secondary School. — Any separate secondary school shall be allowed to participate in the educational support program as though the school were the only secondary school operated by the district.

(d~~.~~) Elementary/Secondary School Attendance Units. — Elementary grades in an elementary/secondary school will be funded as a separate attendance unit if all elementary grades served are situated more than ten (10) miles distance from both the nearest like elementary grades within the same school district and from the location of

the office of the superintendent of schools of such district, or from the office of the chief administrative officer of such district if the district employs no superintendent of schools. Secondary grades in an elementary/secondary school will be funded as a separate attendance unit if all secondary grades served are located more than fifteen (15) miles by an all-weather road from the nearest like secondary grades operated by the district.

(e~~)~~ Hardship Secondary School. -- Any district which operated two (2) secondary schools separated by less than fifteen (15) miles, but which district was created through consolidation subsequent to legislative action pursuant to chapter 111, laws of 1947, and which school buildings were constructed prior to 1935, shall be entitled to count the schools as separate attendance units.

(f~~)~~ Minimum Pupils Required. -- Any elementary school having less than ten (10) pupils in average daily attendance shall not be allowed to participate in the state or county support program unless the school has been approved for operation by the state board of education.

(3~~)~~ Remote Schools. -- The board of trustees of any Idaho school district which operates and maintains a school which is remote and isolated from the other schools of the state because of geographical or topographical conditions may petition the state board of education to recognize and approve the school as a remote and necessary school. The petition shall be in form and content approved by the state board of education and shall provide such information as the state board of education may require. Petitions for the recognition of a school as a remote and necessary school shall be filed annually at least ninety (90) days prior to the date of the annual meeting of the board of trustees as established in section 33-510, Idaho Code.

Within forty-five (45) days after the receipt of a petition for the recognition of a remote and necessary school, the state board of education shall either approve or disapprove the petition and notify the board of trustees of its decision. Schools which the state board of education approves as being necessary and remote shall be allowed adequate funding within the support program for an acceptable educational program for the students of the school. In the case of a remote and necessary secondary school, grades 7-12, the educational program shall be deemed acceptable when, in the opinion of the state board of education, the accreditation standard relating to staff size, established in accordance with section 33-119, Idaho Code, has been met. The final determination of an acceptable program and adequate funding in the case of a remote and necessary elementary school shall be made by the state board of education.

(4~~)~~ Support Program When District Boundaries are Changed.

(a~~)~~ In new districts formed by the division of a district, the support program computed for the district divided in its last year of operation, shall be apportioned to the new districts created by the division, in the proportion that the average daily attendance of pupils, elementary and secondary combined, residing in the area of each new district so created, is to the average daily attendance of all pupils, elementary and secondary combined, in the district divided in its last year of operation before the division.

(b~~.~~) When boundaries of districts are changed by excision or annexation of territory, the support program of any district from which territory is excised for the last year of operation before such excision shall be divided, and apportioned among the districts involved, as prescribed in subsection ~~4a.~~ (4)(a) of this section.

(c~~.~~) In new districts formed by consolidation of former districts, the support program allowance for a seven (7) year period following the formation of the new district, shall not be less than the combined support program allowances of the component districts in the last year of operation before consolidation.

~~5.--For the fiscal year which commences on July 1, 1986, and for each succeeding fiscal year, any school district whose adjusted market value for assessment purposes decreases forty percent (40%) or more from the previous year's adjusted market value for assessment purposes as such valuation existed on December 31, is eligible to receive an adjustment to its educational support program entitlement, subject to qualifications as follows:~~

~~a.--The adjusted market value for assessment purposes has decreased forty percent (40%) or more from the previous year's adjusted market value for assessment purposes as such valuation existed on December 31; and~~

~~b.--The school levy to be certified for the general maintenance and operation fund shall be no less than four tenths of one percent (.4%); and~~

~~c.--An eligible school district has made application to the state department of education for an adjustment to entitlement from the state educational support program on or before June 1 of the fiscal year. Such application must document the need for additional funds and must include a district plan to minimize impact of a reduced local tax base.~~

SECTION 11. That Section 33-1004, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004. STAFF ALLOWANCE. For each school district, a staff allowance shall be determined as follows:

(1) Using the daily attendance reports that have been submitted for computing the February 15th apportionment of state funds as provided in section 33-1009, Idaho Code, determine the total support units for the district in the manner provided in section 33-1002 ~~8.b.~~(6)(a), Idaho Code;

(2) Determine the instructional staff allowance by multiplying the support units by 1.1. A district must demonstrate that it actually employs the number of certificated instructional staff allowed. If the district does not employ the number allowed, the staff allowance shall be reduced to the actual number employed;

(3) Determine the administrative staff allowance by multiplying the support units by .075;

(4) Determine the classified staff allowance by multiplying the support units by .375;

(5) Additional conditions governing staff allowance:

(a) In determining the number of staff in subsections (2), (3) and

(4) of this section, a district may contract separately for services to be rendered by nondistrict employees and such employees may be counted in the staff allowance. A "nondistrict employee" means a person for whom the school district does not pay the employer's obligations for employee benefits. When a district contracts for the services of a nondistrict employee, only the salary portion of the contract shall be allowable for computations.

(b) If there are circumstances preventing eligible use of staff allowance to which a district is entitled as provided in subsections (2) and (3) of this section, an appeal may be filed with the state department of education outlining the reasons and proposed alternative use of these funds, and a waiver may be granted.

(c) For any district with less than forty (40) support units:

(i) The instructional staff allowance shall be calculated applying the actual number of support units. If the actual instructional staff employed in the school year is greater than the instructional staff allowance, then the instructional staff allowance shall be increased by one-half (1/2) staff allowance; and

(ii) The administrative staff allowance shall be calculated applying the actual number of support units. If the actual administrative staff employed in the school year is greater than the administrative staff allowance, then the administrative staff allowance shall be increased by one-half (1/2) staff allowance.

(iii) Additionally, for any district with less than twenty (20) support units, the instructional staff allowance shall be calculated applying the actual number of support units. If the number of instructional staff employed in the school year is greater than the instructional staff allowance, the staff allowance shall be increased as provided in paragraphs (i) and (ii) of this subsection, and by an additional one-half (1/2) instructional staff allowance.

(d) For any school district with one (1) or more separate secondary schools serving grades nine (9) through twelve (12), the instructional staff allowance shall be increased by two (2) additional instructional staff allowances for each such separate secondary school.

(e) Only instructional, administrative and classified personnel compensated by the school district from the general maintenance and operation fund of the district shall be included in the calculation of staff allowance or in any other calculations based upon staff, including determination of the experience and education multiplier, the reporting requirements, or the district's salary-based apportionment calculation. No food service staff or transportation staff shall be included in the staff allowance.

(6) In the event that the staff allowance in any category is insufficient to meet accreditation standards, a district may appeal to the state board of education, demonstrating the insufficiency, and the state board may grant a waiver authorizing sufficient additional staff to be included within the staff allowance to meet accreditation standards.

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Such a waiver shall be limited to one (1) year, but may be renewed upon showing of continuing justification.

SECTION 12. That Section 33-1408, Idaho Code, be, and the same is hereby amended to read as follows:

33-1408. SPECIAL LEVY FOR TUITION. Any school district is hereby authorized to make a levy above the maintenance and operation levy otherwise authorized by law for the purpose of paying tuition costs of its students who, under authorization of the board of trustees of the district, attend school in another district ~~either~~ in ~~or out of~~ Idaho~~, except for those costs reimbursed by the state under border contracts~~. Such levy shall be exempt from the provisions of section 63-802, Idaho Code.

SECTION 13. That Section 33-5208, Idaho Code, be, and the same is hereby amended to read as follows:

33-5208. PUBLIC CHARTER SCHOOL FINANCIAL SUPPORT. Except as provided in subsection (8) of this section, from the state educational support program the state department of education shall make the following apportionment to each public charter school for each fiscal year based on attendance figures submitted in a manner and time as required by the department of education:

(1) Per student support. Computation of support units for each public charter school shall be calculated as if it were a separate school according to the schedules in section 33-1002 ~~6.~~(4), Idaho Code, except that public charter schools with fewer than one hundred (100) secondary ADA shall use a divisor of twelve (12) and the ~~minimum~~ units shall not apply, and no public charter school shall receive an increase in support units that exceeds the support units it received in the prior year by more than twenty (20). Funding from the state educational support program shall be equal to the total distribution factor, plus the salary-based apportionment provided in chapter 10, title 33, Idaho Code. Provided however, any public charter school that is formed by the conversion of an existing traditional public school shall be assigned divisors, pursuant to section 33-1002, Idaho Code, that are no lower than the divisors of the school district in which the traditional public school is located, for each category of pupils listed.

(2) Special education. For each student enrolled in the public charter school who is entitled to special education services, the state and federal funds from the exceptional child education program for that student that would have been apportioned for that student to the school district in which the public charter school is located.

(3) Alternative school support. Public charter schools may qualify under the provisions of sections 33-1002 and 33-1002C, Idaho Code, provided the public charter school meets the necessary statutory requirements, and students qualify for attendance at an alternative school as provided by rule of the state board of education.

(4) Transportation support. Support shall be paid to the public charter school as provided in chapter 15, title 33, Idaho Code, and section 33-1006, Idaho Code. Each public charter school shall furnish the

department with an enrollment count as of the first Friday in November, of public charter school students living more than one and one-half (1 1/2) miles from the school. For charter schools in the initial year of operation, the petition shall include a proposal for transportation services with an estimated first year cost. The state department of education is authorized to include in the annual appropriation to the charter school eighty percent (80%) of the estimated transportation cost. The final appropriation payment in July shall reflect eighty-five percent (85%) of the actual cost.

(5) Payment schedule. The state department of education is authorized to make an advance payment of twenty-five percent (25%) of a public charter school's estimated annual apportionment for its first year of operation, and each year thereafter, provided the public charter school has an increase of student population in any given year of twenty (20) students or more, to assist the school with initial start-up costs or payroll obligations.

(a) For a state public charter school to receive the advance payment, the school shall submit its anticipated fall membership for each grade level to the state department of education by June 1.

(b) Using the figures provided by the public charter school, the state department of education shall determine an estimated annual apportionment from which the amount of the advance payment shall be calculated. Advance payment shall be made to the school on or after July 1 but no later than July 31.

(c) All subsequent payments, taking into account the one-time advance payment made for the first year of operation, shall be made to the public charter school in the same manner as other traditional public schools in accordance with the provisions of section 33-1009, Idaho Code.

A public charter school shall comply with all applicable fiscal requirements of law, except that the following provisions shall not be applicable to public charter schools: section 33-1003B, Idaho Code, relating to guaranteed minimum support; that portion of section 33-1004, Idaho Code, relating to reduction of the administrative and instructional staff allowance when there is a discrepancy between the number allowed and the number actually employed; and section 33-1004E, Idaho Code, for calculation of district staff indices.

(6) Nothing in this chapter shall be construed to prohibit any private person or organization from providing funding or other financial assistance to the establishment or operation of a public charter school.

(7) Nothing in this chapter shall prevent a public charter school from applying for federal grant moneys.

(8) (a) For the period July 1, 2003, through June 30, 2005, all public virtual schools shall be assigned divisors, pursuant to section 33-1002, Idaho Code, that are no higher than the median divisor shown for each respective category of pupils, among the possible divisors listed, for each respective category of pupils that contains more than one (1) divisor. If there is an even number of possible divisors listed for a particular category of pupils, then the lesser of the two (2) median divisors shall be used. For the period July 1, 2005, through June 30, 2007, all public virtual schools shall be assigned divisors, pursuant to section 33-1002, Idaho Code,

that are no higher than the second highest divisor shown, among the possible divisors listed, for each respective category of pupils that contains more than one (1) divisor. The divisor provisions contained herein shall only be applicable to the number of pupils in average daily attendance in such public virtual schools for the period July 1, 2003, through June 30, 2004. If the number of pupils in average daily attendance in any particular category of pupils increases, during the period July 1, 2004, through June 30, 2005, to a number above that which existed in the prior fiscal year, then those additional pupils in average daily attendance shall be assigned the divisor, pursuant to section 33-1002, Idaho Code, that would have otherwise been assigned to the school district or public charter school had this section not been in force.

(b) Each student in attendance at a public virtual school shall be funded based upon either the actual hours of attendance in the public virtual school on a flexible schedule, or the percentage of coursework completed, whichever is more advantageous to the school, up to the maximum of one (1) full-time equivalent student.

(c) All federal educational funds shall be administered and distributed to public charter schools, including public virtual schools, that have been designated by the state board of education as a local education agency (LEA), as provided in section 33-5203(7), Idaho Code.

(9) Nothing in this section prohibits separate face-to-face learning activities or services.

SECTION 14. That Section 50-2908, Idaho Code, be, and the same is hereby amended to read as follows:

50-2908. DETERMINATION OF TAX LEVIES -- CREATION OF SPECIAL FUND. (1) For purposes of calculating the rate at which taxes shall be levied by or for each taxing district in which a revenue allocation area is located, the county commissioners shall, with respect to the taxable property located in such revenue allocation area, use the equalized assessed value of such taxable property as shown on the base assessment roll rather than on the current equalized assessed valuation of such taxable property.

(2) With respect to each such taxing district, the tax rate calculated under subsection (1) of this section shall be applied to the current equalized assessed valuation of all taxable property in the taxing district, including the taxable property in the revenue allocation area. The tax revenues thereby produced shall be allocated as follows:

(a) To the taxing district shall be allocated and shall be paid by the county treasurer:

(i) All taxes levied by the taxing district or on its behalf on taxable property located within the taxing district but outside the revenue allocation area; <u>and</u>

(ii) A portion of the taxes levied by the taxing district or on its behalf on the taxable property located within the revenue allocation area, which portion is the amount produced by applying the taxing district's tax rate determined under subsection (1) of this section to the equalized assessed valua-

tion, as shown on the base assessment roll, of the taxable property located within the revenue allocation area~~;and~~
~~(iii) If such taxing district is a school district, a further portion of the taxes levied by such district or on its behalf on the taxable property located within the revenue allocation area, which portion is the amount equal to the percentage specified in section 33-1002(7)(a), Idaho Code, multiplied by the difference between the current equalized assessed valuation of such taxable property and the equalized assessed valuation of such taxable property as shown on the base assessment roll.~~

(b) To the urban renewal agency shall be allocated the balance, if any, of the taxes levied on the taxable property located within the revenue allocation area.

(3) Upon enactment of an ordinance adopting a revenue allocation financing provision as part of an urban renewal plan, the urban renewal agency shall create a special fund or funds to be used for the purposes enumerated in this chapter. The revenues allocated to the urban renewal agency pursuant to this chapter, shall be paid to the agency by the treasurer of the county in which the revenue allocation district is located and shall be deposited by the agency into one (1) or more of such special funds. The agency may, in addition, deposit into such special fund or funds such other income, proceeds, revenues and funds it may receive from sources other than the revenues allocated to it under subsection (2)(b) of this section.

(4) For the purposes of section 63-803, Idaho Code, during the period when revenue allocation under this chapter is in effect, and solely with respect to any taxing district in which a revenue allocation area is located, the county commissioners shall, in fixing any tax levy, take into consideration the equalized assessed valuation of the taxable property situated in the revenue allocation area as shown in the base assessment roll, rather than the current equalized assessed value of such taxable property.

(5) For all other purposes, including, without limitation, for purposes of sections 33-802, 33-1002 and 63-1313, Idaho Code, reference in the Idaho Code to the term "market value for assessment purposes" (or any other such similar term) shall mean market value for assessment purposes as defined in section 63-208, Idaho Code.

SECTION 15. That Section 63-315, Idaho Code, be, and the same is hereby amended to read as follows:

63-315. ASSESSMENT RATIOS AND THE DETERMINATION OF ADJUSTED MARKET VALUE FOR ASSESSMENT PURPOSES FOR SCHOOL DISTRICTS. (1) The provisions of this section shall apply only to charter districts levying a maintenance and operation levy in the prior calendar year. For the purpose of this section, adjusted market value for assessment purposes shall be the adjusted market value for assessment purposes of all property assessed for property tax purposes for the year referred to in sections 33-802 and 33-1002, Idaho Code.

(2) The state tax commission shall conduct a ratio study to annually ascertain the ratio between the assessed value and the market value for assessment purposes of all property assessed for property tax pur-

poses. Said ratio study shall be conducted in accordance with nationally accepted procedures. From the ratio so ascertained the state tax commission shall compute the adjusted market value of all property assessed for property tax purposes.

(3) The ratio shall be computed in each school district and applied to the market value for assessment purposes within each school district.

(4) Sales used in determining the ratio required by this section shall be arm's length, market value property sales occurring in the year beginning on October 1 of the year preceding the year for which the adjusted market value is to be determined. The state tax commission may, at its discretion, modify the sales period when doing so produces provably better representativeness of the actual ratio in any school district. The state tax commission may also add independently conducted appraisals when the state tax commission believes that this procedure will improve the representativeness and reliability of the ratio.

(5) Whenever the state tax commission is unable to determine with reasonable statistical certainty that the assessed value within any school district differs from the market value for assessment purposes, the state tax commission may certify the assessed value to be the adjusted market value of any school district.

(6) The state tax commission shall certify the adjusted market value of each school district to the state department of education and each county auditor no later than the first Monday in April each year. The state tax commission shall prepare a report indicating procedures used in computing the adjusted market value and showing statistical measures computed in the ratio study. This report shall be submitted to the state department of education at the same time as the certification of adjusted market value. The report of the state tax commission shall also be made available for public inspection in the office of the county auditor.

(7) The state tax commission shall promulgate rules to implement the ratio study described in this section.

SECTION 16. That Section 63-802A, Idaho Code, be, and the same is hereby amended to read as follows:

63-802A. NOTICE OF BUDGET HEARING. (1) Not later than April 30 of each year, each taxing district shall set and notify the county clerk of the date and location set for the budget hearing of the district. If no budget hearing is required by law, the county clerk shall be so notified.

(2) Beginning in 2003, a ~~nonschool~~ taxing district that fails to comply with subsection (1) of this section shall be prohibited from including in its budget any budget increase otherwise permitted by either subsection (1)(a) or (1)(e) of section 63-802, Idaho Code.

(3) ~~Beginning--in-2003,-a-school-district-that-fails-to-comply-with subsection-(1)-of-this-section-shall-be-prohibited,-in-the-year-of--such failure,--from--increasing-the-portion-of-its-property-tax-budget-raised under-section-33-802-2.,-Idaho-Code,-over-the-amount-of-the--immediately preceding-year.~~

~~(4)~~ If a taxing district wishes to change the time and location of such budget hearing as stated on the assessment notice, ~~they~~ it shall

publish such change of time and location in advance of such hearing as provided by law.

SECTION 17. That Section 63-811, Idaho Code, be, and the same is hereby amended to read as follows:

63-811. COMPUTATION OF PROPERTY TAXES -- DUTY OF COUNTY AUDITOR. (1) The county auditor must cause to be computed the amount of the local property taxes levied on the total of the taxable value as entered on the property and operating property rolls, and must deliver the property and operating property rolls to the tax collector on or before the first Monday of November.

(2) The county auditor must cause to be computed the amount of the local property taxes levied on the total of the taxable value as entered on the subsequent property roll, and must deliver the subsequent property roll to the tax collector as soon as possible, without delay, after the first Monday of December.

(3) The county auditor must cause to be computed the amount of the state property tax and the amount of the local property taxes levied on the total taxable value as entered on the missed property roll, and must deliver the missed property roll to the tax collector as soon as possible, without delay, after the first Monday of March of the year following the year in which the assessment was entered on the missed property roll.

(4) For the purpose of this section, "taxable value" shall mean the portion of the equalized assessed value, less any exemptions and the value that exceeds the value of the base assessment roll for the portion of any taxing district within a revenue allocation area of an urban renewal district, located within each taxing district which certifies a budget to be raised from a property tax levy. ~~When the portion of the property tax to be allocated to school districts as required in sections 33-1002 and 50-2908, Idaho Code, is calculated, the taxable value must include the value that exceeds the value of the base assessment roll.~~

(5) The county auditor, at the time of delivery to the county tax collector of the property roll, subsequent property roll, missed property roll or operating property roll with all property taxes computed, must subscribe an affidavit to such roll that he has to the best of his knowledge and ability computed the proper amount of property taxes due, and recorded such orders of the board of equalization as have been made and ~~have~~ has made no other changes.

(6) Failure of the auditor to make the affidavit shall not affect the validity of any entry on the roll. The making of such affidavit, however, is declared to be a duty pertaining to the office of the county auditor. In every case where the said affidavit is omitted from the real property assessment roll, completed and delivered as aforesaid, the board of county commissioners must require the county auditor to make the same, and upon refusal or neglect of such county auditor to make and subscribe to such affidavit forthwith, the chairman of the said board must immediately file in the district court in the county, an information in writing, verified by his oath, charging such county auditor with refusal or neglect to perform the official duties pertaining to his

office, and thereupon he must be proceeded against as in such cases provided by law.

SECTION 18. That Section 63-3619, Idaho Code, be, and the same is hereby amended to read as follows:

63-3619. IMPOSITION AND RATE OF THE SALES TAX. An excise tax is hereby imposed upon each sale at retail at the rate of ~~five~~ six percent (~~5~~6%) of the sales price of all retail sales subject to taxation under this chapter and such amount shall be computed monthly on all sales at retail within the preceding month.

(a) The tax shall apply to, be computed on, and collected for all credit, installment, conditional or similar sales at the time of the sale or, in the case of rentals, at the time the rental is charged.

(b) The tax hereby imposed shall be collected by the retailer from the consumer.

(c) The state tax commission shall provide schedules for collection of the tax on sales which involve a fraction of a dollar. The retailer shall calculate the tax upon the entire amount of the purchases of the consumer made at a particular time and not separately upon each item purchased. The retailer may retain any amount collected under the bracket system prescribed which is in excess of the amount of tax for which he is liable to the state during the period as compensation for the work of collecting the tax.

(d) It is unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold or that if added it or any part thereof will be refunded. Any person violating any provision of this section is guilty of a misdemeanor.

(e) The tax commission may by rule provide that the amount collected by the retailer from the customer in reimbursement of the tax be displayed separately from the list price, the price advertised on the premises, the marked price, or other price on the sales slip or other proof of sale.

(f) The taxes imposed by this chapter shall apply to the sales to contractors purchasing for use in the performance of contracts with the United States.

SECTION 19. That Section 63-3621, Idaho Code, be, and the same is hereby amended to read as follows:

63-3621. IMPOSITION AND RATE OF THE USE TAX -- EXEMPTIONS. An excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property acquired on or after ~~July~~ October 1, 2005~~6~~, for storage, use, or other consumption in this state at the rate of ~~five~~ six percent (~~5~~6%) of the value of the property, and a recent sales price shall be presumptive evidence of the value of the property unless the property is wireless telecommunications equipment, in which case a recent sales price shall be conclusive evidence of the value of the property.

(a) Every person storing, using, or otherwise consuming, in this

state, tangible personal property is liable for the tax. His liability is not extinguished until the tax has been paid to this state except that a receipt from a retailer maintaining a place of business in this state or engaged in business in this state given to the purchaser is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers. A retailer shall not be considered to have stored, used or consumed wireless telecommunications equipment by virtue of giving, selling or otherwise transferring such equipment at a discount as an inducement to a consumer to commence or continue a contract for telecommunications service.

(b) Every retailer engaged in business in this state, and making sales of tangible personal property for the storage, use, or other consumption in this state, not exempted under section 63-3622, Idaho Code, shall, at the time of making the sales or, if storage, use or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use or other consumption becomes taxable, collect the tax from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the state tax commission.

(c) The provisions of this section shall not apply when the retailer pays sales tax on the transaction and collects reimbursement for such sales tax from the customer.

(d) Every retailer engaged in business in this state or maintaining a place of business in this state shall register with the state tax commission and give the name and address of all agents operating in this state, the location of all distributions or sales houses or offices or other places of business in this state, and such other information as the state tax commission may require.

(e) For the purpose of the proper administration of this act and to prevent evasion of the use tax and the duty to collect the use tax, it shall be presumed that tangible personal property sold by any person for delivery in this state is sold for storage, use, or other consumption in this state. The burden of proving the sale is tax exempt is upon the person who makes the sale unless he obtains from the purchaser a resale certificate to the effect that the property is purchased for resale or rental. It shall be presumed that sales made to a person who has completed a resale certificate for the seller's records are not taxable and the seller need not collect sales or use taxes unless the tangible personal property purchased is taxable to the purchaser as a matter of law in the particular instance claimed on the resale certificate.

A seller may accept a resale certificate from a purchaser prior to the time of sale, at the time of sale, or at any reasonable time after the sale when necessary to establish the privilege of the exemption. The resale certificate relieves the person selling the property from the burden of proof only if taken from a person who is engaged in the business of selling or renting tangible personal property and who holds the permit provided for by section 63-3620, Idaho Code, or who is a retailer not engaged in business in this state, and who, at the time of purchasing the tangible personal property, intends to sell or rent it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose. Other than as provided elsewhere in this section, when a resale certificate, properly executed, is presented to the seller, the seller

has no duty or obligation to collect sales or use taxes in regard to any sales transaction so documented regardless of whether the purchaser properly or improperly claimed an exemption. A seller so relieved of the obligation to collect tax is also relieved of any liability to the purchaser for failure to collect tax or for making any report or disclosure of information required or permitted under this chapter.

The resale certificate shall bear the name and address of the purchaser, shall be signed by the purchaser or his agent, shall indicate the number of the permit issued to the purchaser, or that the purchaser is an out-of-state retailer, and shall indicate the general character of the tangible personal property sold by the purchaser in the regular course of business. The certificate shall be substantially in such form as the state tax commission may prescribe.

(f) If a purchaser who gives a resale certificate makes any storage or use of the property other than retention, demonstration or display while holding it for sale in the regular course of business, the storage or use is taxable as of the time the property is first so stored or used.

(g) Any person violating any provision of this section is guilty of a misdemeanor and punishable by a fine not in excess of one hundred dollars ($100), and each violation shall constitute a separate offense.

(h) It shall be presumed that tangible personal property shipped or brought to this state by the purchaser was purchased from a retailer, for storage, use or other consumption in this state.

(i) It shall be presumed that tangible personal property delivered outside this state to a purchaser known by the retailer to be a resident of this state was purchased from a retailer for storage, use, or other consumption in this state. This presumption may be controverted by evidence satisfactory to the state tax commission that the property was not purchased for storage, use, or other consumption in this state.

(j) When the tangible personal property subject to use tax has been subjected to a general retail sales or use tax by another state of the United States in an amount equal to or greater than the amount of the Idaho tax, and evidence can be given of such payment, the property will not be subject to Idaho use tax. If the amount paid the other state was less, the property will be subject to use tax to the extent that the Idaho tax exceeds the tax paid to the other state. For the purposes of this subsection, a registration certificate or title issued by another state or subdivision thereof for a vehicle or trailer or a vessel as defined in section 67-7003, Idaho Code, shall be sufficient evidence of payment of a general retail sales or use tax.

(k) The use tax herein imposed shall not apply to the use by a nonresident of this state of a motor vehicle which is registered or licensed under the laws of the state of his residence and is not used in this state more than a cumulative period of time totaling ninety (90) days in any consecutive twelve (12) months, and which is not required to be registered or licensed under the laws of this state.

(l) The use tax herein imposed shall not apply to the use of household goods, personal effects and personally owned motor vehicles by a resident of this state, if such articles were acquired by such person in another state while a resident of that state and primarily for use outside this state and if such use was actual and substantial, but if an

article was acquired less than three (3) months prior to the time he entered this state, it will be presumed that the article was acquired for use in this state and that its use outside this state was not actual and substantial. For purposes of this subsection, "resident" shall be as defined in section 63-3013 or 63-3013A, Idaho Code.

(m) The use tax herein imposed shall not apply to the storage, use or other consumption of tangible personal property which is or will be incorporated into real property and which has been donated to and has become the property of:

(1) A nonprofit organization as defined in section 63-36220, Idaho Code; or

(2) The state of Idaho; or

(3) Any political subdivision of the state.

This exemption applies whether the tangible personal property is incorporated in real property by the donee, a contractor or subcontractor of the donee, or any other person.

SECTION 20. 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.

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(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~~ Eleven and ~~three-quarters~~ five-tenths percent (~~13.75~~11.5%) 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 subsection (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 subsection (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 subsection (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 subsection (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 subsection (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.

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(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, ~~L~~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~~ minus .004 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~~, provided that the result of these calculations shall not be less than zero (0). The result of these school district calculations shall be further increased by six percent (6%). 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.

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(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 21. That Section 63-3640, Idaho Code, be, and the same is hereby amended to read as follows:

63-3640. CONTRACTS ENTERED INTO BEFORE EFFECTIVE DATE OF INCREASED TAX. (1) Commencing ~~May 1, 2003, and ending June 30, 2005~~ October 1, 2006, the purchase, use, storage or other consumption of tangible personal property which is otherwise subject to the taxes imposed by this chapter by persons defined in section 63-3609(a), Idaho Code, shall be exempt from one cent (1¢) of the taxes imposed by sections 63-3619 and 63-3621, Idaho Code, if:

(a) The tangible personal property is purchased, used, stored or otherwise consumed for incorporation into real property; and

(b) The tangible personal property is purchased, used, stored or otherwise consumed in regard to a project performed by such person pursuant to a qualified contract; and

(c) The taxpayer claims the exemption in the manner provided by subsection (3) of this section.

(2) As used in this section, the term "qualified contract" means a contract which:

(a) Is a written contract; and

(b) Was in effect on ~~April 15, 2003~~ September 1, 2006, or was submitted for bid or bid in written form on or before ~~April 15, 2003~~ September 1, 2006, and subsequently became a written contract; and

(c) Was negotiated or bid based upon the sales or use tax being five percent (5%); and

(d) Requires the cost of the sales or use tax to be borne by the contractor.

(3) A person entitled to the exemption granted in subsection (1) of this section may submit a claim for refund to the state tax commission for the amount of one cent (1¢) of the tax imposed by sections 63-3619 and 63-3621, Idaho Code, if it has actually been paid by him. The claim for refund shall include:

(a) A copy of a written contract which is a qualified contract; and

(b) A detailed invoice prepared by the seller showing all items of tangible personal property purchased by the claimant, the sale of which is subject to the exemption granted in subsection (1) of this section; and

(c) A document signed by the purchaser certifying that the tangible personal property shown on the invoice required by subsection (3)(b) of this section has in fact been used by him on the project to which the qualified contract relates.

(4) Upon receipt of the claim for refund, the state tax commission shall review the claim and, if it finds it to be proper, shall pay the refund together with interest from the date that the claim was filed at the rate established by section 63-3045, Idaho Code, within thirty (30) days from the date the claim was received by the commission.

(5) The use or incorporation into real property of any tangible personal property upon which the exemption provided by subsection (1) of

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this section has been claimed pursuant to any contract other than a qualified contract shall be a misdemeanor.

(6) In addition to the criminal penalties provided by subsection (5) of this section, the use or incorporation into real property of tangible personal property upon which the exemption provided by subsection (1) of this section has been claimed pursuant to any contract which is not a qualified contract shall subject the user to a penalty of three (3) times the sales or use tax otherwise due under this chapter to be enforced and collected as provided by sections 63-3634 and 63-3635, Idaho Code.

(7) In the case of a retailer who makes sales of tangible personal property to any person entitled to the exemption granted in subsection (1) of this section who is for any reason unable to collect one cent (1¢) of the tax imposed by sections 63-3619 and 63-3621, Idaho Code, from the purchaser, the retailer shall be entitled to claim the refund otherwise available to the purchaser. The claim for refund shall be filed in the manner prescribed by subsection (3) of this section. Nothing in this subsection shall excuse the retailer from reporting sales and use taxes at the full statutory rate on all taxable sales made during the period to which his sales or use tax return relates. If a refund claim is filed concurrently with the return, the refund claimed may be credited against the tax due on the return. Any retailer who claims a refund for any taxes actually collected from the purchaser shall be subject to a penalty of three (3) times the sales or use tax refund improperly claimed to be enforced and collected as provided by sections 63-3634 and 63-3635, Idaho Code.

SECTION 22. There is hereby appropriated the following amount to be transferred to the Public School Income Fund for the period July 1, 2006, through June 30, 2007:

FROM:

General Fund $250,645,700

SECTION 23. In addition to any other appropriation provided by law, there is hereby appropriated to the Educational Support Program/Division of Operations, pursuant to law and the provisions of this act the following amount to be expended from the listed fund for the period July 1, 2006, through June 30, 2007:

FROM:

Public School Income Fund $250,645,700

SECTION 24. The State Controller shall transfer $100,000,000 from the General Fund to the Public Education Stabilization Fund by no later than February 1, 2007.

SECTION 25. The Legislature finds and declares that the issue of the property tax funding maintenance and operations of public schools is of importance to the citizens of the state of Idaho. As a representative body, members of the Legislature desire to be responsive and responsible to these citizens. For this reason, the Legislature herewith submits an advisory ballot to the electors of the state of Idaho, and the results will guide the Legislature as to whether the three-tenths of

one percent property tax previously contained in Section 33-802, Idaho Code, and levied against the market value of taxable property in the school districts for maintenance and operation purposes of school districts should continue to be removed and the funds be replaced by a sufficient increase in the state sales tax.

The Secretary of State shall have the question below placed on the 2006 general election ballot and shall take necessary steps to have the results on the question tabulated. The question shall be as follows:

"Should the State of Idaho keep the property tax relief adopted in August 2006, reducing property taxes by approximately $260 million and protecting funding for public schools by keeping the sales tax at 6%?".

The advisory question provided for in this act is hereby declared to be a "measure" for purposes of Chapter 66, Title 67, Idaho Code, and the provisions of Chapter 66, Title 67, Idaho Code, shall apply thereto.

SECTION 26. 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 27. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 26 of this act shall be in full force and effect on and after passage and approval and retroactively to January 1, 2006. Sections 18 and 19 of this act shall be in full force and effect on and after October 1, 2006. Section 20 of this act shall be in full force and effect on and after November 1, 2006. Sections 21, 22, 23, 24 and 25 of this act shall be in full force and effect on and after passage and approval.

CHAPTER 1
(H.B. No. 1)

AN ACT

RELATING TO TAXATION; PROVIDING A SHORT TITLE; AMENDING SECTION 33-701, IDAHO CODE, TO PROVIDE A GRAMMATICAL CORRECTION, TO DELETE REFERENCE TO SCHOOL MAINTENANCE AND OPERATION LEVIES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-802, IDAHO CODE, TO DELETE REFERENCE TO SCHOOL DISTRICT LEVIES THAT MAY BE IMPOSED WITHOUT VOTER APPROVAL, TO DELETE REFERENCE TO THE CREDIT FOR PREPAID TAXES, TO PROVIDE BUDGET STABILIZATION LEVIES FOR CERTAIN DISTRICTS, TO DELETE THE LOCAL DISTRICT CONTRIBUTION FOR SCHOOL FORMULA PURPOSES, TO PROVIDE FOR CHARTER DISTRICT LEVIES FOR MAINTENANCE AND OPERATION CONSISTENT WITH THE DISTRICT'S CHARTER, TO PROVIDE FOR PROPERTY IN A REVENUE ALLOCATION AREA WITHIN A CHARTER DISTRICT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-802A, IDAHO CODE, TO CLARIFY REFERENCES TO SCHOOL LEVIES; AMENDING SECTION 33-808, IDAHO CODE, TO PROVIDE NOTICE BY CHARTER DISTRICTS, TO PROVIDE CORRECT CODE CITATIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-905, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-907, IDAHO CODE, TO PROVIDE THAT BALANCES IN THE FUND THAT ARE IN EXCESS OF A CERTAIN AMOUNT SHALL BE TRANSFERRED TO THE BOND LEVY EQUALIZATION FUND AND TO PROVIDE THAT INTEREST EARNINGS BE RETAINED IN THE PUBLIC EDUCATION STABILIZATION FUND; AMENDING SECTION 33-1002, IDAHO CODE, TO REVISE HOW THE EDUCATIONAL SUPPORT PROGRAM IS CALCULATED, TO PROVIDE ELIGIBILITY FOR CHARTER DISTRICTS TO CONTINUE TO RECEIVE SCHOOL FORMULA MONEYS AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 33-1002A, IDAHO CODE, RELATING TO THE LOCAL DISTRICT CONTRIBUTION REDUCTION AND REPEALING SECTION 33-1002D, IDAHO CODE, RELATING TO PROPERTY TAX REPLACEMENT; AMENDING SECTION 33-1003, IDAHO CODE, TO DELETE REFERENCE TO AN OBSOLETE PROVISION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-1004, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-1408, IDAHO CODE, TO REVISE THE SPECIAL LEVY FOR TUITION AND TO EXEMPT THE LEVY FROM THE THREE PERCENT PROPERTY TAX CAP; AMENDING SECTION 33-5208, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 50-2908, IDAHO CODE, TO DELETE REFERENCE TO PROPERTY TAX FOR SCHOOLS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 63-315, IDAHO CODE, TO PROVIDE APPLICATION TO CHARTER DISTRICTS LEVYING A MAINTENANCE AND OPERATION LEVY IN THE PRIOR CALENDAR YEAR; AMENDING SECTION 63-802A, IDAHO CODE, TO DELETE REFERENCE TO SCHOOL DISTRICT MAINTENANCE AND OPERATION LEVIES, TO PROVIDE APPLICATION TO SCHOOL DISTRICTS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 63-811, IDAHO CODE, TO DELETE REFERENCE TO PROPERTY TAX ALLOCATED FOR SCHOOLS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 63-3619, IDAHO CODE, TO INCREASE THE SALES TAX TO SIX PERCENT; AMENDING SECTION 63-3621, IDAHO CODE, TO INCREASE THE USE TAX TO SIX PERCENT; AMENDING SECTION 63-3638, IDAHO CODE, TO REVISE THE DISTRIBUTION FOR SALES TAX REVENUES, TO DELETE REFERENCE TO MAINTENANCE AND OPERATION TAXES FOR SCHOOL DISTRICTS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 63-3640, IDAHO CODE, TO PROVIDE DATE CHANGES FOR CERTAIN CONTRACTS; APPROPRIATING MONEYS FROM

THE GENERAL FUND TO THE PUBLIC SCHOOL INCOME FUND FOR FISCAL YEAR 2007; APPROPRIATING ADDITIONAL MONEYS FROM THE PUBLIC SCHOOL INCOME FUND TO THE EDUCATIONAL SUPPORT PROGRAM/DIVISION OF OPERATIONS FOR FISCAL YEAR 2007; DIRECTING THE STATE CONTROLLER TO TRANSFER MONEYS FROM THE GENERAL FUND TO THE PUBLIC EDUCATION STABILIZATION FUND BY A DATE CERTAIN; STATING LEGISLATIVE FINDINGS, SUBMITTING AN ADVISORY VOTE TO THE ELECTORS, DIRECTING THE SECRETARY OF STATE TO SUBMIT THE QUESTION, STATING THE QUESTION TO BE SUBMITTED, DECLARING THE ADVISORY QUESTION A MEASURE AND MAKING APPLICABLE CERTAIN PROVISIONS GOVERNING ELECTION CAMPAIGN CONTRIBUTIONS AND EXPENDITURES; PROVIDING SEVERABILITY; DECLARING AN EMERGENCY, PROVIDING RETROACTIVE APPLICATION AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. SHORT TITLE. This act may be known and cited as the "Property Tax Relief Act of 2006."

SECTION 2. That Section 33-701, Idaho Code, be, and the same is hereby amended to read as follows:

33-701. FISCAL YEAR -- PAYMENT AND ACCOUNTING OF FUNDS. The fiscal year of each school district shall be a period of twelve (12) months commencing on the first day of July in each year.

The board of trustees of each school district shall have the following powers and duties:

1. To determine and order paid all lawful expenses for salaries, wages and purchases, whether or not there be money in the treasury for payment of warrants drawn against any fund of the district. Warrants shall be signed by the treasurer of the district and countersigned by the chairman or vice-chairman of the board of trustees.

Whenever any school district has sufficient funds on deposit ~~so~~ to do so, it may pay any allowed claim for salaries, wages or purchases by regular bank check signed by the treasurer or assistant treasurer of the district and countersigned by the chairman, or vice-chairman, of the board of trustees.

The total amount of warrants or orders for warrants drawn on any fund, together with disbursements from such fund in any other manner made, shall not exceed ninety-five percent (95%) of the estimated income and revenue accrued or accruing to such fund for the same school year, until such income and revenue shall have been paid into the treasury to the credit of the district;

2. To invest all or part of any plant facilities reserve fund, or any fund accumulated for the payment of interest on, and the redemption of, outstanding bonds, or other obligations of the district in bonds or certificates of indebtedness of the United States of America, or in bonds or warrants of the state of Idaho, or in warrants or tax anticipation notes of any county or school district of the state of Idaho, when such investments shall be due and payable on or before the date any plant facilities reserve fund shall be required to be expended or any bonds or other obligations, or interest thereon, of the investing district shall become payable.

Whenever in the judgment of the board of trustees, the proceeds of any bond issue should be temporarily invested pending the expenditure of

such proceeds for the purposes for which such bonds were issued, the proceeds may be invested in the manner and form hereinabove prescribed. Any interest, or profits accruing from such investments shall be used for the purposes for which the bonds were issued. Unless otherwise provided by law, any interest or profits accruing from the investment of any funds shall be credited to the general fund of the district;

3. To insure any ~~school-house~~ schoolhouse and other property, and the district, against any loss by fire, casualty, or liability, and the board, its officers and employees, and to preserve its property for the benefit of the district. In case of loss of any insured property, any proceeds from insurance:

(a) ~~m~~May be expended in constructing a temporary or permanent structure, but no sum greater than the insurance proceeds shall be so expended except upon approval of a majority of the school district electors voting in an election called for that purpose; or

(b) ~~m~~May be placed in and made a part of the school plant facilities reserve fund of the district, if the district has such a fund; or

(c) ~~m~~May be placed in a separate account in the bond interest and redemption fund of the district to repay any kind of obligation incurred by the district in replacing or restoring the property for which the insurance proceeds were received, and shall not be included in the computations of bond and bond interest levies as provided in section 33-802A, Idaho Code.

If the proceeds of any insurance received by a school district by reason of loss on real property shall be less than five thousand dollars ($5,000), such proceeds may be credited to the general fund of the district;

4. To pay from the general fund of the district the expense of any member of the board incurred while traveling on the business of the board, or attending any meeting called by the state board of education or by the state superintendent of public instruction, or attending any annual or special meetings of the state school trustees association, and to pay the membership fee of the board of trustees in said association. Whenever any member of the board of trustees resides at such distance from the meeting place of the board as to require, in the judgment of the board, such member to incur extraordinary expense in traveling from his home to and from said meeting place, the board may approve payment to such member of the extraordinary expense incurred in attending any meeting of the board.

For the purpose of this paragraph, the term "expense" or "extraordinary expense" shall include allowance for mileage or actual travel expense incurred;

5. To prepare, or cause to be prepared and published, in the manner hereinafter prescribed, within one hundred twenty (120) days from the last day of each fiscal year, an annual statement of financial condition and report of the school district as of the end of such fiscal year in a form prescribed by the state superintendent of public instruction. Such annual statement shall include, but not be limited to, the amounts of money budgeted and received and from what sources, and the amounts budgeted and expended for salaries and other expenses by category. Salaries may be reported in gross amount. Each school district shall have available at the administrative office, upon request, a full and complete list of vendors and the amount paid to each and a list of the number of

teachers paid at each of the several stated gross salary levels in effect in the district.

Nothing herein provided shall be construed as limiting any school district as to any additional or supplementary statements and reports it may elect to make for the purpose of informing the public of its financial operations, either as to form, content, method, or frequency; and if all the information required herein to be published shall have been published as provided herein at regular intervals during the fiscal year covering successive portions of the fiscal year, then such information may be omitted from the annual statement of financial condition and report for such portions of the fiscal year as already have been reported.

The annual statement of financial condition and report shall be published within the time above prescribed in one (1) issue of a newspaper printed and published within the district, or, if there be none, then in a newspaper as provided in section 60-106, Idaho Code, published within the district, or, if there be none, then in a newspaper as provided in section 60-106, Idaho Code, in the county in which the school district is located, or, if more than one (1) newspaper is published in said district or county, then in the newspaper most likely to give best general notice of the contents of such annual statement of financial condition and report to the residents of said district; provided, that if no newspaper is published in the district or county, then such statement of financial condition and report shall be published in a newspaper as provided in section 60-106, Idaho Code, most likely to give best general notice of the contents to the residents of said district.

The chairman, clerk and treasurer of each school district shall certify the annual statement of financial condition and report to be true and correct, and the certification shall be included in each published statement.

In the event the board of trustees of any school district shall fail to prepare or cause to be prepared or to publish the annual statement of financial condition and report as herein required, the state superintendent of public instruction shall cause the same to be prepared and published, and the cost thereof shall be an obligation of the school district. One (1) copy of the annual statement of financial condition and report shall be retained in the office of the clerk of the board of school trustees, where the same shall be open at all times to examination and inspection by any person;

6. To cause to be made a full and complete audit of the financial statements of the district as required in section 67-450B, Idaho Code.

The auditor shall be employed on written contract.

One (1) copy of the audit report shall be filed with the state department of education, after its acceptance by the board of trustees, but not later than October 15;

7. To file annually with the state department of education such financial and statistical reports as said state superintendent of public instruction may require;

8. To order and have destroyed any canceled check or warrant, or any form of claim or voucher which has been paid, at any time after five (5) years from the date the same was canceled and paid;

9. To review the school district budget periodically and make appropriate budget adjustments to reflect the availability of funds and the requirements of the school district. ~~Revenue--derived--from--mainte-~~

~~nance--and--operation--levies--made--pursuant-to-section-33-802-2,-Idaho Code,-shall-be-excluded-from-budget--adjustments--as--provided--in--this paragraph.~~ Any person or persons proposing a budget adjustment under this section shall notify in writing each member of the board of trustees one (1) week prior to the meeting at which such proposal will be made. Prior to the final vote on such a proposal, notice shall be posted and published once, as prescribed in section 33-402, Idaho Code. A budget adjustment shall not be approved unless voted affirmatively by sixty percent (60%) of the members of the board of trustees. Such amended budgets shall be submitted to the state superintendent of public instruction;

10. To invest any money coming into the hands of the school district in investments permitted by section 67-1210, Idaho Code. Unless otherwise provided by law, any interest or profits accruing from the investment of any funds shall be credited to the general fund of the district.

SECTION 3. That Section 33-802, Idaho Code, be, and the same is hereby amended to read as follows:

33-802. SCHOOL LEVIES. Any tax levied for school purposes shall be a lien on the property against which the tax is levied. The board of trustees shall determine the levies upon each dollar of taxable property in the district for the ensuing fiscal year as follows:

(1~~.~~) Bond, Interest and Judgment Obligation Levies. Such levies as shall be required to satisfy all maturing bond, bond interest, and judgment obligations.

(2~~.~~) ~~Maximum School Maintenance and Operation~~ Budget Stabilization Levies. ~~Such--levies--for--maintaining-and-operating-the-schools-of-the district-and-for-the-payment-of-tuition-and-transportation,-that-do--not exceed--an--amount--equal-to-four-tenths-of-one-percent-(.4%)-during-tax year-1994,-and-do-not-exceed-an-amount-equal-to-three-tenths-of-one-percent-(.3%)-during-tax-year-1995-and-thereafter,-applied-to-the-actual-or adjusted-market-value-for-assessment-purposes-of-the--district--as--such valuation--existed--on--December-31-of-the-previous-year,-but-allowances necessary-as-a-credit-for-prepaid-taxes,-as-provided-in-section-63-1607, Idaho-Code,-shall-not-be-included-in-such-maximum-levies.-Provided--however,--that-in-the-event-property-within-a-district's-boundaries-is-contained-in-a-revenue-allocation-area-established-under-chapter-29,--title 50,--Idaho--Code,--and--such-revenue-allocation-area-has-given-notice-of termination-thereunder,-then,-only-for-the-purpose--of--determining--the levy--described--in--this-subsection,-the-district-may-add-the-increment value,-as-defined-in-section-50-2903,--Idaho--Code,--to--the--actual--or adjusted--market--value--for-assessment-purposes-of-the-district-as-such value-existed-on-December-31-of-the-previous-year.~~

~~3.--Authorized-School-Maintenance-and-Operation-Levies.-Such--levies for--maintaining--and--operating-the-schools-of-the-district-and-for-the payment-of-tuition-and-transportation-that-do--not--exceed--one--hundred eleven-percent-(111%)-of-the-local-district's-contribution-authorized-in subsection-2.-of-section-33-1002,-Idaho-Code.-Implementation-of-the-provisions--of-this-subsection-shall-be-authorized-only-after-approval-by-a majority-of-the-district's--electors--voting--on--the--question.--Levies otherwise--authorized--by--law-shall-not-require-an-election~~ School districts not receiving state equalization funds in fiscal year 2006 may authorize a budget stabilization levy for calendar year 2006 and each

year thereafter. Such levies shall not exceed the difference between the amount of equalized funds that the state department of education estimates the school district will receive in fiscal year 2007, based on the school district's fiscal year 2006 reporting data, and the combined amount of money the school district would have received from its maintenance and operation levy and state property tax replacement funds in fiscal year 2007 under the laws of the state of Idaho as they existed prior to amendment by the first extraordinary session of the fifty-eighth Idaho legislature. The state department of education shall notify the state tax commission and affected counties and school districts of the maximum levy amounts permitted, by no later than September 1, 2006.

~~4.~~(3) Supplemental Maintenance and Operation Levies. No levy in excess of the levy permitted by ~~subsection 2. or 3. of~~ this section shall be made by a noncharter ~~school~~ district unless such a supplemental levy in a specified amount and for a specified time not to exceed two (2) years be first authorized through an election held pursuant to chapter 4, title 33, Idaho Code, and approved by a majority of the district electors voting in such election. A levy approved pursuant to this subsection may be reduced by a majority vote of the board of trustees in the second year.

~~5.~~(4) Charter District Supplemental Maintenance and Operation. Levies pursuant to the respective charter of any such charter district shall be first authorized through an election held pursuant to chapter 4, title 33, Idaho Code, and approved by a majority of the district electors voting in such election.

~~6. The Local District Contribution. The local school district contribution levy is the amount utilized for calculating local district participation in the educational foundation program, which is applied to the adjusted market value for assessment purposes, as such valuation existed on December 31 of the previous year, together with the increment value, as defined in section 50-2903, Idaho Code, if applicable under the circumstance described in subsection 2. of this section, relating to termination of a revenue allocation area.~~

~~7.~~(5) The board of trustees of any school district that has, for at least seven (7) consecutive years, been authorized through an election held pursuant to chapter 4, title 33, Idaho Code, to certify a supplemental levy that has annually been equal to or greater than twenty percent (20%) of the total general maintenance and operation fund, may submit the question of an indefinite term supplemental levy to the electors of the school district. Such question shall clearly state the dollar amount that will be certified annually and that the levy will be for an indefinite number of years. The question must be approved by a majority of the district electors voting on the question in an election held pursuant to chapter 4, title 33, Idaho Code. The levy approved pursuant to this subsection may be reduced by a majority vote of the board of trustees during any fiscal year.

(6) A charter district may levy for maintenance and operations if such authority is contained within its charter. In the event property within a charter district's boundaries is contained in a revenue allocation area established under chapter 29, title 50, Idaho Code, and such revenue allocation area has given notice of termination thereunder, then, only for the purpose of determining the levy described in this subsection, the district may add the increment value, as defined in sec-

tion 50-2903, Idaho Code, to the actual or adjusted market value for assessment purposes of the district as such value existed on December 31 of the previous year.

SECTION 4. That Section 33-802A, Idaho Code, be, and the same is hereby amended to read as follows:

33-802A. COMPUTATION OF BOND AND BOND INTEREST LEVIES. When the board of trustees of any school district determines and makes ~~the~~ a levy ~~required~~ allowed by section 33-802, Idaho Code, and incorporates such levy as a part of the school district's budget to service all maturing bond and bond interest payments for the ensuing fiscal year, it shall take into consideration any state bond levy equalization funds provided pursuant to section 33-906, Idaho Code, and any balances remaining or that may remain in its bond interest and redemption fund after meeting its bond and bond interest obligations for its current fiscal year. The levy so made for the ensuing fiscal year shall be an amount which, together with any state bond levy equalization funds provided pursuant to section 33-906, Idaho Code, and the balance in its bond interest and redemption fund remaining after meeting its current fiscal year bond and bond interest obligations, shall satisfy all maturing bond and bond interest payments for at least the ensuing twelve (12) months, and not to exceed the ensuing twenty-one (21) months counted from July 1 of the current calendar year.

SECTION 5. That Section 33-808, Idaho Code, be, and the same is hereby amended to read as follows:

33-808. NOTICE OF ADJUSTMENT TO MARKET VALUE FOR ASSESSMENT PURPOSES UPON TERMINATION OF A REVENUE ALLOCATION AREA. (1) A ~~school~~ charter district with a maintenance and operation levy in the immediately previous year that shall adjust its market value for assessment purposes in accordance with the provisions of section 33-802 ~~2.~~(6), Idaho Code, relating to termination of a revenue allocation area, shall advertise its action by publishing in at least the newspaper of largest paid circulation published in the county of the district, or if there is no such newspaper, then in a newspaper published nearest to the district where the advertisement is required to be published.

(2) For purposes of this section, the definition of "newspaper" shall be as established in sections 60-106 and 60-107, Idaho Code; provided further, that the newspaper of largest circulation shall be established by the statement of average annual paid weekday circulation listed on the newspaper's sworn statement of ownership that was filed with the United States post office on a date most recently preceding the date on which the advertisement required in this section is to be published. The advertisement shall be run when the school district ascertains that it will adjust its market value for assessment purposes in accordance with the provisions of section 33-802 ~~2.~~(6), Idaho Code, relating to termination of a revenue allocation area, and shall be published once a week for two (2) weeks following action by the board of trustees.

(3) The form and content of the notice shall be substantially as follows:

NOTICE OF PROPERTY TAX ADJUSTMENT BY SCHOOL BOARD

The (insert name of the school district) hereinafter the "District," has increased its market value for assessment purposes as of December 31, ..., by the amount of the increment value of the (insert name of Redevelopment Agency Revenue Allocation Area) on such date, in accordance with the provisions of Section 33-802, Idaho Code, because the revenue allocation area gave notice of termination pursuant to Section 50-2903, Idaho Code, and as a result thereof property taxes on the incremental value of the revenue allocation area will not be collected and distributed to the District. Section 33-802, Idaho Code, permits the District to replace those funds by adjusting its market value as described herein. The total amount of dollars in property taxes to be directly collected by the District pursuant to this action is estimated to be $.....

SECTION 6. That Section 33-905, Idaho Code, be, and the same is hereby amended to read as follows:

33-905. SCHOOL DISTRICT BUILDING ACCOUNT -- PAYMENTS TO ACCOUNT -- MONEYS APPROPRIATED TO STATE BOARD -- APPLICATION FOR MONEYS -- PAYMENTS TO DISTRICTS -- REPORTS ON APPLICATIONS -- USES OF MONEYS. (1) The state of Idaho, in order to fulfill its responsibility to establish and maintain a general, uniform and thorough system of public, free common schools, hereby creates and establishes the school district building account in the state treasury. The school district building account shall have paid into it such appropriations or revenues as may be provided by law.

(2) By not later than August 31, moneys in the account pursuant to distribution from section 67-7434, Idaho Code, the lottery dividends and interest earned thereon, shall be distributed to each of the several school districts, in the proportion that the average daily attendance of that district for the previous school year bears to the total average daily attendance of the state during the previous school year. For the purposes of this subsection (2) only, the Idaho school for the deaf and the blind shall be considered a school district, and shall receive a distribution based upon the average daily attendance of the school. Average daily attendance shall be calculated as provided in section 33-1002 ~~5~~(3), Idaho Code.

(3) Any other state moneys that may be made available shall be distributed to meet the requirements of section 33-1019, Idaho Code. If the amount of such funds exceeds the amount needed to meet the provisions of section 33-1019, Idaho Code, then the excess balance shall be transferred to the public education stabilization fund.

(4) All payments from the school district building account shall be paid out directly to the school district in warrants drawn by the state controller upon presentation of proper vouchers from the state board of education. Pending payments out of the school district building account, the moneys in the account shall be invested by the state treasurer in the same manner as provided under section 67-1210, Idaho Code, with respect to other idle moneys in the state treasury. Interest earned on the investments shall be returned to the school district building account.

(5) Payments from the school district building account received by

a school district shall be used by the school district for the purposes authorized in section 33-1019, Idaho Code, up to the level of the state match so required. Any payments from the school district building account received by a school district that are in excess of the state match requirements of section 33-1019, Idaho Code, may be used by the school district for the purposes authorized in section 33-1102, Idaho Code.

SECTION 7. That Section 33-907, Idaho Code, be, and the same is hereby amended to read as follows:

33-907. PUBLIC EDUCATION STABILIZATION FUND. There is hereby created in the state treasury a fund to be known as the public education stabilization fund, which shall function as a fund detail of the public school income fund. The fund shall consist of moneys transferred to the fund according to the provisions of sections 33-905 and 33-1018, Idaho Code, and any other moneys made available through legislative transfers or appropriations. Moneys in the fund are hereby continuously appropriated for the purposes stated in sections 33-1018 and 33-1018B, Idaho Code, and shall only be expended for the purposes stated in sections 33-1018, 33-1018A and 33-1018B, Idaho Code. Any accumulated balances in the fund that are in excess of ~~five~~ eight and one-third percent (~~5~~8.334%) of the current fiscal year's total ~~general fund~~ appropriation of state funds for public school support shall be transferred to the bond levy equalization fund. Interest earned from the investment of moneys in the fund shall be ~~credited to~~ retained in the ~~public school income~~ fund.

SECTION 8. That Section 33-1002, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

(i~~.~~) For expenditure as provided by the public school technology program;

(j~~.~~) For the support of provisions that provide a safe environment conducive to student learning and maintain classroom discipline, an allocation of $300 per support unit; and

(k~~.~~) Any additional amounts as required by statute to effect administrative adjustments or as specifically required by the provisions of any bill of appropriation;

to secure the ~~state~~ total educational support distribution funds.

(3~~.~~) ~~Local--Districts'--Contribution-Calculation.-Without-including any-allowance-as-a-credit-for--prepaid--taxes--as--provided--by--section 63-1607,--Idaho--Code,--the--local--districts'-contribution-shall-be-the amount-appropriated-pursuant--to--section--33-1002D,--Idaho--Code,--plus three-tenths--percent--(.3%)--during--fiscal--year-2003-04-and-each-year thereafter,-of-the-total-state-adjusted-market-value-for-assessment-purposes-for-the-previous-year-with-such-value-being-determined-by-the-provisions-of-section-63-315,-Idaho-Code,--and--four-tenths--percent--(.4%) during--fiscal-year-1994-95-and-each-year-thereafter,-of-the-cooperative electrical-associations'-property-values-that-have-been-derived-from-the taxes-paid-in-lieu-of-property-taxes-for-the-previous-year--as--provided in--section--63-3502,-Idaho-Code-,-less-any--maintenance--and-operations levy-funds-credited-as-a-reduction-against-state-funds-provided-for-students-attending-school-in-another-state.~~

~~4.--Educational-Support-Program-Distribution-Funds.--Add--the--local districts'--contribution,--subsection--3.-of-this-section,-and-the-state educational-support--program--funds,--subsection--1.--of--this--section, together--to--secure--the-total-educational-support-program-distribution funds.~~

~~5.~~ Average Daily Attendance. The total state average daily attendance shall be the sum of the average daily attendance of all of the school districts of the state. The state board of education shall establish rules setting forth the procedure to determine average daily attendance and the time for, and method of, submission of such report. Average daily attendance calculation shall be carried out to the nearest hundredth. Computation of average daily attendance shall also be governed by the provisions of section 33-1003A, Idaho Code.

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

COMPUTATION OF KINDERGARTEN SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Units Allowed
41 or more	40.....	1 or more as computed
31 - 40.99 ADA....	-.....	1
26 - 30.99 ADA....	-.....	.85
21 - 25.99 ADA....	-.....	.75
16 - 20.99 ADA....	-.....	.6
8 - 15.99 ADA....	-.....	.5
1 - 7.99 ADA....	-.....	count as elementary

COMPUTATION OF ELEMENTARY SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
300 or more ADA.....		15
	..23...grades 4,5 & 6....	
	..22...grades 1,2 & 3....1994-95	
	..21...grades 1,2 & 3....1995-96	
	..20...grades 1,2 & 3....1996-97 and each year thereafter.	
160 to 299.99 ADA...	20.....	8.4
110 to 159.99 ADA...	19.....	6.8
71.1 to 109.99 ADA...	16.....	4.7
51.7 to 71.0 ADA...	15.....	4.0
33.6 to 51.6 ADA...	13.....	2.8
16.6 to 33.5 ADA...	12.....	1.4
1.0 to 16.5 ADA...	n/a.....	1.0

COMPUTATION OF SECONDARY SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
750 or more	18.5.....	47
400 - 749.99 ADA....	16.....	28
300 - 399.99 ADA....	14.5.....	22
200 - 299.99 ADA....	13.5.....	17
100 - 199.99 ADA....	12.....	9
99.99 or fewer	Units allowed as follows:	
Grades 7-12	.....	8
Grades 9-12	.....	6
Grades 7- 9	.....	1 per 14 ADA
Grades 7- 8	.....	1 per 16 ADA

COMPUTATION OF EXCEPTIONAL EDUCATION SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
14 or more	14.5.....	1 or more as computed
12 - 13.99....	-.....	1
8 - 11.99....	-.....	.75
4 - 7.99....	-.....	.5
1 - 3.99....	-.....	.25

COMPUTATION OF ALTERNATIVE SCHOOL SECONDARY SUPPORT UNITS

Pupils in Attendance	Attendance Divisor	Minimum Units Allowed
12 or more.....	12.....	1 or more as computed

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

~~7.~~(5) State Distribution Factor per Support Unit. Divide educational support program distribution funds, after subtracting the amounts necessary to pay the obligations specified in subsection (2~~.~~) of this section, by the total state support units to secure the state distribution factor per support unit.

~~8.~~(6) ~~District--Share--of--State-Funds-for-Educational-Support-Program.-Ascertain-a-district's-share-of-state-funds--for--the--educational support-program-as-follows:~~

~~a.--District--Contribution-Calculation.-Without-including-any-allowance-as-a-credit-for-prepaid-taxes,-as-provided-in-section--63-1607, Idaho--Code,-the-district-contribution-calculation-shall-be-the-rate determined-under-subsection-3.-of-this-section.~~

~~b.~~ District Support Units. The number of support units for each school district in the state shall be determined as follows:

(a) (~~1~~i) Divide the actual average daily attendance, excluding students approved for inclusion in the exceptional child educational program, for the administrative schools and each of the separate schools and attendance units by the appropriate divisor from the tables of support units in this section, then add the quotients to obtain the district's support units allowance for regular students, kindergarten through grade 12 including alternative school secondary students. Calculations in application of this subsection shall be carried out to the nearest tenth.

(~~2~~ii) Divide the combined totals of the average daily attendance of all preschool, handicapped, kindergarten, elementary, secondary and juvenile detention center students approved for inclusion in the exceptional child program of the district by the appropriate divisor from the table for computation of exceptional education support units to obtain the number of support units allowed for the district's approved exceptional child program. Calculations for this subsection shall be carried out to the nearest tenth when more than one (1) unit is allowed.

(~~3~~iii) The total number of support units of the district shall be the sum of the total support units for regular students, subsection--~~8.b.(1)~~(6)(a)(i) of this section, and the support units allowance for the approved exceptional child program, subsection ~~8.b.(2)~~(6)(a)(ii) of this section.

~~c.~~(b) Total District Allowance Educational Program. Multiply the district's total number of support units, carried out to the nearest

tenth, by the state distribution factor per support unit and to this product add the approved amount of programs of the district provided in subsection (2~~.~~) of this section to secure the district's total allowance for the educational support program.

~~d.~~(c) District Share. ~~To--secure--t~~The district's share of state apportionment~~,--subtract-the-amount-of-the-local--district--contribution--calculation,-subsection-3.-of-this-section,-from~~ is the amount of the total district allowance, subsection ~~8.c.~~(6)(b) of this section.

~~e.~~(d) Adjustment of District Share. The contract salary of every noncertificated teacher shall be subtracted from the district's share as calculated from the provisions of subsection ~~8.d.~~(6)(c) of this section.

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

SECTION 9. That Sections 33-1002A and 33-1002D, Idaho Code, be, and the same are hereby repealed.

SECTION 10. That Section 33-1003, Idaho Code, be, and the same is hereby amended to read as follows:

33-1003. SPECIAL APPLICATIONS OF EDUCATIONAL SUPPORT PROGRAM. (1~~.~~) Decrease in Average Daily Attendance. -- Any school district which has a decrease in total average daily attendance of one percent (1%) of its average daily attendance in the then current school year from the total average daily attendance used for determining the allowance in the educational support program for the school year immediately preceding, the allowance of funds from the educational support program may be based on the average daily attendance of the school year immediately preceding, less one percent (1%). When this provision is applied, the decrease in average daily attendance shall be proportionately distributed among the various categories of support units that are appropriate for the district.

(2~~.~~) Application of Support Program to Separate Schools/Attendance Units in District.

(a~~.~~) Separate Elementary School. -- Any separate elementary school shall be allowed to participate in the educational support program as though the school were the only elementary school operated by the district.

(b~~.~~) Hardship Elementary School. -- Upon application of the board of trustees of a school district, the state board of education is empowered to determine that a given elementary school or elementary

schools within the school district, not otherwise qualifying, are entitled to be counted as a separate elementary school as defined in section 33-1001, Idaho Code, when, in the discretion of the state board of education, special conditions exist warranting the retention of the school as a separate attendance unit and the retention results in a substantial increase in cost per pupil in average daily attendance above the average cost per pupil in average daily attendance of the remainder of the district's elementary grade school pupils. An elementary school operating as a previously approved hardship elementary school shall continue to be considered as a separate attendance unit, unless the hardship status of the elementary school is rescinded by the state board of education.

(c~~7~~) Separate Secondary School. -- Any separate secondary school shall be allowed to participate in the educational support program as though the school were the only secondary school operated by the district.

(d~~7~~) Elementary/Secondary School Attendance Units. -- Elementary grades in an elementary/secondary school will be funded as a separate attendance unit if all elementary grades served are situated more than ten (10) miles distance from both the nearest like elementary grades within the same school district and from the location of the office of the superintendent of schools of such district, or from the office of the chief administrative officer of such district if the district employs no superintendent of schools. Secondary grades in an elementary/secondary school will be funded as a separate attendance unit if all secondary grades served are located more than fifteen (15) miles by an all-weather road from the nearest like secondary grades operated by the district.

(e~~7~~) Hardship Secondary School. -- Any district which operated two (2) secondary schools separated by less than fifteen (15) miles, but which district was created through consolidation subsequent to legislative action pursuant to chapter 111, laws of 1947, and which school buildings were constructed prior to 1935, shall be entitled to count the schools as separate attendance units.

(f~~7~~) Minimum Pupils Required. -- Any elementary school having less than ten (10) pupils in average daily attendance shall not be allowed to participate in the state or county support program unless the school has been approved for operation by the state board of education.

(3~~7~~) Remote Schools. -- The board of trustees of any Idaho school district which operates and maintains a school which is remote and isolated from the other schools of the state because of geographical or topographical conditions may petition the state board of education to recognize and approve the school as a remote and necessary school. The petition shall be in form and content approved by the state board of education and shall provide such information as the state board of education may require. Petitions for the recognition of a school as a remote and necessary school shall be filed annually at least ninety (90) days prior to the date of the annual meeting of the board of trustees as established in section 33-510, Idaho Code.

Within forty-five (45) days after the receipt of a petition for the recognition of a remote and necessary school, the state board of education shall either approve or disapprove the petition and notify the board of trustees of its decision. Schools which the state board of edu-

cation approves as being necessary and remote shall be allowed adequate funding within the support program for an acceptable educational program for the students of the school. In the case of a remote and necessary secondary school, grades 7-12, the educational program shall be deemed acceptable when, in the opinion of the state board of education, the accreditation standard relating to staff size, established in accordance with section 33-119, Idaho Code, has been met. The final determination of an acceptable program and adequate funding in the case of a remote and necessary elementary school shall be made by the state board of education.

(4~~.~~) Support Program When District Boundaries are Changed.

(a~~.~~) In new districts formed by the division of a district, the support program computed for the district divided in its last year of operation, shall be apportioned to the new districts created by the division, in the proportion that the average daily attendance of pupils, elementary and secondary combined, residing in the area of each new district so created, is to the average daily attendance of all pupils, elementary and secondary combined, in the district divided in its last year of operation before the division.

(b~~.~~) When boundaries of districts are changed by excision or annexation of territory, the support program of any district from which territory is excised for the last year of operation before such excision shall be divided, and apportioned among the districts involved, as prescribed in subsection ~~4a.~~ (4)(a) of this section.

(c~~.~~) In new districts formed by consolidation of former districts, the support program allowance for a seven (7) year period following the formation of the new district, shall not be less than the combined support program allowances of the component districts in the last year of operation before consolidation.

~~5.--For-the-fiscal-year-which-commences-on-July--1,--1986,--and--for each--succeeding--fiscal-year,-any-school-district-whose-adjusted-market value-for-assessment-purposes-decreases-forty-percent-(40%)-or-more-from the-previous-year's-adjusted-market-value--for--assessment--purposes--as such-valuation-existed-on-December-31,-is-eligible-to-receive-an-adjustment-to-its-educational-support-program-entitlement,-subject-to-qualifications-as-follows:~~

~~a.--The--adjusted-market-value-for-assessment-purposes-has-decreased forty-percent-(40%)-or-more-from-the-previous-year's-adjusted-market value-for-assessment-purposes-as-such-valuation-existed-on--December 31;-and~~

~~b.--The--school-levy-to-be-certified-for-the-general-maintenance-and operation-fund-shall-be-no-less--than--four-tenths--of--one--percent (.4%);-and~~

~~c.--An--eligible--school--district-has-made-application-to-the-state department-of-education-for-an-adjustment-to--entitlement--from--the state--educational-support-program-on-or-before-June-1-of-the-fiscal year.-Such-application-must-document-the-need-for--additional--funds and--must--include--a--district-plan-to-minimize-impact-of-a-reduced local-tax-base.~~

SECTION 11. That Section 33-1004, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004. STAFF ALLOWANCE. For each school district, a staff allowance shall be determined as follows:

(1) Using the daily attendance reports that have been submitted for computing the February 15th apportionment of state funds as provided in section 33-1009, Idaho Code, determine the total support units for the district in the manner provided in section 33-1002 ~~8.b.~~(6)(a), Idaho Code;

(2) Determine the instructional staff allowance by multiplying the support units by 1.1. A district must demonstrate that it actually employs the number of certificated instructional staff allowed. If the district does not employ the number allowed, the staff allowance shall be reduced to the actual number employed;

(3) Determine the administrative staff allowance by multiplying the support units by .075;

(4) Determine the classified staff allowance by multiplying the support units by .375;

(5) Additional conditions governing staff allowance:

(a) In determining the number of staff in subsections (2), (3) and (4) of this section, a district may contract separately for services to be rendered by nondistrict employees and such employees may be counted in the staff allowance. A "nondistrict employee" means a person for whom the school district does not pay the employer's obligations for employee benefits. When a district contracts for the services of a nondistrict employee, only the salary portion of the contract shall be allowable for computations.

(b) If there are circumstances preventing eligible use of staff allowance to which a district is entitled as provided in subsections (2) and (3) of this section, an appeal may be filed with the state department of education outlining the reasons and proposed alternative use of these funds, and a waiver may be granted.

(c) For any district with less than forty (40) support units:

(i) The instructional staff allowance shall be calculated applying the actual number of support units. If the actual instructional staff employed in the school year is greater than the instructional staff allowance, then the instructional staff allowance shall be increased by one-half (1/2) staff allowance; and

(ii) The administrative staff allowance shall be calculated applying the actual number of support units. If the actual administrative staff employed in the school year is greater than the administrative staff allowance, then the administrative staff allowance shall be increased by one-half (1/2) staff allowance.

(iii) Additionally, for any district with less than twenty (20) support units, the instructional staff allowance shall be calculated applying the actual number of support units. If the number of instructional staff employed in the school year is greater than the instructional staff allowance, the staff allowance shall be increased as provided in paragraphs (i) and (ii) of this subsection, and by an additional one-half (1/2) instructional staff allowance.

(d) For any school district with one (1) or more separate secondary schools serving grades nine (9) through twelve (12), the instructional staff allowance shall be increased by two (2) additional

instructional staff allowances for each such separate secondary school.

(e) Only instructional, administrative and classified personnel compensated by the school district from the general maintenance and operation fund of the district shall be included in the calculation of staff allowance or in any other calculations based upon staff, including determination of the experience and education multiplier, the reporting requirements, or the district's salary-based apportionment calculation. No food service staff or transportation staff shall be included in the staff allowance.

(6) In the event that the staff allowance in any category is insufficient to meet accreditation standards, a district may appeal to the state board of education, demonstrating the insufficiency, and the state board may grant a waiver authorizing sufficient additional staff to be included within the staff allowance to meet accreditation standards. Such a waiver shall be limited to one (1) year, but may be renewed upon showing of continuing justification.

SECTION 12. That Section 33-1408, Idaho Code, be, and the same is hereby amended to read as follows:

33-1408. SPECIAL LEVY FOR TUITION. Any school district is hereby authorized to make a levy above the maintenance and operation levy otherwise authorized by law for the purpose of paying tuition costs of its students who, under authorization of the board of trustees of the district, attend school in another district ~~either~~ in ~~or out of~~ Idaho~~, except for those costs reimbursed by the state under border contracts~~. Such levy shall be exempt from the provisions of section 63-802, Idaho Code.

SECTION 13. That Section 33-5208, Idaho Code, be, and the same is hereby amended to read as follows:

33-5208. PUBLIC CHARTER SCHOOL FINANCIAL SUPPORT. Except as provided in subsection (8) of this section, from the state educational support program the state department of education shall make the following apportionment to each public charter school for each fiscal year based on attendance figures submitted in a manner and time as required by the department of education:

(1) Per student support. Computation of support units for each public charter school shall be calculated as if it were a separate school according to the schedules in section 33-1002 6~~.~~(4), Idaho Code, except that public charter schools with fewer than one hundred (100) secondary ADA shall use a divisor of twelve (12) and the minimum units shall not apply, and no public charter school shall receive an increase in support units that exceeds the support units it received in the prior year by more than twenty (20). Funding from the state educational support program shall be equal to the total distribution factor, plus the salary-based apportionment provided in chapter 10, title 33, Idaho Code. Provided however, any public charter school that is formed by the conversion of an existing traditional public school shall be assigned divisors, pursuant to section 33-1002, Idaho Code, that are no lower than the divisors of the school district in which the traditional public school is located, for each category of pupils listed.

(2) Special education. For each student enrolled in the public charter school who is entitled to special education services, the state and federal funds from the exceptional child education program for that student that would have been apportioned for that student to the school district in which the public charter school is located.

(3) Alternative school support. Public charter schools may qualify under the provisions of sections 33-1002 and 33-1002C, Idaho Code, provided the public charter school meets the necessary statutory requirements, and students qualify for attendance at an alternative school as provided by rule of the state board of education.

(4) Transportation support. Support shall be paid to the public charter school as provided in chapter 15, title 33, Idaho Code, and section 33-1006, Idaho Code. Each public charter school shall furnish the department with an enrollment count as of the first Friday in November, of public charter school students living more than one and one-half (1 1/2) miles from the school. For charter schools in the initial year of operation, the petition shall include a proposal for transportation services with an estimated first year cost. The state department of education is authorized to include in the annual appropriation to the charter school eighty percent (80%) of the estimated transportation cost. The final appropriation payment in July shall reflect eighty-five percent (85%) of the actual cost.

(5) Payment schedule. The state department of education is authorized to make an advance payment of twenty-five percent (25%) of a public charter school's estimated annual apportionment for its first year of operation, and each year thereafter, provided the public charter school has an increase of student population in any given year of twenty (20) students or more, to assist the school with initial start-up costs or payroll obligations.

(a) For a state public charter school to receive the advance payment, the school shall submit its anticipated fall membership for each grade level to the state department of education by June 1.

(b) Using the figures provided by the public charter school, the state department of education shall determine an estimated annual apportionment from which the amount of the advance payment shall be calculated. Advance payment shall be made to the school on or after July 1 but no later than July 31.

(c) All subsequent payments, taking into account the one-time advance payment made for the first year of operation, shall be made to the public charter school in the same manner as other traditional public schools in accordance with the provisions of section 33-1009, Idaho Code.

A public charter school shall comply with all applicable fiscal requirements of law, except that the following provisions shall not be applicable to public charter schools: section 33-1003B, Idaho Code, relating to guaranteed minimum support; that portion of section 33-1004, Idaho Code, relating to reduction of the administrative and instructional staff allowance when there is a discrepancy between the number allowed and the number actually employed; and section 33-1004E, Idaho Code, for calculation of district staff indices.

(6) Nothing in this chapter shall be construed to prohibit any private person or organization from providing funding or other financial assistance to the establishment or operation of a public charter school.

(7) Nothing in this chapter shall prevent a public charter school from applying for federal grant moneys.

(8) (a) For the period July 1, 2003, through June 30, 2005, all public virtual schools shall be assigned divisors, pursuant to section 33-1002, Idaho Code, that are no higher than the median divisor shown for each respective category of pupils, among the possible divisors listed, for each respective category of pupils that contains more than one (1) divisor. If there is an even number of possible divisors listed for a particular category of pupils, then the lesser of the two (2) median divisors shall be used. For the period July 1, 2005, through June 30, 2007, all public virtual schools shall be assigned divisors, pursuant to section 33-1002, Idaho Code, that are no higher than the second highest divisor shown, among the possible divisors listed, for each respective category of pupils that contains more than one (1) divisor. The divisor provisions contained herein shall only be applicable to the number of pupils in average daily attendance in such public virtual schools for the period July 1, 2003, through June 30, 2004. If the number of pupils in average daily attendance in any particular category of pupils increases, during the period July 1, 2004, through June 30, 2005, to a number above that which existed in the prior fiscal year, then those additional pupils in average daily attendance shall be assigned the divisor, pursuant to section 33-1002, Idaho Code, that would have otherwise been assigned to the school district or public charter school had this section not been in force.

(b) Each student in attendance at a public virtual school shall be funded based upon either the actual hours of attendance in the public virtual school on a flexible schedule, or the percentage of coursework completed, whichever is more advantageous to the school, up to the maximum of one (1) full-time equivalent student.

(c) All federal educational funds shall be administered and distributed to public charter schools, including public virtual schools, that have been designated by the state board of education as a local education agency (LEA), as provided in section 33-5203(7), Idaho Code.

(9) Nothing in this section prohibits separate face-to-face learning activities or services.

SECTION 14. That Section 50-2908, Idaho Code, be, and the same is hereby amended to read as follows:

50-2908. DETERMINATION OF TAX LEVIES -- CREATION OF SPECIAL FUND. (1) For purposes of calculating the rate at which taxes shall be levied by or for each taxing district in which a revenue allocation area is located, the county commissioners shall, with respect to the taxable property located in such revenue allocation area, use the equalized assessed value of such taxable property as shown on the base assessment roll rather than on the current equalized assessed valuation of such taxable property.

(2) With respect to each such taxing district, the tax rate calculated under subsection (1) of this section shall be applied to the current equalized assessed valuation of all taxable property in the taxing district, including the taxable property in the revenue allocation area. The tax revenues thereby produced shall be allocated as follows:

(a) To the taxing district shall be allocated and shall be paid by the county treasurer:

(i) All taxes levied by the taxing district or on its behalf on taxable property located within the taxing district but outside the revenue allocation area; and

(ii) A portion of the taxes levied by the taxing district or on its behalf on the taxable property located within the revenue allocation area, which portion is the amount produced by applying the taxing district's tax rate determined under subsection (1) of this section to the equalized assessed valuation, as shown on the base assessment roll, of the taxable property located within the revenue allocation area~~;-and~~

~~(iii)-If--such--taxing-district-is-a-school-district,-a-further portion-of-the-taxes-levied-by-such-district-or-on--its--behalf on--the--taxable-property-located-within-the-revenue-allocation area,-which-portion-is-the-amount-equal-to-the-percentage-specified-in-section-33-1002(7)(a),-Idaho-Code,-multiplied--by--the difference--between-the-current-equalized-assessed-valuation-of such-taxable-property-and-the-equalized-assessed--valuation--of such-taxable-property-as-shown-on-the-base-assessment-roll.~~

(b) To the urban renewal agency shall be allocated the balance, if any, of the taxes levied on the taxable property located within the revenue allocation area.

(3) Upon enactment of an ordinance adopting a revenue allocation financing provision as part of an urban renewal plan, the urban renewal agency shall create a special fund or funds to be used for the purposes enumerated in this chapter. The revenues allocated to the urban renewal agency pursuant to this chapter, shall be paid to the agency by the treasurer of the county in which the revenue allocation district is located and shall be deposited by the agency into one (1) or more of such special funds. The agency may, in addition, deposit into such special fund or funds such other income, proceeds, revenues and funds it may receive from sources other than the revenues allocated to it under subsection (2)(b) of this section.

(4) For the purposes of section 63-803, Idaho Code, during the period when revenue allocation under this chapter is in effect, and solely with respect to any taxing district in which a revenue allocation area is located, the county commissioners shall, in fixing any tax levy, take into consideration the equalized assessed valuation of the taxable property situated in the revenue allocation area as shown in the base assessment roll, rather than the current equalized assessed value of such taxable property.

(5) For all other purposes, including, without limitation, for purposes of sections 33-802, 33-1002 and 63-1313, Idaho Code, reference in the Idaho Code to the term "market value for assessment purposes" (or any other such similar term) shall mean market value for assessment purposes as defined in section 63-208, Idaho Code.

SECTION 15. That Section 63-315, Idaho Code, be, and the same is hereby amended to read as follows:

63-315. ASSESSMENT RATIOS AND THE DETERMINATION OF ADJUSTED MARKET VALUE FOR ASSESSMENT PURPOSES FOR SCHOOL DISTRICTS. (1) The provisions of this section shall apply only to charter districts levying a mainte-

nance and operation levy in the prior calendar year. For the purpose of this section, adjusted market value for assessment purposes shall be the adjusted market value for assessment purposes of all property assessed for property tax purposes for the year referred to in sections 33-802 and 33-1002, Idaho Code.

(2) The state tax commission shall conduct a ratio study to annually ascertain the ratio between the assessed value and the market value for assessment purposes of all property assessed for property tax purposes. Said ratio study shall be conducted in accordance with nationally accepted procedures. From the ratio so ascertained the state tax commission shall compute the adjusted market value of all property assessed for property tax purposes.

(3) The ratio shall be computed in each school district and applied to the market value for assessment purposes within each school district.

(4) Sales used in determining the ratio required by this section shall be arm's length, market value property sales occurring in the year beginning on October 1 of the year preceding the year for which the adjusted market value is to be determined. The state tax commission may, at its discretion, modify the sales period when doing so produces provably better representativeness of the actual ratio in any school district. The state tax commission may also add independently conducted appraisals when the state tax commission believes that this procedure will improve the representativeness and reliability of the ratio.

(5) Whenever the state tax commission is unable to determine with reasonable statistical certainty that the assessed value within any school district differs from the market value for assessment purposes, the state tax commission may certify the assessed value to be the adjusted market value of any school district.

(6) The state tax commission shall certify the adjusted market value of each school district to the state department of education and each county auditor no later than the first Monday in April each year. The state tax commission shall prepare a report indicating procedures used in computing the adjusted market value and showing statistical measures computed in the ratio study. This report shall be submitted to the state department of education at the same time as the certification of adjusted market value. The report of the state tax commission shall also be made available for public inspection in the office of the county auditor.

(7) The state tax commission shall promulgate rules to implement the ratio study described in this section.

SECTION 16. That Section 63-802A, Idaho Code, be, and the same is hereby amended to read as follows:

63-802A. NOTICE OF BUDGET HEARING. (1) Not later than April 30 of each year, each taxing district shall set and notify the county clerk of the date and location set for the budget hearing of the district. If no budget hearing is required by law, the county clerk shall be so notified.

(2) Beginning in 2003, a ~~nonschool~~ taxing district that fails to comply with subsection (1) of this section shall be prohibited from including in its budget any budget increase otherwise permitted by either subsection (1)(a) or (1)(e) of section 63-802, Idaho Code.

(3) ~~Beginning in 2003, a school district that fails to comply with~~

~~subsection--(1)-of-this-section-shall-be-prohibited,-in-the-year-of-such failure,-from-increasing-the-portion-of-its-property-tax--budget--raised under--section-33-802-2.,-Idaho-Code,-over-the-amount-of-the-immediately preceding-year.~~

~~(4)~~ If a taxing district wishes to change the time and location of such budget hearing as stated on the assessment notice, ~~they~~ it shall publish such change of time and location in advance of such hearing as provided by law.

SECTION 17. That Section 63-811, Idaho Code, be, and the same is hereby amended to read as follows:

63-811. COMPUTATION OF PROPERTY TAXES -- DUTY OF COUNTY AUDITOR. (1) The county auditor must cause to be computed the amount of the local property taxes levied on the total of the taxable value as entered on the property and operating property rolls, and must deliver the property and operating property rolls to the tax collector on or before the first Monday of November.

(2) The county auditor must cause to be computed the amount of the local property taxes levied on the total of the taxable value as entered on the subsequent property roll, and must deliver the subsequent property roll to the tax collector as soon as possible, without delay, after the first Monday of December.

(3) The county auditor must cause to be computed the amount of the state property tax and the amount of the local property taxes levied on the total taxable value as entered on the missed property roll, and must deliver the missed property roll to the tax collector as soon as possible, without delay, after the first Monday of March of the year following the year in which the assessment was entered on the missed property roll.

(4) For the purpose of this section, "taxable value" shall mean the portion of the equalized assessed value, less any exemptions and the value that exceeds the value of the base assessment roll for the portion of any taxing district within a revenue allocation area of an urban renewal district, located within each taxing district which certifies a budget to be raised from a property tax levy. ~~When-the--portion--of--the property-tax-to-be-allocated-to-school-districts-as-required-in-sections 33-1002--and--50-2908,-Idaho-Code,-is-calculated,-the-taxable-value-must include-the-value-that-exceeds-the-value-of-the-base-assessment-roll.~~

(5) The county auditor, at the time of delivery to the county tax collector of the property roll, subsequent property roll, missed property roll or operating property roll with all property taxes computed, must subscribe an affidavit to such roll that he has to the best of his knowledge and ability computed the proper amount of property taxes due, and recorded such orders of the board of equalization as have been made and ~~have~~ has made no other changes.

(6) Failure of the auditor to make the affidavit shall not affect the validity of any entry on the roll. The making of such affidavit, however, is declared to be a duty pertaining to the office of the county auditor. In every case where the said affidavit is omitted from the real property assessment roll, completed and delivered as aforesaid, the board of county commissioners must require the county auditor to make the same, and upon refusal or neglect of such county auditor to make and subscribe to such affidavit forthwith, the chairman of the said board

must immediately file in the district court in the county, an information in writing, verified by his oath, charging such county auditor with refusal or neglect to perform the official duties pertaining to his office, and thereupon he must be proceeded against as in such cases provided by law.

SECTION 18. That Section 63-3619, Idaho Code, be, and the same is hereby amended to read as follows:

63-3619. IMPOSITION AND RATE OF THE SALES TAX. An excise tax is hereby imposed upon each sale at retail at the rate of ~~five~~ six percent (5~~6~~%) of the sales price of all retail sales subject to taxation under this chapter and such amount shall be computed monthly on all sales at retail within the preceding month.

(a) The tax shall apply to, be computed on, and collected for all credit, installment, conditional or similar sales at the time of the sale or, in the case of rentals, at the time the rental is charged.

(b) The tax hereby imposed shall be collected by the retailer from the consumer.

(c) The state tax commission shall provide schedules for collection of the tax on sales which involve a fraction of a dollar. The retailer shall calculate the tax upon the entire amount of the purchases of the consumer made at a particular time and not separately upon each item purchased. The retailer may retain any amount collected under the bracket system prescribed which is in excess of the amount of tax for which he is liable to the state during the period as compensation for the work of collecting the tax.

(d) It is unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold or that if added it or any part thereof will be refunded. Any person violating any provision of this section is guilty of a misdemeanor.

(e) The tax commission may by rule provide that the amount collected by the retailer from the customer in reimbursement of the tax be displayed separately from the list price, the price advertised on the premises, the marked price, or other price on the sales slip or other proof of sale.

(f) The taxes imposed by this chapter shall apply to the sales to contractors purchasing for use in the performance of contracts with the United States.

SECTION 19. That Section 63-3621, Idaho Code, be, and the same is hereby amended to read as follows:

63-3621. IMPOSITION AND RATE OF THE USE TAX -- EXEMPTIONS. An excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property acquired on or after ~~July~~ October 1, 2005~~6~~, for storage, use, or other consumption in this state at the rate of ~~five~~ six percent (5~~6~~%) of the value of the property, and a recent sales price shall be presumptive evidence of the value of the property unless the property is wireless telecommunications equipment, in which case a recent sales price shall be conclusive evidence of the value of the property.

(a) Every person storing, using, or otherwise consuming, in this state, tangible personal property is liable for the tax. His liability is not extinguished until the tax has been paid to this state except that a receipt from a retailer maintaining a place of business in this state or engaged in business in this state given to the purchaser is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers. A retailer shall not be considered to have stored, used or consumed wireless telecommunications equipment by virtue of giving, selling or otherwise transferring such equipment at a discount as an inducement to a consumer to commence or continue a contract for telecommunications service.

(b) Every retailer engaged in business in this state, and making sales of tangible personal property for the storage, use, or other consumption in this state, not exempted under section 63-3622, Idaho Code, shall, at the time of making the sales or, if storage, use or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use or other consumption becomes taxable, collect the tax from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the state tax commission.

(c) The provisions of this section shall not apply when the retailer pays sales tax on the transaction and collects reimbursement for such sales tax from the customer.

(d) Every retailer engaged in business in this state or maintaining a place of business in this state shall register with the state tax commission and give the name and address of all agents operating in this state, the location of all distributions or sales houses or offices or other places of business in this state, and such other information as the state tax commission may require.

(e) For the purpose of the proper administration of this act and to prevent evasion of the use tax and the duty to collect the use tax, it shall be presumed that tangible personal property sold by any person for delivery in this state is sold for storage, use, or other consumption in this state. The burden of proving the sale is tax exempt is upon the person who makes the sale unless he obtains from the purchaser a resale certificate to the effect that the property is purchased for resale or rental. It shall be presumed that sales made to a person who has completed a resale certificate for the seller's records are not taxable and the seller need not collect sales or use taxes unless the tangible personal property purchased is taxable to the purchaser as a matter of law in the particular instance claimed on the resale certificate.

A seller may accept a resale certificate from a purchaser prior to the time of sale, at the time of sale, or at any reasonable time after the sale when necessary to establish the privilege of the exemption. The resale certificate relieves the person selling the property from the burden of proof only if taken from a person who is engaged in the business of selling or renting tangible personal property and who holds the permit provided for by section 63-3620, Idaho Code, or who is a retailer not engaged in business in this state, and who, at the time of purchasing the tangible personal property, intends to sell or rent it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose. Other than as provided elsewhere in this section, when a resale certificate, properly executed, is presented to the seller, the seller has no duty or obligation to collect sales or use taxes in regard to any

sales transaction so documented regardless of whether the purchaser properly or improperly claimed an exemption. A seller so relieved of the obligation to collect tax is also relieved of any liability to the purchaser for failure to collect tax or for making any report or disclosure of information required or permitted under this chapter.

The resale certificate shall bear the name and address of the purchaser, shall be signed by the purchaser or his agent, shall indicate the number of the permit issued to the purchaser, or that the purchaser is an out-of-state retailer, and shall indicate the general character of the tangible personal property sold by the purchaser in the regular course of business. The certificate shall be substantially in such form as the state tax commission may prescribe.

(f) If a purchaser who gives a resale certificate makes any storage or use of the property other than retention, demonstration or display while holding it for sale in the regular course of business, the storage or use is taxable as of the time the property is first so stored or used.

(g) Any person violating any provision of this section is guilty of a misdemeanor and punishable by a fine not in excess of one hundred dollars ($100), and each violation shall constitute a separate offense.

(h) It shall be presumed that tangible personal property shipped or brought to this state by the purchaser was purchased from a retailer, for storage, use or other consumption in this state.

(i) It shall be presumed that tangible personal property delivered outside this state to a purchaser known by the retailer to be a resident of this state was purchased from a retailer for storage, use, or other consumption in this state. This presumption may be controverted by evidence satisfactory to the state tax commission that the property was not purchased for storage, use, or other consumption in this state.

(j) When the tangible personal property subject to use tax has been subjected to a general retail sales or use tax by another state of the United States in an amount equal to or greater than the amount of the Idaho tax, and evidence can be given of such payment, the property will not be subject to Idaho use tax. If the amount paid the other state was less, the property will be subject to use tax to the extent that the Idaho tax exceeds the tax paid to the other state. For the purposes of this subsection, a registration certificate or title issued by another state or subdivision thereof for a vehicle or trailer or a vessel as defined in section 67-7003, Idaho Code, shall be sufficient evidence of payment of a general retail sales or use tax.

(k) The use tax herein imposed shall not apply to the use by a nonresident of this state of a motor vehicle which is registered or licensed under the laws of the state of his residence and is not used in this state more than a cumulative period of time totaling ninety (90) days in any consecutive twelve (12) months, and which is not required to be registered or licensed under the laws of this state.

(l) The use tax herein imposed shall not apply to the use of household goods, personal effects and personally owned motor vehicles by a resident of this state, if such articles were acquired by such person in another state while a resident of that state and primarily for use outside this state and if such use was actual and substantial, but if an article was acquired less than three (3) months prior to the time he entered this state, it will be presumed that the article was acquired for use in this state and that its use outside this state was not actual

and substantial. For purposes of this subsection, "resident" shall be as defined in section 63-3013 or 63-3013A, Idaho Code.

(m) The use tax herein imposed shall not apply to the storage, use or other consumption of tangible personal property which is or will be incorporated into real property and which has been donated to and has become the property of:

(1) A nonprofit organization as defined in section 63-3622O, Idaho Code; or

(2) The state of Idaho; or

(3) Any political subdivision of the state.

This exemption applies whether the tangible personal property is incorporated in real property by the donee, a contractor or subcontractor of the donee, or any other person.

SECTION 20. 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~~ Eleven and ~~three-quarters~~ five-tenths percent (~~13.75~~11.5%) 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 subsection (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 subsection (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 subsection (9)(c) in any quarter exceeds one hundred five percent (105%) of the total payment made in the fourth quarter of cal-

endar 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 subsection (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 subsection (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~~ minus .004 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~~, provided that the result of these calculations shall not be less than zero (0). The result of these school district calculations shall be further increased by six percent (6%). 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 21. That Section 63-3640, Idaho Code, be, and the same is hereby amended to read as follows:

63-3640. CONTRACTS ENTERED INTO BEFORE EFFECTIVE DATE OF INCREASED TAX. (1) Commencing ~~May 1, 2003, and ending June 30, 2005~~ October 1, 2006, the purchase, use, storage or other consumption of tangible personal property which is otherwise subject to the taxes imposed by this ~~chapter~~ by persons defined in section 63-3609(a), Idaho Code, shall be exempt from one cent (1¢) of the taxes imposed by sections 63-3619 and 63-3621, Idaho Code, if:

(a) The tangible personal property is purchased, used, stored or otherwise consumed for incorporation into real property; and

(b) The tangible personal property is purchased, used, stored or otherwise consumed in regard to a project performed by such person pursuant to a qualified contract; and

(c) The taxpayer claims the exemption in the manner provided by subsection (3) of this section.

(2) As used in this section, the term "qualified contract" means a contract which:

(a) Is a written contract; and

(b) Was in effect on ~~April 15, 2003~~ September 1, 2006, or was submitted for bid or bid in written form on or before ~~April 15, 2003~~ September 1, 2006, and subsequently became a written contract; and

(c) Was negotiated or bid based upon the sales or use tax being five percent (5%); and

(d) Requires the cost of the sales or use tax to be borne by the contractor.

(3) A person entitled to the exemption granted in subsection (1) of this section may submit a claim for refund to the state tax commission for the amount of one cent (1¢) of the tax imposed by sections 63-3619 and 63-3621, Idaho Code, if it has actually been paid by him. The claim for refund shall include:

(a) A copy of a written contract which is a qualified contract; and

(b) A detailed invoice prepared by the seller showing all items of tangible personal property purchased by the claimant, the sale of which is subject to the exemption granted in subsection (1) of this section; and

(c) A document signed by the purchaser certifying that the tangible personal property shown on the invoice required by subsection (3)(b) of this section has in fact been used by him on the project to which the qualified contract relates.

(4) Upon receipt of the claim for refund, the state tax commission shall review the claim and, if it finds it to be proper, shall pay the refund together with interest from the date that the claim was filed at the rate established by section 63-3045, Idaho Code, within thirty (30) days from the date the claim was received by the commission.

(5) The use or incorporation into real property of any tangible personal property upon which the exemption provided by subsection (1) of this section has been claimed pursuant to any contract other than a qualified contract shall be a misdemeanor.

(6) In addition to the criminal penalties provided by subsection (5) of this section, the use or incorporation into real property of tangible personal property upon which the exemption provided by subsection (1) of this section has been claimed pursuant to any contract which is not a qualified contract shall subject the user to a penalty of three (3) times the sales or use tax otherwise due under this chapter to be enforced and collected as provided by sections 63-3634 and 63-3635, Idaho Code.

(7) In the case of a retailer who makes sales of tangible personal property to any person entitled to the exemption granted in subsection (1) of this section who is for any reason unable to collect one cent (1¢) of the tax imposed by sections 63-3619 and 63-3621, Idaho Code, from the purchaser, the retailer shall be entitled to claim the refund otherwise available to the purchaser. The claim for refund shall be

filed in the manner prescribed by subsection (3) of this section. Nothing in this subsection shall excuse the retailer from reporting sales and use taxes at the full statutory rate on all taxable sales made during the period to which his sales or use tax return relates. If a refund claim is filed concurrently with the return, the refund claimed may be credited against the tax due on the return. Any retailer who claims a refund for any taxes actually collected from the purchaser shall be subject to a penalty of three (3) times the sales or use tax refund improperly claimed to be enforced and collected as provided by sections 63-3634 and 63-3635, Idaho Code.

SECTION 22. There is hereby appropriated the following amount to be transferred to the Public School Income Fund for the period July 1, 2006, through June 30, 2007:

FROM:

General Fund $250,645,700

SECTION 23. In addition to any other appropriation provided by law, there is hereby appropriated to the Educational Support Program/Division of Operations, pursuant to law and the provisions of this act the following amount to be expended from the listed fund for the period July 1, 2006, through June 30, 2007:

FROM:

Public School Income Fund $250,645,700

SECTION 24. The State Controller shall transfer $100,000,000 from the General Fund to the Public Education Stabilization Fund by no later than February 1, 2007.

SECTION 25. The Legislature finds and declares that the issue of the property tax funding maintenance and operations of public schools is of importance to the citizens of the state of Idaho. As a representative body, members of the Legislature desire to be responsive and responsible to these citizens. For this reason, the Legislature herewith submits an advisory ballot to the electors of the state of Idaho, and the results will guide the Legislature as to whether the three-tenths of one percent property tax previously contained in Section 33-802, Idaho Code, and levied against the market value of taxable property in the school districts for maintenance and operation purposes of school districts should continue to be removed and the funds be replaced by a sufficient increase in the state sales tax.

The Secretary of State shall have the question below placed on the 2006 general election ballot and shall take necessary steps to have the results on the question tabulated. The question shall be as follows:

"Should the State of Idaho keep the property tax relief adopted in August 2006, reducing property taxes by approximately $260 million and protecting funding for public schools by keeping the sales tax at 6%?".

The advisory question provided for in this act is hereby declared to be a "measure" for purposes of Chapter 66, Title 67, Idaho Code, and the provisions of Chapter 66, Title 67, Idaho Code, shall apply thereto.

SECTION 26. 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 27. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 26 of this act shall be in full force and effect on and after passage and approval and retroactively to January 1, 2006. Sections 18 and 19 of this act shall be in full force and effect on and after October 1, 2006. Section 20 of this act shall be in full force and effect on and after November 1, 2006. Sections 21, 22, 23, 24 and 25 of this act shall be in full force and effect on and after passage and approval.

Approved August 31, 2006.

CERTIFICATE OF SECRETARY OF STATE

UNITED STATES OF AMERICA)
) ss.
STATE OF IDAHO)

I, BEN YSURSA, Secretary of the State of Idaho, do hereby certify that the foregoing printed pages contain true, full, and correct and literal copies of all the general laws and resolutions passed by the Fifty-eighth Legislature of the State of Idaho, First Extraordinary Session thereof, which convened August 25, 2006, and which adjourned on August 25, 2006, as they appear in the enrolled acts and resolutions on file in this office, all of which are published by authority of the Laws of the State of Idaho.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Idaho. Done at Boise City, the Capital of Idaho, this 6th day of September, 2006.

Ben Ysursa

Secretary of State

When errors appear in the enrolled bills received from the Legislature at the office of the Secretary of State, this office has no authority to correct them.

GENERAL LAWS

OF THE

STATE OF IDAHO

PASSED BY
THE FIRST REGULAR SESSION OF THE
FIFTY-NINTH IDAHO LEGISLATURE

Convened January 8, 2007
Adjourned March 30, 2007

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. 1006)

AN ACT

RELATING TO DISTRICT JUDGES; AMENDING SECTION 1-702, IDAHO CODE, TO CLARIFY THE TERM OF APPOINTMENT IN CERTAIN CIRCUMSTANCES.

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

SECTION 1. That Section 1-702, Idaho Code, be, and the same is hereby amended to read as follows:

1-702. DISTRICT JUDGES — ELECTION AND TERM — NEW DISTRICT JUDGESHIP AND APPOINTMENT TO FILL VACANCY. The district court is presided over by district judges chosen by the qualified electors of their respective districts for a term of four (4) years, except that upon the creation of a new district judgeship in any district or upon the appointment by the governor to fill a vacancy in a district judgeship in any district, such judge shall be appointed to hold office until the first Monday in January following the next general election for district judges occurring at least one (1) year following the date of the judge's appointment and until his successor is elected and qualified.

Approved February 12, 2007.

CHAPTER 2
(S.B. No. 1008)

AN ACT

RELATING TO MANDATORY INCOME WITHHOLDING FOR CHILD SUPPORT; AMENDING SECTION 32-1215, IDAHO CODE, TO REMOVE LANGUAGE REFERENCING WITHHELD INCOME BASED UPON A DELINQUENCY; AND AMENDING SECTION 32-1217, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY.

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

SECTION 1. That Section 32-1215, Idaho Code, be, and the same is hereby amended to read as follows:

32-1215. TERMINATION OF INCOME WITHHOLDING UPON OBLIGOR'S REQUEST. (1) An obligor whose income is subject to withholding ~~upon a delinquency~~ under this chapter may request a hearing to quash, modify, or terminate the withholding, by filing a motion requesting such relief before the court which issued the income withholding order. A copy of the motion and a notice of hearing shall be served upon the obligee at least five (5) days before the date set for the hearing, by personal service or certified mail, pursuant to the Idaho rules of civil procedure.

(2) In a hearing to quash, modify, or terminate the income withholding order, the court may grant relief only upon a showing by the obligor that there is a substantial probability that the obligor would suffer irreparable injury and that the obligee would not suffer irrepa-

rable injury. Satisfaction by the obligor of any delinquency subsequent to the issuance of the income withholding order is not grounds to quash, modify, or terminate the income withholding order.

(3) If an income withholding order has been in operation for twelve (12) consecutive months and the obligor's support obligation is current, the court may terminate the order upon motion of the obligor, unless the obligee can show good cause as to why the income withholding order should remain in effect.

(4) No order to quash, modify, or terminate an income withholding order shall be issued unless the obligor provides proof to the court that the obligee has been served with a copy of the motion and notice for hearing five (5) days prior to the hearing, or that service is impossible because the obligee has moved and failed to provide the court with a current address, as required by section 32-1212, Idaho Code.

SECTION 2. That Section 32-1217, Idaho Code, be, and the same is hereby amended to read as follows:

32-1217. TERMINATION OF INCOME WITHHOLDING BY THE COURT IN A JUDICIAL PROCEEDING. If the ~~clerk~~ department is unable to deliver payments under the income withholding order for a period of three (3) months due to the failure of the obligee to notify the ~~clerk~~ department of a change of address, the court shall terminate the income withholding order, and shall mail a copy of the termination order to the employer and to the obligor. The court shall return all undeliverable payments to the obligor.

Approved February 12, 2007.

CHAPTER 3
(S.B. No. 1009)

AN ACT

RELATING TO CERTIFIED SHORTHAND REPORTERS; AMENDING SECTION 54-3104, IDAHO CODE, TO REQUIRE REPORTERS TO OBTAIN REGULAR CERTIFICATION, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 54-3104, Idaho Code, be, and the same is hereby amended to read as follows:

54-3104. EXCEPTIONS TO CERTIFICATION REQUIREMENT. The provisions of this ~~act~~ chapter shall not apply to and shall not be construed to prohibit:

(~~a~~1) The appointment of a state district court reporter who is not a certified shorthand reporter on a temporary basis in accordance with and upon condition as the ~~S~~supreme ~~C~~court may prescribe by rule. Provided, in the event a person who has not obtained regular certification as a certified shorthand reporter is appointed as district court reporter, such reporter must make application for regular certification under this ~~act~~ chapter within thirty (30) days of such appointment. If the reporter fails to obtain regular certification as a certified short-

hand reporter by the second subsequent consecutive examination date by reason of his failure to pass the necessary examination, or otherwise, then such person shall be removed as district court reporter and shall not be eligible for reappointment until he obtains a regular certificate as a certified shorthand reporter under this ~~act~~ chapter.

(~~b~~2) The employment and reporting of personnel in the magistrates division of any district court of the state who rely principally upon electronic tape recorders, stenomask, or similar mechanical contrivances to make a record of a hearing, trial or proceeding.

(~~c~~3) The taking of an oral deposition by shorthand reporting by a person not a certified shorthand reporter if the party to the action or his attorney certifies at the commencement of the deposition that no certified shorthand reporter was available for reporting the deposition.

(~~d~~4) The employment of salaried, full-time employees of a prosecuting attorney or of any department or agency of the state to act as a hearing reporter for such official, department or agency.

Approved February 12, 2007.

CHAPTER 4
(S.B. No. 1034)

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 $4,379,800 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 $124,400 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 $65,600 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 12, 2007.

CHAPTER 5
(S.B. No. 1035)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF LANDS FOR FISCAL YEAR 2007; 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 341, Laws of 2006, there is hereby appropriated to the Department of Lands the following amounts to be expended for the designated programs according to the designated expense classes from the listed fund for the period July 1, 2006, through June 30, 2007:

I. FOREST RESOURCES MANAGEMENT:	
FOR:	
Trustee and Benefit Payments	$106,000
FROM:	
Endowment Administrative Fund	$106,000
II. LAND, RANGE AND MINERAL RESOURCE MANAGEMENT:	
FOR:	
Trustee and Benefit Payments	$ 10,300
FROM:	
Endowment Administrative Fund	$ 10,300
GRAND TOTAL	$116,300

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 12, 2007.

CHAPTER 6
(H.B. No. 29)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE LEGISLATIVE COUNCIL FROM THE PERMANENT BUILDING FUND FOR FISCAL YEAR 2007; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; 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 189, Laws of 2006, there is hereby appropriated to the Legislative Council the following amount, to be expended for the designated program from the listed fund for the period July 1, 2006, through June 30, 2007:

CAPITOL RESTORATION AND RENOVATION:	
FROM:	
Permanent Building Fund	$1,750,400

SECTION 2. There is hereby reappropriated to the Legislative Council for the Capitol Restoration and Renovation Program, the unexpended and unencumbered balance of the Permanent Building Fund appropriated by Section 1 of this act, for the period July 1, 2007, through June 30, 2008. The Legislative Council and the Division of Public Works shall enter into an agreement regarding the processing and payment of invoices pursuant to 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 February 12, 2007.

CHAPTER 7
(S.B. No. 1007)

AN ACT

RELATING TO FIREARMS; AMENDING SECTION 18-3305, IDAHO CODE, TO REVISE A PENALTY.

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

SECTION 1. 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~~ more than one thousand dollars ($1,000), or imprisonment in the county jail not to exceed six (6) months, or both, at the discretion of the court.

Approved February 14, 2007.

CHAPTER 8
(S.B. No. 1021)

AN ACT

RELATING TO THE INDUSTRIAL SPECIAL INDEMNITY FUND; AMENDING SECTION 72-327, IDAHO CODE, TO REVISE A REPORTING DATE.

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 subsequent to September 1 and April 1 of each year, 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 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 twelve (12) month period from January 1 through December 31 no later than March 31 of the next succeeding 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 February 14, 2007.

CHAPTER 9
(S.B. No. 1036)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY FOR FISCAL YEAR 2007; 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 349, Laws of 2006, there is hereby appropriated to the Department of Environmental Quality 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, 2006, through June 30, 2007:

WASTE MANAGEMENT AND REMEDIATION:

FOR:

Operating Expenditures	$5,544,100

FROM:

Department of Environmental Quality Fund (Federal)	$5,544,100

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 14, 2007.

CHAPTER 10
(H.B. No. 12)

AN ACT

RELATING TO THE INCOME TAX; AMENDING SECTION 63-3025A, IDAHO CODE, TO PROVIDE A CORRECT REFERENCE TO THE IDAHO NATIONAL LABORATORY; AMENDING SECTION 63-3027, IDAHO CODE, TO PROVIDE A CORRECT REFERENCE TO THE IDAHO NATIONAL LABORATORY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-3067A, IDAHO CODE, TO DELETE THE REQUIREMENT THAT DONATIONS TO THE AMERICAN RED CROSS MADE BY CHECKOFF MUST BE TEN DOLLARS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-3072, IDAHO CODE, TO CLARIFY THAT THE TIME FOR CLAIMING A REFUND OR CREDIT OF INCOME TAX ATTRIBUTABLE TO CAPITAL LOSS CARRYBACKS IS THE FIFTEENTH DAY OF THE FORTIETH MONTH FOLLOWING THE END OF THE TAXABLE YEAR OF THE CAPITAL LOSS WHICH RESULTS IN THE CARRYBACK; AMENDING SECTION 63-4407, IDAHO CODE, TO REVISE RECAPTURE PROVISIONS IN THE SMALL EMPLOYER INCENTIVE ACT; AMENDING SECTION 63-3087, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 63-2516, IDAHO CODE, TO DELETE A CODE REFERENCE; AMENDING SECTION 63-2563, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 23-1050A, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AND AMENDING SECTION 23-1322A, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 63-3025A, Idaho Code, be, and the same is hereby amended to read as follows:

63-3025A. FRANCHISE TAX. For taxable years commencing on and after January 1, 2001, a franchise tax shall be imposed upon any corporation for the privilege of exercising its corporate franchise within the state during such taxable year including, but not limited to, corporations engaged in business in Idaho for the exclusive purpose of performing contracts with the United States department of energy at the Idaho national ~~engineering and environmental~~ laboratory or any successor organization, which tax shall be measured by income which is attributable to this state under the provisions of this chapter and which tax shall be at the rate provided in section 63-3025, Idaho Code; provided, however, that the tax shall not be less than twenty dollars ($20.00); provided further that the twenty dollar ($20.00) minimum payment shall not be collected from nonproductive mining corporations; but the twenty dollar ($20.00) minimum tax shall apply to corporations qualified to file returns and actually filing returns under the provisions of subchapter "S" of the Internal Revenue Code.

SECTION 2. That Section 63-3027, Idaho Code, be, and the same is hereby amended to read as follows:

63-3027. COMPUTING IDAHO TAXABLE INCOME OF MULTISTATE OR UNITARY CORPORATIONS. The Idaho taxable income of any multistate or unitary corporation transacting business both within and without this state shall be computed in accordance with the rules set forth in this section:

(a) As used in this section, unless the context otherwise requires:

(1) "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from the acquisition, management, or disposition of tangible and intangible property when such acquisition, management, or disposition constitutes integral or necessary parts of the taxpayer's trade or business operations. Gains or losses and dividend and interest income from stock and securities of any foreign or domestic corporation shall be presumed to be income from intangible property, the acquisition, management, or disposition of which constitutes an integral part of the taxpayer's trade or business; such presumption may only be overcome by clear and convincing evidence to the contrary.

(2) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(3) "Compensation" means wages, salaries, commissions and any other form of remuneration paid to employees for personal services.

(4) "Nonbusiness income" means all income other than business income.

(5) "Sales" means all gross receipts of the taxpayer not allocated under subsections (d) through (h) of this section.

(6) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(b) Any taxpayer having income from business activity which is taxable both within and without this state shall allocate and apportion

such net income as provided in this section.

(c) For purposes of allocation and apportionment of income under this section, a taxpayer is taxable in another state if:

(1) In that state he is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

(2) That state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

(d) Rents and royalties from real or tangible personal property, capital gains interest, dividends, or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in subsections (e) through (h) of this section. Allocable nonbusiness income shall be limited to the total nonbusiness income received which is in excess of any related expenses which have been allowed as a deduction during the taxable year. In the case of allocable nonbusiness interest or dividends, related expenses include interest on indebtedness incurred or continued to purchase or carry assets on which the interest or dividends are nonbusiness income.

(e) (1) Net rents and royalties from real property located in this state are allocable to this state.

(2) Net rents and royalties from tangible personal property are allocable to this state:

(i) ~~i~~If and to the extent that the property is utilized in this state, or

(ii) ~~i~~In their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

(3) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

(f) (1) Capital gains and losses from sales of real property located in this state are allocable to this state.

(2) Capital gains and losses from sales of tangible personal property are allocable to this state if:

(i) ~~t~~The property had a situs in this state at the time of the sale, or

(ii) ~~t~~The taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

(3) Capital gains and losses from sales of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state, unless such gains and losses constitute business income as defined in this section.

(g) Interest and dividends are allocable to this state if the

taxpayer's commercial domicile is in this state unless such interest or dividends constitute business income as defined in this section.

(h) (1) Patent and copyright royalties are allocable to this state:

(i) ~~i~~If and to the extent that the patent or copyright is utilized by the payer in this state, or

(ii) ~~i~~If and to the extent that the patent or copyright is utilized by the payer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.

(2) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patent product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

(3) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

(i) (1) Notwithstanding the election allowed in ~~A~~article III.1 of the multistate tax compact enacted as section 63-3701, Idaho Code, all business income shall be apportioned to this state under subsection (j) of this section by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus two (2) times the sales factor, and the denominator of which is four (4), except as provided in paragraph (2) of this subsection.

(2) If a corporation, or a parent corporation of a combined group filing a combined report under sections 63-3027 and 63-3701, Idaho Code, is an electrical corporation as defined in section 61-119, Idaho Code, or is a telephone corporation as defined in section 62-603, Idaho Code, all business income of the corporation shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three (3).

(j) (1) In the case of a corporation or group of corporations combined under subsection (t) of this section, Idaho taxable income or loss of the corporation or combined group shall be determined as follows:

(i) ~~f~~From the income or loss of the corporation or combined group of corporations, subtract any nonbusiness income, and add any nonbusiness loss, included in the total,

(ii) ~~m~~Multiply the amounts determined under paragraph (1)(i) of this subsection by the Idaho apportionment percentage defined in subsection (i) of this section, taking into account, where applicable, the property, payroll and sales of all corporations, wherever incorporated, which are included in the combined group. The resulting product shall be the amount of business income or loss apportioned to Idaho.

(2) To the amount determined as apportioned business income or loss under paragraph (1)(ii) of this subsection, add nonbusiness income

allocable entirely to Idaho under the provisions of this section or subtract nonbusiness loss allocable entirely to Idaho under this section. The resulting sum is the Idaho taxable income or loss of the corporation.

(3) In the case of a corporation not subject to subsection (t) of this section, the income or loss referred to in paragraph (1)(i) of this subsection, shall be the taxable income of the corporation after making appropriate adjustments under the provisions of section 63-3022, Idaho Code.

(k) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period.

(1) Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.

(m) The average value of property shall be determined by averaging the values at the beginning and ending of the tax period, but the state tax commission may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

(n) The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation, and the denominator of which is the total compensation paid everywhere during the tax period.

(o) Compensation is paid in this state if:

(1) The individual's service is performed entirely within the state; or

(2) The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

(3) Some of the service is performed in the state and:

(i) ~~t~~The base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state, or

(ii) ~~t~~The base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(p) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period.

(q) Sales of tangible personal property are in this state if:

(1) The property is delivered or shipped to a purchaser, other than the United States government, within this state regardless of the f.o.b. point or other conditions of the sale, or

(2) The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and:

(i) ~~t~~The purchaser is the United States government, or

(ii) ~~t~~The taxpayer is not taxable in the state of the purchaser.

(r) Sales, other than sales of tangible property, are in this state, if:

(1) The income-producing activity is performed in this state; or

(2) The income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

(s) If the allocation and apportionment provisions of this section do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the state tax commission may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(1) Separate accounting, provided that only that portion of general expenses clearly identifiable with Idaho business operations shall be allowed as a deduction;

(2) The exclusion of any one (1) or more of the factors;

(3) The inclusion of one (1) or more additional factors which will fairly represent the taxpayer's business activity in this state; or

(4) The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

(t) For purposes of this section and sections 63-3027B through 63-3027E, Idaho Code, the income of two (2) or more corporations, wherever incorporated, the voting stock of which is more than fifty percent (50%) owned directly or indirectly by a common owner or owners, when necessary to accurately reflect income, shall be allocated or apportioned as if the group of corporations were a single corporation, in which event:

(1) The Idaho taxable income of any corporation subject to taxation in this state shall be determined by use of a combined report which includes the income, determined under subparagraph (2) of this subsection, of all corporations which are members of a unitary business, allocated and apportioned using apportionment factors for all corporations included in the combined report and methods set out in this section. The use of a combined report does not disregard the separate corporate identities of the members of the unitary group. Each corporation which is transacting business in this state is responsible for its apportioned share of the combined business income plus its nonbusiness income or loss allocated to Idaho, minus its net operating loss carryover or carryback.

(2) The income of a corporation to be included in a combined report shall be determined as follows:

(i) ~~f~~For a corporation incorporated in the United States or included in a consolidated federal corporation income tax return, the income to be included in the combined report shall be the taxable income for the corporation after making appropriate adjustments under the provisions of section 63-3022, Idaho Code;

(ii) ~~f~~For a corporation incorporated outside the United States, but not included in subsection (t)(2)(i) of this section, the income to be included in the combined report shall be the net income before income taxes of such corporation stated on the profit and loss statements of such corporation which are

included within the consolidated profit and loss statement prepared for the group of related corporations of which the corporation is a member, which statement is prepared for filing with the United States securities and exchange commission. If the group of related companies is not required to file such profit and loss statement with the United States securities and exchange commission, the profit and loss statement prepared for reporting to shareholders and subject to review by an independent auditor may be used to obtain net income before income taxes. In the alternative, and subject to reasonable substantiation and consistent application by the group of related companies, adjustments may be made to the profit and loss statements of the corporation incorporated outside the United States, if necessary, to conform such statements to tax accounting standards as required by the Internal Revenue Code as if such corporation were incorporated in the United States and required to file a federal income tax return, subject to appropriate adjustments under the provisions of section 63-3022, Idaho Code; and

(iii) ~~i~~If the income computation for a group under paragraphs (i) and (ii) of this subsection results in a loss, such loss shall be taken into account in other years, subject to the provisions of subsections (b) and (c) of section 63-3022, Idaho Code.

(u) If compensation is paid in the form of a reasonable cash fee for the performance of management services directly for the United States government at the Idaho national ~~engineering~~ laboratory or any successor organization, separate accounting for that part of the business activity without regard to other activity of the taxpayer in the state of Idaho or elsewhere shall be required; provided that only that portion of general expenses clearly identifiable with Idaho business operations of that activity shall be allowed as a deduction.

SECTION 3. 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~~ of this section; 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 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 4. That Section 63-3072, Idaho Code, be, and the same is hereby amended to read as follows:

63-3072. CREDITS AND REFUNDS. (a) Subject to the provisions of subsections (b), (c) and (h) of this section, where there has been an overpayment of the tax imposed by the provisions of this chapter, the amount of such overpayment shall be credited against any tax administered by the state tax commission which tax is then due from the taxpayer, and any balance of such excess shall be refunded to the taxpayer.

(b) Except in regard to amounts withheld as provided in section 63-3035, 63-3035A or 63-3036, Idaho Code, or amounts paid as estimated payments under section 63-3036A, Idaho Code, a claim for credit or refund of tax, penalties, or interest paid shall be made within the later of three (3) years of the due date of the return, without regard to extensions, or three (3) years from the date the return was filed. However, with regard to remittances received with an extension of time to file, or a tentative return, a claim for credit or refund of such remittances shall be made within three (3) years from the due date of the return without regard to extensions.

(c) With regard to amounts withheld as provided in section 63-3035, 63-3035A or 63-3036, Idaho Code, or amounts paid as estimated payments under section 63-3036A, Idaho Code, a claim for credit or refund shall be made within three (3) years from the due date of the return, without regard to extensions, for the taxable year in respect to which the tax was withheld or paid.

(d) Notwithstanding any other provisions of this section, when Idaho taxable income and/or tax credits for any taxable year have been adjusted as a result of a final federal determination, the period of limitations for claiming a refund or credit of tax, penalties, or interest shall be reopened and shall not expire until the later of one (1)

year from the date of delivery of the final federal determination to the taxpayer by the internal revenue service, three (3) years from the due date of the return, without regard to extensions, or three (3) years from the date the return was filed. For purposes of this subsection, the term "final federal determination" shall mean the final resolution of all issues which were adjusted by the internal revenue service. When the final federal determination is submitted, the taxpayer shall also submit copies of all schedules and written explanations provided by the internal revenue service. Upon the expiration of the period of limitations as provided in subsections (b) and (h) of this section, only those specific items of income, deductions, gains, losses or credits which were adjusted in the final federal determination shall be subject to adjustment for purposes of recomputing Idaho income, deductions, gains, losses, credits, and the effect of such adjustments on Idaho allocations and apportionments.

(e) If a claim for credit or refund relates to an overpayment attributable to a net operating loss carryback <u>or a capital loss carryback,</u> in lieu of the period of limitations prescribed in subsection (b) of this section, the period shall be that period which ends with the expiration of the fifteenth day of the fortieth month following the end of the taxable year of the net operating loss <u>or capital loss</u> which results in such carryback.

(f) If an adjustment, which was made within the period of limitations as provided in this section, affects the amount of tax credit, net operating loss, or capital loss, claimed in a taxable year other than the tax year in which the adjustment is made, then adjustments to the credit, net operating loss, or capital loss, claimed in such other tax year may be made and a claim for credit or refund of tax, penalties or interest may be made even though such claim would otherwise be barred under the provisions of this section.

(g) In the case of a duplicate return filed under section 63-217(1)(b), Idaho Code, the limitations under this section shall be the later of one (1) year from the filing of the duplicate return or the date otherwise applicable under this section.

(h) Prior to the expiration of the time prescribed in this section for credit or refund of any tax imposed by the provisions of this chapter, both the state tax commission or its delegate or deputy and the taxpayer may consent in writing to extend such period of time. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon. When a pass-through entity extends the period of limitations in accordance with the provisions of this subsection the period of limitations for the other taxpayers is automatically extended for the same period for the purpose of claiming a credit or refund of tax, penalties or interest by the other taxpayers reflecting the pass-through entity adjustments.

(i) The expiration of the period of limitations as provided in this section shall be suspended for the time period between the issuance by the state tax commission of a notice under either section 63-3045 or 63-3065, Idaho Code, and the final resolution of any proceeding resulting from the notice.

(j) Appeal of a state tax commission decision denying in whole or in part a claim for credit or refund shall be made in accordance with and within the time limits prescribed in section 63-3049, Idaho Code.

(k) For purposes of this section, "return" includes a notice of deficiency determination issued by the state tax commission when no return was filed by the taxpayer. Such a return is deemed filed on the date the taxes determined by the state tax commission are assessed.

SECTION 5. That Section 63-4407, Idaho Code, be, and the same is hereby amended to read as follows:

63-4407. RECAPTURE. (1) In the event that any person to whom a tax credit allowed by section 63-4403, 63-4404 or 63-4405, Idaho Code, fails to meet the tax incentive criteria, the full amount of the credit shall be subject to recapture by the commission.

(2) If, during any taxable year, an investment in new plant is disposed of, or otherwise ceases to qualify with respect to the taxpayer, prior to the close of the recapture period, recapture of the credit allowed by sections 63-4403 and 63-4404, Idaho Code, shall be determined for such taxable year in the same proportion and subject to the same provisions as an amount of credit required to be recaptured under section 63-3029B, Idaho Code.

(3) In the event that the employment ~~required~~ level for which the credit allowed in section ~~63-4402(2)(j)~~ 63-4405, Idaho Code, is not maintained for the entire recapture period, recapture of the credit allowed in section 63-4405, Idaho Code, shall be determined for such taxable year in the same proportion as an amount of credit required to be recaptured under section 63-3029B, Idaho Code. This subsection shall not be construed to require that the required level of employment must be met by the same individual employees.

(4) Any amount subject to recapture is a deficiency in tax for the amount of the credit 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 the later of five (5) years after the end of the taxable year in which the project period ends or three (3) years after the end of the taxable year in which any amounts carried forward under section 63-4406, Idaho Code, expire.

SECTION 6. That Section 63-3087, Idaho Code, be, and the same is hereby amended to read as follows:

63-3087. COLLECTION AND ENFORCEMENT. The collection and enforcement procedures provided by the Idaho Income Tax Act, sections 63-3038 through 63-3040, 63-3042 through 63-3065A, ~~63-3070,~~ 63-3071, 63-3075 and 63-3078, Idaho Code, shall apply and be available to the state tax commission for enforcement of the provisions of this act and collection of any amounts due under this act, and said sections shall, for this purpose, be considered part of this act and wherever liens or any other proceedings are defined as income tax liens or proceedings, they shall, when applied in enforcement or collection under this act, be described as permanent building fund tax liens and proceedings.

SECTION 7. That Section 63-2516, Idaho Code, be, and the same is hereby amended to read as follows:

63-2516. COLLECTION AND ENFORCEMENT -- ACTIONS AGAINST STATE OF IDAHO. In addition to the enforcement and penalty provisions in this act otherwise provided, the deficiency in tax and notice of deficiency as well as the collection and enforcement procedures provided by the Idaho income tax act, sections 63-3030A, 63-3038, 63-3039, 63-3040, 63-3042, 63-3043, 63-3044, 63-3045, 63-3045A, 63-3046, 63-3047, 63-3048 through 63-3065, 63-3068, ~~63-3070,~~ 63-3071, 63-3073, 63-3075 and 63-3078, Idaho Code, shall apply and be available to the state tax commission for enforcement of the provisions of this act and the assessment and collection of any amounts due, and said sections shall for this purpose be considered a part of this act and wherever liens or any other proceedings are defined as income tax liens or proceedings they shall, when applied in enforcement or collection under this act, be described as cigarette tax liens and proceedings.

The state tax commission may be made a party defendant in an action at law or in equity by any person aggrieved by the unlawful seizure or sale of his property, or in any suit for refund or to recover an overpayment, but only the state of Idaho shall be responsible for any final judgment secured against the state tax commission, and said judgment shall be paid as provided for payment of cigarette tax refunds.

SECTION 8. That Section 63-2563, Idaho Code, be, and the same is hereby amended to read as follows:

63-2563. COLLECTION AND ENFORCEMENT. The collection and enforcement procedures provided by the Idaho income tax act, sections 63-3038, 63-3039, 63-3042 through 63-3045A, 63-3047 through 63-3065A, 63-3068, ~~63-3070,~~ 63-3071, 63-3075 and 63-3078, Idaho Code, shall apply and be available to the commission for the enforcement of this act and collection of any amounts due under this act and said sections shall, for this purpose, be considered part of this act and wherever liens or any other proceedings are defined as income tax liens or proceedings, they shall, when applied in enforcement or collection under this act, be described as tobacco products tax liens and proceedings.

The state tax commission may be made a party defendant in an action at law or in equity by any person aggrieved by the unlawful seizure or sale of his property, or in any suit for refund or to recover an overpayment, but only the state of Idaho shall be responsible for any final judgment secured against the state tax commission, and said judgment shall be paid or satisfied out of the tobacco products tax refund fund.

SECTION 9. That Section 23-1050A, Idaho Code, be, and the same is hereby amended to read as follows:

23-1050A. COLLECTION AND ENFORCEMENT. The collection and enforcement procedures provided by the Idaho income tax act, sections 63-3042 through 63-3065A, inclusive, and sections 63-3068 and ~~63-3070~~ 63-3075, Idaho Code, shall apply and be available to the state tax commission for enforcement and collection of the tax imposed by this chapter, and said sections shall, for this purpose, be considered part of this act. Any reference to taxable year in the income tax act shall be, for the purposes of this act, considered a taxable period.

SECTION 10. That Section 23-1322A, Idaho Code, be, and the same is hereby amended to read as follows:

23-1322A. COLLECTION AND ENFORCEMENT. The collection and enforcement procedures provided by the Idaho income tax act, sections 63-3042 through 63-3065A, inclusive, and sections 63-3068 and ~~63-3070~~ 63-3075, Idaho Code, shall apply and be available to the state tax commission for enforcement and collection of the tax imposed by this chapter, and said sections shall, for this purpose, be considered part of this act. Any reference to taxable year in the income tax act shall, for the purposes of this act, be considered ~~as~~ a taxable period.

Approved February 14, 2007.

CHAPTER 11
(H.B. No. 13)

AN ACT

RELATING TO INCOME TAX; AMENDING SECTION 63-3022O, IDAHO CODE, TO CLARIFY HOW DEPRECIATION IS CALCULATED FOR IDAHO TAXABLE INCOME ON THE SALE, EXCHANGE OR OTHER DISPOSITION OF DEPRECIABLE PROPERTY AND TO PROVIDE THE PERIOD OF LIMITATIONS; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

SECTION 1. That Section 63-3022O, Idaho Code, be, and the same is hereby amended to read as follows:

63-3022O. ADJUSTMENT — PROPERTY ACQUIRED AFTER SEPTEMBER 10, 2001 -- EXPENSES OF ELEMENTARY AND SECONDARY TEACHERS — SMALL BUSINESS EXPENSES -- LIMITATIONS ON ASSESSMENTS AND REFUNDS. For taxable years commencing on and after January 1, 2001, in computing Idaho taxable income:

(1) The adjusted basis of depreciable property, depreciation and ~~capital~~ gains and losses from sale, exchange or other disposition of depreciable property shall be computed without regard to subsection (k) of section 168 of the Internal Revenue Code; and

(2) No deduction shall be allowed relating to expenses of elementary and secondary teachers otherwise allowable under section 62(a)(2)(D) of the Internal Revenue Code; and

(3) ~~When, in regard to property subject to this section, the adjusted basis of depreciable property, depreciation and capital gains and losses resulting from the provisions of this section (as previously reported by the taxpayer or as adjusted by the state tax commission) are subject to change or adjustment by the taxpayer or by the state tax commission, a claim for refund or notice of deficiency determination for amounts resulting from the changes shall be made within the greater of the time provided in sections 63-3068 and 63-3072, Idaho Code, or the useful life of the property to which the adjustment relates~~ Adjustments in computing Idaho taxable income required by subsection (1) of this section shall be made without regard to loss limitations imposed by sections 465, 469, 704(d) and 1366(d) of the Internal Revenue Code; and

(4) A taxpayer's basis in an interest in a pass-through entity, amount at risk, and passive activity loss carryover shall be the same amount for purposes of the Idaho income tax act as the amount determined under the Internal Revenue Code; and

(5) Each partner, shareholder, member or beneficiary, shall include in Idaho taxable income his share of the adjustments required by this section in computing Idaho taxable income of any pass-through entity; and

(6) Notwithstanding the provisions of sections 63-3068 and 63-3072, Idaho Code, the period of limitations for issuing a notice of deficiency determination or filing a claim for refund for any year for which an adjustment is required by this section shall not expire before three (3) years from the later of: (a) the due date of the return for the last taxable year an adjustment was required by this section, or (b) the date the return was filed for the last taxable year an adjustment was required by this section. Upon the expiration of the period of limitations as provided in subsections (a) and (m) of section 63-3068, Idaho Code, and subsections (b) and (h) of section 63-3072, Idaho Code, only those specific items of basis, deductions, gains or losses that are computed, without regard to subsection (k) of section 168 of the Internal Revenue Code, as required by this section shall be subject to adjustment.

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, 2007.

Approved February 14, 2007.

CHAPTER 12
(H.B. No. 15)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3026A, IDAHO CODE, TO PROVIDE THAT NONRESIDENT INDIVIDUALS SHALL NOT BE TAXABLE ON INVESTMENT INCOME DISTRIBUTED BY A QUALIFIED INVESTMENT PARTNERSHIP AND TO DEFINE "QUALIFIED INVESTMENT PARTNERSHIP"; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

SECTION 1. That Section 63-3026A, Idaho Code, be, and the same is hereby amended to read as follows:

63-3026A. COMPUTING IDAHO TAXABLE INCOME OF PART-YEAR OR NONRESIDENT INDIVIDUALS, TRUSTS AND ESTATES. (1) For nonresident individuals, trusts, or estates the term "Idaho taxable income" includes only those components of Idaho taxable income as computed for a resident which are derived from or related to sources within Idaho. This is to be computed without the deductions for either the standard deduction or itemized

deductions or personal exemptions except as provided in subsection (4) of this section.

(2) For part-year resident individuals, trusts or estates the term "Idaho taxable income" includes the total of: (a) Idaho taxable income as computed for a resident for the portion of the tax period during which a taxpayer is domiciled in or is residing in Idaho, plus (b) those components of Idaho taxable income which are derived from or related to sources within Idaho for that portion of the tax period during which a taxpayer is not domiciled in and is not residing in Idaho. This is to be computed without the deductions for either the standard deduction or itemized deductions or personal exemptions except as provided in subsection (4) of this section.

(3) For the purposes of subsections (1) and (2) of this section:

(a) Income shall be considered derived from or relating to sources within Idaho when such income is attributable to or resulting from:

(i) Any business, trade, profession or occupation conducted or carried on in this state, including the distributive share of partnership income and deductions, and the pro rata share of S corporation income and deductions;

(ii) The ownership or disposition of any interest in real or tangible personal property located in this state;

(iii) The ownership or disposition of any interest in intangible personal property only to the extent that such property is employed in a business, trade, profession or occupation conducted or carried on in this state. Provided however, that interest income from an installment sale of real or tangible personal property shall constitute income from sources within this state to the extent that the property sold was located within this state. Provided further, that interest income received by a partner or shareholder of a partnership or S corporation from such partnership or S corporation shall constitute income from sources within this state to the extent that the partnership or S corporation is transacting business within this state;

(iv) A resident estate or trust;

(v) A nonresident estate or trust to the extent the income and deductions of the nonresident estate or trust were derived from or related to sources within this state;

(vi) The conduct of pari-mutuel wagering, charitable gaming or any other form of gambling taking place within this state, except as expressly limited in section 67-7439, Idaho Code;

(vii) Gains or losses realized from the sale or other disposition of a partnership interest or stock in an S corporation to the extent of the partnership's or S corporation's Idaho apportionment factor in the taxable year immediately preceding the year of sale.

(b) Notwithstanding the provisions of subsection (3)(a) of this section, transactions and investments made, placed or directed by Idaho resident registered broker-dealers and investment advisers or institutions exempt from registration under the Idaho securities act in securities listed with or through the New York Stock Exchange, the American Stock Exchange or any other stock exchange registered with the United States securities and exchange commission and approved by the director of the department of finance which generate

dividends, interest, capital gains or similar profits or returns for nonresidents not otherwise subject to Idaho income taxation shall not result in the intangible property being deemed to have a situs outside the domicile of the owner.

(c) ~~Notwithstanding the provisions of subsection (3)(a) of this section, when intangible property owned by a limited liability company, partnership or other entity taxed as a partnership for federal income tax purposes generates dividends, interest, capital gains or similar profits or returns, such income shall not constitute income derived from or related to sources within Idaho, provided that the business activity of such entity is limited to the investment in securities and activities incident thereto~~ Nonresident individuals shall not be taxable on investment income from a qualified investment partnership. For purposes of this paragraph, a "qualified investment partnership" means a partnership, as defined in section 63-3006B, Idaho Code, that derives at least ninety percent (90%) of its gross income from investments that produce income that would not be taxable to a nonresident individual if the investment were held by that individual.

(d) Compensation paid by the United States for active service in the armed forces of the United States, performed by an individual not domiciled in this state, shall not constitute income derived from or related to sources within this state.

(e) The income of nonresident or part-year resident individuals, trusts or estates which is derived from or related to sources both within and without this state shall be attributable to this state in the manner prescribed in the rules of the state tax commission.

(4) In computing the Idaho taxable income of a part-year or nonresident individual, trust or estate, the standard deduction or itemized deductions, as defined in section 63-3022(j), Idaho Code, if applicable, and the exemptions, as defined in section 151 of the Internal Revenue Code or any allowance in lieu of such deduction, shall be allowed in the proportion that paragraph (a) of this subsection bears to paragraph (b) of this subsection:

(a) The Idaho taxable income of the taxpayer modified as follows:

(i) No allowance shall be made for either the standard deduction or itemized deductions;

(ii) No deduction shall be made for personal exemptions or any allowance in lieu of such deduction.

(b) The Idaho taxable income as would be calculated for a resident of Idaho modified as follows:

(i) No allowance shall be made for either a standard deduction or itemized deductions;

(ii) No deduction shall be made for personal exemptions or any allowance in lieu of such deduction;

(iii) Compensation for active military service in the armed forces shall not be deducted;

(iv) Income earned within the original exterior boundaries of any federally created Indian reservation by an enrolled Indian in a federally recognized Indian tribe on a federally recognized Indian reservation shall be added if not otherwise included.

(5) An adjustment may be made to eliminate distortions in the amount of net income attributable to a taxpayer's activities within the

state of Idaho. Such deductions shall be limited to circumstances involving itemized deductions as referred to in subsection (4) of this section and which reflect:

(a) A failure to reflect the net income or deduction after reimbursements have been received; or

(b) A failure to reflect the net amount of mortgage interest income or expense from activities within Idaho.

(6) For the purposes of subsections (1) and (2) of this section, deductions and adjustments allowed in computing the Idaho taxable income of nonresident and part-year resident individuals, trusts and estates shall be prescribed in the rules of the state tax commission. Such rules shall be based upon:

(a) Whether or not the deduction or adjustment is related to the production of income reportable to Idaho;

(b) Whether or not the deduction or adjustment is related to income received, expenses paid, or events of tax consequence which occurred during a portion of a taxable year that the taxpayer was domiciled in or residing in Idaho; or

(c) Any other appropriate basis for making the adjustment. An "appropriate basis" is one which the state tax commission finds is needed to insure that the amount of Idaho taxable income is fairly and reasonably related to a taxpayer's activities in this state.

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, 2007.

Approved February 14, 2007.

CHAPTER 13
(H.B. No. 16)

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 A RETROACTIVE EFFECTIVE DATE.

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, 2006~~7~~.

(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, 2007.

Approved February 14, 2007.

CHAPTER 14
(H.B. No. 17)

AN ACT

RELATING TO INCOME TAX; AMENDING SECTION 63-3025, IDAHO CODE, TO PROVIDE THAT S CORPORATIONS SHALL BE SUBJECT TO TAX ON THE AMOUNT OF NET RECOGNIZED BUILT-IN GAIN ATTRIBUTABLE TO THIS STATE AND EXCESS NET PASSIVE INCOME ATTRIBUTABLE TO THIS STATE; AMENDING SECTION 63-3025A, IDAHO CODE, TO PROVIDE THAT S CORPORATIONS SHALL BE SUBJECT TO TAX ON THE AMOUNT OF NET RECOGNIZED BUILT-IN GAIN ATTRIBUTABLE TO THIS STATE AND EXCESS NET PASSIVE INCOME ATTRIBUTABLE TO THIS STATE 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 63-3025, Idaho Code, be, and the same is hereby amended to read as follows:

63-3025. TAX ON CORPORATE INCOME. (1) For taxable years commencing on and after January 1, 2001, a tax is hereby imposed on the Idaho taxable income of a corporation, other than an S corporation, which transacts or is authorized to transact business in this state or which has income attributable to this state. The tax shall be equal to seven and six-tenths percent (7.6%) of Idaho taxable income.~~;--provided;--however, that the~~

(2) In the case of an S corporation that is required to file a return under section 63-3030, Idaho Code, a tax is hereby imposed at the rate provided in subsection (1) of this section upon both:

(a) Net recognized built-in gain attributable to this state. The amount of net recognized built-in gain attributable to this state shall be computed in accordance with section 1374 of the Internal Revenue Code subject to the apportionment and allocation provisions of section 63-3027, Idaho Code.

(b) Excess net passive income attributable to this state. The amount of excess net passive income attributable to this state shall be computed in accordance with section 1375 of the Internal Revenue Code subject to the apportionment and allocation provisions of section 63-3027, Idaho Code.

(3) The tax imposed by subsection (1) or (2) of this section shall not be less than twenty dollars ($20.00); provided further that the twenty dollar ($20.00) minimum payment shall not be collected from nonproductive mining corporations.

(4) The tax imposed by this section shall not apply to corporations taxed pursuant to the provisions of section 63-3025A, Idaho Code.

SECTION 2. That Section 63-3025A, Idaho Code, be, and the same is hereby amended to read as follows:

63-3025A. FRANCHISE TAX. (1) For taxable years commencing on and after January 1, 2001, a franchise tax shall be imposed upon any corporation, other than an S corporation, for the privilege of exercising its corporate franchise within the state during such taxable year including, but not limited to, corporations engaged in business in Idaho for the exclusive purpose of performing contracts with the United States department of energy at the Idaho national ~~engineering and environmental~~ laboratory, which tax shall be measured by income which is attributable to this state under the provisions of this chapter and which tax shall be at the rate provided in section 63-3025, Idaho Code.~~; provided, however, that the~~

(2) In the case of an S corporation that is required to file a return under section 63-3030, Idaho Code, a tax is hereby imposed at the rate provided in subsection (1) of this section upon both:

(a) Net recognized built-in gain attributable to this state. The amount of net recognized built-in gain attributable to this state shall be computed in accordance with section 1374 of the Internal Revenue Code subject to the apportionment and allocation provisions of section 63-3027, Idaho Code.

(b) Excess net passive income attributable to this state. The amount of excess net passive income attributable to this state shall be computed in accordance with section 1375 of the Internal Revenue Code subject to the apportionment and allocation provisions of section 63-3027, Idaho Code.

(3) The tax imposed by subsection (1) or (2) of this section shall not be less than twenty dollars ($20.00); provided further that the twenty dollar ($20.00) minimum payment shall not be collected from nonproductive mining corporations; but the twenty dollar ($20.00) minimum tax shall apply to corporations qualified to file returns and actually filing returns under the provisions of subchapter "S" of the Internal Revenue 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, and retroactively to January 1, 2007.

Approved February 14, 2007.

CHAPTER 15
(H.B. No. 22)

AN ACT

RELATING TO NOTICES TO TAXPAYERS OF NEW ASSESSMENTS AND CHANGES; AMENDING SECTION 63-506, IDAHO CODE, TO REQUIRE ADDITIONAL TIME BEFORE THE BOARD OF EQUALIZATION TAKES FINAL ACTION IN THE CASE OF SERVICE BY MAIL.

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

SECTION 1. That Section 63-506, Idaho Code, be, and the same is hereby amended to read as follows:

63-506. NOTICE TO TAXPAYER OF NEW ASSESSMENTS AND CHANGES. The board of equalization must, before taking final action in equalizing the assessed value of the property of any person refusing to appear and testify, or in increasing the assessed value of any property, notify the owner thereof, or his agent or representative, of its intention to do so, and require such person to appear forthwith before the board and make objection, if he has any. The board may direct the notice to be served personally upon the owner, or his agent or representative; or, it may direct the clerk to serve the notice by mail, addressed to such owner, or his agent or representative, at his last known post office address. In the case of service by mail, the board of equalization shall not take final action until ~~five~~ ten (~~5~~10) working days after the mailing of such notice, unless the owner, or his agent, or representative, shall sooner appear. If the owner is one other than the equitable titleholder, such as an escrowee, trustee of trust deed or other third party, the owner shall, within ten (10) days, deliver to the equitable titleholder a true copy of the notice from the board of equalization.

Approved February 14, 2007.

CHAPTER 16
(H.B. No. 1)

AN ACT

RELATING TO THE DIVISION OF VETERANS SERVICES; AMENDING SECTION 65-202, IDAHO CODE, TO PROVIDE THAT THE ADMINISTRATOR IN CHARGE OF THE STATE VETERANS CEMETERY SHALL BE CONSIDERED A NONCLASSIFIED EXEMPT EMPLOYEE.

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

SECTION 1. That Section 65-202, Idaho Code, be, and the same is hereby amended to read as follows:

65-202. POWERS AND DUTIES. The administrator of the division of veterans services shall have full power and authority on behalf of the state of Idaho, in recognition of the services rendered by veterans of the armed forces of the United States, to:

(1) Oversee the management and operation of the veterans homes in the state and the state veterans cemetery, and provide care to veterans of the armed forces of the United States under such rules as the administrator may from time to time adopt.

(2) Extend financial relief and assistance to disabled or destitute wartime veterans and to those dependent upon such disabled or destitute wartime veterans as the commission shall determine to be reasonably required under such rules as the administrator may, from time to time, adopt.

(3) Collect benefits paid by the United States department of veterans affairs for burial and plot allowance for persons interred at the state veterans cemetery.

(4) Prescribe, with the approval of the commission, the qualifications of all personnel in accordance with the Idaho personnel system law. The administrators in charge of state veterans homes, ~~and~~ the office of veterans advocacy, and the state veterans cemetery, shall be considered nonclassified exempt employees pursuant to the provisions of chapter 53, title 67, Idaho Code, and shall serve at the pleasure of the administrator of the division of veterans services.

(5) Accept gifts, grants, contributions and bequests of funds, and personal property to the state of Idaho for the benefit of veterans of the armed forces of the United States.

(6) Enter into contracts, within the limit of funds available therefor, acquire services and personal property, and do and perform any acts that may be necessary in the administration of services to veterans of the armed forces of the United States.

(7) Administer, with the advice and approval of the commission, moneys in the veterans cemetery maintenance fund established in section 65-107, Idaho Code.

(8) Establish by rule charges related to interment, disinterment and reinterment in the state veterans cemetery and the administrator is hereby directed to cause such charges to be deposited in the veterans cemetery maintenance fund established in section 65-107, Idaho Code.

(9) In his discretion, assume control of the cremated remains of deceased persons qualified for interment in the state veterans cemetery, apply for burial and plot allowance benefits paid by the United States department of veterans affairs for such deceased persons and inter in the state veterans cemetery the cremated remains of deceased persons qualified for interment in the state veterans cemetery.

Approved February 12, 2007.

CHAPTER 17
(H.B. No. 2)

AN ACT
RELATING TO THE STATE LIQUOR DISPENSARY; REPEALING SECTION 23-213, IDAHO CODE, RELATING TO PROHIBITING PERSONNEL FROM ENGAGING IN POLITICS.

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

SECTION 1. That Section 23-213, Idaho Code, be, and the same is hereby repealed.

Approved February 12, 2007.

CHAPTER 18
(H.B. No. 39)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 2007; AUTHORIZING ADDITIONAL FULL-TIME EQUIVALENT 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 409, Laws of 2006, there is hereby appropriated to the State Board of Education for the Office of the State Board of Education the following amounts, to be expended for the designated program according to the designated expense classes from the listed fund for the period July 1, 2006, through June 30, 2007:

OFFICE OF THE STATE BOARD OF EDUCATION:

FOR:	
Personnel Costs	$107,400
Operating Expenditures	609,000
Capital Outlay	16,800
Trustee and Benefit Payments	100,000
TOTAL	$833,200
FROM:	
Federal Grant Fund	$833,200

SECTION 2. In addition to the positions authorized in Section 2, Chapter 409, Laws of 2006, there is hereby authorized to the State Board of Education for the Office of the State Board of Education two (2) full-time equivalent positions during the period July 1, 2006, through June 30, 2007.

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 12, 2007.

CHAPTER 19
(H.B. No. 9)

AN ACT

RELATING TO THE TAX ON TOBACCO PRODUCTS; AMENDING SECTION 63-2554, IDAHO CODE, TO REQUIRE TOBACCO DISTRIBUTORS TO HOLD CIGARETTE PERMITS; AMENDING SECTION 63-2559, IDAHO CODE, TO ALLOW THE CREDIT FOR TAXES PAID TO DISTRIBUTORS WHO SHIP TOBACCO PRODUCTS TO DISTRIBUTORS OUTSIDE IDAHO; AND AMENDING SECTION 63-2560, IDAHO CODE, TO DELETE PROVISIONS RELATING TO MONTHLY ESTIMATED TAX RETURNS, TO PROVIDE RETURNS MONTHLY OR SUCH OTHER PERIOD AS THE STATE TAX COMMISSION MAY BY RULE PROVIDE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 63-2554, Idaho Code, be, and the same is hereby amended to read as follows:

63-2554. ~~CERTIFICATE OF REGISTRATION~~ PERMIT REQUIRED. ~~From and after July 1, 1972, n~~No person shall engage in the business of a distributor or subjobber of tobacco products at ~~any place~~ of business without first having received from the commission a ~~certificate of registration~~ permit as provided in section 63-2503 or 63-2504, Idaho Code.

SECTION 2. That Section 63-2559, Idaho Code, be, and the same is hereby amended to read as follows:

63-2559. WHEN CREDIT MAY BE OBTAINED FOR TAX PAID. (1) Where tobacco products upon which the tax imposed by this chapter has been reported and paid, are shipped or transported by the distributor to distributors or retailers ~~without~~ outside the state, to be sold by those distributors or retailers, or are returned to the manufacturer by the distributor or destroyed by the distributor, credit of such tax may be made to the distributor in accordance with rules prescribed by the commission.

(2) Taxes paid on tobacco products sold on or after January 1, 2000, on accounts later found to be worthless and actually charged-off may be credited upon a subsequent payment of the tax on tobacco products or, if no such tax is due, refunded. If all or part of such an account is thereafter collected, the tax shall be paid based upon the proportion of the amount collected.

SECTION 3. That Section 63-2560, Idaho Code, be, and the same is hereby amended to read as follows:

63-2560. TAX PAYABLE MONTHLY — RETURNS -- OTHER THAN MONTHLY ~~ESTIMATE AND QUARTERLY~~ RETURNS~~,~~ -- PROCEDURE. (1) The taxes imposed hereunder shall be due and payable in monthly ~~instalments~~ installments and remittance therefor shall be made on or before the twentieth day of the month next succeeding the end of the monthly period in which tax accrued. The taxpayer, on or before said twentieth day of said month, shall make out a return, upon such forms and setting forth such information as the tax commission may require, showing the amount of the tax for which he is liable for the preceding monthly period, and shall sign and transmit the same to the commission, together with a remittance for such amount in the form required. ~~Provided, that any such taxpayer may elect to remit each month, on such forms as the tax commission shall in its discretion prescribe, an estimate of the tax to be due for each month on or before the twentieth day of the month next succeeding the end of the monthly period in which the tax accrued, and a quarterly return to the commission on or before the twentieth day of the month next succeeding the end of each quarter of every year, and shall remit therewith the balance of the actual tax due for the period of the report. Provided further, that every person who shall elect to remit a monthly "estimate of the tax to be due" as hereinabove described shall remit each month at least one-third (1/3) of the tax paid during the previous quarter, or ninety per cent (90%) of the tax actually collected or owing during the month, whichever is greater.~~

~~The tax commission may also relieve any taxpayer or class of taxpayers from the obligation of filing monthly returns and may require the return to cover other reporting periods, but in no event shall returns be filed for a period greater than one (1) year.~~

~~The tax commission may also, by general rule or regulation, establish conditions for submission of annual or semiannual reconciling returns by such taxpayers or class of taxpayers in lieu of quarterly returns.~~

~~The tax commission may also require verified annual returns from any taxpayer, setting forth such additional information as it may deem necessary to correctly determine tax liability.~~

(2) The state tax commission may by rule provide returns for periods of time other than monthly periods. Returns for such reporting periods, together with payment of the required taxes, shall be due on or before the twentieth day of the month following the end of the period to which the return relates.

Approved February 13, 2007.

CHAPTER 20
(H.B. No. 35)

AN ACT

RELATING TO SIZE OF VEHICLES AND LOADS; AMENDING SECTION 49-115, IDAHO CODE, TO DEFINE "NATIONAL NETWORK"; AND AMENDING SECTION 49-1010, IDAHO CODE, TO ALLOW SADDLEMOUNT COMBINATIONS TO OPERATE AT AN OVERALL LENGTH OF NINETY-SEVEN FEET WHEN TRAVELING ON THE NATIONAL NETWORK.

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

SECTION 1. That Section 49-115, Idaho Code, be, and the same is hereby amended to read as follows:

49-115. DEFINITIONS -- N. (1) "National network" means highways available to vehicles authorized by the provisions of the federal surface transportation assistance act of 1982 as amended, and listed in 23 CFR part 658, appendix A.

(2) "Neighborhood electric vehicle." (See "Vehicle," section 49-123, Idaho Code)

(~~2~~3) "Noncommercial vehicle." (See "Vehicle," section 49-123, Idaho Code)

(~~3~~4) "Nonresident" means every person who is not a resident of this state.

(~~4~~5) "Nonresident's operating privilege" means the privilege conferred upon a nonresident by the laws of this state pertaining to the operation by that person of a motor vehicle, or the use of a vehicle owned by that person, in this state.

SECTION 2. That Section 49-1010, Idaho Code, be, and the same is hereby amended to read as follows:

49-1010. SIZE OF VEHICLES AND LOADS. No vehicle shall exceed the dimensions specified below, except that certain devices determined by the board as necessary for the safe and efficient operation of motor vehicles, including energy conservation devices, shall be excluded from the calculation of width or length.

(1) The width of a vehicle, including any load thereon, except as noted below, shall not exceed ..... 8 1/2 feet.

(a) The limitations as to size of vehicles stated in this section shall not apply to farm tractors or to implements of husbandry,

including any load thereon, or any trailer not wider than the implement of husbandry used in the transportation of implements of husbandry for agricultural operations, and including all equipment used in land leveling operations, when being incidentally operated upon the highway from one (1) farm operation to another during daylight hours.

(b) Notwithstanding the exemption from width limitation for farm tractors included in paragraph (a) of this subsection, the total outside width of any farm tractor being transported on the interstate system in this state, except as permitted by section 49-1004, Idaho Code, shall not exceed ..... 9 feet.

(c) A farm tractor or implement of husbandry, when being incidentally transported upon the highway with a width in excess of the limits of paragraphs (a) and (b) of this subsection, must display one (1) red or fluorescent orange flag a minimum of twelve (12) by twelve (12) inches on the outermost left projection of the tractor or implement being transported.

(2) The height of a vehicle, including the load thereon, shall not exceed ..... 14 feet.

(3) The length of a vehicle, or vehicle combination, except as noted below shall not exceed:

(a) When a single motor vehicle ..... 45 feet.

(b) When a trailer or semitrailer, except as noted below ..... 48 feet.

1. Semitrailers operating on routes determined by the board to have severe curvature, deficient width and/or heavy traffic conditions shall be limited to an overall combination length not to exceed ..... 65 feet.

2. The length of a trailer tongue, or the length of the tongue of a converter gear used to convert a semitrailer to a trailer, shall be excluded from the calculation of a trailer length.

3. Semitrailers operating on routes which are a part of the national network as set forth in 23 CFR 658, on routes providing access between the national network and terminals and facilities for food, fuel, repairs and rest which are located within one (1) road mile of the national network and state highways as set forth by policy and approved by the transportation board shall not exceed a length of ..... 53 feet.

(c) When a motor vehicle and one (1) or more trailers, except as noted in subsections (3)(b), (3)(d) and (3)(e) of this section ..... 75 feet.

(d) When a combination of semitrailer and trailer, or of two (2) semitrailers the length in such combination, including the connecting tongue and excluding the truck tractor except as noted below ..... 61 feet.

When the combination of semitrailer and trailer or of two (2) semitrailers including the connecting tongues exceeds sixty-one (61) feet, the length of such combination including the truck tractor ..... 75 feet.

(e) When a combination of a semitrailer and trailer, or of two (2) semitrailers operating on routes on the national network as set forth in 23 CFR 658, and on routes providing access between the national network and terminals and facilities for food, fuel, repairs and rest which are located within one (1) road mile of the

national network, the length, including the connecting tongue and excluding the truck tractor, shall not exceed ..... 68 feet.
(f) When a dromedary tractor with semitrailer, stinger-steered by having the kingpin located five (5) feet to the rear of the centroid of the rear axle(s) ..... 75 feet.
(g) When a dromedary combination transporting class 1 explosive materials and/or any munitions-related security material as specified by the U.S. department of defense in compliance with 49 CFR 177.835, not meeting the stinger-steer requirement as defined in subsection (3)(f) of this section, up to ..... 75 feet.
(h) When a dromedary tractor with semitrailer, not meeting the stinger-steer requirement as defined in subsection (3)(f) of this section ..... 65 feet.
(i) When an auto transporter or boat transporter, stinger-steered as defined in subsection (3)(f) of this section, excluding front and rear overhang of load ..... 75 feet.
(j) When an auto transporter or boat transporter, not meeting the stinger-steer requirement as defined in subsection (3)(f) of this section, excluding front and rear overhang of load ..... 65 feet.
(k) When a truck tractor with stinger-steered pole trailer or log dolly, connected by a reach or pole, or a combination used for transporting long loads such as poles, pipes, logs or structural members generally capable of sustaining themselves as beams between supporting bunks or connections ..... 75 feet.
(4) The overhang or extension of a load shall not extend:
(a) Beyond the front of a vehicle, more than ..... 4 feet.
(b) Beyond the end of a vehicle, more than ..... 10 feet.
(c) Beyond the left fender of a passenger vehicle, more than ..... 0 feet.
(d) Beyond the right fender of a passenger vehicle, more than ..... 6 inches.
(e) To the front and rear combined of an auto transporter or boat transporter, more than ..... 7 feet.
(5) Noncargo-carrying devices necessary for the safe and efficient operation of the vehicle, as determined by the board, shall not be included in measurement for length.
(6) No combination shall include more than three (3) units except when a saddlemount combination and the overall length allowed is:
(a) On the national network ..... 97 feet.
(b) Other than the national network ..... 75 feet.
(7) Vehicle combinations consisting of not more than four (4) vehicle units with an overall length in excess of the limits of subsection (3) of this section and with an overall combination length not to exceed one hundred fifteen (115) feet, may be operated by permit on routes designated for such operations by the public highway agency having jurisdiction over that highway system, subject to the following restrictions as to lengths of cargo-carrying units:
(a) Truck tractor and two (2) trailing units ..... 95 feet.
(b) Truck tractor and three (3) trailing units ..... 95 feet.
(c) Truck and two (2) trailing units ..... 98 feet.

Approved February 21, 2007.

CHAPTER 21
(H.B. No. 36)

AN ACT

RELATING TO DUTIES OF THE IDAHO TRANSPORTATION DEPARTMENT; AMENDING SECTION 49-202, IDAHO CODE, TO PROVIDE THAT THE DEPARTMENT SHALL WAIVE THE FEE REQUIRED FOR ISSUING A LETTER OF TEMPORARY VEHICLE CLEARANCE TO AN IDAHO-BASED MOTOR CARRIER IF THE MOTOR CARRIER OBTAINED AND PRINTED THE DOCUMENT USING INTERNET ACCESS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 49-202, Idaho Code, be, and the same is hereby amended to read as follows:

49-202. DUTIES OF DEPARTMENT. (1) All registration and driver's license records in the office of the department shall be public records and open to inspection by the public during normal business hours, except for those records declared by law to be for the confidential use of the department, or those records containing personal information subject to restrictions or conditions regarding disclosure. If the department has contracted for a service to be provided by another entity, an additional fee shall be charged by that contractor whether the service is rendered during normal business hours, other than normal business hours or on weekends.

(2) In addition to other fees required by law to be collected by the department, the department shall collect the following:

(a) For certifying a copy of any record pertaining to any vehicle license, any certificate of title, or any driver's license ... $8.00

(b) For issuing every Idaho certificate of title $8.00

(c) For furnishing a duplicate copy of any Idaho certificate of title $8.00

(d) For issuance or transfer of every certificate of title on a new or used vehicle or other titled vehicle in an expedited manner (rush titles), in addition to any other fee required by this section $15.00

(e) For recording a transitional ownership document, in addition to any other fee required by this section $15.00

(f) For furnishing a replacement of any receipt of registration $3.00

(g) For furnishing copies of registration or ownership of motor vehicles or driver's license records, per vehicle registration, accident report records, title or per driver's license record $4.00

Additional contractor fee, not to exceed $4.00

(h) For services in searching files of vehicle or other registrations, vehicle titles, or driver's licenses per hour $10.00

(i) Placing "stop" cards in vehicle registration or title files, each $12.00

(j) For issuance of an assigned or replacement vehicle identification number (VIN) $10.00

(k) For a vehicle identification number (VIN) inspection whether conducted by a city or county peace officer or any other peace offi-

cer or designated agent of the state of Idaho, per inspection $3.00

(l) For all replacement registration stickers, each $1.00

(m) For issuing letters of temporary vehicle clearance to Idaho-based motor carriers $10.00

(n) For all sample license plates, each $12.00

(o) For filing release of liability statements $2.00

(p) For safety and insurance programs for each vehicle operated by a motor carrier $2.00

A lesser amount may be set by rule of the board.

(3) The fees required in this section shall not apply when the service is furnished to any federal, state, county or city peace officer when such service is required in the performance of their duties as peace officers.

(4) The department may enter into agreements with private companies or public entities to provide the services for which a fee is collected in subsection (2)(g) of this section. Such private contractor shall collect the fee prescribed and remit the fee to the department. The contractor shall also collect and retain the additional fee charged for his services.

(5) (a) The department shall pay three dollars ($3.00) of the fee collected by a county assessor or other agent of the department as provided in subsection (2)(a) through (f) of this section, and four dollars ($4.00) as provided in subsection (2)(g) of this section, to the county assessor or sheriff of the county or agent collecting such fee, which shall be deposited with the county treasurer and credited to the county current expense fund. The remainder of the fees collected as provided in that subsection shall be paid by the department to the state treasurer and placed in the state highway fund.

(b) The fee collected under subsection (2)(k) of this section for a VIN inspection shall be placed in the city general fund if conducted by a city peace officer, in the county current expense fund if conducted by a county peace officer, shall be retained by the special agent authorized to perform the inspection, or paid to the state treasurer and placed to the credit of the Idaho state police if conducted by the Idaho state police or in the state highway fund if conducted by the department.

(c) The fee in subsection (2)(m) of this section shall not apply when the Idaho-based motor carrier or its representative obtains and prints the document using internet access.

(d) The fee collected under subsection (2)(p) of this section for motor carriers shall be paid by the department to the state treasurer and placed in the state highway fund. The director and the director of the Idaho state police shall jointly determine the amount to be transferred from the state highway fund to the law enforcement fund for motor carrier safety programs conducted by the Idaho state police pursuant to the provisions of section 67-2901A, Idaho Code.

(6) The department as often as practicable may provide to law enforcement agencies the record of suspensions and revocations of driver licenses via the Idaho law enforcement telecommunications system (ILETS).

(7) The department shall provide the forms prescribed in chapter 5

of this title, shall receive and file in its office in Ada county, all instruments required in chapter 5 of this title to be filed with the department, shall prescribe a uniform method of numbering certificates of title, and maintain in the department indices for such certificates of title. All indices shall be by motor or identification number and alphabetical by name of the owner.

(8) The department shall file each registration received under a distinctive registration number assigned to the vehicle and to the owner thereof.

(9) The department shall not renew a driver's license or identification card when fees required by law have not been paid or where fees for past periods are due, owing and unpaid including insufficient fund checks, until those fees have been paid.

(10) The department shall not grant the registration of a vehicle when:

(a) The applicant is not entitled to registration under the provisions of this title; or

(b) The applicant has neglected or refused to furnish the department with the information required in the appropriate form or reasonable additional information required by the department; or

(c) The fees required by law have not been paid, or where fees for past registration periods are due, owing and unpaid including insufficient fund checks.

(11) The department or its authorized agents have the authority to request any person to submit to medical, vision, highway, or written examinations, to protect the safety of the public upon the highways. The department or its authorized agents may exercise such authority based upon evidence which may include, but is not limited to, observations made.

(12) The department shall revoke the registration of any vehicle:

(a) Which the department shall determine is unsafe or unfit to be operated or is not equipped as required by law;

(b) Whenever the person to whom the registration card or registration plate has been issued shall make or permit to be made any unlawful use of the same or permit their use by a person not entitled thereto;

(c) For any violation of vehicle registration requirements by the owner or operator in the current or past registration periods;

(d) Whenever a motor carrier requests revocation, or whenever an interstate carrier's federal operating authority has been revoked;

(e) For failure of the owner or operator to file the reports required or nonpayment of audit assessments or fees assessed against the owner by the department or the state tax commission pursuant to audit under the provisions of section 49-439, Idaho Code;

(f) Identified by any city or county administering a program established by ordinance for the inspection and readjustment of motor vehicles (which program is part of an approved state implementation plan adopted by both the state and federal governments under 42 U.S.C. section 7410) as having failed to comply with an ordinance requiring motor vehicle emission inspection and readjustment; provided that no vehicle shall be identified to the department under this subsection (f) unless:

(i) The city or county certifies to the department that the owner of the motor vehicle has been given notice and had the

opportunity for a hearing concerning compliance with the ordinance and has exhausted all remedies and appeals from any determination made at such hearing; and

(ii) The city or county reimburses the department for all direct costs associated with the registration revocation procedure.

(13) The department shall not reregister or permit a vehicle to operate on a special trip permit until all fees, penalties and interest have been paid.

(14) The department shall institute educational programs, demonstrations, exhibits and displays.

(15) The department shall cancel a driver's license or identification card when fees required by law have not been paid or where fees are due, owing and unpaid including insufficient fund checks, until those fees have been paid.

(16) The department shall examine persons and vehicles by written, oral, vision and skills tests without compulsion except as provided by law.

(17) The department shall employ expert and special help as needed in the department.

(18) The department shall compile accident statistics and disseminate information relating to those statistics.

(19) The department shall cooperate with the United States in the elimination of road hazards, whether of a physical, visual or mental character.

(20) The department shall place and maintain traffic-control devices, conforming to the board's manual and specifications, upon all state highways as it shall deem necessary to indicate and to carry out the provisions of this title or to regulate, warn, or guide traffic. No local authority shall place or maintain any traffic-control device upon any highway under the jurisdiction of the department except by the latter's permission, except where the duly elected officials of an incorporated city have established speed limits lower than those set by the department on the portion of state highways, excluding controlled-access and interstate highways, that pass through residential, urban or business districts within the jurisdiction of the incorporated city. The placement and maintenance of such a traffic-control device by a local authority shall be made according to the board's manual and specifications for a uniform system of traffic-control devices.

(21) The department may conduct an investigation of any bridge or other elevated structure constituting a part of a highway, and if it shall find that the structure cannot with safety to itself withstand vehicles traveling at a speed otherwise permissible under this title, shall determine and declare the maximum speed of vehicles which the structure can safely withstand, and shall cause or permit suitable signs stating the maximum speed to be erected and maintained before each end of the structure.

(22) Whenever the department shall determine on the basis of an engineering and traffic investigation that slow speeds on any highway or part of a highway impede the normal and reasonable movement of traffic, the department may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law, and that limit shall be effective when posted upon appropriate fixed or variable signs, except in cases

where the duly elected officials of an incorporated city have established speed limits lower than those set by the department on portions of state highways, excluding controlled-access and interstate highways, that pass through residential, urban or business districts within the jurisdiction of the incorporated city.

(23) The department shall regulate or prohibit the use of any controlled-access highway by any class or kind of traffic which is found to be incompatible with the normal and safe movement of traffic.

(24) The department shall erect and maintain traffic-control devices on controlled-access highways on which any prohibitions are applicable.

(25) Wherever a highway crosses one (1) or more railroads at grade, the department or local authorities within their respective jurisdictions shall place and maintain stop signs, directing vehicular traffic approaching the crossing to come to a full stop prior to entering the crossing at all railroad crossings where electric or mechanical warning signals do not exist. Placement of these stop signs shall be mandatory except when in the determination of public highway agencies the existence of stop signs at a given crossing would constitute a greater hazard than their absence based on a recognized engineering study.

Nothing in this subsection shall be construed as granting immunity to any railroad company as to liability, if any, for an accident which might occur at a crossing where stop signs are erected and in place, but liability, if any, shall be determined as provided by law. Liability on the part of governmental authorities on account of absence of any stop sign at a crossing shall be determined as provided by law.

(26) The department and local authorities are authorized to determine those portions of any highway under their respective jurisdictions where overtaking and passing or driving on the left side of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of those zones and when signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle shall obey those directions.

(27) The department and local authorities in their respective jurisdictions may in their discretion issue special permits authorizing the operation upon a highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of the movable tracks or farm tractors or other farm machinery, the operation of which upon a highway would otherwise be prohibited under this title or title 40, Idaho Code.

(28) The department and local highway authorities within their respective jurisdictions may place official traffic-control devices prohibiting, limiting or restricting the stopping, standing or parking of vehicles on any highway where such stopping, standing or parking is dangerous to those using the highway or where the stopping, standing or parking of vehicles unduly interferes with the free movement of traffic thereon.

(29) On any informational material printed after July 1, 1995, by or at the order of the department and distributed to counties, school districts or individuals for the purpose of assisting a person to successfully pass a driver's license test, the department shall include material about the state's open range law and responsibilities, liabilities and obligations of drivers driving in the open range.

Approved February 21, 2007.

CHAPTER 22
(H.B. No. 37)

AN ACT

RELATING TO REGISTRATION OF VEHICLES WEIGHING OVER EIGHT THOUSAND POUNDS; AMENDING SECTION 49-431, IDAHO CODE, TO DELETE THE RESTRICTIONS ON REFUND OF REGISTRATION FEES DUE TO A CHANGE IN OWNERSHIP; AND AMENDING SECTION 49-437, IDAHO CODE, TO CLARIFY THAT A CHANGE IN REGISTRATION DUE TO AN INCREASE IN MAXIMUM GROSS REGISTERED WEIGHT DURING A REGISTRATION YEAR SHALL NOT RESULT IN A REFUND OF FEES ALREADY PAID AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 49-431, Idaho Code, be, and the same is hereby amended to read as follows:

49-431. ASSIGNMENT OR TRANSFER OF INTEREST -- PROCEDURE. (1) Whenever the owner of a vehicle registered under the provisions of sections 49-402 and 49-402A, Idaho Code, transfers or assigns his title or interest thereto, the registration card and license plate shall remain with and in the possession of the transferor, and before the license plate shall be displayed upon another vehicle owned by the transferor, the transferor shall have that vehicle registered as provided for in section 49-401A, Idaho Code. The transfer fees collected shall be paid to the county treasurer where the vehicle is registered and deposited in the county current expense fund or in the state highway account if the transfer is made by the department.

(a) For all vehicles registered under the provisions of section 49-402(1), Idaho Code, the transferor shall pay the registration fee as specified in that subsection less the registration fee already paid, plus a transfer fee of five dollars ($5.00). If the transferor shall have an older vehicle to be registered, the transferor shall pay a transfer fee of five dollars ($5.00).

(b) For vehicles registered in accordance with subsections (2) through (4) of section 49-402, Idaho Code, the operating fee shall be the fee specified in those subsections, plus a transfer fee of five dollars ($5.00).

(c) For utility trailers registered under the provisions of section 49-402A, Idaho Code, the original registration shall continue until its expiration date, upon payment of a transfer fee of five dollars ($5.00).

(2) For all vehicles registered under the fee schedule in section 49-434, Idaho Code, except proportionally registered vehicles under section 49-435, Idaho Code, the transferor shall pay the registration fee as specified in that section less the registration fee already paid, plus a transfer fee of five dollars ($5.00). ~~No portion of the fees previously paid shall be subject to refund if the license plates and registration are not transferred to another vehicle or if the registration fee previously paid is greater than the new fee.~~

(3) For all vehicles registered under section 49-435, Idaho Code, the transferor shall pay the registration fee as specified in section 49-434, Idaho Code, apportioned according to the provisions of section

49-435, Idaho Code, less the apportioned fee previously paid plus a transfer fee of eight dollars ($8.00). ~~No portion of the registration fee previously paid shall be subject to refund if the license plate or plates and registration are not transferred to another vehicle or if the registration fee previously paid is greater than the new fee.~~

(4) In the event of a transfer by operation of law of the title or interest of an owner in and to a vehicle registered as specified in sections 49-402, 49-402A, 49-434 and 49-435, Idaho Code, as upon inheritance, devise or bequest, order in bankruptcy or insolvency, execution sale, repossession upon default in performing the terms of a lease or executory sales contract, or otherwise, the registration shall expire and the registration card and plates shall be surrendered to the department. The vehicle shall not be operated upon the highways until and unless the person entitled thereto shall apply for and obtain a new registration card and plates in accordance with the provisions of section 49-401A, Idaho Code. However, an administrator, executor, trustee or other representative of the owner, or a sheriff or other officer, or legal representative of any such person may operate or cause to be operated any vehicle upon the highway from the place of removal or place where formerly kept by the owner to a place of keeping or storage, provided the place of removal and place of destination are both located within the state of Idaho, and after obtaining a written permit from the department of the local police authorities having jurisdiction of the highways and upon displaying in plain sight upon the vehicle a placard bearing the name and address of the person authorizing and directing such movement, the placard to be plainly readable from a distance of one hundred (100) feet during daylight.

SECTION 2. That Section 49-437, Idaho Code, be, and the same is hereby amended to read as follows:

49-437. INCREASE IN MAXIMUM GROSS WEIGHT -- FEES FOR REMAINING PORTION OF YEAR.~~.~~ (1) When a motor vehicle registered under section 49-434 or 49-435, Idaho Code, has once been registered and during the year of that registration increases the maximum gross weight, the higher fee due for the weight increase shall be offset by the fee already paid. The fee already paid and the fee due shall be prorated by one-twelfth (1/12) for each month already expired in the registration year. The difference between the two (2) fees shall be the balance due for the remainder of the registration year. If an owner ~~decreases~~ <u>changes</u> the weight during a registration year, the weight ~~decrease~~ <u>change</u> shall not result in a refund of the fees already paid.

(2) If a motor vehicle is not operated on any highway during the first months of a calendar year, the owner may at any time thereafter be registered for the remainder of the year on payment of all fees, rounded to the nearest whole dollar, as provided in this chapter, less one-twelfth (1/12) of such fees for each full calendar month which has expired prior to registering, but in no event shall the minimum fee be less than five dollars ($5.00).

Approved February 21, 2007.

CHAPTER 23
(H.B. No. 38)

AN ACT

RELATING TO REGISTRATION OF COMMERCIAL TRAILERS; AMENDING SECTION 49-434, IDAHO CODE, TO PROVIDE A NONEXPIRING REGISTRATION FOR TRAILERS AND SEMITRAILERS AND TO CLARIFY OPTIONAL, EXTENDED REGISTRATION FOR RENTAL UTILITY TRAILERS; AND AMENDING SECTION 49-443, IDAHO CODE, TO CLARIFY THE PROVISIONS OF LAW APPLICABLE TO NONEXPIRING LICENSE PLATES ISSUED TO TRAILERS AND SEMITRAILERS.

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

SECTION 1. That Section 49-434, Idaho Code, be, and the same is hereby amended to read as follows:

49-434. OPERATING FEES. (1) There shall be paid on all commercial vehicles, noncommercial vehicles, and on all farm vehicles having a maximum gross weight not in excess of sixty thousand (60,000) pounds, an annual registration fee in accordance with the following schedule.

Unladen Weight for Wreckers Maximum Gross Weight For Other Vehicles (Pounds)	Annual Registration Fee Noncommercial and Farm Vehicles	Commercial Vehicles and Wreckers
8,001-16,000 inc.	$ 48.00	$ 48.00
16,001-26,000 inc.	61.08	143.40
26,001-30,000 inc.	91.68	223.80
30,001-40,000 inc.	130.08	291.60
40,001-50,000 inc.	188.28	360.00
50,001-60,000 inc.	311.88	515.40

(2) There shall be paid on all commercial vehicles, irrespective of body type, and on all farm vehicles having a maximum gross weight in excess of sixty thousand (60,000) pounds, an annual registration fee in the amount prescribed by subsection (8) of this section, as applicable.

(3) In addition, the annual registration fee for trailers shall be:

(a) Trailer or semitrailer in a combination of vehicles $15.00

(b) Rental utility trailer with a gross weight of two thousand (2,000) pounds or less $8.00

(c) Rental utility trailer with a gross weight over two thousand (2,000) pounds $15.00

(4) As an option to the trailer and semitrailer and rental utility trailer annual registrations issued pursuant to subsection (3) of this section, the department may provide a nonexpiring registration for trailers and semitrailers, and an optional, extended registration for rental utility trailers.

(a) For trailers and semitrailers, the ~~optional--extended-~~nonexpiring registration ~~period shall not extend--beyond--seven--(7) years.~~

~~(b)--The~~ fee shall be ~~fifteen~~ one hundred five dollars ($105~~.00~~). ~~for each year.~~

~~(c)~~ The license plate originally issued shall remain on the trailer or semitrailer until the registration ~~expires.~~

~~(d)~~ is canceled. If the registrant does not transfer the plate and registration to another trailer or semitrailer titled to the regis-

trant, the plate and registration shall be canceled and no part of the fee is subject to refund. Provided however, the registrant may transfer the nonexpiring plate and registration to another trailer or semitrailer titled to the registrant. The registration document shall be the official record of the status of the ~~extended~~ nonexpiring registration. No pressure-sensitive validation sticker shall be required or issued for such nonexpiring license plate.

(~~e~~b) For rental utility trailers, the registrant may prepay the annual registration for an additional one (1), two (2), three (3) or four (4) years, but in no event shall the optional registration period ~~shall not~~ extend beyond five (5) years. The fee shall be as specified in subsection (3)(b) or (c) of this section. A pressure-sensitive sticker shall be used to validate the license plate. The license plate shall become void if the owner's interest in the rental utility trailer changes during the five (5) year period. If the owner fails to enter the rental utility trailer on the annual renewal application during the five (5) year period, the registration record shall be purged. Any unrenewed plate shall be returned to the department if it is not entered on the renewal application.

(5) A fleet registration option is available to owners who have twenty-five (25) or more commercial or farm vehicles or any combination thereof. Such owners may register all of their company vehicles with the department in lieu of registering with a county assessor. To qualify the fleet must be owned and operated under the unified control of one (1) person and the vehicles must be physically garaged and maintained in two (2) or more counties. Fleet registration shall not include fleets of rental vehicles. The department shall provide a registration application to the owner and the owner shall provide all information that the department determines is necessary. The department shall devise a special license plate numbering system for fleet-registered vehicles as an alternative to county license plates. The fleet registration application and all subsequent registration renewals shall include the physical address where a vehicle is principally used, garaged and maintained. The fleet owner shall report the physical address to the department upon initial registration, on each renewal, and at any time a vehicle registered under this option is permanently transferred to another location.

(6) If the ownership of a vehicle changes during the registration period, the original owner may transfer the plate to another vehicle. The remaining fee shall be credited against the cost of the new registration. Refunds may be given for any unexpired portion of the vehicle registration fee if the plate is not transferred by the owner to another vehicle. Any request for refund shall include surrender of the license plate, validation sticker and registration document. Owners of vehicles registered under the international registration plan may request a refund of the unexpired portion of the Idaho vehicle registration fee by presenting evidence from the base jurisdiction that the license plate, validation sticker and registration document have been surrendered. A license plate shall not be transferred to another owner when the ownership of a vehicle changes. The owner shall obtain a replacement plate, validation sticker if required, and a registration document when a plate is lost, destroyed or becomes illegible.

(7) An administrative fee of four dollars ($4.00) shall be paid and deposited to the state highway account on all registrations completed by the department under subsection (1) or (8)(a) of this section. Vehicles

registered under subsection (8)(b) of this section shall pay the fee provided in section 49-435(2), Idaho Code.

(8) There shall be paid on all commercial and farm vehicles having a maximum gross weight in excess of sixty thousand (60,000) pounds, a registration fee based upon the maximum gross weight of a vehicle as declared by the owner and the total number of miles driven on roads and highways in the state, county, city and highway district systems in Idaho, and if registered under the international registration plan (IRP), in all other jurisdictions. The appropriate registration fee shall be determined as follows:

(a) If the owner registers vehicles under the international registration plan (IRP), the appropriate mileage column shall be determined by the total miles an owner operated a fleet of vehicles on roads and highways in the state, county, city and highway district systems in Idaho and in all other jurisdictions in the preceding year, as defined in section 49-117, Idaho Code, and by the maximum gross weight of each vehicle within a fleet.

(b) If the owner registers vehicles under the international registration plan and determines that the average international registration plan fleet miles, calculated by dividing the total IRP fleet miles in all jurisdictions by the number of registered vehicles, is less than fifty thousand one (50,001) miles, the owner may apply to the department for refund of a portion of the registration fees paid, consistent with the fee schedules set forth in this section. The department shall provide an application for the refund. An owner making application for refund under this section shall be subject to auditing as provided in section 49-439, Idaho Code.

(c) If the owner is not registering vehicles under the international registration plan, the appropriate mileage column shall be determined by the total miles the owner operated each of the vehicles to be registered on roads and highways in the state, county, city and highway district systems in Idaho in the preceding year and by the maximum gross weight of each vehicle.

Maximum Gross Weight of Vehicle (Pounds)	Total Miles Driven				
	1 to 7,500	7,501 to 20,000	20,001 to 35,000	35,001 to 50,000	Over 50,000
60,001-62,000	$223	$ 511	$ 789	$1,068	$1,560
62,001-64,000	$251	$ 576	$ 890	$1,205	$1,760
64,001-66,000	$280	$ 642	$ 992	$1,342	$1,960
66,001-68,000	$309	$ 707	$1,093	$1,479	$2,160
68,001-70,000	$337	$ 773	$1,194	$1,615	$2,360
70,001-72,000	$366	$ 838	$1,295	$1,752	$2,560
72,001-74,000	$394	$ 904	$1,396	$1,889	$2,760
74,001-76,000	$423	$ 969	$1,498	$2,026	$2,960
76,001-78,000	$451	$1,035	$1,599	$2,163	$3,160
78,001-80,000	$480	$1,100	$1,700	$2,300	$3,360
80,001-82,000	$494	$1,133	$1,751	$2,368	$3,460
82,001-84,000	$509	$1,165	$1,801	$2,437	$3,560
84,001-86,000	$523	$1,198	$1,852	$2,505	$3,660
86,001-88,000	$537	$1,231	$1,902	$2,574	$3,760
88,001-90,000	$551	$1,264	$1,953	$2,642	$3,860
90,001-92,000	$566	$1,296	$2,004	$2,711	$3,960

Maximum Gross Weight of Vehicle (Pounds)	Total Miles Driven				
92,001-94,000	$580	$1,329	$2,054	$2,779	$4,060
94,001-96,000	$594	$1,362	$2,105	$2,848	$4,160
96,001-98,000	$609	$1,395	$2,155	$2,916	$4,260
98,001-100,000	$623	$1,427	$2,206	$2,985	$4,360
100,001-102,000	$637	$1,460	$2,257	$3,053	$4,460
102,001-104,000	$651	$1,493	$2,307	$3,121	$4,560
104,001-106,000	$666	$1,526	$2,358	$3,190	$4,660
106,001-108,000	$680	$1,558	$2,408	$3,258	$4,760
108,001-110,000	$694	$1,591	$2,459	$3,327	$4,860
110,001-112,000	$709	$1,624	$2,510	$3,395	$4,960
112,001-114,000	$723	$1,657	$2,560	$3,464	$5,060
114,001-116,000	$737	$1,689	$2,611	$3,532	$5,160
116,001-118,000	$751	$1,722	$2,661	$3,601	$5,260
118,001-120,000	$766	$1,755	$2,712	$3,669	$5,360
120,001-122,000	$780	$1,788	$2,763	$3,738	$5,460
122,001-124,000	$794	$1,820	$2,813	$3,806	$5,560
124,001-126,000	$809	$1,853	$2,864	$3,874	$5,660
126,001-128,000	$823	$1,886	$2,914	$3,943	$5,760
128,001-129,000	$837	$1,918	$2,965	$4,011	$5,860

(d) In addition to the fees set forth in paragraphs (a) and (c) of this subsection (8), an owner or operator may purchase a temporary permit as provided in section 49-432(2), Idaho Code, for operation of a vehicle at a weight in excess of the current, valid, registered maximum gross vehicle weight. The permit so issued 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.

(e) Any commercial or farm vehicle registered for more than sixty thousand (60,000) pounds up to one hundred six thousand (106,000) pounds traveling fewer than two thousand five hundred (2,500) miles annually on roads and highways in the state, county, city and highway district systems in Idaho shall pay an annual registration fee of two hundred fifty-five dollars ($255). The provisions of section 49-437(2), Idaho Code, shall not apply to vehicles registered under this subsection (8)(e).

(9) (a) During the first registration year that the fee schedule in subsection (8)(c) of this section is in use, an owner shall use the mileage data from the records used to report the mileage use fee in the immediately preceding year as the basis for determining the appropriate registration fee schedule.

(b) Any owner who registers a motor vehicle for the first time and who has no mileage history for the vehicle shall estimate the miles to determine the appropriate fee schedule in subsection (8)(c) of this section. When estimating the miles, the owner shall provide a statement on the application of the method used to arrive at the estimated miles.

(c) Any owner using any fee schedule other than the highest fee schedule under subsection (8)(c) of this section, shall certify at the time of registration that the miles operated in the preceding year do not exceed the schedule applied for. Any owner using a fee schedule under subsection (8)(c) of this section that is less than

the highest schedule shall maintain records to substantiate the use of the schedule as required by section 49-439, Idaho Code.

(10) An owner registering under subsection (8)(a) or (8)(c) of this section may elect to pay the full annual registration fee at the time of registration or renewal of registration, or an owner may pay at least one-quarter (1/4) of the annual registration fee due. The remainder of the annual Idaho registration fee shall be paid in three (3) equal installments on dates as billed by the department.

(11) An owner registering or renewing a registration under subsection (8)(a) of this section electing to use installment payments as provided in subsection (10) of this section, shall pay all of the fees due to other IRP jurisdictions in addition to one-quarter (1/4) of the Idaho fee due at the time of registration or reregistration. The remainder of the annual Idaho registration fee shall be paid in three (3) equal installments on dates as billed by the department.

(12) If any vehicle or combinations of vehicles haul nonreducible loads, as authorized under the provisions of section 49-1004, Idaho Code, and weigh less than the starting weights per axle configuration listed in column 1 of subsection (2), section 49-1004, Idaho Code, then and in that event there shall be paid for that vehicle, in addition to the other fees required in this section, an additional use fee of 2.1 mills per mile for each two thousand (2,000) pounds or fraction thereof of the maximum gross weight in excess of those set forth in section 49-1001, Idaho Code.

SECTION 2. That Section 49-443, Idaho Code, be, and the same is hereby amended to read as follows:

49-443. LICENSE PLATES TO BE FURNISHED BY DEPARTMENT -- FORM AND CONTENTS. (1) The assessor or the department shall furnish to every owner whose vehicle is registered by that office, pursuant to sections 49-402 and 49-402A, Idaho Code, one (1) license plate for vehicles registered under the provisions of section 49-406, 49-406A or 49-408, Idaho Code, or a motorcycle, trailer, truck-tractor, or semitrailer, and two (2) license plates for every other motor vehicle. If a vehicle is issued one (1) plate only, that plate shall be displayed in accordance with the provisions of section 49-428, Idaho Code. For vehicles registered under the provisions of section 49-407, Idaho Code, the applicant shall provide one (1) plate to be displayed on the rear of the vehicle.

Commencing January 1, 1992, the color and design of the plates shall be comparable to the color and design of the statehood centennial issue of license plates with blue numerals and letters on a multicolored red, white and blue background. Each license plate must bear upon its face the inscriptions "Famous Potatoes" and "Scenic Idaho."

Every license plate shall have displayed upon it the registration number assigned to the vehicle and its owner and the name "Idaho" which may be abbreviated. The plates issued under the provisions of section 49-402(1), Idaho Code, and the required letters and numerals, including an identification of the county in which the motor vehicle to which the plates will be affixed is registered, shall be of sufficient size to be plainly readable from a distance of seventy-five (75) feet during daylight, and each license plate and registration sticker shall be treated with a fully reflectorized material according to specifications prescribed by the board.

(2) License plates shall be valid for a period of seven (7) years beginning with the date of issuance of new plates. At the end of the sixth year, the registered owner shall receive notice of the date upon which the plates will expire. The department shall implement a plate-number reservation program beginning prior to the 1999 plate issue and following once every seven (7) years thereafter, for a limited plate-number sequence in each county which chooses to offer a reservation program. Requests for license plate number reservations shall be submitted to the county during the open reservation period established by the department. The department may charge a minimal fee as determined by the board to recover costs to the department for reservation of license plate numbers. The provisions of this subsection (2) shall not apply to any license plates issued pursuant to the provisions of section 49-434(4), Idaho Code.

(3) If a license plate number has expired as provided in subsection (2) of this section and the number was not reserved, or if the vehicle registration is not renewed within sixty (60) days of its expiration, the plate number shall be available for use by another registrant. To obtain a specific number in the recycled license plate number file, the owner of a registered vehicle shall pay a one (1) time fee as determined by rule of the board.

The provisions of this subsection shall apply only to vehicles registered under the provisions of section 49-402(1), Idaho Code, and section 49-434(1), Idaho Code, as it applies to noncommercial vehicles.

(4) License plates issued for vehicles required to be registered in accordance with the provisions of sections 49-402 and 49-402A, Idaho Code, shall be issued color coded registration validation stickers showing the year of registration. Each registration validation sticker shall bear a number from 1 through 12, which number shall correspond to the month of the calendar year in which the registration of the vehicle expires and shall be affixed to the lower right-hand corner of the plates within the outlined rectangular area.

(5) License plates for utility trailers registered under the provisions of section 49-402A, Idaho Code, which are issued for five (5) or ten (10) years and license plates for ~~trailers,~~ rental utility trailers ~~and semitrailers~~ registered under the provisions of section 49-434, Idaho Code, which are issued for up to five (5) years, shall use the design in effect on the date of manufacture. If a design change occurs, plates from the effective date of the design change shall be manufactured using the new design. Unexpired plates need not be reissued to conform to a design change.

(6) For license plates which are lost, stolen, mutilated, or illegible, the owner shall apply for a duplicate or substitute. The assessor shall also furnish for each registration, and to validate the license plate, a pressure-sensitive, uniquely-numbered registration sticker, except for trailers and semitrailers registered under the ~~optional seven (7) year trailer~~ nonexpiring provisions in section 49-434, Idaho Code. License plates issued for state, county and city motor vehicles shall be permanent and remain on the vehicle for which issued from year to year, and need no renewal or validation sticker.

(7) Whenever a vehicle is completely destroyed by fire or accident and the operator submits satisfactory proof of that destruction to the department or appropriate assessor's office, the registration use increment and fees shall be transferred to the replacement vehicle for a

service transfer fee of five dollars ($5.00), which fee shall be retained by the registering authority. None of the original fees shall be subject to refund.

(8) The department shall furnish to every owner whose vehicle is registered under sections 49-434 and 49-435, Idaho Code, a pressure-sensitive, uniquely-numbered registration sticker to validate the license plate, provided however, the provisions of this subsection (8) shall not apply to trailers and semitrailers registered under the provisions of section 49-434(4), Idaho Code.

(9) The board shall have authority to require the return to the department of all license plates and registration stickers upon termination of the lawful use of them by the owner.

(10) The board may promulgate such rules as are necessary to implement the provisions of this section.

Approved February 21, 2007.

CHAPTER 24
(H.B. No. 77)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISION OF WELFARE FOR FISCAL YEAR 2007; 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 2006, there is hereby appropriated to the Department of Health and Welfare for the Division of Welfare 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, 2006, through June 30, 2007:

BENEFIT PAYMENTS:

FOR:	
Trustee and Benefit Payments	$50,000
FROM:	
Cooperative Welfare Fund (Dedicated)	$50,000

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 21, 2007.

CHAPTER 25
(H.B. No. 19)

AN ACT

RELATING TO COORDINATED FAMILY SERVICES; AMENDING CHAPTER 14, TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 32-1407, IDAHO CODE, TO

REQUIRE CRIMINAL HISTORY CHECKS FOR FAMILY COURT SERVICES COORDINATORS PRIOR TO APPOINTMENT AND TO PROVIDE FOR THE MAINTENANCE OF ALL BACKGROUND CHECK RECORDS.

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

SECTION 1. That Chapter 14, Title 32, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 32-1407, Idaho Code, and to read as follows:

32-1407. FAMILY COURT SERVICES COORDINATORS -- RECORD CHECKS. Prior to appointment, and at his or her own cost, a family court services coordinator shall submit to a fingerprint-based criminal history check through any law enforcement office in the state providing such a service. The criminal history check shall include a statewide criminal identification bureau check, federal bureau of investigation criminal history check, child abuse registry check, adult protection registry check and statewide sex offender registry check. A record of all background checks shall be maintained in the office of the supreme court of the state of Idaho.

Approved February 22, 2007.

CHAPTER 26
(H.B. No. 21)

AN ACT

RELATING TO THE CHILD PROTECTIVE ACT; AMENDING SECTION 16-1602, IDAHO CODE, TO REMOVE THE DEFINITION FOR "CHILD ADVOCATE COORDINATOR," TO REVISE A DEFINITION AND TO DEFINE "GUARDIAN AD LITEM COORDINATOR"; AMENDING SECTION 16-1632, IDAHO CODE, TO REVISE DESCRIPTIVE LANGUAGE, TO REVISE PROVISIONS APPLICABLE TO THE STANDARDS AND DUTIES OF GUARDIAN AD LITEM COORDINATORS AND TO REQUIRE CRIMINAL HISTORY CHECKS; AMENDING SECTION 16-1638, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE DISBURSEMENT OF MONEYS IN THE GUARDIAN AD LITEM ACCOUNT; AND AMENDING SECTION 16-1639, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO GUARDIAN AD LITEM GRANTS.

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

SECTION 1. That Section 16-1602, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

(a) Conduct or omission resulting in skin bruising, bleeding, malnutrition, burns, fracture of any bone, subdural hematoma, soft tissue swelling, failure to thrive or death, and such condition or death is not justifiably explained, or where the history given concerning such condition or death is at variance with the degree or

type of such condition or death, or the circumstances indicate that such condition or death may not be the product of an accidental occurrence; or

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

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

(3) "Adaptive equipment" means any piece of equipment or any item that is used to increase, maintain or improve the parenting capabilities of a parent with a disability.

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

(a) Whether the child comes under the jurisdiction of the court pursuant to the provisions of this chapter;

(b) Whether continuation of the child in the home would be contrary to the child's welfare and whether the best interests of the child require protective supervision or vesting legal custody of the child in an authorized agency;

(c) Whether aggravated circumstances as defined in section 16-1619, Idaho Code, exist.

(5) "Authorized agency" means the department, a local agency, a person, an organization, corporation, benevolent society or association licensed or approved by the department or the court to receive children for control, care, maintenance or placement.

(6) "Case plan hearing" means a hearing to:

(a) Review, approve, modify or reject the case plan; and

(b) Review reasonable efforts being made to rehabilitate the family; and

(c) Review reasonable efforts being made to reunify the children with a parent or guardian.

(7) "Child" means an individual who is under the age of eighteen (18) years.

(8) ~~"Child advocate coordinator" means a person or entity receiving moneys from the grant administrator for the purpose of carrying out any of the duties as set forth in section 16-1632, Idaho Code.~~

~~(9)~~ "Circumstances of the child" includes, but is not limited to, the joint legal custody or joint physical custody of the child.

(~~10~~9) "Commit" means to transfer legal and physical custody.

(1~~1~~0) "Concurrent planning" means a planning model that prepares for and implements different outcomes at the same time.

(1~~2~~1) "Court" means district court or magistrate's division thereof, or if the context requires, a magistrate or judge thereof.

(13~~2~~) "Custodian" means a person, other than a parent or legal guardian, to whom legal or joint legal custody of the child has been given by court order.

(14~~3~~) "Department" means the department of health and welfare and its authorized representatives.

(15~~4~~) "Disability" means, with respect to an individual, any mental or physical impairment which substantially limits one (1) or more major

life activity 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 effect of corrective or mitigating measures used to reduce the effects of the impairment.

(16~~5~~) "Family or household member" shall have the same meaning as in section 39-6303(6), Idaho Code.

(17~~6~~) "Foster care" means twenty-four (24) hour substitute care for children placed away from their parents or guardians and for whom the state agency has placement and care responsibility.

(18~~7~~) "Grant administrator" means the supreme court or any ~~such~~ organization or agency as may be designated by the supreme court ~~from time-to-time to~~ in accordance with such procedures as may be adopted by the supreme court. The grant administrator shall administer funds from the guardian ad litem account in accordance with the provisions of this chapter.

(19~~8~~) "Guardian ad litem" means a person appointed by the court pursuant to a guardian ad litem volunteer program to act as special advocate for a child under this chapter.

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

(20) "Guardian ad litem program" means the program to recruit, train and coordinate volunteer persons to serve as guardians ad litem for abused, neglected or abandoned children.

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

(22) "Law enforcement agency" means a city police department, the prosecuting attorney of any county, state law enforcement officers, or the office of a sheriff of any county.

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

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

(b) To supply the child with food, clothing, shelter and incidental necessities.

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

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

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

(24) "Mental injury" means a substantial impairment in the intellectual or psychological ability of a child to function within a normal range of performance and/or behavior, for short or long terms.

(25) "Neglected" means a child:

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

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

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

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

(27) "Permanency plan" means a plan for a continuous residence and maintenance of nurturing relationships during the child's minority.

(28) "Protective order" means an order created by the court granting relief as delineated in section 39-6306, Idaho Code, and shall be for a period not to exceed three (3) months unless otherwise stated herein. Failure to comply with the order shall be a misdemeanor.

(29) "Protective supervision" means a legal status created by court order in neglect and abuse cases whereby the child is permitted to remain in his home under supervision by the department.

(30) "Residual parental rights and responsibilities" means those rights and responsibilities remaining with the parents after the transfer of legal custody including, but not necessarily limited to, the right of visitation, the right to consent to adoption, the right to determine religious affiliation, the right to family counseling when beneficial, and the responsibility for support.

(31) "Shelter care" means places designated by the department for temporary care of children pending court disposition or placement.

(32) "Supportive services," as used in this chapter, shall mean services which assist parents with a disability to compensate for those aspects of their disability which affect their ability to care for their child and which will enable them to discharge their parental responsibilities. The term includes specialized or adapted training, evaluations or assistance with effectively using adaptive equipment and accommodations which allow parents with a disability to benefit from other services including, but not limited to, Braille texts or sign language interpreters.

SECTION 2. That Section 16-1632, Idaho Code, be, and the same is hereby amended to read as follows:

16-1632. ~~CHILD ADVOCATE~~ GUARDIAN AD LITEM COORDINATOR — DUTIES — ANNUAL REPORT. (1) Under rules, policies and procedures adopted by the Idaho supreme court which may include, but are not limited to, provisions establishing fiscal controls and requiring compliance with all or part of the standards adopted by the national court appointed special advocate association, t~~T~~he persons or entities receiving moneys from the grant administrator to coordinate a guardian ad litem program in a judicial district may be required by the terms of the grant to perform any or all of the following duties:

(a) To establish, maintain and coordinate a districtwide guardian ad litem program consistent with the provisions of this chapter;

(b) To furnish the necessary administrative and staffing services as may from time to time be required;

(c) To act as a ~~central clearinghouse and~~ coordinator for the purpose of providing guardians ad litem for children brought within the purview of this chapter;

(d) To seek to have each child brought within the purview of this chapter available to him a guardian ad litem throughout each stage of any child protective proceeding;

(e) To establish a program for attorneys to represent guardians ad litem, whether or not appointed by the court in conjunction with the local, districtwide, and state bar associations;

(f) To the extent possible to establish a districtwide program to recruit volunteer guardians ad litem sufficient to provide services in each county of the judicial district;

(g) In conjunction with the department, prosecuting attorneys and city and county law enforcement officials, mental health professionals, social workers, school counselors and the medical community, the coordinators may assist in the development and implementation of a statewide uniform protocol for the investigation of allegations of abuse, neglect or abandonment pursuant to the provisions of this chapter;

(h) To develop uniform criteria to screen, select, train and remove guardians ad litem;

(i) To establish a priority list of those proceedings under this chapter in which a guardian ad litem shall be appointed in districts where there are insufficient numbers of guardians ad litem.

(2) Each ~~child advocate~~ guardian ad litem coordinator shall submit an annual report for the preceding fiscal year to the grant administrator for delivery to the legislature no later than ten (10) days following the start of each regular session. Such report shall contain the number and type of proceedings filed in the district under this chapter, the number of children subject to proceedings in the district under this chapter and the number of appointed guardians ad litem, the nature of services the guardians ad litem provided, the number of guardians ad litem trained in each district, the number of hours of service provided by guardians ad litem and attorneys and a complete financial statement for the past year and financial support requirements for the next fiscal year.

(3) The coordinators and staff members of any guardian ad litem program receiving moneys from the grant administrator, and any persons volunteering to serve as guardians ad litem in such programs, shall submit to a fingerprint-based criminal history check through any law enforcement office in the state providing such service. The criminal

history check shall include a statewide criminal identification bureau check, federal bureau of investigation criminal history check, and statewide sex offender registry check. A record of all background checks shall be maintained in the office of the supreme court of the state of Idaho with a copy going to the applicant.

SECTION 3. That Section 16-1638, Idaho Code, be, and the same is hereby amended to read as follows:

16-1638. GUARDIAN AD LITEM ACCOUNT -- CREATION. (1) There is hereby created an account in the agency asset fund in the state treasury to be designated the guardian ad litem account.

(2) The account shall consist of:

(a) Moneys appropriated to the account;

(b) Donations, gifts and grants to the account from any source; and

(c) Any other moneys which may hereafter be provided by law.

(3) Moneys in the account may be expended for the purposes provided in sections 16-1632 through 16-1638, Idaho Code. Interest earned on the investment of idle money in the guardian ad litem account shall be returned to the guardian ad litem account.

(4) Disbursements of moneys from the account shall be by appropriation from the legislature to the supreme court, which moneys shall ~~in turn make payment of available moneys, upon request, to the grant administrator~~ be used for the payment of grants to qualified recipients and for expenses incurred for carrying out the provisions of this chapter.

SECTION 4. That Section 16-1639, Idaho Code, be, and the same is hereby amended to read as follows:

16-1639. GUARDIAN AD LITEM GRANTS. The grant administrator is hereby authorized and directed to award and administer grants from the money which shall be from time to time available to ~~him~~ the grant administrator from the guardian ad litem account. The foregoing power and authorization shall be subject to requirements imposed by the supreme court and the following provisions:

(1) Grants may be made available to any person, organization, corporation, or agency for any of the following purposes:

(a) To enable such entity to act as the ~~child advocate~~ guardian ad litem coordinator in any judicial district.

(b) To enable such entity to recruit, organize and administer a panel of guardians ad litem and volunteer lawyers to represent guardians ad litem.

(c) To enable such entity to recruit, organize, train and support persons or entities to act as guardian ad litem coordinators in judicial districts which do not yet have guardian ad litem coordinators.

(d) To enable such entity to pay the administrative and other miscellaneous expenses incurred in carrying out the provisions of the guardian ad litem program.

(2) The grant administrator shall endeavor in ~~his allocation of~~ allocating available funds ~~available to him~~ to foster the development and operation of a guardian ad litem program in each judicial district in the state; provided, however, the grant administrator shall have no obligation to seek out or organize ~~child advocate~~ guardian ad litem

coordinators or persons willing to act as such in judicial districts lacking a ~~child advocate~~ guardian ad litem coordinator.

(3) Funds available to the grant administrator from the guardian ad litem account may be also used to pay the grant administrator's cost of performing its duties and obligations pursuant to this chapter.

Approved February 22, 2007.

CHAPTER 27
(H.B. No. 93)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE CHILD WELFARE PROGRAM FOR FISCAL YEAR 2007; 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 344, Laws of 2006, there is hereby appropriated to the Department of Health and Welfare for the Child Welfare Program 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:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
Cooperative Welfare Fund (Federal)		$39,900		$ 39,900
Cooperative Welfare Fund (Dedicated)	$86,800		$200,000	286,800
TOTAL	$86,800	$39,900	$200,000	$326,700

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 22, 2007.

CHAPTER 28
(H.B. No. 30)

AN ACT

RELATING TO CITIES; AMENDING CHAPTER 3, TITLE 50, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 50-342A, IDAHO CODE, TO PROVIDE FINDINGS, TO DEFINE TERMS, TO AUTHORIZE CITIES TO PARTICIPATE AS JOINT OWNERS OR POWER PURCHASERS IN JOINT ELECTRIC GENERATION AND TRANSMISSION

PROJECTS, TO PROVIDE REQUIRED TERMS AND PROVISIONS FOR PARTICIPATION AGREEMENTS AND RELATED MATTERS; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 3, 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 50-342A, Idaho Code, and to read as follows:

50-342A. PARTICIPATION IN GENERATION AND TRANSMISSION PROJECTS. (1) It is hereby determined and declared that securing long-term electric generation and transmission resources at cost-based rates is essential to the ability of municipal utilities to provide reliable and economic electric services at stable prices to the consumers and communities they serve and is essential to the economy and the economic development of their communities and to the public health, safety and welfare. It is further determined and declared that in order to facilitate the development of such cost-based resources, it is necessary and desirable that municipal electrical utilities have sufficient flexibility and statutory authority to pay the ordinary and necessary expenses associated with the operation and maintenance of such cost-based resources.

(2) When used in this section the following terms shall have the following meanings:

(a) "Joint electric facilities" means all works, facilities and property necessary or useful in the generation or transmission of electric power and energy.

(b) "Participants" means a city and the other parties to a participation agreement, including municipalities or public agencies of other states who have authority to own, construct, develop and operate joint electric facilities under the laws of such state.

(c) "Participation agreement" means:

(i) An agreement providing for the joint ownership and operation of joint electric facilities; or

(ii) A long-term power purchase agreement providing for the right to receive a share of the capacity or output of joint electric facilities at cost-based rates.

(3) In order to obtain long-term electric generation and transmission resources at cost-based rates, a city that owns and operates a municipal electric utility system may acquire an undivided ownership interest in, or a contractual right to the capacity, output or services of, joint electric facilities under a participation agreement with one (1) or more investor-owned, cooperative or municipal utilities or with other entities engaged in the generation or transmission of electricity. Prior to entering into any participation agreement, the governing body of the city shall consider:

(a) The city's long-term power supply and transmission requirements;

(b) The efficiencies and economies of scale expected to be achieved by participating with others in the acquisition or construction of joint electric facilities;

(c) The estimated cost, commercial operation date and useful life of the joint electric facilities;

(d) The financial, regulatory and technical feasibility of con-

structing and operating such joint electric facilities; and

(e) The availability, reliability and cost of existing or alternate power supply and transmission resources.

In order to facilitate such consideration, the city may retain engineering, financial or other consultants to provide advice and recommendations concerning such long-term power supply or transmission facilities and in such event, all written reports prepared by such consultants shall be made a matter of record and be available to the public in accordance with the provisions of the Idaho public records act.

(4) Each participation agreement shall include provisions regarding:

(a) The specific joint or undivided ownership interests of the participants in the joint electric facilities or the specific contractual rights of the participants to the capacity, output or services of the joint electric facilities, any restrictions on the right of the participants to withdraw from participation in the operation of the joint electric facilities or restrictions upon transfer or partition of such interests or rights and the method for allocating the capacity or output of the joint electric facilities among the participants;

(b) The creation of a management committee comprised of representatives of the participants which shall be responsible for the governance of the acquisition, construction and operation of the joint electric facilities, and provisions granting each participant voting rights proportional to its percentage entitlement to the output or capacity of such joint electric facilities;

(c) The acquisition, construction and operation of the joint electric facilities and the appointment of construction and operation managers and agents and the employment of personnel in connection with the joint electric facilities, which may include provisions for the indemnification of such managers, agents and personnel;

(d) The methods for financing the costs of acquisition, construction and operation of the joint electric facilities, which may include provisions obligating or enabling each participant to finance its proportional share of such costs, based on its ownership interest in or contractual rights to the joint electric facilities;

(e) The allocation of the costs of acquisition, construction and operation of the joint electric facilities among the participants proportional to the percentage entitlement to the output or capacity of such joint electric facilities and the specific obligations of the participants to pay such costs, which may include a provision obligating each participant to pay its respective share of all costs of the joint electric facilities regardless of whether such facilities are acquired, completed, operable or operating and notwithstanding the suspension or reduction of the capacity, output or services of the joint electric facilities for any reason;

(f) The remedies upon a default by any participant in the performance of its obligations under the participation agreement, which may include a provision obligating or enabling the other participants to succeed to all or a portion of the ownership interest or contractual rights and obligations of the defaulting participant;

(g) The liabilities of the participants, which shall be several and not joint and no participant shall be obligated for the acts, omissions or obligations of any other participant; and

(h) The amendment and termination of the agreement, and for the decommissioning of the joint electric facilities and the funding of the costs thereof.

(5) A city may finance its proportionate share of the acquisition, construction and operation costs of joint electric facilities through the issuance of its bonds as provided by law or through financing arrangements with the Idaho energy resources authority under chapter 89, title 67, Idaho Code.

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 February 23, 2007.

CHAPTER 29
(H.B. No. 33)

AN ACT

RELATING TO UNDERGROUND STORAGE TANKS; AMENDING TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 88, TITLE 39, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO STATE LEGISLATIVE FINDINGS AND INTENT, TO DEFINE TERMS, TO PROVIDE A PROGRAM SCOPE, TO PROVIDE FOR RULEMAKING, TO PROVIDE ADDITIONAL MEASURES TO PROTECT GROUND WATER, TO PROVIDE FOR OPERATOR TRAINING, TO PROVIDE FOR INSPECTIONS, TO PROHIBIT CERTAIN DELIVERIES, TO PROVIDE FOR AN UNDERGROUND STORAGE TANK DATABASE, TO PROVIDE FOR ENFORCEMENT AND TO PROVIDE FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 88, Title 39, Idaho Code, and to read as follows:

CHAPTER 88
IDAHO UNDERGROUND STORAGE TANK ACT

39-8801. SHORT TITLE. This act may be known and cited as the "Idaho Underground Storage Tank Act."

39-8802. LEGISLATIVE FINDINGS AND INTENT. (1) The legislature of the state of Idaho finds:

(a) That the protection of the environment from leaking underground storage tanks is a matter of statewide concern;

(b) That subchapter IX of the solid waste disposal act (42 U.S.C.

6991, et seq. (2000)), as amended by the underground storage tank compliance act, public law 109-58, title XV, August 8, 2005, and regulations adopted pursuant thereto, establish federal law regulating underground storage tanks; and

(c) That 42 U.S.C. 6991c (a) and 40 CFR part 281 allow the administrator of the United States environmental protection agency to approve a state program.

(2) Therefore, it is the intent of the legislature:

(a) To establish a state underground storage tank program to comply with the requirements of the underground storage tank compliance act, public law 109-58, title XV, August 8, 2005, and the regulations adopted pursuant thereto, and 40 CFR part 280, so that the Idaho department of environmental quality may promulgate rules, through negotiated rulemaking, to implement a state underground storage tank program as provided in section 39-8805, Idaho Code;

(b) That such program not constitute a new corrective action program;

(c) That such program qualify the state for federal funding from the federal leaking underground storage tank trust fund; and

(d) That such program not be funded by user fees or other fees for service such as that provided in section 39-119, Idaho Code.

39-8803. DEFINITIONS. As used in this chapter:

(1) "Board" means the Idaho board of environmental quality.

(2) "Board of trustees" means the board of trustees established in section 41-4904, Idaho Code.

(3) "Department" means the Idaho department of environmental quality.

(4) "Director" means the director of the Idaho department of environmental quality.

(5) "Underground storage tank system" means underground storage tank as defined by 42 U.S.C. 6991(10).

39-8804. PROGRAM SCOPE. The requirements of this chapter and rules promulgated pursuant to this chapter, shall apply to underground storage tank systems in the state of Idaho, owners and operators of underground storage tank systems in the state of Idaho, persons who install or inspect installations of underground storage tank systems in the state of Idaho, persons who manufacture any regulated component of an underground storage tank system installed in the state of Idaho, and persons who deliver fuel to a regulated underground storage tank system in the state of Idaho.

39-8805. RULES GOVERNING UNDERGROUND STORAGE TANK SYSTEMS. (1) Pursuant to the procedures established by the Idaho administrative procedure act, chapter 52, title 67, Idaho Code, the department shall promulgate through negotiated rulemaking, and the board shall adopt, rules as are necessary to regulate underground storage tank systems within the state. This includes, but is not limited to, rules addressing:

(a) Inspection and certification of underground storage tanks;

(b) Operator training;

(c) Release prevention, compliance and enforcement;

(d) Delivery prohibitions; and

(e) Additional measures to protect ground water.

(2) The board of trustees shall participate in any such negotiated rulemaking through designated representatives.

(3) The rules, promulgated and adopted pursuant to this chapter, and guidance or policy provisions developed in regard to rules promulgated and adopted pursuant to this chapter, shall not be broader in scope, more stringent than, or propose to regulate an activity not regulated by federal law or regulations governing underground storage tanks except as provided by section 39-107D, Idaho Code.

(4) To the degree that any rule promulgated and adopted pursuant to this chapter, or guidance or policy developed in regard to any rule promulgated and adopted pursuant to this chapter, is based upon science, the department shall use:

(a) The best available peer reviewed science and supporting studies conducted in accordance with sound and objective scientific practices; and

(b) Data collected by accepted methods or best available methods if the reliability of the method and the nature of the decision justifies use of the data.

39-8806. ADDITIONAL MEASURES TO PROTECT GROUND WATER. New and replacement underground storage tank systems and connected piping installed after the effective date of this chapter and located within one thousand (1,000) feet of any existing community water system or any existing potable drinking water well, shall comply with the secondary containment requirements of 42 U.S.C. 6991b(i)(1).

39-8807. OPERATOR TRAINING. (1) The department shall adopt an operator training program to be conducted by either the department or a state of Idaho approved third party to help underground storage tank system owners and operators and their employees understand and comply with the requirements of this chapter and rules promulgated pursuant to this chapter. The training shall be consistent with 42 U.S.C. 6991i(a).

(2) Training conducted by the department shall be offered at no cost, on location, to owners, operators, and employees of underground storage tank systems regulated under this chapter. The training shall be specific to the equipment on location.

39-8808. INSPECTIONS. (1) Underground storage tank systems regulated under this chapter which have not been inspected by the department or the United States environmental protection agency since December 22, 1998, shall be inspected by the department in compliance with this chapter.

(2) After completion of all inspections required under subsection (1) of this section, the department or a third party inspector certified by an approved state or national program, shall conduct on-site inspections of underground storage tank systems regulated under this chapter at least once every three (3) years to determine compliance with this chapter.

(3) If the department conducts the inspection, it shall not charge a fee for the inspection.

39-8809. DELIVERY PROHIBITION. (1) Effective August 8, 2007, it shall be unlawful for any person to deliver to, deposit into, or accept a regulated substance into an underground storage tank regulated under

this chapter at a facility which has been identified by the department to be ineligible for such delivery, deposit, or acceptance.

(2) The department shall promulgate through negotiated rulemaking, and the board shall adopt, rules governing delivery prohibition as provided in section 39-8805, Idaho Code.

39-8810. UNDERGROUND STORAGE TANK DATABASE. The department shall develop and use a database, which shall be available to the public on the internet, detailing the status of all underground storage tanks in the state of Idaho which are subject to regulation, including whether they are subject to delivery prohibition. The department shall develop the database within one (1) year of the effective date of this chapter. Such database shall be accurate, updated no less than quarterly, and subject to public review and correction by petition to the department.

39-8811. ENFORCEMENT. Failure to comply with this chapter or rules promulgated pursuant to this chapter shall be subject to enforcement pursuant to the enforcement provisions of the Idaho environmental protection and health act contained in section 39-108, Idaho Code.

39-8812. 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 remaining portions of 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 February 23, 2007.

CHAPTER 30
(S.B. No. 1017, As Amended)

AN ACT

RELATING TO ANATOMICAL GIFTS; REPEALING CHAPTER 34, TITLE 39, IDAHO CODE, RELATING TO THE IDAHO ANATOMICAL GIFT ACT; AND AMENDING TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 34, TITLE 39, IDAHO CODE, TO SET FORTH THE REVISED UNIFORM ANATOMICAL GIFT ACT, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROVIDE APPLICABILITY, TO SET FORTH WHO MAY MAKE AN ANATOMICAL GIFT BEFORE A DONOR'S DEATH, TO PROVIDE FOR THE MANNER OF MAKING AN ANATOMICAL GIFT BEFORE A DONOR'S DEATH, TO PROVIDE FOR AMENDING OR REVOKING AN ANATOMICAL GIFT BEFORE A DONOR'S DEATH, TO PROVIDE FOR REFUSAL TO MAKE AN ANATOMICAL GIFT AND THE EFFECT OF SUCH REFUSAL, TO PROVIDE FOR PRECLUSIVE EFFECT OF ANATOMICAL GIFT, AMENDMENT OR REVOCATION, TO SET FORTH WHO MAY MAKE AN ANATOMICAL GIFT OF A DECEDENT'S BODY OR PART, TO SET FORTH THE MANNER OF MAKING, AMENDING OR REVOKING AN ANATOMICAL GIFT OF A DECEDENT'S BODY OR PART, TO SET FORTH REQUIREMENTS FOR INFORMED CONSENT, TO SET FORTH PERSONS THAT MAY RECEIVE AN ANATOMICAL GIFT AND THE PURPOSE OF SUCH GIFT, TO REQUIRE SEARCH AND NOTIFICATION, TO PROVIDE THAT THE DELIVERY OF A DOCUMENT OF GIFT IS NOT REQUIRED, TO

PROVIDE FOR THE RIGHT TO EXAMINE A DOCUMENT OF GIFT OR REFUSAL, TO SET FORTH RIGHTS AND DUTIES OF PROCUREMENT ORGANIZATIONS AND OTHERS, TO PROVIDE FOR COORDINATION OF PROCUREMENT AND USE, TO PROHIBIT THE SALE OR PURCHASE OF PARTS, TO PROHIBIT OTHER ACTS, TO PROVIDE IMMUNITY, TO PROVIDE FOR LAW GOVERNING VALIDITY OF A DOCUMENT OF GIFT, TO PROVIDE FOR CHOICE OF LAW, TO PROVIDE PRESUMPTION OF VALIDITY, TO PROVIDE FOR A DONOR REGISTRY, TO SET FORTH THE EFFECT OF AN ANATOMICAL GIFT ON AN ADVANCE HEALTH CARE DIRECTIVE, TO REQUIRE COOPERATION BETWEEN THE CORONER AND PROCUREMENT ORGANIZATION, TO PROVIDE FOR UNIFORMITY OF APPLICATION AND CONSTRUCTION AND TO PROVIDE FOR RELATION TO THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.

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

SECTION 1. That Chapter 34, Title 39, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 34, Title 39, Idaho Code, and to read as follows:

CHAPTER 34
REVISED UNIFORM ANATOMICAL GIFT ACT

39-3401. SHORT TITLE. This chapter shall be known and may be cited as the "Revised Uniform Anatomical Gift Act."

39-3402. DEFINITIONS. In this chapter:

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

(2) "Agent" means an individual:

(a) Authorized to make health care decisions on the principal's behalf by a power of attorney for health care; or

(b) Expressly authorized to make an anatomical gift on the principal's behalf by any other record signed by the principal.

(3) "Anatomical gift" means a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation, therapy, research or education.

(4) "Decedent" means a deceased individual whose body or part is or may be the source of an anatomical gift. The term includes a stillborn infant and, subject to restrictions imposed by law other than this chapter, a fetus.

(5) "Disinterested witness" means a witness other than the spouse, child, parent, sibling, grandchild, grandparent or guardian of the individual who makes, amends, revokes or refuses to make an anatomical gift, or another adult who exhibited special care and concern for the individual. The term does not include a person to which an anatomical gift could pass under section 39-3412, Idaho Code.

(6) "Document of gift" means a donor card or other record used to make an anatomical gift. The term includes a statement or symbol on a driver's license, identification card or donor registry.

(7) "Donor" means an individual whose body or part is the subject of an anatomical gift.

(8) "Donor registry" means a database that contains records of anatomical gifts and amendments to or revocations of anatomical gifts.

(9) "Driver's license" means a license or permit issued by the Idaho transportation department to operate a vehicle, whether or not conditions are attached to the license or permit.

(10) "Eye bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage or distribution of human eyes or portions of human eyes.

(11) "Guardian" means a person appointed by a court to make decisions regarding the support, care, education, health or welfare of an individual. The term does not include a guardian ad litem.

(12) "Hospital" means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state, or a subdivision of a state.

(13) "Identification card" means an identification card issued by the Idaho transportation department.

(14) "Know" means to have actual knowledge.

(15) "Minor" means an individual who is under eighteen (18) years of age.

(16) "Organ procurement organization" means a person designated by the secretary of the United States department of health and human services as an organ procurement organization.

(17) "Parent" means a parent whose parental rights have not been terminated.

(18) "Part" means an organ, an eye, or tissue of a human being. The term does not include the whole body.

(19) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality, or any other legal or commercial entity.

(20) "Physician" means an individual authorized to practice medicine or osteopathy under the law of any state.

(21) "Procurement organization" means an eye bank, organ procurement organization, or tissue bank.

(22) "Prospective donor" means an individual who is dead or near death and who has been determined by a procurement organization to have a part that could be medically suitable for transplantation, therapy, research or education. The term does not include an individual who has made a refusal.

(23) "Reasonably available" means able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift.

(24) "Recipient" means an individual into whose body a decedent's part has been or is intended to be transplanted.

(25) "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.

(26) "Refusal" means a record created under section 39-3407, Idaho Code, that expressly states an intent to bar other persons from making an anatomical gift of an individual's body or part.

(27) "Sign" means, with the present intent to authenticate or adopt a record:

(a) To execute or adopt a tangible symbol; or

(b) To attach to or logically associate with the record an electronic symbol, sound or process.

(28) "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.

(29) "Technician" means an individual determined to be qualified to remove or process parts by an appropriate organization that is licensed, accredited or regulated under federal or state law. The term includes an enucleator.

(30) "Tissue" means a portion of the human body other than an organ or an eye. The term does not include blood unless the blood is donated for the purpose of research or education.

(31) "Tissue bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage or distribution of tissue.

(32) "Transplant hospital" means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.

39-3403. APPLICABILITY. This chapter applies to an anatomical gift or amendment to, revocation of, or refusal to make an anatomical gift, whenever made.

39-3404. WHO MAY MAKE ANATOMICAL GIFT BEFORE DONOR'S DEATH. Subject to section 39-3408, Idaho Code, an anatomical gift of a donor's body or part may be made during the life of the donor for the purpose of transplantation, therapy, research or education in the manner provided in section 39-3405, Idaho Code, by:

(1) The donor, if the donor is an adult or if the donor is a minor and is:

(a) Emancipated; or

(b) At least sixteen (16) years of age, provided however, that if the donor is sixteen (16) years of age or older and less than eighteen (18) years of age, a parent or an adult guardian must consent in writing in the presence of the donor.

(2) An agent of the donor, unless the power of attorney for health care or other record prohibits the agent from making an anatomical gift;

(3) A parent of the donor, if the donor is an unemancipated minor; or

(4) The donor's guardian.

39-3405. MANNER OF MAKING ANATOMICAL GIFT BEFORE DONOR'S DEATH. (1) A donor may make an anatomical gift:

(a) By authorizing a statement or symbol indicating that the donor has made an anatomical gift to be imprinted on the donor's driver's license or identification card;

(b) In a will;

(c) During a terminal illness or injury of the donor, by any form of communication addressed to at least two (2) adults, at least one (1) of whom is a disinterested witness; or

(d) As provided in subsection (2) of this section.

(2) A donor or other person authorized to make an anatomical gift under section 39-3404, Idaho Code, may make a gift by a donor card or other record signed by the donor or other person making the gift or by authorizing that a statement or symbol indicating that the donor has made an anatomical gift be included on a donor registry. If the donor or other person is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or other person and must:

(a) Be witnessed by at least two (2) adults, at least one (1) of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(b) State that it has been signed and witnessed as provided in paragraph (a) of this subsection.

(3) Revocation, suspension, expiration or cancellation of a driver's license or identification card upon which an anatomical gift is indicated does not invalidate the gift.

(4) An anatomical gift made by will takes effect upon the donor's death whether or not the will is probated. Invalidation of the will after the donor's death does not invalidate the gift.

39-3406. AMENDING OR REVOKING ANATOMICAL GIFT BEFORE DONOR'S DEATH. (1) Subject to section 39-3408, Idaho Code, a donor or other person authorized to make an anatomical gift under section 39-3404, Idaho Code, may amend or revoke an anatomical gift by:

(a) A record signed by:

(i) The donor;

(ii) The other person; or

(iii) Subject to subsection (2) of this section, another individual acting at the direction of the donor or the other person if the donor or other person is physically unable to sign; or

(b) A later-executed document of gift that amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.

(2) A record signed pursuant to subsection (1)(a)(iii) of this section must:

(a) Be witnessed by at least two (2) adults, at least one (1) of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(b) State that it has been signed and witnessed as provided in paragraph (a) of this subsection.

(3) Subject to section 39-3408, Idaho Code, a donor or other person authorized to make an anatomical gift under section 39-3404, Idaho Code, may revoke an anatomical gift by the destruction or cancellation of the document of gift, or the portion of the document of gift used to make the gift, with the intent to revoke the gift.

(4) A donor may amend or revoke an anatomical gift that was not made in a will by any form of communication during a terminal illness or injury addressed to at least two (2) adults, at least one (1) of whom is a disinterested witness.

(5) A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in subsection (1) of this section.

39-3407. REFUSAL TO MAKE ANATOMICAL GIFT -- EFFECT OF REFUSAL. (1) An individual may refuse to make an anatomical gift of the individual's body or part by:

(a) A record signed by:

(i) The individual; or

(ii) Subject to subsection (2) of this section, another individual acting at the direction of the individual if the individual is physically unable to sign;

(b) The individual's will, whether or not the will is admitted to probate or invalidated after the individual's death; or

(c) Any form of communication made by the individual during the individual's terminal illness or injury addressed to at least two (2) adults, at least one (1) of whom is a disinterested witness.

(2) A record signed pursuant to subsection (1)(a)(ii) of this section must:

(a) Be witnessed by at least two (2) adults, at least one (1) of whom is a disinterested witness, who have signed at the request of the individual; and

(b) State that it has been signed and witnessed as provided in paragraph (a) of this subsection.

(3) An individual who has made a refusal may amend or revoke the refusal:

(a) In the manner provided in subsection (1) of this section for making a refusal;

(b) By subsequently making an anatomical gift pursuant to section 39-3405, Idaho Code, that is inconsistent with the refusal; or

(c) By destroying or canceling the record evidencing the refusal, or the portion of the record used to make the refusal, with the intent to revoke the refusal.

(4) Except as otherwise provided in section 39-3408(8), Idaho Code, in the absence of an express, contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal to make an anatomical gift of the individual's body or part bars all other persons from making an anatomical gift of the individual's body or part.

39-3408. PRECLUSIVE EFFECT OF ANATOMICAL GIFT, AMENDMENT OR REVOCATION. (1) Except as otherwise provided in subsection (7) of this section and subject to subsection (6) of this section, in the absence of an express, contrary indication by the donor, a person other than the donor is barred from making, amending or revoking an anatomical gift of a donor's body or part if the donor made an anatomical gift of the donor's body or part under section 39-3405, Idaho Code, or an amendment to an anatomical gift of the donor's body or part under section 39-3406, Idaho Code.

(2) A donor's revocation of an anatomical gift of the donor's body or part under section 39-3406, Idaho Code, is not a refusal and does not bar another person specified in section 39-3404 or 39-3409, Idaho Code, from making an anatomical gift of the donor's body or part under section 39-3405 or 39-3410, Idaho Code.

(3) If a person other than the donor makes an unrevoked anatomical gift of the donor's body or part under section 39-3405, Idaho Code, or an amendment to an anatomical gift of the donor's body or part under section 39-3406, Idaho Code, another person may not make, amend or

revoke the gift of the donor's body or part under section 39-3410, Idaho Code.

(4) A revocation of an anatomical gift of a donor's body or part under section 39-3406, Idaho Code, by a person other than the donor does not bar another person from making an anatomical gift of the body or part under section 39-3405 or 39-3410, Idaho Code.

(5) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under section 39-3404, Idaho Code, an anatomical gift of a part is neither a refusal to give another part nor a limitation on the making of an anatomical gift of another part at a later time by the donor or another person.

(6) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under section 39-3404, Idaho Code, an anatomical gift of a part for one (1) or more of the purposes set forth in section 39-3404, Idaho Code, is not a limitation on the making of an anatomical gift of the part for any of the other purposes by the donor or any other person under section 39-3405 or 39-3410, Idaho Code.

(7) If a donor who is an unemancipated minor dies, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or part.

(8) If an unemancipated minor who signed a refusal dies, a parent of the minor who is reasonably available may revoke the minor's refusal.

39-3409. WHO MAY MAKE ANATOMICAL GIFT OF DECEDENT'S BODY OR PART. (1) Subject to subsections (2) and (3) of this section and unless barred by section 39-3407 or 39-3408, Idaho Code, an anatomical gift of a decedent's body or part for purpose of transplantation, therapy, research or education may be made by any member of the following classes of persons who is reasonably available, in the order of priority listed:

(a) An agent of the decedent at the time of death who could have made an anatomical gift under section 39-3404(2), Idaho Code, immediately before the decedent's death;

(b) The spouse of the decedent;

(c) Adult children of the decedent;

(d) Parents of the decedent;

(e) Adult siblings of the decedent;

(f) Adult grandchildren of the decedent;

(g) Grandparents of the decedent;

(h) An adult who exhibited special care and concern for the decedent;

(i) The persons who were acting as the guardians of the person of the decedent at the time of death; and

(j) Any other person having the authority to dispose of the decedent's body.

(2) If there is more than one (1) member of a class listed in subsection (1)(a), (c), (d), (e), (f), (g) or (i) of this section entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to which the gift may pass under section 39-3412, Idaho Code, knows of an objection by another member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.

(3) A person may not make an anatomical gift if, at the time of the decedent's death, a person in a prior class under subsection (1) of this

section is reasonably available to make or to object to the making of an anatomical gift.

39-3410. MANNER OF MAKING, AMENDING OR REVOKING ANATOMICAL GIFT OF DECEDENT'S BODY OR PART. (1) A person authorized to make an anatomical gift under section 39-3409, Idaho Code, may make an anatomical gift by a document of gift signed by the person making the gift or by that person's oral communication that is electronically recorded or is contemporaneously reduced to a record and signed by the individual receiving the oral communication.

(2) Subject to subsection (3) of this section, an anatomical gift by a person authorized under section 39-3409, Idaho Code, may be amended or revoked orally or in a record by any member of a prior class who is reasonably available. If more than one (1) member of the prior class is reasonably available, the gift made by a person authorized under section 39-3409, Idaho Code, may be:

(a) Amended only if a majority of the reasonably available members agree to the amending of the gift; or

(b) Revoked only if a majority of the reasonably available members agree to the revoking of the gift or if they are equally divided as to whether to revoke the gift.

(3) A revocation under subsection (2) of this section is effective only if, before an incision has been made to remove a part from the donor's body or before invasive procedures have begun to prepare the recipient, the procurement organization, transplant hospital, or physician or technician knows of the revocation.

39-3411. REQUIREMENTS FOR INFORMED CONSENT. In the absence of a document of gift or other evidence of an individual's intention to make or refuse to make an anatomical gift, the following information shall be provided to any person or persons, listed in section 39-3409, Idaho Code, approached for purposes of obtaining informed consent:

(1) A confirmation of the donor's identity and his or her clinical terminal condition;

(2) A general description of the purposes of anatomical gift donation;

(3) Identification of specific organs and/or tissues, including cells, that are being requested for donation, provided that subsequent information on the specific gifts recovered shall be supplied;

(4) An explanation that the retrieved organs and/or tissues may be used for transplantation, therapy, medical research or educational purposes;

(5) A general description of the recovery process including, but not limited to, timing, relocation of the donor if applicable, and contact information;

(6) An explanation that laboratory tests and a medical and/or social history will be completed to determine the medical suitability of the donor and that blood samples from the donor will be tested for certain transmissible diseases, including testing for HIV antibodies or antigens;

(7) An explanation that the spleen, lymph nodes and blood may be removed, and cultures may be performed, for the purpose of determining donor suitability and donor and recipient capability;

(8) A statement granting access to the donor's medical records and

providing that the medical records may be released to other appropriate parties;

(9) An explanation that costs directly related to the evaluation, recovery, preservation and placement of the organs and/or tissues will not be charged to the family members of the donor;

(10) An explanation of the impact the donation process may have on burial arrangements and on the appearance of the donor's body; and

(11) A statement that tissues or parts may be retrieved and/or used by for-profit procurement entities.

39-3412. PERSONS THAT MAY RECEIVE ANATOMICAL GIFT — PURPOSE OF ANATOMICAL GIFT. (1) An anatomical gift may be made to the following persons named in the document of gift:

(a) A hospital; accredited medical school, dental school, college, or university; organ procurement organization; or other appropriate person, for research or education;

(b) Subject to subsection (2) of this section, an individual designated by the person making the anatomical gift if the individual is the recipient of the part;

(c) An eye bank or tissue bank.

(2) If an anatomical gift to an individual under subsection (1)(b) of this section cannot be transplanted into the individual, the part passes in accordance with subsection (7) of this section in the absence of an express, contrary indication by the person making the anatomical gift.

(3) If an anatomical gift of one (1) or more specific parts or of all parts is made in a document of gift that does not name a person described in subsection (1) of this section but identifies the purpose for which an anatomical gift may be used, the following rules apply:

(a) If the part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank.

(b) If the part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank.

(c) If the part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(d) If the part is an organ, an eye, or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization.

(4) For the purpose of subsection (3) of this section, if there is more than one (1) purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift must be used for transplantation or therapy, if suitable. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education.

(5) If an anatomical gift of one (1) or more specific parts is made in a document of gift that does not name a person described in subsection (1) of this section and does not identify the purpose of the gift, the gift may be used only for transplantation or therapy, and the gift passes in accordance with subsection (7) of this section.

(6) If a document of gift specifies only a general intent to make an anatomical gift by words such as "donor," "organ donor" or "body donor," or by a symbol or statement of similar import, the gift may be

used only for transplantation or therapy, and the gift passes in accordance with subsection (7) of this section.

(7) For purposes of subsections (2), (5) and (6) of this section, the following rules apply:

(a) If the part is an eye, the gift passes to the appropriate eye bank.

(b) If the part is tissue, the gift passes to the appropriate tissue bank.

(c) If the part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(8) An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift under subsection (1)(b) of this section, passes to the organ procurement organization as custodian of the organ.

(9) If an anatomical gift does not pass pursuant to subsections (1) through (8) of this section or the decedent's body or part is not used for transplantation, therapy, research or education, custody of the body or part passes to the person under obligation to dispose of the body or part.

(10) A person may not accept an anatomical gift if the person knows that the gift was not effectively made under section 39-3405 or 39-3410, Idaho Code, or if the person knows that the decedent made a refusal under section 39-3407, Idaho Code, that was not revoked. For purposes of this subsection, if a person knows that an anatomical gift was made on a document of gift, the person is deemed to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.

(11) Except as otherwise provided in subsection (1)(b) of this section, nothing in this chapter affects the allocation of organs for transplantation or therapy.

39-3413. SEARCH AND NOTIFICATION. (1) The following persons shall make a reasonable search of an individual who the person reasonably believes is dead or near death for a document of gift or other information identifying the individual as a donor or as an individual who made a refusal:

(a) A law enforcement officer, firefighter, paramedic or other emergency rescuer finding the individual; and

(b) If no other source of the information is immediately available, a hospital, as soon as practical after the individual's arrival at the hospital.

(2) If a document of gift or a refusal to make an anatomical gift is located by the search required by subsection (1)(a) of this section and the individual or deceased individual to whom it relates is taken to a hospital, the person responsible for conducting the search shall send the document of gift or refusal to the hospital.

(3) A person is not subject to criminal or civil liability for failing to discharge the duties imposed by this section but may be subject to administrative sanctions.

39-3414. DELIVERY OF DOCUMENT OF GIFT NOT REQUIRED — RIGHT TO EXAMINE. (1) A document of gift need not be delivered during the donor's lifetime to be effective.

(2) Upon or after an individual's death, a person in possession of a document of gift or a refusal to make an anatomical gift with respect

to the individual shall allow examination and copying of the document of gift or refusal by a person authorized to make or object to the making of an anatomical gift with respect to the individual or by a person to which the gift could pass under section 39-3412, Idaho Code.

39-3415. RIGHTS AND DUTIES OF PROCUREMENT ORGANIZATION AND OTHERS. (1) When a hospital refers an individual at or near death to a procurement organization, the organization shall make a reasonable search of the records of the Idaho transportation department and any donor registry that it knows exist for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

(2) A procurement organization must be allowed reasonable access to information in the records of the Idaho transportation department to ascertain whether an individual at or near death is a donor.

(3) When a hospital refers an individual at or near death to a procurement organization, the organization may conduct any reasonable examination necessary to ensure the medical suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research or education from a donor or a prospective donor. During the examination period, measures necessary to ensure the medical suitability of the part may not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent.

(4) Unless prohibited by law other than this chapter, at any time after a donor's death, the person to which a part passes under section 39-3412, Idaho Code, may conduct any reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.

(5) Unless prohibited by law other than this chapter, an examination under subsection (3) or (4) of this section may include an examination of all medical and dental records of the donor or prospective donor.

(6) Upon the death of a minor who was a donor or who had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.

(7) Upon referral by a hospital under subsection (1) of this section, a procurement organization shall make a reasonable search for any person listed in section 39-3409, Idaho Code, having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended or revoked, it shall promptly advise the other person of all relevant information.

(8) Subject to section 39-3412(9), Idaho Code, the rights of the person to which a part passes under section 39-3412, Idaho Code, are superior to the rights of all others with respect to the part. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and this chapter, a person that accepts an anatomical gift of an entire body may allow embalming, burial or cremation, and use of remains in a funeral service. If the gift is of a part, the person to which the part passes under section 39-3412, Idaho Code, upon the death of the donor and before embalming, burial or cremation, shall cause the part to be removed without unnecessary mutilation.

(9) Neither the physician who attends the decedent at death nor the physician who determines the time of the decedent's death may participate in the procedures for removing or transplanting a part from the decedent.

(10) A physician or technician may remove a donated part from the body of a donor that the physician or technician is qualified to remove.

39-3416. COORDINATION OF PROCUREMENT AND USE. Each hospital in this state shall enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts.

39-3417. SALE OR PURCHASE OF PARTS PROHIBITED. (1) Except as otherwise provided in subsection (2) of this section, a person that for valuable consideration, knowingly purchases or sells a part for transplantation or therapy if removal of a part from an individual is intended to occur after the individual's death commits a felony and upon conviction is subject to a fine not exceeding fifty thousand dollars ($50,000) or imprisonment not exceeding five (5) years, or both such fine and imprisonment.

(2) A person may charge a reasonable amount for the removal, processing, preservation, quality control, storage, transportation, implantation or disposal of a part.

(3) A coroner acting pursuant to this section shall not authorize the removal of a part from a body within the coroner's custody if the coroner, or any deputy or agent of the coroner, derives or may derive any direct or indirect financial benefit relative to the removal, donation or use of the part.

39-3418. OTHER PROHIBITED ACTS. A person that, in order to obtain a financial gain, intentionally falsifies, forges, conceals, defaces or obliterates a document of gift, an amendment or revocation of a document of gift, or a refusal commits a felony and upon conviction is subject to a fine not exceeding fifty thousand dollars ($50,000) or imprisonment not exceeding five (5) years, or both such fine and imprisonment.

39-3419. IMMUNITY. (1) A person that acts in accordance with this chapter or with the applicable anatomical gift law of another state, or attempts in good faith to do so, is not liable for the act in a civil action, criminal prosecution or administrative proceeding.

(2) Neither the person making an anatomical gift nor the donor's estate is liable for any injury or damage that results from the making or use of the gift.

(3) In determining whether an anatomical gift has been made, amended or revoked under this chapter, a person may rely upon representations of an individual listed in section 39-3409(1)(b), (c), (d), (e), (f), (g) or (h), Idaho Code, relating to the individual's relationship to the donor or prospective donor unless the person knows that the representation is untrue.

39-3420. LAW GOVERNING VALIDITY -- CHOICE OF LAW AS TO EXECUTION OF DOCUMENT OF GIFT -- PRESUMPTION OF VALIDITY. (1) A document of gift is valid if executed in accordance with:

(a) This chapter;

(b) The laws of the state or country where it was executed; or

(c) The laws of the state or country where the person making the anatomical gift was domiciled, has a place of residence or was a national at the time the document of gift was executed.

(2) If a document of gift is valid under this section, the law of this state governs the interpretation of the document of gift.

(3) A person may presume that a document of gift or amendment of an anatomical gift is valid unless that person knows that it was not validly executed or was revoked.

39-3421. DONOR REGISTRY. (1) The Idaho transportation department shall cooperate with a person that administers any donor registry that this state establishes, contracts for, or recognizes for the purpose of transferring to the donor registry all relevant information regarding a donor's making, amendment to, or revocation of an anatomical gift.

(2) A donor registry must:

(a) Allow a donor or other person authorized under section 39-3404, Idaho Code, to include on the donor registry a statement or symbol that the donor has made, amended or revoked an anatomical gift;

(b) Be accessible to a procurement organization to allow it to obtain relevant information on the donor registry to determine, at or near death of the donor or a prospective donor, whether the donor or prospective donor has made, amended or revoked an anatomical gift; and

(c) Be accessible for purposes of paragraphs (a) and (b) of this subsection seven (7) days a week on a twenty-four (24) hour basis.

(3) Personally identifiable information on a donor registry about a donor or prospective donor shall not be used or disclosed without the express consent of the donor, prospective donor, or person that made the anatomical gift for any purpose other than to determine, at or near death of the donor or prospective donor, whether the donor or prospective donor has made, amended or revoked an anatomical gift.

(4) This section does not prohibit any person from creating or maintaining a donor registry that is not established by or under contract with the state. Any such registry must comply with subsections (2) and (3) of this section.

39-3422. EFFECT OF ANATOMICAL GIFT ON ADVANCE HEALTH CARE DIRECTIVE. (1) In this section:

(a) "Advance health care directive" means a power of attorney for health care or a record signed by a prospective donor containing the prospective donor's direction concerning a health care decision for the prospective donor.

(b) "Declaration" means a record signed by a prospective donor specifying the circumstances under which a life support system may be withheld or withdrawn from the prospective donor.

(c) "Health care decision" means any decision made regarding the health care of the prospective donor.

(2) If a prospective donor has a declaration or advance health care directive, measures necessary to ensure the medical suitability of an organ for transplantation or therapy may not be withheld or withdrawn from the prospective donor, unless the declaration expressly provides to the contrary.

39-3423. COOPERATION BETWEEN CORONER AND PROCUREMENT ORGANIZATION. (1) A coroner shall cooperate with procurement organizations to maximize the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research or education.

(2) A part may not be removed from the body of a decedent under the jurisdiction of a coroner for transplantation, therapy, research or education unless the part is the subject of an anatomical gift and the removal will not interfere with any autopsy or investigation. The body of a decedent under the jurisdiction of the coroner may not be delivered to a person for research or education unless the body is the subject of an anatomical gift. This subsection does not preclude a coroner from performing the medicolegal investigation upon the body or parts of a decedent under the jurisdiction of the coroner.

39-3424. 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.

39-3425. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This chapter modifies, limits and supersedes the 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(a) of that act or authorize electronic delivery of any of the notices described in section 103(b) of that act.

Approved February 23, 2007.

CHAPTER 31
(S.B. No. 1071)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE LAVA HOT SPRINGS FOUNDATION FOR FISCAL YEAR 2007; 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 4, Chapter 384, Laws of 2006, there is hereby appropriated to the Lava Hot Springs Foundation the following amount, to be expended according to the designated expense class from the listed fund for the period July 1, 2006, through June 30, 2007:

FOR:	
Capital Outlay	$335,000
FROM:	
Public Recreation Enterprise-Lava Hot Springs Fund	$335,000

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 23, 2007.

CHAPTER 32
(H.B. No. 23)

AN ACT

RELATING TO DISCHARGE UPON SERVICE OF MAXIMUM TERM; AMENDING SECTION 20-239, IDAHO CODE, TO AUTHORIZE THE DEPARTMENT OF CORRECTION TO DISCHARGE PRISONERS FROM CUSTODY ON THE LAST WEEKDAY PRECEDING A SATURDAY, SUNDAY OR LEGAL HOLIDAY, TO REVISE TERMINOLOGY AND TO MAKE A GRAMMATICAL CORRECTION.

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

SECTION 1. That Section 20-239, Idaho Code, be, and the same is hereby amended to read as follows:

20-239. DISCHARGE UPON SERVICE OF MAXIMUM TERM. Any convicted person undergoing sentence in the penitentiary not sooner released under the provisions of this ~~act~~ chapter, shall in accordance with the provisions of existing law, be discharged from custody upon serving a maximum sentence provided by law for the offense of which such person was convicted, or the maximum term fixed by the court where the law does not provide for a maximum term. Provided however, if the date of discharge from custody falls on a Saturday, Sunday or legal holiday, then the person may be discharged from custody on the last weekday immediately preceding such Saturday, Sunday or legal holiday.

Approved February 23, 2007.

CHAPTER 33
(H.B. No. 64)

AN ACT

RELATING TO CRIMES; AMENDING SECTION 18-3122, IDAHO CODE, TO REVISE THE DEFINITION OF "PERSONAL IDENTIFYING INFORMATION"; AMENDING SECTION 18-3124, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE FRAUDULENT USE OF A FINANCIAL TRANSACTION CARD OR NUMBER; AMENDING SECTION 18-3125, IDAHO CODE, TO PROHIBIT CERTAIN ACTIONS RELATING TO A FINANCIAL TRANSACTION CARD OR FINANCIAL TRANSACTION CARD ACCOUNT NUMBER; AND AMENDING SECTION 18-3128, IDAHO CODE, TO REFERENCE CODE SECTIONS FOR PURPOSES OF PENALTIES.

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

SECTION 1. That Section 18-3122, Idaho Code, be, and the same is hereby amended to read as follows:

18-3122. DEFINITIONS. The following words and phrases used in this chapter mean:

(1) "Authorized credit card merchant" means a person or organization who is authorized by an issuer to furnish money, goods, services or

anything of value upon presentation of a financial transaction card or a financial transaction card account number by a card holder, and to present valid credit card sales drafts to the issuer for payment.

(2) "Automated banking device" means any machine which, when properly activated by a financial transaction card and/or a personal identification code, may be used for any of the purposes for which a financial transaction card may be used.

(3) "Card holder" means any person or organization named on the face of a financial transaction card to whom, or for whose benefit, a financial transaction card is issued by an issuer.

(4) "Credit card sales draft" means:

(a) Any sales slip, draft, voucher or other written or electronic record of a sale of goods, services or anything else of value made or purported to be made to or at the request of a card holder with a financial transaction card, financial transaction card account number or personal identification code; or

(b) Any evidence, however manifested, of any right or purported right to collect from a card holder funds due or purported to be due with respect to any sale or purported sale.

(5) "Expired financial transaction card" means any financial transaction card which is no longer valid because the terms agreed to have been cancelled or have elapsed.

(6) "Financial transaction card" or "FTC" means 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 card holder 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 card holder 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 any instrument or device used in providing the card holder 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.

(7) "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.

(8) "Issuer" means a business organization or financial institution or its duly authorized agent which issues a financial transaction card.

(9) "Personal identification code" means any numerical and/or alphabetical code assigned to the card holder of a financial transaction card by the issuer to permit the authorized electronic use of that FTC.

(10) "Personal identifying information" means the name, address, telephone number, driver's license number, social security number, place of employment, employee identification number, mother's maiden name, checking account number, savings account number, financial transaction card number, or personal identification code of an individual person, or any other numbers <u>or information</u> which can be used to access a person's financial resources.

(11) "Revoked financial transaction card" means an FTC which is no

longer valid because permission to use it has been suspended or terminated by the issuer with actual notice having been made upon the card holder.

SECTION 2. That Section 18-3124, Idaho Code, be, and the same is hereby amended to read as follows:

18-3124. FRAUDULENT USE OF A FINANCIAL TRANSACTION CARD OR NUMBER. It is a violation of the provisions of this section for any person with the intent to defraud:

(1) ~~To knowingly obtain or attempt to obtain credit or to purchase or attempt to purchase any goods, property, or service, by the use of any false, fictitious, counterfeit, revoked, expired or fraudulently obtained FTC, by any FTC account number, or by the use of any FTC issued;~~

~~(2)~~ To use an FTC or FTC number to knowingly and willfully exceed the actual balance of the demand deposit account or time deposit account;

(~~3~~2) To use an FTC or FTC number to willfully exceed an authorized credit line in the amount of one thousand dollars ($1,000) or more, or fifty percent (50%) of such authorized credit line, whichever is greater;

(~~4~~3) To willfully deposit into his account or any other account by means of an automatic banking device, any false, forged, fictitious, altered or counterfeit check draft, money order, or any other such document;

~~(5) To make application for an FTC to an issuer, while knowingly making or causing to be made a false statement or report relative to his name, occupation, financial condition, assets, or to willfully and substantially undervalue any indebtedness for the purposes of influencing the issuer to issue an FTC;~~

(~~6~~4) To knowingly sell or attempt to sell credit card sales drafts to an authorized credit card merchant or any other person or organization, for any consideration whether at a discount or otherwise, or present or cause to be presented to the issuer or an authorized credit card merchant, for payment or collection, any credit card sales draft, or purchase or attempt to purchase any credit card sales draft for presentation to the issuer or an authorized credit card merchant for payment or collection if:

(a) Such draft is counterfeit or fictitious;

(b) The purported sale evidenced by such credit card sales draft did not take place;

(c) The purported sale was not authorized by the card holder;

(d) The items or services purported to be sold as evidenced by such credit card sales draft are not delivered or rendered to the card holder or person intended to receive them; or

(e) If purportedly delivered or rendered, such goods or services are of materially lesser value or quality from that intended by the purchaser, or are materially different from goods or services represented by the seller or his agent to the purchaser, or have substantial discrepancies from goods or services impliedly represented by the purchase price when compared with the actual goods or services purportedly delivered or rendered.

(~~7~~5) To knowingly keep or maintain in any manner carbon or other

impressions or copies of credit card sales drafts, and to use such impressions or copies for the purpose of creating any fictitious or counterfeit credit sales draft, or to engage in any other activity prohibited in this section.

SECTION 3. That Section 18-3125, Idaho Code, be, and the same is hereby amended to read as follows:

18-3125. CRIMINAL POSSESSION OF FINANCIAL TRANSACTION CARD, FINANCIAL TRANSACTION NUMBER AND FTC FORGERY DEVICES. It is a felony punishable as provided in subsection (3) of section 18-3128, Idaho Code, for any person:

(1) To acquire an FTC or FTC number from another without the consent of the card holder or the issuer, or to, with the knowledge that it has been so acquired, receive an FTC or FTC number with the intent to use to defraud, or to sell, or to transfer the FTC or FTC number to another person with the knowledge that it is to be used to defraud;

(2) To acquire an FTC or FTC number that he knows to have been lost, mislaid, or delivered under a mistake as to the identity or address of the card holder, and to retain possession with the intent to use to defraud or to sell or transfer to another person with the knowledge that it is to be used to defraud;

(3) To, with the intent to defraud, knowingly possess a false, fictitious, counterfeit, revoked, expired or fraudulently obtained FTC or any FTC account number;

(4) To, with the intent to defraud, knowingly obtain or attempt to obtain credit or purchase or attempt to purchase any goods, property or service, by use of any false, fictitious, counterfeit, revoked, expired or fraudulently obtained FTC or FTC account number;

(5) To, with the intent to defraud, knowingly produce to another person or procure, a false, fictitious, counterfeit, revoked, expired or fraudulently obtained FTC or any FTC account number;

(6) To, with the intent to defraud and while making an application for an FTC to an issuer, knowingly make or cause to be made, a false written or oral statement or representation respecting his name, personal identifying information, occupation, financial condition, assets, or to materially undervalue any indebtedness for the purpose of influencing the issuer to issue an FTC.

SECTION 4. That Section 18-3128, Idaho Code, be, and the same is hereby amended to read as follows:

18-3128. PENALTY FOR VIOLATION. (1) Any person found guilty of a violation of section 18-3124, 18-3125A~~, 18-3126~~ or 18-3127, Idaho Code, is guilty of a misdemeanor. In the event that the retail value of the goods obtained or attempted to be obtained through any violation of the provisions of section 18-3124, 18-3125A~~, 18-3126~~ or 18-3127, Idaho Code, exceeds three hundred dollars ($300), any such violation will constitute a felony, and will be punished as provided in this section. Any person found guilty of a violation of section 18-3125, 18-3126 or 18-3126A, Idaho Code, is guilty of a felony.

(2) For purposes of this section, the punishment for a misdemeanor shall be a fine of up to one thousand dollars ($1,000) or up to one (1) year in the county jail, or both such fine and imprisonment.

(3) For purposes of this section, the punishment for a felony shall be a fine of up to fifty thousand dollars ($50,000) or imprisonment in the state prison not exceeding five (5) years, or both such fine and imprisonment.

Approved February 23, 2007.

CHAPTER 34
(H.B. No. 66)

AN ACT

RELATING TO DRIVING WITHOUT PRIVILEGES; AMENDING SECTION 18-8001, IDAHO CODE, TO PROVIDE THAT NO PERSON WHO IS DISQUALIFIED OR WHOSE DRIVING PRIVILEGES ARE SUSPENDED, REVOKED OR CANCELED SHALL BE GRANTED RESTRICTED DRIVING PRIVILEGES TO OPERATE A COMMERCIAL MOTOR VEHICLE.

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

SECTION 1. That Section 18-8001, Idaho Code, be, and the same is hereby amended to read as follows:

18-8001. DRIVING WITHOUT PRIVILEGES. (1) Any person who drives or is in actual physical control of any motor vehicle upon the highways of this state with knowledge or who has received legal notice pursuant to section 49-320, Idaho Code, that his driver's license, driving privileges or permit to drive is revoked, disqualified or suspended in this state or any other jurisdiction is guilty of a misdemeanor.

(2) A person has knowledge that his license, driving privileges or permit to drive is revoked, disqualified or suspended when:

(a) He has actual knowledge of the revocation, disqualification or suspension of his license, driving privileges or permit to drive; or

(b) He has received oral or written notice from a verified, authorized source, that his license, driving privileges or permit to drive was revoked, disqualified or suspended; or

(c) Notice of the suspension, disqualification or revocation of his license, driving privileges or permit to drive was mailed by first class mail to his address pursuant to section 49-320, Idaho Code, as shown in the transportation department records, and he failed to receive the notice or learn of its contents as a result of his own unreasonable, intentional or negligent conduct or his failure to keep the transportation department apprised of his mailing address as required by section 49-320, Idaho Code; or

(d) He has knowledge of, or a reasonable person in his situation exercising reasonable diligence would have knowledge of, the existence of facts or circumstances which, under Idaho law, might have caused the revocation, disqualification or suspension of his license, driving privileges or permit to drive.

(3) Any person who pleads guilty to or is found guilty of a violation of subsection (1) for the first time:

(a) Shall be sentenced to jail for a mandatory minimum period of not less than two (2) days, and may be sentenced to not more than six (6) months, provided however, that in the discretion of the sentencing judge, the judge may authorize the defendant to be assigned

to a work release or work detail program within the custody of the county sheriff during the period of incarceration, or, if the underlying suspension that resulted in the violation of this section is not a suspension resulting from an offense identified in subsection (8) of this section, the judge may authorize an equivalent amount of community service in lieu of jail, or any equivalent combination of these options;

(b) May be fined an amount not to exceed one thousand dollars ($1,000); and

(c) Shall have his driving privileges suspended by the court for an additional six (6) months following the end of any period of suspension, disqualification or revocation existing at the time of the violation; the defendant may request restricted driving privileges during the period of the suspension or disqualification, which the court may allow if the defendant shows by a preponderance of the evidence that driving privileges are necessary for his employment, education or for family health needs.

(4) Any person who pleads guilty to or is found guilty of a violation of subsection (1) for a second time within five (5) years, irrespective of the form of the judgment(s) or withheld judgment(s):

(a) Shall be sentenced to jail for a mandatory minimum period of not less than twenty (20) days, and may be sentenced to not more than one (1) year, provided however, that in the discretion of the sentencing judge, the judge may authorize the defendant to be assigned to a work release or work detail program within the custody of the county sheriff during the period of incarceration, or, if the underlying suspension that resulted in the violation of this section is not a suspension resulting from an offense identified in subsection (8) of this section, the judge may authorize an equivalent amount of community service in lieu of jail, or any equivalent combination of these options;

(b) May be fined an amount not to exceed one thousand dollars ($1,000); and

(c) Shall have his driving privileges suspended by the court for an additional one (1) year following the end of any period of suspension, disqualification or revocation existing at the time of the second violation, during the first thirty (30) days of which time he shall have absolutely no driving privileges of any kind. The defendant may request restricted driving privileges during the period of the suspension or disqualification, to begin after the period of absolute suspension, which the court may allow if the defendant shows by a preponderance of the evidence that driving privileges are necessary for his employment, education or for family health needs.

(5) Any person who has pled guilty to or been found guilty of more than two (2) violations of the provisions of subsection (1) of this section within five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s), is guilty of a misdemeanor; and

(a) Shall be sentenced to the county jail for a mandatory minimum period of not less than thirty (30) days, and may be sentenced to not more than one (1) year; provided, however, that in the discretion of the sentencing judge, the judge may authorize the defendant to be assigned to a work release or work detail program within the custody of the county sheriff during the period of incarceration, or, if the underlying suspension that resulted in the violation of

this section is not a suspension resulting from an offense identified in subsection (8) of this section, the judge may authorize an equivalent amount of community service in lieu of jail, or any equivalent combination of these options;

(b) May be fined an amount not to exceed three thousand dollars ($3,000); and

(c) Shall have his driving privileges suspended by the court for an additional two (2) years following the end of any period of suspension, disqualification or revocation existing at the time of the violation, during the first ninety (90) days of which time he shall have absolutely no driving privileges of any kind. The defendant may request restricted driving privileges during the period of the suspension or disqualification, to begin after the period of absolute suspension, which the court may allow if the defendant shows by a preponderance of the evidence that driving privileges are necessary for his employment, education or for family health needs.

(6) A minor may be prosecuted for a violation of subsection (1) of this section under chapter 5, title 20, Idaho Code.

(7) If a person is convicted for a violation of section 18-8004, 18-8004C or 18-8006, Idaho Code, and at the time of arrest had no driving privileges, the penalties imposed by this section shall be in addition to any penalties imposed under the provisions of section 18-8005, 18-8004A, 18-8004C or 18-8006, Idaho Code, and not in lieu thereof.

(8) For purposes of this section, the offenses referred to in subsections (3)(a), (4)(a) and (5)(a) of this section are:

(a) Section 18-1501(3), Idaho Code, transporting a minor in a motor vehicle while under the influence;

(b) Section 18-4006(3), Idaho Code, vehicular manslaughter;

(c) Section 18-8001, Idaho Code, driving without privileges;

(d) Section 18-8004, Idaho Code, driving under the influence of alcohol, drugs or other intoxicating substances;

(e) Section 18-8004C, Idaho Code, excessive alcohol concentration;

(f) Section 18-8006, Idaho Code, aggravated driving while under the influence of alcohol, drugs or any other intoxicating substances;

(g) Section 18-8007, Idaho Code, leaving the scene of an accident resulting in injury or death;

(h) Section 49-1229, Idaho Code, required motor vehicle insurance;

(i) Section 49-1232, Idaho Code, certificate or proof of liability insurance to be carried in motor vehicle;

(j) Section 49-1401, Idaho Code, reckless driving;

(k) Section 49-1404, Idaho Code, eluding a police officer;

(l) Section 49-1428, Idaho Code, operating a vehicle without liability insurance;

or any substantially conforming foreign criminal violation.

(9) In no event shall a person be granted restricted driving privileges unless the person shows proof of liability insurance or other proof of financial responsibility, as provided in chapter 12, title 49, Idaho Code.

(10) In no event shall a person who is disqualified or whose driving privileges are suspended, revoked or canceled under the provisions of this chapter be granted restricted driving privileges to operate a commercial motor vehicle.

Approved February 23, 2007.

CHAPTER 35
(S.B. No. 1010)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-409, IDAHO CODE, TO PROVIDE FOR WILDLIFE MANAGEMENT AREA (WMA) UPLAND GAME BIRD PERMITS AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 36-416, IDAHO CODE, TO PROVIDE A FEE FOR WMA UPLAND GAME BIRD PERMITS.

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

SECTION 1. That Section 36-409, Idaho Code, be, and the same is hereby amended to read as follows:

36-409. GAME TAGS -- PERMITS -- FEES — PENALTY. (a) Resident Game Tags. A resident who has obtained a permit to hunt, as provided in section 36-401, Idaho Code, or has purchased or obtained a license to hunt, as provided in section 36-406, Idaho Code, upon payment of the fees provided herein shall be eligible to receive a resident game tag to hunt and kill a moose, bighorn sheep, mountain goat, elk, deer, antelope, mountain lion, bear, sandhill crane or turkey in accordance with the laws of this state and rules promulgated by the commission; provided further, that any person who holds a senior resident combination license or any person who holds a junior combination or hunting license or any disabled American veteran who holds a disabled combination license, may be issued a bear, deer, elk, or turkey tag for a fee as specified in section 36-416, Idaho Code; provided further, that resident game tags may be issued only to those persons who meet residency requirements of subsection (s) of section 36-202, Idaho Code. In the event an emergency is declared to open a season to protect private property as provided in section 36-106(e)6.(B), Idaho Code, the affected landowner or his designee shall be eligible to receive a resident deer, elk or antelope tag without charge; provided further, that resident game tags may be issued only to persons who qualify as residents pursuant to section 36-202, Idaho Code.

(b) Nonresident Game Tags. A nonresident who has purchased a license to hunt, as provided in section 36-407(a) or (k), Idaho Code, or has obtained a license to hunt, as provided in section 36-406(e), Idaho Code, or a resident who has purchased or obtained a license to hunt, as provided in section 36-406, Idaho Code, upon payment of the fees provided herein, shall be eligible to receive a nonresident tag to hunt and kill a moose, bighorn sheep, mountain goat, elk, deer, antelope, mountain lion, bear, sandhill crane or turkey in accordance with the laws of this state and rules promulgated by the commission; provided further that a nonresident who has purchased a license to hunt, as provided in section 36-407(k), Idaho Code, shall be eligible to receive a junior mentored deer, elk, bear, or turkey tag for a fee as specified in section 36-416, Idaho Code.

(c) Game Tags Required. The appropriate tag must be had for the hunting or taking of each and every one of the aforementioned wildlife. Provided, however, that the requirements for a mountain lion tag or a bear tag, as to different periods of time and areas of the state, shall be determined and specified by the commission. Provided further, that

the commission may promulgate rules to allow a nonresident deer tag to be used to hunt and kill either a bear or a mountain lion during the open season for deer in that area, unit or zone as may be specified by the commission. All of said tags are to bear and have serial numbers.

(d) Game Tag to Be Validated and Attached to Carcass. As soon as any person kills any wildlife for which a tag is required, said tag, belonging to him, must be validated and attached to said wildlife in a manner provided by commission rule.

(e) Archery Permits. In addition to meeting the license and tag requirements provided in this chapter, any person participating in any controlled or general game season which has been specifically designated as an archery hunt must have in his possession an archery hunt permit which may be purchased ~~at~~ for a fee as specified in section 36-416, Idaho Code.

(f) Muzzleloader Permit. In addition to meeting the license and tag requirements provided in this chapter, any person participating in any controlled or general game season which has been specifically designated as a muzzleloader hunt must have in his possession a muzzleloader permit which may be purchased ~~at~~ for a fee as specified in section 36-416, Idaho Code.

(g) Hound Hunter Permit -- Resident -- Nonresident. Any person using a dog for the purpose of hunting or for taking, as defined in section 36-202, Idaho Code, big game or furbearing animals must have in his possession a valid hound hunter permit which may be purchased by resident and nonresident license holders for a fee as specified in section 36-416, Idaho Code.

(h) Nonresident Bird of Prey Capture Permit. The commission may, under rules as it may prescribe, issue a nonresident bird of prey capture permit. This capture permit may be purchased by any licensed, nonresident falconer for capturing birds of prey in Idaho. The fee for the permit shall be as specified in section 36-416, Idaho Code, and the permit shall be issued under the condition that the nonresident's home state allows reciprocal raptor capturing privileges for Idaho falconers.

(i) Wildlife Management Area (WMA) ~~Pheasant~~ Upland Game Bird Permit. The commission may, under rules as it may prescribe, issue a wildlife management area ~~pheasant~~ upland game bird permit that must be purchased by all persons over sixteen (16) years of age prior to hunting ~~pheasants~~ stocked upland game birds on state wildlife management areas designated by the commission. The fee for the permit shall be as specified in section 36-416, Idaho Code.

(j) Bear Baiting Permit. The commission may, under rules as it may prescribe, issue a bear baiting permit. Any person placing or using bait as may be allowed by rule for the purpose of attracting bear must have in his possession a valid bear baiting permit which may be purchased by a license holder for a fee as specified in section 36-416, Idaho Code.

(k) Migratory Bird Harvest Information Program Permit. The commission may, as provided by federal laws or regulations and under rules as it may prescribe, issue a migratory bird harvest information program permit that must be purchased by all persons prior to hunting migratory game birds as required by federal law or regulations. The fee for the permit shall be as specified in section 36-416, Idaho Code.

(l) Dog Field Trial Permit. The commission may, under rules as it may prescribe, issue a dog field trial permit to any person using birds for dog field trials or training as may be allowed by rule. The permit

may be purchased for a fee as specified in section 36-416, Idaho Code.

(m) Idaho Nursing Home Facility Resident Fishing Permit. The commission may, under rules as it may prescribe, issue an Idaho nursing home facility resident fishing permit that must be purchased by an Idaho nursing home facility to allow residents of its facility to fish during the open season. Facilities eligible to purchase this permit are: intermediate care facilities providing twenty-four (24) hour skilled nursing care, assisted living facilities providing twenty-four (24) hour extensive assistance and skilled nursing facilities providing twenty-four (24) hour skilled nursing. By purchasing this permit the facility assumes full responsibility for and control over the facility residents while using the permit. All laws, rules and proclamations apply to the use of this permit and it is the responsibility of the facility to assure compliance with all laws, rules and proclamations. In case of a violation the facility shall be held accountable and any citations shall be issued to the facility. The permit may be purchased for a fee as specified in section 36-416, Idaho Code.

SECTION 2. That Section 36-416, Idaho Code, be, and the same is hereby amended to read as follows:

36-416. SCHEDULE OF LICENSE FEES.

(a) Sport Licenses

License	Resident	Non-Resident
Combination License	$ 31.75	$ 198.00
Hunting License	11.00	139.75
Fishing License	24.00	80.25
Sr. Combination License (65 and Older)	10.00	N/A
Sportsman's Pak License	108.50	N/A
Jr. Combination License	15.75	N/A
Jr. Hunting License	5.50	N/A
Jr. Mentored Hunting License	N/A	5.50
Youth Small Game License	5.50	5.50
Youth Hunter Education Graduate Hunting License	3.25	3.25
Jr. Fishing License	12.00	12.00
Disabled Combination License	3.25	N/A
Disabled Fishing License	3.25	N/A
Military Furlough Combination License	15.75	N/A
Military Furlough Fishing License	15.75	N/A
Small Game Hunting License	N/A	80.00
Daily Fishing (1st-day) License	9.75	9.75
Consecutive Day Fishing License	5.00	5.00
3 Day Fishing with Salmon/Steelhead Permit	N/A	29.75
Nongame Hunting License	N/A	27.50

(b) Sport Tags

Deer Tag	$ 18.00	$ 256.75
Jr. or Sr. or Disabled American Veteran Deer Tag	9.00	N/A
Jr. Mentored Deer Tag	N/A	9.00
Elk Tag	29.00	370.75
Jr. or Sr. or Disabled American Veteran Elk Tag	14.75	N/A
Jr. Mentored Elk Tag	N/A	14.75

Bear Tag	9.75	150.00
Jr. or Sr. or Disabled American Veteran Bear Tag	5.00	N/A
Jr. Mentored Bear Tag	N/A	5.00
Turkey Tag	18.00	65.75
Jr. or Sr. or Disabled American Veteran Turkey Tag	9.00	N/A
Jr. Mentored Turkey Tag	N/A	9.00
Mountain Lion Tag	9.75	150.00
Antelope Tag	29.50	256.75
Moose Tag	165.00	1,750.00
Sheep Tag	165.00	1,750.00
Goat Tag	165.00	1,750.00
Sandhill Crane Tag	18.00	65.75
(c) Sport Permits		
Bear Baiting Permit	$ 11.00	$ 11.00
Hound Hunter Permit	11.00	100.00
WMA ~~Pheasant~~ Upland Game Bird Permit	22.00	22.00
Archery Permit	16.50	16.50
Muzzleloader Permit	16.50	16.50
Salmon Permit	11.00	11.00
Steelhead Permit	11.00	11.00
Federal Migratory Bird Harvest Info. Permit	0.00	0.00
Handicapped Archery Permit	0.00	0.00
2-Pole Fishing Permit	12.00	12.00
Controlled Hunt Permit	6.00	6.00
(d) Commercial Licenses and Permits		
Raptor Captive Breeding Permit	$ 65.75	$ 65.75
Falconry Permit	27.25	N/A
Falconry Capture Permit	N/A	139.75
Jr. Trapping License	5.50	N/A
Trapping License	25.00	250.00
Taxidermist-Fur Buyer License		
5 year license	175.00	N/A
1 year license	38.25	139.00
Shooting Preserve Permit	329.75	N/A
Commercial Wildlife Farm License	137.50	N/A
Commercial Fishing License	110.00	220.00
Wholesale Steelhead License	165.00	165.00
Retail Steelhead Trout Buyer's License	33.00	33.00
(e) Commercial Tags		
Bobcat Tag	$ 8.25	$ 8.25
Lynx Tag	8.25	8.25
Beaver Tag	5.50	5.50
Net Tag	55.00	55.00
Crayfish/Minnow Tag	1.25	1.25
(f) Miscellaneous-Other Licenses		
Duplicate License	$ 5.50	$ 5.50
Shooting Preserve License	11.00	11.00
Captive Wolf License	22.00	N/A
(g) Miscellaneous-Other Tags		
Duplicate Tag	$ 5.50	$ 5.50
Wild Bird Shooting Preserve Tag	5.50	5.50

(h) Miscellaneous-Other Permits-Points		
Falconry In-State Transfer Permit	$ 5.50	$ N/A
Falconry Meet Permit	N/A	21.75
Private Park Permit	21.75	21.75
Wildlife Import Permit	21.75	21.75
Wildlife Export Permit	11.00	11.00
Wildlife Release Permit	11.00	11.00
Captive Wildlife Permit	21.75	21.75
Fishing Tournament Permit	21.75	21.75
Dog Field Trial Permit	33.00	33.00
Live Fish Transport Permit	21.75	21.75
Controlled Hunt Application Fee	4.50	4.50
Nursing Home Fishing Permit	33.00	N/A

Approved February 23, 2007.

CHAPTER 36
(S.B. No. 1011)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-1101, IDAHO CODE, TO REVISE TERMINOLOGY RELATING TO SPECIAL PERMITS AUTHORIZING PHYSICALLY DISABLED PERSONS TO HUNT FROM MOTORIZED VEHICLES WHICH ARE NOT IN MOTION, TO PROVIDE A DEFINITION AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 36-1101, Idaho Code, be, and the same is hereby amended to read as follows:

36-1101. TAKING OF WILDLIFE UNLAWFUL EXCEPT BY STATUTE OR COMMISSION RULE OR PROCLAMATION -- METHODS PROHIBITED -- EXCEPTIONS. (a) It is unlawful, except as may be otherwise provided by Idaho law, including this title or commission rules or proclamations promulgated pursuant thereto, for any person to take any of the game animals, birds or furbearing animals of this state.

(b) Except as may be otherwise provided under this title or commission rules or proclamations promulgated pursuant thereto, it is unlawful for any person to:

1. Hunt from Motorized Vehicles. Hunt any of the game animals or game birds of this state from or by the use of any motorized vehicle except as provided by commission rule; provided however, that the commission shall promulgate rules which shall allow a physically ~~handicapped~~ disabled person to apply for a special permit which would allow the person to hunt from a motorized vehicle which is not in motion. A physically ~~handicapped~~ disabled person means a person~~:~~

~~(A) Who has lost, or has lost the use of, one (1) or both lower extremities or both hands, or who has significant limitation in the use of the lower extremities, or who has a diagnosed disease or disorder which substantially impairs or interferes with mobility, or who is so severely disabled as to be unable to move without the aid of an assistance device.~~

~~(B)--Who--suffers--from--lung--disease--to--the-extent-that-his forced-(respiratory)-expiratory-volume-for-one-(1)-second--when measured--by-spirometry-is-less-than-one-(1)-liter-or-his-arterial-oxygen-tension-(po$_2$) is-less-than-60-mm/Hg-on-room-air--at rest.~~

~~(C)--Who--is--impaired--by-cardiovascular-disease-to-the-extent that-his-functional-limitations-are-classified-in--severity--as class--III--or--class-IV-according-to-standards-accepted-by-the American-Heart-Association~~ who has lost the use of one (1) or both lower extremities or both hands, or is unable to walk two hundred (200) feet or more unassisted by another person, or is unable to walk two hundred (200) feet or more without the aid of a walker, cane, crutches, braces, prosthetic device or a wheelchair, or is unable to walk two hundred (200) feet or more without great difficulty or discomfort due to one (1) or more of the following impairments: neurological, orthopedic, respiratory, cardiac, arthritic disorder, blindness, or the loss of function or absence of a limb.

The commission shall specify the form of application for and design of the special permit which shall allow a physically ~~handicapped~~ disabled person to hunt from a motorized vehicle which is not in motion. No fee shall be charged for the issuance of the special permit and the issuance of a special permit shall not exempt a person from otherwise properly purchasing or obtaining other necessary licenses, permits and tags in accordance with this title and rules promulgated pursuant thereto. The special permit shall not be transferable and may only be used by the person to whom it is issued. A person who has been issued a special permit which allows a physically ~~handicapped~~ disabled person to hunt from a motorized vehicle not in motion shall have that permit prominently displayed on any vehicle the person is utilizing to hunt from and the person shall produce, on demand, the permit and other identification when so requested by a conservation officer of the department of fish and game. A person possessing a special permit shall not discharge any firearm from or across a public highway. In addition to other penalties any unauthorized use of the special permit shall be grounds for revocation of the permit.

2. Molest with Motorized Vehicles. Use any motorized vehicle to molest, stir up, rally or drive in any manner any of the game animals or game birds of this state.

3. Communicate from Aircraft. Make use of aircraft in any manner to spot or locate game animals, game birds or fur-bearing animals of this state from the air and communicate the location or approximate location thereof by any signals whatsoever, whether radio, visual or otherwise, to any person then on the ground.

4. Hunt from Helicopter. Make use of any helicopter in any manner in the taking of game or loading, transporting, or unloading hunters, game or hunting gear in any manner except when such use is at recognized airports or airplane landing fields, or at heliports which have been previously established on private land or which have been established by a department or agency of the federal, state or local government or when said use is in the course of emergency or search and rescue operations. Provided however, that nothing in this chapter shall limit or prohibit the lawful control of wolves through the use of helicopters when such measures are deemed necessary by

federal or state agencies in accordance with existing laws or management plans.

5. Artificial Light. Hunt any animal or bird except raccoon by the aid of a spotlight, flashlight or artificial light of any kind. The act of casting or throwing, after sunset, the beam or rays of any spotlight, headlight or other artificial light capable of utilizing six (6) volts or more of electrical power upon any field, forest or other place by any person while having in his possession or under his control any uncased firearm or contrivance capable of killing any animal or bird, shall be prima facie evidence of hunting with an artificial light. Provided nothing in this subsection shall apply where the headlights of a motor vehicle, operated and proceeding in a normal manner on any highway or roadway, cast a light upon animals or birds on or adjacent to such highway or roadway and there is no intent or attempt to locate such animals or birds. Provided further, nothing in this subsection shall prevent the hunting of unprotected or predatory wildlife with the aid of artificial light when such hunting is for the purpose of protecting property or livestock, is done by landowners or persons authorized in writing by them to do so and is done on property they own, lease or control; and provided further that the hunting and taking of unprotected or predatory wildlife with the aid of artificial light on public lands is authorized after obtaining a permit to do so from the director. The director may, for good cause, refuse to issue such permit.

Other provisions of this subsection notwithstanding, the commission may establish rules allowing the hunting of raccoon with the aid of an artificial light.

6. Regulation of Dogs.

(A) No person shall make use of a dog for the purpose of pursuing, taking or killing any of the big game animals of this state except as otherwise provided by rules of the commission.

(B) Any person who is the owner of, or in possession of, or who harbors any dog found running at large and which is actively tracking, pursuing, harassing or attacking, or which injures or kills deer or any other big game animal within this state shall be guilty as provided in section 36-1401(a)1.(F), Idaho Code. It shall be no defense that such dog or dogs were pursuing said big game animals without the aid or direction of the owner, possessor, or harborer.

(C) Any dog found running at large and which is actively tracking, pursuing, harassing, attacking or killing deer or any other big game animal may be destroyed without criminal or civil liability by the director, or any peace officer, or other persons authorized to enforce the Idaho fish and game laws.

7. Attempt to take Simulated Wildlife.

(A) Attempt to take, by firearm or any other contrivance capable of killing an animal or bird, simulated wildlife in violation of any of the provisions of this title or commission rules applicable to the taking of the wildlife being simulated, when the simulated wildlife is being used by a conservation officer or other person authorized to enforce Idaho fish and game laws or rules promulgated pursuant thereto. No person shall be found guilty of violating this ~~subpart~~ subparagraph provided that no other law or rule has been violated.

(B) Any person pleading guilty to, convicted of or found guilty for attempting to take simulated wildlife within this state shall be guilty of a misdemeanor and shall be punished as provided in either subsection (b) or (d) of section 36-1402, Idaho Code.

Approved February 23, 2007.

CHAPTER 37
(H.B. No. 14)

AN ACT

RELATING TO MOTOR FUELS TAXES; AMENDING SECTION 63-2401, IDAHO CODE, TO REVISE THE DEFINITION OF "BIODIESEL," TO PROVIDE A DEFINITION OF "BIODIESEL BLEND" AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-2407, IDAHO CODE, TO CLARIFY THE DEDUCTION FOR BIODIESEL AND BIODIESEL BLENDS; AND AMENDING SECTION 41-4903, IDAHO CODE, TO INCLUDE BIODIESEL AND BIODIESEL BLENDS IN PRODUCTS SUBJECT TO THE PETROLEUM TRANSFER FEE.

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

SECTION 1. That Section 63-2401, Idaho Code, be, and the same is hereby amended to read as follows:

63-2401. DEFINITIONS. In this chapter:

(1) "Aircraft engine fuel" means:

(a) Aviation gasoline, defined as any mixture of volatile hydrocarbons used in aircraft reciprocating engines; and

(b) Jet fuel, defined as any mixture of volatile hydrocarbons used in aircraft turbojet and turboprop engines.

(2) "Biodiesel" means any fuel ~~or mixture of fuels~~ that is~~:~~

~~(a) D~~derived in whole or in part from agricultural products or animal fats or the wastes of such products~~;~~ and is

~~(b) S~~suitable for use as fuel in diesel engines.

(3) "Biodiesel blend" means any fuel produced by blending biodiesel with petroleum-based diesel to produce a fuel suitable for use in diesel engines.

(4) "Bond" means:

(a) A surety bond, in an amount required by this chapter, duly executed by a surety company licensed and authorized to do business in this state conditioned upon faithful performance of all requirements of this chapter, including the payment of all taxes, penalties and other obligations arising out of the provisions of this chapter; or

(b) A deposit with the commission by any person required to be licensed pursuant to this chapter under terms and conditions as the commission may prescribe, of a like amount of lawful money of the United States or bonds or other obligations of the United States, the state of Idaho, or any county of the state; or

(c) An irrevocable letter of credit issued to the commission by a bank doing business in this state payable to the state upon failure of the person on whose behalf it is issued to remit any payment due under the provisions of this chapter.

(~~4~~5) "Commercial motor boat" means any boat, equipped with a motor, which is wholly or partly used in a profit-making enterprise or in an enterprise conducted with the intent of making a profit.

(~~5~~6) "Commission" means the state tax commission of the state of Idaho.

(~~6~~7) "Distributor" means any person who receives motor fuel in this state, and includes a special fuels dealer. Any person who sells or receives gaseous fuels will not be considered a distributor unless the gaseous fuel is delivered into the fuel supply tank or tanks of a motor vehicle not then owned or controlled by him.

(~~7~~8) "Dyed fuel" means diesel fuel that is dyed pursuant to requirements of the internal revenue service, or the environmental protection agency.

(~~8~~9) "Exported" means delivered by truck or rail across the boundaries of this state by or for the seller or purchaser from a place of origin in this state.

(~~9~~10) "Gasohol" means gasoline blended with ten percent (10%) or more of anhydrous ethanol.

(~~10~~1) "Gasoline" means any mixture of volatile hydrocarbons suitable as a fuel for the propulsion of motor vehicles or motor boats. "Gasoline" also means aircraft engine fuels when used for the operation or propulsion of motor vehicles or motor boats and includes gasohol, but does not include special fuels.

(~~11~~2) "Highways" means every place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel which is maintained by the state of Idaho or an agency or taxing subdivision or unit thereof or the federal government or an agency or instrumentality thereof. Provided, however, if the cost of maintaining a roadway is primarily borne by a special fuels user who operates motor vehicles on that roadway pursuant to a written contract during any period of time that a special fuels tax liability accrues to the user, such a roadway shall not be considered a "highway" for any purpose related to calculating that user's special fuels' tax liability or refund.

(~~12~~3) "Idling" means the period of time greater than twenty-five hundredths (.25) of an hour when a motor vehicle is stationary with the engine operating at less than one thousand two hundred (1,200) revolutions per minute (RPM), without the power take-off (PTO) unit engaged, with the transmission in the neutral or park position, and with the parking brake set.

(~~13~~4) "Imported" means delivered by truck or rail across the boundaries of this state by or for the seller or purchaser from a place of origin outside this state.

(~~14~~5) "International fuel tax agreement" and "IFTA" mean the international fuel tax agreement required by the intermodal surface transportation efficiency act of 1991, Public Law 102-240, 105 Stat. 1914, and referred to in title 49, U.S.C., section 31701, including subsequent amendments to that agreement.

(~~15~~6) "Jurisdiction" means a state of the United States, the District of Columbia, a province or territory of Canada, or a state, territory or agency of Mexico in the event that the state, territory or agency participates in the international fuel tax agreement.

(~~16~~7) "Licensed distributor" means any distributor who has obtained a license under the provisions of section 63-2427A, Idaho Code.

(1~~7~~8) "Motor fuel" means gasoline, special fuels, aircraft engine fuels or any other fuels suitable for the operation or propulsion of motor vehicles, motor boats or aircraft.

(1~~8~~9) "Motor vehicle" means every self-propelled vehicle designed for operation, or required to be licensed for operation, upon a highway.

(~~19~~20) "Person" means any individual, firm, fiduciary, copartnership, association, limited liability company, corporation, governmental instrumentality including the state and all of its agencies and political subdivisions, or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intent to give a more limited meaning is disclosed by the context. Whenever used in any clause prescribing and imposing a fine or imprisonment, or both, the term "person" as applied to an association means the partners or members, and as applied to corporations, the officers.

(2~~0~~1) "Recreational vehicle" means a snowmobile as defined in section 67-7101, Idaho Code; a motor driven cycle or motorcycle as defined in section 49-114, Idaho Code; any recreational vehicle as defined in section 49-119, Idaho Code; and an all-terrain vehicle as defined in section 67-7101, Idaho Code.

(2~~1~~2) "Retail dealer" means any person engaged in the retail sale of motor fuels to the public or for use in the state.

(2~~2~~3) "Special fuels" means:

(a) All fuel suitable as fuel for diesel engines;

(b) A compressed or liquified gas obtained as a byproduct in petroleum refining or natural gasoline manufacture, such as butane, isobutane, propane, propylene, butylenes, and their mixtures; and

(c) Natural gas, either liquid or gas, and hydrogen, used for the generation of power for the operation or propulsion of motor vehicles.

(2~~3~~4) "Special fuels dealer" means "distributor" under subsection (6) of this section.

(2~~4~~5) "Special fuels user" means any person who uses or consumes special fuels for the operation or propulsion of motor vehicles owned or controlled by him upon the highways of this state.

(2~~5~~6) "Use" means either:

(a) The receipt, delivery or placing of fuels by a licensed distributor or a special fuels dealer into the fuel supply tank or tanks of any motor vehicle not owned or controlled by him while the vehicle is within this state; or

(b) The consumption of fuels in the operation or propulsion of a motor vehicle on the highways of this state.

SECTION 2. That Section 63-2407, Idaho Code, be, and the same is hereby amended to read as follows:

63-2407. DEDUCTIONS AUTHORIZED. Each licensed distributor shall deduct from his monthly report:

(1) Motor fuel exported from this state other than in the supply tanks of motor vehicles, motor boats or aircraft when supported by a shipping document, an invoice signed by the purchaser, or other proper documents approved by the commission but only if:

(a) The purchaser is not a licensed distributor and the seller can establish that any tax due in the jurisdiction to which the motor fuel is destined is paid; or

(b) The purchaser is a licensed distributor in the jurisdiction to which the motor fuel is destined.

(2) Motor fuel returned to a licensed distributor's refinery or pipeline terminal storage when supported by proper documents approved by the commission.

(3) Motor fuel lost or destroyed by fire, lightning, flood, tornado, windstorm, explosion, or other accidental casualty, after presenting to the commission satisfactory proof of loss.

(4) The number of gallons which would be equal to one percent (1%) of the total number of gallons received during the reporting period, less the total number of gallons deducted under subsections (1) through (3) of this section, which credit is granted to the licensed distributor to reimburse him for the expense incurred on behalf of the state of Idaho in collecting and remitting motor fuel tax moneys, maintaining necessary records for the state, preparing necessary reports and remittances in compliance with this chapter, and for loss from evaporation, handling, spillage and shrinkage, except losses caused by casualty as provided in subsection (3) of this section. The licensed distributor may, in addition to the above, deduct the number of gallons equal to one percent (1%) of the total number of gallons received during the preceding calendar month, less the total number of gallons deducted under subsections (1) through (3) of this section, to cover shrinkage, evaporation, spillage and handling losses of a retail dealer. The latter deductions are to be allowed only upon filing with the commission satisfactory evidence as may be prescribed by it indicating the credit allowance has been made in favor of the retail dealer or paid to him. The evidence shall be submitted together with the report wherein this portion of the deduction is claimed. A licensed distributor who sells and delivers motor fuel directly to the consumer and not for resale shall, with respect to those sales, be deemed a retail dealer for the purposes of this section.

(5) Motor fuel sold to the Idaho national guard for use in aircraft and in vehicles used off public highways provided, however, such deduction is supported by an exemption certificate signed by an authorized officer of the Idaho national guard.

(6) For sales made on or after July 1, 1995, taxes previously paid on gallons represented by accounts found to be worthless and actually charged-off for income tax purposes may be credited upon a subsequent payment of the tax provided in this chapter or, if no such tax is due, refunded. If such accounts are thereafter collected, the tax per gallon shall be paid based upon the amount actually received divided by the price per gallon of the original sale multiplied by the appropriate tax rate.

(7) In the case of motor fuel ~~received during the reporting period and included in the report~~ that is:

(a) Gasohol, deduct the number of gallons of denatured anhydrous ethanol contained in ~~the~~ gasohol <u>imported or blended during the reporting period and that would be taxable in the report but for the deduction allowed by this subsection.</u>

(b) Biodiesel, ~~in whole or in part,~~ deduct the number of gallons ~~of agricultural products or animal fats or the wastes of such products contained in the fuel~~ <u>that are sold during the month to which the report relates to any person other than a licensed distributor.</u>

(c) A biodiesel blend, deduct the number of gallons of biodiesel contained in the biodiesel blend imported, blended or received from a licensed distributor who is a biodiesel producer during the month to which the report relates. In the case of a licensed distributor who is a biodiesel producer, the deduction is only available when the producer sells its biodiesel blends to a person who is not a motor fuel distributor licensed in this state.

(d) The deduction provided in this subsection shall not exceed ten percent (10%) of (i) the volume of gasohol reported on the report or (ii) the special fuel which is or contains biodiesel.

(e) The deduction allowed by paragraphs (b) and (c) of this subsection is only available for motor fuel otherwise subject to tax under this chapter.

SECTION 3. That Section 41-4903, Idaho Code, be, and the same is hereby amended to read as follows:

41-4903. DEFINITIONS. For the purposes of this chapter:

(1) "Aboveground storage tank" means any one (1) or a combination of tanks, including pipes connected thereto, that is used to contain an accumulation of petroleum or petroleum products, and the volume of which, including the volume of pipes connected thereto, is less than ten percent (10%) beneath the surface of the ground. This term does not include a heating tank, farm tank or residential tank or any tank with a capacity of one hundred ten (110) gallons or less.

(2) "Accidental release" means any sudden or nonsudden release of petroleum from a storage tank that results in a need for corrective action or compensation for bodily injury or property damage neither expected nor intended by the tank owner or operator.

(3) "Administrator" means the state insurance fund or any person employed by the board of trustees to replace the state insurance fund, employed by the board to administer the Idaho petroleum clean water trust fund.

(4) "Application fee" means the amount paid or payable by an owner or operator applying for a contract of insurance with the trust fund to offset the costs of issuing contracts of insurance and other costs of administering this fund.

(5) "Board" means the board of trustees appointed by the governor.

(6) "Bodily injury" means any bodily injury, sickness, disease or death sustained by any person and caused by an occurrence defined in subsection (19) of this section.

(7) "Contamination" means the presence of petroleum or petroleum products in surface or subsurface soil, surface water, or ground water.

(8) "Commission" means the state tax commission of the state of Idaho.

(9) "Corrective action" means those actions as are reasonably necessary to satisfy applicable federal and state standards in the event of a release into the environment from a petroleum storage tank. Corrective action includes initial corrective action response or actions consistent with a remedial action to clean up contaminated soil and ground water or address residual effects after initial corrective action is taken, as well as actions necessary to monitor, assess and evaluate a release. Corrective action also includes the cost of removing a tank which is releasing or has been releasing petroleum products and the release can-

not be corrected without removing the tank; but corrective action does not include the cost of replacing this tank with another tank.

(10) "Department" means the department of insurance of the state of Idaho.

(11) "Director" means the director of the department of insurance.

(12) "Farm tank" means any tank with a capacity of more than one hundred ten (110) gallons but less than one thousand one hundred (1,100) gallons situated above ground or underground which is used for storing motor fuel for noncommercial purposes and which is located on a tract of land devoted to the production of crops or raising animals, including fish, and associated residences and improvements. A farm tank must be located on the farm property. "Farm" includes fish hatcheries, rangeland and nurseries with growing operations.

(13) "Free product" means petroleum or petroleum products in the nonaqueous phase, (e.g., liquid not dissolved in water).

(14) "Fund" or "trust fund" means the Idaho petroleum clean water trust fund.

(15) "Heating tank" means any tank with a capacity of more than one hundred ten (110) gallons situated above ground or underground which is used for storing heating oil for consumptive use on the premises where stored.

(16) "Legal defense costs" means any expense that an owner or operator or the trust fund incurs in defending against claims or actions brought by the federal environmental protection agency or a state agency to require corrective action or to recover the costs of corrective action; or by or on behalf of a third party for bodily injury or property damage caused by a release.

(17) "Licensed distributor" means any distributor who has obtained a license under the provisions of section 63-2427A, Idaho Code. If a person subject to the fee imposed by section 41-4909(7), Idaho Code, is not required to obtain a distributor's license under the provisions of chapter 24, title 63, Idaho Code, such person shall apply to the commission for a limited license for the purpose of complying with the requirements of this chapter. Such a limited license shall not be valid for any other purpose. No bond shall be required for a limited license. A holder of a limited license is a "licensed distributor" for the purposes of filing reports, paying fees and other actions necessary to the proper administration and enforcement of this chapter.

(18) "Noncommercial purposes" means not for resale, with respect to motor fuels.

(19) "Occurrence" means an accident, including continuous or repeated exposure to conditions, which resulted in a release into the environment of petroleum products from a petroleum storage tank.

(20) "Operator" means any person in control, or having responsibility for, the daily operations of a petroleum storage tank.

(21) "Owner" means the owner of a petroleum storage tank, except that "owner" does not include any person who, without participation in the management of a petroleum storage tank, holds indicia of ownership primarily to protect the owner's security interest in the tank.

(22) "Person" means any corporation, association, partnership, one (1) or more individuals, or any governmental unit, or agency thereof, other than federal or state agencies.

(23) "Petroleum" and/or "petroleum products" mean crude oil, or any fraction thereof, which is liquid at standard conditions of temperature

and pressure (i.e., at sixty (60) degrees fahrenheit and fourteen and seven-tenths (14.7) pounds per square inch absolute). The term includes motor gasoline, gasohol, other alcohol blended fuels, diesel fuel, heating oil and aviation fuel. Biodiesel and biodiesel blends as those terms are defined in section 63-2401, Idaho Code, are also petroleum or petroleum products.

(24) "Property damage" means injury or destruction to tangible property caused by an occurrence.

(25) "Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from a petroleum storage tank into ground water, surface water, or surface or subsurface soils.

(26) "Residential tank" means any tank with a capacity of more than one hundred ten (110) gallons but less than one thousand one hundred (1,100) gallons situated above ground or underground which is used for storing motor fuel for noncommercial purposes and which is located on property used primarily for dwelling purposes.

(27) "Site" means a single parcel of property where petroleum or petroleum products are stored in a petroleum storage tank and includes all contiguous land, structures, other appurtenances, surface water, ground water, surface and subsurface soil, and subsurface strata within and beneath the property boundary.

(28) "State" means the state of Idaho or any office, department, agency, authority, commission, board, institution, hospital, college, university or other instrumentality thereof.

(29) "Tank" means a stationary device designed to contain an accumulation of petroleum or petroleum products and constructed of nonearthen materials (e.g., concrete, steel, plastic) that provide structural support.

(30) "Trustees" means the trustees of the Idaho petroleum clean water trust fund, who are appointed by the governor pursuant to this chapter.

(31) "Underground storage tank" means any one (1) or combination of tanks, including underground pipes connected thereto, that is used to contain an accumulation of petroleum or petroleum products, and the volume of which, including the volume of underground pipes connected thereto, is ten percent (10%) or more beneath the surface of the ground. This term does not include any:

(a) Farm or residential tank of one thousand one hundred (1,100) gallons or less capacity used for storing motor fuel for noncommercial purposes;

(b) Tank used solely for storing heating oil for consumptive use on the premises where stored;

(c) Septic tank;

(d) Pipeline facility including gathering lines regulated under:

(i) The natural gas pipeline safety act of 1968 (49 U.S.C. app. 1671, et seq.); or

(ii) The hazardous liquid pipeline safety act of 1979 (49 U.S.C. app. 2001, et seq.); or

(iii) State laws comparable to the provisions of the law referred to in paragraph (d)(i) or (d)(ii) of this subsection as an intrastate pipeline facility;

(e) Surface impoundment, pit, pond or lagoon;

(f) Storm water or wastewater collection system;

(g) Flow-through process tank;

(h) Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations;

(i) Storage tank situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor;

(j) Tanks with a capacity of one hundred ten (110) gallons or less.

The term "underground storage tank" does not include any pipes connected to any tank which is described in paragraphs (a) through (i) of this definition.

(32) "Underground storage tank regulations" means regulations for petroleum storage tanks promulgated by the United States environmental protection agency (EPA) pursuant to subtitle I of the solid waste disposal act, as amended by the resource conservation and recovery act, regulations promulgated by the state of Idaho as part of a state program for underground storage tank regulation under subtitle I, or other regulations affecting underground storage tank operations and management, including the international fire code adopted by the state of Idaho.

Approved March 2, 2007.

CHAPTER 38
(H.B. No. 69)

AN ACT

RELATING TO PROPERTY TAX; AMENDING SECTION 63-602B, IDAHO CODE, TO REVISE PROVISIONS RELATING TO PROPERTY TAX EXEMPTIONS FOR PROPERTY BELONGING TO RELIGIOUS CORPORATIONS OR SOCIETIES OF THE STATE AND TO PROVIDE FOR PROPERTY OF RELIGIOUS CORPORATIONS OR SOCIETIES THAT IS LEASED OR USED FOR BUSINESS OR COMMERCIAL PURPOSES.

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

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

63-602B. PROPERTY EXEMPT FROM TAXATION -- RELIGIOUS CORPORATIONS OR SOCIETIES. (1) The following property is exempt from taxation: property belonging to any religious corporation or society of this state, used exclusively for and in connection with ~~public worship, and any parsonage belonging to such corporation or society and occupied as such, and any recreational hall belonging to and used in connection with the activities of such corporation or society; and this exemption shall extend to property owned by any religious corporation or society which is used for~~ any combination of religious, ~~worship,~~ educational, ~~purposes and~~ or recreational purposes or activities~~, not designed for profit~~ of such religious corporation or society, including any and all residences used for or in furtherance of such purposes.

(2) If the entirety of any property belonging to any such religious corporation or society is leased by such owner, or if such religious corporation or society uses the entirety of such property for business or commercial purposes from which a revenue is derived, then the same shall be assessed and taxed as any other property. If any such property

is leased in part or used in part by such religious corporation or society for such business or commercial purposes, the assessor shall determine the value of the entire exempt property, and the value of the part used or leased for such business or commercial purposes, and that part used or leased for such business or commercial purposes shall be taxed as any other property. The Idaho state tax commission shall promulgate rules establishing a method of determining the value of the part used or leased for such business or commercial purposes. If the value of the part used or leased for such business or commercial purposes is determined to be three percent (3%) or less of the value of the entirety, the whole of said property shall remain exempt. If the value of the part used or leased for such business or commercial purposes is determined to be more than three percent (3%) of the value of the entirety, the assessor shall assess such proportionate part of such property, and shall assess the trade fixtures used in connection with the sale of all merchandise for such business or commercial purposes, provided however, that the use or lease of any property by any such religious corporation or society for athletic or recreational facilities, residence halls or dormitories, meeting rooms or halls, auditoriums, or club rooms for and in connection with the purposes for which such religious corporation or society is organized, shall not be deemed a business or commercial purpose, even though fees or charges be imposed and revenue derived therefrom.

Approved March 2, 2007.

CHAPTER 39
(H.B. No. 70)

AN ACT

RELATING TO PROPERTY EXEMPT FROM TAXATION; AMENDING SECTION 63-602G, IDAHO CODE, TO PROVIDE PROCEDURES IF A COUNTY ASSESSOR DETERMINES THAT AN EXEMPTION WAS IMPROPERLY APPROVED AS A RESULT OF COUNTY ERROR AND TO PROVIDE FOR WAIVER OF THE PROPERTY TAX, TO PROVIDE THAT THE BOARD OF COUNTY COMMISSIONERS MAY WAIVE THE COLLECTION OF ALL OR PART OF ANY COSTS, LATE CHARGES AND INTEREST TO FACILITATE THE COLLECTION OF THE RECOVERY OF PROPERTY TAX AND TO REVISE PROCEDURES FOR RECOVERING PROPERTY TAX; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

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

63-602G. PROPERTY EXEMPT FROM TAXATION — HOMESTEAD. (1) During the tax year 2006 and each year thereafter, subject to annual adjustment as provided herein, the first seventy-five thousand dollars ($75,000) of the market value for assessment purposes of the homestead as that term is defined in section 63-701, Idaho Code, or fifty percent (50%) of the market value for assessment purposes of the homestead as that term is defined in section 63-701, Idaho Code, whichever is the lesser, shall be exempt from property taxation. Beginning for tax year 2007, the state

tax commission shall publish adjustments to the maximum amount subject to property tax exemption to reflect cost-of-living fluctuations. The adjustments shall effect changes in the amount subject to tax exemption by a percentage equal as near as practicable to the annual increase in the Idaho housing price index as determined by the United States office of federal housing enterprise oversight. The state tax commission shall publish the adjustments required by this subsection each and every year the office of federal housing enterprise oversight announces a change in the Idaho housing price index. The adjustments shall be published no later than October 1 of each year and shall be effective for claims filed in and for the following property tax year. The publication of adjustments under this subsection shall be exempt from the provisions of chapter 52, title 67, Idaho Code, but shall be provided to each county and to members of the public upon request and without charge.

(2) The exemption allowed by this section may be granted only if:

(a) The homestead is owner-occupied and used as the primary dwelling place of the owner as of January 1, provided that in the event the homestead is owner-occupied after January 1 but before April 15, the owner of the property is entitled to the exemption. The homestead may consist of part of a multidwelling or multipurpose building and shall include all of such dwelling or building except any portion used exclusively for anything other than the primary dwelling of the owner. The presence of an office in a homestead, which office is used for multiple purposes, including business and personal use, shall not prevent the owner from claiming the exemption provided in this section; and

(b) The tax commission has certified to the board of county commissioners that all properties in the county which are subject to appraisal by the county assessor have, in fact, been appraised uniformly so as to secure a just valuation for all property within the county; and

(c) The owner has certified to the county assessor by April 15 that:

(i) He is making application for the exemption allowed by this section;

(ii) That the homestead is his primary dwelling place; and

(iii) That he has not made application in any other county for the exemption, and has not made application for the exemption on any other homestead in the county.

(d) For the purpose of this section, the definition of "owner" shall be the same definition set forth in section 63-701(7), Idaho Code.

When an "owner," pursuant to the provisions of section 63-701(7), Idaho Code, is any person who is the beneficiary of a revocable or irrevocable trust, or who is a partner of a limited partnership, a member of a limited liability company, or shareholder of a corporation, he or she may provide proof of the trust, limited partnership, limited liability company, or corporation in the manner set forth in section 63-703(4), Idaho Code.

(e) Any owner may request in writing the return of all copies of any documents submitted with the affidavit set forth in section 63-703(4), Idaho Code, that are held by a county assessor, and the copies shall be returned by the county assessor upon submission of the affidavit in proper form.

(f) For the purpose of this section, the definition of "primary dwelling place" shall be the same definition set forth in section 63-701(8), Idaho Code.

(g) For the purpose of this section, the definition of "occupied" shall be the same definition set forth in section 63-701(6), Idaho Code.

(3) An owner need only make application for the exemption described in subsection (1) of this section once, as long as all of the following conditions are met:

(a) The owner has received the exemption during the previous year as a result of his making a valid application as defined in subsection (2)(c) of this section.

(b) The owner or beneficiary, partner, member or shareholder, as appropriate, still occupies the same homestead for which the owner made application.

(c) The homestead described in subsection (3)(b) of this section is owner-occupied or occupied by a beneficiary, partner, member or shareholder, as appropriate, and used as the primary dwelling place of the owner or beneficiary, partner, member or shareholder, as appropriate, as of January 1; provided however, that in the event the homestead is owner-occupied after January 1, but before April 15, the owner of the property is entitled to the exemption.

(4) The exemption allowed by this section must be taken before the reduction in taxes provided by sections 63-701 through 63-710, Idaho Code, is applied.

(5) Recovery of property tax exemptions allowed by this section but improperly claimed or approved:

(a) Upon discovery of evidence, facts or circumstances indicating any exemption allowed by this section was improperly claimed or approved, the county assessor shall decide whether the exemption claimed should ~~be~~ have been allowed and if not, notify the taxpayer in writing, assess a recovery of property tax and notify the county treasurer of this assessment. If the county assessor determined that an exemption was improperly approved as a result of county error, the county assessor shall present the discovered evidence, facts or circumstances from the improperly approved exemption to the board of county commissioners, at which time the board may waive a recovery of the property tax and notify such taxpayer in writing.

(b) When information indicating that an improper claim for the exemption allowed by this section is discovered by the state tax commission, the state tax commission may disclose this information to the appropriate county assessor, board of county commissioners and county treasurer. Information disclosed to county officials by the state tax commission under this subsection may be used to decide the validity of any entitlement to the exemption provided in this section and is not otherwise subject to public disclosure pursuant to chapter 3, title 9, Idaho Code.

(c) The assessment and collection of the recovery of property tax must begin within the seven (7) year period beginning the date the assessment notice reflecting the improperly claimed or approved exemption was required to be mailed to the taxpayer.

(d) The taxpayer may appeal to the board of county commissioners the decision by the county assessor to assess the recovery of property tax within thirty (30) days of the date the county assessor

sent the notice to the taxpayer pursuant to this section. The board may waive the collection of all or part of any costs, late charges and interest, in order to facilitate the collection of the recovery of the property tax.

(e) ~~A recovery of~~ For purposes of calculating the tax, the amount of the recovered property tax shall be for each year the exemption allowed by this section was improperly claimed or approved, up to ~~the lesser of~~ a maximum of seven (7) years. ~~or until the property was transferred to a bona fide purchaser for value.~~ The amount of the recovery of property tax shall be calculated using the product of the amount of exempted value for each year multiplied by the levy for that year plus costs, late charges and interest for each year at the rates equal to those provided for delinquent property taxes during that year.

(f) Any recovery of property tax shall be due and payable no later than the date provided for property taxes in section 63-903, Idaho Code, and if not timely paid, late charges and interest, beginning the first day of January in the year following the year the county assessor sent the notice to the taxpayer pursuant to this section, shall be calculated at the current rate provided for property taxes.

(g) Recovered property taxes shall be billed, collected and distributed in the same manner as property taxes, except each taxing district or unit shall be notified of the amount of any recovered property taxes included in any distribution.

(h) Thirty (30) days after the taxpayer is notified, as provided in subsection (5)(a) of this section, the assessor shall record a notice of intent to attach a lien. Upon the payment in full of such recovered property taxes prior to the attachment of the lien as provided in subsection (5)(i) of this section, or upon the successful appeal by the taxpayer, the county assessor shall record a rescission of the intent to attach a lien within seven (7) business days of receiving such payment or within seven (7) business days of the county commissioners' decision granting the appeal. If the real property is sold to a bona fide purchaser for value, prior to the recording of the notice of the intent to attach a lien, the county assessor and treasurer shall cease the recovery of such unpaid recovered property tax.

(i) Any unpaid recovered property taxes shall become a lien upon the real property in the same manner as provided for property taxes in section 63-206, Idaho Code, except such lien shall attach as of the first day of January in the year following the year the county assessor sent the notice to the taxpayer pursuant to this section.

(~~i~~j) For purposes of the limitation provided by section 63-802, Idaho Code, moneys received pursuant to this subsection as recovery of property tax shall be treated as property tax revenue.

(6) The legislature declares that this exemption is necessary and just.

(7) A homestead having previously qualified for exemption under this section in the preceding year, shall not lose such qualification due to: the owner's, beneficiary's, partner's, member's or shareholder'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, or because the homestead has been leased because the owner, beneficiary, partner, member or shareholder is absent 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 by the owner, beneficiary, partner, member or shareholder, as appropriate, as defined in section 112 of the Internal Revenue Code, and such homestead would have otherwise qualified under this section, then the board of county commissioners of the county in which the homestead is located shall refund property taxes, if previously paid, in an amount equal to the exemption which would otherwise have applied.

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, 2007.

Approved March 2, 2007.

CHAPTER 40
(S.B. No. 1051)

AN ACT

RELATING TO MOTOR VEHICLE TIRES; AMENDING SECTION 49-1002, IDAHO CODE, TO DELETE THE PROHIBITION ON USE OF SINGLE TIRES ON SINGLE AXLES OR WITHIN GROUPS OF AXLES.

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

SECTION 1. That Section 49-1002, Idaho Code, be, and the same is hereby amended to read as follows:

49-1002. ALLOWABLE LOAD PER INCH WIDTH OF TIRE. (1) The maximum allowable load for any vehicle tire operated on any public highway shall not exceed six hundred (600) pounds per inch width of tire and shall not exceed the manufacturer's load rating, whichever is less. ~~Single tires are prohibited on single axles or within groups of axles except for steering axles, self-steering variable load suspension axles or when equipped with wide base tires fifteen (15) inches wide or greater.~~ The width of a tire shall be determined by the manufacturer's description marked on the sidewall of the tire. Tires on vehicles manufactured prior to July 1, 1987, may exceed the six hundred (600) pounds per inch width of tire limit subject to a maximum of eight hundred (800) pounds per inch width of tire. This section shall not apply to nonreducible overweight and/or oversize vehicles and/or loads as authorized under section 49-1004, Idaho Code.

(2) Except as provided herein, no vehicle or combination of vehicles may proceed past the place of weighing at temporary or permanent ports of entry or checking stations when the weight carried on a single tire, as determined by dividing the weight carried on an axle or group of axles by the number of wheels on the axle or group of axles, exceeds on a single axle the allowable weight above by two thousand (2,000) pounds or more or the weight of a combination of axles exceeds the

allowable weight above by seven percent (7%) or more. Vehicles or combinations of vehicles which exceed the weight limitations set forth herein shall be required to be brought into compliance with the applicable weight per inch width of tire contained within this subsection prior to continuing except those vehicles or combinations of vehicles which are transporting loads which, in the determination of the board or other proper authorities in charge of or having jurisdiction over a highway, are deemed unsafe or impractical to bring into compliance at the place of weighing. Vehicles or combinations of vehicles transporting loads in this latter category shall obtain a travel authorization to the nearest place of safe unloading, load adjustment or other means of legalization.

(a) Neither the state of Idaho or its employees, nor any authority and its employees in charge of or having jurisdiction over a highway, shall be held liable for personal injury or property damage resulting from the requirements of section 49-1001(8), Idaho Code.

(b) The fee for a travel authorization as set forth above shall be fifty dollars ($50.00) and shall be on a form prescribed by the board or other proper authorities.

(c) The board or other proper authorities in charge of or having jurisdiction over a highway shall adopt and enforce administrative rules as may be necessary to carry out the provisions of this section.

Approved March 2, 2007.

CHAPTER 41
(S.B. No. 1062)

AN ACT

RELATING TO THE RENOVATION OF THE STATE CAPITOL BUILDING; AMENDING SECTION 67-404a, IDAHO CODE, TO PROVIDE THAT THE LEGISLATURE WILL HOLD ITS ORGANIZATIONAL SESSION IN THE CAPITOL BUILDING OR IN THE BUILDING IN WHICH THE LEGISLATURE WILL HOLD SESSIONS, TO PROVIDE FOR PAYMENT OF MEMBERS' EXPENSES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-1204, IDAHO CODE, TO PROVIDE THAT DURING THE STATE CAPITOL BUILDING RENOVATION OR DURING RELOCATION DUE TO AN EMERGENCY, STATE MONEYS SHALL BE KEPT IN A VAULT WITHIN THE OFFICE OF THE STATE TREASURER'S TEMPORARY LOCATION AND UPON COMPLETION THESE MONEYS SHALL BE KEPT IN A VAULT IN THE CAPITOL BUILDING; AMENDING SECTION 67-1608, IDAHO CODE, TO PROVIDE THAT CERTAIN FURNITURE DURING RENOVATION OF THE CAPITOL BUILDING SHALL BE KEPT IN TEMPORARY SPACE APPROVED BY THE CAPITOL COMMISSION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-404a, Idaho Code, be, and the same is hereby amended to read as follows:

67-404a. ORGANIZATION OF HOUSE OF REPRESENTATIVES AND SENATE. On the first Thursday of December in general election years, the members ~~elect~~ of the house of representatives and senate shall meet ~~at~~

~~the--state--capitol~~ in Boise, in the capitol building or, during any renovation of the capitol building, in the building in which the legislature will hold sessions, for the purpose of organizing their respective houses. Members~~elect~~ shall each receive ~~the-sum-of-$25.00-per--day not--to--exceed--three--(3)-days-for-general-expenses,-and-shall-also-be reimbursed-for-actual-and--necessary--travel--and--lodging--expenses--in attending-such-meetings.-The-members-elect-attending-such-meetings-shall file--with--the-legislative-council-a-duly-verified-claim,-together-with paid-vouchers-for-travel-and-lodging--expenses--actually--incurred.--The legislative--council--shall--file--all--such-claims-with-the-appropriate state-office-for-examination-and-payment-of-all-just-claims~~ compensation and expenses authorized by the citizen's committee on legislative compensation, which shall be paid from the legislative account.

SECTION 2. That Section 67-1204, Idaho Code, be, and the same is hereby amended to read as follows:

67-1204. MONEY TO BE KEPT IN VAULT — PENALTY. (1) All state moneys in the custody of the state treasurer not otherwise deposited or invested as is or may be ~~by-law~~ provided by law, shall be kept in the vault and safe as provided for that purpose in the capitol building and in no other place.

(2) During the capitol building renovation, beginning in fiscal year 2007, or during relocation due to an emergency, these same moneys as set forth above, shall be kept in a vault within the office of the state treasurer's temporary location. Upon completion of this renovation, the provisions of subsection (1) of this section shall apply.

(3) A violation of this section shall subject the state treasurer, upon conviction thereof, to pay a fine of not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or to imprisonment in the state prison for a period of not less than one (1) nor more than ten (10) years, or to both such fine and imprisonment.

SECTION 3. That Section 67-1608, Idaho Code, be, and the same is hereby amended to read as follows:

67-1608. POWERS AND DUTIES OF THE COMMISSION. The commission shall have the following powers and duties:

(1) In consultation with the director of the department of administration, to develop a comprehensive, multiyear, master plan ("master plan") for the restoration and refurbishment of the capitol building and to review periodically, and, as appropriate, to amend and modify the plan. The master plan shall address long-range modifications and improvements to the capitol building and its grounds.

(2) To develop and implement a program to fund the master plan. The program shall include recommendations to the legislature for appropriating public moneys as well as a comprehensive strategy to obtain moneys from the private sector.

(3) To review all proposals to reconstruct, redecorate or restore all space within the capitol building. All such projects shall be in conformance with the master plan and may not be implemented without the written consent of the commission.

(4) To review all proposals involving objects of art, memorials,

statues, or exhibits to be placed on a permanent or temporary basis in public space within the capitol building or on its grounds. All proposals shall be in conformance with the master plan and may not be implemented without the written consent of the commission.

(5) To identify all furniture original to the capitol building and create an inventory of the original furniture. The possession of all original furniture used within the public and executive department space shall be retained by the director of the department of administration. The possession of all original furniture used by the legislative department shall be retained by the presiding officers of the senate and house of representatives. All original furniture is the property of the state of Idaho and shall remain in the capitol building ~~at all times~~ or, during renovation of the capitol building, in temporary space approved by the commission.

(6) For the purpose of promoting interest in the capitol building and obtaining funds to enhance the preservation of original and historic elements of the capitol building and its grounds, to develop and implement a plan for the publishing and sale of publications on the history of the capitol building and to develop other capitol building memorabilia for sale to the public.

(7) To solicit gifts, grants or donations of any kind from any private or public source to carry out the purposes of this chapter. All gifts, grants or donations received directly by the commission shall be transmitted to the state treasurer who shall credit the same to the capitol endowment fund created by this chapter.

(8) To request necessary assistance from all state agencies and the presiding officers of the senate and house of representatives in performing its duties pursuant to this chapter.

(9) To enter into agreements with tax-exempt nonprofit organizations for the purpose of assisting the commission in the performance of its duties under this chapter, including agreements for the establishment and maintenance of community foundation funds dedicated to the purposes of this chapter.

(10) To appoint and contract with the architect of the capitol building as provided by this chapter.

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 2, 2007.

CHAPTER 42
(S.B. No. 1032)

AN ACT
RELATING TO UNLAWFUL DISCHARGE OF A FIREARM; AMENDING SECTION 18-3317, IDAHO CODE, TO PROVIDE PENALTY PROVISIONS.

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

SECTION 1. That Section 18-3317, Idaho Code, be, and the same is hereby amended to read as follows:

18-3317. UNLAWFUL DISCHARGE OF A FIREARM AT A DWELLING HOUSE, OCCUPIED BUILDING, VEHICLE OR MOBILE HOME. It shall be unlawful for any person to intentionally and unlawfully discharge a firearm at an inhabited dwelling house, occupied building, occupied motor vehicle, inhabited mobile home, inhabited travel trailer, or inhabited camper. Any person violating the provisions of this section shall be guilty of a felony, punishable by imprisonment in the state prison for a term not to exceed fifteen (15) years.

As used in this section, "inhabited" means currently being used for dwelling purposes, whether occupied or not.

Approved March 8, 2007.

CHAPTER 43
(S.B. No. 1066)

AN ACT

RELATING TO MANSLAUGHTER; AMENDING SECTION 18-4006, IDAHO CODE, TO REVISE THE DEFINITION FOR INVOLUNTARY MANSLAUGHTER AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 18-4006, Idaho Code, be, and the same is hereby amended to read as follows:

18-4006. MANSLAUGHTER DEFINED. Manslaughter is the unlawful killing of a human being including, but not limited to, a human embryo or fetus, without malice. It is of three (3) kinds:

1. Voluntary -- upon a sudden quarrel or heat of passion.

2. Involuntary -- in the perpetration of or attempt to perpetrate any unlawful act, other than ~~arson, rape, robbery, kidnapping, burglary, or mayhem~~ those acts specified in section 18-4003(d), Idaho Code; or in the commission of a lawful act which might produce death, in an unlawful manner, or without due caution and circumspection; or in the operation of any firearm or deadly weapon in a reckless, careless or negligent manner which produces death.

3. Vehicular -- in which the operation of a motor vehicle is a significant cause contributing to the death because of:

(a) ~~t~~The commission of an unlawful act, not amounting to a felony, with gross negligence; or

(b) ~~t~~The commission of a violation of section 18-8004 or 18-8006, Idaho Code; or

(c) ~~t~~The commission of an unlawful act, not amounting to a felony, without gross negligence.

Notwithstanding any other provision of law, any evidence of conviction under subsection 3.(b) shall be admissible in any civil action for damages resulting from the occurrence. A conviction for the purposes of subsection 3.(b) means that the person has pled guilty or has been found guilty, notwithstanding the form of the judgment(s) or withheld judgment(s).

Approved March 8, 2007.

CHAPTER 44
(S.B. No. 1001)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1302, IDAHO CODE, TO REFERENCE THE ABILITY TO PURCHASE MEMBERSHIP SERVICE RELATED TO CERTAIN ACTIVE DUTY SERVICE IN THE ARMED FORCES; AMENDING SECTION 59-1352, IDAHO CODE, TO REVISE THE DATE APPLICABLE TO ELIGIBILITY FOR DISABILITY RETIREMENT; AMENDING SECTION 59-1356, IDAHO CODE, TO CLARIFY SEPARATION OF SERVICE FOR RETIRED MEMBERS; AMENDING SECTION 59-1359, IDAHO CODE, TO CLARIFY SEPARATION FROM EMPLOYMENT FOR INACTIVE MEMBERS; AMENDING SECTION 59-1362, IDAHO CODE, TO PROVIDE FOR THE PURCHASE OF MEMBERSHIP SERVICE RELATING TO A MEMBER'S ACTIVE DUTY SERVICE; AND AMENDING SECTION 59-1363, IDAHO CODE, TO REMOVE LANGUAGE REFERENCING THE PURCHASE OF OTHER MEMBERSHIP SERVICE.

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

SECTION 1. That Section 59-1302, Idaho Code, be, and the same is hereby amended to read as follows:

59-1302. DEFINITIONS. (1) As used in this chapter, 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.

(2) "Active member" means any employee who is not establishing the right to receive benefits through his or her employer's participation in any other retirement system established for Idaho public employees, if such participation is mandated by applicable Idaho statutes other than this chapter. In no case will an employee be entitled to any benefit under this chapter for public service if such employee is establishing retirement benefit entitlements by other Idaho statutes or federal statutes other than military service or social security for that same service.

(3) "Accumulated contributions" means the sum of amounts contributed by a member of the system, together with regular interest credit thereon.

(4) "Actuarial equivalent" means a benefit equal in value to another benefit, when computed upon the basis of the actuarial tables in use by the system.

(5) "Actuarial tables" means such tables as shall have been adopted by the board in accordance with recommendations of the actuary.

(5A) "Alternate payee" means a spouse or former spouse of a member who is recognized by an approved domestic retirement order as having a right to all or a portion of the accrued benefits in the retirement system with respect to such member.

(5B) "Approved domestic retirement order" means a domestic retirement order which creates or recognizes the existence of an alternate payee's right or assigns to an alternate payee the right to all or a portion of the accrued benefits of a member under the retirement system, which directs the system to establish a segregated account or disburse benefits to an alternate payee, and which the executive director of the retirement system has determined meets the requirements of sections

59-1319 and 59-1320, Idaho Code.

(5C) "Average monthly salary" means the member's average salary during the base period as calculated pursuant to rules adopted by the retirement board.

(5D) (a) "Base period" means the period of fifty-four (54) consecutive calendar months during which the member earned:

(i) The highest average salary; and

(ii) Membership service of at least one-half (1/2) the number of months in the period, excluding months of service attributable to:

A. Military service;

B. Service qualifying as minimum benefit pursuant to section 59-1342(5), Idaho Code; and

C. Worker's compensation income benefits.

(b) Effective October 1, 1993, the consecutive calendar months shall be forty-eight (48). Effective October 1, 1994, the consecutive calendar months shall be forty-two (42).

(c) Entitlement to a base period shall not vest until the effective date of that base period. The retirement benefits shall be calculated on the amounts, terms and conditions in effect at the date of the final contribution by the member.

(d) If no base period exists for a member, the member's average monthly salary shall be determined by the board, using standards not inconsistent with those established in this subsection.

(e) To assure equitable treatment for all members, salary increments inconsistent with usual compensation patterns may be disallowed by the board in determining average monthly salary and base period.

(6) "Beneficiary" means the person who is nominated by the written designation of a member, duly executed and filed with the board, to receive the death benefit.

(7) "Calendar year" means twelve (12) calendar months commencing on the first day of January.

(7A) "Contingent annuitant" means the person designated by a member under certain retirement options to receive benefit payments upon the death of the member. The person so designated must be born and living on the effective date of retirement.

(8) "Credited service" means the aggregate of membership service, prior service and disabled service.

(9) "Date of establishment" means July 1, 1965, or a later date established by the board or statute.

(10) "Death benefit" means the amount, if any, payable upon the death of a member.

(11) "Disability retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for disability retirement.

(12) "Disabled" means:

(a) That the member is prevented from engaging in any occupation or employment for remuneration or profit as a result of bodily injury or disease, either occupational or nonoccupational in cause, but excluding disabilities resulting from service in the armed forces of any country, or from an intentionally self-inflicted injury; and

(b) That the member will likely remain so disabled permanently and continuously during the remainder of the member's life.

It is not necessary that a person be absolutely helpless or entirely unable to do anything worthy of compensation to be considered disabled. If the person is so disabled that substantially all the avenues of employment are reasonably closed to the person, that condition is within the meaning of "disabled." In evaluating whether a person is disabled, medical factors and nonmedical factors including, but not limited to, education, economic and social environment, training and usable skills may be considered.

Refusal to submit to a medical examination ordered by the board before the commencement of a disability retirement allowance or at any reasonable time thereafter shall constitute proof that the member is not disabled. The board shall be empowered to select for such medical examination one (1) or more physicians or surgeons who are licensed to practice medicine and perform surgery. The fees and expenses of such examination shall be paid from the administration account of the fund. No member shall be required to undergo such examination more often than once each year after he has received a disability retirement allowance continuously for two (2) years.

(12A) "Disabled service" means the total number of months elapsing from the first day of the month next succeeding the final contribution of a member prior to receiving a disability retirement allowance to the first day of the month following the date of termination of such disability retirement allowance. During such period, the member shall remain classified in the membership category held during the month of final contribution. The total number of months of disabled service credited for a person first becoming disabled after the effective date of this chapter shall not exceed the excess, if any, of three hundred sixty (360) over the total number of months of prior service and membership service.

(12B) "Domestic retirement order" means any judgment, decree, or order, including approval of a property settlement agreement which relates to the provision of marital property rights to a spouse or former spouse of a member, and is made pursuant to a domestic relations law, including the community property law of the state of Idaho or of another state.

(13) "Early retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for early retirement.

(14) (A) "Employee" means:

(a) Any person who normally works twenty (20) hours or more per week for an employer or a school teacher who works half-time or more for an employer and who receives salary for services rendered for such employer; or

(b) Elected officials or appointed officials of an employer who receive a salary; or

(c) A person who is separated from service with less than five (5) consecutive months of employment and who is reemployed or reinstated by the same employer within thirty (30) days.

(B) "Employee" does not include employment as:

(a) A person rendering service to an employer in the capacity of an independent business, trade or profession; or

(b) A person whose employment with any employer does not total five (5) consecutive months; or

(c) A person provided sheltered employment or made-work by a public

employer in an employment or industries program maintained for the benefit of such person; or

(d) An inmate of a state institution, whether or not receiving compensation for services performed for the institution; or

(e) A student enrolled in an undergraduate, graduate, or professional-technical program at and employed by a state college, university, community college or professional-technical center when such employment is predicated on student status; or

(f) A person making contributions to the United States civil service commission under the United States Civil Service System Retirement Act except that a person who receives separate remuneration for work currently performed for an employer and the United States government may elect to be a member of the retirement system in accordance with rules of the board; or

(g) A person occupying a position that does not exceed eight (8) consecutive months in a calendar year with a city or county when the city or county has certified, in writing to the system, the position is (i) seasonal or casual; and (ii) affected by weather and the growing season, including parks and golf course positions; or

(h) A person in a position that (i) is eligible for participation in an optional retirement program established under section 33-107A or 33-107B, Idaho Code, or (ii) would be eligible for participation in an optional retirement program established under section 33-107A or 33-107B, Idaho Code, if the person was not working less than half-time or less than twenty (20) hours per week.

(15) "Employer" means the state of Idaho, or any political subdivision or governmental entity, provided such subdivision or entity has elected to come into the system. Governmental entity means any organization composed of units of government of Idaho or organizations funded only by government or employee contributions or organizations who discharge governmental responsibilities or proprietary responsibilities that would otherwise be performed by government. All governmental entities are deemed to be political subdivisions for the purpose of this chapter.

(15A) "Final contribution" means the final contribution made by a member pursuant to sections 59-1331 through 59-1334, Idaho Code.

(16) "Firefighter" means an employee, including paid firefighters hired on or after October 1, 1980, whose primary occupation is that of preventing and extinguishing fires as determined by the rules of the board.

(17) "Fiscal year" means the period beginning on July 1 in any year and ending on June 30 of the next succeeding year.

(18) "Fund" means the public employee retirement fund established by this chapter.

(19) "Funding agent" means any bank or banks, trust company or trust companies, legal reserve life insurance company or legal reserve life insurance companies, or combinations thereof, any thrift institution or credit union or any investment management firm or individual investment manager selected by the board to hold and/or invest the employers' and members' contributions and pay certain benefits granted under this chapter.

(20) "Inactive member" means a former active member who is not an employee and is not receiving any form of retirement allowance, but for whom a separation benefit has not become payable.

(20A) "Lifetime annuity" means periodic monthly payments of income by the retirement system to an alternate payee.

(20B) "Lump sum distribution" means a payment by the retirement system of the entire balance in the alternate payee's segregated account, together with regular interest credited thereon.

(21) "Member" means an active member, inactive member or a retired member.

(22) "Membership service" means military service which occurs after the commencement of contributions payable under sections 59-1331 through 59-1334, Idaho Code, and service with respect to which contributions are payable under sections 59-1331 through 59-1334, Idaho Code, which, except for benefit calculations described in sections 59-1342 and 59-1353, Idaho Code, includes service transferred to a segregated account under an approved domestic retirement order.

(23) "Military service" means any period of active duty service in the armed forces of the United States including the national guard and reserves, under the provisions of title 10, title 32, and title 37, United States code, which commences less than ninety (90) days after the person ceases to be an employee and ends less than ninety (90) days before the person again becomes an employee. Provided, if a member fails to again become an employee due to being killed while in active duty service, the member shall be entitled to military service through the date of death. In no event shall military service include:

(a) Any period ended by dishonorable discharge or during which termination of such service is available but not accepted; or

(b) Any active duty service in excess of five (5) years if at the convenience of the United States government, or in excess of four (4) years if not at the convenience of the United States government, provided additional membership service may be purchased as provided in section 59-1362, Idaho Code.

(24) (a) "Police officer" for retirement purposes shall be as defined in ~~section~~ 59-1303, Idaho Code.

(b) "POST" means the Idaho peace officer standards and training council established in chapter 51, title 19, Idaho Code.

(25) "Prior service" means any period prior to July 1, 1965, of military service or of employment for the state of Idaho or any political subdivision or other employer of each employee who is an active member or in military service or on leave of absence on the date of establishment, provided, however, an employee who was not an active member or in military service or on leave of absence on the date of establishment shall receive credit for the member's service prior to July 1, 1965, on the basis of recognizing two (2) months of such service for each month of membership service. For the purpose of computing such service, no deduction shall be made for any continuous period of absence from service or military service of six (6) months or less.

(26) "Regular interest" means interest at the rate set from time to time by the board.

(27) "Retired member" means a former active member receiving a retirement allowance.

(28) "Retirement" means the acceptance of a retirement allowance under this chapter upon termination of employment.

(29) "Retirement board" or "board" means the board provided for in sections 59-1304 and 59-1305, Idaho Code, to administer the retirement system.

(30) "Retirement system" or "system" means the public employee retirement system of Idaho.

(31) (A) "Salary" means:

(a) The total salary or wages paid to a person who meets the definition of employee by an employer for personal services performed and reported by the employer for income tax purposes, including the cash value of all remuneration in any medium other than cash.

(b) The total amount of any voluntary reduction in salary agreed to by the member and employer where the reduction is used as an alternative form of remuneration to the member.

(B) Salary in excess of the compensation limitations set forth in section 401(a)(17) of the Internal Revenue Code shall be disregarded for any person who becomes a member of the system on or after July 1, 1996. The system had no limitations on compensation in effect on July 1, 1993. The compensation limitations set forth in section 401(a)(17) of the Internal Revenue Code shall not apply for an "eligible employee." For purposes of this subsection, "eligible employee" is an individual who was a member of the system before July 1, 1996.

(C) "Salary" does not include:

(a) Contributions by employers to employee held medical savings accounts, as those accounts are defined in section 63-3022K, Idaho Code.

(b) Lump sum payments inconsistent with usual compensation patterns made by the employer to the employee only upon termination from service including, but not limited to, vacation payoffs, sick leave payoffs, early retirement incentive payments and bonuses.

(31A) "Segregated account" means the account established by the retirement system for the alternate payee of a member who is not a retired member. It shall include the months of credited service and accumulated contributions transferred from the member's account.

(32) "Separation benefit" means the amount, if any, payable upon or subsequent to separation from service.

(33) "Service" means being shown on an employer's payroll as an employee receiving a salary. For each calendar month, service is credited only when a member is an employee as defined in subsection (14)(A) of this section and is employed for fifteen (15) days or more during the calendar month. Employment of fourteen (14) days or less during any calendar month shall not be credited. No more than one (1) month of service shall be credited for all service in any month.

(34) "Service retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for service retirement.

(35) "State" means the state of Idaho.

(36) "Vested member" means an active or inactive member who has at least five (5) years of credited service, except that a member, who at the time of his separation from service:

(a) Held an office to which he had been elected by popular vote or having a term fixed by the constitution, statute or charter or was appointed to such office by an elected official; or

(b) Was the head or director of a department, division, agency, statutory section or bureau of the state; or

(c) Was employed on or after July 1, 1965, by an elected official of the state of Idaho and occupied a position exempt from the provisions of chapter 53, title 67, Idaho Code; and

(d) Was not covered by a merit system for employees of the state of Idaho,

is vested without regard to the length of credited service.

(37) The masculine pronoun, wherever used, shall include the feminine pronoun.

SECTION 2. 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 disabled, 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 date of last ~~day physically on the job~~ contribution as an active member was less than one (1) year prior to the date of application, are eligible to apply for disability retirement.

SECTION 3. 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. A retired member is not considered to have separated from service if he continues performing services for the same employer in any capacity including, but not limited to, independent contractor, leased employee, or temporary services.

(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 be suspended and any contributions payable by such member under sections 59-1331 through 59-1334, Idaho Code, shall again commence. The 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, 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 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.

SECTION 4. 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 a 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. An inactive member is not considered to have separated from employment if he continues performing services for the same employer in any capacity including, but not limited to, independent contractor, leased employee, or temporary services. 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 5. That Section 59-1362, Idaho Code, be, and the same is hereby amended to read as follows:

59-1362. PURCHASE OF ACTIVE DUTY SERVICE IN THE ARMED FORCES. (1) ~~Notwithstanding any other provision of this chapter, an active or inactive member who is vested may purchase membership service for active duty service in the armed forces of the United States that does not qualify for "military service" as defined in section 59-1302(23), Idaho Code. Provided, the combined amount of membership service acquired under section 59-1302(23), Idaho Code, and purchased under this section shall not exceed forty eight (48) months~~ If a member is entitled to reemployment rights related to the member's active duty service under the uniformed services employment and reemployment rights act of 1994 (USERRA), as amended, any period of that active duty service that is not

eligible to be credited as military service under section 59-1302(23), Idaho Code, may be credited as membership service if the member pays employee contributions for that period as required in this section.

(2) ~~Purchases under this section are limited to active or inactive members who provide, as required by the board, evidence of such active duty service and who do not have a vested right to retirement benefits in any other retirement system based in whole or in part upon the same active duty service~~ The member must pay employee contributions or enter into an agreement to do so and begin making payments within ninety (90) days from the date of reemployment. If the member pays employee contributions or enters into an agreement to do so, the employer will be responsible for paying employer contributions for the same period within thirty (30) days thereafter. Both employee and employer contributions will be based upon compensation the member would have received but for the period of active duty service.

(3) ~~The cost of purchases under this section shall be the full actuarial costs of the service as determined by the board. The board may provide for payment options, including periodic payments, but no service shall be credited until payment has been made in full. The member shall be solely responsible for the costs of such purchased service, except that an employer may participate in the costs at its option~~ The member may have up to five (5) years to repay employee contributions, with interest accruing only from the date of return from active duty service. If the member terminates employment prior to repaying all the employee contributions related to the eligible period as agreed, membership service will be granted only for the period for which contributions were paid.

(4) ~~For purposes of this section, "active duty service in the armed forces of the United States" means active duty, other than primarily for training purposes, in the army, navy, air force, marine corps or coast guard, concluding with other than a dishonorable discharge~~ All periods of active duty service that do not qualify as "military service" under section 59-1302(23), Idaho Code, or for purchase of membership service under this section, must be purchased under section 59-1363, Idaho Code.

SECTION 6. That Section 59-1363, Idaho Code, be, and the same is hereby amended to read as follows:

59-1363. PURCHASE OF MEMBERSHIP SERVICE. (1) Notwithstanding any other provision of this chapter, an active or inactive member who is vested may purchase up to forty-eight (48) months of membership service.

(2) The cost of purchases under this section shall be the full actuarial costs of the service as determined by the board. The board may provide for payment options, including periodic payments, but no service shall be credited until payment has been made in full. The member shall be solely responsible for the costs of such purchased service, except that an employer may participate in the costs at its option.

(3) In no event shall any member be allowed to purchase in the aggregate more than forty-eight (48) months of membership service ~~whether purchased~~ under this section. ~~or any other provision authorizing purchase of membership service.~~

Approved March 12, 2007.

CHAPTER 45
(S.B. No. 1003)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1356, IDAHO CODE, TO SET FORTH CONTRIBUTION AND PAYMENT PROVISIONS TO APPLY WHEN AN EMPLOYER FAILS TO PROPERLY REPORT THE EMPLOYMENT OF A RETIRED MEMBER AND BENEFIT PAYMENTS HAVE BEEN MADE.

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) 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 be suspended and any contributions payable by such member under sections 59-1331 through 59-1334, Idaho Code, shall again commence. The 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, 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 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) It is the responsibility of each employer to immediately report to the retirement board the employment of any retired member so that benefit payments can be suspended as provided in this section. If an employer fails to properly report the employment of a retired member and it results in the retirement board making benefit payments that should have been suspended, the employer shall, in addition to paying delin-

quent employee and employer contributions from the date of eligibility, also be responsible for repaying to the retirement board the benefit payments made to the retired member that should have been suspended, plus interest. The employer may then recoup such payments from the retired member.

(5) For purposes of this section, "same employer" means the employer for which the retired member last worked prior to retirement.

Approved March 12, 2007.

CHAPTER 46
(S.B. No. 1012)

AN ACT

RELATING TO THE UNIFORM FOREIGN COUNTRY MONEY JUDGMENTS RECOGNITION ACT; REPEALING CHAPTER 14, TITLE 10, IDAHO CODE; AMENDING TITLE 10, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 14, TITLE 10, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROVIDE APPLICABILITY, TO SET FORTH STANDARDS FOR RECOGNITION OF FOREIGN COUNTRY JUDGMENTS, TO PROVIDE FOR PERSONAL JURISDICTION, TO SET FORTH A PROCEDURE FOR RECOGNITION OF FOREIGN COUNTRY JUDGMENTS, TO PROVIDE FOR THE EFFECT OF RECOGNITION OF FOREIGN COUNTRY JUDGMENTS, TO PROVIDE FOR A STAY OF PROCEEDINGS PENDING APPEAL OF A FOREIGN COUNTRY JUDGMENT, TO PROVIDE A STATUTE OF LIMITATIONS, TO PROVIDE FOR UNIFORMITY OF INTERPRETATION, TO PROVIDE A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE AND APPLICABILITY.

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

SECTION 1. That Chapter 14, Title 10, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Title 10, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 14, Title 10, Idaho Code, and to read as follows:

CHAPTER 14
UNIFORM FOREIGN COUNTRY MONEY JUDGMENTS RECOGNITION ACT

10-1401. SHORT TITLE. This chapter shall be known and may be cited as the "Uniform Foreign Country Money Judgments Recognition Act."

10-1402. DEFINITIONS. In this chapter:

(1) "Foreign country" means a government other than:

(a) The United States;

(b) A state, district, commonwealth, territory or insular possession of the United States; or

(c) Any other government with regard to which the decision in this state as to whether to recognize a judgment of that government's courts is initially subject to determination under the full faith and credit clause of the United States Constitution.

(2) "Foreign country judgment" means a judgment of a court of a foreign country.

10-1403. APPLICABILITY. (1) Except as otherwise provided in subsection (2) of this section, this chapter applies to a foreign country judgment to the extent that the judgment:

(a) Grants or denies recovery of a sum of money; and

(b) Under the law of the foreign country where rendered, is final, conclusive and enforceable.

(2) This chapter does not apply to a foreign country judgment, even if the judgment grants or denies recovery of a sum of money, to the extent that the judgment is:

(a) A judgment for taxes;

(b) A fine or other penalty; or

(c) A judgment for divorce, support, or maintenance, or other judgment rendered in connection with domestic relations.

(3) A party seeking recognition of a foreign country judgment has the burden of establishing that this chapter applies to the foreign country judgment.

10-1404. STANDARDS FOR RECOGNITION OF FOREIGN COUNTRY JUDGMENT. (1) Except as otherwise provided in subsections (2) and (3) of this section, a court of this state shall recognize a foreign country judgment to which this chapter applies.

(2) A court of this state may not recognize a foreign country judgment if:

(a) The judgment was rendered under a judicial system that does not provide impartial tribunals or procedures compatible with the requirements of due process of law;

(b) The foreign court did not have personal jurisdiction over the defendant; or

(c) The foreign court did not have jurisdiction over the subject matter.

(3) A court of this state need not recognize a foreign country judgment if:

(a) The defendant in the proceeding in the foreign court did not receive notice of the proceeding in sufficient time to enable the defendant to defend;

(b) The judgment was obtained by fraud that deprived the losing party of an adequate opportunity to present its case;

(c) The judgment or the claim for relief on which the judgment is based is repugnant to the public policy of this state or of the United States;

(d) The judgment conflicts with another final and conclusive judgment;

(e) The proceeding in the foreign court was contrary to an agreement between the parties under which the dispute in question was to be determined otherwise than by proceedings in that foreign court;

(f) In the case of jurisdiction based only on personal service, the foreign court was a seriously inconvenient forum for the trial of the action;

(g) The judgment was rendered in circumstances that raise substantial doubt about the integrity of the rendering court with respect to the judgment; or

(h) The specific proceeding in the foreign court leading to the judgment was not compatible with the requirements of due process of law.

(4) A party resisting recognition of a foreign country judgment has the burden of establishing that a ground for nonrecognition stated in subsection (2) or (3) of this section exists.

10-1405. PERSONAL JURISDICTION. (1) A foreign country judgment may not be refused recognition for lack of personal jurisdiction if:

(a) The defendant was served with process personally in the foreign country;

(b) The defendant voluntarily appeared in the proceeding, other than for the purpose of protecting property seized or threatened with seizure in the proceeding or of contesting the jurisdiction of the court over the defendant;

(c) The defendant, before the commencement of the proceeding, had agreed to submit to the jurisdiction of the foreign court with respect to the subject matter involved;

(d) The defendant was domiciled in the foreign country when the proceeding was instituted or was a corporation or other form of business organization that had its principal place of business in, or was organized under the laws of, the foreign country;

(e) The defendant had a business office in the foreign country and the proceeding in the foreign court involved a claim for relief arising out of business done by the defendant through that office in the foreign country; or

(f) The defendant operated a motor vehicle or airplane in the foreign country and the proceeding involved a claim for relief arising out of that operation.

(2) The list of bases for personal jurisdiction in subsection (1) of this section is not exclusive. The courts of this state may recognize bases of personal jurisdiction other than those listed in subsection (1) of this section as sufficient to support a foreign country judgment.

10-1406. PROCEDURE FOR RECOGNITION OF FOREIGN COUNTRY JUDGMENT. (1) If recognition of a foreign country judgment is sought as an original matter, the issue of recognition shall be raised by filing an action seeking recognition of the foreign country judgment.

(2) If recognition of a foreign country judgment is sought in a pending action, the issue of recognition may be raised by counterclaim, cross-claim, or affirmative defense.

10-1407. EFFECT OF RECOGNITION OF FOREIGN COUNTRY JUDGMENT. If the court in a proceeding under section 10-1406, Idaho Code, finds that the foreign country judgment is entitled to recognition under this chapter then, to the extent that the foreign country judgment grants or denies recovery of a sum of money, the foreign country judgment is:

(1) Conclusive between the parties to the same extent as the judgment of a sister state entitled to full faith and credit in this state would be conclusive; and

(2) Enforceable in the same manner and to the same extent as a judgment rendered in this state.

10-1408. STAY OF PROCEEDINGS PENDING APPEAL OF FOREIGN COUNTRY JUDGMENT. If a party establishes that an appeal from a foreign country judgment is pending or will be taken, the court may stay any proceedings with regard to the foreign country judgment until the appeal is con-

cluded, the time for appeal expires, or the appellant has had sufficient time to prosecute the appeal and has failed to do so.

10-1409. STATUTE OF LIMITATIONS. An action to recognize a foreign country judgment must be commenced within the earlier of the time during which the foreign country judgment is effective in the foreign country or fifteen (15) years from the date that the foreign country judgment became effective in the foreign country.

10-1410. UNIFORMITY OF INTERPRETATION. 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.

10-1411. SAVINGS CLAUSE. This chapter does not prevent the recognition under principles of comity or otherwise of a foreign country judgment not within the scope of this chapter.

SECTION 3. This act shall be in full force and effect on and after July 1, 2007, and shall apply to all actions commenced on or after July 1, 2007, in which the issue of recognition of a foreign country judgment is raised.

Approved March 12, 2007.

CHAPTER 47
(S.B. No. 1084)

AN ACT

RELATING TO DUTIES OF THE DEPARTMENT OF JUVENILE CORRECTIONS; AMENDING SECTION 20-504, IDAHO CODE, TO REVISE TERMINOLOGY IN ORDER TO REFERENCE JUVENILE CORRECTIONS ACT FUNDS.

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

SECTION 1. That Section 20-504, Idaho Code, be, and the same is hereby amended to read as follows:

20-504. DUTIES OF THE DEPARTMENT OF JUVENILE CORRECTIONS. (1) The department shall have jurisdiction over all juveniles committed to it pursuant to chapter 5, title 20, Idaho Code.

(2) The department is responsible for all juvenile offenders committed to it by the courts of this state for confinement. The department shall also establish minimum standards for detention, care and certification of approved detention facilities based upon such standards.

(3) The department shall establish and administer all secure residential facilities including all state juvenile corrections centers.

(4) The department shall make all decisions regarding placement of juvenile offenders committed to it in the most appropriate program for supervision and treatment.

(5) The department shall establish an observation and assessment process for juvenile offenders committed to it by a court.

(6) The department shall establish liaison services with the counties or within the department's regions.

(7) The department may establish and operate work programs designed to employ juvenile offenders in public service work projects for the purpose of reimbursing victims of the juvenile offender's delinquent behavior.

(8) The department is hereby authorized and may place juveniles committed to it pursuant to this chapter in a community-based or private program; provided, that the person, agency or association operating the facility or program has been approved and has otherwise complied with all applicable state and local laws.

(9) The department shall establish minimum standards for the operation of all private residential and nonresidential facilities and programs which provide services to juvenile offenders. The standards shall be no more stringent than standards imposed for facilities operated by the department or for detention facilities operated by counties.

(10) The department shall provide technical assistance to counties establishing research-based programs for juveniles who either have been found to come under the purview of this chapter or who have had their case informally diverted pursuant to section 20-511, Idaho Code, and who have not been committed to the legal custody of the department.

(11) The department shall have authority to adopt such administrative rules pursuant to the procedures provided in chapter 52, title 67, Idaho Code, as are deemed necessary or appropriate for the functioning of the department and the implementation and administration of this act.

(12) Subject to any competitive bidding requirements otherwise provided by law, the department shall have authority to enter into contracts with a private association or organization or other public agency or organization for the inspection and licensure of detention facilities.

(13) Subject to any competitive bidding requirements otherwise provided by law, the department shall have authority to enter into contracts with private providers or local governmental agencies for the confinement or other permanent or temporary placement of juveniles committed to its custody.

(14) The department shall have authority to apply for, receive and expend federal funds, subject to appropriation by the legislature. The department shall have authority to establish guidelines for and administer the distribution of state ~~block grant~~ juvenile corrections act funds to counties for the employment and training of county probation officers, the establishment of secure and nonsecure residential or nonresidential facilities and programs for juvenile offenders. The department may require that a county provide matching funds as a condition of receiving ~~a block grant~~ juvenile corrections act funds. The department, by rule, in cooperation with the courts and the counties, shall establish uniform standards for county juvenile probation services, as well as qualifications for and standards for the training of juvenile probation officers.

(15) All of the powers and duties imposed upon or granted to the director of the department of health and welfare or the board of health and welfare pursuant to chapter 18, title 16, Idaho Code, are hereby transferred to the director of the department of juvenile corrections.

The director shall have all such powers and duties as may have been or could have been exercised by his predecessors in law with respect to chapter 18, title 16, Idaho Code, and shall be the successor in law to all contractual obligations entered into by his predecessor in law.

Approved March 12, 2007.

CHAPTER 48
(H.B. No. 5)

AN ACT

RELATING TO COSMETICIANS; AMENDING SECTION 54-802, IDAHO CODE, TO REVISE THE DEFINITIONS FOR "COSMETOLOGY" AND "ESTHETICS" AND TO PROVIDE CORRECT TERMINOLOGY.

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

SECTION 1. That Section 54-802, Idaho Code, be, and the same is hereby amended to read as follows:

54-802. DEFINITIONS. For the purpose of this chapter, the following definitions shall apply:

(1) "Cosmetology" shall constitute any one (1) or combination of the following practices when done upon the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments:

(a) Cutting, trimming, arranging, dressing, curling, waving by any method, cleansing, singeing, bleaching, coloring, or similar work upon the hair.

(b) ~~Applying~~ Noninvasive care of the skin of the face and body by application of cosmetic preparations, antiseptics, tonics, lotions, ~~or creams, or massaging, cleansing, exercising, beautifying, or similar applications or work upon the scalp, face, neck, arms, hands, busts, or other parts of the body~~ and essential oils to cleanse, massage, exfoliate, hydrate and stimulate; makeup application; pore extraction; use of chemical exfoliants approved for professional esthetic use; particle exfoliation; use of any mechanical or electrical apparatus or appliance designed for nonmedical care of the skin; the temporary removal of superfluous hair by means of lotions, creams, waxing, tweezing or depilatories, and tinting of eyebrows and eyelashes.

(c) Manicuring, pedicuring the nails, and the application of artificial nails.

(2) "Registered cosmetologist" shall mean any person licensed to practice cosmetology.

(3) "Nail technology" shall constitute any one (1) or more of the following practices when done upon the human body:

(a) Manicuring, pedicuring the nails, and the application of all forms of artificial nails.

(b) Massage of the hands and feet.

(4) "Nail technician" shall mean any licensed person whose practice of cosmetology is limited to nail technology.

(5) "Nail technology instructor" shall mean a nail technologist who is licensed to teach nail technology or any practice thereof in a school of cosmetology.

(6) "Apprentice" shall mean any person registered with the board to engage in the learning or acquiring of any or all of the practices of cosmetology in a licensed cosmetological establishment, and while so learning performs or assists in any of the practices of cosmetology.

(7) "Student" shall mean any person registered with the board to engage in the learning or acquiring of any or all of the practices of cosmetology in a licensed school of cosmetology, and while so learning performs or assists in any of the practices of cosmetology.

(8) "Instructor" shall mean a cosmetologist who is licensed to teach cosmetology or any practices thereof in a school of cosmetology, school or college of barbering, or cosmetology establishment meeting the requirements for apprenticeship training.

(9) "Student instructor" shall mean a cosmetologist who is registered with the board in a school of cosmetology to receive training to teach cosmetology.

(10) "Cosmetological establishment" shall mean any licensed place or part thereof other than a school of cosmetology wherein cosmetology is practiced.

(11) "School of cosmetology" shall mean any licensed place or part thereof wherein cosmetology is taught to students.

(12) "Board" means the Idaho board of cosmetology.

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

(14) "Chapter" as used ~~in this act~~ herein refers to chapter 8, title 54, Idaho Code.

(15) "Electrologist" means any person licensed to practice electrology and who is skilled in the permanent removal of unwanted hair.

(16) "Electrolysis or electrology" means the permanent removal of hair by destroying the hair producing cells of the skin and vascular system using equipment and devices approved by and registered with the United States food and drug administration.

(17) "Esthetics" ~~shall constitute any one (1) or combination of the following practices when done on the human body:~~

~~(a) Applying~~ means noninvasive care of the skin of the face and body by application of cosmetic preparations, antiseptics, tonics, lotions, ~~or~~ creams~~, or massaging, cleansing, exercising, beautifying or similar applications of work to the human body.~~

~~(b) Nonpermanent hair removal by tweezing or waxing~~ and essential oils to cleanse, massage, exfoliate, hydrate and stimulate; makeup application; pore extraction; use of chemical exfoliants approved for professional esthetic use; particle exfoliation; use of any mechanical or electrical apparatus or appliance designed for nonmedical care of the skin; the temporary removal of superfluous hair by means of lotions, creams, waxing, tweezing or depilatories, and tinting of eyebrows and eyelashes.

(18) "Esthetician" means any person licensed to practice esthetics.

(19) "Esthetics instructor" shall mean an esthetician who is licensed to teach esthetics or any practice thereof in a school of cosmetology approved to teach esthetics.

(20) "Electrologist instructor" shall mean an electrologist who is

licensed to teach electrology or any practices thereof in a school of cosmetology approved to teach electrology.

(21) "Student electrologist instructor" shall mean an electrologist who is registered with the board in a school of cosmetology approved to teach electrology to receive training to teach electrology.

(22) "Makeover or glamour photography business" means any business engaged in the offering of photographic services to the general public and whose employees engage in the facial application of cosmetic products or the arranging of the hair of customers in connection with the sale, or attempted sale, of photographic services.

(23) "Retail cosmetics dealer" means a fixed retail business which offers cosmetic products for sale at retail to members of the general public and whose employees engage in the facial application of cosmetic products to customers in connection with the sale, or attempted sale, of the products without compensation from the customer other than the regular price of the merchandise.

(24) "Demonstration, competition or production" means an organized event of limited duration where cosmetology services may be performed, if sponsored by a salon, school of cosmetology or cosmetology-related organization.

(25) "Haircutting" means cutting, trimming, arranging, dressing, curling, cleansing, singeing or similar work upon the hair.

(26) "Haircutter" means any licensed person whose practice of cosmetology is limited to haircutting.

Approved March 12, 2007.

CHAPTER 49
(H.B. No. 26)

AN ACT

RELATING TO STATE LAND; AMENDING SECTION 58-304, IDAHO CODE, TO DELETE CERTAIN DATE RESTRICTIONS RELATING TO ANNUAL PAYMENTS FOR GRAZING LEASES.

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

SECTION 1. That Section 58-304, Idaho Code, be, and the same is hereby amended to read as follows:

58-304. LEASES. The state board of land commissioners may lease any portion of the state land at a rental amount fixed and determined by the board. The rental amount shall be due and payable by the date and upon the terms set by the board in the lease. Provided however, all grazing leases shall provide for annual payments which shall be due and payable by the date set by the board in the lease~~, but in no case shall the rental for grazing leases be due and payable earlier than January 1 or later than May 1 of each succeeding year~~.

(2) The state board of land commissioners shall notify the lessee of any increase in the applicable rental rate six (6) months in advance of the date the rent is due and payable.

(3) The lessee shall pay the rental to the director of the department of lands, who shall receipt for the same in the name of the board. Upon receiving such rental, the director shall immediately transmit the same to the state treasurer.

Approved March 12, 2007.

CHAPTER 50
(H.B. No. 27)

AN ACT

RELATING TO STATE-OWNED FOREST PRODUCTS; AMENDING SECTION 58-415, IDAHO CODE, TO PROVIDE FOR THE MEASURING OF FOREST PRODUCTS SOLD FROM STATE LAND.

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~~ FOREST PRODUCTS. For sales of ~~timber~~ forest products from state lands, the state board of land commissioners shall cause the ~~timber~~ forest products to be measured, in lieu of selling by lump sum based on a cruise, unless in the discretion of the state board of land commissioners it shall be in the interest of the state to use the lump sum method. Acceptable methods of measuring ~~timber~~ forest products shall include, but are not limited to, weight, scaling, cubing, by the lineal foot, or by the piece.

Approved March 12, 2007.

CHAPTER 51
(H.B. No. 43)

AN ACT

RELATING TO AGRICULTURE; AMENDING SECTION 22-507, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO PROVIDE CORRECT TERMINOLOGY.

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

SECTION 1. That Section 22-507, Idaho Code, be, and the same is hereby amended to read as follows:

22-507. CROP MANAGEMENT AREAS. Nothing in this chapter shall be interpreted in such a manner as to interfere with the enforcement or implementation of provisions of ~~chapter 10, title 22~~ section 22-2017, Idaho Code, crop management ~~zones~~ areas, or rules promulgated thereunder.

Approved March 12, 2007.

CHAPTER 52
(H.B. No. 44)

AN ACT

RELATING TO NURSERIES AND FLORISTS; AMENDING SECTION 22-2323, IDAHO CODE, TO PROVIDE FOR A SPECIAL NURSERY RESEARCH AND EDUCATION ACCOUNT AND TO PROVIDE FOR DISTRIBUTION OF FUNDS FROM THE ACCOUNT.

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

SECTION 1. That Section 22-2323, Idaho Code, be, and the same is hereby amended to read as follows:

22-2323. DISPOSITION AND USE OF MONEY RECEIVED. Fees collected shall be paid into the state treasury and credited to the agriculture inspection account created by section 22-104, Idaho Code, and such fees shall be used only to carry out the provisions of this chapter. Additionally, twenty-five dollars ($25.00) from each license fee collected under this chapter shall be credited to a special nursery research and education account. The state nursery and florist advisory committee shall approve the distribution of research and education funds to further educational outreach and research into nursery and floral production and pest control.

Approved March 12, 2007.

CHAPTER 53
(H.B. No. 58)

AN ACT

RELATING TO ORGANIC FOOD PRODUCTS; AMENDING SECTION 22-1102, IDAHO CODE, TO REVISE DEFINITIONS.

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

SECTION 1. That Section 22-1102, Idaho Code, be, and the same is hereby amended to read as follows:

22-1102. DEFINITIONS. In this chapter:

(1) "Director" means the director of the department of agriculture or the director's designee.

(2) "Food products" shall include all agricultural, horticultural, viticultural and vegetable products of the soil, apiary and apiary products, poultry and poultry products, livestock and livestock products, milk and dairy products and aquaculture products.

(3) "Handler" means any person ~~or organization who processes, packages, resells, transports or stores organic food products or nonorganic food products~~ engaged in the business of handling agricultural products, including producers who handle crops or livestock of their own production, except such term shall not include final retailers of agricultural products that do not process agricultural products.

(4) "Livestock" means any cattle, ~~swine,~~ sheep, goats, ~~ratites, domestic-cervidae-and-bison~~ swine, poultry, or equine animals used for food or in the production of food, fiber, feed, or other agricultural-based consumer products; wild or domesticated game; or other nonplant life, except such term shall not include aquatic animals or bees for the production of food, fiber, feed, or other agricultural-based consumer products.

(5) "Organic certification seal" means the design approved by the director and which when imprinted or affixed on labels, packages or products, or used in advertising in any manner, shall signify that the standards and rules developed in accordance with the provisions of this chapter and all other conditions of the provisions of this chapter have been met.

(6) "Organic food product" means any food product that is marketed using the term organic, or any derivative of the term organic in its labeling or advertising. Organic foods are those processed, packaged, transported and stored to retain maximum nutritional value, without the use of artificial preservatives, coloring or other additives, irradiation, or synthetic pesticides.

(7) "Organically grown food products" means food products which are produced without the use of synthetically compounded fertilizers, pesticides, or growth regulators for a period not less than thirty-six (36) months prior to harvest. Organically grown food products are produced under the standards and rules established in accordance with the provisions of this chapter and by other qualified agencies.

(8) "Person" means ~~any~~ an individual, partnership, ~~association,~~ corporation, ~~or-any-organized-group-of-persons-whether--incorporated--or not~~ association, cooperative, or other entity.

(9) "Producer" means ~~any~~ a person ~~or-organization~~ who~~:~~

~~(a)--Grows,-raises-or-produces-a-food-product;-and~~

~~(b)--Sells-the-food-product-as,-or-offers-it-for-sale-as,-an-organic food~~ engages in the business of growing or producing food, fiber, feed, and other agricultural-based consumer products.

(10) "Vendor" means any person who sells organic food products to the consumer or another vendor.

Approved March 12, 2007.

CHAPTER 54
(H.B. No. 60)

AN ACT

RELATING TO THE BOARD OF VETERINARY MEDICINE; AMENDING SECTION 54-2103, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 54-2105, IDAHO CODE, TO REVISE BOARD POWERS AND TO CLARIFY BOARD MEMBER QUALIFICATIONS; AMENDING SECTION 54-2112, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO THE EXPIRATION, LAPSE AND RENEWAL OF LICENSES AND CERTIFICATIONS; AND AMENDING SECTION 54-2115, IDAHO CODE, TO REVISE GROUNDS FOR DISCIPLINE.

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 a law enforcement employee 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 facility" means any facility 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.

(32) "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.

(34) "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 (34)(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 (34)(a) of this section, except where such person is a licensed veterinarian.

(35) "Professional supervision" means the supervisor is in daily contact by telephone, radio or other means with the temporary licensee.

(36) "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.

(37) "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.

(38) "Supervision" means the action or process of directing activities or a course of action, and pertains to any and all employees of the veterinarian.

(39) "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.

(40) "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.

(41) "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.

(42) "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.

(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.

(44) "Veterinarian on premises" means a veterinarian is present at the veterinary medical facility and is prepared and qualified to render veterinary services.

(45) "Veterinary medical facility" means any premises, office, unit, structure, mobile unit, or area utilized for the practice of veterinary medicine other than the premises of an owner when used for treatment of the owner's animal.

(46) "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.

(47) "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. Veterinary technology does not include prognosis, diagnosis, operative dentistry, deliberate tooth extraction procedures or the prescribing of treatment or performing surgery of any kind.

SECTION 2. That Section 54-2105, Idaho Code, be, and the same is hereby amended to read as follows:

54-2105. BOARD OF VETERINARY MEDICINE -- COMPOSITION -- APPOINTMENT -- VACANCY -- QUALIFICATIONS -- COMPENSATION -- REMOVAL -- MEETINGS -- OFFICERS -- REVENUES -- POWERS. (1) A board of veterinary medicine, which shall consist of six (6) members to be appointed by the governor, is hereby created in the department of self-governing agencies. Five (5) members shall be veterinarians and one (1) member shall be a public member. Each of the five (5) veterinary members shall serve a term of four (4) years as a veterinary board member and a fifth year as a liaison officer, or until his successor is appointed, except that the terms of the first appointees may be for shorter periods to permit staggering of terms whereby one (1) term expires each year. The public member shall serve for a term of three (3) years or until his successor is appointed.

Whenever the occasion arises for an appointment of a veterinary member under this section, the state veterinary medical association or one (1) of the regional veterinary medical associations may nominate three (3) or more qualified persons and forward the nominations to the governor at least thirty (30) days before the date set for the appointment.

The governor shall appoint one (1) of the persons so nominated. Vacancies due to death, resignation or removal shall be filled for the remainder of the unexpired term in the same manner as regular appointments. No person shall serve two (2) consecutive terms, except in the case of a person appointed for less than a full term. Each of the five (5) veterinarians shall be qualified to serve as a member of the board if a graduate of an accredited or approved school of veterinary medicine or, if a graduate of a nonaccredited or nonapproved school, a letter from the educational commission for foreign veterinary graduates (ECFVG) certifying completion of the ECFVG program or a copy of their ECFVG certificate, or verification of successful completion of any educational equivalency program established for the purpose of evaluating an individual's educational knowledge and clinical skills as they relate to the practice of veterinary medicine, as approved and outlined by the rules of the board. In addition to verification of graduation from an accredited or nonaccredited school of veterinary medicine, ~~is~~ each of the five (5) veterinary members shall be a resident of this state, and ~~has~~ have been licensed to practice veterinary medicine in this state for the five (5) years immediately preceding the time of appointment. The public member shall be at least twenty-one (21) years of age and a resident of this state for five (5) years immediately preceding appointment. No person may serve on the board who is, or was, during the two (2) years preceding appointment, a member of the faculty or trustees of an accredited school of veterinary medicine.

(2) Each member of the board and certified euthanasia task force shall be compensated as provided by section 59-509(n), Idaho Code.

(3) Any member of the board may be removed by the governor at his discretion.

(4) The board shall meet at least once each year at the time and place fixed by rule of the board. Other necessary meetings may be called by the president of the board by giving notice as may be required by state statute or rule. Except as may otherwise be provided, a majority of the board constitutes a quorum. Meetings shall be open and public except that the board may meet in closed session to prepare, approve, administer or grade examinations; to deliberate the qualifications of an applicant for a license or certification; to conduct deliberations in disciplinary proceedings; to consider investigatory matters; or as otherwise allowed by law.

(5) The board member serving the fourth year of appointment shall be the president of the board and shall serve as chairman at the board meetings.

(6) The veterinary board member serving the fifth year of appointment shall be the liaison officer of the board and shall render advice, review and mediate complaints, and perform other tasks assigned by the board.

(7) All revenues received under this chapter shall be paid to the state board of veterinary medicine account created in section 54-2121, Idaho Code, and shall be subject to and administered in accordance with the provisions of this chapter.

(8) The responsibility for enforcement of the provisions of this chapter is hereby vested in the board. The board shall have all of the duties, powers and authority specifically granted by or necessary for the enforcement of this chapter and the rules made pursuant thereto, as well as such other duties, powers and authority as it may be granted

from time to time by applicable law. The powers vested in the board shall include, but are not limited to:

(a) Establish qualifications and prescribe the application format for issuance or renewal of a license to practice as a veterinarian and certification to practice as a veterinary technician, euthanasia agency or euthanasia technician, review each application for compliance with the licensure and certification requirements, issue, renew or deny licenses and certifications. Upon a showing of good cause by a licensee or certificate holder to the board, the board may grant an extension of time for submission of the required application or renewal documentation, including the required number of continuing education hours, as set forth by this chapter or the rules of the board.

(b) Examine and determine the qualifications and fitness of applicants for a license to practice veterinary medicine, or certification to practice veterinary technology or as a euthanasia technician or operate as a certified euthanasia agency in the state.

(c) Issue, renew, reinstate, deny, suspend, sanction, reprimand, restrict, limit, place on probation, require voluntary surrender of, or revoke any licenses, certifications or temporary permits or certifications to practice veterinary medicine, veterinary technology or euthanize animals in the state, and may fine and impose other forms of discipline, and enter into consent agreements and negotiated settlements with licensed veterinarians, certified veterinary technicians, certified euthanasia technicians and certified euthanasia agencies consistent with the provisions of this chapter and the rules adopted hereunder.

(d) Establish a schedule of fees for licensing, certifying and registering veterinarians, veterinary technicians, euthanasia agencies and euthanasia technicians, as well as for the review, approval and administration of national licensing and certification examinations.

(e) In addition to the fees specifically provided for herein, the board may assess additional reasonable fees for services rendered to carry out its duties and responsibilities as required or authorized by this chapter or rules adopted hereunder. Such services rendered shall include, but not be limited to, the following:

(i) Issuance of duplicate licenses or certificates;

(ii) Mailing lists or reports of data maintained by the board;

(iii) Copies of any documents;

(iv) Verification of license or certification status;

(v) Examination review, approval and administration; and

(vi) Examination materials.

(f) Review and approve applications from candidates requesting authorization to take the national licensing examinations in veterinary medicine and the veterinary technician national examination and administer either or both national examinations.

(g) Upon its own motion or upon any complaint, to initiate and conduct investigations on all matters relating to the practice of veterinary medicine or veterinary technology or the euthanizing of animals. ~~and to initiate~~ Complaints not filed within one (1) year after the alleged unlawful conduct occurs will not be investigated. If the alleged unlawful conduct is of a continuing nature, the date of the occurrence of such conduct shall be deemed to be any date subsequent to the commencement of the unlawful conduct up to and including the

date on which the complaint is filed so long as the alleged unlawful conduct continues.

(h) Initiate and conduct disciplinary hearings or proceedings on its own or through its designated hearing officer, provided such hearings and proceedings shall be held in conformance with the provisions of chapter 52, title 67, Idaho Code~~;~~

~~(h) Hold hearings on all matters properly brought before the board~~, and in connection thereto, to administer oaths, receive evidence, make the necessary determinations, and enter orders consistent with the findings. The board may require the attendance and testimony of witnesses and the production of papers, records, or other documentary evidence and may commission depositions. The board may designate one (1) or more of its members or a person appointed by the state board of veterinary medicine to serve as its hearing officer.

(i) Employ full-time or part-time personnel, professional, clerical or special, necessary to effectuate the provisions of this chapter and the rules of the board and purchase or rent necessary office space, equipment and supplies.

(j) Appoint from its own membership one (1) or more members to act as representatives of the board at any meeting within or outside the state where such representation is deemed desirable.

(k) Bring proceedings in the courts for the enforcement of this chapter or any rules made pursuant thereto.

(l) For purposes of enforcement of the provisions of this chapter and any rules duly promulgated hereunder, including the levying of civil penalties, assessment and collection of fines, and recovery of costs and paralegal, hearing officer and attorney's fees incurred by the board in investigation and prosecution of complaints, the board shall maintain jurisdiction over individuals, irrespective of their license or certification status (i.e., active, inactive, expired, lapsed, surrendered or disciplined) relative to acts, omissions, complaints and investigations which occurred during the licensure or certification period. Jurisdiction of the board shall also extend to all individuals engaged in the practice of veterinary medicine, veterinary technology or practicing as a certified euthanasia agency or certified euthanasia technician in this state as defined in section 54-2103, Idaho Code. It is the intent of this subsection that the board's jurisdiction should extend to all licensed or unlicensed or certified or uncertified individuals and that licensees and certification holders cannot divest the board of jurisdiction by changing, surrendering or relinquishing licensure or certification status.

(m) Establish a certified euthanasia task force for the purposes of training, examining, licensing and certifying euthanasia agencies and euthanasia technicians and assess application, training workshop and certification fees. The fees so assessed are continuously appropriated to the board to support the activities of the task force.

(n) Adopt, amend or repeal all sections of this chapter and rules necessary for its government and all rules necessary to carry into effect the provisions of this chapter pursuant to the Idaho administrative procedure act, chapter 52, title 67, Idaho Code, including the establishment and publication of standards of professional conduct for the practice of veterinary medicine.

(o) Conduct probationary or other practice and facility inspections necessary for enforcement of this chapter or the rules duly promul-

gated hereunder or any order, negotiated settlement or probationary agreement of the board and issue administrative citations to alleged violators.

SECTION 3. That Section 54-2112, Idaho Code, be, and the same is hereby amended to read as follows:

54-2112. EXPIRATION OF LICENSE OR CERTIFICATION -- NOTICE -- RENEWAL -- INACTIVE STATUS. (1) All licenses and certifications shall expire annually on July 1 ~~of each year, but may be~~ unless renewed in a timely manner by submission of the annual renewal form prescribed by the board, proof of completion of the appropriate hours of continuing education, by meeting other requirements as defined in the rules adopted by the board and payment of the renewal fee established and published by the board. ~~Between July 1 and August 1, an~~

(2) An expired license or certification may be reinstated by paying the established late fee and renewal fee, and by fulfilling the other requirements of this section.

(3) An expired license or certification must be reinstated prior to August 1 of the year in which the license or certification was issued. Licenses and certifications not reinstated prior to August 1 will lapse. Individuals whose licenses or certifications have lapsed must make application to the board as if for a new license or certification.

(4) Once a license or certification has expired or lapsed, the person or agency may not practice veterinary medicine or veterinary technology or function as a certified euthanasia technician or agency until the license or certification has been reinstated or until the person or agency has applied for and received a new license or certification.

~~On or about May 1 of each year, the board shall mail a notice to each licensed veterinarian, certified veterinary technician, certified euthanasia agency and certified euthanasia technican informing them that their license or certification will expire on July 1, and shall also provide a form for renewal. The board shall issue a new license or certification to all qualified persons registering under this chapter.~~

(5) Any veterinarian licensed in Idaho who advises the board, in writing, that he wishes to remain licensed in this state, but does not intend to actively practice veterinary medicine in the state of Idaho and therefore does not intend to meet the licensing requirements for an active license for the current licensing year, shall be transferred from active to inactive status and shall be required to pay inactive status fees as prescribed in the rules of the board. Any person may transfer from inactive to active status by making written application for reinstatement to active status, paying all required fees and by meeting other requirements for reinstatement as defined in the rules of the board.

~~Any person or agency practicing veterinary medicine or veterinary technology or functioning as a certified euthanasia technician or agency, without a current license or certification, or after the expiration of a license or certification, or during inactive status, shall be practicing in violation of this chapter. A license or certification that is allowed to expire may not be renewed or reinstated after August 1, but the holder may make application for a new license or certification.~~

~~The board may by rule waive the payment of the annual renewal fee of a licensed veterinarian during the period when the licensee is on active~~

~~duty with the armed services of the United States, not to exceed the longer of three (3) years or the duration of a national emergency.~~

SECTION 4. That Section 54-2115, Idaho Code, be, and the same is hereby amended to read as follows:

54-2115. GROUNDS FOR DISCIPLINE. The board may refuse to issue, renew or reinstate the license of a veterinarian, or may deny, revoke, suspend, sanction, reprimand, restrict, limit, place on probation or require voluntary surrender of, the license of a veterinarian, and may fine and impose other forms of discipline and enter into consent agreements and negotiated settlements with any licensed veterinarian pursuant to the procedures set forth in chapter 52, title 67, Idaho Code, for any or all of the following reasons:

(1) The employment of fraud, misrepresentation of a material fact or deception by an applicant or licensee in:

(a) Securing or attempting to secure the issuance or renewal of a license; or

(b) Statements regarding the veterinarian's skills or efficacy or value of any treatment provided or to be provided or using any false, fraudulent, misleading or deceptive statement connected with the practice of veterinary medicine including, but not limited to, false or misleading advertising.

(2) Unethical or unprofessional conduct, as defined by section 54-2103, Idaho Code, the rules of the board, and the code of professional conduct established by the rules of the board.

(3) Being found guilty, convicted, placed on probation, having entered a guilty plea that is accepted by the court, forfeiture of bail, bond or collateral deposited to secure a defendant's appearance, or having received a withheld judgment or suspended sentence by a court of competent jurisdiction in this state or any other state of one (1) or more of the following:

(a) Any felony as defined in chapter 1, title 18, Idaho Code;

(b) Any other criminal act which in any way is related to the practice of veterinary medicine as defined by section 54-2103, Idaho Code; or

(c) Any violation of any federal or state statute, rule or regulation regulating narcotics, dangerous drugs or controlled substances.

(4) Medical incompetence in the practice of veterinary medicine, as defined by section 54-2103, Idaho Code.

(5) Physical or mental incompetence, in the practice of veterinary medicine, as defined in section 54-2103, Idaho Code.

(6) Malpractice or negligence, in the practice of veterinary medicine, as defined in section 54-2103, Idaho Code.

(7) Aiding or abetting an unlicensed or uncertified person to practice veterinary medicine or veterinary technology or employing or holding such unlicensed person out as being able to practice veterinary medicine or veterinary technology.

(8) Fraud, dishonesty, failure to report, or gross negligence in the inspection of animals and animal products intended for human consumption, issuance of health or inspection certificates, in the application, vaccination, treatment or reporting of any test for disease in animals, and in reporting any contagious or infectious disease.

(9) Failure to comply with the veterinary standards of practice, as established by board rule.

(10) Failure to comply with the recordkeeping requirements, as established by the rules of the board.

(11) Cruelty to animals including, but not limited to, the intentional and malicious infliction of pain, physical suffering, injury or death, performance of experimental treatments without the owner's consent, deprivation of necessary sustenance, withholding of appropriate pain medications or levels of pain medications, or the administration of unnecessary procedures and treatment.

(12) Infliction of pain on any animal in self-defense, or to prevent physical harm to others, or in accordance with local custom and culture in moving, handling, treating, dehorning, castrating or performing other procedures on livestock, shall not be considered cruel or physically abusive unless done in an unnecessary or intentionally malicious manner. This provision does not alter section 25-3514, Idaho Code.

(13) Revocation, suspension, disciplinary sanction, other adverse action, or failure to report any such adverse action to the board, including voluntary surrender of a license or certificate by virtue of which one is licensed to practice veterinary medicine in that jurisdiction or country on grounds other than nonpayment of renewal fees.

(14) Falsifying or failing to fulfill the continuing education requirements, as established by the rules of the board.

(15) The use, prescription or sale of any controlled substance, veterinary legend/prescription drug or prescription of an extra-label use for any human or veterinary drug without a valid veterinarian/client/patient relationship.

(16) ~~Overtreating,--unless--the--services--were--contracted--for--in advance,--c~~Charging for services which were not rendered, charging for services that were not documented in the patient's records, or charging for services that were not consented to by the owner of the patient or the owner's agent.

(17) Failure to timely furnish details of a patient's medical record to another veterinarian, hospital, clinic, owner or owner's agent.

(18) Failure of any applicant or licensee to cooperate with the board during any investigation, even if such investigation does not personally concern the applicant or licensee.

(19) Failure to comply with the terms of any order, negotiated settlement or probationary agreement of the board or to pay the costs assessed in a disciplinary matter pursuant to section 54-2105, Idaho Code.

(20) Failure to comply with the terms for renewal or to timely pay license, certification or registration renewal fees, as specified by section 54-2112, Idaho Code, and the rules of the board.

(21) Failure of a licensed veterinarian to exercise proper supervision, as defined by the rules of the board, when supervising a temporary licensee or holder of a temporary certification, a certified veterinary technician, a veterinary technician, a veterinary assistant, a certified euthanasia technician or other employee, except in an emergency situation as defined in section 54-2103, Idaho Code.

(22) Delegation of an act pertaining to the practice of veterinary medicine or veterinary technology to an unqualified employee, regardless of the supervision provided.

(23) Aiding or abetting or violating any of the provisions of this chapter or any lawful rule or order of the board.

Approved March 12, 2007.

CHAPTER 55
(H.B. No. 61)

AN ACT

RELATING TO ADMINISTRATIVE EXPENSES OF THE IDAHO BOND BANK AUTHORITY; AMENDING SECTION 67-8720, IDAHO CODE, TO PROVIDE THAT ADMINISTRATIVE EXPENSES MAY ALSO BE PAID FROM MONEYS APPROPRIATED TO THE STATE TREASURER FROM THE GENERAL FUND FOR OPERATING EXPENDITURES.

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

SECTION 1. That Section 67-8720, Idaho Code, be, and the same is hereby amended to read as follows:

67-8720. EXPENSES OF ADMINISTRATION. All expenses incurred in carrying out this chapter are payable ~~solely~~ either from revenues or funds appropriated under this chapter or from moneys appropriated to the state treasurer from the general fund for operating expenditures. Nothing in this chapter authorizes the authority to incur an indebtedness or a liability on behalf of or payable by the state.

Approved March 12, 2007.

CHAPTER 56
(H.B. No. 76)

AN ACT

RELATING TO SITING OF MANUFACTURED HOMES IN RESIDENTIAL AREAS; AMENDING SECTION 67-6509A, IDAHO CODE, TO PROVIDE AN EXCEPTION TO THE GRADE REQUIREMENT WHEN THE HOME IS PLACED ON A BASEMENT FOUNDATION.

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

SECTION 1. That Section 67-6509A, Idaho Code, be, and the same is hereby amended to read as follows:

67-6509A. SITING OF MANUFACTURED HOMES IN RESIDENTIAL AREAS — PLAN TO BE AMENDED. (1) By resolution or ordinance adopted, amended or repealed in accordance with the notice and hearing procedures provided under section 67-6509, Idaho Code, each governing board shall amend its comprehensive plan and land use regulations for all land zoned for single-family residential uses, except for lands falling within an area defined as a historic district under section 67-4607, Idaho Code, to allow for siting of manufactured homes as defined in section 39-4105, Idaho Code.

(2) Manufactured homes on individual lots zoned for single-family residential uses as provided in subsection (1) of this section shall be in addition to manufactured homes on lots within designated mobile home parks or manufactured home subdivisions.

(3) This section shall not be construed as abrogating a recorded restrictive covenant.

(4) A governing board may adopt any or all of the following placement standards, or any less restrictive standards, for the approval of manufactured homes located outside mobile home parks:

(a) The manufactured home shall be multisectional and enclose a space of not less than one thousand (1,000) square feet;

(b) The manufactured home shall be placed on an excavated and backfilled foundation and enclosed at the perimeter such that the home is located not more than twelve (12) inches above grade, except when placed on a basement foundation;

(c) The manufactured home shall have a pitched roof, except that no standards shall require a slope of greater than a nominal three (3) feet in height for each twelve (12) feet in width;

(d) The manufactured home shall have exterior siding and roofing which in color, material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the local permit approval authority;

(e) The manufactured home shall have a garage or carport constructed of like materials if zoning ordinances would require a newly constructed nonmanufactured home to have a garage or carport;

(f) In addition to the provisions of paragraphs (a) through (e) of this subsection, a city or county may subject a manufactured home and the lot upon which it is sited to any development standard, architectural requirement and minimum size requirements to which a conventional single-family residential dwelling on the same lot would be subjected.

(5) Any approval standards, special conditions and the procedures for approval adopted by a local government shall be clear and objective and shall not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.

Approved March 12, 2007.

CHAPTER 57
(H.B. No. 78)

AN ACT

RELATING TO THE POTATO COMMISSION; AMENDING SECTION 22-1211, IDAHO CODE, TO REVISE TAX PROVISIONS RELATING TO POTATOES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 22-1211, Idaho Code, be, and the same is hereby amended to read as follows:

22-1211. TAX LEVY. There is hereby levied and imposed a tax of four cents (4¢) per hundredweight on potatoes covered by this ~~act~~ chapter, which tax shall be due on or before the time when such potatoes are first handled in the primary channels of trade and shall be paid at such time or times as the commission may by rule ~~or regulation~~ prescribe, but not later than the fifteenth day of the month next succeeding the month in which such potatoes were handled in the primary channels of trade. The commission is authorized to make appropriate rules ~~and regulations~~ to implement the collection of the taxes imposed by this chapter.

In addition to the four cents (4¢) tax hereinabove provided for, there is hereby levied and imposed an additional tax of ~~six~~ eleven cents (6~~1~~1¢) per hundredweight on potatoes covered by this ~~act~~ chapter; provided~~,~~ however, said additional tax of ~~six~~ eleven cents (6~~1~~1¢), or any portion thereof, shall only be due and collectible upon a determination by at least two-thirds (2/3) of the commission members that the anticipated expenditures for the next fiscal year following the year in which the determination is made will exceed the anticipated tax revenues to be collected from the said four cents (4¢) tax. Upon such a determination, the commission shall collect the additional ~~six~~ eleven cents (6~~1~~1¢) tax or such portion thereof as is required by such determination, which shall be collected with, and as, other taxes imposed by this ~~act~~ chapter.

The person first selling or otherwise delivering potatoes into primary channels of trade shall be responsible for and make payment of all taxes imposed by this chapter. If such person is the dealer or shipper handling potatoes grown by another, he may charge against and recover from the grower of such potatoes or the person from whom he acquired them sixty ~~per cent~~ percent (60%) of the tax.

Approved March 12, 2007.

CHAPTER 58
(H.B. No. 116)

AN ACT

RELATING TO LOCAL IMPROVEMENT DISTRICTS; AMENDING SECTION 50-1707, IDAHO CODE, TO REVISE REQUIREMENTS FOR NOTICE TO CREATE A LOCAL IMPROVEMENT DISTRICT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 50-1707, Idaho Code, be, and the same is hereby amended to read as follows:

50-1707. RESOLUTION OF INTENTION TO CREATE DISTRICT. Upon the filing of a petition or upon initiation of a district by council action, the council shall at a regular or special meeting adopt a resolution giving notice of its intention to create the district, to make the improvements and to levy assessments to pay all or a part thereof. The notice shall contain:

(a) A description of the boundaries of the district to be created and the property to be assessed, sufficient to inform the owners thereof that their property is to be assessed.

(b) A general description of the improvements contemplated together with an estimate of the total cost and expenses of the same and a statement of the percentage or other calculation of the total cost and expenses of the improvements which will be paid from a levy of assessments on property benefited and the percentage or calculation of the total costs and expenses which will be paid from the general funds of the municipality or from such other source specified in the notice.

(c) A statement that the costs and expenses of the improvements will be assessed against the lots and lands specially benefited by such improvements, except as provided in section 50-1705, Idaho Code, and included in the district to be created according to a front foot method, or a square foot method, or a combination thereof, <u>or</u> in proportion to the benefits derived to such property by said improvements, or by another method agreed to by all property owners to be assessed, and the council shall state the method so determined in said notice.

(d) A statement that the district is to be a modified district within the meaning of this act, if the same is true, and the boundaries of such modified district shall be given.

(e) A statement of the time within which and the place at which protests shall be filed and of the time and place at which the council will conduct a public hearing to consider such protests.

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 12, 2007.

CHAPTER 59
(H.B. No. 141)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3023, IDAHO CODE, TO REVISE THE DEFINITION OF THE TERM "TRANSACTING BUSINESS"; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 63-3023, Idaho Code, be, and the same is hereby amended to read as follows:

63-3023. TRANSACTING BUSINESS. ~~(a)~~ Subject only to the limitations of the constitutions of the United States and of the state of Idaho, ~~and except as expressly provided in subsection (b) of this section,~~ the term "transacting business" shall include owning or leasing, whether as lessor or lessee, of any property, including real and personal property, located in this state, or engaging in or the transacting of any activity in this state, for the purpose of or resulting in economic or pecuniary gain or profit.

~~(b) Notwithstanding the provisions of subsection (a) of this section, any corporation, bank, trust company, mutual savings bank, savings and loan association, national banking association or other corporation,~~

~~association or trust organized and existing under the laws of any state or territory of the United States other than the state of Idaho or existing under the laws of the United States including, without restriction of the generality of the foregoing, employee pension fund organizations, charitable foundations, trust funds, real estate investment trusts, or other such funds and trusts engaged in the investment of moneys, and trustees of such organizations, which does not maintain an office within the state of Idaho for any purpose shall not be deemed to be transacting business within the state of Idaho during any taxable year by reason of carrying on in this state any one (1) or more of the following activities:~~

~~(1) Creating, acquiring or purchasing of loans, secured or unsecured, or any interest therein;~~

~~(2) Collecting and servicing of loans in any manner whatsoever and the making of credit investigations and physical inspections and appraisals of real or personal property securing any loans or proposing to secure any loans;~~

~~(3) Soliciting of applications for loans which are sent outside this state for approval; and~~

~~(4) Filing of security interests; maintaining or defending any action or suit; holding, selling, assigning, transferring, collecting or enforcing any loans, or foreclosing or other disposition thereof, including acquiring title to property securing such loans by foreclosure, deed in lieu of foreclosure, or otherwise, as a result of default under the terms of the mortgage, deed of trust or other security instruments relating thereto, or the holding, protecting and maintaining of said property so acquired or the disposition thereof.~~

SECTION 2. This act shall be in full force and effect on and after January 1, 2008.

Approved March 12, 2007.

CHAPTER 60
(H.B. No. 156)

AN ACT

RELATING TO OILSEED; AMENDING THE HEADING FOR CHAPTER 47, TITLE 22, IDAHO CODE; AMENDING SECTION 22-4701, IDAHO CODE, TO REVISE SHORT TITLE PROVISIONS; AMENDING SECTION 22-4702, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE DECLARATION OF LEGISLATIVE POLICY AND PURPOSE; AMENDING SECTION 22-4703, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 22-4704, IDAHO CODE, TO REVISE COMMISSION PROVISIONS; AMENDING SECTION 22-4705, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE QUALIFICATION OF COMMISSION MEMBERS; AMENDING SECTION 22-4708, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 22-4710, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE DUTIES AND POWERS OF THE COMMISSION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-4711, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 22-4714, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE OFFICE OF THE ADMINISTRATOR; AMENDING SECTION

22-4716, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 22-4718, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 22-4719, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 22-4722, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AND AMENDING SECTION 9-340D, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY.

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

SECTION 1. That the Heading for Chapter 47, Title 22, Idaho Code, be, and the same is hereby amended to read as follows:

CHAPTER 47
~~CANOLA AND RAPESEED~~ IDAHO OILSEED RESEARCH AND DEVELOPMENT ACT

SECTION 2. That Section 22-4701, Idaho Code, be, and the same is hereby amended to read as follows:

22-4701. SHORT TITLE. This ~~act~~ chapter shall be known and may be cited as the ~~"Canola and Rapeseed~~ "Oilseed Research and Development Act."

SECTION 3. That Section 22-4702, Idaho Code, be, and the same is hereby amended to read as follows:

22-4702. DECLARATION OF LEGISLATIVE POLICY AND PURPOSE. ~~OF ACT.~~ It is in the best interests of the state of Idaho that its abundant natural resources be efficiently used and effectively managed for the benefit of its citizens. The ~~canola and rapeseed~~ oilseed industry is rapidly developing and significantly contributing to the economic welfare of Idaho. The products provided are an important and nutritious part of the human diet. Domestic demand exceeds what is produced in the United States. Moreover, the world market for oilseeds continues to expand. Idaho farmers are in an excellent position to take advantage of this demand. The university of Idaho leads the nation in research on canola and rapeseed. The research effort is critical to the competitiveness of Idaho growers and must be expanded and enhanced. It is the purpose of this ~~act~~ chapter to promote the public health and welfare of the citizens of the state by implementing a program of research, promotion, and consumer and industry information designed to strengthen the position in the marketplace of the Idaho ~~canola and rapeseed~~ oilseed industry, to expand existing markets, and to develop new markets for ~~canola and rapeseed~~ oilseed and their products.

SECTION 4. That Section 22-4703, Idaho Code, be, and the same is hereby amended to read as follows:

22-4703. DEFINITIONS. As used in this ~~act~~ chapter, unless the context requires otherwise:

(1) ~~"Canola or rapeseed" or "canola and rapeseed" means Brassica Sp. oilseeds, produced for use as oil, meal, planting seed, condiment, or other industrial or chemurgic uses, and includes mustard.~~

~~(2)~~ "Commercial channels" means the sale of ~~the seed of canola, rapeseed and mustard~~ oilseeds for food, feed, seed, or any industrial or chemurgic use, when sold to any commercial buyer, user, dealer, proces-

sor, cooperative, or to any person, public or private, who resells any ~~canola,--rapeseed-or-mustard~~ oilseed or any product produced from ~~canola,-rapeseed-or-mustard~~ oilseed.

(~~3~~2) "Commission" means the Idaho ~~canola-and-rapeseed~~ oilseed commission.

(~~4~~3) "Delivery" means placing of ~~canola,--rapeseed—or--mustard~~ oilseed into the primary channels of trade.

(~~5~~4) "First purchaser" means any person, partnership, association, corporation, cooperative, trust, estate, or any and all other business units, devices and arrangements that buy~~s-canola,-rapeseed-or-mustard~~ oilseed in this state in the first instance, or any lienholder, public or private, including the commodity credit corporation, who may possess ~~canola,-rapeseed-or-mustard~~ oilseed from the grower under any lien.

(~~6~~5) "Grower" means any landowner, or tenant of the landowner, personally engaged in growing ~~canola,-rapeseed-or-mustard~~ oilseed, or both the owner and tenant jointly, and includes a person, partnership, association, corporation, cooperative, trust, estate, sharecropper, or any and all other business units, devices and arrangements.

(6) "Oilseed" means seeds produced for use as oil, meal, planting seed, condiment, or other industrial or chemurgic uses.

(7) "Sale" includes any pledge, mortgage, or delivery of ~~canola, rapeseed-or-mustard~~ oilseed for sale after harvest to any person, public or private.

(8) "Seller" means any person or entity, including growers, who sells ~~canola,-rapeseed-or-mustard~~ oilseed in the first instance.

SECTION 5. That Section 22-4704, Idaho Code, be, and the same is hereby amended to read as follows:

22-4704. ~~CANOLA AND RAPESEED~~ IDAHO OILSEED COMMISSION CREATED — MEMBERS. There is hereby created and established in the department of self-governing agencies ~~the-Idaho-canola-and-rapeseed~~ a commission which shall be exclusively known and referred to as the Idaho oilseed commission on and after the effective date of this act. The commission shall be composed of three (3) members appointed by the governor~~,-one-(1)-from the-northern-district,-one-(1)-from-the-southern-district,-and--one--(1) at-large--member.--Commission-members-shall-be-appointed-by-the-governor from-a-list-of-names-consisting-of-at-least-three--(3)--names--for--each appointive-position.-The-list-of-names-shall-be-provided-to-the-governor by-the-pacific-northwest-rapeseed/canola-association,-inc.,-a-canola-and rapeseed—grower—association—representing--canola-and-rapeseed-growers throughout~~ at the recommendation of a representative group of oilseed growers in the state of Idaho. Commission members appointed by the governor shall hold office for a term of three (3) years. The commissioners may appoint a representative from the supporting ~~canola--or--rapeseed~~ oilseed industry, who is not a grower, to serve as an ex officio member of the commission without voting privileges. The dean of the college of agriculture, university of Idaho, or his duly authorized representative, and the director of the department of agriculture shall also be ~~an~~ ex officio members of the commission without voting privileges.

SECTION 6. That Section 22-4705, Idaho Code, be, and the same is hereby amended to read as follows:

22-4705. QUALIFICATION OF MEMBERS. Members of the commission shall be nominated and appointed because of their ability and willingness to serve the interests of the state of Idaho and their knowledge of the state's natural resources. Members shall be citizens of the United States, over twenty-five (25) years of age, and residents of the state of Idaho who are actually engaged in the growing of ~~canola or rapeseed~~ oilseed in the state and have been for at least the three (3) years immediately preceding appointment. Members must derive a substantial portion of their income from growing ~~canola or rapeseed~~ oilseed in the state of Idaho. ~~There shall be two (2) production districts from which members shall be appointed: the northern district being that portion of the state lying north of the Salmon River; and the southern district being that portion lying south of the Salmon River. There shall be one (1) member appointed from each district; and one (1) member appointed at large from either district.~~

SECTION 7. That Section 22-4708, Idaho Code, be, and the same is hereby amended to read as follows:

22-4708. CHAIRMAN AND ADMINISTRATOR OF COMMISSION. The commission shall elect a chairman who is a commission member and may employ an administrator who is not a member of the commission, or may contract with another state agricultural commission or similar agency for the administration of the ~~canola and rapeseed~~ commission's business.

SECTION 8. That Section 22-4710, Idaho Code, be, and the same is hereby amended to read as follows:

22-4710. DUTIES AND POWERS OF THE COMMISSION. (1) The commission shall establish the policies to be followed in the accomplishment of and consistent with the general purposes of this ~~act~~ chapter.

(2) In the administration of this ~~act~~ chapter, the commission shall~~, in conjunction with the pacific northwest rapeseed/canola association, inc.,~~ have the following duties, authorities and powers:

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

(b) To find new markets for ~~canola or rapeseed and canola or rapeseed~~ oilseed and oilseed products.

(c) To give, publicize and promulgate reliable information showing the value of ~~canola or rapeseed and canola or rapeseed~~ oilseed and oilseed products for any purpose for which they are found useful and profitable.

(d) To make public and encourage the widespread national and international use of the special kinds of ~~canola and rapeseed and canola and rapeseed~~ oilseed and oilseed products produced from all varieties of ~~canola and rapeseed~~ oilseed grown in Idaho.

(e) To investigate and participate in studies of the problems peculiar to the growers of ~~canola and rapeseed~~ oilseed in Idaho.

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

(a) To take action as the commission deems necessary or advisable to stabilize and protect the ~~canola and rapeseed~~ oilseed industry of the state and the health and welfare of the public.

(b) To sue and be sued.

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

(d) To appoint and employ officers, agents and other personnel,

including experts in agriculture and the publicizing of agricultural products, and to prescribe their duties and fix their compensation.

(e) To advertise as the commission deems advisable and to enter into contracts and agreements for research and advertising within and without the state.

(f) To cooperate with any local, state, or national organization or agency, whether voluntary or created by the law of any state or by federal law, engaged in work or activities similar to the work and activities of the commission, and to enter into contracts and agreements with those organizations or agencies for carrying on joint campaigns of research, education, publicity and reciprocal enforcement.

(g) To lease, purchase or own the real or personal property deemed necessary in the administration of this ~~act~~ chapter.

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

(i) To adopt, rescind, modify and amend all necessary and proper orders, resolutions and rules for the procedures and exercise of its powers and the performance of its duties.

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

(k) To keep books and records and accounts of all its doings, which books, records and accounts shall be open to inspection by the state controller at all times.

(l) Except as otherwise provided in this ~~act~~ chapter, information obtained from books, records, and accounts required to be maintained by this ~~act~~ chapter and pertaining to individual production records of ~~canola or rapeseed~~ oilseed growers shall be kept confidential, and shall not be disclosed to the public by any person.

SECTION 9. That Section 22-4711, Idaho Code, be, and the same is hereby amended to read as follows:

22-4711. COMMISSION ACCEPTING GRANTS, DONATIONS AND GIFTS. The commission may accept grants, donations and gifts of funds from any source for expenditure for any purpose consistent with this chapter which may be specified as a condition of any grant, donation or gift. All funds received under the provisions of this chapter shall be paid into a bank account in the name of the Idaho ~~canola and rapeseed~~ oilseed commission and such moneys are hereby continuously appropriated and made available for defraying the expenses of the commission in carrying out the provisions of this ~~act~~ chapter.

SECTION 10. That Section 22-4714, Idaho Code, be, and the same is hereby amended to read as follows:

22-4714. ESTABLISHMENT OF ADMINISTRATOR'S OFFICE. For the convenience of the majority of those most likely to be affected in the administration of this ~~act~~ chapter, the administrator, upon recommendation of the commission, shall establish and maintain an office for the administrator. ~~within the geographic area served by the pacific northwest rapeseed/canola association, inc.~~

SECTION 11. That Section 22-4716, Idaho Code, be, and the same is hereby amended to read as follows:

22-4716. IMPOSITION OF TAX -- LATE FEES. (1) From and after the first day of July 1996, there is hereby levied and imposed a tax of ten cents (10¢) per hundred weight on all ~~canola or rapeseed~~ oilseed sold or contracted in this state through commercial channels. The tax shall be due on or before the time when the ~~canola or rapeseed~~ oilseed is first sold or contracted in the commercial channels in this state and shall be paid at the times the commission may by rule prescribe, but not later than the 15th day of the month next succeeding the three (3) month period in which the ~~canola or rapeseed~~ oilseed is sold or contracted in commercial channels. The commission shall designate the quarters (three (3) month periods) for the purpose of collection of this tax.

(2) The tax shall be levied and assessed to the seller at the time of delivery for sale and shall be deducted by the first purchaser from the price paid to the seller at the time of sale, or in case of a lienholder who may possess the ~~canola or rapeseed~~ oilseed under his lien, the tax shall be deducted by the lienholder from the proceeds of the claim secured by the lien at the time the ~~canola or rapeseed~~ oilseed is pledged or mortgaged. The tax shall be deducted as provided in this section whether the ~~canola or rapeseed~~ oilseed is stored in this state or elsewhere. The commission may, however, permit any federal corporation, such as the commodity credit corporation, to waive its responsibility for the collection of the tax, provided the amount of the tax is one dollar ($1.00) or less.

(3) The tax constitutes a lien prior to all other liens and encumbrances upon the ~~canola or rapeseed~~ oilseed, except liens which are declared prior by operation of a statute of this state.

(4) Any person or firm who pays taxes to the commission at a date later than that prescribed in this section may be subject to assessment of a late payment penalty as set forth by rule of the commission. The penalty shall not exceed the rate of eighteen percent (18%) per annum on the amount due. In addition to the penalty, the commission may recover all costs and fees, including reasonable attorney's fees, incurred in collecting the tax and penalty provided for in this section.

(5) A sale shall be exempt from the tax imposed in this section if a substantially similar tax is imposed by and paid to another state or foreign country and used for similar purposes with respect to the same ~~canola or rapeseed~~ oilseed. The commission shall, by rule, identify what other taxes are substantially similar and are used for similar purposes, and shall establish procedures for sellers to prove the payment of the other taxes.

SECTION 12. That Section 22-4718, Idaho Code, be, and the same is hereby amended to read as follows:

22-4718. REFERENDUM. (1) During the period ending thirty (30) months after July 1, 1996, the commission shall conduct a referendum among sellers who, during a representative period as determined by the rules of the commission, have sold ~~canola or rapeseed~~ oilseed for the purpose of ascertaining whether the commission shall continue.

(2) Notice shall be given to sellers eligible to vote in the referendum in accordance with rules established by the commission.

(3) If a majority of the eligible sellers approve, the commission will be continued and the refund provisions will be terminated.

(4) If a majority of eligible sellers do not approve to continue the commission, collection of the tax under this ~~act~~ chapter shall be terminated.

(5) If a majority of the eligible sellers approve of continuing the commission in the original referendum, at intervals of five (5) years, the commission shall conduct an advisory poll of qualified sellers as to the effectiveness and continuation of the commission.

SECTION 13. That Section 22-4719, Idaho Code, be, and the same is hereby amended to read as follows:

22-4719. DELIVERY OF INVOICES TO SELLERS. (1) The purchaser, at the time of settlement, shall make and deliver separate invoices for each purchase to the seller.

(2) The invoices shall be on forms and in such numbers as prescribed and supplied by the commission and shall show at least:

(a) The name and address of the seller.

(b) The name and address of the purchaser.

(c) The number of pounds of ~~canola or rapeseed~~ oilseed sold.

(d) The date of purchase.

(3) The invoices shall be legibly written and shall have no corrections or erasures on the face thereof.

(4) Unlawful or willful alteration of an invoice shall constitute a misdemeanor.

SECTION 14. That Section 22-4722, Idaho Code, be, and the same is hereby amended to read as follows:

22-4722. PENALTIES. Any person who shall violate or aid in the violation of any of the provisions of this ~~act~~ chapter shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than three hundred dollars ($300), or imprisonment not to exceed ninety (90) days, or both. Fines collected for violation of this ~~act~~ chapter shall be paid into the "Idaho ~~canola and rapeseed~~ oilseed commission fund."

SECTION 15. 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 cano-

~~la-and-rapeseed~~ oilseed commission and pertaining to the individual production records of ~~canola-or-rapeseed~~ oilseed 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 25-207B, 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 confidentiality; 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.

(24) 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.

Approved March 12, 2007.

CHAPTER 61
(H.B. No. 221)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE IDAHO STATE HISTORICAL SOCIETY FOR FISCAL YEAR 2007; 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 404, Laws of 2006, there is hereby appropriated to the State Board of Education for the Idaho State Historical Society the following amounts, to be expended for the designated programs according to the designated expense classes from the listed fund for the period July 1, 2006, through June 30, 2007:

HISTORIC PRESERVATION AND EDUCATION:

FOR:	
Personnel Costs	$ 20,000
Operating Expenditures	97,300
TOTAL	$117,300
FROM:	
General Fund	$117,300

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 12, 2007.

CHAPTER 62
(S.B. No. 1015)

AN ACT

RELATING TO CRIME VICTIM COMPENSATION; AMENDING SECTION 19-5304, IDAHO CODE, TO CLARIFY THAT THE CRIME VICTIMS' COMPENSATION ACCOUNT IS ENTITLED TO RESTITUTION FOR PAYMENTS MADE TO OR ON BEHALF OF A DIRECTLY INJURED VICTIM AS A RESULT OF A DEFENDANT'S CRIMINAL CONDUCT.

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

SECTION 1. That Section 19-5304, Idaho Code, be, and the same is hereby amended to read as follows:

19-5304. RESTITUTION FOR CRIME VICTIMS -- ORDERS TO BE SEPARATE -- WHEN RESTITUTION IS NOT APPROPRIATE — OTHER REMEDIES -- EVIDENTIARY HEARINGS -- DEFINITIONS. (1) As used in this chapter:

(a) "Economic loss" includes, but is not limited to, the value of property taken, destroyed, broken, or otherwise harmed, lost wages, and direct out-of-pocket losses or expenses, such as medical expenses resulting from the criminal conduct, but does not include less tangible damage such as pain and suffering, wrongful death or emotional distress.

(b) "Found guilty of any crime" shall mean a finding by a court that a defendant has committed a criminal act and shall include an entry of a plea of guilty, an order withholding judgment, suspending sentence, or entry of judgment of conviction for a misdemeanor or felony.

(c) "Value" shall be as defined in section 18-2402(11), Idaho Code.

(d) "Property" shall be as defined in section 18-2402(8), Idaho Code.

(e) "Victim" shall mean:

(i) The directly injured victim which means a person or entity, who suffers economic loss or injury as the result of the defendant's criminal conduct and shall also include the immediate family of a minor and the immediate family of the actual victim in homicide cases;

(ii) Any health care provider who has provided medical treatment to a directly injured victim if such treatment is for an injury resulting from the defendant's criminal conduct, and who has not been otherwise compensated for such treatment by the directly injured victim or the immediate family of the directly injured victim;

(iii) The account established pursuant to the crime victims compensation act, chapter 10, title 72, Idaho Code, from which payment was made ~~for medical treatment, services or monetary benefits for injury resulting from~~ to or on behalf of a directly injured victim pursuant to the requirements of Idaho law as a result of the defendant's criminal conduct;

(iv) A person or entity who suffers economic loss because such person or entity has made payments to or on behalf of a directly injured victim pursuant to a contract including, but not limited to, an insurance contract.

(2) Unless the court determines that an order of restitution would be inappropriate or undesirable, it shall order a defendant found guilty of any crime which results in an economic loss to the victim to make restitution to the victim. An order of restitution shall be a separate written order in addition to any other sentence the court may impose, including incarceration, and may be complete, partial, or nominal. The court may also include restitution as a term and condition of judgment of conviction; however, if a court orders restitution in the judgment of conviction and in a separate written order, a defendant shall not be required to make restitution in an amount beyond that authorized by this chapter. Restitution shall be ordered for any economic loss which the victim actually suffers. The existence of a policy of insurance covering the victim's loss shall not absolve the defendant of the obligation to pay restitution.

(3) If the court determines that restitution is inappropriate or undesirable or if only partial or nominal restitution is ordered, it shall enter an order articulating the reasons therefor on the record.

(4) If a separate written order of restitution is issued, an order of restitution shall be for an amount certain and shall be due and owing at the time of sentencing or at the date the amount of restitution is determined, whichever is later. An order of restitution may provide for interest from the date of the economic loss or injury.

(5) The court may order the defendant to pay restitution to the victim in any case, regardless of whether the defendant is incarcerated or placed on probation. The court may order the defendant to pay all or a part of the restitution ordered to the court to be distributed by the court to the victims in a manner the court deems just.

(6) Restitution orders shall be entered by the court at the time of sentencing or such later date as deemed necessary by the court. Economic loss shall be based upon the preponderance of evidence submitted to the court by the prosecutor, defendant, victim or presentence investigator. Each party shall have the right to present such evidence as may be rele-

vant to the issue of restitution, and the court may consider such hearsay as may be contained in the presentence report, victim impact statement or otherwise provided to the court.

(7) The court, in determining whether to order restitution and the amount of such restitution, shall consider the amount of economic loss sustained by the victim as a result of the offense, the financial resources, needs and earning ability of the defendant, and such other factors as the court deems appropriate. The immediate inability to pay restitution by a defendant shall not be, in and of itself, a reason to not order restitution.

(8) In determining restitution, where it appears that more than one (1) person is responsible for a crime that results in economic loss to a victim, and one (1) or more of the suspects or defendants are not found, apprehended, charged, convicted or ordered to pay restitution, the court may require the remaining defendant or defendants, who are convicted of or plead guilty to the crime, to be jointly and severally responsible for the entire economic loss to the victim.

(9) The court may, with the consent of the parties, order restitution to victims, and/or any other person or entity, for economic loss or injury for crimes which are not adjudicated or are not before the court.

(10) A defendant, against whom a restitution order has been entered, may, within forty-two (42) days of the entry of the order of restitution, request relief from the restitution order in accordance with the Idaho rules of civil procedure relating to relief from final orders.

(11) An order of restitution shall not preclude the victim from seeking any other legal remedy.

(12) Every presentence report shall include a full statement of economic loss suffered by the victim or victims of the defendant's crime or crimes.

(13) If there is more than one (1) victim, the restitution order shall provide that the directly injured victim(s) be fully compensated for so much of the loss caused by the defendant's criminal conduct which has not been paid by a third party, including persons referred to in subsection (1)(e)(ii), (iii) and (iv) of this section.

Approved March 13, 2007.

CHAPTER 63
(S.B. No. 1018)

AN ACT

RELATING TO REAL PROPERTY RECORDING; AMENDING TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 29, TITLE 31, IDAHO CODE, TO SET FORTH THE UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROVIDE FOR THE VALIDITY OF ELECTRONIC DOCUMENTS, TO PROVIDE FOR THE RECORDING OF DOCUMENTS, TO CREATE THE ELECTRONIC RECORDING COMMISSION, TO PROVIDE FOR COMMISSION OFFICERS, TO PROVIDE FOR STANDARDS AND PRACTICES OF RECORDS AS PRESCRIBED BY THE COMMISSION, TO PROVIDE FOR UNIFORMITY OF APPLICATION AND CONSTRUCTION AND TO PROVIDE FOR RELATION TO THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.

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

SECTION 1. That Title 31, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 29, Title 31, Idaho Code, and to read as follows:

CHAPTER 29
UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT

31-2901. SHORT TITLE. This chapter shall be known and may be cited as the "Uniform Real Property Electronic Recording Act."

31-2902. DEFINITIONS. In this chapter:

(1) "Document" means information that is:

(a) Inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form; and

(b) Eligible to be recorded in the land records maintained by the recorder.

(2) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

(3) "Electronic document" means a document that is received by the recorder in an electronic form.

(4) "Electronic signature" means an electronic sound, symbol or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document.

(5) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency or instrumentality, or any other legal or commercial entity.

(6) "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.

31-2903. VALIDITY OF ELECTRONIC DOCUMENTS. (1) If a law requires, as a condition for recording, that a document be an original, be on paper or another tangible medium, or be in writing, the requirement is satisfied by an electronic document satisfying this chapter.

(2) If a law requires, as a condition for recording, that a document be signed, the requirement is satisfied by an electronic signature.

(3) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic signature of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature. A physical or electronic image of a stamp, impression or seal need not accompany an electronic signature.

31-2904. RECORDING OF DOCUMENTS. (1) In this section, "paper document" means a document that is received by the recorder in a form that is not electronic.

(2) A recorder:
(a) Who implements any of the functions listed in this section shall do so in compliance with standards established by the electronic recording commission, as created in section 31-2905, Idaho Code;
(b) May receive, index, store, archive and transmit electronic documents;
(c) May provide for access to, and for search and retrieval of, documents and information by electronic means;
(d) Who accepts electronic documents for recording shall continue to accept paper documents as authorized by state law and shall place entries for both types of documents in the same index;
(e) May convert paper documents accepted for recording into electronic form;
(f) May convert into electronic form information recorded before the recorder began to record electronic documents;
(g) May accept electronically any fee that the recorder is authorized to collect; and
(h) May agree with other officials of a state or a political subdivision thereof, or of the United States, on procedures or processes to facilitate the electronic satisfaction of prior approvals and conditions precedent to recording and the electronic payment of fees.

31-2905. COMMISSION CREATED — OFFICERS -- STANDARDS. (1) An electronic recording commission consisting of seven (7) members appointed by the governor is hereby created to adopt standards to implement this chapter. A majority of the members of the commission must be recorders, and at least one (1) member shall be a representative from the title insurance industry. The governor shall appoint three (3) members, each for a term of two (2) years; two (2) members, each for a term of three (3) years; and two (2) members each for a term of four (4) years. Thereafter, the term of office shall be four (4) years. Vacancies in any unexpired term shall be filled by appointment by the governor for the remainder of the unexpired term.

(2) The commission shall annually elect a chairman and a secretary-treasurer from among its members. The commission shall meet regularly at least once each year, and at such other times as called by the chairman or when requested by two (2) or more members of the commission.

(3) To keep the standards and practices of recorders in this state in harmony with the standards and practices of recording offices in other jurisdictions that enact substantially this uniform act and to keep the technology used by recorders in this state compatible with technology used by recording offices in other jurisdictions that enact substantially this uniform act, the electronic recording commission, so far as is consistent with the purposes, policies and provisions of this chapter, shall adopt, amend or repeal standards, taking into account the following considerations:
(a) Standards and practices of other jurisdictions;
(b) The most recent standards promulgated by national standard-setting bodies, such as the property records industry association;
(c) The views of interested persons and governmental officials and entities;

(d) The needs of counties of varying size, population and resources; and
(e) Standards requiring adequate information security protection to ensure that electronic documents are accurate, authentic, adequately preserved and resistant to tampering.

31-2906. 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.

31-2907. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This chapter modifies, limits, and 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(c) of that act or authorize electronic delivery of any of the notices described in section 103(b) of that act.

Approved March 13, 2007.

CHAPTER 64
(S.B. No. 1043)

AN ACT

RELATING TO THE EMPLOYMENT SECURITY LAW; AMENDING SECTION 72-1372, IDAHO CODE, TO REVISE THE CIVIL PENALTY STRUCTURE FOR WILLFUL FAILURE TO TIMELY FILE AN EMPLOYER'S QUARTERLY REPORT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 72-1372, Idaho Code, be, and the same is hereby amended to read as follows:

72-1372. CIVIL PENALTIES. (1) The following civil penalties shall be assessed by the director:
(a) If a determination is made finding that an employer willfully ~~fails to file any report required by the director or files~~ filed a false report, a monetary penalty equal to one hundred percent (100%) of the amount that would be due if the employer had filed a correct report or two hundred fifty dollars ($250), whichever is greater, shall be added to the liability of the employer for each quarter for which the employer ~~failed to file a report or~~ willfully filed a false report. For the purposes of this section, a false report includes, but is not limited to, a report for a period wherein an employer pays remuneration for personal services which meets the definition of "wages" under section 72-1328, Idaho Code, and the payment is concealed, hidden, or otherwise not reported to the department.
(b) If a determination is made finding that an employer willfully failed to file the employer's quarterly unemployment insurance tax report when due, the director shall assess a monetary penalty equal to:

(i) Seventy-five dollars ($75.00) or twenty-five percent (25%) of the amount that would be due if the employer had filed a timely quarterly report, whichever is greater, if the employer had not been found in any previous determination to have willfully failed to file a timely quarterly report for any of the sixteen (16) preceding consecutive calendar quarters; or

(ii) One hundred fifty dollars ($150) or fifty percent (50%) of the amount that would be due if the employer had filed a timely quarterly report, whichever is greater, if the employer had been found in any previous determination to have willfully failed to file a timely quarterly report for no more than one (1) of the sixteen (16) preceding consecutive calendar quarters; or

(iii) Two hundred fifty dollars ($250) or one hundred percent (100%) of the amount that would be due if the employer had filed a timely quarterly report, whichever is greater, if the employer had been found in any previous determination or determinations to have willfully failed to file a timely quarterly report for two (2) or more of the sixteen (16) preceding consecutive calendar quarters.

(c) If a determination is made finding that an employer, or any officer or agent or employee of the employer with the employer's knowledge, willfully ~~makes~~ made a false statement or representation or willfully ~~fails~~ failed to report a material fact when submitting facts to the department concerning a claimant's separation from the employer, a penalty in an amount equal to ten (10) times the weekly benefit amount of such claimant shall be added to the liability of the employer.

(~~c~~d) If a determination is made finding that an employer ~~induces, solicits,~~ has induced, solicited or ~~coerces~~ coerced an employee or former employee to file a false or fraudulent claim for benefits under this chapter, a penalty in an amount equal to ten (10) times the weekly benefit amount of such employee or former employee shall be added to the liability of the employer.

(~~d~~e) If a determination is made finding that an employer ~~fails~~ failed to complete and submit an Idaho business registration form when due, as required by section 72-1337(1), Idaho Code, a penalty of five hundred dollars ($500) shall be assessed against the employer.

(~~e~~f) For purposes of paragraphs ~~(b) and~~ (c) and (d) of this subsection (1), the term "weekly benefit amount" means the amount calculated pursuant to section 72-1367(2), Idaho Code.

(2) At the discretion of the director, the department may waive all or any part of the penalties imposed pursuant to this section if the employer shows to the satisfaction of the director that it had good cause for failing to comply with the requirements of this chapter and rules promulgated thereunder.

(3) Determinations imposing civil penalties pursuant to this section shall be served in accordance with section 72-1368(5), Idaho Code. Penalties imposed pursuant to this section shall be due and payable twenty (20) days after the date the determination was served unless an appeal is filed in accordance with section 72-1368, Idaho Code, and rules promulgated thereunder. Such appeals shall be conducted in accor-

dance with section 72-1368, Idaho Code, and rules promulgated thereunder.

(4) Civil penalties imposed by this section shall be in addition to any other penalties authorized by this chapter. The provisions of this chapter that apply to the collection of contributions, and the rules promulgated thereunder, shall also apply to the collection of penalties imposed pursuant to this section. Amounts collected pursuant to this section shall be paid into the state employment security administrative and reimbursement fund as established by section 72-1348, Idaho 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.

Approved March 13, 2007.

CHAPTER 65
(S.B. No. 1049)

AN ACT

RELATING TO ALLOWABLE GROSS LOADS; AMENDING SECTION 49-1001, IDAHO CODE, TO DELETE PROVISIONS ALLOWING FOR PREQUALIFICATION OF VARIABLE LOAD SUSPENSION AXLES AND TO ALLOW VARIABLE LOAD SUSPENSION AXLES TO BE NONSTEERING WHEN NOT EXCEEDING FIVE FEET FROM THE REMAINING AXLE GROUP AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 49-1001, Idaho Code, be, and the same is hereby amended to read as follows:

49-1001. ALLOWABLE GROSS LOADS. The gross load imposed on the highway by any vehicle or combination of vehicles shall not exceed the limits in this section. The maximum single axle gross weight shall be twenty thousand (20,000) pounds, the maximum single wheel gross weight shall be ten thousand (10,000) pounds and the maximum gross vehicle or combination weight shall be one hundred five thousand five hundred (105,500) pounds, provided that maximum gross vehicle or combination weight on United States federal interstate and defense highways of this state shall not exceed eighty thousand (80,000) pounds, except as permitted under the provisions of section 49-1004, Idaho Code.

(1) The total gross weight imposed on the highway by any group of consecutive axles shall be determined by the following formula:

$$W=500((LN/N-1)+12N+36)$$

Where W is the maximum weight in pounds (to the nearest 500 pounds) carried on any group of two (2) or more consecutive axles. L is the distance in feet between the extremes of any group of two (2) or more consecutive axles, and N is the number of axles under consideration.

The formula is modified as illustrated in the following table:

Distance in feet between the extremes of any group of 2 or more consecutive axles	Maximum load in pounds carried on any group of 2 or more consecutive axles											
	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles	8 axles	9 axles	10 axles	11 axles	12 axles	13 axles
4	34,000											
5	34,000			WHEN NO ALLOWABLE WEIGHT IS								
6	34,000			LISTED FOR ANY AXLE SPACING,								
7	34,000			APPLY THE ALLOWABLE WEIGHT AS								
8	34,000			LISTED IN THE FIRST COLUMN TO								
8+	38,000	42,000		THE LEFT								
9	39,000	42,500										
10	40,000	43,500										
11		44,000										
12		45,000	50,000									
13		45,500	50,500									
14		46,500	51,500									
15		47,000	52,000									
16		48,000	52,500	58,000								
17		48,500	53,500	58,500								
18		49,500	54,000	59,000								
19		50,000	54,500	60,000								
20		51,000	55,500	60,500	66,000							
21		51,500	56,000	61,000	66,500							
22		52,500	56,500	61,500	67,000							
23		53,000	57,500	62,500	68,000							
24		54,000	58,000	63,000	68,500	74,000						
25		54,500	58,500	63,500	69,000	74,500						
26		55,500	59,500	64,000	69,500	75,000						
27		56,000	60,000	65,000	70,000	75,500						
28		57,000	60,500	65,500	71,000	76,500	82,000					
29		57,500	61,500	66,000	71,500	77,000	82,500					
30		58,500	62,000	66,500	72,000	77,500	83,000					
31		59,000	62,500	67,500	72,500	78,000	83,500					
32		60,000	63,500	68,000	73,000	78,500	84,500	90,000				
33			64,000	68,500	74,000	79,000	85,000	90,500				
34			64,500	69,000	74,500	80,000	85,500	91,000				
35			65,500	70,000	75,000	80,500	86,000	91,500				
36			66,000	70,500	75,500	81,000	86,500	92,000	98,000			
37			66,500	71,000	76,000	81,500	87,000	93,000	98,500			
38			67,500	71,500	77,000	82,000	87,500	93,500	99,000			
39			68,000	72,500	77,500	82,500	88,500	94,000	99,500			
40			68,500	73,000	78,000	83,500	89,000	94,500	100,000	106,000		
41			69,500	73,500	78,500	84,000	89,500	95,000	100,500	106,500		
42			70,000	74,000	79,000	84,500	90,000	95,500	101,000	107,000		
43			70,500	75,000	80,000	85,000	90,500	96,000	102,000	107,500		
44			71,500	75,500	80,500	85,500	91,000	96,500	102,500	108,000	114,000	
45			72,000	76,000	81,000	86,000	91,500	97,500	103,000	108,500	114,500	
46			72,500	76,500	81,500	87,000	92,500	98,000	103,500	109,000	115,000	
47			73,500	77,500	82,000	87,500	93,000	98,500	104,000	110,000	115,500	
48			74,000	78,000	83,000	88,000	93,500	99,000	104,500	110,500	116,000	122,000
49			74,500	78,500	83,500	88,500	94,000	99,500	105,000	111,000	116,500	122,500
50			75,500	79,000	84,000	89,000	94,500	100,000	105,500	111,500	117,000	123,000
51			76,000	80,000	84,500	89,500	95,000	100,500	106,000	112,000	118,000	123,500
52			76,500	80,500	85,000	90,500	95,500	101,000	107,000	112,500	118,500	124,000
53			77,500	81,000	86,000	91,000	96,500	102,000	107,500	113,000	119,000	124,500
54			78,000	81,500	86,500	91,500	97,000	102,500	108,000	113,500	119,500	125,000
55			78,500	82,500	87,000	92,000	97,500	103,000	108,500	114,000	120,000	125,500
56			79,500	83,000	87,500	92,500	98,000	103,500	109,000	115,000	120,500	126,000
57			80,000	83,500	88,000	93,000	98,500	104,000	109,500	115,500	121,000	127,000
58				84,000	89,000	94,000	99,000	104,500	110,000	116,000	121,500	127,500
59				85,000	89,500	94,500	99,500	105,000	110,500	116,500	122,000	128,000
60				85,500	90,000	95,000	100,500	105,500	111,000	117,000	122,500	128,500
61				86,000	90,500	95,500	101,000	106,000	112,000	117,500	123,000	129,000

Distance in feet between the extremes of any group of 2 or more consecutive axles	Maximum load in pounds carried on any group of 2 or more consecutive axles											
	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles	8 axles	9 axles	10 axles	11 axles	12 axles	13 axles
62				87,000	91,000	96,000	101,500	107,000	112,500	118,000	124,000	
63				87,500	92,000	96,500	102,000	107,500	113,000	118,500	124,500	
64				88,000	92,500	97,500	102,500	108,000	113,500	119,000	125,000	
65				88,500	93,000	98,000	103,000	108,500	114,000	119,500	125,500	
66				89,500	93,500	98,500	103,500	109,000	114,500	120,000	126,000	
67				90,000	94,000	99,000	104,500	109,500	115,000	121,000	126,500	
68				90,500	95,000	99,500	105,000	110,000	115,500	121,500	127,000	
69				91,000	95,500	100,000	105,500	111,000	116,000	122,000	127,500	
70				92,000	96,000	101,000	106,000	111,500	117,000	122,500	128,000	
71				92,500	96,500	101,500	106,500	112,000	117,500	123,000	128,500	
72				93,000	97,000	102,000	107,000	112,500	118,000	123,500	129,000	
73				93,500	98,000	102,500	107,500	113,000	118,500	124,000		
74				94,500	98,500	103,000	108,000	113,500	119,000	124,500		
75				95,000	99,000	103,500	109,000	114,000	119,500	125,000		
76				95,500	99,500	104,500	109,500	114,500	120,000	126,000		
77				96,000	100,000	105,000	110,000	115,000	120,500	126,500		
78				97,000	101,000	105,500	110,500	116,000	121,000	127,000		
79				97,500	101,500	106,000	111,000	116,500	122,000	127,500		
80				98,000	102,000	106,500	111,500	117,000	122,500	128,000		
81				98,500	102,500	107,000	112,000	117,500	123,000	128,500		
82				99,000	103,000	108,000	113,000	118,000	123,500	129,000		
83				100,000	104,000	108,500	113,500	118,500	124,000			
84					104,500	109,000	114,000	119,000	124,500			
85					105,000	109,500	114,500	120,000	125,000			
86					105,500	110,000	115,000	120,500	125,500			
87					106,000	111,000	115,500	121,000	126,000			
88					107,000	111,500	116,000	121,500	127,000			
89					107,500	112,000	117,000	122,000	127,500			
90					108,000	112,500	117,500	122,500	128,000			
91					108,500	113,000	118,000	123,000	128,500			
92					109,000	113,500	118,500	123,500	129,000			
93					110,000	114,000	119,000	124,000				
94					110,500	115,000	119,500	125,000				
95					111,000	115,500	120,000	125,500				
96					111,500	116,000	121,000	126,000				
97					112,000	116,500	121,500	126,500				
98					113,000	117,000	122,000	127,000				
99					113,500	118,000	122,500	127,500				
100					114,000	118,500	123,000	128,000				
101					114,500	119,000	123,500	129,000				

(a) A public highway agency may limit the application of the weights authorized in this section as to certain highways within its ~~urisdiction~~ jurisdiction which it determines have limited structural capacity of pavements, bridges, or other appurtenances. In designating such highways, it may specify a minimum wheelbase for combinations to be operated thereon. It may also designate specific highways or portions on which operation of a combination of vehicles with seven (7) through thirteen (13) axles will be subject to specified lesser allowable gross weights.

(b) Notwithstanding the figures shown in the table in this subsection (1), two (2) consecutive sets of tandem axles may carry a gross load of thirty-four thousand (34,000) pounds each, providing the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six (36) feet or more.

(c) Vehicles may operate with reducible loads at gross weights greater than one hundred five thousand five hundred (105,500) pounds but not exceeding one hundred twenty-nine thousand (129,000) pounds on noninterstate highways in accordance with the provisions of section 49-1004, Idaho Code, provided such vehicles are in compliance

with the weight formula specified in this subsection (1) of this section, have registered and have paid the registration fees as specified in section 49-434, Idaho Code, and are in compliance with the length restrictions set forth in section 49-1010(7), Idaho Code.

(2) The weight limitations set forth in the table in subsection (1) of this section shall not apply to any vehicle, or combination of vehicles when a greater allowed weight in pounds would be permitted such vehicles under the table provided in this subsection, except that with regard to transportation on the United States federal interstate and defense highways of this state, the following table of allowable weights shall apply only to vehicles engaged in the transportation of logs, pulp wood, stull, rough lumber, poles or piling; or to any such vehicle engaged in the transportation of ores, concentrates, sand and gravel and aggregates thereof, in bulk; or to any such vehicle engaged in the transportation of agricultural commodities, including livestock:

Distance in feet between the extremes of any group of 2 or more consecutive axles	Allowed Load in Pounds	
	Vehicles with Three or Four axles	Vehicles with Five or more axles
3 through 12	37,800	37,800
13	56,470	56,470
14	57,940	57,940
15	59,400	59,400
16	60,610	60,610
17	61,820	61,820
18	63,140	63,140
19	64,350	64,350
20	65,450	65,450
21	66,000	66,330
22	66,000	67,250
23	66,000	67,880
24	66,000	68,510
25	66,000	69,150
26	66,000	69,770
27	66,000	70,400
28	66,000	70,950
29	66,000	71,500
30	66,000	72,050
31		72,600
32		73,150
33		73,700
34		74,250
35		74,800
36		75,350
37		75,900
38		76,450
39		77,000
40		77,550
41		78,100
42		78,650
43 and over		79,000

The weight allowances provided in this subsection do not apply if the total gross weight of a vehicle or combination of vehicles is intended to exceed seventy-nine thousand (79,000) pounds as declared by the oper-

ator. When the provisions of this subsection are applicable to a vehicle or combination of vehicles, it shall be a violation of the provisions of this subsection if that vehicle or combination of vehicles exceeds the weights specified in this table.

(3) In determining the gross weight of a vehicle or the gross weight of any two (2) or more consecutive axles under subsection (1) or (2) or (9) of this section, the total gross weight of the vehicle or combination of vehicles or the gross weight of any two (2) or more consecutive axles shall be the sum of the axle weights.

For the purposes of this chapter the gross weight of a vehicle or the gross weight of any two (2) or more consecutive axles may be determined by accumulatively adding the separate weights of individual axles and tandem axles or groups of axles to determine gross weight. The results of any weighing at a temporary or permanent port of entry and the records relating to the calibration and accuracy of any scale at a temporary or permanent port of entry shall be admissible in any proceeding in this state. In order to prove a violation of the provisions of this section the state must show that:

(a) The sum of the axle weights exceeds what is allowable under the provisions of subsection (1) or (2) or (9) of this section;

(b) The scale involved in the weighing was at the time of weighing calibrated in conformity with and met the accuracy requirements of the standards for the enforcement of traffic and highway laws as set forth in the latest edition of handbook 44 of the national institute of standards and technology;

(c) Weights of individual axles or axles within a commonly suspended group of axles supported by a mechanical system designed to distribute equal wheel loads to individual axles in the group were utilized only to determine gross weights of that group of axles, and that any further evaluation of gross weights of combinations of axles considered only the accumulated gross weight of each such commonly suspended group of axles.

(4) In applying the weight limitations imposed in this section, a vehicle or combination of vehicles must comply exclusively with the weight limitations in either subsection (1) or (2) or (9) of this section.

(5) In applying the weight limitations imposed in this section, the distance between axles shall be measured to the nearest even foot. When a fraction is exactly one-half (1/2) foot the next larger whole number shall be used.

(6) The limitations imposed in this section are in addition and supplemental to all other laws imposing limitations upon the size and weight of vehicles. Further, single axles within groups of axles are subject to the provisions and limitations of this chapter. Single axles within groups of axles may be weighed and evaluated separately~~;--or--single--axles--may--be--prequalified-in-accordance-with-rules-or-ordinances established-by-the-board-or-other-public-road-jurisdiction;--if--any--of the--following-conditions-exist-regarding-the-single-axle-within-a-group of-axles:~~

~~(a)--A-suspension-system-common-to-all-axles-in-the-group--of--axles does-not-exist;~~

~~(b)--One--(1)--or--more-axles-in-the-group-of-axles-is-equipped-with separate-variable-load-suspension-controls-to--regulate--the--weight carried-by-individual-axles;~~

~~(c) One (1) or more axles in a group of axles is equipped with more or fewer tires than other axles in the group of axles.~~

~~(d) All tires in the group of axles are not the same size as determined by the manufacturer's sidewall rating.~~

(7) Notwithstanding the other provisions of this chapter, no vehicle, motor vehicle, trailer and/or semitrailer, or combination thereof, may be operated on the public highways of the state under loads which would result in the withholding of funds by operation of controlling federal law as provided in the Federal Aid Highway Act of 1956, as amended.

(8) Except as provided herein, no vehicle or combination of vehicles may proceed past the place of weighing at temporary or permanent ports of entry or checking stations when: the weight of a single axle exceeds the maximum limitations set forth herein by two thousand (2,000) pounds or more; the weight of a combination of axles, or gross vehicle weight exceeds the maximum allowable weight as set forth herein by seven percent (7%) or more. Vehicles or combinations of vehicles which exceed the weight limitations set forth herein shall be required to be brought into compliance with applicable weight limitations contained within this subsection at the place of weighing prior to continuing, except those vehicles or combinations of vehicles which are transporting loads which, in the determination of the board or other proper authorities in charge of or having jurisdiction over a highway, are deemed unsafe or impractical to bring into compliance at the place of weighing, and except those vehicles which do not exceed fifteen percent (15%) over maximum axle and axle group weights set forth in this section. Vehicles or combinations of vehicles transporting loads in this latter category shall obtain a travel authorization to the nearest place of safe unloading, load adjustment or other means of legalization.

(a) Neither the state of Idaho or its employees, nor any authority and its employees in charge of or having jurisdiction over a highway, shall be held liable for personal injury or property damage resulting from the requirements of section 49-1001(8), Idaho Code.

(b) The fee for a travel authorization as set forth above shall be fifty dollars ($50.00) and shall be on a form prescribed by the board or other proper authorities, and shall not be construed as contributing to a reduction in the penalties prescribed in section 49-1013, Idaho Code.

(c) The board or other proper authorities in charge of or having jurisdiction over a highway shall adopt and enforce administrative rules as may be necessary to carry out the provisions of this section.

(9) For vehicles on all highways except the United States federal interstate and defense highways of this state, the following table shall apply:

Distance in feet between the extremes of any group of 2 or more consecutive axles	Allowed Load in Pounds	
	Vehicles with Three or Four axles	Vehicles with Five or more axles
3 through 12	37,800	37,800
13	56,470	56,470
14	57,940	57,940
15	59,400	59,400
16	60,610	60,610

Distance in feet between the extremes of any group of 2 or more consecutive axles	Allowed Load in Pounds Vehicles with Three or Four axles	Vehicles with Five or more axles
17	61,820	61,820
18	63,140	63,140
19	64,350	64,350
20	65,450	65,450
21	66,000	66,330
22	66,000	67,250
23	66,000	67,880
24	66,000	68,510
25	66,000	69,150
26	66,000	69,770
27	66,000	70,400
28	66,000	70,950
29	66,000	71,500
30	66,000	72,050
31		72,600
32		73,150
33		73,700
34		74,250
35		74,800
36		75,350
37		75,900
38		76,450
39		77,000
40		77,550
41		78,100
42		78,650
43 and over		80,000

The weight allowances provided in this subsection do not apply if the total gross weight of a vehicle or combination of vehicles is intended to exceed eighty thousand (80,000) pounds as declared by the operator. When the provisions of this subsection are applicable to a vehicle or combination of vehicles, it shall be a violation of the provisions of this subsection if that vehicle or combination of vehicles exceeds the weights specified in this table.

(10) When owned by or under contract to or under authority of a city, county, or state agency, refuse/sanitation trucks transporting refuse may be operated on public highways in accordance with the weights allowed in subsection (9) of this section, except that such trucks equipped with single rear axles are allowed twenty-four thousand (24,000) pounds on that single rear axle when specifically authorized by the public highway agency governing the highways over which the refuse/sanitation truck is operating and provided the following conditions are met:

(a) The weight allowances provided for in this subsection shall not apply to the United States federal interstate and defense highways of the state; and

(b) The owner or operator has paid an annual operating fee for a permit, not to exceed fifty dollars ($50.00) per refuse/sanitation truck to each public agency governing the public highways over which the refuse/sanitation truck operates. The permit shall be carried in

the refuse/sanitation truck. The permit fee may be waived by a public agency for refuse/sanitation trucks operated over public highways under that agency's jurisdiction.

(11) Variable load suspension axles shall meet the following criteria in order to be included in the computation of gross vehicle or axle weight limits for vehicles under the provisions of this section:

(a) The deployment control switch for such axles may be located inside of the driver's compartment but the pressure regulator valve for the operation of pressure on the pavement shall be located outside of and inaccessible to the driver's compartment.

(b) The manufacturer's gross axle weight rating of each such axle must not be less than the actual loading of the axle.

(c) All variable load suspension axles ~~mounted on a vehicle after January 1, 1990,~~ shall be designed to be self-steering; ~~in a manner that will guide or direct the variable load suspension mounted wheels through a turning movement without undue tire scrubbing or pavement scuffing~~ provided however, variable load suspension axles that are within sixty (60) inches of a drive axle or are within sixty (60) inches of a trailer axle, need not be self-steering.

(d) The manufacturer's gross tire weight rating of each tire must not be less than the actual loading of the tire.

(e) Variable load suspension axles must be fully deployed or fully raised. For applicable definitions, see sections 49-117 and 49-123, Idaho Code.

(12) Any person who operates a motor vehicle with a variable load suspension axle in violation of the provisions of this section shall be subject to the penalties provided in section 49-1013, Idaho Code.

Approved March 13, 2007.

CHAPTER 66
(S.B. No. 1050)

AN ACT

RELATING TO VEHICLE AND VESSEL TITLES AND TRANSITIONAL OWNERSHIP DOCUMENTS; AMENDING SECTION 49-121, IDAHO CODE, TO REVISE THE DEFINITION OF "TRANSITIONAL OWNERSHIP DOCUMENT" AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-510, IDAHO CODE, TO REVISE THE PROCESS AND TIMING FOR PERFECTING A LIEN, TO DELETE PROVISIONS FOR PROCESSING INCOMPLETE TITLE APPLICATIONS, TO REMOVE EXEMPTIONS TO THE NOTARIZATION REQUIREMENT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-527, IDAHO CODE, TO PROVIDE FOR CALCULATION AND PERFECTION OF A SECURITY INTEREST AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 49-528, IDAHO CODE, TO CLARIFY A TRANSITIONAL OWNERSHIP DOCUMENT AS EVIDENCE OF OWNERSHIP AND TO ALLOW THIRTY DAYS FOR SUBMISSION OF THE DOCUMENT TO THE DEPARTMENT; AND AMENDING SECTION 49-529, IDAHO CODE, TO PROVIDE THIRTY DAYS TO SUBMIT A TRANSITIONAL OWNERSHIP DOCUMENT FOR ACCEPTANCE BY THE DEPARTMENT.

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

SECTION 1. That Section 49-121, Idaho Code, be, and the same is hereby amended to read as follows:

49-121. DEFINITIONS — T.

(1) "Temporary supplemental lot" means a location other than the principal place of business, or supplemental lot within the same or adjacent county as the principal place of business, where a licensed dealer may secure a license to conduct the business and is licensed for a period of time not to exceed ten (10) days for a specific purpose such as auto shows, auctions, shopping center promotions, tent sales, etc. Temporary supplemental lots shall meet all local zoning and building codes for the type of business being conducted. The requirements for a principal place of business shall not be applicable to temporary supplemental lot locations. The adjacent county restriction shall not apply if the dealer holds the franchise for the products to be displayed or sold and has approval from a manufacturer for the location where the proposed temporary supplemental lot license will be issued by the department. Nonfranchised dealers shall be permitted to temporarily display or sell their products within a one hundred seventy-five (175) mile radius of their principal place of business, upon approval by the department.

(2) "Tires" means:

(a) Metal. Every tire the surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material.

(b) Pneumatic. Every tire in which compressed air is designed to support the load.

(c) Snow tire. Every rubber tire with tread design or material embedded in the tire to improve winter traction except studded tires.

(d) Solid rubber. Every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.

(e) Studded tire. Every tire with built-in lugs of tungsten carbide or other suitable material designed to contact the road surface for improved winter traction.

(3) "Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars and other conveyances either singly or together while using any highway for purposes of travel.

(4) "Traffic lane" or "lane of travel" means that portion of the roadway for movement of a single line of vehicles.

(5) "Traffic-control device" means any device, whether manually, electrically or mechanically operated, placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

(6) "Trailer" means:

(a) General. Every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle.

(b) Fifth-wheel trailer. A vehicular unit equipped in the same manner as a travel trailer but constructed with a raised forward section that allows a bi-level floor plan. This style is designed to be towed by a vehicle equipped with a device known as a fifth-wheel hitch, which is typically installed in the bed of a pickup truck.

(c) Fold down camping trailer. A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls, which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters, for recreational, camping or travel use.

(d) Park trailer. A trailer designed to be towed by a motorized vehicle, and of such size and weight as not to require a special highway movement permit. It is designed for seasonal or temporary living quarters and may be connected to utilities necessary for operation of installed fixtures and appliances. It is built on a single permanent chassis and constructed to permit set up by persons without special skills.

(e) Pole trailer. Every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

(f) Semitrailer. Every vehicle without motive power, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by the towing vehicle.

(g) Travel trailer. A vehicular unit, mounted on wheels designed to provide temporary living quarters for recreational, camping, travel or emergency use and of such size or weight as not to require special highway movement permits when towed by a motorized vehicle.

(h) Utility trailer. (See "Utility ~~T~~trailer," section 49-122, Idaho Code)

(7) "Transitional ownership document" means a document used to perfect a lien against creditors or subsequent purchasers when the primary ownership document is not available and the selling dealer, new security interest holder or their agent, to the best of their knowledge, will not have possession of the primary ownership document, within ~~twenty~~ thirty (~~2~~30) days, and contains all of the following:

(a) The date of sale or if no sale is involved, the date the contract or security agreement being perfected was signed;

(b) The name and address of each owner of the vehicle;

(c) The name and address of each security interest holder;

(d) If there are multiple security interest holders, the priorities of interest if the security interest holders do not jointly hold a single security interest;

(e) The vehicle identification number;

(f) The name of the security interest holder or person who submits the transitional ownership document for the security interest holder; and

(g) Any other information the department may require for its records.

(8) "Transportation," for the purposes of chapter 22, title 49, Idaho Code, means the movement of any regulated quantity of hazardous material or hazardous waste within, through, or to any destination in this state upon the highways of this state.

(9) "Transporter" means every person engaged in the business of delivering vehicles of a type required to be registered from a manufacturing, assembling or distributing plant to dealers or sales agents of a manufacturer, except in chapter 22, title 49, Idaho Code, where it means any person who transports a hazardous material or hazardous waste within, through, or to any destination upon the highways of this state.

(10) "Truck" means:

(a) Refuse/sanitation. Any vehicle designed and used solely for the purpose of transporting refuse.
(b) General. Every motor vehicle exceeding eight thousand (8,000) pounds gross weight designed, used or maintained primarily for the transportation of property.
(c) Pickup truck. Every motor vehicle eight thousand (8,000) pounds gross weight or less which is designed, used or maintained primarily for the transportation of property.
(d) Truck camper. A portable unit constructed to provide temporary living quarters for recreational, travel or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pickup truck.
(e) Truck tractor. Every motor vehicle designed and used primarily for drawing other vehicles but not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.
(11) "True mileage driven" means the mileage of the vehicle as registered by the odometer within the manufacturer's designed tolerance.

SECTION 2. That Section 49-510, Idaho Code, be, and the same is hereby amended to read as follows:

49-510. LIENS AND ENCUMBRANCES -- FILING -- FEE -- NOTATION ON CERTIFICATE -- CONSTRUCTIVE NOTICE. (1) No lien or encumbrance on any vehicle registered under the laws of this state created subsequent to December 31, 1986, irrespective of whether such registration was effected prior or subsequent to the creation of the lien or encumbrance, shall be perfected as against creditors or subsequent purchasers or encumbrancers without notice until the holder of the lien or encumbrance, or his successor, agent or assignee, has complied with the requirements of section 49-504, Idaho Code, and has filed the properly completed title application and all required supporting documents with the department or an agent of the department.

(2) When the holder of a lien or encumbrance, his successor, agent or assignee, has filed with the department or agent of the department a properly completed title application and supporting documents as required by section 49-504, Idaho Code, it shall be the duty of the department or agent of the department to file the same, ~~indorsing~~ endorsing on the title application the date of ~~the creation of the lien or encumbrance~~ receipt. A lien is perfected as of ~~the time of its creation if the transaction is notarized and if the filing is completed with the department or an agent of the department within twenty (20) calendar days thereafter; otherwise, as of~~ the date of the filing of a properly completed application with the department or an agent of the department. ~~If the title application is incomplete or if the supporting documents are incomplete or missing, the title application and supporting documents as submitted will be returned to the lienholder or his successor, agent or assignee for correction and, if the application is not resubmitted in a complete form, including completed supporting documents, to the department or to the agent of the department within twenty (20) days of their having been returned to the lienholder or his successor, agent or assignee, the original date of receipt by the department or agent of the department shall be void.~~

(3) When the department is satisfied as to the genuineness and regularity of the documents submitted, it shall issue a new certificate of

title or create a paperless electronic record of the title and lien filing when substantiated by a written agreement as provided in section 49-505, Idaho Code. The title shall contain the name of the owner of the vehicle, the name and address of each holder of a lien or encumbrance, and a statement of all liens or encumbrances which have been filed with the department, together with the date of each lien or encumbrance and the date received by the department or agent of the department. The filing of a lien or encumbrance and the notation of it shall be a condition of perfection and shall constitute constructive notice of the lien or encumbrance and its contents to creditors and subsequent purchasers and encumbrancers. All liens or encumbrances so filed with the department shall be perfected and take priority according to the order in which the same are noted upon the certificate of title or entered into the electronic records of the department.

~~(2) The notarization requirement set out in the second paragraph of subsection (1) of this section shall not apply to transactions involving a lien in favor of a regulated lender, as defined in section 28-41-301(37), Idaho Code, or a motor vehicle dealer licensed by the Idaho transportation department.~~

SECTION 3. That Section 49-527, Idaho Code, be, and the same is hereby amended to read as follows:

49-527. PURPOSE OF TRANSITIONAL OWNERSHIP DOCUMENT. The purpose of a transitional ownership document is to enable security interest to be perfected in a timely manner when the primary ownership document is not available. The transitional ownership document serves to perfect a lien against creditors or subsequent purchasers.

(1) To perfect a security interest the transitional ownership document must be received by the department or agent within ~~twenty~~ thirty (~~2~~30) days of the date of sale. To determine the ~~twenty~~ thirty (~~2~~30) days, exclude the first day (i.e., date of sale) and count each calendar day thereafter. If the ~~twentieth~~ thirtieth day falls on a weekend or holiday it is not counted~~,~~; the last date the ~~temporary~~ transitional ownership document will be ~~acceptable~~ accepted is ~~bumped to the next~~ the following business day of the department or agent. ~~working day.~~

(2) The lien will be perfected as of the date and time of filing consistent with section 49-510, Idaho Code.

(3) The transitional ownership document is not intended to supersede the requirements of section 49-504, Idaho Code, but rather to provide an alternative method of lien perfection.

(4) Once a ~~temporary~~ transitional ownership document has been filed with the department or agent, the primary ownership document must be received by the department or agent within ninety (90) calendar days from the date of the security agreement or contract. To determine ninety (90) days, exclude the first day (i.e., day of sale) and count each calendar day thereafter. If the ninetieth day falls on a weekend or holiday, the last date the ~~temporary~~ transitional ownership document may be used to determine date of security interest perfection is ~~bumped to the next~~ the following business day of the department or agent. ~~working day.~~

SECTION 4. That Section 49-528, Idaho Code, be, and the same is hereby amended to read as follows:

49-528. CIRCUMSTANCES UNDER WHICH TRANSITIONAL OWNERSHIP DOCUMENT ACCEPTABLE AS EVIDENCE OF OWNERSHIP. ~~DOCUMENT.~~ A transitional ownership document is acceptable as ~~an~~ evidence of ownership ~~document~~ only if the primary ownership document:

(1) Is not in the possession of the selling dealer, new security interest holder or the agent of either at the time the transitional ownership document is submitted to the department; and

(2) To the best of the knowledge of the selling dealer, security interest holder or agent, will not be available for submission to the department within ~~twenty~~ thirty (~~2~~30) days of the date of sale or if no sale is involved, within the date of a security agreement or contract.

SECTION 5. That Section 49-529, Idaho Code, be, and the same is hereby amended to read as follows:

49-529. MANDATORY REJECTION OR INVALIDATION OF TRANSITIONAL OWNERSHIP DOCUMENT BY DEPARTMENT. The transportation department shall reject, return or subsequently invalidate a transitional ownership document if:

(1) More than ~~twenty~~ thirty (~~2~~30) days have elapsed between the date of sale, or if no sale is involved, more than ~~twenty~~ thirty (~~2~~30) days have elapsed between the date the contract or security interest being perfected was signed and the date the transitional ownership document is received by the department;

(2) The transitional ownership document does not contain all of the information contained in section 49-121(7), Idaho Code;

(3) It is determined that persons named on the transitional ownership document as having a security interest did not have a security interest on the date the transitional ownership document was received;

(4) It is determined the person who submitted the transitional ownership document made false statements in completing the transitional ownership document;

(5) The department does not receive the primary ownership document from the date of sale within ninety (90) days of the date of sale or if no sale is involved, within ninety (90) days from the date the security agreement or contract was signed;

(6) The security interest holder or person submitting the transitional ownership document elects to retain, requests it be returned or requests that the transitional ownership document be withdrawn; or

(7) The information on or in the transitional ownership document has been changed or altered in a manner that is not acceptable to the department.

Approved March 13, 2007.

CHAPTER 67
(S.B. No. 1055)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-1101, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A CERTAIN FINDING OF GUILT AND TO PROVIDE FOR RESTITUTION FOR THE REPAIR OR REPLACEMENT OF SIMULATED WILDLIFE.

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

SECTION 1. That Section 36-1101, Idaho Code, be, and the same is hereby amended to read as follows:

36-1101. TAKING OF WILDLIFE UNLAWFUL EXCEPT BY STATUTE OR COMMISSION RULE OR PROCLAMATION -- METHODS PROHIBITED -- EXCEPTIONS. (a) It is unlawful, except as may be otherwise provided by Idaho law, including this title or commission rules or proclamations promulgated pursuant thereto, for any person to take any of the game animals, birds or furbearing animals of this state.

(b) Except as may be otherwise provided under this title or commission rules or proclamations promulgated pursuant thereto, it is unlawful for any person to:

1. Hunt from Motorized Vehicles. Hunt any of the game animals or game birds of this state from or by the use of any motorized vehicle except as provided by commission rule; provided however, that the commission shall promulgate rules which shall allow a physically handicapped person to apply for a special permit which would allow the person to hunt from a motorized vehicle which is not in motion. A physically handicapped person means a person:

(A) Who has lost, or has lost the use of, one (1) or both lower extremities or both hands, or who has significant limitation in the use of the lower extremities, or who has a diagnosed disease or disorder which substantially impairs or interferes with mobility, or who is so severely disabled as to be unable to move without the aid of an assistance device.

(B) Who suffers from lung disease to the extent that his forced (respiratory) expiratory volume for one (1) second when measured by spirometry is less than one (1) liter or his arterial oxygen tension (PO_2) is less than 60 mm/Hg on room air at rest.

(C) Who is impaired by cardiovascular disease to the extent that his functional limitations are classified in severity as class III or class IV according to standards accepted by the American Heart Association.

The commission shall specify the form of application for and design of the special permit which shall allow a physically handicapped person to hunt from a motorized vehicle which is not in motion. No fee shall be charged for the issuance of the special permit and the issuance of a special permit shall not exempt a person from otherwise properly purchasing or obtaining other necessary licenses, permits and tags in accordance with this title and rules promulgated pursuant thereto. The special permit shall not be transferable and may only be used by the person to whom it is issued. A person who has been issued a special permit which allows a physically handicapped person to hunt from a motorized vehicle not in motion shall have that permit prominently displayed on any vehicle the person is utilizing to hunt from and the person shall produce, on demand, the permit and other identification when so requested by a conservation officer of the department of fish and game. A person possessing a special permit shall not discharge any firearm from or across a public highway. In addition to other penalties any unauthorized use of the special permit shall be grounds for revocation of the permit.

2. Molest with Motorized Vehicles. Use any motorized vehicle to molest, stir up, rally or drive in any manner any of the game animals or game birds of this state.
3. Communicate from Aircraft. Make use of aircraft in any manner to spot or locate game animals, game birds or fur-bearing animals of this state from the air and communicate the location or approximate location thereof by any signals whatsoever, whether radio, visual or otherwise, to any person then on the ground.
4. Hunt from Helicopter. Make use of any helicopter in any manner in the taking of game or loading, transporting, or unloading hunters, game or hunting gear in any manner except when such use is at recognized airports or airplane landing fields, or at heliports which have been previously established on private land or which have been established by a department or agency of the federal, state or local government or when said use is in the course of emergency or search and rescue operations. Provided however, that nothing in this chapter shall limit or prohibit the lawful control of wolves through the use of helicopters when such measures are deemed necessary by federal or state agencies in accordance with existing laws or management plans.
5. Artificial Light. Hunt any animal or bird except raccoon by the aid of a spotlight, flashlight or artificial light of any kind. The act of casting or throwing, after sunset, the beam or rays of any spotlight, headlight or other artificial light capable of utilizing six (6) volts or more of electrical power upon any field, forest or other place by any person while having in his possession or under his control any uncased firearm or contrivance capable of killing any animal or bird, shall be prima facie evidence of hunting with an artificial light. Provided nothing in this subsection shall apply where the headlights of a motor vehicle, operated and proceeding in a normal manner on any highway or roadway, cast a light upon animals or birds on or adjacent to such highway or roadway and there is no intent or attempt to locate such animals or birds. Provided further, nothing in this subsection shall prevent the hunting of unprotected or predatory wildlife with the aid of artificial light when such hunting is for the purpose of protecting property or livestock, is done by landowners or persons authorized in writing by them to do so and is done on property they own, lease or control; and provided further that the hunting and taking of unprotected or predatory wildlife with the aid of artificial light on public lands is authorized after obtaining a permit to do so from the director. The director may, for good cause, refuse to issue such permit.

Other provisions of this subsection notwithstanding, the commission may establish rules allowing the hunting of raccoon with the aid of an artificial light.

6. Regulation of Dogs.

(A) No person shall make use of a dog for the purpose of pursuing, taking or killing any of the big game animals of this state except as otherwise provided by rules of the commission.

(B) Any person who is the owner of, or in possession of, or who harbors any dog found running at large and which is actively tracking, pursuing, harassing or attacking, or which injures or kills deer or any other big game animal within this state shall be guilty as provided in section 36-1401(a)1.(F),

Idaho Code. It shall be no defense that such dog or dogs were pursuing said big game animals without the aid or direction of the owner, possessor, or harborer.

(C) Any dog found running at large and which is actively tracking, pursuing, harassing, attacking or killing deer or any other big game animal may be destroyed without criminal or civil liability by the director, or any peace officer, or other persons authorized to enforce the Idaho fish and game laws.

7. Attempt to take Simulated Wildlife.

(A) Attempt to take, by firearm or any other contrivance capable of killing an animal or bird, simulated wildlife in violation of any of the provisions of this title or commission rules applicable to the taking of the wildlife being simulated, when the simulated wildlife is being used by a conservation officer or other person authorized to enforce Idaho fish and game laws or rules promulgated pursuant thereto. No person shall be found guilty of violating either this ~~subpart~~ subparagraph, or subparagraph (B) of this paragraph, provided that no other law or rule has been violated.

(B) Any person pleading guilty to, convicted of or found guilty for attempting to take simulated wildlife within this state shall be guilty of a misdemeanor and shall be punished as provided in either subsection (b) or (d) of section 36-1402, Idaho Code, and shall pay restitution in an amount of no less than fifty dollars ($50.00) for the repair or replacement of the simulated wildlife.

Approved March 13, 2007.

CHAPTER 68
(S.B. No. 1057)

AN ACT

RELATING TO TRUSTS; AMENDING SECTION 15-1-201, IDAHO CODE, TO DEFINE "SETTLOR" AND TO ALPHABETIZE DEFINITIONS; AMENDING SECTION 15-7-501, IDAHO CODE, TO AMEND TRUST PROTECTOR PROVISIONS; REPEALING SECTION 15-7-502, IDAHO CODE, RELATING TO RESTRICTIONS ON TRANSFERS IN TRUST; AMENDING PART 5, CHAPTER 7, TITLE 15, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 15-7-502, IDAHO CODE, TO SET FORTH PROVISIONS APPLICABLE TO SPENDTHRIFT TRUSTS; AND AMENDING SECTION 55-905, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO FRAUDULENT TRANSFERS OF PERSONALTY.

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) "Community property" is as defined in section 32-906, Idaho Code.

(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) "Court" means the court or branch having jurisdiction in matters rela~~ting 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~~9) "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~~10) "Determination of heirship" shall mean that determination of heirship required by section 15-3-409, Idaho Code, upon a finding of intestacy.

(1~~0~~1) "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.

(1~~1~~2) "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.

(1~~2~~3) "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 effect of corrective or mitigating measures used to reduce the effects of the impairment.

(~~13~~4) "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~~5) "Emancipated minor" shall mean any male or female who has been married.

(~~15~~6) "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~~7) "Exempt property" means that property of a decedent's estate which is described in section 15-2-403, Idaho Code.

(~~17~~8) "Fiduciary" includes personal representative, guardian, conservator and trustee.

(~~18~~9) "Foreign personal representative" means a personal representative of another jurisdiction.

(~~19~~20) "Formal proceedings" means those conducted before a judge with notice to interested persons.

(~~20~~1) "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~~2) "Heirs" means those persons, including the surviving spouse, who are entitled under the statutes of intestate succession to the property of a decedent.

(~~22~~3) "Incapacitated person" is as defined in section 15-5-101, Idaho Code.

(~~23~~4) "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~~5) "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~~6~~) "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~~7~~) "Lease" includes an oil, gas, or other mineral lease.

(27~~8~~) "Letters" includes letters testamentary, letters of guardianship, letters of administration, and letters of conservatorship.

(28~~9~~) "Minor" means a male under eighteen (18) years of age or a female under eighteen (18) years of age.

(29~~30~~) "Mortgage" means any conveyance, agreement or arrangement in which property is used as security.

(30~~1~~) "Nonresident decedent" means a decedent who was domiciled in another jurisdiction at the time of his death.

(31~~2~~) "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~~3~~) "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~~4~~) "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~~5~~) "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~~6~~) "Petition" means a written request to the court for an order after notice.

(36~~7~~) "Proceeding" includes action at law and suit in equity.

(37~~8~~) "Property" includes both real and personal property or any interest therein and means anything that may be the subject of ownership.

(38~~9~~) "Protected person" is as defined in section 15-5-101, Idaho Code.

(39~~40~~) "Protective proceeding" is as defined in section 15-5-101, Idaho Code.

(40~~1~~) "Quasi-community property" is the property defined by section 15-2-201, Idaho Code.

(41~~2~~) "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~~3~~) "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~~4) "Separate property" is as defined in section 32-903, Idaho Code.

(45) "Settlement," in reference to a decedent's estate, includes the full process of administration, distribution and closing.

(46) "Settlor" includes grantor, trustor, and words of similar import.

(~~44~~7) "Special administrator" means a personal representative as described by sections 15-3-614 through 15-3-618, Idaho Code.

(~~45~~8) "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~~9) "Successor personal representative" means a personal representative, other than a special administrator, who is appointed to succeed a previously appointed personal representative.

(~~47~~50) "Successors" means those persons, other than creditors, who are entitled to property of a decedent under his will or this code.

(~~48~~51) "Supervised administration" refers to the proceedings described in part 5, chapter 3, of this code.

(~~49~~52) "Testacy proceeding" means a proceeding to establish a will or determine intestacy.

(~~50~~3) "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~~4) "Trustee" includes an original, additional, or successor trustee, whether or not appointed or confirmed by court.

(~~52~~5) "Ward" is as defined in section 15-5-101, Idaho Code.

(~~53~~6) "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.~~

SECTION 2. That Section 15-7-501, Idaho Code, be, and the same is hereby amended to read as follows:

15-7-501. TRUST PROTECTOR. (1) Definition of terms:

(a) "Distribution trust advisor" means a person given authority by

the trust instrument to exercise all or any portions of the powers and discretions set forth in subsection (11) of this section.

(b) "Excluded fiduciary" means any fiduciary excluded from exercising certain powers under the instrument, which powers may be exercised by the grantor or a trust advisor or a trust protector.

(~~b~~c) "Fiduciary" means a trustee under any testamentary or other trust, an executor, administrator, or personal representative of a decedent's estate, or any other party, including a trust advisor or a trust protector, who is acting in a fiduciary capacity for any person, trust or estate.

(~~c~~d) "Instrument" means any revocable or irrevocable trust document whether created inter vivos or testamentary.

(~~d~~e) "Investment ~~T~~trust advisor" means a person given authority by the ~~grantor of an~~ trust instrument~~, or other fiduciaries, in which any power, including the power and authority to direct the acquisition, disposition, or retention of any investment, or the power to authorize any act that an excluded fiduciary may propose, is reserved to the exclusion of another fiduciary also acting under the instrument. "Trust advisor" also includes any party accepting the delegation of a fiduciary's power to direct the acquisition, disposition or retention of any investment~~ to exercise all or any portions of the powers and discretions set forth in subsection (10) of this section.

(f) "Trust advisor" means a distribution trust advisor or an investment advisor.

(~~e~~g) "Trust protector" means any disinterested third party whose appointment is provided for in the trust instrument.

(2) Liability limits of excluded fiduciary. An excluded fiduciary is not liable, either individually or as a fiduciary, for either of the following:

(a) Any loss that results from compliance with a direction of the trust advisor;

(b) Any loss that results from a failure to take any action proposed by an excluded fiduciary that requires a prior authorization of the trust advisor if that excluded fiduciary timely sought but failed to obtain that authorization.

Any excluded fiduciary is also relieved from any obligation to perform investment reviews and make recommendations with respect to any investments to the extent the trust advisor had authority to direct the acquisition, disposition or retention of any such investment.

(3) Death of grantor. An excluded fiduciary may continue to follow the direction of the trust advisor upon the incapacity or death of the grantor if the instrument so allows.

(4) When trust advisor considered as fiduciary. If one (1) or more trust advisors are given authority by the terms of a governing instrument to direct, consent to, or disapprove a fiduciary's investment decisions, or proposed investment decisions, such trust advisors shall be considered to be fiduciaries when exercising such authority unless the governing instrument provides otherwise.

(5) Excluded fiduciary's liability for loss if trust protector appointed. If an instrument appoints a trust protector, the excluded fiduciary is not liable for any loss resulting from any action taken upon such trust protector's direction.

(6) Powers and discretions of trust protector. The powers and

discretions of a trust protector shall be as provided in the governing instrument and may, in the best interests of the trust, be exercised or not exercised in the sole and absolute discretion of the trust protector and shall be binding on all other persons. Such powers and discretion may include the following:

(a) To modify or amend the trust instrument to achieve favorable tax status or because of changes in the Internal Revenue Code, state law, or the rulings and regulations thereunder;

(b) To increase or decrease the interests of any beneficiaries to the trust; ~~and~~

(c) To modify the terms of any power of appointment granted by the trust. However, a modification or amendment may not grant a beneficial interest to any individual or class of individuals not specifically provided for under the trust instrument;

(d) To terminate the trust;

(e) To veto or direct trust distributions;

(f) To change situs or governing law of the trust, or both;

(g) To appoint a successor trust protector;

(h) To interpret terms of the trust instrument at the request of the trustee;

(i) To advise the trustee on matters concerning a beneficiary; and

(j) To amend or modify the trust instrument to take advantage of laws governing restraints on alienation, distribution of trust property, or the administration of the trust.

(7) Submission to court jurisdiction -- Effect on trust advisor or trust protector. By accepting an appointment to serve as a trust advisor or trust protector of a trust that is subject to the laws of this state, the trust advisor or the trust protector submits to the jurisdiction of the courts of Idaho even if investment advisory agreements or other related agreements provide otherwise, and the trust advisor or trust protector may be made a party to any action or proceeding if issues relate to a decision or action of the trust advisor or trust protector.

(8) Powers of trust protector incorporated by reference in will or trust instrument. Any of the powers enumerated in subsection (6) of this section, as they exist at the time of the signing of a will by a testator or testatrix or at the time of the signing of a trust instrument by a trustor may be, by appropriate reference made thereto, incorporated in whole or in part in such will or trust instrument by a clearly expressed intention of a testator or testatrix of a will or trustor of a trust instrument.

(9) Investment trust advisor or distribution trust advisor provided for in trust instrument. A trust instrument governed by the laws of Idaho may provide for a person to act as an investment trust advisor or a distribution trust advisor, respectively, with regard to investment decisions or discretionary distributions.

(10) Powers and discretions of investment trust advisor. The powers and discretions of an investment trust advisor shall be provided in the trust instrument and may be exercised or not exercised, in the best interests of the trust, in the sole and absolute discretion of the investment trust advisor and are binding on any other person and any other interested party, fiduciary, and excluded fiduciary. Unless the terms of the document provide otherwise, the investment trust advisor has the power to perform the following:

(a) Direct the trustee with respect to the retention, purchase,

sale or encumbrance of trust property and the investment and reinvestment of principal and income of the trust;

(b) Vote proxies for securities held in trust; and

(c) Select one (1) or more investment advisors, managers or counselors, including the trustee, and delegate to them any of its powers.

(11) Powers and discretions of distribution trust advisor. The powers and discretions of a distribution trust advisor shall be provided in the trust instrument and may be exercised or not exercised, in the best interests of the trust, in the sole and absolute discretion of the distribution trust advisor and are binding on any other person and any other interested party, fiduciary, and excluded fiduciary. Unless the terms of the document provide otherwise, the distribution trust advisor shall direct the trustee with regard to all discretionary distributions to beneficiaries.

SECTION 3. That Section 15-7-502, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Part 5, Chapter 7, Title 15, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 15-7-502, Idaho Code, and to read as follows:

15-7-502. SPENDTHRIFT TRUSTS. (1) A settlor may provide in the terms of the trust that the interest of a beneficiary in the income or in the principal or in both may not be voluntarily or involuntarily transferred before payment or delivery of the interest to the beneficiary by the trustee.

(2) A declaration in a trust instrument that the interest of a beneficiary shall be held subject to a "spendthrift trust" is sufficient to restrain voluntary or involuntary alienation of the interest by a beneficiary to the maximum extent permitted under this section.

(3) Validity of a restraint on transfer in a trust document shall not require specific reference to or identical verbiage set forth in subsection (1) or (2) of this section.

(4) If a person is both a settlor and beneficiary of the same trust, a provision restraining the voluntary or involuntary transfer of the settlor's beneficial interest in such trust does not prevent the settlor's creditors from satisfying claims from the settlor's interest in the trust estate that relates to the portion of the trust that was contributed by the settlor. For the purposes of this subsection (4), however, a settlor shall not be considered to be a beneficiary of an irrevocable trust created by the settlor and taxed for federal income tax purposes pursuant to the grantor trust rules of the Internal Revenue Code, sections 671 through 679, inclusive, if the settlor's only beneficial interest in such trust consists of the right to receive a distribution from such trust in an amount equal to or less than the amount of the federal and state income tax liability incurred by the settlor as a result of such trust being characterized as a grantor trust pursuant to the aforementioned grantor trust rules.

(5) A beneficiary of a trust shall not be considered a settlor of a trust merely because of a lapse, waiver or release of:

(a) A power described in subsection (6) of this section; or

(b) The beneficiary's right to withdraw a part of the trust property to the extent that the value of the property affected by the lapse, waiver or release in any calendar year does not exceed the greater of the amount specified in:

(i) Section 2041(b)(2) or 2514(e) of the Internal Revenue Code of 1986, as amended; or

(ii) Section 2503(b) of the Internal Revenue Code of 1986, as amended.

(6) A beneficiary of a trust shall not be considered a settlor, to have made a voluntary or involuntary transfer of the beneficiary's interest in a trust, or to have the power to make a voluntary or involuntary transfer of the beneficiary's interest in the trust, merely because the beneficiary, in any capacity including, but not limited to, as a trustee, holds or exercises:

(a) A presently exercisable power to:

(i) Consume, invade, appropriate or distribute property to or for the benefit of the beneficiary, if the power is either exercisable only on consent of another person holding an interest adverse to the beneficiary's interest or limited by an ascertainable standing including, but not limited to, health, education, support or maintenance of the beneficiary; or

(ii) Exercise a limited power of appointment, as defined in the Internal Revenue Code of 1986, as amended, including, but not limited to, the power to appoint any property of the trust to or for the benefit of a person other than the beneficiary, a creditor of the beneficiary, the beneficiary's estate, or a creditor of the beneficiary's estate;

(b) A testamentary power of appointment; or

(c) A presently exercisable right described in subsection (5)(b) of this section.

SECTION 5. That Section 55-905, Idaho Code, be, and the same is hereby amended to read as follows:

55-905. FRAUDULENT TRANSFERS OF PERSONALTY. All deeds of gift, all conveyances, and all transfers or assignments, ~~verbal~~ oral or written, of goods, chattels, or things in action, made in trust for the use of the person making the same, are void as against the creditors, existing or subsequent, of such person. However, a settlor's retained right to receive distributions from a trust in an amount equal to or less than the federal and state income tax liability incurred by such settlor as a result of such trust being characterized as a grantor trust pursuant to the rules of the Internal Revenue Code of 1986, as amended, sections 671 through 679, inclusive, shall not be considered a deed of gift, conveyance, transfer or assignment that is made in trust for the use of the person making the same.

Approved March 13, 2007.

CHAPTER 69
(H.B. No. 106)

AN ACT

RELATING TO DRUG AND SUBSTANCE ABUSE POLICY; AMENDING CHAPTER 8, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-821, IDAHO CODE, TO ESTABLISH THE OFFICE OF DRUG POLICY, TO PROVIDE FOR AN ADMINISTRATOR, TO SET FORTH POWERS AND DUTIES AND TO DESIGNATE THE ADMINISTRATOR AS CHAIRPERSON OF THE INTERAGENCY COMMITTEE ON SUBSTANCE ABUSE PREVENTION AND TREATMENT; AMENDING SECTION 39-303, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO THE MEMBERSHIP, CHAIRMANSHIP AND DUTIES OF THE INTERAGENCY COMMITTEE ON SUBSTANCE ABUSE PREVENTION AND TREATMENT; AND AMENDING SECTION 39-304, IDAHO CODE, TO PROVIDE THAT THE INTERAGENCY COMMITTEE SHALL DIRECT THE DEPARTMENT OF HEALTH AND WELFARE IN THE ESTABLISHMENT AND CONTENT OF A PROGRAM FOR SUBSTANCE ABUSE TREATMENT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 8, 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 67-821, Idaho Code, and to read as follows:

67-821. COORDINATION OF POLICY AND PROGRAMS RELATED TO DRUG AND SUBSTANCE ABUSE. (1) There is hereby established in the office of the governor the "Office of Drug Policy." The administrator of the office of drug policy shall be the official in the state designated to oversee and execute the coordination of all drug and substance abuse programs within the state of Idaho. The administrator shall be appointed by and shall serve at the pleasure of the governor, and shall be subject to confirmation by the state senate.

(2) The office of drug policy shall:

(a) Cooperate and consult with counties, cities and local law enforcement on programs, policies and issues in combating Idaho's illegal drug and substance abuse problem;

(b) Serve as a repository of agreements, contracts and plans concerning programs for combating illegal drug and substance abuse from community organizations and other relevant local, state and federal agencies and shall facilitate the exchange of this information and data with relevant interstate and intrastate entities;

(c) Provide input and comment on community, tribal and federal plans, agreements and policies relating to illegal drug and substance abuse; and

(d) Coordinate public and private entities to develop, create and promote statewide campaigns to reduce or eliminate substance abuse.

(3) The administrator shall act as chairperson of the interagency committee on substance abuse prevention and treatment, as created in section 39-303, Idaho Code, to ensure that the interagency committee coordinates and directs all state entities regarding substance abuse prevention and treatment delivery services statewide.

SECTION 2. That Section 39-303, Idaho Code, be, and the same is hereby amended to read as follows:

39-303. INTERAGENCY COMMITTEE ON SUBSTANCE ABUSE PREVENTION AND TREATMENT. (1) There is hereby created within the ~~department--of--health and--welfare~~ office of drug policy, as provided for in section 67-821, Idaho Code, the interagency committee on substance abuse prevention and treatment. The purpose of the interagency committee is to focus on statewide efforts to address substance abuse by assessing statewide needs, developing a statewide plan, and coordinating and directing efforts of all state entities that use public funds for efforts to address substance abuse~~,--and-advising-these-agencies-on-needs-and-strategies-pertaining-to-services-provided-to-address-substance-abuse~~.

(2) Membership of the interagency committee shall be:

(a) The administrator of the office of drug policy, or the administrator's designee;

(b) The director of the department of health and welfare, or the director's designee;

(~~b~~c) The director of the department of correction, or the director's designee;

(~~c~~d) The director of the department of juvenile corrections, or the director's designee;

(~~d~~e) The superintendent of public instruction, or the superintendent's designee;

(~~e~~f) The director of the Idaho state police, or the director's designee;

(~~f~~g) The director of the Idaho transportation department, or the director's designee;

(~~g~~h) The administrative director of the supreme court, or the director's designee;

(~~h~~i) The chairperson of the state board of health and welfare, or the chair's designee;

(~~i~~j) The chairperson of the board of correction, or the chair's designee;

(~~j~~k) The chairperson of the board of juvenile corrections, or the chair's designee;

(~~k~~l) The chairperson of the drug court and mental health court coordinating committee established under section 19-5606, Idaho Code, or the chair's designee;

(~~l~~m) The chairperson of the senate health and welfare committee, or the chair's designee;

(~~m~~n) The chairperson of the house of representatives health and welfare committee, or the chair's designee;

(~~n~~o) The chairperson of the senate judiciary and rules committee, or the chair's designee;

(~~o~~p) The chairperson of the house of representatives judiciary, rules and administration committee, or the chair's designee;

(~~p~~q) The chief administrative official of each other state governmental entity that expends funds to provide services to address substance abuse, or that chief administrative official's designee;

(~~q~~r) One (1) representative of the regional advisory committees as determined in section 39-303A, Idaho Code; and

(~~r~~s) ~~One-(1)-representative-of-the-office-of-the-governor-as-determined-by-the-governor~~ Such additional ad hoc nonvoting members as the administrator of the office of drug policy may designate.

Interagency committee members shall serve without additional compensation but may be reimbursed by their respective entities for interagency

committee related travel and expenses pursuant to chapter 20, title 67, Idaho Code.

(3) The duties of the interagency committee shall be to:

(a) Develop and annually update a statewide plan to address substance abuse, including the creation of common performance measures;

(b) Exchange information on programs that address substance abuse;

(c) Identify and promote opportunities for coordination, cooperation, collaboration and elimination of service duplication among relevant state entities;

(d) Monitor programs and evaluate outcomes;

(e) Identify state needs for addressing substance abuse, including promoting implementation of multiagency strategic budgeting;

(f) Review and assess the use of funds available to address substance abuse;

(g) Promote coordinated approaches to substance abuse prevention and treatment;

(h) Research, share, discuss and promote the use of best practices; ~~and~~

(i) Annually report to the legislature and governor prior to the beginning of the legislative session on the state's efforts to address substance abuse, including descriptions of:

(i) The statewide need for services to address substance abuse;

(ii) The state's capacity to meet those identified needs;

(iii) The types of substance abuse services being provided, and the groups and numbers of people served;

(iv) Which programs are effective in addressing substance abuse and which are not; and

(v) An overall evaluation of the state's efforts to address substance abuse; and

(j) Develop and submit through the office of drug policy, no later than the first of September, any budgeted program enhancements or program expansions in a coordinated budget request pursuant to section 67-3502, Idaho Code, including estimated appropriation needs for the next fiscal year by the judicial department, the department of correction, the department of health and welfare, the department of juvenile corrections and any other department or agency, for expenditures relating to services provided by such department or agency in connection with the statewide substance abuse prevention and treatment delivery system.

(4) Each state administrative agency that expends public funds to provide services to address substance abuse shall report semiannually to the interagency committee, and shall include the following information:

(a) The amount of moneys expended on programs or services to address substance abuse;

(b) The number of individuals served or the extent of services provided, by specific type of service;

(c) The number of individuals not served and/or placed on waiting lists for services, by specific type of service;

(d) The agency's overall capacity to provide specific types of services;

(e) The completion, dropout and relapse rates for treatment programs, and the relevant indicators for other services and programs;

(f) The average length of stay for individuals in each type of

treatment program, or the average duration of other services and programs.

The interagency committee shall establish procedures for collecting and compiling the information required for these reports and the distribution of the compiled information to all interagency committee members, the legislature and the governor.

(5) ~~The interagency committee shall meet within three (3) months of the effective date of this act. The director of the department of health and welfare shall coordinate the scheduling of the initial meeting. At its initial meeting the interagency committee shall elect a chairperson from among its members, who shall serve a one (1) year term. A chairperson of the interagency committee shall be elected at each subsequent annual meeting. No interagency committee chairperson shall serve consecutive terms as chairperson and no single state agency or entity shall be represented in consecutive terms through the chair. Following the initial meeting,~~ The administrator of the office of drug policy shall serve as chairperson of the interagency committee. ~~T~~the interagency committee shall meet at least once each calendar quarter, or more frequently at the call of the chairperson. Public notice of each interagency committee meeting shall be given two (2) weeks in advance thereof. Any interagency committee member may submit agenda items to be discussed at the interagency committee meetings.

(6) Each state administrative agency or entity with representation on the interagency committee shall share in providing the administrative support required by the interagency committee. The allocation of administrative support among the state administrative agencies represented on the interagency committee shall be collectively determined by the chief administrative officer of each such agency and reassessed at least annually.

SECTION 3. That Section 39-304, Idaho Code, be, and the same is hereby amended to read as follows:

39-304. COMPREHENSIVE PROGRAM FOR TREATMENT. The Idaho department of health and welfare is hereby designated as the state substance abuse authority.

(1) The department shall establish a comprehensive and coordinated program for the treatment of alcoholics, intoxicated persons and drug addicts. The interagency committee shall ~~advise~~ direct the department in the establishment and in the content of this program.

(2) The program shall include:

(a) Emergency detoxification treatment and medical treatment directly related thereto provided by a facility affiliated with or part of the medical service of a general hospital;

(b) Inpatient treatment;

(c) Intermediate treatment;

(d) Outpatient and follow-up treatment; and

(e) Community detoxification provided by an approved facility.

(3) The department shall provide for adequate and appropriate treatment for persons admitted pursuant to section 39-307, Idaho Code. Treatment shall not be provided at a correctional institution except for inmates.

(4) The department shall maintain, supervise, and control all facilities operated by it. The administrator of each such facility shall

make an annual report of its activities to the director in the form and manner the director specifies.

(5) All appropriate public and private resources shall be coordinated with and utilized in the program whenever possible.

(6) The department shall prepare, publish and distribute annually a list of all approved public and private treatment facilities.

(7) The department may contract for the use of any facility as an approved public treatment facility if the director considers this to be an effective and economical course to follow.

(8) The program shall include an individualized treatment plan prepared and maintained for each client.

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 13, 2007.

CHAPTER 70
(S.B. No. 1058)

AN ACT

RELATING TO THE UNIFORM PROBATE CODE; AMENDING SECTION 15-5-309, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO NOTICES IN GUARDIANSHIP PROCEEDINGS AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 15-5-405, IDAHO CODE, TO REVISE NOTICE PROVISIONS.

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

SECTION 1. That Section 15-5-309, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-309. NOTICES IN GUARDIANSHIP PROCEEDINGS. (~~a~~1) In a proceeding for the appointment or removal of a guardian of an incapacitated person and, if notice is required in a proceeding for appointment of a temporary guardian, notice of hearing shall be given to each of the following:

(~~1~~a) ~~t~~The ward or the person alleged to be incapacitated and his spouse, or, if none, his adult children or if none, his parents;

(~~2~~b) ~~a~~Any person who is serving as his guardian, conservator or who has his care and custody;

(~~3~~c) ~~i~~In case no other person is notified under subsection (~~a~~1)(~~1~~a) of this section, at least one (1) of his closest adult relatives, if any can be found; and

(~~4~~d) ~~a~~Any person who has filed a request for notice under this section.

(~~b~~2) Notice shall be served personally on the alleged incapacitated person. ~~Notices--to--other-persons-as-required-by-this-section-shall-be served-personally-if-the-person-to-be-notified-can-be-found--within--the state.~~ In all other cases, required notices shall be given as provided in section 15-1-401, Idaho ~~of-this-c~~Code. Waiver of notice by the person alleged to be incapacitated is not effective unless he attends the hear-

ing or his waiver of notice is confirmed ~~in an interview with~~ by the visitor or the guardian ad litem. Representation of the alleged incapacitated person by a guardian ad litem is not necessary.

(~~c~~3) Any person desiring notice of any order or filing in a proceeding involving an alleged incapacitated person in whom he is interested may file a request for notice with the court stating his name, the name of the incapacitated person, the nature of the requesting person's interest, and address or that of his attorney. Upon payment of any fee required by statute or court rule, the clerk shall mail a copy of the request to the guardian if one has been appointed or to the petitioner if there is no guardian. A request is effective only as to matters occurring after its filing. Any governmental agency paying or planning to pay benefits to the alleged incapacitated person, or any public or charitable agency that regularly concerns itself with methods for preventing unnecessary and overly-intrusive court intervention in the affairs of persons for whom guardians may be sought and that seeks to participate in the proceedings, as an interested person in a guardianship proceeding.

SECTION 2. That Section 15-5-405, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-405. NOTICE. ~~(a) On a petition for appointment of a conservator or other protective order, the person to be protected and his nonestranged spouse or, if none, his parents, must be served personally with notice of the proceedings at least fourteen (14) days before the date of hearing if they can be found within the state, or, if they cannot be found within the state, they, any other guardian or conservator and any government agency paying benefits to the person sought to be protected (if the person seeking the appointment has knowledge of the existence of these benefits) must be given notice in accordance with section 15-1-401 of this code. Waiver by the person to be protected is not effective unless the proceedings are limited to payment of veterans administration benefits, he attends the hearing or, unless minority is the reason for the proceeding, waiver is confirmed in an interview with the visitor.~~

~~(b) Notice of a petition for appointment of a conservator or other initial protective order and of any subsequent hearing, must be given to any person who has filed a request for notice under section 15-5-406 of this Part and to interested persons and other persons as the court may direct. Except as otherwise provided in subsection (a) of this section, notice shall be given in accordance with section 15-1-401 of this code~~ On a petition for appointment of a conservator or other protective order, notice shall be given in accordance with section 15-5-309, Idaho Code.

Approved March 14, 2007.

CHAPTER 71
(S.B. No. 1060)

AN ACT

RELATING TO THE IDAHO PROBATE CODE; AMENDING SECTION 15-1-201, IDAHO CODE, TO REVISE A DEFINITION; AMENDING SECTION 15-5-309, IDAHO CODE, TO REVISE PROVISIONS RELATING TO NOTICES IN GUARDIANSHIP PROCEEDINGS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 15-5-405, IDAHO CODE, TO REVISE NOTICE PROVISIONS; AND AMENDING SECTION 15-5-406, IDAHO CODE, TO REMOVE LANGUAGE PROVIDING THAT CERTAIN ENTITIES ARE INTERESTED PERSONS IN PROTECTIVE PROCEEDINGS.

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 effect 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.

SECTION 2. That Section 15-5-309, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-309. NOTICES IN GUARDIANSHIP PROCEEDINGS. (~~a~~1) In a proceeding for the appointment or removal of a guardian of an incapacitated person and, if notice is required in a proceeding for appointment of a temporary guardian, notice of hearing shall be given to each of the following:

(~~1~~a) ~~t~~The ward or the person alleged to be incapacitated and his spouse, or, if none, his adult children or if none, his parents;

(~~2~~b) ~~a~~Any person who is serving as his guardian, conservator or who has his care and custody;

(~~3~~c) ~~i~~In case no other person is notified under subsection (~~a~~1)(~~1~~a) of this section, at least one (1) of his closest adult relatives, if any can be found; and

(~~4~~d) ~~a~~Any person who has filed a request for notice under this section.

(~~b~~2) Notice shall be served personally on the alleged incapacitated person. Notices to other persons as required by this section shall be served personally if the person to be notified can be found within the state. In all other cases, required notices shall be given as provided in section 15-1-401 of this code. Waiver of notice by the person alleged to be incapacitated is not effective unless he attends the hearing or his waiver of notice is confirmed in an interview with the visitor. Representation of the alleged incapacitated person by a guardian ad litem is not necessary.

(~~c~~3) Any person desiring notice of any order or filing in a proceeding involving an alleged incapacitated person in whom he is interested may file a request for notice with the court stating his name, the name of the incapacitated person, the nature of the requesting person's interest, and address or that of his attorney. Upon payment of any fee required by statute or court rule, the clerk shall mail a copy of the request to the guardian if one has been appointed or to the petitioner if there is no guardian. A request is effective only as to matters occurring after its filing. ~~Any governmental agency paying or planning to pay benefits to the alleged incapacitated person, or any public or charitable agency that regularly concerns itself with methods for preventing unnecessary and overly intrusive court intervention in the affairs of persons for whom guardians may be sought and that seeks to participate in the proceedings, as an interested person in a guardianship proceeding.~~

SECTION 3. That Section 15-5-405, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-405. NOTICE. (~~a~~1) On a petition for appointment of a conservator or other protective order, the person to be protected and his nonestranged spouse or, if none, his parents, must be served personally with notice of the proceedings at least fourteen (14) days before the date of hearing if they can be found within the state, or, if they cannot be found within the state, they, and any other guardian or conservator ~~and any government agency paying benefits to the person sought to be protected (if the person seeking the appointment has knowledge of the existence of these benefits)~~ must be given notice in accordance with section 15-1-401, Idaho ~~of this c~~Code. Waiver by the person to be protected is not effective unless the proceedings are limited to payment of veterans administration benefits, he attends the hearing or, unless minority is the reason for the proceeding, waiver is confirmed in an interview with the visitor.

(~~b~~2) Notice of a petition for appointment of a conservator or other initial protective order and of any subsequent hearing, must be given to any person who has filed a request for notice under section 15-5-406, ~~of this Part~~ Idaho Code, and to interested persons and other persons as the court may direct. Except as otherwise provided in subsection (~~a~~1) of this section, notice shall be given in accordance with section 15-1-401, Idaho ~~of this c~~Code.

SECTION 4. That Section 15-5-406, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-406. PROTECTIVE PROCEEDINGS -- REQUEST FOR NOTICE -- INTERESTED PERSON. Any person desiring notice of any order or filing in a protective proceeding described in this part involving a person in whom he is interested may file a request for notice with the court stating his name, the name of the alleged disabled person, the nature of the requesting person's interest, and his address or that of his attorney. Upon payment of any fee required by statute or court rule, the clerk shall mail a copy of the request to the conservator if one has been appointed, or to the petitioner if there is no conservator. A request is effective only as to matters occurring after its filing. ~~Any governmental agency paying or planning to pay benefits to the alleged disabled 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, is an interested person in a protective proceeding under this part.~~

Approved March 14, 2007.

CHAPTER 72
(S.B. No. 1061)

AN ACT
RELATING TO THE UNIFORM PROBATE CODE; AMENDING PART 2, CHAPTER 5, TITLE 15, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 15-5-212A, IDAHO CODE, TO SET FORTH PROVISIONS APPLICABLE TO GUARDIANSHIPS ARISING IN CONNECTION WITH A PROCEEDING UNDER THE CHILD PROTECTIVE ACT.

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

SECTION 1. That Part 2, Chapter 5, Title 15, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 15-5-212A, Idaho Code, and to read as follows:

15-5-212A. GUARDIANSHIPS ARISING IN CONNECTION WITH A PROCEEDING UNDER THE CHILD PROTECTIVE ACT. Where a minor is within the jurisdiction of a court under the child protective act, or where a guardianship proceeding arose in connection with a permanency plan for a minor who was the subject of a proceeding under the child protective act:

(1) The court having jurisdiction over the proceeding under the child protective act shall have exclusive jurisdiction and venue over any guardianship proceeding involving such minor unless, in furtherance of the permanency plan, the court declines to exercise such jurisdiction and venue, notwithstanding sections 15-5-205 and 15-5-211, Idaho Code.

(2) In any action connected to a guardianship governed by this section, in addition to notice or service upon interested parties pursuant to section 15-1-401, Idaho Code, notice of the following shall be served upon the department of health and welfare in the manner prescribed in Idaho rule of civil procedure 4(d)(5):

(a) Any petition for the appointment of a guardian of a minor;

(b) Any pleading filed in connection with such guardianship;

(c) Any proceeding of any nature in such guardianship; or

(d) The time and place of any hearing in connection with such guardianship.

(3) In any action governed by this section, the department of health and welfare shall have the right to appear and be heard at any hearing, and shall have the right to intervene at any stage of the action.

(4) A guardian appointed in an action governed by this section may not consent to the adoption of the minor without providing prior notice of the action of adoption to the department of health and welfare in a manner prescribed in section 15-1-401, Idaho Code.

(5) Any person who moves to terminate a guardianship governed by this section has the burden of proving, by clear and convincing evidence, that:

(a) There has been a substantial and material change in the circumstances of the parent or the minor since the establishment of the guardianship; and

(b) Termination of the guardianship would be in the best interests of the minor.

(6) In any action governed by this section, any person who moves to remove a guardian or modify a guardianship has the burden of proving, by clear and convincing evidence, that:

(a) There has been a substantial and material change in the circumstances of the parent or the minor since the establishment of the guardianship; and

(b) Removal of the guardian or modification of the guardianship would be in the best interests of the minor.

Approved March 14, 2007.

CHAPTER 73
(S.B. No. 1086)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-408, IDAHO CODE, TO PROVIDE FOR SPECIAL WOLF TAGS; AMENDING SECTION 36-409, IDAHO CODE, TO PROVIDE FOR ELIGIBILITY TO RECEIVE A GAME TAG TO HUNT AND KILL A WOLF AND TO PROVIDE THAT CERTAIN REQUIREMENTS FOR WOLF TAGS SHALL BE DETERMINED AND SPECIFIED BY THE FISH AND GAME COMMISSION; AND AMENDING SECTION 36-416, IDAHO CODE, TO PROVIDE FOR A GRAY WOLF TAG FEE.

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

SECTION 1. 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 (2) 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.

(7) Special Wolf Tags. The commission is hereby authorized to issue up to ten (10) special auction or lottery tags for hunting wolves. Special wolf tags will be auctioned off or made available through lottery by incorporated nonprofit organizations dedicated to wildlife conservation and selected by the director. No more than five percent (5%) of all proceeds for each tag may be retained by the nonprofit organization for administrative costs involved. Each wolf tag shall be issued by the department of fish and game and awarded to the highest eligible bidder or winner of a lottery. Each tag will be good for the harvest of one (1) wolf pursuant to commission rule. The proceeds from each tag will be sent to the director to be placed in the department general license fund.

SECTION 2. That Section 36-409, Idaho Code, be, and the same is hereby amended to read as follows:

36-409. GAME TAGS -- PERMITS -- FEES -- PENALTY. (a) Resident Game Tags. A resident who has obtained a permit to hunt, as provided in section 36-401, Idaho Code, or has purchased or obtained a license to hunt, as provided in section 36-406, Idaho Code, upon payment of the fees provided herein shall be eligible to receive a resident game tag to hunt and kill a moose, bighorn sheep, mountain goat, elk, deer, antelope, mountain lion, bear, wolf, sandhill crane or turkey in accordance with the laws of this state and rules promulgated by the commission; provided further, that any person who holds a senior resident combination license or any person who holds a junior combination or hunting license or any disabled American veteran who holds a disabled combination license, may be issued a bear, deer, elk, or turkey tag for a fee as specified in section 36-416, Idaho Code; provided further, that resident game tags may be issued only to those persons who meet residency requirements of subsection (s) of section 36-202, Idaho Code. In the event an emergency is declared to open a season to protect private property as provided in section 36-106(e)6.(B), Idaho Code, the affected landowner or his designee shall be eligible to receive a resident deer, elk or antelope tag without charge; provided further, that resident game tags may be issued only to persons who qualify as residents pursuant to section 36-202, Idaho Code.

(b) Nonresident Game Tags. A nonresident who has purchased a license to hunt, as provided in section 36-407(a) or (k), Idaho Code, or has obtained a license to hunt, as provided in section 36-406(e), Idaho Code, or a resident who has purchased or obtained a license to hunt, as provided in section 36-406, Idaho Code, upon payment of the fees provided herein, shall be eligible to receive a nonresident tag to hunt and kill a moose, bighorn sheep, mountain goat, elk, deer, antelope, mountain lion, bear, wolf, sandhill crane or turkey in accordance with the laws of this state and rules promulgated by the commission; provided further that a nonresident who has purchased a license to hunt, as provided in section 36-407(k), Idaho Code, shall be eligible to receive a junior mentored deer, elk, bear, or turkey tag for a fee as specified in section 36-416, Idaho Code.

(c) Game Tags Required. The appropriate tag must be had for the hunting or taking of each and every one of the aforementioned wildlife. Provided, however, that the requirements for a wolf tag, mountain lion tag or a bear tag, as to different periods of time and areas of the

state, shall be determined and specified by the commission. Provided further, that the commission may promulgate rules to allow a nonresident deer tag to be used to hunt and kill either a bear or a mountain lion during the open season for deer in that area, unit or zone as may be specified by the commission. All of said tags are to bear and have serial numbers.

(d) Game Tag to Be Validated and Attached to Carcass. As soon as any person kills any wildlife for which a tag is required, said tag, belonging to him, must be validated and attached to said wildlife in a manner provided by commission rule.

(e) Archery Permits. In addition to meeting the license and tag requirements provided in this chapter, any person participating in any controlled or general game season which has been specifically designated as an archery hunt must have in his possession an archery hunt permit which may be purchased at a fee as specified in section 36-416, Idaho Code.

(f) Muzzleloader Permit. In addition to meeting the license and tag requirements provided in this chapter, any person participating in any controlled or general game season which has been specifically designated as a muzzleloader hunt must have in his possession a muzzleloader permit which may be purchased at a fee as specified in section 36-416, Idaho Code.

(g) Hound Hunter Permit -- Resident -- Nonresident. Any person using a dog for the purpose of hunting or for taking, as defined in section 36-202, Idaho Code, big game or furbearing animals must have in his possession a valid hound hunter permit which may be purchased by resident and nonresident license holders for a fee as specified in section 36-416, Idaho Code.

(h) Nonresident Bird of Prey Capture Permit. The commission may, under rules as it may prescribe, issue a nonresident bird of prey capture permit. This capture permit may be purchased by any licensed, nonresident falconer for capturing birds of prey in Idaho. The fee for the permit shall be as specified in section 36-416, Idaho Code, and the permit shall be issued under the condition that the nonresident's home state allows reciprocal raptor capturing privileges for Idaho falconers.

(i) Wildlife Management Area (WMA) Pheasant Permit. The commission may, under rules as it may prescribe, issue a wildlife management area pheasant permit that must be purchased by all persons over sixteen (16) years of age prior to hunting pheasants on state wildlife management areas designated by the commission. The fee for the permit shall be as specified in section 36-416, Idaho Code.

(j) Bear Baiting Permit. The commission may, under rules as it may prescribe, issue a bear baiting permit. Any person placing or using bait as may be allowed by rule for the purpose of attracting bear must have in his possession a valid bear baiting permit which may be purchased by a license holder for a fee as specified in section 36-416, Idaho Code.

(k) Migratory Bird Harvest Information Program Permit. The commission may, as provided by federal laws or regulations and under rules as it may prescribe, issue a migratory bird harvest information program permit that must be purchased by all persons prior to hunting migratory game birds as required by federal law or regulations. The fee for the permit shall be as specified in section 36-416, Idaho Code.

(l) Dog Field Trial Permit. The commission may, under rules as it may prescribe, issue a dog field trial permit to any person using birds

for dog field trials or training as may be allowed by rule. The permit may be purchased for a fee as specified in section 36-416, Idaho Code.

(m) Idaho Nursing Home Facility Resident Fishing Permit. The commission may, under rules as it may prescribe, issue an Idaho nursing home facility resident fishing permit that must be purchased by an Idaho nursing home facility to allow residents of its facility to fish during the open season. Facilities eligible to purchase this permit are: intermediate care facilities providing twenty-four (24) hour skilled nursing care, assisted living facilities providing twenty-four (24) hour extensive assistance and skilled nursing facilities providing twenty-four (24) hour skilled nursing. By purchasing this permit the facility assumes full responsibility for and control over the facility residents while using the permit. All laws, rules and proclamations apply to the use of this permit and it is the responsibility of the facility to assure compliance with all laws, rules and proclamations. In case of a violation the facility shall be held accountable and any citations shall be issued to the facility. The permit may be purchased for a fee as specified in section 36-416, Idaho Code.

SECTION 3. That Section 36-416, Idaho Code, be, and the same is hereby amended to read as follows:

36-416. SCHEDULE OF LICENSE FEES.

(a) Sport Licenses

License	Resident	Non-Resident
Combination License	$ 31.75	$ 198.00
Hunting License	11.00	139.75
Fishing License	24.00	80.25
Sr. Combination License (65 and Older)	10.00	N/A
Sportsman's Pak License	108.50	N/A
Jr. Combination License	15.75	N/A
Jr. Hunting License	5.50	N/A
Jr. Mentored Hunting License	N/A	5.50
Youth Small Game License	5.50	5.50
Youth Hunter Education Graduate Hunting License	3.25	3.25
Jr. Fishing License	12.00	12.00
Disabled Combination License	3.25	N/A
Disabled Fishing License	3.25	N/A
Military Furlough Combination License	15.75	N/A
Military Furlough Fishing License	15.75	N/A
Small Game Hunting License	N/A	80.00
Daily Fishing (1st-day) License	9.75	9.75
Consecutive Day Fishing License	5.00	5.00
3 Day Fishing with Salmon/Steelhead Permit	N/A	29.75
Nongame Hunting License	N/A	27.50

(b) Sport Tags

Deer Tag	$ 18.00	$ 256.75
Jr. or Sr. or Disabled American Veteran Deer Tag	9.00	N/A
Jr. Mentored Deer Tag	N/A	9.00
Elk Tag	29.00	370.75
Jr. or Sr. or Disabled American Veteran Elk Tag	14.75	N/A

Jr. Mentored Elk Tag	N/A	14.75
Bear Tag	9.75	150.00
Jr. or Sr. or Disabled American Veteran Bear Tag	5.00	N/A
Jr. Mentored Bear Tag	N/A	5.00
Turkey Tag	18.00	65.75
Jr. or Sr. or Disabled American Veteran Turkey Tag	9.00	N/A
Jr. Mentored Turkey Tag	N/A	9.00
Mountain Lion Tag	9.75	150.00
Gray Wolf Tag	9.75	150.00
Antelope Tag	29.50	256.75
Moose Tag	165.00	1,750.00
Sheep Tag	165.00	1,750.00
Goat Tag	165.00	1,750.00
Sandhill Crane Tag	18.00	65.75
(c) Sport Permits		
Bear Baiting Permit	$ 11.00	$ 11.00
Hound Hunter Permit	11.00	100.00
WMA Pheasant Permit	22.00	22.00
Archery Permit	16.50	16.50
Muzzleloader Permit	16.50	16.50
Salmon Permit	11.00	11.00
Steelhead Permit	11.00	11.00
Federal Migratory Bird Harvest Info. Permit	0.00	0.00
Handicapped Archery Permit	0.00	0.00
2-Pole Fishing Permit	12.00	12.00
Controlled Hunt Permit	6.00	6.00
(d) Commercial Licenses and Permits		
Raptor Captive Breeding Permit	$ 65.75	$ 65.75
Falconry Permit	27.25	N/A
Falconry Capture Permit	N/A	139.75
Jr. Trapping License	5.50	N/A
Trapping License	25.00	250.00
Taxidermist-Fur Buyer License		
5 year license	175.00	N/A
1 year license	38.25	139.00
Shooting Preserve Permit	329.75	N/A
Commercial Wildlife Farm License	137.50	N/A
Commercial Fishing License	110.00	220.00
Wholesale Steelhead License	165.00	165.00
Retail Steelhead Trout Buyer's License	33.00	33.00
(e) Commercial Tags		
Bobcat Tag	$ 8.25	$ 8.25
Lynx Tag	8.25	8.25
Beaver Tag	5.50	5.50
Net Tag	55.00	55.00
Crayfish/Minnow Tag	1.25	1.25
(f) Miscellaneous-Other Licenses		
Duplicate License	$ 5.50	$ 5.50
Shooting Preserve License	11.00	11.00
Captive Wolf License	22.00	N/A

(g) Miscellaneous-Other Tags		
Duplicate Tag	$ 5.50	$ 5.50
Wild Bird Shooting Preserve Tag	5.50	5.50
(h) Miscellaneous-Other Permits-Points		
Falconry In-State Transfer Permit	$ 5.50	$ N/A
Falconry Meet Permit	N/A	21.75
Private Park Permit	21.75	21.75
Wildlife Import Permit	21.75	21.75
Wildlife Export Permit	11.00	11.00
Wildlife Release Permit	11.00	11.00
Captive Wildlife Permit	21.75	21.75
Fishing Tournament Permit	21.75	21.75
Dog Field Trial Permit	33.00	33.00
Live Fish Transport Permit	21.75	21.75
Controlled Hunt Application Fee	4.50	4.50
Nursing Home Fishing Permit	33.00	N/A

Approved March 14, 2007.

CHAPTER 74
(S.B. No. 1167)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE BOARD OF TAX APPEALS FOR FISCAL YEAR 2007; AUTHORIZING ADDITIONAL FULL-TIME EQUIVALENT 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 402, Laws of 2006, there is hereby appropriated to the Board of Tax Appeals in the Department of Revenue and Taxation the following amounts, to be expended according to the designated expense classes from the listed fund for the period July 1, 2006, through June 30, 2007:

FOR:	
Personnel Costs	$ 25,800
Operating Expenditures	120,500
Capital Outlay	2,700
TOTAL	$149,000
FROM:	
General Fund	$149,000

SECTION 2. In addition to the authorization made in Section 2, Chapter 402, Laws of 2006, the Board of Tax Appeals is hereby authorized twenty-five one-hundredths (.25) full-time equivalent positions for the period July 1, 2006, through June 30, 2007.

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 14, 2007.

CHAPTER 75
(S.B. No. 1168)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF AGRICULTURE FOR FISCAL YEAR 2007; 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 343, Laws of 2006, there is hereby appropriated to the Department of Agriculture the following amount, to be expended for the designated program according to the designated expense classes from the listed fund for the period July 1, 2006, through June 30, 2007:

PLANT INDUSTRIES:

FOR:	
Personnel Costs	$170,000
Operating Expenditures	30,000
TOTAL	$200,000
FROM:	
Quality Assurance Laboratory Services Fund	$200,000

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 March 14, 2007.

CHAPTER 76
(S.B. No. 1176)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR PSYCHIATRIC HOSPITALIZATION IN THE STATE HOSPITAL SOUTH PROGRAM FOR FISCAL YEAR 2007; 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 4, Chapter 372, Laws of 2006, 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 classes from the listed fund for the period July 1, 2006, through June 30, 2007:

FOR:	
Personnel Costs	$ 480,000
Operating Expenditures	520,000
TOTAL	$1,000,000
FROM:	
Cooperative Welfare Fund (Dedicated)	$1,000,000

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 March 14, 2007.

CHAPTER 77
(S.B. No. 1177)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR PUBLIC HEALTH SERVICES IN THE PHYSICAL HEALTH SERVICES PROGRAM FOR FISCAL YEAR 2007; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR PUBLIC HEALTH SERVICES IN THE EMERGENCY MEDICAL SERVICES PROGRAM FOR FISCAL YEAR 2007; 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 2006, there is hereby appropriated to the Department of Health and Welfare for public health services in the Physical Health Services Program the following amount, to be expended according to the designated expense class from the listed fund for the period July 1, 2006, through June 30, 2007:

FOR:	
Operating Expenditures	$750,000
FROM:	
Cooperative Welfare Fund (General)	$750,000

SECTION 2. In addition to the appropriation made in Section 3, Chapter 373, Laws of 2006, there is hereby appropriated to the Department of Health and Welfare for public health services in the Emergency Medical Services Program the following amount, to be expended according to the designated expense class from the listed fund for the period July 1, 2006, through June 30, 2007:

FOR:	
Operating Expenditures	$100,000
FROM:	
Emergency Medical Services Fund	$100,000

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 March 14, 2007.

CHAPTER 78
(S.B. No. 1002)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 33-1228, IDAHO CODE, TO PROVIDE THAT CERTAIN CONTRIBUTIONS SHALL BE HELD IN TRUST, TO PROVIDE THAT THE RETIREMENT BOARD SHALL SERVE AS TRUSTEE OF THE TRUST, TO SET FORTH LIMITATIONS APPLICABLE TO TRUST ASSETS AND TO PROVIDE THAT TRUST ASSETS MAY BE COMMINGLED FOR INVESTMENT PURPOSES WITH OTHER ASSETS MANAGED BY THE RETIREMENT BOARD; AMENDING SECTION 67-5333, IDAHO CODE, TO PROVIDE THAT CERTAIN CONTRIBUTIONS SHALL BE HELD IN TRUST, TO PROVIDE THAT THE RETIREMENT BOARD SHALL SERVE AS TRUSTEE OF THE TRUST, TO SET FORTH LIMITATIONS APPLICABLE TO TRUST ASSETS AND TO PROVIDE THAT TRUST ASSETS MAY BE COMMINGLED FOR INVESTMENT PURPOSES WITH OTHER ASSETS MANAGED BY THE RETIREMENT BOARD.

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 retirement, 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 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, 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 available 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 surviving spouse to continue coverage.

(3) Each employer shall contribute to a sick leave account maintained by the public employee retirement system in trust exclusively for the purpose of the provisions of this section. The retirement board shall serve as trustee of the trust and shall be indemnified to the same extent as provided in section 59-1305, Idaho Code. Assets in the trust shall not be assignable or subject to execution, garnishment or attachment or to the operation of any bankruptcy or insolvency law. 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 administrative expenses. Assets of the trust may be commingled for investment purposes with other assets managed by the retirement board. 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 67-5333, Idaho Code, be, and the same is hereby amended to read as follows:

67-5333. SICK LEAVE. (1) Sick leave shall be computed as follows:

(a) The rate per hour at which sick leave shall accrue to classified officers and employees earning credited state service shall be at the rate represented by the proportion 96/2080. Sick leave shall accrue without limit, and shall be transferable from department to department.

(b) Sick leave shall not accrue to any officer or employee on any kind of leave of absence without pay, suspension without pay or layoff. Sick leave shall accrue while an officer or employee is on approved leave with pay, on approved vacation leave, on approved military leave with pay, and on approved sick leave, but not when compensatory time or earned administrative leave is taken.

(c) All accrued sick leave shall be forfeited at the time of separation from state service and no officer or employee shall be reimbursed for accrued sick leave at the time of separation, except as provided in subsection (2) of this section. If such officer or employee returns to credited state service within three (3) years of

such separation, all sick leave credits accrued at the time of separation shall be reinstated, except to the extent that unused sick leave was utilized for the purposes specified in subsection (2) of this section.

(d) Sick leave shall be taken on a workday basis. Regularly scheduled days off and officially designated holidays falling within a period of sick leave shall not be counted against sick leave. Sick leave shall not be taken in advance of being earned.

(e) In cases where absences for sick leave exceed three (3) consecutive working days, the appointing authority may require verification by a physician or other authorized practitioner.

(f) If an absence for illness or injury extends beyond the sick leave accrued to the credit of the officer or employee, the officer or employee may be granted leave without pay.

(g) The administrator shall prescribe additional requirements for sick leave for classified officers and employees on a part-time or irregular schedule, for maintaining sick leave records, for funeral leave, and such other applicable purposes as necessary.

(2) Unused sick leave may be used as follows:

(a) 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 paragraph (b) of this subsection (2), 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 paragraph (c) of this subsection (2) 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, 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.

(b) For the purposes of determining the monetary value of unused sick leave, the maximum unused sick leave which may be considered, shall be:

(i) 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;

(ii) 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;

(iii) 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 (iv) Thereafter, the maximum unused sick leave which may be considered shall be six hundred (600) hours.

(c) Each employer in state government shall contribute to a sick leave account maintained by the public employee retirement system in trust exclusively for the purpose of the provisions of this section. The retirement board shall serve as trustee of the trust and shall be indemnified to the same extent as provided in section 59-1305, Idaho Code. Assets in the trust shall not be assignable or subject to execution, garnishment or attachment or to the operation of any bankruptcy or insolvency law. 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 administrative expenses. Assets of the trust may be commingled for investment purposes with other assets managed by the retirement board. 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 14, 2007.

CHAPTER 79
(S.B. No. 1067)

AN ACT

RELATING TO SCHOOLS; AMENDING SECTION 33-310, IDAHO CODE, TO REVISE SCHOOL DISTRICT CONSOLIDATION PLAN REQUIREMENTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-310B, IDAHO CODE, TO PROVIDE FOR PAYMENT OF COST FOR FEASIBILITY STUDIES AND PLANS PER EACH SCHOOL DISTRICT THAT PROPOSES TO CONSOLIDATE; AMENDING CHAPTER 5, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-521, IDAHO CODE, TO PROVIDE THAT THE BOARD OF TRUSTEES OF SCHOOL DISTRICTS NEWLY FORMED THROUGH CONSOLIDATION MAY MAKE SEVERANCE OFFERS TO EMPLOYEES AND TO PROVIDE LIMITS TO SUCH SEVERANCE OFFERS; AMENDING SECTION 33-906, IDAHO CODE, TO PROVIDE FOR AN ADJUSTMENT IN THE BOND LEVY EQUALIZATION SUPPORT PROGRAM FOR BONDS PASSED FOLLOWING CONSOLIDATION AND TO PROVIDE FOR REPAYMENT IN THE EVENT OF DECONSOLIDATION; AMENDING SECTION 33-1002, IDAHO CODE, TO PROVIDE AN ADJUSTMENT TO THE EDUCATIONAL SUPPORT PROGRAM FOR EMPLOYEE SEVERANCE PAYMENTS; AMENDING SECTION 33-1003, IDAHO CODE, TO PROVIDE AN ADJUSTMENT TO THE SUPPORT UNITS FOR NEW DISTRICTS FORMED BY THE CONSOLIDATION OF FORMER DISTRICTS AFTER JANUARY 1, 2007; AMENDING SECTION 33-906B, IDAHO CODE, TO PROVIDE A VALUE INDEX FACTOR FOR SUBDISTRICTS; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 33-310, Idaho Code, be, and the same is hereby amended to read as follows:

33-310. CONSOLIDATION OF SCHOOL DISTRICTS. The boards of trustees of two (2) or more contiguous school districts may submit to the state board of education a plan for the consolidation of their districts into a single new district.

The plan shall contain as a minimum the following, and in addition any other information required by the state board of education:

(1~~.~~) A map or maps showing the boundaries of the proposed new district, the boundaries of the component consolidating districts, the location of existing schoolhouses or other facilities of the component districts, the proposed trustee zones, and the proposed transportation routes if any;

(2~~.~~) A legal description of the boundaries of the proposed new school district and of the trustee zones proposed, with estimates of the population in each such zone;

(3~~.~~) The assessed value of taxable property of each component consolidating district and of the entire proposed new district;

(4~~.~~) Outstanding general obligation bonds of any component consolidating district, sinking funds accumulated, and estimated proceeds of sinking fund levies in process of collection;

(5~~.~~) Whether any component district has established a plant facilities reserve fund, and if so the amount on hand in such fund, the obligations against the fund, and the levy being made for such fund together with estimate of the proceeds of such levy in process of collection;

(6~~.~~) ~~Whether--any--outstanding--and--unpaid--bonds--of-any-district included-in-the-proposal-are-to-be-and-become--the--obligations--of--the proposed--consolidated--district,-or-shall-remain-the-obligations-of-the area-of-the-district-which-first-incurred-the-same.-If--such--bonds--are proposed--to--become--the--obligations-of-the-proposed-consolidated-district,-the-plan-shall-show-each-participating-district's-portion-thereof which-shall-be-that-portion-of-the-aggregate-debt-as-the-assessed--value of--taxable--property--in--each-district-bears-to-the-aggregate-assessed value-of-taxable-property-in-the-area-of-the-proposed-consolidated--district~~ The amount of any outstanding and unpaid bonds that will become the obligation of the subdistricts, pursuant to section 33-311, Idaho Code, after the application of any plant facility reserve funds, pursuant to section 33-901, Idaho Code. The plan shall also show for each subdistrict the estimated amount of state subsidies to be received, the estimated bond levy rate and the year in which the last levy will be made;

(7~~.~~) If a joint district, the designation of the home county;

(8~~.~~) The official name and number of the proposed new district; and

(9~~.~~) How the property, real and personal, of former districts shall vest in the new district.

Before submitting any proposal for consolidating school districts to the state board of education, the board of trustees of each proposing district shall first call and cause to be held, within said district, a hearing on the proposal. Notice of the time and place of such hearing shall be given, by each such district, by two (2) publications in a newspaper of general circulation in the district, the first and last

publications being not less than six (6) days apart.

At such hearings, any school district elector or taxpayer of the district may appear and be heard, and may request any information from the board of trustees, concerning the proposed consolidation. Records of the hearings shall be entered in the minutes of each board of trustees and shall be included with the plan of proposed consolidation if and when it is submitted to the state board of education.

Following any hearing, it shall be within the discretion of the board of trustees of any proposing district whether it shall further proceed in the plan for consolidating the districts.

SECTION 2. That Section 33-310B, Idaho Code, be, and the same is hereby amended to read as follows:

33-310B. FEASIBILITY STUDY AND PLAN FOR CONSOLIDATION. All school districts operating one (1) or more high schools may conduct a feasibility study and prepare a plan for school consolidation, which may also include school district consolidation. The cost of such feasibility studies and plans shall be reimbursed at an amount not to exceed ten thousand dollars ($10,000) per ~~study~~ each school district that proposes to consolidate, in accordance with rules promulgated by the state board of education. The state board of education shall review and act upon all plans for school consolidation.

SECTION 3. That Chapter 5, 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 33-521, Idaho Code, and to read as follows:

33-521. EMPLOYEE SEVERANCE IN CONSOLIDATED DISTRICT. The board of trustees of any school district newly formed within the last twelve (12) months through the consolidation of two (2) or more school districts may offer a one (1) time severance payment to a maximum of ten percent (10%) of the employees that were previously employed by the separate school districts. Such severance offers shall be made entirely at the discretion of the board of trustees, and shall not be bound by custom, seniority or contractual commitment. Employees are under no obligation to accept a severance offer. Any employee accepting a severance payment shall not be eligible for reemployment by the school district for a one (1) year period thereafter.

The severance payment shall consist of fifty-five percent (55%) of the salary-based apportionment funds allocated for the employee in the last year, plus any applicable state paid employee benefits. Such severance shall be reduced by one-half (1/2) for any employee who is simultaneously receiving a disbursement of early retirement incentive funds, pursuant to section 33-1004G, Idaho Code. The state department of education shall reimburse eligible school districts for one hundred percent (100%) of such costs, upon application by the school district.

SECTION 4. That Section 33-906, Idaho Code, be, and the same is hereby amended to read as follows:

33-906. BOND LEVY EQUALIZATION SUPPORT PROGRAM. (1) Pursuant to section 33-906B, Idaho Code, school districts with a value index below one (1) shall be eligible to receive additional state financial assis-

tance for the cost of annual bond interest and redemption payments made on bonds passed on or after September 15, 2002. However, any school district with a value index of less than one and one-half (1.5), shall receive no less than ten percent (10%) of the interest cost portion of the annual bond interest and redemption payment for bonds passed on or after September 15, 2002. The state department of education shall disburse such funds to school districts from moneys appropriated from the bond levy equalization fund. The department shall disburse the funds by no later than September 1 of each year for school districts in which voters have approved the issuance of qualifying bonds by no later than January 1 of that calendar year, and which are certifying a qualifying bond interest and redemption payment for the fiscal year in which the disbursement is made. For districts with a value index below one (1), the percentage of each annual bond interest and redemption payment that is paid by the state shall be determined by dividing the difference between one (1) and the school district's value index by one (1).

(2) For the purposes of this section, the annual bond interest and redemption payment shall be determined by dividing the total payment amounts by the number of fiscal years in which payments are to be made. The interest cost portion of the annual bond interest and redemption payment shall be determined by dividing the total interest paid by the number of fiscal years in which payments are to be made. For school districts not qualifying for a state payment in the first year of the bond interest and redemption payment schedule, due solely to the January 1 eligibility deadline, the state department of education shall distribute an additional payment in the next fiscal year, in the amount of such funds that the school district would have otherwise qualified for in the current fiscal year.

(3) The provisions of this section may not be utilized to refinance existing debt or subsidize projects previously subsidized by state grants; provided however, that any school district that has issued qualifying bonds prior to June 30, 2004, in conformance with this section shall not be deemed to be refinancing existing debt when the qualifying bonds are utilized to finance the acquisition of public school facilities previously leased or financed through means other than the issuance of general obligation bonds approved by a two-thirds (2/3) vote at an election called for that purpose subject to subsection (5) of this section.

(4) School districts shall annually report the status of all qualifying bonds to the state department of education by January 1 of each year, including bonds approved by the voters, but not yet issued. Information submitted shall include the following:

(a) The actual or estimated bond interest and redemption payment schedule;

(b) Any qualifying bond that has been paid off;

(c) Other information as may be required by the state department of education.

(5) No school district eligible for participation in the bond levy equalization support program shall be deemed ineligible for participation due to that school district's eligibility and prior participation in the safe school facilities loan and grant program or the Idaho safe schools facilities program under section 33-804A, 33-1017 or 33-1613, Idaho Code, provided that:

(a) Such school district notifies the state department of education

of its desire and eligibility to participate in the bond levy equalization support program; and

(b) Such school district shall receive no state financial assistance under the bond levy equalization support program until the amount to which it would otherwise have been entitled to receive shall equal the amounts received by the school district under the safe school facilities loan and grant program or the Idaho safe schools facilities program under section 33-804A, 33-1017 or 33-1613, Idaho Code.

(6) Any school district formed as a result of the consolidation of two (2) or more school districts that passes an eligible bond within three (3) years of the successful consolidation election shall participate in the bond levy equalization support program at the district's actual value index minus twenty-five hundredths (.25). This adjustment shall apply for the duration of the bond interest and redemption payment schedule. If a school district advantaged by this subsection (6) deconsolidates either during the applicable bond interest and redemption payment schedule, or within a three (3) year period thereafter, each deconsolidated district shall, upon deconsolidation, repay to the bond levy equalization fund all additional subsidies received pursuant to this subsection (6). The proportions owed by each deconsolidated district shall be determined by the proportion that each district's market value for assessment purposes bears to the whole.

SECTION 5. That Section 33-1002, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

to secure the total educational support distribution funds.

(3) Average Daily Attendance. The total state average daily attendance shall be the sum of the average daily attendance of all of the school districts of the state. The state board of education shall establish rules setting forth the procedure to determine average daily attendance and the time for, and method of, submission of such report. Average daily attendance calculation shall be carried out to the nearest hundredth. Computation of average daily attendance shall also be governed by the provisions of section 33-1003A, Idaho Code.

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

COMPUTATION OF KINDERGARTEN SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Units Allowed
41 or more	40.....	1 or more as computed
31 - 40.99 ADA....	-.....	1
26 - 30.99 ADA....	-.....	.85
21 - 25.99 ADA....	-.....	.75
16 - 20.99 ADA....	-.....	.6
8 - 15.99 ADA....	-.....	.5
1 - 7.99 ADA....	-.....	count as elementary

COMPUTATION OF ELEMENTARY SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
300 or more ADA.....		15
	..23...grades 4,5 & 6....	
	..22...grades 1,2 & 3....1994-95	
	..21...grades 1,2 & 3....1995-96	
	..20...grades 1,2 & 3....1996-97 and each year thereafter.	
160 to 299.99 ADA...	20.....	8.4
110 to 159.99 ADA...	19.....	6.8
71.1 to 109.99 ADA...	16.....	4.7
51.7 to 71.0 ADA...	15.....	4.0
33.6 to 51.6 ADA...	13.....	2.8
16.6 to 33.5 ADA...	12.....	1.4
1.0 to 16.5 ADA...	n/a.....	1.0

COMPUTATION OF SECONDARY SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
750 or more	18.5.....	47
400 - 749.99 ADA....	16.....	28
300 - 399.99 ADA....	14.5.....	22
200 - 299.99 ADA....	13.5.....	17
100 - 199.99 ADA....	12.....	9
99.99 or fewer	Units allowed as follows:	
Grades 7-12	.....	8
Grades 9-12	.....	6
Grades 7- 9	.....	1 per 14 ADA
Grades 7- 8	.....	1 per 16 ADA

COMPUTATION OF EXCEPTIONAL EDUCATION SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
14 or more	14.5.....	1 or more as computed
12 - 13.99....	-.....	1
8 - 11.99....	-.....	.75
4 - 7.99....	-.....	.5
1 - 3.99....	-.....	.25

COMPUTATION OF ALTERNATIVE SCHOOL SECONDARY SUPPORT UNITS

Pupils in Attendance	Attendance Divisor	Minimum Units Allowed
12 or more.....	12.....	1 or more as computed

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

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

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

(a) (i) Divide the actual average daily attendance, excluding students approved for inclusion in the exceptional child educational program, for the administrative schools and each of the separate schools and attendance units by the appropriate divisor from the tables of support units in this section, then add the quotients to obtain the district's support units allowance for regular students, kindergarten through grade 12 including

alternative school secondary students. Calculations in application of this subsection shall be carried out to the nearest tenth.

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

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

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

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

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

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

SECTION 6. That Section 33-1003, Idaho Code, be, and the same is hereby amended to read as follows:

33-1003. SPECIAL APPLICATIONS OF EDUCATIONAL SUPPORT PROGRAM. (1) Decrease in Average Daily Attendance. -- Any school district which has a decrease in total average daily attendance of one percent (1%) of its average daily attendance in the then current school year from the total average daily attendance used for determining the allowance in the educational support program for the school year immediately preceding, the

allowance of funds from the educational support program may be based on the average daily attendance of the school year immediately preceding, less one percent (1%). When this provision is applied, the decrease in average daily attendance shall be proportionately distributed among the various categories of support units that are appropriate for the district.

(2) Application of Support Program to Separate Schools/Attendance Units in District.

(a) Separate Elementary School. — Any separate elementary school shall be allowed to participate in the educational support program as though the school were the only elementary school operated by the district.

(b) Hardship Elementary School. — Upon application of the board of trustees of a school district, the state board of education is empowered to determine that a given elementary school or elementary schools within the school district, not otherwise qualifying, are entitled to be counted as a separate elementary school as defined in section 33-1001, Idaho Code, when, in the discretion of the state board of education, special conditions exist warranting the retention of the school as a separate attendance unit and the retention results in a substantial increase in cost per pupil in average daily attendance above the average cost per pupil in average daily attendance of the remainder of the district's elementary grade school pupils. An elementary school operating as a previously approved hardship elementary school shall continue to be considered as a separate attendance unit, unless the hardship status of the elementary school is rescinded by the state board of education.

(c) Separate Secondary School. — Any separate secondary school shall be allowed to participate in the educational support program as though the school were the only secondary school operated by the district.

(d) Elementary/Secondary School Attendance Units. — Elementary grades in an elementary/secondary school will be funded as a separate attendance unit if all elementary grades served are situated more than ten (10) miles distance from both the nearest like elementary grades within the same school district and from the location of the office of the superintendent of schools of such district, or from the office of the chief administrative officer of such district if the district employs no superintendent of schools. Secondary grades in an elementary/secondary school will be funded as a separate attendance unit if all secondary grades served are located more than fifteen (15) miles by an all-weather road from the nearest like secondary grades operated by the district.

(e) Hardship Secondary School. — Any district which operated two (2) secondary schools separated by less than fifteen (15) miles, but which district was created through consolidation subsequent to legislative action pursuant to chapter 111, laws of 1947, and which school buildings were constructed prior to 1935, shall be entitled to count the schools as separate attendance units.

(f) Minimum Pupils Required. -- Any elementary school having less than ten (10) pupils in average daily attendance shall not be allowed to participate in the state or county support program unless the school has been approved for operation by the state board of education.

(3) Remote Schools. -- The board of trustees of any Idaho school district which operates and maintains a school which is remote and isolated from the other schools of the state because of geographical or topographical conditions may petition the state board of education to recognize and approve the school as a remote and necessary school. The petition shall be in form and content approved by the state board of education and shall provide such information as the state board of education may require. Petitions for the recognition of a school as a remote and necessary school shall be filed annually at least ninety (90) days prior to the date of the annual meeting of the board of trustees as established in section 33-510, Idaho Code.

Within forty-five (45) days after the receipt of a petition for the recognition of a remote and necessary school, the state board of education shall either approve or disapprove the petition and notify the board of trustees of its decision. Schools which the state board of education approves as being necessary and remote shall be allowed adequate funding within the support program for an acceptable educational program for the students of the school. In the case of a remote and necessary secondary school, grades 7-12, the educational program shall be deemed acceptable when, in the opinion of the state board of education, the accreditation standard relating to staff size, established in accordance with section 33-119, Idaho Code, has been met. The final determination of an acceptable program and adequate funding in the case of a remote and necessary elementary school shall be made by the state board of education.

(4) Support Program When District Boundaries are Changed.

(a) In new districts formed by the division of a district, the support program computed for the district divided in its last year of operation, shall be apportioned to the new districts created by the division, in the proportion that the average daily attendance of pupils, elementary and secondary combined, residing in the area of each new district so created, is to the average daily attendance of all pupils, elementary and secondary combined, in the district divided in its last year of operation before the division.

(b) When boundaries of districts are changed by excision or annexation of territory, the support program of any district from which territory is excised for the last year of operation before such excision shall be divided, and apportioned among the districts involved, as prescribed in subsection (4)(a) of this section.

(c) In new districts formed by consolidation of former districts <u>after January 1, 2007,</u> the support program allowance for a seven (7) year period following the formation of the new district, shall not be less than the combined support program allowances of the component districts in the last year of operation before consolidation. <u>After the expiration of this period, the state department of education shall annually calculate the number of support units that would have been generated had the previous school districts not consolidated. All applicable state funding to the consolidated district shall then be provided based on a support unit number that is halfway between this figure and the actual support units, provided that it cannot be less than the actual support units.</u>

SECTION 7. That Section 33-906B, Idaho Code, be, and the same is hereby amended to read as follows:

33-906B. VALUE INDEX CALCULATION. The state department of education shall establish a value index for each school district, based on each school district's market value per support unit for equalization purposes, the average annual seasonally-adjusted unemployment rate in the county in which a plurality of the school district's market value for assessment purposes of taxable property is located and the per capita income in the county in which a plurality of the school district's market value for assessment purposes is located. The value index for each school district shall be calculated as the sum of the following three (3) components:

(1) The state department of education shall annually calculate the market value per support unit that is used to equalize school funding for each school district in the state, and the statewide average. The first portion of the value index shall be calculated by dividing the school district's market value for equalization purposes per support unit by the statewide average market value for equalization per support unit and dividing the result of this calculation by two (2).

(2) The second portion of the value index shall be calculated by dividing the statewide unemployment rate by the unemployment rate in the county in which a plurality of the school district's market value for assessment purposes of taxable property is located, and dividing the result of this calculation by four (4). For the purposes of this subsection, the statewide unemployment rate and county unemployment rates shall be based on the most recent average annual seasonally-adjusted unemployment rate data reported by the United States department of labor, for which there is a complete calendar year of data.

(3) The third portion of the value index shall be calculated by dividing the county per capita income in the county in which a plurality of the school district's market value for assessment purposes of taxable property is located by the statewide per capita income, and dividing the result of this calculation by four (4). For the purposes of this subsection, the statewide per capita income and county per capita income shall be based on the most recent data reported by the United States department of commerce, for which there is a complete calendar year of data.

If a bond is passed by a subdistrict created pursuant to section 33-351, Idaho Code, the index used shall be that of the school district. For subdistricts created as a result of consolidation, for the purposes of retiring prior bonded indebtedness, pursuant to section 33-311, Idaho Code, the subdistrict shall retain the value index factor calculated in subsection (1) of this section, as such factor was calculated in the subdistrict's last fiscal year as a separate school district. The remaining components of the subdistrict's value index calculation shall be that of the consolidated school district, as calculated each year.

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, 2007.

Approved March 14, 2007.

CHAPTER 80
(H.B. No. 126)

AN ACT
RELATING TO SUBPOENAS; REPEALING SECTION 9-704, IDAHO CODE, RELATING TO SERVICE OF SUBPOENAS ON CONCEALED WITNESSES.

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

SECTION 1. That Section 9-704, Idaho Code, be, and the same is hereby repealed.

Approved March 15, 2007.

CHAPTER 81
(H.B. No. 193)

AN ACT
RELATING TO JUDGES; AMENDING SECTION 59-502, IDAHO CODE, TO INCREASE THE SALARIES OF SUPREME COURT JUSTICES AND DISTRICT COURT JUDGES.

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

SECTION 1. That Section 59-502, Idaho Code, be, and the same is hereby amended to read as follows:

59-502. SALARIES OF JUDGES. (1) Commencing on July 1, 2006, the salary of the justices of the supreme court shall be one hundred ten thousand five hundred dollars ($110,500) per annum, and the salary of the judges of the district courts shall be one hundred three thousand six hundred dollars ($103,600) per annum. Commencing on July 1, 2007, the annual salaries of the justices of the supreme court and the annual salaries of the judges of the district courts shall be increased by five percent (5%).

(2) Salaries of magistrates shall be as prescribed by chapter 22, title 1, Idaho Code.

(3) Salaries shall be paid on regular pay periods not less frequently than monthly as determined by order of the supreme court as due out of the state treasury, but no justice of the supreme court or judge of the district court or magistrate shall be paid his salary, or any part thereof, unless he shall first take and subscribe an oath that there is not in his hands any matter in controversy not decided by him, which has been finally submitted for his consideration and determination thirty (30) days prior to his taking and subscribing said oath.

Approved March 15, 2007.

CHAPTER 82
(H.B. No. 236)

AN ACT

APPROPRIATING MONEYS TO THE PUBLIC UTILITIES COMMISSION FOR FISCAL YEAR 2008; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; DIRECTING THE DISTRIBUTION OF THE FUNDING FOR EMPLOYEE COMPENSATION; 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 Public Utilities Commission the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2007, through June 30, 2008:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Public Utilities Commission Fund	$3,435,200	$1,392,400	$30,100	$4,857,700
Federal Grant Fund	49,900	21,300		71,200
TOTAL	$3,485,100	$1,413,700	$30,100	$4,928,900

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Public Utilities Commission is authorized no more than forty-nine (49) full-time equivalent positions at any point during the period July 1, 2007, through June 30, 2008, 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. Agencies and institutions shall distribute the funding for employee compensation based on merit as follows:

(a) Agencies and institutions are directed to, based on merit, target funding first toward high turnover classifications and individuals below midpoint within their agency.

(b) Agencies and institutions are directed to, based on merit, target funding second toward positions within their agency that are below ninety percent (90%) of the Compa-Ratio.

(c) Agencies and institutions are directed to target any remaining funding based on merit using the merit matrix required by Idaho Code.

Agencies and institutions shall create compensation and distribution plans to ensure that they are consistent with the policies contained herein. Agency directors and institutional presidents shall approve all compensation and distribution plans and ensure that implementation of the plans is consistent with policies contained herein. Each agency and institution shall forward, for informational purposes, approved copies of the compensation and distribution plans to the Legislative Services Office and the Division of Financial Management by June 1, 2007. The effective date of implementation of ongoing salary adjustments shall be June 17, 2007.

SECTION 4. The Public Utilities Commission 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 15, 2007.

CHAPTER 83
(S.B. No. 1148)

AN ACT

RELATING TO THE ENVIRONMENT; AMENDING SECTION 39-104, IDAHO CODE, TO REVISE NONCLASSIFIED EMPLOYMENT PROVISIONS REGARDING THE DEPARTMENT OF ENVIRONMENTAL QUALITY; AMENDING SECTION 39-105, IDAHO CODE, TO PROVIDE ADDITIONAL POWERS AND DUTIES OF THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY; AMENDING SECTION 39-107D, IDAHO CODE, TO DELETE A CODE REFERENCE AND TO MAKE A GRAMMATICAL CORRECTION; REPEALING SECTIONS 39-3001 THROUGH 39-3019, IDAHO CODE, RELATING TO RADIATION AND NUCLEAR MATERIAL; AMENDING SECTION 39-3026, IDAHO CODE, TO DELETE REFERENCE TO THE DESIGNATED STATE RADIATION CONTROL AGENCY; AMENDING SECTION 39-3028, IDAHO CODE, TO AUTHORIZE THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO COOPERATE WITH THE FEDERAL GOVERNMENT RELATING TO THE STABILIZATION, DISPOSAL AND CONTROL OF URANIUM MILL TAILINGS, TO AUTHORIZE THE DEPARTMENT TO PARTICIPATE IN FEDERAL IMPLEMENTATION OF A FEDERAL ACT RELATING TO MILL TAILINGS AND TO MAKE A TECHNICAL CORRECTION; REPEALING CHAPTER 62, TITLE 39, IDAHO CODE, RELATING TO PCB WASTE DISPOSAL; AMENDING SECTION 39-7403, IDAHO CODE, TO REVISE A DEFINITION; AMENDING SECTION 42-3902, IDAHO CODE, TO REVISE A DEFINITION; AMENDING SECTION 63-3029D, IDAHO CODE, TO DELETE A CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 67-806, IDAHO CODE, RELATING TO COORDINATION OF PROGRAMS REGARDING THE IDAHO NATIONAL ENGINEERING LABORATORY; AND AMENDING SECTION 67-806A, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE CORRECT TERMINOLOGY.

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

SECTION 1. That Section 39-104, Idaho Code, be, and the same is hereby amended to read as follows:

39-104. DEPARTMENT OF ENVIRONMENTAL QUALITY -- CREATION. (1) There is created and established in the state government a department of environmental quality which 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. The executive and administrative power of this department shall be vested in the director of the department who shall be appointed and serve at the pleasure of the governor, with the advice and consent of the senate.

(2) The department shall be organized in such administrative divi-

sions or regions as may be necessary in order to efficiently administer the department. Each division shall be headed by an administrator who shall be appointed by and serve at the pleasure of the director.

(3) The ~~INEEL~~ INL coordinator~~-manager~~, deputy director, regional administrators and division administrators shall be nonclassified employees exempt from the provisions of chapter 53, title 67, Idaho Code.

(4) No provision of this title shall be interpreted as to supersede, abrogate, injure or create rights to divert or store water and apply water to beneficial uses established under section 3, article XV of the constitution of the state of Idaho and title 42, Idaho Code. Nothing in this title shall be construed to allow the department to establish a water right for minimum stream flows or a water right for minimum water levels in any lakes, reservoirs or impoundments. Minimum stream flows and minimum water levels may only be established pursuant to chapter 15, title 42, Idaho Code.

(5) Nothing in this title shall be construed to allow the department to establish or require minimum stream flows which would prevent any water from being diverted for irrigation purposes pursuant to existing water rights, or to establish or require minimum water levels in any lakes, reservoirs or impoundments in which any water is stored for irrigation purposes which would adversely affect existing water rights or contracts with the federal government.

SECTION 2. That Section 39-105, Idaho Code, be, and the same is hereby amended to read as follows:

39-105. POWERS AND DUTIES OF THE DIRECTOR. The director shall have the following powers and duties:

(1) All of the rights, powers and duties regarding environmental protection functions vested in the department of health and welfare, and its director, administered by the division of environmental quality, including, but not limited to, those provided by chapters 1, 4, 30, 36, 44, 58, 62, 64, 65, 66, 70, 71, 72 and 74, title 39, Idaho Code. The director shall have all such powers and duties as described in this section as may have been or could have been exercised by his predecessors in law, and shall be the successor in law to all contractual obligations entered into by predecessors in law. All hearings of the director shall be governed by the provisions of chapter 52, title 67, Idaho Code.

(2) The director shall, pursuant and subject to the provisions of the Idaho Code, and the provisions of this act, formulate and recommend to the board, rules as may be necessary to deal with problems related to water pollution, air pollution, solid waste disposal, and licensure and certification requirements pertinent thereto, which shall, upon adoption by the board, have the force of the law relating to any purpose which may be necessary and feasible for enforcing the provisions of this act, including, but not limited to, the prevention, control or abatement of environmental pollution or degradation including radionuclides and risks to public health related to any of the powers and duties described in this section. Any such rule may be of general application throughout the state or may be limited as to times, places, circumstances or conditions in order to make due allowance for variations therein.

(3) The director, under the rules adopted by the board, shall have the general supervision of the promotion and protection of the environment of this state. The powers and duties of the director shall include, but not be limited to, the following:

(a) The issuance of licenses and permits as prescribed by law and by the rules of the board promulgated hereunder. For each air quality operating permit issued under title V of the federal clean air act and its implementing regulations, the director shall, consistent with the federal clean air act and its implementing regulations, expressly include a provision stating that compliance with the conditions of the permit shall be deemed compliance with the applicable requirements of the federal clean air act and the title V implementing regulations. The director may develop and issue general permits covering numerous similar sources, as authorized by 40 CFR 70.6(d) as may be amended, and as appropriate.

(b) The enforcement of rules relating to public water supplies and to administer the drinking water loan fund pursuant to chapter 76, title 39, Idaho Code, including making loans to eligible public drinking water systems as defined in the federal safe drinking water act as amended, and to comply with all requirements of the act, 42 U.S.C. 300f, et seq. and regulations promulgated pursuant to the act. This includes, but is not limited to, the development of and implementation of a capacity development strategy to ensure public drinking water systems have the technical, managerial and financial capability to comply with the national primary drinking water regulations; and the enhancement of protection of source waters for public drinking water systems.

(c) The establishment of liaison with other governmental departments, agencies and boards in order to effectively assist other governmental entities with the planning for the control of or abatement of environmental pollution. All of the rules adopted by the board hereunder shall apply to state institutions.

(d) The supervision and administration of a system to safeguard air quality and for limiting and controlling the emission of air contaminants.

(e) The supervision and administration of a system to safeguard the quality of the waters of this state including, but not limited to, the enforcement of rules relating to the discharge of effluent into the waters of this state and the storage, handling and transportation of solids, liquids, and gases which may cause or contribute to water pollution. For purposes of complying with the clean water act, the director may provide an exemption from additional reductions for those nonpoint sources that meet the applicable reductions set forth in an approved TMDL as defined in chapter 36, title 39, Idaho Code.

(f) The supervision and administration of administrative units whose responsibility shall be to assist and encourage counties, cities, other governmental units, and industries in the control of and/or abatement of environmental pollution.

(g) The administration of solid waste disposal site and design review in accordance with the provisions of chapter 74, title 39, Idaho Code, and chapter 4, title 39, Idaho Code, and in particular as follows:

(i) The issuance of a solid waste disposal site certificate in the manner provided in chapter 74, title 39, Idaho Code.

(ii) Provide review and approval regarding the design of solid waste disposal facilities and ground water monitoring systems and approval of all applications for flexible standards as provided in 40 CFR 258, in accordance with the provisions of chapter 74, title 39, Idaho Code.

(iii) Cooperating and coordinating with operational monitoring of solid waste disposal sites by district health departments pursuant to authority established in chapters 4 and 74, title 39, Idaho Code.

(iv) The authority granted to the director pursuant to provisions of this subsection shall be effective upon enactment of chapter 74, title 39, Idaho Code, by the legislature.

(v) The authority to develop and propose rules as necessary to supplement details of compliance with the solid waste facilities act and applicable federal regulations, provided that such regulations shall not conflict with the provisions of this act nor shall such regulations be more strict than the requirements established in federal law or in the solid waste facilities act.

(h) The establishment, administration and operation of:

(i) A network of environmental monitoring stations, independent of the United States department of energy, within and around the facilities of the Idaho national laboratory to provide authoritative auditing and analysis of emissions, discharges or releases of pollutants to the environment, including the air, water and soil from such facilities; and

(ii) Programs within the department to utilize the data obtained from such monitoring, and any other relevant data, in the enforcement of applicable agreements, statutes and rules pertaining to such facilities and programs to review, analyze and participate in remedial decisions and other proposed actions and projects to ensure the protection of public health and the environment.

The director shall also monitor the implementation of agreements between the United States and the state of Idaho related to the operation and environmental protection obligations of the Idaho national laboratory and provide periodic information to the governor, the attorney general, the legislature and the people of Idaho concerning compliance with such agreements and obligations. The director shall have the power to enter into agreements with the United States department of energy in order to carry out the duties and authorities provided in this subsection.

(i) The enforcement of all laws, rules, regulations, codes and standards relating to environmental protection and health.

(~~i~~j) The enhancement and protection of source waters of the state pursuant to rules of the board.

(4) The director, when so designated by the governor, shall have the power to apply for, receive on behalf of the state, and utilize any federal aid, grants, gifts, gratuities, or moneys made available through the federal government including, but not limited to, the federal water pollution control act, for use in or by the state of Idaho in relation to health and environmental protection.

(5) The director shall have the power to enter into and make contracts and agreements with any public agencies or municipal corporation

for facilities, land, and equipment when such use will have a beneficial or recreational effect or be in the best interest in carrying out the duties imposed upon the department.

The director shall also have the power to enter into contracts for the expenditure of state matching funds for local purposes. This subsection will constitute the authority for public agencies or municipal corporations to enter into such contracts and expend money for the purposes delineated in such contracts.

(6) The director is authorized to adopt an official seal to be used on appropriate occasions, in connection with the functions of the department or the board, and such seal shall be judicially noticed. Copies of any books, records, papers and other documents in the department shall be admitted in evidence equally with the originals thereof when authenticated under such seal.

SECTION 3. That Section 39-107D, Idaho Code, be, and the same is hereby amended to read as follows:

39-107D. RULES OF DEPARTMENT OR BOARD. (1) The legislature directs that any rule formulated and recommended by the department to the board which is broader in scope or more stringent than federal law or regulations, or proposes to regulate an activity not regulated by the federal government, is subject to the following additional requirements: the notice of proposed rulemaking and rulemaking record requirements under chapter 52, title 67, Idaho Code, must clearly specify that the proposed rule, or portions of the proposed rule, are broader in scope or more stringent than federal law or regulations, or regulate an activity not regulated by the federal government, and delineate which portions of the proposed rule are broader in scope or more stringent than federal law or regulations, or regulate an activity not regulated by the federal government.

(2) To the degree that a department action is based on science, in proposing any rule or portions of any rule subject to this section, the department shall utilize:

(a) The best available peer reviewed science and supporting studies conducted in accordance with sound and objective scientific practices; and

(b) Data collected by accepted methods or best available methods if the reliability of the method and the nature of the decision ~~justifies~~ justify use of the data.

(3) Any proposed rule subject to this section which proposes a standard necessary to protect human health and the environment shall also include in the rulemaking record requirements under chapter 52, title 67, Idaho Code, the following additional information:

(a) Identification of each population or receptor addressed by an estimate of public health effects or environmental effects; and

(b) Identification of the expected risk or central estimate of risk for the specific population or receptor; and

(c) Identification of each appropriate upper bound or lower bound estimate of risk; and

(d) Identification of each significant uncertainty identified in the process of the assessment of public health effects or environmental effects and any studies that would assist in resolving the uncertainty; and

(e) Identification of studies known to the department that support, are directly relevant to, or fail to support any estimate of public health effects or environmental effects and the methodology used to reconcile inconsistencies in the data.

(4) The department shall also include a summary of the information required by subsection (3) of this section in the notice of rulemaking required by chapter 52, title 67, Idaho Code.

(5) Any rule promulgated or adopted by the board which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, submitted to the standing committee of the legislature pursuant to section 67-5291, Idaho Code, shall include a notice by the board identifying the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government.

(6) Nothing provided herein is intended to alter the scope or effect of sections 39-105(3)(g)(v), 39-118B, 39-3601, 39-4404, ~~39-6205,~~ 39-7210 and 39-7404, Idaho Code, or any other provision of state law which limits or prohibits agency action or rulemaking that is broader in scope or more stringent than federal law or regulations.

SECTION 4. That Sections 39-3001 through 39-3019, Idaho Code, be, and the same are hereby repealed.

SECTION 5. That Section 39-3026, Idaho Code, be, and the same is hereby amended to read as follows:

39-3026. IMPLEMENTATION OF ARTICLE III. The state department of environmental quality~~, as the designated state radiation control agency,~~ shall adopt the practices and may impose the fees authorized under article III of the compact, except that the Idaho state police and the public utilities commission shall retain their existing enforcement and inspection authority relating to carriers. The board of environmental quality shall adopt such rules as may be necessary to enable the department of environmental quality to carry out the provisions of this section.

SECTION 6. That Section 39-3028, Idaho Code, be, and the same is hereby amended to read as follows:

39-3028. DISPOSAL OF URANIUM MILL TAILINGS. (1) Legislative declaration. The legislature hereby finds and declares that the existence of uranium mill tailings at active and inactive mill operations could pose a potential radiation health hazard. This section is enacted to protect the public health, safety, and welfare by authorizing the ~~state radiation control agency~~ department of environmental quality to cooperate with the federal government in providing for the stabilization, disposal, and control of such tailings in a safe and environmentally sound manner.

(2) Terms defined. For the purposes of this section, the terms "processing site" and "residual radioactive material" shall have the meanings specified in section 101(6) and (7), respectively, of public law 95-604, 42 U.S.C., section 7901, et seq., as from time to time amended.

(3) Authorization to participate. The ~~state--radiation--control agency~~ department of environmental quality is hereby authorized to participate in federal implementation of the "Uranium Mill Tailings Radiation Control Act of 1978" (P.L. 95-604), and for such purpose the agency may:

(a) Enter into cooperative agreements with the secretary of energy to perform remedial actions at processing sites designated by the secretary;

(b) Obtain written consent from the record owner of a designated processing site to perform remedial actions at such site;

(c) Provide for reimbursement for the actual cost of any remedial action in accordance with the terms of public law 95-604;

(d) Acquire and dispose of any designated processing site, including any interest in such site, and any site to be used for the permanent disposition and stabilization of residual radioactive materials~~.~~;

(e) Participate in the selection and performance of remedial actions.

(4) Financial participation.

(a) The legislature accepts in principle the provisions of section 107(a) of public law 95-604 which requires the state to pay ten percent (10%) of the actual cost of any remedial action and administrative costs from nonfederal moneys, reserving, however, the right and authority to limit through yearly appropriations the amount of state moneys committed to such costs.

(b) The state of Idaho may receive all or a share of the net profits derived from the recovery of minerals from residual radioactive materials at any designated processing site within the state in accordance with the provisions of section 108(b) of public law 95-604.

SECTION 7. That Chapter 62, Title 39, Idaho Code, be, and the same is hereby repealed.

SECTION 8. That Section 39-7403, Idaho Code, be, and the same is hereby amended to read as follows:

39-7403. DEFINITIONS. As used in this chapter:

(1) "Active portion" means that part of a facility or unit that has received or is receiving wastes and that has not been closed in accordance with 40 CFR 258.60.

(2) "Agricultural wastes" means wastes generated on farms resulting from the production of agricultural products including, but not limited to, manures and carcasses of dead animals weighing each or collectively in excess of fifteen (15) pounds but do not include wastes that are classified as hazardous.

(3) "Applicant" means the owner or the operator with the owner's written consent.

(4) "Aquifer" means a geological formation, group of formations, or a portion of a formation capable of yielding significant quantities of ground water to wells or springs.

(5) "Board" means the Idaho board of environmental quality.

(6) "Buffer zone" means that part of a facility that lies between the active portion and the property boundary.

(7) "Clean soils and clean dredge spoils" means soils and dredge spoils which are not hazardous wastes or problem wastes as defined in this section.

(8) "Commercial solid waste" means all types of solid waste generated by stores, offices, restaurants, warehouses and other nonmanufacturing activities, excluding residential and industrial wastes.

(9) "Commercial solid waste facility" means a facility owned and operated as an enterprise conducted with the intent of making a profit by any individual, association, firm, or partnership for the disposal of solid waste, but excludes a facility owned or operated by a political subdivision, state or federal agency, municipality or a facility owned or operated by any individual, association, firm or partnership exclusively for the disposal of solid waste generated by such individual, association, firm or partnership.

(10) "Construction/demolition waste" means the waste building materials, packaging and rubble resulting from construction, remodeling, repair and demolition operations on pavements, houses, commercial buildings and other structures. Such waste includes, but is not limited to, bricks, concrete, other masonry materials, soil, rock, lumber, road spoils, rebar, paving materials and tree stumps. Noninert wastes and asbestos wastes are not considered to be demolition waste for the purposes of this chapter.

(11) "Contaminate" means to allow discharge of a substance from a landfill that would cause:

(a) The concentration of that substance in the ground water to exceed the maximum contamination level (MCL) specified in 40 CFR 258.40, Idaho drinking water standards; or

(b) A statistically significant increase in the concentration of that substance in the ground water where the existing concentration of that substance exceeds the maximum contamination level specified in paragraph (a) of this subsection; or

(c) A statistically significant increase above background in the concentration of a substance which:

(i) is not specified in paragraph (a) of this subsection; and

(ii) is a result of the disposal of solid waste; and

(iii) has been determined by the department to present a substantial risk to human health or the environment in the concentrations found at the point of compliance.

(12) "County" means any county in the state of Idaho.

(13) "Cover material" means soil or other suitable material that is used to protect the active portion of the MSWLF unit.

(14) "Director" means the director of the Idaho department of environmental quality.

(15) "Existing MSWLF unit" means any municipal solid waste landfill unit that is receiving solid waste as of the applicable date specified in 40 CFR 258.1(e).

(16) "Facility" means all contiguous land and structures, buffer zones, and other appurtenances and improvements on the land used for the disposal of solid waste.

(17) "Floodplain" means the area encompassed by the one hundred (100) year flood as defined by applicable federal emergency management agency (FEMA) flood insurance maps or, if no map exists, then as defined in 40 CFR 258.11.

(18) "Ground water" means water below the land surface in a zone of saturation.

(19) "Health district" means one (1) of the seven (7) district health departments of the state of Idaho.

(20) "Holocene fault" means a fault characterized as a fracture or a zone of fractures in any material along which strata on one (1) side have been displaced with respect to that on the other side and holocene being the most recent epoch of the quaternary period, extending from the end of the pleistocene epoch to the present.

(21) "Household waste" means any solid waste, including garbage, trash and sanitary waste in septic tanks, derived from households, including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day use recreation areas.

(22) "Industrial solid waste" means solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under subtitle C of RCRA. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer and agricultural chemicals; food and related products and byproducts; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.

(23) "Inert wastes" means noncombustible, nonhazardous, nonputrescible, nonleaching solid wastes that are likely to retain their physical and chemical structure under expected conditions of disposal, including resistance to biological attack.

(24) "Landfill" means an area of land or an excavation in which wastes are placed for permanent disposal, and that is not a land application unit, surface impoundment, injection well or waste pile.

(25) "Landspreading disposal facility" or "land application unit" means a facility that applies sludges or other solid wastes onto or incorporates solid waste into the soil surface, excluding manure spreading operations, at greater than agronomic rates and soil conditioners and immobilization rates.

(26) "Lateral expansion" means a horizontal expansion of the waste boundaries of an existing MSWLF unit.

(27) "Leachate" means a liquid that has passed through or emerged from solid waste and contains soluble, suspended or miscible materials removed from such waste.

(28) "Limited purpose landfill" means a landfill that receives solid waste of limited type with known and consistent composition other than wood wastes, municipal solid waste, inert waste and construction/demolition waste.

(29) "Liquid waste" as defined in 40 CFR 258.28(c)(1).

(30) "Monofill" means a landfill which contains a specific waste whose waste stream characteristics remain unchanged over time and may include special wastes, problem wastes or other consistent characteristic wastes but do not include wastes regulated under any other applicable regulations.

(31) "Municipal solid waste landfill unit (MSWLF)" means a discrete

area of land or an excavation that receives household waste, and that is not a land application unit, surface impoundment, injection well, or waste pile, as those terms are defined under 40 CFR 257.2. A MSWLF unit also may receive other types of RCRA subtitle D wastes, such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste and industrial solid waste. Such a landfill may be publicly or privately owned. A MSWLF unit may be a new MSWLF unit, an existing MSWLF unit or a lateral expansion.

(32) "New MSWLF unit" means any municipal solid waste landfill unit that has not received waste prior to October 9, 1993, or prior to October 9, 1995, if the MSWLF unit meets the conditions specified in 40 CFR 258.1(f)(1).

(33) "Open burning" means the combustion of solid waste without: (a) control of combustion air to maintain adequate temperature for efficient combustion; (b) containment of the combustion reaction in an enclosed device to provide sufficient resident time and mixing for complete combustion; and (c) control of the emission of the combustion products.

(34) "Operator" means the person(s) responsible for the overall operation of a facility or part of a facility.

(35) "Owner" means the person(s) who owns a facility or part of a facility.

(36) "Permeability" means the capacity of a material to transmit a liquid. For the purposes of this chapter permeability is expressed in terms of hydraulic conductivity of water in centimeters-per-second units of measurement.

(37) "Person" means an individual, association, firm, partnership, political subdivision, public or private corporation, state or federal agency, municipality, industry, or any other legal entity whatsoever.

(38) "Pile" or "waste pile" means any noncontainerized solid, nonflowing waste that is accumulated for treatment or storage.

(39) "Plan of operation" means the written plan developed by an owner or operator of a MSWLF unit detailing how the facility is to be operated during its active life, during closure, and throughout the post closure period.

(40) "Point of compliance" means a vertical surface located at the hydraulically downgradient intercept with the uppermost aquifer at which a release from a waste management unit measured as change in constituent values will trigger assessment monitoring. Point of compliance shall be used to define the facility design, location and frequency of ground water monitoring wells and corrective action.

(41) "Post closure" means the requirements placed upon the MSWLF unit after closure to ensure their environmental safety for a thirty (30) year period or until the site becomes stabilized in accordance with section 39-7416, Idaho Code.

(42) "Processing" means an operation conducted on solid waste to prepare it for disposal.

(43) "Qualified professional" means a licensed professional geologist or licensed professional engineer, as appropriate, holding current professional registration in compliance with applicable provisions of the Idaho Code.

(44) "RCRA" means the resource conservation and recovery act (42 U.S.C. sec. 6901 et seq.), as amended.

(45) "Run-off" means any rainwater, leachate, or other liquid that drains over land from any part of a facility.

(46) "Run-on" means any rainwater, leachate, or other liquid that drains over land onto any part of a facility.

(47) "Saturated zone" means that part of the earth's crust in which all voids are filled with water.

(48) "Septage" means a semisolid consisting of settled sewage solids combined with varying amounts of water and dissolved materials generated from a septic tank system.

(49) "Sludge" means any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial waste water treatment plant, water supply treatment plant or air pollution control facility exclusive of the treated effluent from a waste water treatment plant.

(50) "Solid waste" means any garbage or refuse, sludge from a waste water treatment plant, water supply treatment plant, or air pollution control facility and other discarded material including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and from community activities, but does not include solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. 1342, or source, special nuclear, or byproduct material as defined in the atomic energy act of 1954, as amended (68 Stat. 923). These regulations shall not apply to the following solid wastes:

(a) Overburden, waste dumps and low-grade stockpiles from mining operations;

(b) Liquid wastes whose discharge or potential discharge is regulated under federal, state or local water pollution permits;

(c) Hazardous wastes as designated in the hazardous waste management act, chapter 44, title 39, Idaho Code;

(d) Wood waste used for ornamental, animal bedding, mulch and plant bedding and road building purposes;

(e) Agricultural wastes, limited to manures and crop residues, returned to the soils at agronomic rates;

(f) Clean soils and clean dredge spoils as otherwise regulated under section 404 of the federal clean water act (PL 95-217);

(g) Septage taken to a sewage treatment plant permitted by either the U.S. environmental protection agency or the department; and

~~(h) Radioactive wastes, defined in the radiation and nuclear materials act, chapter 30, title 39, Idaho Code; and~~

(~~i~~h) Wood debris resulting from the harvesting of timber and the disposal of which is permitted under chapter 1, title 38, Idaho Code.

(51) "Special waste" means those wastes which require special treatment or handling after it arrives at the disposal site. The term includes, but is not limited to, asbestos containing material, petroleum contaminated soils, low-level PCB containing material, low-level dioxin containing material and uncut tires.

(52) "Statistically significant" means significant as determined by ANOVA analysis of variance as applied within 40 CFR 258.53(h)(2) or as provided by 40 CFR 258.53(g)(5).

(53) "Uppermost aquifer" means the geological formation nearest the natural ground surface that is an aquifer as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.

(54) "Waste management unit boundary" means a vertical surface

located at the hydraulically downgradient limit of the unit. This vertical surface extends down into the uppermost aquifer.

(55) "Water quality standard" means a standard set for maximum allowable contamination in surface waters and ground water as set forth in the water quality standards for waters for the state of Idaho.

(56) "Wetlands" as defined in 40 CFR 232.2(r).

(57) "Wood waste" means solid waste consisting of wood pieces or particles generated as a byproduct or waste from the manufacturing of wood products, handling and storage of raw materials and trees and stumps. This includes, but is not limited to, sawdust, chips, shavings, bark, pulp, hog fuel and log yard waste, but does not include wood pieces or particles containing chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenate.

Undefined terms shall be given their usual and ordinary meaning within the context of the provisions of this chapter.

SECTION 9. That Section 42-3902, Idaho Code, be, and the same is hereby amended to read as follows:

42-3902. DEFINITIONS. Whenever used in this chapter:

(1) "Aquifer" means any geologic formation that will yield water to a well in sufficient quantities to make production of water from the formation feasible for beneficial use, except when the water in such formation results solely from injection through a waste disposal and injection well.

(2) "Director" means the director of the department of water resources.

(3) "Drinking water source" means an aquifer which contains water having less than 10,000 mg/l total dissolved solids and has not been exempted from this designation by the director of the department of water resources.

(4) "Fluid" means any material or substance which flows or moves whether in a semisolid, liquid, sludge, gaseous or any other form or state.

(5) "Formation" means a body of consolidated or unconsolidated rock characterized by a degree of lithologic homogeneity which is mappable at the earth's surface or traceable in the subsurface.

(6) "Hazardous waste" means any fluid or combination of fluids, excluding radioactive wastes, which because of quantity, concentration or characteristics (physical, chemical or biological) may:

(a) Cause or significantly contribute to an increase in deaths or an increase in serious, irreversible or incapacitating reversible illness; or

(b) Pose a substantial threat to human health or to the environment if improperly treated, stored, disposed of, or managed. Such wastes include, but are not limited to, materials which are toxic, corrosive, ignitable, or reactive, or materials which may have mutagenic, teratogenic, or carcinogenic properties, but do not include solid or dissolved material in domestic sewage or solid or dissolved material in irrigation return flows.

(7) "Injection" means the subsurface emplacement of fluids.

(8) "Injection well" means any excavation or artificial opening into the ground which meets the following three (3) criteria:

(a) It is a bored, drilled or dug hole, or is a driven mine shaft or a driven well point; and

(b) It is deeper than its largest straight-line surface dimension; and

(c) It is used for or intended to be used for injection.

(9) "Irrigation waste water" means surplus water diverted for irrigation but not applied to crops or runoff of surplus water from the cropland as a result of irrigation.

(10) "Licensed driller" means any person holding a valid license to drill water wells in Idaho as provided and defined in section 42-238, Idaho Code.

(11) "Operate" means to allow fluids to enter an injection well by action or by inaction of the operator.

(12) "Operator" means any individual, group of individuals, partnership, company, corporation, municipality, county, state agency, taxing district or federal agency who operates or proposes to operate any injection well.

(13) "Owner" means any individual, group of individuals, partnership, company, corporation, municipality, county, state agency, taxing district, or federal agency owning land on which any injection well exists or is proposed to be constructed.

(14) "Radioactive material" means any material, solid, liquid or gas which emits radiation spontaneously.

(15) "Radioactive waste" means any fluid which contains radioactive material in concentrations which exceed those established for discharges to water ~~in an unrestricted area by the board of environmental quality under the provisions of chapter 30, title 39, Idaho Code~~ by 10 CFR 20.

(16) "Shallow injection well" means an injection well which is less than or equal to eighteen (18) feet in vertical depth below land surface.

(17) "Sanitary waste" means any fluid generated through domestic activities, such as food preparation, cleaning and personal hygiene.

(18) "Surface runoff water" means runoff water from the natural ground surface and cropland. Runoff from urbanized areas, such as streets, parking lots, airports, and runoff from animal feedlots, agricultural processing facilities and similar facilities are not included within the scope of this term.

(19) "Waste disposal and injection well" means an injection well which is more than eighteen (18) feet in vertical depth below land surface.

SECTION 10. That Section 63-3029D, Idaho Code, be, and the same is hereby amended to read as follows:

63-3029D. TAX CREDIT FOR QUALIFIED EQUIPMENT UTILIZING POSTCONSUMER WASTE OR POSTINDUSTRIAL WASTE. (1) For income tax years commencing on and after January 1, 1994, there shall be allowed a credit against the tax imposed pursuant to this chapter for each taxpayer who purchases qualified equipment on and after January 1, 1994.

(2) The credit provided pursuant to the provisions of subsection (1) of this section shall be an amount equal to twenty ~~per cent~~ percent (20%) of the costs incurred by the taxpayer for purchases of qualified equipment and shall be claimed in the income tax year in which at least ninety ~~per cent~~ percent (90%) of the total production of such qualified

equipment is used by the taxpayer to manufacture products utilizing postconsumer waste or postindustrial waste. In no event shall the tax credit be more than thirty thousand dollars ($30,000) per tax year.

(3) If the amount of the credit provided pursuant to the provisions of subsection (2) of this section exceeds the amount of income taxes otherwise due on the income of the taxpayer in the income tax year for which the credit is being claimed, the amount of the credit not used as an offset against income taxes in such income tax year may be carried forward as a credit against subsequent years' income tax liability for a period not exceeding seven (7) years and shall be applied first to the earliest income tax years possible. Any amount of the credit which is not used after such period shall not be refundable to the taxpayer.

(4) As used in this section:

(a) "Collection" means:

(i) The acquisition of materials from businesses or the general public through purchase or donation, including the organization of systems for such acquisitions;

(ii) The preparation of materials for over-the-road transportation through cleaning, densification by shredding, baling, or any other method, or coalescence, including the organization of systems for such preparation; or

(iii) The transportation of postconsumer waste or postindustrial waste between separate geographical locations.

(b) "Costs" means the amount of the purchase price or the amount of the annual lease payment.

(c) "Postconsumer waste" or "postindustrial waste" means only those products and materials consisting of paper, glass or plastic generated by businesses or consumers which have served their intended end use or usefulness and either have been or would normally be disposed of as solid waste except for the fact that they are separated from solid waste for purposes of collection, recycling or reuse. "Postconsumer waste" or "postindustrial waste" shall not include radioactive waste, as defined in this section, or hazardous waste, as defined in chapter 44, title 39, Idaho Code.

(d) "Product" means any material resulting from a manufacturing process and offered for sale to the private or public sector which is composed of at least fifty ~~per-cent~~ percent (50%) postconsumer waste or postindustrial waste. "Product" does not include any shredded material unless such shredded material is incorporated directly into the manufacturing process.

(e) "Purchase" means:

(i) Any transaction under which title to qualified equipment is transferred for consideration; or

(ii) Any lease contract for qualified equipment for a period of at least three (3) years regardless of whether title to qualified equipment is transferred at the end of such period.

(f) "Qualified equipment" means machinery or equipment located within Idaho which has at least an estimated three (3) years' useful life and of which at least ninety ~~per-cent~~ percent (90%) of the total production thereof is used by the taxpayer to manufacture products utilizing postconsumer waste or postindustrial waste. "Qualified equipment" shall not include any machinery or equipment which is used for the collection of postconsumer waste or postindustrial waste.

(g) "Radioactive waste" or "nuclear waste" means a waste or combination of wastes of a solid, liquid, semisolid or contained gaseous form which contains radiation. ~~as that term is defined in section 39-3003, Idaho Code.~~

(5) Any recomputation of the credit allowed in subsection (2) of this section on property disposed of or ceasing to qualify, prior to the close of its useful life, shall be determined according to section 47 of the Internal Revenue Code, as such existed on November 5, 1990.

SECTION 11. That Section 67-806, Idaho Code, be, and the same is hereby repealed.

SECTION 12. That Section 67-806A, Idaho Code, be, and the same is hereby amended to read as follows:

~~67-806A~~57-822. ~~INEEL~~ INL SETTLEMENT FUND. (1) There is hereby established in the state treasury a fund, separate and apart from all ~~other public moneys~~ or funds of this state, to be known as the ~~INEEL~~ INL settlement fund.

(2) The fund shall consist of all payments received from the U.S. department of energy, or a successor agency, pursuant to the 1995 court approved settlement between the state of Idaho, the U.S. department of energy and the U.S. navy.

(3) Moneys in the fund may be expended by the office of the governor, consistent with the terms of the court approved settlement, to mitigate the impacts of the Idaho national ~~engineering and environmental~~ laboratory workforce restructuring on the Idaho economy by furthering the creation of sustainable jobs and diversification of the southeastern Idaho economy, and for other purposes mutually acceptable to the governor of the state of Idaho and the U.S. department of energy.

(4) All moneys placed in the fund are hereby continuously appropriated to the office of the governor for the purposes described in this section.

(5) Pending use, surplus moneys in the fund shall be invested by the state treasurer in the same manner as provided under section 67-1210, Idaho Code. Interest earned on the investments shall be returned to the fund.

Approved March 15, 2007.

CHAPTER 84
(H.B. No. 127)

AN ACT

RELATING TO BAIL; AMENDING SECTION 19-2904, IDAHO CODE, TO AUTHORIZE THE COURT TO IMPOSE CERTAIN CONDITIONS FOR PERSONS ADMITTED TO BAIL OR RELEASED UPON THEIR OWN RECOGNIZANCE AND TO PROVIDE THAT A PERSON MAY BE ORDERED TO BEAR THE COSTS OF SUCH CONDITIONS.

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

SECTION 1. That Section 19-2904, Idaho Code, be, and the same is hereby amended to read as follows:

19-2904. ADMITTANCE TO BAIL BEFORE CONVICTION. If the charge is for any other offense, he may be admitted to bail before conviction, as a matter of right. If a person is admitted to bail or released upon the person's own recognizance, the court making such determination may impose such reasonable terms, conditions and prohibitions as the court finds necessary in the exercise of its discretion, including electronic or global positioning system tracking, monitoring and detention. The court may order a person subject to such conditions to bear the costs of the conditions at the person's own expense.

Approved March 15, 2007.

CHAPTER 85
(H.B. No. 128)

AN ACT

RELATING TO PRISONER REIMBURSEMENT TO COUNTIES; AMENDING SECTION 20-607, IDAHO CODE, TO REMOVE LANGUAGE PROVIDING FOR THE FILING OF A CIVIL ACTION BY A COUNTY IN THE SMALL CLAIMS DEPARTMENT OF THE MAGISTRATE'S DIVISION.

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

SECTION 1. That Section 20-607, Idaho Code, be, and the same is hereby amended to read as follows:

20-607. PRISONER REIMBURSEMENT TO THE COUNTY. (1) The county sheriff shall seek reimbursement for any expenses incurred by the county in relation to the charge or charges for which a person was sentenced to a county jail as follows:

(a) From each person who is or was a prisoner, not more than twenty-five dollars ($25.00) per day for the expenses of maintaining that prisoner up to a maximum of five hundred dollars ($500), whichever is less, for the entire period of time the person was confined in the county jail, including any period of pretrial detention;

(b) Any other expenses incurred by the county in order to collect payments under this section;

(c) In pursuing reimbursement under this section the county may investigate the financial status of the person.

(d) The county where the person was sentenced shall charge the person a daily maintenance cost according to paragraph (a) of this subsection and shall seek reimbursement once the debt has been incurred.

(2) Before seeking any reimbursement under this section, the sheriff shall develop a form to be used for determining the financial status of prisoners. The form shall provide for obtaining the age and marital status of the prisoner, the number and ages of children of the prisoner, the number and ages of other dependents, type and value of real estate, type and value of real and personal property, type and value of investments, cash, bank accounts, pensions, annuities, salary, wages and any other personal property of significant cash value. The county shall use the form when investigating the financial status of a prisoner and when seeking reimbursement.

(3) (a) A prisoner in a county jail shall provide accurate information and cooperate with the county sheriff for purposes of satisfying subsection (2) of this section.

(b) A prisoner who willfully refuses to provide accurate information or cooperate as provided in paragraph (a) of this subsection shall not receive a reduction in his or her term under section 20-621, Idaho Code.

(4) At the request of the board of county commissioners, the sheriff of the county shall forward to the board a list containing the name of each sentenced prisoner, term of sentence and date of admission.

(5) (a) Within one (1) year of the release of a person as a sentenced prisoner from any county jail, a representative for that county may file a civil action in the ~~small claims department of the~~ magistrate's division pursuant to the provisions of chapter 23, title 1, Idaho Code, to seek reimbursement from that person for the cost of incarceration. A civil action may be filed only after determining from the financial status form, as required in subsection (2) of this section, that sufficient assets are available to justify further recovery efforts and that further action to collect the daily expense for maintaining the sentenced person by the county will not cause the sentenced person or his dependents to qualify for public assistance.

(b) A civil action brought under this section shall be instituted in the name of the county in which the jail is located and shall state the dates and places of sentence, the length of time set forth in the sentence, the length of time actually served, and the amount or amounts due to the county pursuant to this section.

(c) Before entering any order on behalf of the county against the defendant, the court shall take into consideration any legal obligation of the defendant to support a spouse, minor children, other dependents or provide victim restitution and any moral obligation to support dependents to whom the defendant is providing or has in fact provided support.

(6) The reimbursements secured under this section shall be credited to the justice fund or current expense fund of the county to be available for jail maintenance and operation purposes.

Approved March 15, 2007.

CHAPTER 86
(H.B. No. 234)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR SERVICES FOR THE DEVELOPMENTALLY DISABLED IN THE IDAHO STATE SCHOOL AND HOSPITAL PROGRAM FOR FISCAL YEAR 2007; 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 3, Chapter 348, Laws of 2006, there is hereby appropriated to the Depart-

ment of Health and Welfare for services for the developmentally disabled in the Idaho State School and Hospital Program the following amount, to be expended according to the designated expense class from the listed fund for the period July 1, 2006, through June 30, 2007:

FOR:	
Operating Expenditures	$400,000
FROM:	
Cooperative Welfare Fund (Dedicated)	$400,000

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 March 15, 2007.

CHAPTER 87
(H.B. No. 235)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE; AMENDING SECTION 1, CHAPTER 373, LAWS OF 2006, TO REVISE THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE PUBLIC HEALTH SERVICES IN THE PHYSICAL HEALTH SERVICES PROGRAM; AMENDING SECTION 5, CHAPTER 373, LAWS OF 2006, TO REVISE THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE PUBLIC HEALTH SERVICES IN THE LABORATORY SERVICES PROGRAM; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 1, Chapter 373, Laws of 2006, 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, 2006, through June 30, 2007:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
Economic Recovery Reserve Fund			$ 7,400		$ 7,400
General Fund	$1,399,500	$ ~~3,495,600~~ 3,761,600		$ 1,287,700	$ ~~6,182,800~~ 6,448,800
Cancer Control Fund	50,100	153,200		198,400	401,700
Central Tumor Registry Fund				182,700	182,700
Food Safety Fund				638,000	638,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Cooperative Welfare Fund (Federal)	4,803,100	8,381,200	7,700	39,635,100	52,827,100
Cooperative Welfare Fund (Dedicated)	1,408,700	769,300		7,969,000	10,147,000
TOTAL	$7,661,400	~~$12,799,300~~ 13,065,300	$15,100	$49,910,900	~~$70,386,700~~ 70,652,700

SECTION 2. That Section 5, Chapter 373, Laws of 2006, is hereby amended to read as follows:

SECTION 5. There is hereby appropriated to the Department of Health and Welfare for public health services in the Laboratory Services Program 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:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Fund	$1,259,900	$ ~~863,000~~ 597,000		~~$2,122,900~~ 1,856,900
Cooperative Welfare Fund (Dedicated)	400,800	199,300		600,100
Economic Recovery Reserve Fund			$ 7,200	7,200
Cooperative Welfare Fund (Federal)	650,100	1,643,400	5,800	2,299,300
TOTAL	$2,310,800	~~$2,705,700~~ 2,439,700	$13,000	~~$5,029,500~~ 4,763,500

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 14, 2007.~~

CHAPTER 88
(S.B. No. 1030, As Amended)

AN ACT

RELATING TO PUBLIC RECORDS; AMENDING SECTION 9-340D, IDAHO CODE, TO PROVIDE THAT CERTAIN RECORDS RELATING TO POLICIES, ENDORSEMENTS AND AFFIDAVITS FILED WITH OR BY A SURPLUS LINE ASSOCIATION SHALL BE EXEMPT FROM DISCLOSURE.

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 develop-

ment 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 25-207B, 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 confidentiality; 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.

(24) 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.

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

Approved March 20, 2007.

CHAPTER 89
(S.B. No. 1053)

AN ACT

RELATING TO CREDIT GUARANTEES FOR SCHOOL DISTRICTS; AMENDING SECTION 57-728, IDAHO CODE, TO PROVIDE THAT THE AMOUNT OF DEBT GUARANTEED BY THE CREDIT ENHANCEMENT PROGRAM SHALL NOT BE GREATER THAN FOUR TIMES THE AMOUNT MADE AVAILABLE BY THE PUBLIC SCHOOL PERMANENT ENDOWMENT FUND; AND AMENDING SECTION 33-5303, IDAHO CODE, TO PROVIDE A MAXIMUM AMOUNT OF SCHOOL DISTRICT BONDS THAT MAY BE GUARANTEED, TO PROVIDE AN EXCEPTION, TO PROVIDE THE MAXIMUM AMOUNT OF SCHOOL DISTRICT BONDS THAT MAY BE GUARANTEED WHEN SCHOOL DISTRICTS CONSOLIDATE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 57-728, Idaho Code, be, and the same is hereby amended to read as follows:

57-728. CREDIT ENHANCEMENT PROGRAM FOR SCHOOL DISTRICT BONDS. (1) The endowment fund investment board shall administer a school district bond credit enhancement program in accordance with this section and in conjunction with chapter 53, title 33, Idaho Code, and may promulgate rules to implement it. This program applies to voter approved bonds issued by school districts. The program is intended to benefit school districts by purchasing notes issued by the state of Idaho, whereby the state may guarantee payment of school district bonded indebtedness in order to avoid an imminent default, providing lower interest rates at which the bonds may be issued.

(2) A school district that seeks the guarantee of bonds under this program shall apply to the state treasurer pursuant to section 33-5304, Idaho Code. The state treasurer shall transmit all approved applications to the board. The board may challenge an approved application within three (3) business days of their receipt of the same. If no challenge is issued within three (3) business days the application shall be deemed approved by the board. In the event of a challenge in writing to the state treasurer, the treasurer and the board shall have ten (10) business days to mutually approve the application. If after a challenge by

the board, the application is not mutually approved within the ten (10) business days, the application shall be deemed rejected. Nothing contained herein shall prohibit a school district from reapplying following a rejected application.

(3) Upon approval of the credit enhancement program under this section, the following shall be in effect in the event moneys from the sales tax account or from the provisions of section 33-5309, Idaho Code, are insufficient to pay the principal of and interest on the notes issued by the state pursuant to section 33-5308, Idaho Code, the endowment fund shall purchase new notes from the state, in accordance with section 33-5308, Idaho Code, the proceeds of which shall be sufficient to pay the principal of and the interest on the original notes as they become due pursuant to section 33-5308, Idaho Code. The new notes shall be subject to the following terms and conditions:

(a) The notes shall bear interest at a rate equal to an annual rate ten percent (10%) higher than the average interest earned on the investments of the public school permanent endowment fund in the four (4) calendar quarters preceding the quarter in which the loan occurred and if this figure is not equal to the percentage return of the fund's highest category of investments in its portfolio, then the interest rate shall equal that percentage return on investment, plus all additional administrative costs related to these investments;

(b) The notes, including principal and interest, shall be repaid from the district's next payments pursuant to chapter 8, title 33, Idaho Code, as collected by the state treasurer;

(c) The state may make additional payments on the note;

(d) The endowment fund investment board may require the state treasurer to compel the school district to modify its fiscal practices and its general operations if the board determines that there is a substantial likelihood that the district will not be able to make future payments required under this section.

(4) The provisions of this section shall not be deemed to interfere with the state treasurer's ability in chapter 53, title 33, Idaho Code, to obtain repayment of a delinquent obligation.

(5) For purposes of administering the provisions of this section, the board shall make available the sum of at least two hundred million dollars ($200,000,000) from the public school permanent endowment fund, for purposes of purchasing notes as authorized by this section. The amount of debt guaranteed by the credit enhancement program shall not be greater than ~~three~~ <u>four</u> (~~3~~<u>4</u>) times the amount made available by the public school permanent endowment fund.

SECTION 2. That Section 33-5303, Idaho Code, be, and the same is hereby amended to read as follows:

33-5303. STATE'S GUARANTEE -- MONITORING OF FINANCIAL SOLVENCY CONTRACT WITH BONDHOLDERS -- GUARANTEE -- LIMITATION AS TO CERTAIN REFUNDED BONDS.

(1) (a) The state of Idaho pledges to and agrees with the holders of any bonds that the state will not alter, impair, or limit the rights vested by the default avoidance program with respect to the bonds until the bonds, together with applicable interest, are fully paid and discharged.

(b) Notwithstanding subsection (1)(a) of this section, nothing contained in this chapter precludes an alteration, impairment, or limitation if adequate provision is made by law for the protection of the holders of the bonds.

(c) Each school district may refer to this pledge and undertaking by the state in its bonds.

(2) (a) The sales tax of the state is pledged to guarantee full and timely payment of the principal of, {either at the stated maturity or by any advancement of maturity pursuant to a mandatory sinking fund payment}, and interest on, refunding bonds issued on and after March 1, 1999, for voter approved bonds which were voted on by the electorate prior to March 1, 1999, and voter approved bonds which were voted on by the electorate on and after March 1, 1999, as such payments shall become due, {except that in the event of any acceleration of the due date of such principal by reason of mandatory or optional redemption or acceleration resulting from default or otherwise, other than any advancement of maturity pursuant to a mandatory sinking fund payment, the payments guaranteed shall be made in such amounts and at such times as such payments of principal would have been due had there not been any such acceleration}.

(b) This guaranty does not extend to the payment of any redemption premium.

(c) Reference to this chapter by its title on the face of any bond conclusively establishes the guaranty provided to that bond under provisions of this chapter.

(3) (a) Any bond guaranteed under this chapter that is refunded and considered paid for, no longer has the benefit of the guaranty provided by this chapter from and after the date on which that bond was considered to be paid.

(b) Any refunding bond issued by a board that is itself secured by government obligations until the proceeds are applied to pay refunded bonds is not guaranteed under the provisions of this chapter, until the refunding bonds cease to be secured by government obligations.

(4) Only validly issued bonds issued after the effective date of this chapter are guaranteed under this chapter.

(5) On and after July 1, 2007, state school bond guarantees issued by the state of Idaho shall not exceed twenty million dollars ($20,000,000) in the aggregate per school district. Notwithstanding this maximum limit, bond guarantees exceeding the twenty million dollar ($20,000,000) limit prior to July 1, 2007, shall remain in effect. In the event school districts consolidate, the maximum state bond guarantee of the newly consolidated school district shall be the sum of the maximum limit of each school district participating in the consolidation. This new maximum limit shall also apply to bonds issued by the consolidated district after July 1, 2007.

Approved March 20, 2007.

CHAPTER 90
(S.B. No. 1064)

AN ACT

RELATING TO CODIFIER'S CORRECTIONS IN STATUTES; AMENDING SECTION 7-803, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 15-2-504, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS AND TO FIX A CODIFIER ERROR; AMENDING THE HEADING FOR CHAPTER 85, TITLE 18, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 85, LAWS OF 2006; AMENDING SECTION 18-8501, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 85, LAWS OF 2006, TO REDESIGNATE THE SECTION; AMENDING SECTION 18-8502, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 85, LAWS OF 2006, TO REDESIGNATE THE SECTION; AMENDING SECTION 18-8503, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 85, LAWS OF 2006, TO REDESIGNATE THE SECTION AND TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 18-8504, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 85, LAWS OF 2006, TO REDESIGNATE THE SECTION; AMENDING SECTION 18-8505, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 85, LAWS OF 2006, TO REDESIGNATE THE SECTION; AMENDING SECTION 19-819, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 19-1205, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 19-2507, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 19-2916, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 19-2936, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING THE HEADING FOR CHAPTER 27, TITLE 25, IDAHO CODE; AMENDING SECTION 33-1004E, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES; AMENDING SECTION 33-3407, IDAHO CODE, TO PROVIDE A GRAMMATICAL CORRECTION; AMENDING SECTION 34-2205, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 38-1306, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-2102(A), IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 39-3502, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-3613, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 41-3408, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 43-219, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-435, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1733, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-3622O, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-460, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-501, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-505, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-5718, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING THE HEADING FOR CHAPTER 60, TITLE 67, IDAHO CODE; AMENDING SECTION 72-205, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 72-1347B, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 7-803, Idaho Code, be, and the same is hereby amended to read as follows:

7-803. PUBLICATION OF PETITION. A notice of hearing of such petition signed by the clerk and issued under the seal of the court, must be published for four (4) successive weeks in some newspaper printed in the

county, if a newspaper be printed therein, but if no newspaper be printed in the county a copy of such notice of hearing must be posted at three (3) of the most public places in the county for a like period, and proofs must be made of such publication or posting before the petition can be considered. The notice of hearing may be substantially in the following form:

NOTICE OF HEARING

In the District Court of the .... Judicial District of the State of Idaho in and for .... County.

In the matter of the application of .... for change in name. (Assertions herein contained refer to assertions in the petition)

A petition by ...., born .... at .... now residing at .... proposing a change in name to .... has been filed in the above entitled court, the reason for the change in name being.....
.....:
the name of the petitioner's father is .... address .... (if living); the names and addresses of petitioner's near relatives (if father be dead) are:

....
....
....

such petition will be heard at such time as the court may appoint, and objections may be filed by any person who can, in such objections, show to the court a good reason against such a change of name.

WITNESS my hand and seal of said District Court this .... day of .... ~~19~~....

....
Attorney for petitioner Clerk

....
Residence or post office address Deputy
.....Idaho.

SECTION 2. That Section 15-2-504, Idaho Code, be, and the same is hereby amended to read as follows:

15-2-504. SELF-PROVED WILL. (a) Any will may be simultaneously executed, attested, and made self-proved, by the acknowledgment thereof by the testator and the affidavits of the witnesses, each made before an officer authorized to administer oaths under the laws of the state where execution occurs and evidenced by the officer's certificate, under official seal, in form and content substantially as follows:

I, ..., the testator, sign my name to this instrument this ..... day of ....., ~~19~~...., and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my last will and that I sign it willingly (or willingly direct another to sign for me), that I execute it as my free and voluntary act for the purposes therein expressed, and that I am eighteen (18) years of age or older, of sound mind, and under no constraint or undue influence.

.....
Testator

We, ..., ..., the witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to the

undersigned authority that the testator signs and executes this instrument as his last will and that he signs it willingly (or willingly directs another to sign for him), and that each of us, in the presence and hearing of the testator, hereby signs this will as witness to the testator's signing, and that to the best of his knowledge the testator is eighteen (18) years of age or older, of sound mind, and under no constraint or undue influence.

.....
Witness
.....
Witness

The State of .....
County of .....

Subscribed, sworn to and acknowledged before me by ....., the testator and subscribed and sworn to before me by ....., and ....., witnesses, this ..... day of .....
(Seal)

(Signed) .....
.....
(Official capacity of officer)

(b) An attested will may at any time subsequent to its execution be made self-proved by the acknowledgment thereof by the testator and the affidavits of the witnesses, each made before an officer authorized to administer oaths under the laws of the state where the acknowledgment occurs and evidenced by the officer's certificate, under the official seal, attached or annexed to the will in form and content substantially as follows:

The State of .....
County of .....

We, ..., ..., and ....., the testator and the witnesses, respectively, whose names are signed to the attached or foregoing instrument, being first duly sworn do hereby declare to the undersigned authority that the testator signed and executed the instrument as his last will and that he had signed willingly (or willingly directed another to sign for him), and that he executed it as his free and voluntary act for the purposes therein expressed, and that each of the witnesses, in the presence and hearing of the testator, signed the will as witness and that to the best of his knowledge the testator was at that time eighteen (18) years of age or older, of sound mind and under no constraint or undue influence.

.....
Testator
.....
Witness
.....
Witness

Subscribed, sworn to and acknowledged before me by ....., the testator, and subscribed and sworn to before me by ....., and ....., witnesses, this ..... day of .....
(Seal)

(Signed) .....
.....
(Official capacity of officer)

SECTION 3. That the Heading for Chapter 85, Title 18, Idaho Code, as added by Section 1, Chapter 85, Laws of 2006, be, and the same is hereby amended to read as follows:

CHAPTER 85~~6~~
HUMAN TRAFFICKING

SECTION 4. That Section 18-8501, Idaho Code, as added by Section 1, Chapter 85, Laws of 2006, be, and the same is hereby amended to read as follows:

18-85~~01~~8601. 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 legislature 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 trafficking to available community resources.

SECTION 5. That Section 18-8502, Idaho Code, as added by Section 1, Chapter 85, Laws of 2006, be, and the same is hereby amended to read as follows:

18-85~~02~~8602. 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 servitude, peonage, debt bondage, or slavery.

SECTION 6. That Section 18-8503, Idaho Code, as added by Section 1, Chapter 85, Laws of 2006, be, and the same is hereby amended to read as follows:

18-85~~03~~8603. 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 section 18-85~~02~~8602, 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), 18-1511 (sale or barter of child), 18-2407(1) (grand theft), 18-5601 through 18-5614 (prostitution), or 18-7804 (racketeering).

SECTION 7. That Section 18-8504, Idaho Code, as added by Section 1, Chapter 85, Laws of 2006, be, and the same is hereby amended to read as follows:

18-~~8504~~8604. 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.

SECTION 8. That Section 18-8505, Idaho Code, as added by Section 1, Chapter 85, Laws of 2006, be, and the same is hereby amended to read as follows:

18-~~8505~~8605. 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.

SECTION 9. That Section 19-819, Idaho Code, be, and the same is hereby amended to read as follows:

19-819. FORM OF COMMITMENT. The commitment must be to the following effect:

County of (as the case may be). The state of Idaho to the sheriff of the county of ....:

An order having been this day made by me, that A.B. be held to answer upon a charge of (stating briefly the nature of the offense, and giving as near as may be the time when and the place where the same was committed), you are commanded to receive him into your custody and detain him until he is legally discharged.

Dated this .... day of ...., ~~19~~.....

SECTION 10. That Section 19-1205, Idaho Code, be, and the same is hereby amended to read as follows:

19-1205. FORM OF BENCH WARRANT. The bench warrant, upon presentment, must be substantially in the following form:

County of ..... The state of Idaho to any sheriff, constable, marshal or policeman in this state: A presentment having been made on the .... day of ...., ~~19~~.... to the district court of the county of ...., charging C.D. with the crime of ...., (designating it generally) you are therefore commanded forthwith to arrest the above named C.D., and take him before E.F., a magistrate of this county, or in case of his absence or inability to act, before the nearest and most accessible magistrate in this county. Given under my hand with the seal of said court affixed, this .... day of ...., ~~19~~....

By order of the court.

(Seal.) G.H., Clerk.

SECTION 11. That Section 19-2507, Idaho Code, be, and the same is hereby amended to read as follows:

19-2507. FORM OF WARRANT. The bench warrant must be substantially in the following form:

County of .....

The state of Idaho, to any sheriff, constable, marshal or policeman in this state:

A.B., having been on the .... day of ...., ~~19~~.... duly convicted in the district court of the .... judicial district of the state of Idaho, in and for the county of ...., of the crime of .... (designating it generally), you are therefore commanded forthwith to arrest the above named A.B. and bring him before that court for judgment; or if the court has adjourned for the term, that you deliver him into the custody of the sheriff of the county of .....

Given under my hand, with the seal of said court affixed, this .... day of ...., ~~19~~....

By order of the court.

(Seal) E.F., Clerk.

SECTION 12. That Section 19-2916, Idaho Code, be, and the same is hereby amended to read as follows:

19-2916. UNDERTAKING AFTER INDICTMENT -- FORM. The bail must be put in by a written undertaking, executed by two (2) sufficient sureties (with or without the defendant, in the discretion of the court), and acknowledged before the court, in substantially the following form:

An indictment having been found on .... day of ...., ~~19~~...., in the district court of the county of ...., charging A.B. with the crime of .... (designating it generally), and he having been admitted to bail in the sum of .... dollars, we, C.D. and E.T., of .... (stating their place of residence), hereby undertake that the above named A.B. will appear and answer the indictment above mentioned, in whatever court it may be prosecuted, and will at all times render himself amenable to the orders

and process of the court, and if convicted, will appear for pronouncement of judgment; or, if he fails to perform any of these conditions, that we will pay to the people of the state of Idaho the sum set forth above.

SECTION 13. That Section 19-2936, Idaho Code, be, and the same is hereby amended to read as follows:

19-2936. BAIL ON RECOMMITMENT — FORM OF UNDERTAKING. When bail is taken upon the recommitment of the defendant, the undertaking must be in substantially the following form:

An order having been made on the .... day of ...., ~~19~~...., by the court (naming it), that A.B. be admitted to bail in the sum of .... dollars in an action pending in that court against him in behalf of the state of Idaho, upon an (information, presentment, indictment, or appeal, as the case may be), we, C.D. and E.F., of (stating their places of residence), hereby undertake that the above named A.B. will appear in that or any other court in which his appearance may be lawfully required upon that (information, presentment, indictment, or appeal, as the case may be), and will at all times render himself amenable to its orders and process and appear for pronouncement of judgment; or if he fails to perform any of these conditions, that we will pay to the state of Idaho the sum set forth above.

SECTION 14. That the Heading for Chapter 27, Title 25, Idaho Code, be, and the same is hereby amended to read as follows:

CHAPTER 27
IDAHO COMMERCIAL ~~FEEDING-STUFFS~~ FEED LAW

SECTION 15. That Section 33-1004E, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004E. DISTRICT'S SALARY-BASED APPORTIONMENT. Each district shall be entitled to a salary-based apportionment calculated as provided in this section.

1. To determine the apportionment for instructional staff, first determine the district average experience and education index by placing all eligible district certificated instructional employees on the statewide index provided in section 33-1004A, Idaho Code. The resulting average is the district index. Districts with an index above the state average index shall receive their actual index but not more than the state average plus .03 for the 1994-95 school year, and shall receive their actual index but not more than the state average plus .06 for the 1995-96 school year, and thereafter shall receive their actual district index. The district instructional staff index shall be multiplied by the instructional base salary of $23,906. The amount so determined shall be multiplied by the district staff allowance for instructional staff determined as provided in section 33-1004(2~~.~~), Idaho Code. The instructional salary allocation shall be increased by the amount necessary for each full-time equivalent instructional staff member placed on the experience and education index to be allocated at least the minimum salary mandated by this section. Full-time instructional staff salaries shall be determined from a salary schedule developed by each district and sub-

mitted to the state department of education. No full-time instructional staff member shall be paid less than $30,000. If an instructional staff member has been certified by the national board for professional teaching standards, the staff member shall be designated as a master teacher and receive $2,000 per year for five (5) years. The instructional salary shall be increased by $2,000 for each master teacher. The resulting amount is the district's salary-based apportionment for instructional staff. For purposes of this section, teachers qualifying for the salary increase as master teacher shall be those who have been recognized as national board certified teachers as of July 1 of each year.

2. To determine the apportionment for district administrative staff, first determine the district average experience and education index by placing all eligible certificated administrative employees on the statewide index provided in section 33-1004A, Idaho Code. The resulting average is the district index. Districts with an index above the state average index shall receive their actual index but not more than the state average plus .03 for the school year 1994-95, and shall receive their actual index but not more than the state average index plus .06 for the 1995-96 school year, and thereafter shall receive their actual district index. The district administrative staff index shall be multiplied by the base salary of $34,773. The amount so determined shall be multiplied by the district staff allowance for administrative staff determined as provided in section 33-1004(3~), Idaho Code. The resulting amount is the district's salary-based apportionment for administrative staff.

3. To determine the apportionment for classified staff, multiply $19,207 by the district classified staff allowance determined as provided in section 33-1004(4~), Idaho Code. The amount so determined is the district's apportionment for classified staff.

4. The district's salary-based apportionment shall be the sum of the apportionments calculated in subsections 1., 2. and 3., of this section, plus the benefit apportionment as provided in section 33-1004F, Idaho Code.

SECTION 16. That Section 33-3407, Idaho Code, be, and the same is hereby amended to read as follows:

33-3407. DEFINITION OF THE DEAF AND THE BLIND -- EXAMINATION OF APPLICANTS -- ADMISSION AND RELEASE OF PUPILS. All children between the ages of six (6) and twenty-one (21) years who qualify to receive special education services pursuant to state or federal law as a result of a hearing or visual impairment, shall be deemed deaf or blind for the purposes of this chapter.

Children who are under the age of six (6) years, but otherwise qualified, may be served, when, in the discretion of the superintendent but subject to the approval of the board of trustees, they are proper subjects to receive training and education from the school, and the adequate facilities for proper education, training and/or care are available. When it has been ascertained by the superintendent that any pupil has ceased to make progress, or is no longer being benefited by the school's services, upon recommendation of the superintendent and the approval of the board of trustees such pupil may be released from the school and/or school services may be discontinued.

The board of trustees is authorized to provide for the careful exam-

ination of all applicants for admission to the school, and the expense of such examination is a lawful use of the moneys available to the board of trustees.

SECTION 17. That Section 34-2205, Idaho Code, be, and the same is hereby amended to read as follows:

34-2205. QUALIFICATIONS OF DELEGATES -- NOMINATING PETITIONS -- DECLARATIONS OF CANDIDATES AND SIGNERS -- CERTIFICATION. Candidates for the office of delegate to the convention shall be qualified electors of the state of Idaho. Nomination shall be by petition and not otherwise. A single petition shall nominate but one (1) candidate, who may have one (1) or more separate petitions. Nominations shall be without party or political designation, but the nominating petitions shall each contain a declaration of the candidate that he is a candidate for election to the office of delegate to the constitutional convention, and a statement to the effect that he favors ratification of, or that he is against ratification of the proposed constitutional amendment to be acted upon by the constitutional convention, and the total number of voters joining in the nomination of a candidate shall not be less than one hundred (100).

The candidate's declaration in the nominating petition shall be in substantially the following form, to-wit:

I, the undersigned, being a qualified elector of .... precinct, ... County, State of Idaho, hereby declare myself to be a candidate for the office of delegate to the constitutional convention, to be voted for at the election to be held on the .... day of ...., ~~19~~..., and that I .... (insert one only of the following: "favor ratification of" .... or "am against ratification of") the proposed constitutional amendment to be acted upon by the constitutional convention, and certify that I possess the legal qualifications to fill said office, and that my post-office address is .....

I further certify and declare that if nominated I hereby accept said office.

(Signed) .....

All blank spaces shall be properly filled in with the necessary information and the declaration of candidacy shall be subscribed and sworn to before an officer authorized to administer oaths, and the signatures of the voters joining in such petitions, each of which signatures shall be followed by the signer's residence address and date, shall be prefaced by a declaration in substantially the following form, to-wit:

I, the undersigned, being a qualified elector of the State of Idaho, do hereby declare that I am in accord with the statement and declaration of ...., a candidate for the office of delegate to the constitutional convention, to be voted for at the election to be held on the .... day of ...., ~~19~~..., and do hereby join in this petition for his nomination for such office.

Name of Petitioner	Post office	Date of Signing
.....	.....	.....

Each nominating petition shall, at the time of filing in the office of the secretary of state, bear an affidavit in substantially the following form, executed and verified by a citizen and resident of the State of Idaho:--

State of Idaho
ss.
County of ....

I do solemnly swear (or affirm) that I am a citizen and resident of the State of Idaho; that each of the petitioners whose name is affixed to the above paper signed the same personally, together with his ~~postoffice~~ post-office address and date of signing, and that each signed the same with full knowledge of its contents; that to the best of my knowledge each is a qualified elector of the State of Idaho.

(Signed) .....

Subscribed and sworn to before me this .... day of ...., ~~19~~....

.....
Notary Public for the State of
Idaho; residence .....

No voter shall sign more than twenty-one (21) nominating petitions nor more than one (1) petition for the same candidate, and if he does either, his signatures shall not be counted on any nominating petition.

All acceptances and petitions shall be filed with the secretary of state not less than forty-five (45) days before the date fixed for the election. No nomination shall be effective except those of the twenty-one (21) candidates in favor of ratification and the twenty-one (21) candidates against ratification whose nominating petitions have respectively been signed by the largest number of voters, ties, if any, to be decided by lot drawn by the secretary of state; provided, however, that if there be less than twenty-one (21) candidates in favor of ratification, all such candidates shall be considered as nominated, or if there be less than twenty-one (21) candidates against ratification all such candidates shall be considered as nominated.

Within ten (10) days after the petitions are filed with him, the secretary of state shall certify to each county auditor within the state, a certified list of the candidates of each group entitled to be voted for at such election, as appears from the acceptances and nominating petitions filed in the office of the secretary of state.

SECTION 18. That Section 38-1306, Idaho Code, be, and the same is hereby amended to read as follows:

38-1306. NOTIFICATION OF FOREST PRACTICE. (1) Before commencing a forest practice, the department shall be notified as required in subsection (2) of this section. The notice shall be given by the operator; however, the timber owner or landowner satisfies the responsibility of the operator under this subsection. When more than one (1) forest practice is to be conducted in relation to harvesting of forest tree species, one (1) notice including each forest practice to be conducted shall be filed with the department. A woodland management plan prepared by the woodland foresters of the department or approved by the board of supervisors of a soil conservation district shall constitute suitable notification of a forest practice when filed with the department, provided the woodland management plan contains the information required in subsection (2) of this section.

(2) The notification required in subsection (1) of this section shall be on forms prescribed and provided by the department and shall include the name and address of the operator, timber owner, and landowner, the legal description of the area in which the forest practice is

to be conducted, and other information the department considers necessary for the administration of the rules adopted by the board under section 38-1304, Idaho Code.

(3) All notifications must be formally accepted by the department before any forest practice may begin. ~~(a) (b)~~

(~~5~~4) The initial purchaser of ties, logs, posts, cordwood, pulpwood and other similar forest products which have been cut from lands within the state of Idaho shall make no such purchase from anyone not having a proper acceptance of forest practice notice.

(~~6~~5) Promptly upon formal acceptance of the notice, but not more than fifteen (15) days from formal acceptance of the notice, the department shall mail a copy of the notice to whichever of the operator, timber owner, or landowner that did not submit the notification. The department shall make available to the operator, the timber owner, and landowner a copy of the rules.

(~~7~~6) An operator, timber owner, or landowner, whichever filed the original notification, shall notify the department of any subsequent change in the information contained in the notification within thirty (30) days of the change. Promptly upon receipt of notice of change, but not to exceed fifteen (15) days from receipt of notice, the department shall mail a copy of the notice to whichever of the operator, timber owner, or landowner that did not submit the notice of change.

(~~8~~7) The notification is valid for the same period as set forth in the certificate of compliance under section 38-122, Idaho Code. At the expiration of the notification, if the forest practice is continuing, the notification shall be renewed using the same procedures provided for in this section.

(~~9~~8) If the notification required by subsection (1) of this section indicates that at the expiration of the notification that the forest practice will be continuing, the operator, timber owner, or landowner, at least thirty (30) days prior to the expiration of the notification, shall notify the department and obtain a renewal of the notification. Promptly upon receipt of the request for renewal, but not to exceed fifteen (15) days from receipt of the request, the department shall mail a copy of the renewed notification to whichever of the operator, timber owner, or landowner that did not submit the request for renewal.

(~~10~~9) The department shall not accept a new forest practices notification from any operator having an outstanding notice of violation until the repairs specified pursuant to section 38-1307(2)(a), Idaho Code, have been completed to the satisfaction of the department.

SECTION 19. That Section 39-2102(A), Idaho Code, be, and the same is hereby amended to read as follows:

39-2102~~(A)~~. LABELING OF PAINT AND CLEANSING LIQUIDS CONTAINING TOXIC ADDITIVES. All persons, partnerships, or corporations who sell or offer to sell in the state of Idaho any type of paint, solvent, or cleansing liquids containing toxic additives shall cause a label to be placed on each and every box, package, or container showing thereon the name and type of such ingredients and/or toxic additives and the amount of each.

SECTION 20. That Section 39-3502, Idaho Code, be, and the same is hereby amended to read as follows:

39-3502. DEFINITIONS. As used in this chapter:

(1) "Abuse" means a nonaccidental act of sexual, physical or mental mistreatment or injury of a resident through the action or inaction of another individual.

(2) "Activities of daily living" means the performance of basic self-care activities in meeting an individual's needs to sustain him in a daily living environment.

(3) "Adult" means a person who has attained the age of eighteen (18) years.

(~~3~~4) "Advocate" means an authorized or designated representative of a program or organization operating under federal or state mandate to represent the interests of a population group served by the certified family home.

(~~4~~5) "Assessment" means the conclusion reached using uniform criteria which identifies resident strengths, weaknesses, risks and needs, to include functional, medical and behavioral. The assessment criteria shall be developed by the department and the advisory council.

(~~5~~6) "Board" means the board of health and welfare.

(~~6~~7) "Care provider" means the adult member of the home family responsible for maintaining the certified family home. The care provider and the legal owner may not necessarily be the same person. The care provider must live in the home.

(~~7~~8) "Certified family home" means a family-styled living environment in which two (2) or fewer adults live who are not able to reside in their own home and who require care, help in daily living, protection and security, supervision, personal assistance and encouragement toward independence.

(~~8~~9) "Certifying agent" means a person acting under the authority of the department to participate in the certification, inspection, and regulation of a family home.

(~~9~~10) "Chemical restraint" means any drug that is used for discipline or convenience and not required to treat medical symptoms.

(~~10~~1) "Client" means any person who receives financial aid and/or services from an organized program of the department.

(~~11~~2) "Core issues" means abuse, neglect, exploitation, inadequate care, inoperable fire detection or extinguishing systems with no fire watch in place pending the correction of the system, and situations in which advocates, representatives and department certification staff are denied access to records, residents, or the certified family home.

(~~12~~3) "Department" means the Idaho department of health and welfare.

(~~13~~4) "Director" means the director of the Idaho department of health and welfare.

(~~14~~5) "Exploitation" means the misuse of a vulnerable adult's funds, property or resources by another person for profit or advantage.

(~~15~~6) "Governmental unit" means the state, any county, any city, other political subdivision, or any department, division, board or other agency thereof.

(~~16~~7) "Home family" means all individuals related by blood, marriage, or adoption, other than residents, residing in the certified family home.

(~~17~~8) "Inadequate care" occurs when a certified family home fails to provide the services required to meet the terms of the negotiated plan of service or provide for room, board, activities of daily living, supervision, first aid, assistance and monitoring of medications, emer-

gency intervention, coordination of outside services, or a safe living environment; or engages in violations of residents' rights or takes residents who have been admitted in violation of the provisions of section 39-3507, Idaho Code.

(~~18~~9) "Neglect" means failure to provide food, clothing, shelter, or medical care necessary to sustain life and health of a resident.

(~~19~~20) "Negotiated service agreement" means the agreement reached by the resident or their representative, if applicable, and the facility, based on the assessment, physician's orders if any, admission records if any, and desires of the resident, and which outlines services to be provided and the obligations of the certified family home and the resident.

(~~20~~1) "Personal assistance" means the provision by the certified family home of one (1) or more of the following services:

(a) Assisting the resident with activities of daily living.

(b) Arranging for supportive services.

(c) Being aware of the resident's general whereabouts.

(d) Monitoring the activities of the resident while on the premises of the facility to ensure the resident's health, safety and well-being.

(~~21~~2) "Political subdivision" means a city or county.

(~~22~~3) "Representative of the department" means an employee of the department.

(~~23~~4) "Resident" means an adult who lives in a certified family home and who requires personal assistance or supervision.

(~~24~~5) "Room and board" means lodging and meals.

(~~25~~6) "Substantial compliance" means a certified family home has no core issue deficiencies.

(~~26~~7) "Substitute caregiver" means an adult designated by the certified family home provider to provide care and services in a certified family home in the temporary absence of the regular care provider.

(~~27~~8) "Supervision" means administrative activity which provides the following: protection, guidance, knowledge of the resident's whereabouts and monitoring activities. The care provider is responsible for providing appropriate supervision based on each resident's negotiated service agreement.

(~~28~~9) "Supportive services" means the specific services that are provided to the resident in the community and that are required by the negotiated service agreement or reasonably requested by the resident.

SECTION 21. That Section 39-3613, Idaho Code, be, and the same is hereby amended to read as follows:

39-3613. CREATION OF BASIN ADVISORY GROUPS. The director, in consultation with the designated agencies, shall name, for each of the state's major river basins, no less than one (1) basin advisory group which shall generally advise the director on water quality objectives for each basin and work in a cooperative manner with the director to achieve these objectives. Each such group shall establish by majority vote, operating procedures to guide the work of the group. Members shall be compensated pursuant to section 59-509(c), Idaho Code. The membership of each basin advisory group shall be representative of the industries and interests directly affected by the implementation of water quality programs within the basin and each member of the group shall either reside within the basin or represent persons with a real property inter-

est within the basin. Recognized groups representing those industries or interests in the basin may nominate members of the group to the director. Each basin advisory group named by the director shall reflect a balanced representation of the interests in the basin and shall, where appropriate, include a representative from each of the following: agriculture, mining, nonmunicipal point source discharge permittees, forest products, local government, livestock, Indian tribes (for areas within reservation boundaries), water-based recreation, and environmental interests. In addition, the director shall name one (1) person to represent the public at large who may reside outside the basin. Members named to the basin advisory groups shall, in the opinion of the director, have demonstrated interest or expertise which will be of benefit to the work of the basin advisory group. The director may also name as may be needed those who have expertise necessary to assist in the work of the basin advisory group who shall serve as technical nonvoting advisers to the basin advisory group. ~~department;~~

SECTION 22. That Section 41-3408, Idaho Code, be, and the same is hereby amended to read as follows:

41-3408. QUALIFICATIONS FOR CERTIFICATE OF AUTHORITY. The director shall not issue or permit to exist a certificate of authority to be or act as a service corporation, as to any corporation not fulfilling the following qualifications:

(1) Must be incorporated as provided in section 41-3406, Idaho Code, as a professional service corporation.

(2) Must intend to and actually conduct its business in good faith as a nonprofit corporation.

(3) Must have in force service agreements with participant licensees located in the areas of the subscribers' residences convenient as to location and sufficient in numbers, capacity and facilities reasonably to furnish respective categories of health care services then provided or proposed to be provided by the corporation to its subscribers. Said professional service corporation shall be ready and willing at all times to enter into service agreements with all licensees of the category or categories specified in its articles of incorporation who are qualified under the laws of the state of Idaho and who desire to become participant licensees of said corporation and who practice within the general area served by said professional service corporation.

(4) If a newly formed corporation, it must possess sufficient available working funds to pay all reasonably anticipated cost of acquisition of new business and operating expenses, other than payment for professional services, for a period of not less than the six (6) months next following the date of issuance of the certificate of authority, if issued.

(6~~5~~) Nothing in this section shall preclude a service corporation from refusing to contract with a health care licensee who is unqualified or who does not meet the terms and conditions of the participating licensee contract of the service corporation or from terminating or refusing to renew the contract of a participating health care licensee who is unqualified or who does not comply with, or who refuses to comply with, the terms and conditions of the participating health care licensee contract including, but not limited to, practice standards and quality requirements. The contract shall provide for written notice to the par-

ticipating health care licensee setting forth any breach of contract for which the service corporation proposes that the contract be terminated or not renewed and shall provide for a reasonable period of time for the participating health care licensee to cure such breach prior to termination or nonrenewal. If the breach has not been cured within such period of time the contract may be terminated or not renewed. Provided however, that if the breach of contract for which the service corporation proposes that the contract be terminated or not renewed is a willful breach, fraud or a breach which poses an immediate danger to the public health or safety, the contract may be terminated or not renewed immediately.

(~~7~~6) Every service corporation issuing benefits pursuant to this chapter shall establish a grievance system for licensees. Such grievance system shall provide for arbitration according to chapter 9, title 7, Idaho Code, or for such other system which provides reasonable due process provisions for the resolution of grievances and the protection of the rights of the parties.

(~~8~~)(5~~7~~) Must fulfill all other applicable requirements of this chapter.

SECTION 23. That Section 43-219, Idaho Code, be, and the same is hereby amended to read as follows:

43-219. PETITION -- FORM. Recall petitions shall be printed on single sheets of paper of good writing quality including, but not limited to, newsprint not less than eight and one-half (8 1/2) inches in width and not less than fourteen (14) inches in length. No petition may be circulated or signed prior to the approval of a ballot synopsis by the magistrate court. Such petitions shall be substantially in the following form:

WARNING

Every person who signs this petition with any other than his true name, or who knowingly (1) signs more than one (1) of these petitions, (2) signs this petition when he is not a legal voter, or (3) makes herein any false statement, may be fined, or imprisoned, or both.

Petition for the recall of (here insert the name of the person whose recall is petitioned for) to the (here insert the name and title of the secretary of the irrigation district with whom the charge is filed).

We, the undersigned citizens and legal voters of (the irrigation district's official name), respectfully direct that a special election be called to determine whether or not (here insert the name of the person) be recalled and discharged from his office; and each of us for himself says: I have personally signed this petition; I am a legal voter of the state of Idaho in (the irrigation district's official name) and county written after my name, and my residence address is correctly stated, and to my knowledge, have signed this petition only once.

Each and every signature sheet of each petition containing signatures shall be verified on the face thereof in substantially the following form by the person who circulated said sheet of the petition, by his or her affidavit thereon, as a part thereof:

State of Idaho)
) ss.
County of)

I, ..., swear, under penalty of perjury, that every person who signed this sheet of the foregoing petition signed his or her name thereto in my presence. I believe that each has stated his or her name and the accompanying required information on the signature sheet correctly, and that the person was eligible to sign this petition.

(Signature) .....

Post Office address .....

.....

Subscribed and sworn to before me this ....day of ....., ~~19~~.....

(Notary Seal) .....

Notary Public

Residing at .....

SECTION 24. That Section 49-435, Idaho Code, be, and the same is hereby amended to read as follows:

49-435. PROPORTIONAL REGISTRATION OF COMMERCIAL VEHICLES.~~:~~ (1) Any owner engaged in operating one (1) or more fleets of commercial vehicles may, in lieu of the registration fees imposed by section 49-434, Idaho Code, register each fleet for operation in this state by filing an application with the department which shall contain the information required by the international registration plan (IRP) agreement. Any owner who makes application for proportional registration under the provisions of the international registration plan shall comply with the terms and conditions of the IRP agreement.

(2) The department shall register the vehicle so described and identified and may issue license plates or distinctive sticker or other suitable identification device for each vehicle listed in the application upon payment of the fees required under subsections (1) and (8) of section 49-434, Idaho Code, and an additional identification charge of eight dollars ($8.00) per vehicle. The fees collected for the additional identification shall be deposited to the state highway account. A registration card shall be issued for each proportionally registered vehicle appropriately identifying it which shall be carried in or upon the vehicle identified at all times.

(3) Fleet vehicles so registered and identified shall be deemed to be fully licensed and registered in this state for any type of movement or operation.

(4) The right to the privilege and benefits of proportional registration of fleet vehicles extended by this section, or by any contract, agreement, arrangement or declaration made under the authority provided in section 49-201, Idaho Code, shall be subject to the condition that each fleet vehicle proportionally registered shall also be proportionally or otherwise properly registered in at least one (1) other jurisdiction during the period for which it is proportionally registered in this state.

(~~1~~5) No provision of this section relating to proportional registration of fleet vehicles shall be construed as requiring any vehicle to be proportionally registered if it is otherwise registered in this state for the operation in which it is engaged including regular registration or temporary trip permit.

SECTION 25. 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.

(~~a~~c) The prescription drug order may be signed and sent electronically pursuant to chapter 50, title 28, Idaho Code.

(~~b~~d) Transmission of prescription drug order. In addition to delivery of the original signed written prescription to a licensed pharmacy:

(i) A prescription drug order that has been signed by the practitioner may be received by a licensed pharmacy for dispensing purposes through a facsimile transmission from the prescribing practitioner or the practitioner's agent, or from a health care facility for a patient or resident in such facility;

(ii) A prescription drug order may also be received by a licensed pharmacist verbally from the practitioner, the practitioner's agent or from a licensed practical nurse or licensed professional nurse in a health care facility for a patient or resident in such facility;

(iii) A prescription drug order received verbally from the practitioner by a licensed practical nurse or licensed professional nurse in a licensed health care facility for a patient or resident in such facility may also be sent by facsimile transmission from the health care facility to a licensed pharmacy for dispensing purposes provided the transmitted document includes the name of the prescriber issuing the prescription drug order, the name and license number of the nurse who transcribed the order and the name of the person who sent the facsimile.

(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.

SECTION 26. That Section 63-3622O, Idaho Code, be, and the same is hereby amended to read as follows:

63-3622O. 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) Donations to, sales to or purchases by the Advocates for Survivors of Domestic Violence and Sexual Assault, Inc., a nonprofit corporation.

(~~j~~k) Sales to or purchases by nonprofit organizations offering free dental clinic services to children.

(~~j~~l) 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.

(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.

(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.

SECTION 27. That Section 67-460, Idaho Code, be, and the same is hereby amended to read as follows:

67-460. POWERS OF COMMITTEE. The joint legislative oversight committee shall have the following powers:

(1) To direct the director of legislative performance evaluations in accordance with section 67-461, Idaho Code, to review the performance of any state agency or program and to prepare reports for submission to the joint legislative oversight committee.

(2) To contract with private individuals or entities for the conduct of performance evaluations or portions thereof.

(3) To examine witnesses, to require the appearance of any person and the production of papers or records, including books, accounts, documents, computer records, and other materials, and to order the appearance of any person for the purpose of producing papers or records, including books, accounts, documents, computer records, and other materials, as is provided other legislative committees.

(4) To administer oaths to witnesses appearing before the committee when, by a majority vote, the committee deems the administration of an oath necessary and advisable as provided by law.

(5) To determine that a witness has perjured himself by testifying falsely before the committee, and to direct the attorney general to institute legal proceedings as provided by law.

(6) To conduct meetings at such times as the cochairmen deem necessary.

(8~~7~~) To issue subpoenas upon the signature of either of the cochairmen; provided that the district court in and for the county in which any inquiry, evaluation, investigation, hearing or proceeding may take place shall have the power to compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from the court or the refusal to testify or produce papers or records, including books, accounts, documents, computer records, and other materials, in court.

SECTION 28. That Section 67-501, Idaho Code, be, and the same is hereby amended to read as follows:

67-501. ~~INDORSEMENT~~ ENDORSEMENT OF BILLS. Every bill must, as soon as delivered to the governor, be ~~indorsed~~ endorsed as follows: "This bill was received by the governor this .... day of ...., ~~nineteen~~ ....."

SECTION 29. That Section 67-505, Idaho Code, be, and the same is hereby amended to read as follows:

67-505. BILLS NOT RETURNED. Every bill which has passed both houses of the legislature, and has not been returned by the governor within five (5) days, thereby becoming a law, is authenticated by the governor causing the fact to be certified thereon by the secretary of state in the following form: "This bill having remained with the governor five (5) days (Sundays excepted), and the legislature being in session, it has become a law this .... day of ...., ~~19~~...," which certificate must be signed by the secretary of state and deposited with the laws in his office. Where the legislature by adjournment, prevents the return of a bill, the governor, if he disapproves thereof, shall file the same, with his objections, in the office of the secretary of state within ten (10) days after said adjournment (Sundays excepted) or the same shall become a law.

SECTION 30. That Section 67-5718, Idaho Code, be, and the same is hereby amended to read as follows:

67-5718. REQUISITIONS FOR PROPERTY -- NOTICE -- FORM -- GUARANTEE -- PROCEDURE FOR BIDDING. (1) The administrator of the division of purchasing shall not make or cause to be made any acquisition until a requisition for the property to be acquired has been submitted to his office by the requisitioning agency, certifying to the satisfaction of the administrator that there are proper funds or sufficient balance in appropriations out of which the amount of the requisition may lawfully be paid, except as provided to the contrary under provisions of this chapter allowing emergency purchases.

(2) Notice shall be posted of all acquisitions of property, unless otherwise excepted by rules of the division. The notice may be posted electronically. The administrator shall also cause all invitations to bid and requests for proposals to be posted manually in a conspicuous place in the office. The notice shall describe the property to be acquired in sufficient detail to apprise a bidder of the exact nature or functionality of the property required; and shall ~~20~~ set forth the bid opening date, time and location.

(3) To enhance small business bidding opportunities, the administrator shall seek a minimum of three (3) bids from vendors having a significant Idaho economic presence as defined in section 67-2349, Idaho Code.

(4) All sealed bids received shall be opened at the time and place specified, and in the public view, and a record of each bid shall then and there be made. Contracts shall be awarded to and orders placed with the lowest responsible bidder on the basis of initial proposals received or, if applicable, following receipt and evaluation of best and final offers or negotiations. The administrator shall have the right to reject any and all bids pursuant to rules established for the division.

(5) Where both the bids and quality of property offered are the same, preference shall be given to property of local and domestic production and manufacture or from bidders having a significant Idaho economic presence as defined in the Idaho Code. In connection with the award of any contract for the placement of any order for state printing, binding, engraving or stationery work, the provisions of sections 60-101 and 60-103, Idaho Code, shall apply to the extent that the same may be inconsistent with any requirements contained in this section.

(6) As used in this section, the word "sealed" does not preclude acceptance of electronically sealed and submitted bids in addition to bids manually sealed and submitted.

SECTION 31. That the Heading for Chapter 60, Title 67, Idaho Code, be, and the same is hereby amended to read as follows:

CHAPTER 60
IDAHO WOMEN'S COMMISSION ~~ON WOMEN'S PROGRAMS~~

SECTION 32. That Section 72-205, Idaho Code, be, and the same is hereby amended to read as follows:

72-205. PUBLIC EMPLOYMENT GENERALLY -- COVERAGE. The following shall constitute employees in public employment and their employers subject to the provisions of this law:

(1) Every person in the service of the state or of any political subdivision thereof, under any contract of hire, express or implied, and

every official or officer thereof, whether elected or appointed, while performing his official duties, except officials of athletic contests involving secondary schools, as defined by section 33-119, Idaho Code.

(2) Every person in the service of a county, city, or any political subdivision thereof, or of any municipal corporation.

(3) Participants in the Idaho youth conservation project under the supervision of the Idaho state forester.

(4) Every person who is a member of a volunteer fire or police department shall be deemed, for the purposes of this law, to be in the employment of the political subdivision or municipality where the department is organized.

(5) Every person who is a regularly enrolled volunteer member or trainee of the department of disaster and civil defense, or of a civil defense corps, shall be deemed, for the purposes of this law, to be in the employment of the state.

(6) Members of the Idaho national guard while on duty and employees of or persons providing voluntary service to an approved Idaho national guard morale, welfare, and recreational activity. No Idaho compensation benefits shall inure to any such member, employee or volunteer or their beneficiaries for any injury or death compensable under federal law.

(7) A community service worker, as that term is defined in section 72-102, Idaho Code, is considered to be an employee in public employment for purposes of receiving ~~workmen's~~ worker's compensation benefits, which shall be the community service worker's exclusive remedy for all injuries and occupational diseases as provided under chapters 1 through 8, title 72, Idaho Code.

(8) Every person who participates in a youth employment program funded in whole or in part by state or federal money and administered by a state or federal agency or a nonprofit corporation or entity.

(~~8~~9) A work experience student, as that term is defined in section 72-102, Idaho Code, who does not receive wages while participating in the school's work experience program shall be covered by the school district's policy with the state insurance fund.

SECTION 33. 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 provided 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, ~~2011~~ 2012, 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 March 20, 2007.

CHAPTER 91
(S.B. No. 1081)

AN ACT

RELATING TO PUBLIC HEALTH DISTRICTS; AMENDING SECTION 39-412, IDAHO CODE, TO REVISE THE COMPENSATION PAID TO BOARD MEMBERS.

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

SECTION 1. That Section 39-412, Idaho Code, be, and the same is hereby amended to read as follows:

39-412. MEETINGS OF THE DISTRICT BOARD -- COMPENSATION OF MEMBERS. The district board shall hold such meetings as may be necessary for the orderly conduct of its business and such meetings may be called upon seventy-two (72) hours' notice by the chairman or a majority of the members. Four (4) members shall be necessary to constitute a quorum and the action of the majority of members present shall be the action of the board. The members of the board shall be compensated as provided by section 59-509(~~h~~i), Idaho Code.

Approved March 20, 2007.

CHAPTER 92
(S.B. No. 1089, As Amended)

AN ACT

RELATING TO COMMUNITY COLLEGES; AMENDING SECTION 33-2106, IDAHO CODE, TO PROVIDE FOR TRUSTEE TERMS OF FOUR YEARS, TO PROVIDE LIMITATIONS ON DATES FOR ELECTIONS OF TRUSTEES, TO PROVIDE FOR CONDUCTING ELECTIONS AS PRESCRIBED IN CHAPTER 14, TITLE 34, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 34-106, IDAHO CODE, TO PROVIDE THAT THE EXEMPTION FROM LIMITATION UPON ELECTIONS FOR SCHOOL DISTRICTS DOES NOT APPLY TO COMMUNITY COLLEGES GOVERNED BY CHAPTER 21, TITLE 33, IDAHO CODE, AND TO MAKE A TECHNICAL CORRECTION; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 33-2106, Idaho Code, be, and the same is hereby amended to read as follows:

33-2106. TRUSTEES OF ~~JUNIOR~~ COMMUNITY COLLEGE DISTRICTS. (1) The board of trustees of each ~~junior~~ community college district shall consist of five (5) school electors residing in the district who shall be appointed or elected as herein provided.

(a) Immediately following the establishment of a ~~junior~~ community college district, the state board of education shall appoint the members of the first board, who shall serve until the election and qualification of their successors.

(b) At the first election of trustees after the creation of a district, five (5) trustees shall be elected~~;~~: two (2) for terms of two (2) years each, ~~two~~ and three (~~2~~3) for terms of four (4) years each~~, and one (1) for a term of six (6) years~~. Thereafter the successors of persons so elected shall be elected for terms of ~~six~~ four (6~~4~~) years.

(c) Excluding any first election of trustees after the creation of a district, at any other election of trustees held in 2008, and in each trustee election thereafter, trustees shall be elected to terms of four (4) years. If more than two (2) trustee positions are eligible for election in 2008, one (1) trustee shall be elected to a term of four (4) years and two (2) trustees shall be elected to a term of six (6) years. Thereafter the successors of persons so elected in 2008 shall be elected for terms of four (4) years.

(d) The expiration of any term shall be at the regular meeting of the trustees next following the election for the successor terms.

(2) Elections of trustees of ~~junior~~ community college districts shall be biennially in even-numbered years, and shall be held on ~~such uniform day of such uniform month as the board of trustees shall determine~~ a date authorized in section 34-106, Idaho Code. Vacancies on the board of trustees shall be filled by appointment by the remaining members, but if by reason of vacancies there remain on the board less than a majority of the required number of members, appointment to fill such vacancies shall be made by the state board of education. Any person so appointed shall serve until the next trustee election, at which time his

successor shall be elected for the unexpired term. The trustees shall take and subscribe the oath of office required in the case of state officers and said oath shall be filed with the secretary of state.

(3) Notice of the election, the conduct thereof, the qualification of electors and the canvass of returns shall be as prescribed ~~for the election of school district trustees, and the board of trustees shall have and perform the duties therein prescribed for the board of trustees of school districts. As a condition of voting, an elector shall execute an oath before a judge or clerk of election to the effect that such elector is a school district elector and a resident of the junior college district~~ in chapter 14, title 34, Idaho Code.

(4) The person or persons, equal in number to the number of trustees to be elected for regular or unexpired terms, receiving the largest number of votes shall be declared elected. An individual shall be a candidate for a specific position of the board and each candidate must declare which position he seeks on the board of trustees. If it be necessary to resolve a tie between two (2) or more persons, the board of trustees shall determine by lot which thereof shall be declared elected. The clerk of the board shall promptly notify any person by mail of his election, enclosing a form of oath to be subscribed by him as herein provided.

(5) When elections held pursuant to this section coincide with other elections held by the state of Idaho or any subdivision thereof, or any municipality or school district, the board of trustees may make agreement with the body holding such election for joint boards of election and the payment of fees and expenses of such boards of election on such proportionate basis as may be agreed upon.

(6) At its first meeting following the appointment of the first board of trustees, and at the first regular meeting following any ~~junior~~ community college trustee election, the board shall organize, and shall elect one (1) of its member chairman, one (1) a vice-chairman; and shall elect a secretary and a treasurer, who may be members of the board; or one (1) person to serve as secretary and treasurer, who may be a member of the board.

(7) The board shall set a given day of a given week in each month as its regular meeting time. Three (3) members of the board shall constitute a quorum for the transaction of official business.

(8) The authority of trustees of ~~junior~~ community college districts shall be limited in the manner prescribed in section 33-507, Idaho Code.

SECTION 2. That Section 34-106, Idaho Code, be, and the same is hereby amended to read as follows:

34-106. LIMITATION UPON ELECTIONS. On and after January 1, 1994, notwithstanding any other provisions of the law to the contrary, there shall be no more than four (4) elections conducted in any county in any calendar year, except as provided in this section, and except that elections to fill vacancies in the United States house of representatives shall be held as provided in the governor's proclamation.

(1) The dates on which elections may be conducted are:

(a) the first Tuesday in February of each year; and

(b) the fourth Tuesday in May of each year; and

(c) the first Tuesday in August of each year; and

(d) the Tuesday following the first Monday in November of each year.

(e) In addition to the elections specified in paragraphs (a) through (d) of this subsection, an emergency election may be called upon motion of the governing board of a political subdivision. An emergency exists when 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 a national or local defense, or it is necessary to do emergency work to safeguard life, health or property. Such a special election, if conducted by the county clerk, shall be conducted at the expense of the political subdivision submitting the question.

(2) Candidates for office elected in February, May or August shall take office on the date specified in the certificate of election but not more than sixty (60) days following the election.

(3) Candidates for office elected in November shall take office as provided in the constitution, or on January 1, next succeeding the November election.

(4) The governing board of each political subdivision subject to the provisions of this section, which, prior to January 1, 1994, conducted an election for members of that governing board on a date other than a date permitted in subsection (1) of this section, shall establish as the election date for that political subdivision the date authorized in subsection (1) of this section which falls nearest the date on which elections were previously conducted, unless another date is established by law.

(5) The secretary of state is authorized to provide such assistance as necessary, and to prescribe any needed rules, regulations or interpretations for the conduct of election authorized under the provisions of this section.

(6) School districts governed by title 33, Idaho Code, but not including community colleges governed by chapter 21, title 33, Idaho Code, and water districts governed by chapter 6, title 42, Idaho Code, are exempt from the provisions of this section.

(7) Initiative, referendum and recall elections conducted by any political subdivision shall be held on the nearest date authorized in subsection (1) of this section which falls more than forty-five (45) days after the clerk of the political subdivision orders that such initiative, referendum or recall election shall be held.

SECTION 3. 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 4. An emergency existing therefor, which emergency is hereby declared to exist, the provisions of this act shall be in full force and effect on and after passage and approval.

Approved March 20, 2007.

CHAPTER 93
(S.B. No. 1091)

AN ACT
RELATING TO THE BOARD OF DENTISTRY; AMENDING SECTION 54-903, IDAHO CODE, TO DEFINE "CONVICTION"; AND AMENDING SECTION 54-923, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO THE REVOCATION OF CERTIFICATES OR OTHER EVIDENCE OF QUALIFICATION BASED UPON CONVICTION OF A CRIME.

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

SECTION 1. That Section 54-903, Idaho Code, be, and the same is hereby amended to read as follows:

54-903. GENERAL DEFINITIONS. As used in this chapter:
(1) "Association" means the Idaho state dental association and the Idaho dental hygienists' association.
(2) "Board" means the state board of dentistry.
(3) "Conviction" or "convicted" means a finding of guilt by a judge or jury, an entry of a guilty plea by a defendant and its acceptance by the court, a forfeiture of a bail bond or collateral deposited to secure a defendant's appearance, a judgment of conviction, a suspended sentence, probation, or a withheld judgment.
(4) "Dental assistant" is a person who need not be licensed under this chapter, but who is regularly employed by a dentist at his office, who works under the dentist's supervision, and is adequately trained and qualified according to standards established by the board to perform the dental services permitted to be performed by assistants by this chapter and applicable rules of the board.
(~~4~~5) "Dental hygienist" is a person both qualified and licensed by the laws of Idaho to practice dental hygiene.
(~~5~~6) "Dental specialist" is a dentist who limits his practice to a specialty recognized by the American dental association, who has graduated from a board-approved postgraduate program in his specialty and is a person both qualified and licensed by the laws of Idaho to practice a dental specialty.
(~~6~~7) "Dentist" is a person both qualified and licensed by the laws of Idaho to practice dentistry.
(~~7~~8) "Direct supervision" is supervision of a dental assistant or dental hygienist requiring that a dentist diagnose the condition to be treated, a dentist authorize the procedure to be performed, a dentist remain in the dental office while the procedure is performed, and that before dismissal of the patient, a dentist approves the work performed by the dental assistant or dental hygienist.
(~~8~~9) "Extended access oral health care program" means and includes dental and dental hygiene treatment and services provided as part of a program conducted by or through a local, county, state or federal agency, hospital, long-term care facility, public health district, dental or dental hygiene school, tribal clinic, or migrant health center; or such other oral health care program approved on an annual basis by the board and conducted by or through a public or private entity, recognized under section 501(c)(3) of the federal Internal Revenue Code, to provide free or reduced fee dental and dental hygiene services to per-

sons who, due to age, infirmity, handicap, indigence or disability, are unable to receive regular dental and dental hygiene treatment in a private office.

(9~~1~~0) "General supervision" is supervision of a dental assistant or dental hygienist requiring that a dentist authorize the procedure which is carried out, but not requiring that a dentist be in the office when the authorized procedure is performed.

(10~~1~~1) "Indirect supervision" is supervision of a dental assistant or dental hygienist requiring that a dentist authorize a procedure and that a dentist be in the dental office while the procedure is performed by the assistant or hygienist.

SECTION 2. That Section 54-923, Idaho Code, be, and the same is hereby amended to read as follows:

54-923. REVOCATION FOR CONVICTIONS OF CRIME. A certificate or other evidence of qualification and right to practice dentistry, a dental specialty or dental hygiene, and a license, may be revoked by the board whenever it shall be shown to the board that the holder of such certificate or other evidence of qualification, right to practice or license has been ~~finally adjudged guilty~~ convicted of a felony, or of a misdemeanor involving moral turpitude, whether such ~~final judgment~~ conviction shall have ~~been--entered~~ occurred before or after qualification, or accrual of such right, or the issuance of such certificate or other evidence of qualification, or of such license~~,--unless--the--person--demonstrates--that-he-has-been-sufficiently-rehabilitated-to-warrant-the-public-trust.~~

~~A-copy-of-the-judgment-of-conviction,-certified-to--be--correct--and final--by--the--clerk--or-judge-of-the-court-wherein-conviction-was-had, shall-be-conclusive-evidence-of-such-conviction,--and--upon--the--filing thereof--with-the-board,-the-revocation-shall-be-entered-without-further proceedings.~~

Approved March 20, 2007.

CHAPTER 94
(S.B. No. 1092)

AN ACT

RELATING TO THE BOARD OF DENTISTRY; AMENDING SECTION 54-935, IDAHO CODE, TO AUTHORIZE THE BOARD OF DENTISTRY TO ISSUE A VOLUNTEER'S LICENSE TO A QUALIFIED DENTAL HYGIENIST UNDER CERTAIN CONDITIONS.

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

SECTION 1. That Section 54-935, Idaho Code, be, and the same is hereby amended to read as follows:

54-935. VOLUNTEER'S LICENSE -- QUALIFICATIONS -- PERMISSIBLE PRACTICE -- IMMUNITY FROM LIABILITY. (1) Upon application and qualification, the board may issue, without examination, a volunteer's license to a dentist or dental hygienist who is retired from the active practice of

dentistry or dental hygiene to enable the retired dentist or dental hygienist to provide dental or dental hygiene services at specified locations to persons who, due to age, infirmity, handicap, indigence or disability, are unable to receive regular dental treatment.

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

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

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

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

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

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

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

(4) For purposes of this section, the specified locations at which a dentist or dental hygienist holding a volunteer's license may provide

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

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

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

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

Approved March 20, 2007.

CHAPTER 95
(S.B. No. 1095)

AN ACT

RELATING TO SCHOLARSHIPS; AMENDING SECTION 33-4302, IDAHO CODE, TO PROVIDE FOR ADDITIONAL SCHOLARSHIP ELIGIBILITY, TO PROVIDE CONDITIONS FOR ELIGIBILITY, TO PROVIDE FOR THE INITIATION OF BENEFITS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 33-4302, Idaho Code, be, and the same is hereby amended to read as follows:

33-4302. SCHOLARSHIPS -- STATE AID. (1) The following individuals shall be eligible for the scholarship program provided for herein:

(a) Any dependent of any Idaho citizen who is a resident of the state of Idaho on or after the effective date of this act and who has been determined by the federal government to be a prisoner of war or missing in action or to have died of injuries or wounds sus-

tained in action in southeast Asia, including Korea, or in Iraq or in Afghanistan or who shall become so hereafter, in any area of armed conflict in which the United States is a party~~, shall~~; and

(b) Any dependent of any member of the armed forces of the United States who is stationed in the state of Idaho on military orders and who is deployed from the state of Idaho to any area of armed conflict in which the United States is a party and who has been determined by the federal government to be a prisoner of war or missing in action or to have died of injuries or wounds sustained in action as a result of such deployment. Provided further, that such dependent must be a resident of the state of Idaho and must have completed secondary school or its equivalent in the state of Idaho.

(2) An eligible individual who applies for the scholarship provided for herein shall, after verification of eligibility, receive the scholarship and be admitted to attend any public institution of higher education or public professional-technical college within the state of Idaho without the necessity of paying tuition and fees therefor; ~~that~~ such student shall be provided with books, equipment and supplies necessary for pursuit of such program of enrollment not to exceed five hundred dollars ($500) per quarter, semester, intensified semester, or like educational period; ~~that~~ such student shall be furnished on-campus housing and subsistence for each month he or she is enrolled under this program and actually resides in such on-campus facility; provided, however, that such educational benefits shall not exceed a total of thirty-six (36) months or four (4) nine (9) month periods. Provided further, that the initiation of such educational benefits shall extend for a period of ten (10) years after achieving a high school diploma or its equivalency, or for a period of ten (10) years after the event giving rise to the eligibility for the scholarship, whichever is longer.

(~~2~~3) The dependent shall meet such other educational qualifications as such institution of higher education or professional-technical college has established for other prospective students of this state.

(~~3~~4) Application for eligibility under this section shall be made to the state board of education and the board of regents of the university of Idaho or the state board of vocational-technical education. The board shall verify the eligibility of the dependent and communicate such eligibility to the dependent and the affected institution or college.

(~~4~~5) Affected institutions shall in their preparation of future budgets include therein costs resultant from such tuition, fee, book, equipment, supply, housing and subsistence loss for reimbursement thereof from appropriations of state funds.

(~~5~~6) Applicants for the scholarship program herein prescribed shall provide institutional administrative personnel with documentation of their rights under this act.

Approved March 20, 2007.

CHAPTER 96
(S.B. No. 1096)

AN ACT

RELATING TO PUBLIC HEALTH; AMENDING SECTION 39-1607, IDAHO CODE, TO PROVIDE FOR THE COLLECTION AND USE OF THE FOOD ESTABLISHMENT LICENSE

FEE, TO DELETE REFERENCE TO THE FOOD SAFETY FUND AND TO PROVIDE FOR THE DISTRIBUTION OF MONEYS REMAINING IN THE FOOD SAFETY FUND; REPEALING SECTION 39-1608, IDAHO CODE, RELATING TO THE FOOD SAFETY FUND; REPEALING SECTIONS 9 AND 10, CHAPTER 194, LAWS OF 1997, RELATING TO THE STATEMENT OF PURPOSE; REPEALING SECTION 11, CHAPTER 194, LAWS OF 1997, AS AMENDED BY SECTION 1, CHAPTER 176, LAWS OF 2000, AND AS AMENDED BY SECTION 1, CHAPTER 140, LAWS OF 2002, RELATING TO A SUNSET DATE; AND REPEALING SECTION 12, CHAPTER 194, LAWS OF 1997, AS AMENDED BY SECTION 2, CHAPTER 176, LAWS OF 2000, AND AS AMENDED BY SECTION 2, CHAPTER 140, LAWS OF 2002, RELATING TO AN EFFECTIVE DATE.

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

SECTION 1. That Section 39-1607, Idaho Code, be, and the same is hereby amended to read as follows:

39-1607. LICENSE FEE. A fee may be charged by the department of health and welfare for licensing a food establishment. The fee shall not exceed sixty-five dollars ($65.00) per establishment per year and shall be collected by the designated regulatory authority. Fees collected for licensing a food establishment ~~shall be deposited in the food safety fund and~~ shall be used by the designated regulatory authority for funding a portion of the food safety inspection program. Any funds remaining in the food safety fund after the effective date of this act shall be paid to the designated regulatory authority that collected the fee.

SECTION 2. That Section 39-1608, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Sections 9 and 10, Chapter 194, Laws of 1997, be, and the same are hereby repealed.

SECTION 4. That Section 11, Chapter 194, Laws of 1997, as amended by Section 1, Chapter 176, Laws of 2000, and as amended by Section 1, Chapter 140, Laws of 2002, be, and the same is hereby repealed.

SECTION 5. That Section 12, Chapter 194, Laws of 1997, as amended by Section 2, Chapter 176, Laws of 2000, and as amended by Section 2, Chapter 140, Laws of 2002, be, and the same is hereby repealed.

Approved March 20, 2007.

CHAPTER 97
(S.B. No. 1098)

AN ACT

RELATING TO ESCHEATED AND UNCLAIMED PROPERTY; AMENDING SECTION 14-113, IDAHO CODE, TO REQUIRE THAT PROPERTY FROM AN ESTATE WITH NO HEIRS OR OTHER CLAIMANTS SHALL BE PAID TO THE PUBLIC SCHOOL PERMANENT ENDOWMENT FUND; AMENDING SECTION 14-522, IDAHO CODE, TO PROVIDE A CORRECT CODE CITATION AND TO CORRECT CODIFIER'S ERRORS; AMENDING SECTION

14-523, IDAHO CODE, TO PROVIDE FOR DISTRIBUTION OF FUNDS RECEIVED FROM UNCLAIMED SHARES AND DIVIDENDS OF IDAHO CORPORATIONS TO THE PUBLIC SCHOOL PERMANENT ENDOWMENT FUND, TO PROVIDE FOR RECAPTURE FROM THE PUBLIC SCHOOL EARNINGS RESERVE FUND IF CERTAIN CIRCUMSTANCES OCCUR AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 15-3-914, IDAHO CODE, TO REQUIRE THAT PROPERTY FROM AN ESTATE IN WHICH AN HEIR OR CLAIMANT CANNOT BE FOUND SHALL, AFTER APPROXIMATELY FIVE YEARS, BE PAID TO THE PUBLIC SCHOOL PERMANENT ENDOWMENT FUND AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 14-113, Idaho Code, be, and the same is hereby amended to read as follows:

14-113. UNCLAIMED MONEYS -- PAYMENT INTO ~~STATE TREASURY~~ PUBLIC SCHOOL PERMANENT ENDOWMENT FUND -- ESCHEAT. After a final settlement of the affairs of any estate, if there be no heirs or ~~other claimants~~ thereof, the administrator must pay into the state tax commission any and all moneys and effects ~~reported as unclaimed property as required by section 14-517, Idaho Code, and the procedure for distribution of abandoned property outlined in the unclaimed property act shall be followed~~ which shall accrue and be transferred to the public school permanent endowment fund created pursuant to section 4, article IX, of the constitution of the state of Idaho.

SECTION 2. That Section 14-522, Idaho Code, be, and the same is hereby amended to read as follows:

14-522. PUBLIC SALE OF ABANDONED PROPERTY. (1) The administrator, within three (3) years after the receipt of abandoned property, shall sell it to the highest bidder at public sale in whatever city affords in the judgment of the administrator, the most favorable market for the property involved. The administrator may decline the highest bid and reoffer the property for sale if in the judgment of the administrator, the bid is insufficient. If in the judgment of the administrator, the probable cost of sale exceeds the value of the property, it need not be offered for sale. Any sale held under this section must be preceded by a single publication of notice, at least three (3) weeks in advance of sale, in a newspaper of general circulation in the county in which the property is to be sold.

(2) Securities listed on an established stock exchange must be sold at prices prevailing at the time of sale ~~of~~ on the exchange. Other securities may be sold over the counter at prices prevailing at the time of sale or by any other method the administrator considers advisable.

(3) A person making a claim under this chapter is entitled to receive either the securities delivered to the administrator ~~to~~ by the holder, if they still remain in the hands of the administrator, or the proceeds received from the sale, less any amounts deducted pursuant to section 14-523(~~2~~3), Idaho Code, but no person has any claim under this chapter against the state, the holder, any transfer agent, registrar, or other person acting for or on behalf of a holder for any appreciation in the value of the property occurring after delivery by the holder to the administrator.

(4) The purchaser of property at any sale conducted by the administrator pursuant to this chapter takes the property free of all claims of the owner or previous holder thereof and of all persons claiming through or under them. The administrator shall execute all documents necessary to complete the transfer of ownership.

SECTION 3. That Section 14-523, Idaho Code, be, and the same is hereby amended to read as follows:

14-523. DISPOSITION OF MONEY RECEIVED. (1) All money received under this chapter, including the proceeds from the sale of property under section 14-522, Idaho Code, shall be deposited in the unclaimed property account.

(2) An amount equal to the funds received from unclaimed shares and dividends of any corporation incorporated under the laws of the state of Idaho shall be transferred from the unclaimed property account to the public school permanent endowment fund created pursuant to section 4, article IX, of the constitution of the state of Idaho. In the event that any funds are required to refund any funds deposited in the public school permanent endowment fund under this section or under section 14-113 or 15-3-914, Idaho Code, the state tax commission shall offset the amount of such refund against future transfers to the public school permanent endowment fund. In the event that in one (1) fiscal year there are insufficient amounts to effect the offset, the balance shall be recaptured from the public school earnings reserve fund established under section 33-902A, Idaho Code.

(3) All other money in the unclaimed property account is hereby continuously appropriated to the state tax commission, without regard to fiscal years, for expenditure in accordance with law in carrying out and enforcing the provisions of this chapter, including, but not limited to, the following purposes:

(a) For payment of claims allowed by the state tax commission under the provisions of this chapter.

(b) For refund, to the person making such deposit of amounts, including overpayments, deposited in error in such account.

(c) For payment of the cost of appraisals incurred by the state tax commission covering property held in the name of the account.

(d) For payment of the cost incurred by the state tax commission for the purchase of lost instrument indemnity bonds, or for payment to the person entitled thereto, for any unpaid lawful charges or costs which arose from holding any specific property or any specific funds which were delivered or paid to the state tax commission, or which arose from complying with this chapter with respect to such property or funds.

(e) For payment of amounts required to be paid by the state as trustee, bailee, or successor in interest to the preceding owner.

(f) For payment of costs of official advertising in connection with the sale of property held in the name of the account.

(g) For transfer to the general ~~account~~ fund as provided in subsection (~~3~~4) of this section.

(h) For transfer to the inheritance tax account of the amount of any inheritance taxes determined to be due and payable to the state by any claimant with respect to any property claimed by him under the provisions of this chapter.

(~~3~~4) At the end of each month, or more often, if it deems it advisable, the state tax commission shall transfer all money in the unclaimed property account in excess of two hundred fifty thousand dollars ($250,000) to the general ~~account~~ fund. Within sixty (60) days of making this transfer, it shall record the name and last known address, if available, of each person appearing from the holder's report to be entitled to the property. The record shall be available for public inspection at all reasonable business hours.

(~~4~~5) All money received under this chapter, including the proceeds from the sale of property under section 14-522, Idaho Code, deposited in the general ~~account~~ fund shall be retained by the state of Idaho for the purposes of this section and administered pursuant to this section for a period of ten (10) years. At the end of such period, those moneys which have not been claimed and paid over or delivered as an allowed claim under this section and section 14-524, Idaho Code, shall become due and payable by escheat to the state of Idaho and become the property of the state of Idaho without further action on the part of the administrator.

SECTION 4. That Section 15-3-914, Idaho Code, be, and the same is hereby amended to read as follows:

15-3-914. DISPOSITION OF UNCLAIMED ASSETS. If an heir, devisee or claimant cannot be found, the personal representative shall distribute the share of the missing person to his trustee if one has been appointed; or, if no trustee has been appointed, shall file the report of abandoned property required by section 14-517, Idaho Code, and proceed to dispose of the property in the manner set forth in the "unclaimed property act," provided, however, that in the event no person appears to claim such property within ~~eighteen~~ one thousand eight hundred ~~and~~ twenty-seven (1,827) days, ~~(~~approximately five (5) years~~)~~, from the date of the appointment of the personal representative, the moneys or property so deposited shall accrue and be ~~set over to the general account~~ transferred to the public school permanent endowment fund created pursuant to section 4, article IX, of the constitution of the state of Idaho.

Approved March 20, 2007.

CHAPTER 98
(S.B. No. 1109)

AN ACT

RELATING TO THE REAL ESTATE COMMISSION; AMENDING SECTION 54-2004, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 54-2016, IDAHO CODE, TO REMOVE CERTAIN LICENSE REQUIREMENTS; AMENDING SECTION 54-2018, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION, TO REFERENCE REQUIRED FEES, TO REVISE PROVISIONS APPLICABLE TO CHANGES IN PERSONAL INFORMATION, TO DELETE A SIGNATURE REQUIREMENT, TO REVISE LANGUAGE PROVIDING FOR THE EFFECTIVE DATE OF LICENSE ISSUANCE AND REQUESTED CHANGES AND TO SET FORTH PROVISIONS RELATING TO LICENSE CERTIFICATES; AMENDING SECTION 54-2020, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO FEES; AMENDING SECTION 54-2023, IDAHO CODE, TO REVISE

CONTINUING EDUCATION REQUIREMENTS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-2027, IDAHO CODE, TO REVISE DUTIES AND REQUIREMENTS OF CERTIFIED COURSE PROVIDERS; AMENDING SECTION 54-2035, IDAHO CODE, TO REVISE CERTIFICATION REQUIREMENTS FOR INSTRUCTORS; AMENDING SECTION 54-2040, IDAHO CODE, TO REVISE DESCRIPTIVE LANGUAGE, TO REVISE PROVISIONS RELATING TO MAIN OFFICE OF BUSINESS LOCATION, TO SET FORTH PROVISIONS RELATING TO LICENSE CERTIFICATES AND TO REMOVE LANGUAGE PROVIDING FOR THE DISPLAY OF LICENSES AND THE RETURN OF LICENSE CERTIFICATES; AMENDING SECTION 54-2044, IDAHO CODE, TO PROVIDE THAT LEDGER RECORDS SHALL BE KEPT IN ALPHABETICAL ORDER OR BY TRANSACTION NUMBER; AMENDING SECTION 54-2045, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO TRUST ACCOUNT DEPOSITS AND TRANSFERS OF CONSIDERATION; AMENDING SECTION 54-2051, IDAHO CODE, TO REMOVE A SIGNATURE REQUIREMENT; AND AMENDING SECTION 54-2056, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO TERMINATING OR CHANGING LICENSED BUSINESS RELATIONSHIPS.

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 (32) 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 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 teaches 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.

(9) "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.

(10) "Commission" means the Idaho real estate commission, unless the context clearly indicates a different meaning.

(11) "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.

(12) "Continuing education elective course" means a real estate course offering, other than the commission core course for which continuing education credit hours may be obtained as provided in section 54-2023, Idaho Code.

(13) "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.

(14) "Cooperative sale" means a transaction involving two (2) or more brokers.

(15) "Council" means the Idaho real estate education council.

(16) "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.

(17) "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.

(18) "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 both distance ~~or~~ and time.

(19) "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.

(20) "Executive director" means the executive director of the Idaho real estate commission.

(21) "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.

(22) "Fee or commission" means a payment, actual, promised or expected, as compensation for the performance of any act requiring a real estate license.

(23) "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.

(24) "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.

(25) "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.

(26) "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.

(27) "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, or, if separated by distance, the instructor and student are connected by contemporaneous, two-way audio and visual communication.

(28) "Main office" means the principal location where the real estate broker is licensed to transact business.

(29) "Person" means and includes an individual, or any legal business entity.

(30) "Primary Idaho license" means an Idaho real estate license that is not contingent upon continuance of a license in another state or jurisdiction.

(31) "Provisional license" means an extension of the period 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.

(32) "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.

(33) "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 repre-

sents a designated broker in the performance of any act described in subsection (32) of this section.

(34) "Real estate settlement procedures act" means the real estate settlement procedures act of 1974, as amended, 12 U.S.C. section 2601 et seq., and as in effect on January 1, 2005~~7~~.

(35) "Regulated real estate transaction" means those real estate transactions for which a real estate license is required under chapter 20, title 54, Idaho Code.

(36) "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 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 (50) 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 voluntary 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 54-2016, Idaho Code, be, and the same is hereby amended to read as follows:

54-2016. PRIMARY IDAHO LICENSES FOR LEGAL BUSINESS ENTITIES, SOLE PROPRIETORSHIPS AND BRANCH OFFICES -- ADDITIONAL REQUIREMENTS. (1) Legal business entities. Each legal business entity, as defined in section 54-2004, Idaho Code, shall be licensed by the Idaho real estate commission to engage in the real estate business in Idaho and shall make proper application, pay all required fees, and meet all requirements listed below.

(a) Each legal business entity shall have a properly licensed individual designated broker, who shall be held responsible for the activities of the licensed entity.

(b) The individual designated broker shall, within five (5) years immediately prior to the designation, satisfactorily complete a commission-approved business conduct and office operations course.

(c) The individual designated broker shall also hold the following legal position within the licensed entity:

(i) Corporation -- an officer;

(ii) Partnership or limited partnership -- a general partner;

(iii) Limited liability company -- a member or manager.

The individual designated broker for any business entity shall have full authority to act on behalf of the licensed business entity, and

shall submit sufficient and satisfactory proof thereof with the application for license. Such proof shall include a list of the entity's officers, directors, members or managers, as reflected in the minutes, resolutions or other similar business documents of the entity. All acts of that individual as designated broker shall be considered acts of the licensed business entity. Nothing in this section is intended to create liability to a legal business entity for illegal or fraudulent acts by the individual broker performed solely on his own account.

(d) A license issued to a legal business entity, as defined in this chapter, is effective only as long as the individual designated broker's license is in active status and in effect. If the individual so designated has a license refused, revoked, suspended or otherwise made inactive by the commission, or if the individual designated broker voluntarily surrenders the individual license or ceases to be connected with the entity in the manner required above, the business entity shall have ten (10) business days in which to designate another qualified individual as designated broker before the entity's license is terminated, and the licenses of all associated licensees are made inactive.

(e) One (1) individual may act as designated broker for more than one (1) licensed business entity, however, all entities shall have their main offices in the same physical location.

(f) Satisfactory proof of mandatory errors and omissions insurance shall be provided for both the individual designated broker and the licensed business entity.

(g) A legal business entity doing business under an assumed name shall provide satisfactory proof of having legally filed a certificate of assumed name with the Idaho secretary of state.

(2) Sole proprietorships. An individual designated broker not licensed with a legal business entity, as defined in section 54-2004, Idaho Code, shall be licensed as a sole proprietor. Each sole proprietorship seeking a real estate license shall meet all of the following requirements:

(a) A licensed sole proprietor doing business under an assumed business name shall provide satisfactory proof of having legally filed a certificate of assumed name with the Idaho secretary of state;

(b) Satisfactory proof of mandatory errors and omissions insurance shall be provided for the licensed designated broker of a sole proprietorship;

(c) The individual designated broker shall have satisfactorily completed a commission-approved business conduct and office operations course within five (5) years immediately prior to the application for license.

(3) Multiple business names prohibited. A legal business entity or sole proprietorship shall be licensed under only one (1) business name.

(4) Branch offices. Each branch office in which trust funds and original transaction files are maintained shall be separately licensed in accordance with the following:

(a) The designated broker establishing the branch office shall submit an application, along with the required fee for the issuance or renewal of the branch office license.

(b) The designated broker shall designate in the application a branch manager, who shall be an associate broker and who, within five (5) years immediately prior to the designation, shall have completed a commission-approved business conduct and office operations course, to regularly occupy and be responsible for the supervision of the branch office. Any salesperson acting as a branch manager on July 1, 2005, shall have until July 1, 2006, to obtain an associate broker's license. When a branch manager is a regular full-time employee or is engaged in a full-time activity at a location other than the place he is licensed to do business, a presumption will be made that the branch manager is unable to responsibly supervise the branch; provided however, the presumption may be overcome by evidence to the contrary which the commission determines to be satisfactory.

(c) A branch manager shall not be licensed to manage more than one (1) branch office at a time.

(d) A license issued to a branch office is valid and in effect only as long as the license of the designated broker remains in active status. ~~The license certificate of the branch office shall be signed by the designated broker.~~

(e) No separate branch office license or manager is required for business locations other than the main office unless trust funds or original transaction records are kept at the branch.

(f) If a separate real estate trust account is maintained for a branch office, all records and related files for that account shall be maintained at the branch office.

(g) Each branch office or business location, whether separately licensed or not, shall conduct business only in the licensed name of the legal entity or sole proprietor.

~~(h) The current license certificates for the branch office, the branch manager, and for each sales associate conducting business from the branch office shall be prominently displayed or available for public inspection at the branch office.~~

SECTION 3. That Section 54-2018, Idaho Code, be, and the same is hereby amended to read as follows:

54-2018. LICENSE RENEWALS -- INACTIVE LICENSE~~S~~ 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 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~~ <u>any</u> required fee<u>s</u>;

(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)~~ Issuance of the license and ~~e~~Effective dates. A ~~request for licensure or for~~ real estate license shall be deemed issued, and any requested license changes shall become effective, when the completed application, attachments, and any required fees are received at and

approved by the commission. An application that is incomplete or lacking the required fees shall be returned to the applicant and no license shall be issued until a completed application and all required fees are received at and actually approved by the commission. A brokerage is not required to obtain, display or possess a physical license certificate as evidence of the individual's active licensure; however, the commission may make license certificates available for a fee as authorized by this chapter. A brokerage shall not display or otherwise make available to the public a license certificate for any individual who does not hold an active license with the brokerage.

(1~~2~~1) Fees nonrefundable. No licensee shall be entitled to a refund of any fee after the license or license change has become effective.

SECTION 4. That Section 54-2020, Idaho Code, be, and the same is hereby amended to read as follows:

54-2020. FEES. The Idaho real estate commission shall establish fees which, in its discretion, are sufficient, when added to the other fees authorized by this chapter, or any other law or rule, to raise that revenue required to administer the provisions of this chapter.

The commission shall assess the following fees, in addition to any other fees established in this chapter or by rule, provided that all fees established by administrative rule of the commission shall remain effective from year to year unless changed through the rulemaking process prescribed in chapter 52, title 67, Idaho Code:

(1) For each year or portion thereof for which an active or inactive license is issued or renewed, a license fee in an amount not to exceed one hundred fifty dollars ($150), the exact fee to be ~~determined~~ established by administrative rule of the commission~~.--Fees--so--established--shall--remain-effective-from-year-to-year-unless-changed-through the-rules-promulgation-process-prescribed-in-chapter-52,-title-67,-Idaho Code~~;

(2) A tuition or registration fee for real estate education courses, course materials and any course exam fee. These fees shall be established based upon the total annual costs involved in the provision of all real estate education courses, course materials and course exam fees;

(3) A late license renewal fee in ~~the~~ an amount ~~of~~ not to exceed twenty-five dollars ($25.00), the exact fee to be established by administrative rule of the commission; ~~for-late-license-renewal;~~

(4) ~~A--fee--in--the--amount--of--fifteen--dollars-($15.00)-f~~For ~~any license-change-that-necessitates~~ the ~~issuance~~ printing of a new license certificate, a fee in an amount not to exceed fifteen dollars ($15.00), the exact fee to be established by administrative rule of the commission;

(5) A fee in the amount allowed by law for insufficient funds checks or other types of insufficient payment;

(6) ~~A-fee-in-the-amount-of-ten-dollars-($10.00)-f~~For the compilation of each certified copy of a licensee's education history or license history, a fee in an amount not to exceed ten dollars ($10.00), the exact fee to be established by administrative rule of the commission;

(7) ~~A fee in the amount of fifty dollars ($50.00) f~~For issuance or renewal of a branch office license, a fee in an amount not to exceed fifty dollars ($50.00), the exact fee to be established by administrative rule of the commission.

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 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 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~~ four (~~3~~4) 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~~ is 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 toward the education requirements of this chapter 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, t~~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~~ either the student evaluations for the course and instructor, or a written summary of those evaluations 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) Instructors. ~~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 take reasonable steps to ensure that the instructor is competent to teach the course and shall maintain resumes or other biographical information that documents the qualifications of the instructor. ~~to teach the continuing education elective course~~ The provider shall make such documentation available to the public and commission upon written request. A course provider shall not offer for credit any course that is being taught below the minimum teaching standards established by the commission or that is being taught in a manner that is detrimental to the purpose of educating licensees.

(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 certificate 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. Information is misleading when, taken as a whole, there is distinct probability 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 certification. Any changes in ownership, provider location, or provider name, or named individual in charge must be submitted for approval to the commission, at least one (1) month in advance of the effective date of the proposed changes.

SECTION 7. That Section 54-2035, Idaho Code, be, and the same is hereby amended to read as follows:

54-2035. TERM OF INSTRUCTOR CERTIFICATION AND RENEWAL. (1) Certification. Each instructor certification issued by the commission shall be for a term of two (2) years. The exact expiration date will be shown on the instructor certificate.

(2) Recertification.

(a) In order to be recertified, each instructor shall:

(i) Return a ~~properly~~ completed recertification application on a form provided by the commission, along with all necessary attachments and fees, to the commission office prior to the expiration date for commission approval;

(ii) ~~Have adequately taught or assistant taught, during the preceeding two (2) years, at least twenty (20) hours of each course for which recertification is sought~~ Demonstrate the ability to adequately teach the course. The ~~adequacy of instructor teaching performance~~ ability to adequately teach shall be determined by the commission based upon any or all of the following:

1. Evaluations received from students;

2. Direct observation of the instructor's teaching performance by a commission representative; or

3. Review of the outline and reference materials provided for the course; and

(iii) Have attended a commission-sponsored instructor development seminar or received other acceptable training in methods of teaching adults during the preceding two (2) years.

(b) Recertification shall not be effective until the commission formally approves the application for renewal. An instructor's failure to obtain approved recertification prior to the expiration of the certification will result in no credit being given for any course taught by the instructor whose certification has expired prior to conclusion of the course.

SECTION 8. That Section 54-2040, Idaho Code, be, and the same is hereby amended to read as follows:

54-2040. MAIN OFFICE OR BUSINESS LOCATION. ~~--DISPLAY OF LICENSE.~~ (1) Definite location required. Each individual licensed as a designated real estate broker under the provisions of this chapter shall be required to have and maintain a definite, physical place of business, which place shall serve as his main office for the transaction of business and be regarded for the intent and purpose of this chapter as his principal place of business. Notice in writing shall be given to the commission of any change by the broker of the business name, location, or mailing address. ~~along with the fee for issuance of a new license~~

~~certificate. 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 former business name or former location~~ No other location may be used as a main office location until proper notice is acknowledged by the commission. A change of business name or location without notification to the commission ~~and issuance of a new license certificate~~ shall automatically inactivate the license previously issued. The broker shall also notify the commission in writing of any change in the business telephone number. A designated broker is not required to obtain, display or possess a physical license certificate as evidence of the business's licensure; however, the commission may make license certificates available for a fee as authorized by this chapter. The broker shall not display or otherwise make available to the public any license certificate bearing a former business name or former location.

(2) Broker for more than one business. A qualified individual may be the designated broker for more than one (1) licensed real estate business entity only if all licensed businesses operate their main offices at the same physical location.

(3) Brokers sharing same business location. More than one (1) individually licensed broker may operate an office at the same address only if each broker operates under a business name which clearly identifies the broker as an individual within the group of brokers, and each broker shall maintain his or her records and trust accounts separate from all other brokers.

(4) Business name. ~~and display of licenses.~~ A broker shall not conduct business under any name other than the one in which the license is issued. ~~The current license certificate for the broker and for each associate licensed with the broker shall be prominently displayed or available for public inspection in the office designated with the commission as the broker's main office location. No other location may be used as a main office location until proper notice is acknowledged by the commission.~~

(5) Lending license prohibited. A broker shall not lend or permit the use of the broker's license, whether for compensation or not, to enable anyone licensed or unlicensed to, in fact, establish or carry on a business for which a real estate broker's license is required, wherein the broker does not actively manage and have full control. In like manner, a salesperson shall not use another person's broker's license, whether for compensation or not, to establish or carry on a business for which a broker's license is required, nor to manage and control the office, except as allowed by sections 54-2016(4) and 54-2039(1), Idaho Code.

~~(6) Return of license certificate. Upon surrender of a real estate license or upon notice of suspension or revocation of such license, the broker shall immediately forward the license certificate to the commission. The license certificate of any sales associate licensed under and associated with a broker whose license is to be surrendered, suspended or revoked shall be returned to the commission on or before the effective date of the notice or order surrendering, suspending or revoking the broker's license.~~

SECTION 9. That Section 54-2044, Idaho Code, be, and the same is hereby amended to read as follows:

54-2044. TRUST ACCOUNT RECORDKEEPING — FORMAT OF RECORDS REQUIRED. In order that the financial interests of the consumers of Idaho be adequately protected, each designated broker is required to create and maintain the following records regarding any real estate trust account, and is required to reconcile and balance each trust account with all ledger records, the check register and the bank statement at least once each month. Any electronic recordkeeping system is required to have a generally accepted and adequate backup system in use at all times.

(1) Maintenance ledger record. A separate ledger card or record, herein called "ledgers," identified as "trust account maintenance fund" shall be initiated when the broker's or firm's funds are initially deposited into the trust account. These ledgers shall be filed at all times with the broker's current "open" ledgers of pending transactions. Additions or deductions to trust account maintenance funds shall be posted to the ledger records as soon as the broker is given notice of the deposit or deduction. The balance on this maintenance fund ledger shall be kept current at all times.

(2) Individual trust ledger records. An individual trust ledger shall be immediately created whenever a broker, or any licensed or unlicensed person representing the broker, receives earnest money or other consideration, even if the consideration will be deposited with, held by, paid directly to, transferred or delivered to a title company, other approved depository, or any other person, as directed in writing, and signed by both parties to the transaction. Receipt of consideration, for purposes of this chapter, occurs when the broker or any person representing the broker, takes physical possession of the consideration or assumes the responsibility to deliver or deposit it.

(3) When a broker deposits funds with another broker, an approved depository, or directly to the seller or any other person, as directed in writing by both parties to the transaction, a ledger record must be created by the transferring broker, with a transaction number assigned. Upon transfer of funds or consideration, a receipt for such deposit shall be obtained and retained in the transaction files of the transferring broker. The receipt must show the name of the payee and date of transfer.

(4) Additional requirements for creating an individual trust ledger record are set forth in section 54-2045, Idaho Code. Individual trust ledger records must each be assigned a transaction number. In addition, each individual trust account ledger record created must contain:

(a) The next chronological transaction number for each transaction;
(b) The names of both parties to the transaction;
(c) The location of the property;
(d) The date of each deposit and disbursement;
(e) The name of the payor or payee;
(f) The amount and check number of each disbursement;
(g) The amount and nature of the deposit;
(h) The current balance; and
(i) After the transaction is closed, each individual ledger record must show the final disposition of the transaction and funds.

A broker's trust account ledger records must be maintained with one (1) file, electronic or hard copy, for closed, terminated and rejected transactions, and a separate file for transactions pending but not closed. Ledger records shall be kept in alphabetical order or by transaction number. Ledger posting must be kept current at all times.

(5) Trust account checks. The broker shall maintain consecutively numbered checks for each trust account, which checks must:

(a) Contain the broker's licensed business name and current business address; and

(b) Be imprinted with the words "real estate trust account."

(6) Check register or journal. A check register or journal must be posted properly, maintained and kept current by the broker at all times even if funds are held at a title company or other approved depository. The register must itemize deposits and disbursements in consecutive order, and must also clearly show:

(a) The date of the deposit or disbursement;

(b) The payee or payor;

(c) The amount and purpose of any deposits or disbursements;

(d) The check number;

(e) The transaction number; and

(f) The current cash balance remaining in that trust account.

(7) Duplicate bank deposit record. For each trust account, the broker shall maintain, in hard copy, a duplicate bank deposit record, which shall be imprinted with the broker's business name and the words, "real estate trust account." Each deposit record shall state:

(a) The name of the person or firm placing the money with the broker's office;

(b) The date of the deposit; and

(c) The transaction number. The duplicate deposit record shall be retained in the bank deposit records in proper chronological sequence and shall be date stamped by the bank or the bank deposit receipt shall be attached to the duplicate deposit record in the deposit records.

(8) Real estate trust account checks. For each trust account, the broker shall maintain a set of consecutively numbered checks, which shall be imprinted with the broker's business name and address and the words "real estate trust account." Any check drawn on such a trust account shall be identified by a transaction number noted on the face of the check. Any voided trust account check shall be marked "VOID" and retained in numerical sequence with the other checks for the banking month.

SECTION 10. That Section 54-2045, Idaho Code, be, and the same is hereby amended to read as follows:

54-2045. TRUST ACCOUNT DEPOSITS AND RECEIPT OF CONSIDERATION. Except as otherwise provided in this section, all entrusted funds received by a broker in connection with a regulated real estate transaction, including, but not limited to, earnest money, shall be deposited into a real estate trust account maintained by the broker at an approved depository. ~~located in the state of Idaho.~~ In addition, all earnest money, option money, promissory notes, tangible personal property and any other consideration received by a broker, regardless of form, must be accounted for upon receipt and in the following manner:

(1) Time of deposit. All moneys received by a broker for another in a real estate transaction are to be deposited on or before the banking day immediately following the receipt day of such funds, unless written instructions signed by the party or parties having an interest in the funds direct the broker to do otherwise.

(2) Checks held in uncashed form. A ledger record must also be created when the broker or associate receives a check to be held for later deposit. However, such a check must be accompanied by written instructions in the purchase and sale agreement or offer to withhold deposit until a time certain, such as acceptance of the offer by the seller.

(3) Consideration returned before deposit. A ledger record must also be created even if the consideration received by a broker or salesperson is to be returned before it has been deposited or otherwise ~~properly~~ transferred. A written and dated notation must be placed on both the purchase and sale agreement, offer or other document dealing with the consideration, and on the ledger record. No consideration is to be returned without the knowledge and consent of the broker.

(4) Consideration received by sales associate. All consideration, including cash, checks held in uncashed form and promissory notes, received by a sales associate in connection with a real estate transaction shall be immediately delivered to the broker or the broker's office.

SECTION 11. That Section 54-2051, Idaho Code, be, and the same is hereby amended to read as follows:

54-2051. OFFERS TO PURCHASE. (1) A broker or sales associate shall, as promptly as practicable, tender to the seller every written offer to purchase obtained on the real estate involved, up until time of closing~~, and shall obtain the signature of the seller or seller's agent verifying time and date such offer was received~~. A purchase and sale agreement signed by the prospective buyer shall be deemed in all respects an offer to purchase.

(2) Immediately upon receiving any offer to purchase signed and dated by the buyer and any consideration, a broker or salesperson shall provide a copy of the offer to purchase to the buyer as a receipt.

(3) Upon obtaining a properly signed and dated acceptance of an offer to purchase, the broker or sales associate shall promptly deliver true and legible copies of such accepted offer to both the buyer and the seller.

(4) The broker or sales associate shall make certain that all offers to purchase real property or any interest therein are in writing and contain all of the following specific terms, provisions and statements:

(a) All terms and conditions of the real estate transaction as directed by the buyer or seller;

(b) The actual form and amount of the consideration received as earnest money;

(c) The name of the responsible broker in the transaction, as defined in section 54-2048, Idaho Code;

(d) The "representation confirmation" statement required in section 54-2085(4), Idaho Code, and, only if applicable to the transaction, the "consent to limited dual representation" as required in section 54-2088, Idaho Code;

(e) A provision for division of earnest money retained by any person as forfeited payment should the transaction not close;

(f) All appropriate signatures; and

(g) A legal description of the property.

(5) All changes made to any offer to purchase or other real estate purchase agreement shall be initialed and dated by the parties to the transaction.

SECTION 12. That Section 54-2056, Idaho Code, be, and the same is hereby amended to read as follows:

54-2056. TERMINATING OR CHANGING LICENSED BUSINESS RELATIONSHIPS. (1) Termination of licensed association. A sales associate who terminates his licensed association with a broker shall provide the broker written notice of the termination no later than three (3) business days after the effective date. A broker who terminates the licensed association of a sales associate shall provide the associate written notice of the termination no later than three (3) business days after the effective date. A licensee's written notice to the commission does not relieve him of the duty to provide written notice to the other licensee that he is terminating the licensed association. ~~Upon written notice of the termination of a sales associate's licensed business association with a broker, whether by the broker or by the sales associate, the broker shall remove from public view the former associate's license certificate.~~

(2) New association. The broker shall submit a written application, in the form and manner approved by the commission, for each sales associate licensing with the broker.

(3) Termination for cause. Any broker who terminates the association of a sales associate for the violation of any of the provisions of sections 54-2059 through 54-2065, Idaho Code, shall, within ten (10) business days of the termination, notify the commission, in writing, of the termination and the facts giving rise to the termination.

(4) Closing a branch office. Immediately upon closing a branch office, the broker shall provide the commission written notice of the closure advising of the new status of all licensees licensed with the closed branch. The broker shall ~~immediately~~ remove from public view ~~the branch office~~ any license ~~certificate and the license~~ certificates ~~of all licensees licensed in~~ for the branch office.

(5) Property of the broker. Upon termination of the business relationship as a sales associate licensed under a broker, the sales associate shall immediately turn over to the broker all listing information and listing contracts, keys, purchase and sale agreements and similar contracts, buyer brokerage information and contracts, and other property belonging to the broker. A sales associate shall not engage in any practice or conduct, directly or indirectly, which encourages, entices or induces clients of the broker to terminate any legal business relationship with the broker unless he first obtains written permission of the broker.

(6) Location of trust accounts and file records. When an actively licensed broker changes to a license status other than that of a designated broker, that individual must notify the commission in writing of the location of all trust accounts and transaction file records which the broker was responsible for during the term of licensure as a designated broker. These records shall be available to the commission for three (3) years following the year in which each transaction was closed.

(7) Terminating relationships between a broker and a sole proprietorship owned by a person other than the broker. When a broker for a

sole proprietorship, owned by a person other than the broker, terminates an association with the owner, all records and trust account funds shall become the property of, and be maintained and disbursed by, the terminating broker in accordance with this chapter and applicable rules promulgated thereunder. The terminating broker shall deliver, upon request made in writing by the clients and the new broker of that sole proprietorship, such records and trust account funds pertaining to that client, to the new broker who shall thereafter have the responsibility for preservation and disbursement, in accordance with this chapter and applicable rules promulgated thereunder.

Approved March 20, 2007.

CHAPTER 99
(S.B. No. 1120)

AN ACT

RELATING TO COUNTY AUDITORS; REPEALING SECTION 31-2306, IDAHO CODE, RELATING TO A JOINT STATEMENT BY THE AUDITOR AND TREASURER AND PUBLICATION OF SUMMARIES; AND AMENDING SECTION 31-2307, IDAHO CODE, TO PROVIDE FOR TIMELY PUBLICATION OF A SUMMARY OF THE BALANCE SHEET AND OF THE STATEMENT OF REVENUES AND EXPENDITURES.

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

SECTION 1. That Section 31-2306, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Section 31-2307, Idaho Code, be, and the same is hereby amended to read as follows:

31-2307. ANNUAL STATEMENT OF FINANCIAL CONDITION OF COUNTY -- PUBLICATION. (1) Every county auditor must, on or before the second Monday in January of each year, prepare, in duplicate, an exact and full statement, under oath, of the financial condition of his county for the fiscal year last preceding, in such form as prescribed by the board of county commissioners, one of which statements shall be filed in the office of the county auditor and the other with the board of county commissioners of the county.

(2) Within thirty (30) days of the annual audit's preparation, the county auditor shall cause to be published a summary of the balance sheet and a summary of the statement of revenues and expenditures.

Approved March 20, 2007.

CHAPTER 100
(S.B. No. 1130)

AN ACT
RELATING TO COMMERCIAL DRIVER'S LICENSES; AMENDING SECTION 49-335, IDAHO CODE, TO PROVIDE FOR DISQUALIFICATION IF A PERSON SUBMITS TO AND FAILS A TEST TO DETERMINE THE DRIVER'S CONCENTRATION OF ALCOHOL, DRUG OR OTHER INTOXICATING SUBSTANCES.

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

SECTION 1. 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 concentration 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 motor vehicle in the commission of any felony.

(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 commercial motor vehicle for a period of not less than one (1) year if the person refuses to submit to <u>or submits to and fails</u> a test to determine the driver's <u>alcohol, drug or other intoxicating substances</u> 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 combination of those offenses, arising from two (2) or more separate incidents.

(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, distribution, or dispensing of a controlled substance, or possession of a controlled substance with the intent to manufacture, distribute or dispense 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).

Approved March 20, 2007.

CHAPTER 101
(S.B. No. 1133)

AN ACT

RELATING TO MOTOR VEHICLE EQUIPMENT; AMENDING SECTION 49-948, IDAHO CODE, TO PROVIDE FOR YEAR-ROUND USE OF TIRES EQUIPPED WITH RETRACTABLE STUDS UNDER SPECIFIED CONDITIONS.

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

SECTION 1. That Section 49-948, Idaho Code, be, and the same is hereby amended to read as follows:

49-948. RESTRICTIONS AS TO TIRE EQUIPMENT. (1) Every solid rubber tire on a vehicle shall have rubber on its entire traction surface at least one (1) inch thick above the edge of the flange of the entire periphery.

(2) No person shall operate or move on any highway any motor vehicle, trailer, or semitrailer having any metal tire in contact with the highway.

(3) No tire on a vehicle moved on a highway shall have on its periphery any block, stud, flange, cleat, spike, or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except as allowed herein. It shall be permissible to use farm machinery with tires having protuberances which will not injure the highway, and it shall be permissible to use tire chains. Tires with built-in lugs of tungsten carbide or other suitable material, hereinafter called studs, may be used upon any vehicle when required for safety because of snow, ice, or other conditions tending to cause a vehicle to skid, that will not unduly damage the highway. Motor vehicles, trailers and semitrailers with tires having built-in studs are prohibited on public highways between the dates of May 1 and September 30, annually, except as provided in paragraphs (a), ~~and~~ (b) and (c) of this subsection:

(a) Fire pumper/tanker trucks and ladder trucks belonging to fire departments and firefighting agencies are exempt from the prohibited dates.

(b) A vehicle may be equipped year-round with tires that have retractable studs if the studs retract pneumatically or mechanically to at or below the wear bar of the tire when not in use and the retractable studs protrude beyond the wear bar of the tire only between October 1 and April 30. Retractable studs may be made of

metal or other material and are not subject to the stud weight requirements of subsection (4) of this section.

(c) Special exemptions from the prohibited dates may be granted by the Idaho transportation board if it is found by the board that enhancements to public safety outweigh the increased pavement wear.

(4) Commercial tire retailers shall not sell studded tires with studs exceeding the following weight and protrusion limitations after July 1, 2005. Commercial tire retailers and tire shops shall not manually install studs exceeding the following weight and protrusion limitations after July 1, 2005.

(a) Studs shall not protrude more than six-hundredths (.06) of an inch from the surface of the tire tread when originally installed.

(b) Stud size shall be as recommended by the manufacturer of the tire for the type and size of the tire.

(c) Studs shall individually weigh no more than one and one-half (1.5) grams if the stud is size 14 or less.

(d) Studs shall individually weigh no more than two and three-tenths (2.3) grams if the stud size is 15 or 16.

(e) Studs shall individually weigh no more than three (3) grams if the stud size is 17 or larger.

Approved March 20, 2007.

CHAPTER 102
(S.B. No. 1150)

AN ACT

RELATING TO THE COMMISSION OF PARDONS AND PAROLE; AMENDING SECTION 20-210, IDAHO CODE, TO INCREASE COMPENSATION TO COMMISSION MEMBERS.

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

SECTION 1. That Section 20-210, Idaho Code, be, and the same is hereby amended to read as follows:

20-210. COMMISSION OF PARDONS AND PAROLE -- APPOINTMENT -- QUALIFICATIONS -- TERMS -- SALARY -- STAFF. The governor shall appoint a state commission of pardons and parole, each member of which shall be subject to the advice and consent of the senate, in this chapter referred to as the commission, which shall succeed to and have all rights, powers and authority of said board of pardons as are granted and provided by the provisions of the constitution of the state of Idaho.

The commission shall be composed of five (5) members. The members shall serve at the pleasure of the governor and not more than three (3) members shall be from any one (1) political party.

The members of the commission shall be appointed for the purposes of organization as follows: Members on the commission on the effective date of this act, shall serve out the remainder of their terms; thereafter, as members' terms expire, the governor shall reappoint them or appoint new members to serve terms of three (3) years; vacancies in the commission for unexpired terms shall be by appointment by the governor for the remainder of the term and all appointees may be reappointed.

The commission and the board may meet as necessary to exchange such information to enable each to effectively carry out their respective duties.

The commission shall meet at such times and places as determined to be necessary and convenient, or at the call of the executive director and in any event no less than quarterly.

The members shall be compensated as provided by section 59-509(i), Idaho Code, when attending quarterly meetings conducted at a date and time separate from a hearing session or other meetings approved by the executive director. The members shall receive compensation of ~~one hundred fifty~~ two hundred dollars (~~$150~~$200) per member per day when conducting parole, commutation, pardon, revocation or other hearings, and shall be reimbursed for actual and necessary expenses subject to the limitations provided in section 67-2008, Idaho Code.

The governor will liberally allow the reasonable payment for services of such technical and professional advice and consultation as the commission may require. The governor shall appoint the executive director for the commission. The executive director shall be the full-time employee who shall report to, serve at the pleasure of, and be compensated as determined by the governor. The executive director shall be the official representative for the commission, shall be responsible for the managing and administration of daily commission business and shall schedule hearing sessions at times convenient to the members of the commission. For each scheduled session, the executive director shall designate one (1) of the members of the commission as the presiding officer for conducting the hearings. The executive director may hire such staff and employees as are approved by the governor. The executive director shall also have such other duties and responsibilities as the governor shall assign.

Approved March 20, 2007.

CHAPTER 103
(S.B. No. 1151)

AN ACT

RELATING TO TORT CLAIMS AGAINST GOVERNMENTAL ENTITIES; AMENDING CHAPTER 9, TITLE 6, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 6-902A, IDAHO CODE, TO PROVIDE THAT SUPERVISORY PHYSICIANS SHALL BE CONSIDERED EMPLOYEES FOR PURPOSES OF TORT CLAIMS ACT INSURANCE COVERAGE, TO DEFINE TERMS, TO PROVIDE THAT SPECIFIC LIABILITY EXCEPTIONS AND LIMITS SHALL BE INAPPLICABLE IN CERTAIN CASES AND TO PROVIDE THAT CERTAIN CLAIMS AGAINST SUPERVISORY PHYSICIANS SHALL NOT BE SUBJECT TO MEDICAL MALPRACTICE.

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

SECTION 1. That Chapter 9, Title 6, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 6-902A, Idaho Code, and to read as follows:

6-902A. SUPERVISORY PHYSICIAN. (1) For purposes of this chapter only, a supervisory physician shall be considered an employee.

(2) As used in this section:

(a) "Supervisory duties" means those administrative duties of a physician who supervises personnel affiliated with a licensed ambulance or non-transport service including, but not limited to, disciplining and educating personnel, setting staffing levels, emergency medical services system design, establishing patient care guidelines and medical policies, compliance, establishing standing orders and protocols, reviewing performance of personnel, quality management and other reasonably necessary administrative duties.

(b) "Supervisory physician" means a physician licensed pursuant to chapter 18, title 54, Idaho Code, who supervises the activities of personnel affiliated with a licensed ambulance or non-transport service as described in section 56-1011, Idaho Code, et seq., when the licensed ambulance or non-transport service is operated under the control of a governmental authority.

(3) The exceptions to liability set forth in sections 6-904, 6-904A and 6-904B, Idaho Code, shall not be applicable to a claim against a supervisory physician for failure to properly perform supervisory duties. The liability limit contained in section 6-926, Idaho Code, shall not be applicable to a claim against a supervisory physician for failure to properly perform supervisory duties to the extent that such supervisory physician is covered by liability insurance exceeding that limit.

(4) Claims against a supervisory physician for failure to properly perform supervisory duties shall not be subject to the requirements of chapter 10, title 6, Idaho Code.

Approved March 20, 2007.

CHAPTER 104
(S.B. No. 1160)

AN ACT

RELATING TO JUDGES; AMENDING SECTION 1-805, IDAHO CODE, TO INCREASE THE NUMBER OF DISTRICT JUDGES IN THE FOURTH JUDICIAL DISTRICT BY ONE JUDGE AND TO REVISE THE NUMBER OF RESIDENT CHAMBERS ACCORDINGLY.

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

SECTION 1. That Section 1-805, Idaho Code, be, and the same is hereby amended to read as follows:

1-805. FOURTH DISTRICT -- NUMBER OF JUDGES -- RESIDENT CHAMBERS. (1) The fourth judicial district shall consist of the counties of Valley, Boise, Ada and Elmore.

(2) The fourth judicial district shall have ~~nine~~ <u>ten</u> (~~9~~<u>10</u>) district judges.

(3) Resident chambers of the district judges of the fourth judicial district shall be established as follows:

(a) ~~Eight~~ Nine (~~8~~9) resident chambers shall be established in Ada County;
(b) One (1) resident chambers shall be established in Ada or Elmore County.

Approved March 20, 2007.

CHAPTER 105
(S.B. No. 1164)

AN ACT

RELATING TO WARRANTS; AMENDING SECTION 19-4408, IDAHO CODE, TO REMOVE LANGUAGE REQUIRING SEARCH WARRANTS TO BE SERVED WITH THE OFFICER PRESENT AND TO ALLOW FOR SERVICE OF WARRANTS BY SPECIFIED MEANS.

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

SECTION 1. That Section 19-4408, Idaho Code, be, and the same is hereby amended to read as follows:

19-4408. SERVICE OF WARRANT. A search warrant may in all cases be served by any of the officers mentioned in its directions, but by no other person, except in aid of the officer on his requiring it~~, he being present and acting in its execution~~. Service of a warrant may be made by the officers mentioned in its directions in person, by mail or facsimile transmission, or by electronic mail. Unless an investigation necessitates otherwise, the officer should attempt notification on the person whom it is served prior to electronic mail service.

Approved March 20, 2007.

CHAPTER 106
(H.B. No. 20, As Amended in the Senate)

AN ACT

RELATING TO DOMESTIC RELATIONS; AMENDING CHAPTER 7, TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 32-717E, IDAHO CODE, TO PROVIDE FOR THE APPOINTMENT OF SUPERVISED ACCESS PROVIDERS, TO PROVIDE THAT QUALIFICATIONS AND DUTIES SHALL BE SPECIFIED BY SUPREME COURT RULE, TO REQUIRE CRIMINAL HISTORY CHECKS FOR CERTAIN PROVIDERS AND TO PROVIDE THAT ALL BACKGROUND CHECKS SHALL BE MAINTAINED IN THE OFFICE OF THE IDAHO SUPREME COURT.

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

SECTION 1. That Chapter 7, Title 32, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 32-717E, Idaho Code, and to read as follows:

32-717E. SUPERVISED ACCESS PROVIDERS — RECORD CHECKS. In cases in which a court has ordered that contact between a person and one (1) or more children shall take place only in the presence of an approved provider, or where the court has ordered supervised exchanges or transfers of one (1) or more children, the court may appoint an individual or entity as a supervised access provider to provide such supervised access or to facilitate such exchanges or transfers. The qualifications and duties of supervised access providers shall be as specified in rules adopted by the supreme court. A supervised access provider who is paid for providing supervised access services shall, prior to acting in such capacity and at his or her own cost, submit to a fingerprint-based criminal history check through any law enforcement office in the state providing such service. The criminal history check shall include a statewide criminal identification bureau check, federal bureau of investigation criminal history check, child abuse registry check, adult protection registry check and statewide sex offender registry check. A record of all background checks shall be maintained in the office of the supreme court of the state of Idaho.

Approved March 20, 2007.

CHAPTER 107
(H.B. No. 32, As Amended in the Senate)

AN ACT

RELATING TO THE IDAHO ENERGY RESOURCES AUTHORITY; AMENDING SECTION 67-8903, IDAHO CODE, TO FURTHER DEFINE THE TERM "FACILITY"; AMENDING SECTION 67-8910, IDAHO CODE, TO PROVIDE CONDITIONS WHEN THE AUTHORITY OR AN AGENT MAY OPERATE A FACILITY AND TO PROVIDE PROVISIONS FOR A CONTRACT; AMENDING SECTION 67-8921, IDAHO CODE, TO PROVIDE THAT THE AUTHORITY'S ANNUAL REPORT SHALL BE SUBMITTED TO THE LEGISLATURE, AND SHALL CONTAIN ANY NEW OR ADDITIONAL FACILITY MANAGEMENT AND OPERATION ACTIVITIES; AMENDING SECTION 67-8922, IDAHO CODE, TO ALLOW THE STATE TREASURER TO INVEST IN FIXED OR VARIABLE RATE BONDS OF THE AUTHORITY SO LONG AS THE BONDS ARE NOT LESS THAN INVESTMENT GRADE AND ARE NOT BEYOND A CERTAIN TERM; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-8903, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

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

(5) "Electric cooperative" means a cooperative corporation or association which is:

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

(b) Is an Idaho nonprofit corporation pursuant to chapter 3, title 30, Idaho Code; and

(c) Is an operating entity or successor entity thereof which owns facilities and provides electric service to customers in Idaho as of the effective date of this chapter.

(6) "Facility" means any facility necessary, used or useful in connection with the generation, ~~or~~ transmission or distribution of electric power and energy and any renewable energy generation project, in each case including, but not limited to, all real and personal property, fuel supplies and transportation facilities, pollution control facilities and all equipment and improvements necessary or desirable in connection with a facility. "Facility" shall include facilities owned in whole or in part by the authority or a participating utility, including undivided ownership interests in facilities, leasehold interests in facilities and other estates, but excludes a generating facility that sells any portion of its output as a qualifying facility to a participating utility under provisions of the public utility regulatory policies act of 1978, 16 U.S.C. section 2601 et seq.

(7) "Independent power producer" means any public or private corporation which is not itself a participating utility, but which may be an affiliate of a participating utility, that develops any renewable energy generation project undertaken by the authority pursuant to this chapter.

(8) "Participating utility" means, with respect to any facilities undertaken by the authority pursuant to this chapter, any public or private corporation, electric cooperative or other cooperative corporation or association, municipal corporation, political subdivision of this state or another state, state or federal agency, joint operating entity or other entity that:

(a) Owns and operates an electric utility system that provides electric services to consumers of electricity located in an existing service area within the boundaries of this state;

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

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

(9) "Renewable energy" means a source of energy that occurs naturally, is regenerated naturally or uses as a fuel source, a waste product or byproduct from a manufacturing process including, but not limited to, open or closed-loop biomass, fuel cells, geothermal energy, waste heat, cogeneration, solar energy, waterpower and wind.

(10) "Renewable energy generation project" means an electric generating facility or system that uses renewable energy as its primary source of energy to generate electricity.

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

SECTION 2. That Section 67-8910, Idaho Code, be, and the same is hereby amended to read as follows:

67-8910. MANAGEMENT AND OPERATION OF FACILITIES. The authority shall cause any facilities undertaken by it to be managed and operated on its behalf by one (1) or more qualified participating utilities, or if no participating utility is qualified, willing or able to manage and operate such facility, by the authority or by an agent so designated by the authority capable and skilled in the management and operation of such a facility. The authority shall enter into joint operating arrangements with participating utilities, designated agents of the authority or others and may enter into any and all contractual arrangements determined by the authority to promote the effective and efficient management and operation of its facilities. The authority shall not commence the management or operation for any facility until it shall have entered into contractual arrangements with one (1) or more participating utilities that contain provisions acceptable to both the authority and the participating utility or utilities and which are determined by the authority to provide adequate assurance that all management, operating, maintenance and related costs of the facility will be paid by or provided for by one (1) or more participating utilities.

SECTION 3. That Section 67-8921, Idaho Code, be, and the same is hereby amended to read as follows:

67-8921. ANNUAL REPORT. The authority shall submit to the governor and to the legislature within ninety (90) days after the end of its fiscal year a complete and detailed report setting forth:

(1) Its operations and accomplishments;

(2) An accounting of its receipts and expenditures during such fiscal year in accordance with the categories or classifications established by the authority for its operating and capital outlay purposes;

(3) Its assets and liabilities at the end of its fiscal year, including the status of reserve, special or other funds; ~~and~~

(4) A schedule of its bonds outstanding at the end of its fiscal year, together with a statement of the amounts redeemed and incurred during such fiscal year; and

(5) Any new or additional facility management and operation activities.

SECTION 4. That Section 67-8922, Idaho Code, be, and the same is hereby amended to read as follows:

67-8922. AUTHORITY OBLIGATIONS ARE LEGAL INVESTMENTS. (1) The bonds of the authority shall be legal investments in which all public officers and public bodies of this state, its political subdivisions, all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, banking associations, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or in other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them. The bonds are also hereby made securities which may properly and legally be deposited with and received by

all public officers and bodies of the state or any agency or political subdivisions of the state and all municipalities and public corporations for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized by law.

(2) In addition to the investments permitted under chapter 12, title 67, Idaho Code, and notwithstanding any limitations on investments contained in that chapter, the state treasurer is authorized and empowered to invest state funds or any other funds in his hands in fixed or variable rate bonds of the authority and to enter into agreements with the authority in connection with any such investment, so long as the term of the investment does not exceed thirty (30) years and the quality of the underlying credit, or the underlying credit as enhanced, is not less than investment grade.

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 20, 2007.

CHAPTER 108
(H.B. No. 51)

AN ACT

RELATING TO MILITARY RESERVISTS; AMENDING SECTION 32-717, IDAHO CODE, TO PROVIDE RIGHTS OF MILITARY RESERVISTS IN CHILD CUSTODY MATTERS; AND AMENDING SECTION 33-3719, IDAHO CODE, TO PROVIDE RIGHTS OF MILITARY RESERVISTS IN EDUCATIONAL MATTERS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 32-717, Idaho Code, be, and the same is hereby amended to read as follows:

32-717. CUSTODY OF CHILDREN -- BEST INTEREST. (1) In an action for divorce the court may, before and after judgment, give such direction for the custody, care and education of the children of the marriage as may seem necessary or proper in the best interests of the children. The court shall consider all relevant factors which may include:

(a) The wishes of the child's parent or parents as to his or her custody;

(b) The wishes of the child as to his or her custodian;

(c) The interaction and interrelationship of the child with his or her parent or parents, and his or her siblings;

(d) The child's adjustment to his or her home, school, and community;

(e) The character and circumstances of all individuals involved;

(f) The need to promote continuity and stability in the life of the child; and

(g) Domestic violence as defined in section 39-6303, Idaho Code, whether or not in the presence of the child.

(2) If the parent has a disability as defined in this section, the parent shall have the right to provide evidence and information regarding the manner in which the use of adaptive equipment or supportive services will enable the parent to carry out the responsibilities of parenting the child. The court shall advise the parent of such right. Evaluations of parental fitness shall take into account the use of adaptive equipment and supportive services for parents with disabilities and shall be conducted by, or with the assistance of, a person who has expertise concerning such equipment and services. Nothing in this section shall be construed to create any new or additional obligations on state or local governments to purchase or provide adaptive equipment or supportive services for parents with disabilities.

(3) In any case where the child is actually residing with a grandparent in a stable relationship, the court may recognize the grandparent as having the same standing as a parent for evaluating what custody arrangements are in the best interests of the child.

(4) As used in this chapter:

(a) "Adaptive equipment" means any piece of equipment or any item that is used to increase, maintain or improve the parenting capabilities of a parent with a disability.

(b) "Disability" means, with respect to an individual, 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, 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 effect of corrective or mitigating measures used to reduce the effects of the impairment.

(c) "Supportive services" means services which assist a parent with a disability to compensate for those aspects of their disability which affect their ability to care for their child and which will enable them to discharge their parental responsibilities. The term includes specialized or adapted training, evaluations, or assistance with effective use of adaptive equipment, and accommodations which allow a parent with a disability to benefit from other services, such as braille texts or sign language interpreters.

(5) Nothing in this chapter shall be construed to allow discrimination on the basis of disability. In any case where the disability of a parent is found by the court to be relevant to an award of custody of a child, the court shall make specific findings concerning the disability and what effect, if any, the court finds the disability has on the best interests of the child.

(6) With reference to this section, when an active member of the Idaho national guard has been ordered or called to duty as defined in section 46-409, Idaho Code, <u>or when a member of the military reserve is ordered to active federal service under title 10, United States Code,</u> such military service thereunder shall not be a substantial or material and permanent change in circumstance to modify by reducing the member's previously decreed child custody and visitation privileges.

SECTION 2. That Section 33-3719, Idaho Code, be, and the same is hereby amended to read as follows:

33-3719. STUDENT CALLED TO ACTIVE DUTY. Whenever any active member of the Idaho national guard is called or ordered by the governor to state active duty for thirty (30) consecutive days or more, or to duty other than for training pursuant to title 32, U.S.C., or called or ordered by competent federal authority into active federal service under title 10, U.S.C., for duty other than for training for thirty (30) consecutive days or more, or whenever a member of any reserve United States military force is ordered to said active federal service, an educational institution in this state in which the member is enrolled shall grant the member military leave of absence from his education. Individuals on military leave of absence from their educational institution, upon release from military duty, shall be restored to the educational status they had attained prior to their being ordered to military duty without loss of academic credits earned, scholarships or grants awarded, or tuition and other fees paid prior to the commencement of the military duty. It shall be the duty of the educational institution to refund tuition or fees or to credit the tuition, scholarships, grants and fees to the next academic semester or term after the termination of the educational military leave of absence at the option of the student.

Approved March 20, 2007.

CHAPTER 109
(H.B. No. 52)

AN ACT

RELATING TO MILITARY RETIREMENT; AMENDING SECTION 46-206, IDAHO CODE, TO DESIGNATE WHO MAY BE PLACED ON THE RETIREMENT LIST AND TO PROVIDE FOR HONORARY PROMOTIONS; AND REPEALING SECTION 46-214, IDAHO CODE, RELATING TO RETIREMENT OF ENLISTED PERSONNEL.

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

SECTION 1. That Section 46-206, Idaho Code, be, and the same is hereby amended to read as follows:

46-206. RETIREMENT OF OFFICERS -- TIME OF SERVICE. ~~Any officer of the national guard who loses his federal recognition because of mandatory retirement may be advanced one (1) grade and may be placed upon the retired list by order of the governor as commander in chief.~~ Upon request, a~~A~~ny commissioned officer, warrant officer or enlisted member of the national guard of Idaho who has ~~served as an officer in the national guard of Idaho for a period~~ a total military service in the armed forces of the United States of twenty (20) years~~, upon his request,~~ may be placed on the retirement list. In the discretion of the adjutant general, any member may be advanced one (1) grade~~, and placed upon the retired list~~ prior to retirement. ~~Any commissioned officer who has a total service in the armed forces of the United States and in the national guard of Idaho of fifteen (15) years, may upon his request be~~

~~advanced--one--(1)-grade-and-retired~~ Promotions under this section shall be honorary.

SECTION 2. That Section 46-214, Idaho Code, be, and the same is hereby repealed.

Approved March 20, 2007.

CHAPTER 110
(H.B. No. 54, As Amended in the Senate)

AN ACT

RELATING TO LICENSES ISSUED BY THE IDAHO TRANSPORTATION DEPARTMENT; AMENDING SECTION 49-303, IDAHO CODE, TO REVISE AND CLARIFY THE RESTRICTIONS ON ISSUING A LICENSE, PERMIT OR PRIVILEGE TO DRIVE TO HABITUAL DRUNKARDS AND PERSONS ADDICTED TO THE USE OF NARCOTIC DRUGS, AND PERSONS AFFLICTED WITH OR SUFFERING FROM MENTAL DISABILITY OR DISEASE.

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

SECTION 1. That Section 49-303, Idaho Code, be, and the same is hereby amended to read as follows:

49-303. WHAT PERSONS SHALL NOT BE LICENSED. The department shall not issue any driver's license, any instruction permit, privileges or right to drive and if issued, may revoke or cancel the driver's license of a person who:

(1) As an operator of a vehicle requiring a class D driver's license, is under the age of seventeen (17) years, except that the department may issue a driver's license to any person who has successfully completed an approved driver training course, has completed the requirements of a class D supervised instruction permit, and who is at least fifteen (15) years of age, with driving privileges restricted to daylight hours only except as provided in section 49-307(7), Idaho Code, and with full privileges at sixteen (16) years of age. The restriction of daylight hours only shall mean that period of time one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset. If a person who is at least fifteen (15) years but is under seventeen (17) years of age has successfully completed an approved driver's training course and has been issued a driver's license in another state, he may be issued a class D driver's license in this state. Provided however, that a restricted school attendance driving permit may be issued to those persons meeting the criteria set forth in section 49-307A, Idaho Code.

(2) As an operator of a vehicle requiring a class D driver's license, is under the age of seventeen (17) years and has not successfully completed an approved driver training course and has not satisfied the requirements of a class D supervised instruction permit. Provided however, that a restricted school attendance driving permit may be issued to those persons meeting the criteria set forth in section 49-307A, Idaho Code.

(3) As an operator of a commercial vehicle requiring a class A, B or C driver's license is under the age of eighteen (18) years.

(4) Applicants with less than one (1) year of driving experience, as evidenced by a previous driver's license shall not be issued a class A, B or C driver's license or a class A, B or C instruction permit.

(5) As a driver has had his license, class D instruction permit, restricted school attendance driving permit, privileges or right to drive suspended for the duration of the suspension, nor to any person who has had his class D driver's training instruction permit or class D supervised instruction permit canceled for the duration of the cancellation, nor to any person whose license has been revoked, suspended, canceled or disqualified by this state or any other jurisdiction; provided however, where a driver's license has been revoked, suspended, canceled or disqualified in any other jurisdiction, and the driver has completed the period of revocation, suspension, cancellation or disqualification as specified by the jurisdiction, that person may be granted a class D driver's license in this state if five (5) years have elapsed from the time of eligibility for reinstatement in the other jurisdiction, even though the driver has not fulfilled the requirements for reinstatement in the other jurisdiction.

(6) ~~Is~~ Has been adjudged by a court of competent jurisdiction to be an habitual drunkard~~,~~ or ~~is~~ addicted to the use of narcotic drugs, and such order has been received by the department.

(7) Has ~~previously~~ been adjudged by a licensed physician or by a court of competent jurisdiction to be afflicted with or suffering from any mental ~~disability or disease~~ incompetence that would affect the person's ability to safely operate a motor vehicle and who has not at the time of application been restored to competency by the methods provided by law, and such order has been received by the department.

(8) Is required by the provisions of this chapter to take an examination, unless that person shall have successfully passed such examination.

(9) May be required under any law of this state to furnish proof of financial responsibility and who has not furnished that proof.

(10) The department has good cause to believe that the operation of a motor vehicle on the highways by that person would be harmful to public safety or welfare.

(11) Is disqualified for a class A, B or C license, except he may be issued a class D driver's license.

(12) Is under eighteen (18) years of age and is not enrolled in school, has not received a waiver pursuant to or has not satisfactorily completed school as provided in section 49-303A, Idaho Code.

(13) Is not a resident of the state of Idaho.

Approved March 20, 2007.

CHAPTER 111
(H.B. No. 71, As Amended in the Senate)

AN ACT
RELATING TO TECHNICAL CORRECTIONS TO THE SALES TAX ACT; AMENDING SECTION 63-3620C, IDAHO CODE, TO DELETE THE REQUIREMENT THAT RETAILERS DISCLOSE TAXPAYER IDENTIFICATION NUMBERS ON CERTAIN STATEMENTS; AMENDING SECTION 63-3622R, IDAHO CODE, TO CLARIFY THE EXEMPTION FOR

GLIDER KIT VEHICLES; AND AMENDING SECTION 63-3622JJ, IDAHO CODE, TO DELETE RESEARCH FROM THE EXCLUSION FROM THE LOGGING EXEMPTION.

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

SECTION 1. That Section 63-3620C, Idaho Code, be, and the same is hereby amended to read as follows:

63-3620C. PROMOTER SPONSORED EVENTS. (1) The operator or promoter contracting with persons for participation in a promoter sponsored event, as a prerequisite to renting or leasing space to any person for conducting business as a retailer on any premises owned or controlled by that operator or promoter, shall obtain:

(a) Written evidence that the retailer holds a valid seller's permit issued pursuant to this chapter or will apply to the state tax commission for a regular or temporary seller's permit; or

(b) A written statement from the retailer that the retailer is not offering for sale any item that is taxable under this chapter or is otherwise not required to hold a valid seller's permit.

(2) Such written evidence or statements shall be in such form and contain such information as the state tax commission shall require~~, and shall include the retailer's taxpayer identification number~~. The operator or promoter shall submit the documents to the state tax commission within ten (10) days following the beginning of the event.

(3) (a) The state tax commission may appoint a sponsor or promoter as its agent for issuing temporary seller's permits to participants in the event and for accounting for such permits.

(b) A sponsor or promoter appointed to issue temporary permits under this subsection shall be entitled to a credit or refund of income or franchise taxes imposed under chapter 30, title 63, Idaho Code, in the amount of one dollar ($1.00) for each such temporary permit issued by the sponsor or promoter during the taxable year.

(4) Any operator or promoter of a promoter sponsored event who fails to comply with this section may be subject to a minimum penalty of fifty dollars ($50.00) per event and twenty-five dollars ($25.00) for each seller over two (2) sellers for whom such records required by subsection (1) of this section are not obtained, but not to exceed one thousand dollars ($1,000) for each such event. Under no circumstances, shall an operator or a promoter be responsible for sales or use tax not remitted by a retailer at a promoter sponsored event.

(5) The penalties provided in subsection (4) of this section shall not apply:

(a) Unless the state tax commission shall have previously given notice to the operator or promoter or its officer, agent or employee, by certified mail, of the requirements of this section and of a violation of this section by the operator or promoter or its officer, agent or employee; or

(b) If the operator or promoter shows that such failure was due to reasonable cause and not to willful neglect.

(6) The state tax commission shall give notice of any penalty provided in this section and it shall assess such penalties in the manner provided for deficiencies of tax.

(7) "Promoter sponsored event," as used in this section, means a swap meet, flea market, gun show, fair or similar activity involving a

series of sales sufficient in number, scope and character to constitute a regular course of business; or any event at which two (2) or more persons offer tangible personal property or services for sale or exchange and at which a fee is charged for the privilege of offering the services or displaying the property for sale or exchange; or at which a fee is charged to prospective buyers for admission to the area where the property or services are offered or displayed for sale or exchange.

SECTION 2. 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, 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~~ the international registration plan 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 as defined in section 49-123, Idaho Code, which will be immediately registered under a plan defined in subsection (c) of this section, provided that if the glider kit vehicle is not substantially used in interstate commerce as defined in subsection (c) of this section during any registration period, it shall be subject to the use tax under section 63-3621, Idaho Code.

(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.

SECTION 3. That Section 63-3622JJ, Idaho Code, be, and the same is hereby amended to read as follows:

63-3622JJ. LOGGING EXEMPTION. There are exempted from the taxes imposed by this chapter:

(1) The sale at retail, storage, use or other consumption in this state of tangible personal property which is primarily and directly used or consumed in logging including, but not limited to, log loaders, log jammers, log skidders and fuel used in logging trucks, provided that the use or consumption of such tangible personal property is necessary or essential to logging.

(2) The exemption allowed by subsection (1) of this section does not include machinery, equipment, materials and supplies used in a manner that is incidental to logging such as maintenance and janitorial equipment and supplies, and hand tools with a unit purchase price not in excess of one hundred dollars ($100); nor does it include tangible personal property used in any activities other than the actual logging, such as office equipment and supplies, equipment and supplies used in selling or distributing activities~~,--in-research,~~ or, except for fuel used in logging trucks, in transportation activities; nor shall this exemption include motor vehicles or aircraft, without regard to the use to which such motor vehicles or aircraft are put; nor shall this exemption apply to vehicles or equipment described in section 63-3622HH, Idaho Code.

Approved March 20, 2007.

CHAPTER 112
(H.B. No. 100)

AN ACT

RELATING TO MANUFACTURED HOMES; AMENDING SECTION 44-2101, IDAHO CODE, TO REVISE DESCRIPTIVE LANGUAGE, TO REVISE THE PURPOSE, TO REQUIRE CRIMINAL HISTORY CHECKS AND TO PROVIDE FOR REINSTATEMENT; REPEALING SECTION 44-2101A, IDAHO CODE, RELATING TO DEFINITIONS; AMENDING CHAPTER 21, TITLE 44, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 44-2101A, IDAHO CODE, TO DEFINE TERMS; AMENDING SECTION 44-2102, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO ADMINISTRATION; AMENDING SECTION 44-2103, IDAHO CODE, TO REVISE FEES AND FEE REQUIREMENTS; AMENDING SECTION 44-2104, IDAHO CODE, TO REVISE DESCRIPTIVE LANGUAGE AND TO REVISE PROVISIONS RELATING TO BOARD MEMBERSHIP; AMENDING SECTION 44-2105, IDAHO CODE, TO REVISE DESCRIPTIVE LANGUAGE, TO REVISE PROVISIONS APPLICABLE TO DISCIPLINARY ACTIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 44-2106, IDAHO CODE, TO REVISE VIOLATIONS PROVISIONS; AMENDING SECTION 44-2107, IDAHO CODE, TO REVISE PENALTY PROVISIONS; AND AMENDING CHAPTER 21, TITLE 44, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 44-2108, IDAHO CODE, TO SET FORTH ADDITIONAL REQUIREMENTS FOR RETAILERS AND RESALE BROKERS.

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

SECTION 1. That Section 44-2101, Idaho Code, be, and the same is hereby amended to read as follows:

44-2101. PURPOSE -- LICENSE REQUIRED -- REINSTATEMENT. (1) The legislature finds that the regulation and control of those persons engaged in the business of manufacturing, selling, installing or servicing of manufactured and mobile homes is necessary to protect the health and safety of the citizens of Idaho. To that end, it shall be unlawful for any person to engage in business as a manufacturer, ~~of--manufactured homes;--a--manufactured--home-dealer;-manufactured-home~~ retailer, resale broker, installer, ~~manufactured-home~~ service company, ~~or-a--manufactured home~~ salesman or responsible managing employee without being duly licensed as provided in this chapter.

(2) On and after July 1, 2007, all applicants for retailer or resale broker original licensure will be required to submit to a fingerprint-based criminal history check of the Idaho central criminal database and the federal bureau of investigation criminal history database. Each applicant for original licensure must submit a full set of the applicant's fingerprints and any relevant fees directly to the Idaho state police and the federal bureau of investigation identification division for this purpose.

(3) If the licensee fails to submit a completed application for renewal or to pay the renewal fee on or before the expiration date, the administrator may accept a later application for reinstatement subject to such conditions as the board may require by rule including, but not limited to, the assessment of a late fee; provided that between the license expiration date and the date of reinstatement 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 such licensee to

do or attempt to offer to do any of the acts of the kind and nature described in the definitions in section 44-2101A, Idaho Code, in consideration of compensation of any kind or expectation thereof. An expired license that is not reinstated within six (6) months of the expiration date shall be automatically terminated by the administrator and may not be reinstated.

SECTION 2. That Section 44-2101A, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Chapter 21, Title 44, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 44-2101A, Idaho Code, and to read as follows:

44-2101A. DEFINITIONS. As used in this chapter:

(1) "Administrator" means the administrator of the division of building safety of the state of Idaho.

(2) "Board" means the manufactured housing board established in section 44-2104, Idaho Code.

(3) "Engaged in the business" means the individual or entity buys, sells, brokers, trades, or offers for resale a manufactured or mobile home.

(4) "Installer" means a person who owns a business that installs or services a manufactured home or mobile home at the site where it is to be used for occupancy.

(5) "Manufactured home" or "manufactured house" means a structure as defined in section 39-4105, Idaho Code.

(6) "Manufacturer" means any person engaged in the business of manufacturing manufactured homes that are offered for sale, lease or exchange in the state of Idaho.

(7) "Mobile home" means a structure as defined in section 39-4105, Idaho Code.

(8) "Person" means a natural person, corporation, partnership, trust, society, club, association or other organization.

(9) "Place of business" refers to any physical location at which the business is lawfully conducted.

(10) "Resale broker" means any person engaged in the business of selling broker-owned, used, third-party owned, or other resale of manufactured or mobile homes.

(11) "Responsible managing employee" or "RME" means the person designated by the retailer or resale broker to supervise other employees, either personally or through others.

(12) "Retailer" means any person engaged in the business of selling or exchanging new, used, resale or brokered manufactured or mobile homes.

(13) "Salesman" means any person employed by a retailer or resale broker for a salary, commission or compensation of any kind to sell, list, purchase or exchange or to negotiate for the sale, listing, purchase or exchange of new, used, brokered or third-party owned units, except as otherwise provided in this chapter.

(14) "Service company" means any person other than an installer who provides service, repair or tear down of manufactured or mobile homes.

SECTION 4. That Section 44-2102, Idaho Code, be, and the same is hereby amended to read as follows:

44-2102. ADMINISTRATION -- POWERS AND DUTIES. The administrator is charged with the administration of the provisions of this chapter and shall:

(1) In accordance with the provisions of chapter 52, title 67, Idaho Code, promulgate, adopt, amend, and repeal rules for the establishment of a mandatory statewide manufactured home "setup" code. The administrator shall also define and prohibit any practice which is found to be deceptive.

(2) Prescribe the form and content of a new manufactured home buyer's information and disclosure form. Unless otherwise provided by the administrator, the form shall be presented by ~~manufactured-home dealers~~ the retailer to each purchaser of a new manufactured home, and shall be executed by the ~~dealer~~ retailer and purchaser at the time the initial purchase order is signed for the sale of a new manufactured home.

(3) (a) A used unit which has been determined to be or declared by the owner to be real property under the provisions of section 63-304, Idaho Code, may be offered for sale, listed, bought for resale, negotiated for, either directly or indirectly, by a licensed real estate broker or a real estate salesman representing a licensed real estate broker, but not a ~~manufactured--home--dealer~~ retailer, resale broker or ~~manufactured-home~~ salesman.

(b) A used unit which has been determined to be and is carried on the tax rolls as personal property may be offered for sale, listed, bought for resale, negotiated for, either directly or indirectly, by a licensed real estate broker or a real estate salesman, pursuant to chapter 20, title 54, Idaho Code, or by a licensed ~~manufactured-home dealer~~ retailer, resale broker or ~~manufactured-home~~ salesman, but with respect to a licensed ~~manufactured-home-dealer~~ retailer, resale broker or salesman only to the extent such sale does not involve the purchase or sale of an interest in real estate.

(c) A licensed real estate broker or real estate salesman representing a licensed real estate broker pursuant to chapter 20, title 54, Idaho Code, may participate in new manufactured home sales that include real estate if the real estate broker or salesman has a valid, written agreement with a licensed ~~manufactured-home-dealer~~ retailer to represent the interests of the ~~manufactured-home--dealer~~ retailer in this type of transaction.

(4) Promulgate rules establishing a program for the timely resolution of disputes between manufacturers, retailers, resale brokers and installers of manufactured homes. The rules shall be consistent with the United States department of housing and urban development's procedural and enforcement authority in 42 U.S.C. 5422(c)(12), and shall include identifying the respective responsibilities of manufacturers, retailers, resale brokers and installers; providing for the issuance of appropriate orders for the correction or repair of defects in manufactured homes that are reported during the one (1) year period following the date of installation; and may include an appropriate schedule of fees.

SECTION 5. That Section 44-2103, Idaho Code, be, and the same is hereby amended to read as follows:

44-2103. FEES -- DEPOSIT OF FEES. (1) Fees for licensing of ~~dealers~~ retailers, resale brokers, installers, manufacturers, salesmen, ~~responsible-managing-employees~~ RMEs and service companies shall not exceed:

(a) ~~Manufactured--home--dealer's~~ Retailer or resale broker license $500.00

(b) Manufacturer's license $500.00

(c) ~~Manufactured----home---s~~Service company~~/~~ or installer's license $300.00

(d) ~~Manufactured--home-salesman's~~ Salesman license ..... $ 50.00

(e) ~~Responsible-managing-employees'~~ RME license ..... $ 50.00

(2) All license fees collected by the division of building safety under the provisions of this chapter shall be paid into the manufactured housing account, which is hereby created in the dedicated fund. The expenses incurred in administering and enforcing the provisions of this chapter shall be paid from the account.

(3) The following performance bonding requirements shall be met before the issuance of these licenses:

(a) Manufacturer ..... $20,000 bond

(b) ~~Manufactured-home-dealer~~ Retailer..... $~~2~~40,000 bond

(c) Resale broker..... $30,000 bond

(d) ~~Manufactured-home-s~~Service company~~/~~ or installer . $ 5,000 bond

(4) The administrator is authorized to provide by rule, in accordance with the provisions of section 44-2102, Idaho Code, for the acceptance of a ~~money~~ deposit of cash or securities in lieu of a bond in satisfaction of the bonding requirements of this section.

(5) Fees and bond requirements of this section shall be the exclusive fee and bond requirements for ~~dealers~~ retailers, resale brokers, installers, manufacturers, salesmen and service companies governed by the provisions of this chapter, and shall supersede any program of any political subdivision of the state which sets fee or bond requirements for the same services.

(6) A retailer or resale broker must obtain a separate service company or installer license, pay the license fee set forth in subsection (1)(c) of this section and meet the bonding requirements of subsection (3)(d) of this section in order to provide the services covered by a service company or installer license.

SECTION 6. That Section 44-2104, Idaho Code, be, and the same is hereby amended to read as follows:

44-2104. MANUFACTURED ~~HOME-ADVISORY~~ HOUSING BOARD. (1) A manufactured ~~home--advisory~~ housing board is established in the division of building safety to advise the administrator in the administration and enforcement of the provisions of this chapter. The board shall consist of five (5) members, appointed by the governor, four (4) of whom shall be ~~from~~ licensed ~~manufactured-home-dealers~~ retailers and one (1) of whom shall be a consumer who lives in a manufactured home. ~~The-b~~Board members shall serve ~~the-following-terms-commencing-January-1,-1989:-two-(2)-members--shall--be--appointed--for--a-term-of-one-(1)-year,-two-(2)-members shall-be-appointed-for-a-term-of-two-(2)-years,-and-one-(1)-member-shall be-appointed-for-a-term-of-three-(3)-years.-The-consumer-member-shall-be

~~a member appointed to a term beginning on January 1, 1996, or as soon thereafter as there is a vacancy on the board. Thereafter board members shall be appointed~~ for a term of three (3) years. Not more than three (3) members shall at any time belong to the same political party. Whenever a vacancy occurs, the governor shall appoint a qualified person to fill the vacancy for the unexpired portion of the term. The members of the board shall be compensated as provided in section 59-509(n), Idaho Code, for each day spent in attendance at meetings of the board. A majority of members shall constitute a quorum, and a quorum at any meeting called by the administrator shall have full and complete power to act upon and resolve in the name of the board any matter, thing or question referred to it by the administrator, or which by reason of any provision of this chapter, it has the power to determine.

(2) The board shall, on the first day of each January or as soon thereafter as practicable, elect a chairman, vice chairman and secretary from among its members, and these officers shall hold office until their successors are elected. As soon as the board has elected its officers, the secretary shall certify the results of the election to the administrator. The chairman shall preside at all meetings of the board and the secretary shall make a record of the proceedings which shall be preserved in the offices of the division of building safety. If the chairman is absent from any meeting of the board, his duties shall be discharged by the vice chairman. All members of the board present at a meeting shall be entitled to vote on any question, matter, or thing which properly comes before it.

(3) The board shall have the authority to promulgate rules in accordance with chapter 52, title 67, Idaho Code, to implement the provisions of this chapter.

SECTION 7. That Section 44-2105, Idaho Code, be, and the same is hereby amended to read as follows:

44-2105. ~~SUSPENSION OR REVOCATION OF LICENSES~~ DISCIPLINE -- HEARING -- JUDICIAL REVIEW -- REAPPLICATION. (1) The administrator may refuse to issue, renew, or reinstate or may suspend, ~~or~~ revoke or take other disciplinary action against any license, if the license was obtained through error or fraud, or if the holder thereof is shown to be grossly incompetent, or has ~~wilfully~~ willfully violated any provision of this chapter or the rules adopted thereunder, or has been convicted of conduct constituting a felony or any theft or fraud offense, or has ever had a business license revoked in this or any other state or territory of the United States.

(2) The administrator shall have the power to appoint, by an order in writing, any competent person to take testimony at a any disciplinary hearing. ~~conducted for the purposes of determining whether a license should be suspended or revoked.~~ The administrator, and any hearing officer appointed by the administrator, shall have the power to administer oaths, issue subpoenas and compel the attendance of witnesses and the production of documents and records.

(3) Before any license shall be suspended, ~~or~~ revoked or otherwise disciplined, the holder thereof shall be served with written notice enumerating the charges against him, and shall be afforded an opportunity for an appropriate contested case in accordance with the provisions of chapter 52, title 67, Idaho Code. The notice shall specify the time and

place for hearing, which time shall not be less than five (5) days after the service thereof.

(4) Any party aggrieved by an order of the administrator ~~suspending or revoking~~ disciplining a license shall be entitled to judicial review thereof in accordance with the provisions of chapter 52, title 67, Idaho Code.

(5) Any person whose license has been revoked may not apply for a new license until the expiration of one (1) year from the date of such revocation.

SECTION 8. That Section 44-2106, Idaho Code, be, and the same is hereby amended to read as follows:

44-2106. VIOLATIONS. (1) It shall be unlawful to engage in business as a manufacturer, ~~manufactured home dealer, manufactured home~~ retailer, resale broker, installer, ~~manufactured home~~ salesman, ~~or manufactured home~~ service company or RME without being duly licensed by the division of building safety pursuant to this chapter, except that an individual may buy, sell, broker, trade or offer for resale up to two (2) manufactured or mobile homes, or a combination thereof, in any one (1) calendar year without being licensed under this chapter if all of the units have been properly titled in the name of that individual.

(2) It shall be unlawful for a manufacturer, ~~manufactured home dealer, manufactured home~~ retailer, resale broker, installer, ~~manufactured home~~ salesman, ~~or manufactured home~~ service company or RME to:

(a) Intentionally publish or circulate any advertising which is misleading or inaccurate in any material particular or which misrepresents any of the products or services sold or provided by a manufacturer, ~~manufactured home dealer, manufactured home~~ retailer, resale broker, installer, salesman, ~~or~~ service company or RME;

(b) Violate any of the provisions of this chapter or any rule adopted by the division of building safety pursuant to this chapter;

(c) Knowingly purchase, sell or otherwise acquire or dispose of a stolen manufactured or mobile home;

(d) With respect only to a ~~manufactured home dealer~~ retailer or resale broker, to engage in the business for which such ~~dealer~~ retailer or resale broker is licensed without at all times maintaining a principal place of business located within the state.

SECTION 9. That Section 44-2107, Idaho Code, be, and the same is hereby amended to read as follows:

44-2107. PENALTY PROVISIONS. (1) Whoever shall violate any of the provisions of this chapter, or any laws or rules adopted pursuant to this chapter, or who shall refuse to perform any duty lawfully enjoined upon him by the administrator within the prescribed time, or who shall fail, neglect, or refuse to obey any lawful order given or made by the administrator, shall be guilty of a misdemeanor and shall be subject to the civil penalties established by administrative rule but not to exceed one thousand dollars ($1,000) in accordance with the following:

(a) Each day of such violation shall constitute a separate offense. A violation will be considered a second or additional offense only if it occurs within one (1) year from the first violation.

(b) The same penalties shall apply, upon conviction, to any member of a copartnership, or to any construction, managing or directing officer of any corporation, limited liability company or limited liability partnership or other such organization consenting to, participating in, or aiding or abetting any such violation of this chapter.

(2) In addition to any other penalties specified in this section, whenever any person violates the provisions of this chapter by acting as a retailer, resale broker, installer, service company or RME, without a license, the administrator may maintain an action in the name of the state of Idaho to enjoin the person from any further violations in accordance with the following:

(a) Such action may be brought either in the county in which the acts are claimed to have been or are being committed, in the county where the defendant resides, or in Ada county.

(b) Upon the filing of a verified complaint in the district court, the court, if satisfied that the acts complained of have been or probably are being or may be committed, may issue a temporary restraining order and/or preliminary injunction, without bond, enjoining the defendant from the commission of any such act or acts constituting the violation.

(c) A copy of the complaint shall be served upon the defendant and the proceedings shall thereafter be conducted as in other similar civil actions. If the commission of the act or acts is established, the court shall enter a decree permanently enjoining the defendant from committing such act or acts. If an injunction issued under this section is violated, the court, or the judge thereof at chambers, may summarily try and punish the offender for contempt of court.

SECTION 10. That Chapter 21, Title 44, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 44-2108, Idaho Code, and to read as follows:

44-2108. RETAILER AND RESALE BROKER -- ADDITIONAL LICENSURE REQUIREMENTS. (1) Each business office or retail sales location shall be owned or leased by the retailer or resale broker and shall comply with all local building codes, zoning, and other applicable land use regulatory ordinances, and:

(a) If the location is on leased property, the retailer or resale broker must provide written confirmation of the term and existence of the lease, signed by the lessor; and

(b) An exterior sign that identifies the retailer or resale broker by the name shown on the license must be prominently affixed to the location or the office building and be clearly visible and easily readable from the nearest major avenue of traffic; and

(c) The retailer or resale broker must prominently display his license, or a true and correct copy of that license, in each location; and

(d) The licensee must post, in a clearly visible and readily accessible location, written information concerning regular hours of business and emergency contact information.

(2) Regardless of the number of locations at which a retailer or resale broker engages in business, he must maintain a principal place of business that complies with the requirements set forth in subsection

(1)(a) of this section, and at which the records of the business are maintained on a permanent basis.

(3) The retailer or resale broker must promptly notify the division of building safety, in writing, of any change in ownership, business name, location of business, mailing address or telephone numbers.

(4) For each new product sold, the retailer must provide proof, satisfactory to the board, of the retailer's current authority to sell that manufacturer's products.

(5) Failure to adhere to the requirements of this section, or any other requirement pertaining to licensure as set forth in law or rule, shall constitute grounds for the imposition of discipline up to and including revocation of licensure.

Approved March 20, 2007.

CHAPTER 113
(H.B. No. 117)

AN ACT

RELATING TO MOTOR VEHICLES; AMENDING SECTION 49-624, IDAHO CODE, TO REVISE THE DUTY OF DRIVERS UPON APPROACHING STATIONARY POLICE VEHICLES OR AUTHORIZED EMERGENCY VEHICLES DISPLAYING FLASHING LIGHTS.

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

SECTION 1. That Section 49-624, Idaho Code, be, and the same is hereby amended 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 below the posted speed limit, proceed with due caution~~, or~~ and 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 below the posted speed limit, 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 20, 2007.

CHAPTER 114
(H.B. No. 129)

AN ACT

RELATING TO ESCAPE OF PERSONS CHARGED WITH OR CONVICTED OF CRIMES; AMENDING SECTIONS 18-2505 AND 18-2506, IDAHO CODE, TO CLARIFY THAT ESCAPE INCLUDES LEAVING AN AREA OF RESTRICTION AS SET FORTH IN CERTAIN COURT ORDERS OR SENTENCING ORDERS, PROVIDING AN EXCEPTION FOR EMERGENCY MEDICAL CARE AND REQUIRING NOTICE.

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

SECTION 1. That Section 18-2505, Idaho Code, be, and the same is hereby amended to read as follows:

18-2505. ESCAPE BY ONE CHARGED WITH, CONVICTED OF, OR ON PROBATION FOR A FELONY — ESCAPE BY A JUVENILE FROM CUSTODY. (1) Every prisoner charged with, convicted of, or on probation for a felony who is confined in any correctional facility, as defined in section 18-101A, Idaho Code, including any private correctional facility, or who while outside the walls of such correctional facility in the proper custody of any officer or person, or while in any factory, farm or other place without the walls of such correctional facility, who escapes or attempts to escape from such officer or person, or from such correctional facility, or from such factory, farm or other place without the walls of such correctional facility, shall be guilty of a felony, and upon conviction thereof, any such second term of imprisonment shall commence at the time he would otherwise have been discharged. Escape shall be deemed to include abandonment of a job site or work assignment without the permission of an employment supervisor or officer. Escape includes the intentional act of leaving the area of restriction set forth in a court order admitting a person to bail or release on a person's own recognizance with electronic or global positioning system tracking, monitoring and detention or the area of restriction set forth in a sentencing order, except for leaving the area of restriction for the purpose of obtaining emergency medical care. A person may not be charged with the crime of escape for leaving the aforementioned area of restriction unless the person was notified in writing by the court at the time of setting of bail, release or sentencing of the consequences of violating this section by intentionally leaving the area of restriction.

(2) Any person who is charged with, found to have committed, adjudicated for or is on probation for an offense which would be a felony if committed by an adult, and who is confined in a juvenile detention facility or other secure or nonsecure facility for juveniles and who escapes or attempts to escape from the facility or from the lawful custody of any officer or person shall be subject to proceedings under chapter 5, title 20, Idaho Code, for an offense which would be a felony if committed by an adult. If the juvenile is or has been proceeded against as an adult, pursuant to section 20-508 or 20-509, Idaho Code, the person shall be guilty of a felony for a violation of this section and shall be subject to adult criminal proceedings.

SECTION 2. That Section 18-2506, Idaho Code, be, and the same is hereby amended to read as follows:

18-2506. ESCAPE BY ONE CHARGED WITH OR CONVICTED OF A MISDEMEANOR — ESCAPE BY A JUVENILE FROM CUSTODY.

(1) (a) Every prisoner charged with or convicted of a misdemeanor who is confined in any county jail or other place or who is engaged in any county work outside of such jail or other place, or who is in the lawful custody of any officer or person, who escapes or attempts to escape therefrom, is guilty of a misdemeanor. Escape includes the intentional act of leaving the area of restriction set forth in a court order admitting a person to bail or release on a person's own recognizance with electronic or global positioning system tracking, monitoring and detention or the area of restriction set forth in a sentencing order, except for leaving the area of restriction for the purpose of obtaining emergency medical care. A person may not be charged with the crime of escape for leaving the aforementioned area of restriction unless the person was notified in writing by the court at the time of setting of bail, release or sentencing of the consequences of violating this section by intentionally leaving the area of restriction.

(b) In cases involving escape or attempted escape by use of threat, intimidation, force, violence, injury to person or property other than that of the prisoner, or wherein the escape or attempted escape was perpetrated by use or possession of any weapon, tool, instrument or other substance, the prisoner shall be guilty of a felony.

(2) Any person who is charged with, found to have committed, adjudicated for or is on probation for an offense which would be a misdemeanor if committed by an adult, and who is confined in a juvenile detention facility or other secure or nonsecure facility for juveniles and who escapes or attempts to escape from the facility or from the lawful custody of an officer or person, shall be subject to proceedings under the provisions of chapter 5, title 20, Idaho Code, for an act which would be a misdemeanor if committed by an adult, or, if the escape or attempted escape was undertaken as provided in subsection (1)(b) of this section, for an offense which would be a felony if committed by an adult. If the juvenile is or has been proceeded against as an adult, pursuant to section 20-508 or 20-509, Idaho Code, the person shall be guilty of a misdemeanor, or if subsection (1)(b) of this section applies, of a felony and, in either case, shall be subject to adult criminal proceedings.

Approved March 20, 2007.

CHAPTER 115
(H.B. No. 279)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO WOMEN'S COMMISSION FOR FISCAL YEAR 2008; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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 Idaho Women's Commission the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2007, through June 30, 2008:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General Fund	$18,300	$12,300	$30,600
Miscellaneous Revenue Fund		6,800	6,800
TOTAL	$18,300	$19,100	$37,400

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Idaho Women's Commission is authorized no more than thirty-six hundredths (0.36) full-time equivalent positions at any point during the period July 1, 2007, through June 30, 2008, 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.

Law Without Signature.

CHAPTER 116
(S.B. No. 1019)

AN ACT

RELATING TO BUSINESS ENTITIES; AMENDING TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 18, TITLE 30, IDAHO CODE, TO PROVIDE FOR THE IDAHO ENTITY TRANSACTIONS ACT, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROVIDE FOR RELATIONSHIP TO OTHER LAWS, TO REQUIRE NOTICE TO, APPROVAL BY OR CONSENT OF A GOVERNMENT AGENCY OR OFFICIAL, TO PROVIDE FOR THE STATUS OF FILINGS, TO PROVIDE FOR NONEXCLUSIVITY OF TRANSACTIONS, TO PERMIT REFERENCE TO EXTERNAL FACTS, TO PROVIDE FOR ALTERNATE MEANS OF APPROVAL OF TRANSACTIONS, TO LIMIT APPRAISAL RIGHTS, TO PROVIDE FOR EXCLUDED ENTITIES AND TRANSACTIONS, TO PROVIDE FOR THE AUTHORIZATION OF CERTAIN MERGERS, TO PROVIDE FOR A PLAN OF MERGER, TO PROVIDE FOR THE APPROVAL OF A PLAN OF MERGER, TO PROVIDE FOR THE AMENDMENT OR ABANDONMENT OF A PLAN OF MERGER AND FOR A STATEMENT OF ABANDONMENT, TO PROVIDE FOR A STATEMENT OF MERGER AND FOR THE EFFECTIVE DATE OF A STATEMENT OF MERGER, TO PROVIDE FOR THE EFFECT OF A MERGER, TO AUTHORIZE CERTAIN INTEREST EXCHANGES, TO PROVIDE FOR A PLAN OF INTEREST EXCHANGE, TO PROVIDE FOR THE APPROVAL OF A PLAN OF INTEREST EXCHANGE, TO PROVIDE FOR THE AMENDMENT OR ABANDONMENT OF A PLAN OF INTEREST EXCHANGE AND FOR A STATEMENT OF ABANDONMENT, TO PROVIDE FOR A STATEMENT OF INTEREST EXCHANGE AND THE EFFECTIVE DATE OF A STATEMENT OF INTEREST EXCHANGE, TO PROVIDE FOR THE EFFECT OF AN INTEREST EXCHANGE, TO AUTHORIZE CERTAIN CONVERSIONS, TO PROVIDE FOR A PLAN OF CONVERSION, TO PROVIDE FOR THE APPROVAL OF A PLAN OF CONVERSION, TO PROVIDE FOR THE AMENDMENT OR ABANDONMENT OF A PLAN OF CONVERSION AND FOR A STATEMENT OF ABANDONMENT, TO PROVIDE FOR A STATEMENT OF CONVERSION AND FOR THE

EFFECTIVE DATE OF A STATEMENT OF CONVERSION, TO PROVIDE FOR THE EFFECT OF A CONVERSION, TO AUTHORIZE CERTAIN DOMESTICATIONS, TO PROVIDE FOR A PLAN OF DOMESTICATION, TO PROVIDE FOR THE APPROVAL OF A PLAN OF DOMESTICATION, TO PROVIDE FOR THE AMENDMENT OR ABANDONMENT OF A PLAN OF DOMESTICATION AND FOR A STATEMENT OF ABANDONMENT, TO PROVIDE FOR A STATEMENT OF DOMESTICATION AND FOR THE EFFECTIVE DATE OF A STATEMENT OF DOMESTICATION, TO PROVIDE FOR THE EFFECT OF A DOMESTICATION, TO PROVIDE FOR CONSISTENCY OF THE LAW, TO PROVIDE RELATION TO THE ELECTRONIC SIGNATURES IN GLOBAL AND COMMERCE ACT, TO PROVIDE REQUIREMENTS FOR FILING OF DOCUMENTS, TO PERMIT THE SECRETARY OF STATE TO PRESCRIBE AND FURNISH FORMS, TO PROVIDE FOR FILING, SERVICE AND COPYING FEES, TO PROVIDE FOR THE EFFECTIVE DATE OF A DOCUMENT, TO PROVIDE FOR CORRECTING A FILED DOCUMENT, TO PROVIDE FOR THE FILING DUTIES OF THE SECRETARY OF STATE, TO PROVIDE FOR THE APPEAL FROM REFUSAL OF THE SECRETARY OF STATE TO FILE A DOCUMENT, TO PROVIDE FOR THE EVIDENTIARY EFFECT OF A COPY OF A FILED DOCUMENT, TO PROVIDE FOR A PENALTY FOR SIGNING A FALSE DOCUMENT, TO PROVIDE POWERS OF THE SECRETARY OF STATE AND TO PROVIDE A SAVINGS CLAUSE; AMENDING SECTION 30-1-858, IDAHO CODE, TO PROVIDE FOR THE APPLICABILITY OF SECTIONS 30-18-206 AND 30-18-110, IDAHO CODE; AMENDING PART 11, CHAPTER 1, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-1-1100, IDAHO CODE, TO PROVIDE FOR THE APPLICABILITY OF THE IDAHO ENTITY TRANSACTIONS ACT; AMENDING SECTION 30-3-50, IDAHO CODE, TO PROVIDE ADDITIONAL CODE REFERENCES AND TO MAKE A TECHNICAL CORRECTION; AMENDING PART 1, CHAPTER 3, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-3-100A, IDAHO CODE, TO PROVIDE FOR THE APPLICABILITY OF THE IDAHO ENTITY TRANSACTIONS ACT; AMENDING SECTION 30-1309A, IDAHO CODE, TO PROVIDE FOR THE APPLICABILITY OF THE IDAHO ENTITY TRANSACTIONS ACT; AMENDING SECTION 30-1312, IDAHO CODE, TO PROVIDE FOR THE APPLICABILITY OF THE IDAHO ENTITY TRANSACTIONS ACT; AMENDING PART 11, CHAPTER 2, TITLE 53, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 53-2-1100, IDAHO CODE, TO PROVIDE FOR THE APPLICABILITY OF THE IDAHO ENTITY TRANSACTIONS ACT; AMENDING SECTION 53-3-101, IDAHO CODE, TO PROVIDE A CODE REFERENCE; AMENDING PART 9, CHAPTER 3, TITLE 53, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 53-3-901A, IDAHO CODE, TO PROVIDE FOR THE APPLICABILITY OF THE IDAHO ENTITY TRANSACTIONS ACT; AMENDING CHAPTER 6, TITLE 53, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 53-660A, IDAHO CODE, TO PROVIDE FOR THE APPLICABILITY OF THE IDAHO ENTITY TRANSACTIONS ACT; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 18, Title 30, Idaho Code, and to read as follows:

CHAPTER 18
IDAHO ENTITY TRANSACTIONS ACT

PART 1
GENERAL PROVISIONS

30-18-101. SHORT TITLE. This chapter may be known and cited as the "Idaho Entity Transactions Act."

30-18-102. DEFINITIONS. In this chapter:

(1) "Acquired entity" means the entity, all of one (1) or more classes or series of interests in which are acquired in an interest exchange.

(2) "Acquiring entity" means the entity that acquires all of one (1) or more classes or series of interests of the exchanging entity in an interest exchange.

(3) "Approve" means, in the case of an entity, for its governors and interest holders to take whatever steps are necessary under its organic rules, organic law, and other law to:

(a) Propose a transaction subject to this chapter;

(b) Adopt and approve the terms and conditions of the transaction; and

(c) Conduct any required proceedings or otherwise obtain any required votes or consents of the governors or interest holders.

(4) "Conversion" means a transaction authorized by part 4 of this chapter.

(5) "Converted entity" means the converting entity as it continues in existence after a conversion.

(6) "Converting entity" means the domestic entity that approves a plan of conversion pursuant to section 30-18-403, Idaho Code, or the foreign entity that approves a conversion pursuant to the law of its jurisdiction of organization.

(7) "Domestic entity" means an entity whose internal affairs are governed by the law of this state.

(8) "Domesticated entity" means the domesticating entity as it continues in existence after a domestication.

(9) "Domesticating entity" means the domestic entity that approves a plan of domestication pursuant to section 30-18-503, Idaho Code, or the foreign entity that approves a domestication pursuant to the law of its jurisdiction of organization.

(10) "Domestication" means a transaction authorized by part 5 of this chapter.

(11) "Entity" means a person that has a separate legal existence or has the power to acquire an interest in real property in its own name other than:

(a) An individual;

(b) A testamentary, inter vivos, or charitable trust, with the exception of a business trust or similar trust;

(c) An association or relationship that is not a partnership by reason of section 53-3-202(c), Idaho Code, or a similar provision of the law of any other jurisdiction;

(d) A decedent's estate; or

(e) A government, a governmental subdivision, agency, or instrumentality, or a quasi-governmental instrumentality.

(12) "Filing entity" means an entity that is created by the filing of a public organic document.

(13) "Foreign entity" means an entity other than a domestic entity.

(14) "Governance interest" means the right under the organic law or organic rules of an entity, other than as a governor, agent, assignee, or proxy, to:

(a) Receive or demand access to information concerning, or the books and records of, the entity;

(b) Vote for the election of the governors of the entity; or

(c) Receive notice of or vote on any or all issues involving the internal affairs of the entity.

(15) "Governor" means a person by or under whose authority the powers of an entity are exercised and under whose direction the business and affairs of the entity are managed pursuant to the organic law and organic rules of the entity.

(16) "Interest" means a:

(a) Governance interest in an unincorporated entity;

(b) Transferable interest in an unincorporated entity; or

(c) Share or membership in a corporation.

(17) "Interest exchange" means a transaction authorized by part 3 of this chapter.

(18) "Interest holder" means a direct holder of an interest.

(19) "Interest holder liability" means personal liability for a liability of an entity that is imposed on a person:

(a) Solely by reason of the status of the person as an interest holder; or

(b) By the organic rules of the entity pursuant to a provision of the organic law authorizing the organic rules to make one (1) or more specified interest holders or categories of interest holders liable in their capacity as interest holders for all or specified liabilities of the entity.

(20) "Jurisdiction of organization" of an entity means the jurisdiction whose law includes the organic law of the entity.

(21) "Liability" includes a liability arising in any manner, whether or not it is secured or contingent.

(22) "Merger" means a transaction in which two (2) or more merging entities are combined into a surviving entity pursuant to a filing with the secretary of state.

(23) "Merging entity" means an entity that is a party to a merger and exists immediately before the merger becomes effective.

(24) "Organic law" means the statutes, if any, other than this chapter, governing the internal affairs of an entity.

(25) "Organic rules" means the public organic document and private organic rules of an entity.

(26) "Person" means an individual, corporation, estate, trust, partnership, limited liability company, business or similar trust, association, joint venture, public corporation, government, or governmental subdivision, agency, or instrumentality, unincorporated nonprofit association or any other legal or commercial entity.

(27) "Plan" means a plan of merger, interest exchange, conversion, or domestication.

(28) "Private organic rules" means rules, whether or not in a record, that govern the internal affairs of an entity, are binding on all of its interest holders, and are not part of its public organic document, if any.

(29) "Protected agreement" means:

(a) A debt security, note, or similar evidence of indebtedness for money borrowed, whether secured or unsecured, issued or signed by an entity which is unpaid, in whole or in part, on the effective date of this chapter;

(b) An agreement that is binding on an entity on the effective date of this chapter;

(c) The organic rules of an entity in effect on the effective date of this chapter; or

(d) An agreement that is binding on any of the governors or interest holders of an entity on the effective date of this chapter.

(30) "Public organic document" means the public record the filing of which creates an entity, and any amendment to or restatement of that record.

(31) "Qualified foreign entity" means a foreign entity that is authorized to transact business in this state pursuant to a filing with the secretary of state.

(32) "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.

(33) "Sign" means, with present intent to authenticate or adopt a record to:

(a) Execute or adopt a tangible symbol; or

(b) Attach to or logically associate with the record an electronic sound, symbol, or process.

(34) "Surviving entity" means the entity that continues in existence after or is created by a merger.

(35) "Transferable interest" means the right under an entity's organic law to receive distributions from the entity.

(36) "Type," with regard to an entity, means a generic form of entity:

(a) Recognized at common law; or

(b) Organized under an organic law, whether or not some entities organized under that organic law are subject to provisions of that law that create different categories of the form of entity.

30-18-103. RELATIONSHIP OF CHAPTER TO OTHER LAWS. (1) Unless displaced by particular provisions of this chapter, the principles of law and equity supplement this chapter.

(2) This chapter does not authorize an act prohibited by, and does not affect the application or requirements of, law other than this chapter.

(3) A transaction effected under this chapter may not create or impair any right or obligation on the part of a person under a provision of the law of this state other than this chapter relating to a change in control, takeover, business combination, control-share acquisition, or similar transaction involving a domestic merging, acquired, converting, or domesticating corporation unless:

(a) If the corporation does not survive the transaction, the transaction satisfies any requirements of the provision; or

(b) If the corporation survives the transaction, the plan is approved by a vote of the shareholders or directors that would be sufficient to create or impair the right or obligation by a vote of the shareholders or directors.

30-18-104. REQUIRED NOTICE OR APPROVAL. (1) A domestic or foreign entity that is required to give notice to, or obtain the approval of, a governmental agency or officer before engaging in a transaction of a type covered by this chapter shall give the notice, or obtain the approval, to be a party to a transaction under this chapter.

(2) Property held for a charitable purpose under the law of this state by a domestic or foreign entity immediately before a transaction under this chapter becomes effective may not, as a result of the transaction, be diverted from the objects for which it was donated, granted or devised, unless the entity obtains the prior consent of the attorney general to the extent required by or pursuant to section 67-1401 5., Idaho Code, or the common law as it relates to charitable trust assets, or chapter 12, title 68, Idaho Code, or, with respect to nonprofit hospitals, the entity complies with the provisions of chapter 15, title 48, Idaho Code.

30-18-105. STATUS OF FILINGS. A filing under this chapter signed by a domestic entity becomes part of the public organic document of the entity if the entity's organic law provides that similar filings under that law become part of the public organic document of the entity.

30-18-106. NONEXCLUSIVITY. The fact that a transaction under this chapter produces a certain result does not preclude the same result from being accomplished in any other manner permitted by law other than this chapter.

30-18-107. REFERENCE TO EXTERNAL FACTS. A plan may refer to facts ascertainable outside of the plan if the manner in which the facts will operate upon the plan is specified in the plan. The facts may include the occurrence of an event or a determination or action by a person, whether or not the event, determination, or action is within the control of a party to the transaction.

30-18-108. ALTERNATIVE MEANS OF APPROVAL OF TRANSACTIONS. Except as otherwise provided in the organic law or organic rules of a domestic entity, approval of a transaction under this chapter by the unanimous vote or consent of its interest holders satisfies the requirements of this chapter for approval of the transaction.

30-18-109. APPRAISAL RIGHTS. Appraisal rights only for shareholders of a corporation that is a party to a transaction covered by this chapter shall be governed by part 13, chapter 1, title 30, Idaho Code.

30-18-110. EXCLUDED ENTITIES AND TRANSACTIONS. The following entities may not participate in a transaction under this chapter:

(1) Any corporation, partnership, cooperative association and entity engaged in the business of banking in the state of Idaho subject to the Idaho banking act, as provided in section 26-101, Idaho Code;

(2) Any entity subject to the Idaho credit union act, chapter 21, title 26, Idaho Code;

(3) Any entity subject to chapters 28, 32, 34 and 48, title 41, Idaho Code;

(4) An "insurer" as defined in section 41-103, Idaho Code;

(5) A business and industrial development corporation (BIDCO) licensed under chapter 27, title 26, Idaho Code; and

(6) Perpetual or endowed care cemetery, as defined in section 27-403, Idaho Code, and subject to the endowment care cemetery act of 1963, chapter 4, title 27, Idaho Code.

PART 2
MERGER

30-18-201. MERGER AUTHORIZED. (1) Except as otherwise provided in this section, by complying with this part:

(a) One (1) or more domestic entities may merge with one (1) or more domestic or foreign entities resulting in a domestic or foreign surviving entity; and

(b) Two (2) or more foreign entities may merge resulting in a domestic entity.

(2) Except as otherwise provided in this section, by complying with the provisions of this part applicable to foreign entities a foreign entity may be a party to a merger under this part or may be the surviving entity in such a merger if the merger is authorized by the law of the foreign entity's jurisdiction of organization.

30-18-202. PLAN OF MERGER. (1) A domestic entity may become a party to a merger under this part by approving a plan of merger. The plan must be in a record and contain:

(a) As to each merging entity, its name, jurisdiction of organization, and type;

(b) If the surviving entity is to be created in the merger, a statement to that effect and its name, jurisdiction of organization, and type;

(c) The manner of converting the interests in each party to the merger into interests, securities, obligations, rights to acquire interests or securities, cash, or other property, or any combination of the foregoing;

(d) If the surviving entity exists before the merger, any proposed amendments to its public organic document or to its private organic rules that are, or are proposed to be, in a record;

(e) If the surviving entity is to be created in the merger, its proposed public organic document, if any, and the full text of its private organic rules that are proposed to be in a record;

(f) The other terms and conditions of the merger; and

(g) Any other provision required by the law of a merging entity's jurisdiction of organization or the organic rules of a merging entity.

(2) A plan of merger may contain any other provision not prohibited by law.

30-18-203. APPROVAL OF PLAN OF MERGER. (1) A plan of merger is not effective unless it has been approved:

(a) By a domestic merging entity:

(i) In accordance with the requirements, if any, in its organic law and organic rules for approval of a merger; or

(ii) If neither its organic law nor organic rules provide for approval of a merger, by all of the interest holders of the entity entitled to vote on or consent to any matter; and

(b) In a record by each interest holder of a domestic merging entity that will have interest holder liability for liabilities that arise after the merger becomes effective.

(2) A merger involving a foreign merging entity is not effective unless it is approved by the foreign entity in accordance with the law of the foreign entity's jurisdiction of organization.

30-18-204. AMENDMENT OR ABANDONMENT OF PLAN OF MERGER — STATEMENT OF ABANDONMENT. (1) A plan of merger of a domestic merging entity may be amended:

(a) In the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended; or

(b) By the governors or interest holders of the entity in the manner provided in the plan, but an interest holder that was entitled to vote on or consent to approval of the merger is entitled to vote on or consent to any amendment of the plan that will change:

(i) The amount or kind of interests, securities, obligations, rights to acquire interests or securities, cash, or other property, or any combination of the foregoing, to be received by the interest holders of any party to the plan;

(ii) The public organic document or private organic rules of the surviving entity that will be in effect immediately after the merger becomes effective, except for changes that do not require approval of the interest holders of the surviving entity under its organic law or organic rules; or

(iii) Any other terms or conditions of the plan, if the change would adversely affect the interest holder in any material respect.

(2) After a plan of merger has been approved by a domestic merging entity and before a statement of merger becomes effective, the plan may be abandoned:

(a) As provided in the plan; or

(b) Unless prohibited by the plan, in the same manner as the plan was approved.

(3) If a plan of merger is abandoned after a statement of merger has been filed with the secretary of state and before the filing becomes effective, a statement of abandonment, signed on behalf of a merging entity, must be filed with the secretary of state before the time the statement of merger becomes effective. The statement of abandonment takes effect upon filing, and the merger is abandoned and does not become effective. The statement of abandonment must contain:

(a) The name of each merging or surviving entity that is a domestic entity or a qualified foreign entity;

(b) The date on which the statement of merger was filed; and

(c) A statement that the merger has been abandoned in accordance with this section.

30-18-205. STATEMENT OF MERGER -- EFFECTIVE DATE. (1) A statement of merger must be signed on behalf of each merging entity and filed with the secretary of state.

(2) A statement of merger must contain:

(a) The name, jurisdiction of organization, and type of each merging entity that is not the surviving entity;

(b) The name, jurisdiction of organization, and type of the surviving entity;

(c) If the statement of merger is not to be effective upon filing, the later date and time on which it will become effective, which may not be more than ninety (90) days after the date of filing;

(d) A statement that the merger was approved by each domestic merging entity, if any, in accordance with this part and by each foreign merging entity, if any, in accordance with the law of its jurisdiction of organization;

(e) If the surviving entity exists before the merger and is a domestic filing entity, any amendment to its public organic document approved as part of the plan of merger;

(f) If the surviving entity is created by the merger and is a domestic filing entity, its public organic document, as an attachment; and

(g) If the surviving entity is created by the merger and is a domestic limited liability partnership, its statement of qualification, as an attachment.

(3) In addition to the requirements of subsection (2) of this section, a statement of merger may contain any other provision not prohibited by law.

(4) If the surviving entity is a domestic entity, its public organic document, if any, must satisfy the requirements of the law of this state, except that it does not need to be signed and may omit any provision that is not required to be included in a restatement of the public organic document.

(5) A plan of merger that is signed on behalf of all of the merging entities and meets all of the requirements of subsection (2) of this section may be filed with the secretary of state instead of a statement of merger and upon filing has the same effect. If a plan of merger is filed as provided in this subsection (5), references in this chapter to a statement of merger refer to the plan of merger filed under this subsection (5).

(6) A statement of merger becomes effective upon the date and time of filing or the later date and time specified in the statement of merger.

30-18-206. EFFECT OF MERGER. (1) When a merger becomes effective:

(a) The surviving entity continues or comes into existence;

(b) Each merging entity that is not the surviving entity ceases to exist;

(c) All property of each merging entity vests in the surviving entity without transfer, conveyance, assignment, reversion, or impairment;

(d) All liabilities of each merging entity are liabilities of the surviving entity;

(e) Except as otherwise provided by law other than this chapter or the plan of merger, all of the rights, privileges, immunities,

powers, and purposes of each merging entity vest in the surviving entity;

(f) If the surviving entity exists before the merger:

(i) All of its property continues to be vested in it without reversion or impairment;

(ii) It remains subject to all of its liabilities; and

(iii) All of its rights, privileges, immunities, powers, and purposes continue to be vested in it;

(g) The name of the surviving entity may be substituted for the name of any merging entity that is a party to any pending action or proceeding;

(h) If the surviving entity exists before the merger:

(i) Its public organic document, if any, is amended as provided in the statement of merger and remains binding on its interest holders; and

(ii) Its private organic rules that are to be in a record, if any, are amended to the extent provided in the plan of merger and remain binding on its interest holders;

(i) If the surviving entity is created by the merger, its public organic document, if any, and its private organic rules are effective and are binding upon the interest holders of the surviving entity; and

(j) The interests in each merging entity that are to be converted in the merger are converted, and the interest holders of those interests are entitled only to the rights provided to them under the plan of merger and to any appraisal rights they have under section 30-18-109, Idaho Code.

(2) Except as otherwise provided in the organic law or organic rules of a merging entity, the merger does not give rise to any rights that an interest holder, governor, or third party would otherwise have upon a dissolution, liquidation, or winding-up of the merging entity.

(3) When a merger becomes effective, a person that did not have interest holder liability with respect to any of the merging entities and that becomes subject to interest holder liability with respect to a domestic entity as a result of a merger has interest holder liability only to the extent provided by the organic law of the entity and only for those liabilities that arise after the merger becomes effective.

(4) When a merger becomes effective, the interest holder liability of a person that ceases to hold an interest in a domestic merging entity with respect to which the person had interest holder liability is as follows:

(a) The merger does not discharge any interest holder liability under the organic law of the domestic merging entity to the extent the interest holder liability arose before the merger became effective;

(b) The person does not have interest holder liability under the organic law of the domestic merging entity for any liability that arises after the merger becomes effective;

(c) The organic law of the domestic merging entity continues to apply to the release, collection, or discharge of any interest holder liability preserved under paragraph (a) of this subsection as if the merger had not occurred and the surviving entity was the domestic merging entity; and

(d) The person has whatever rights of contribution from any other

person as are provided by the organic law or organic rules of the domestic merging entity with respect to any interest holder liability preserved under paragraph (a) of this subsection as if the merger had not occurred.

(5) When a merger becomes effective, a foreign entity that is the surviving entity:

(a) May be served with process in this state for the collection and enforcement of any liabilities of a domestic merging entity; and

(b) Appoints the secretary of state as its agent for service of process for collecting or enforcing those liabilities.

(6) When a merger becomes effective, the certificate of authority or other foreign qualification of any foreign merging entity that is not the surviving entity is canceled.

PART 3
INTEREST EXCHANGE

30-18-301. INTEREST EXCHANGE AUTHORIZED. (1) Except as otherwise provided in this section, by complying with this part:

(a) A domestic entity may acquire all of one (1) or more classes or series of interests of another domestic or foreign entity in exchange for interests, securities, obligations, rights to acquire interests or securities, cash, or other property, or any combination of the foregoing; or

(b) All of one (1) or more classes or series of interests of a domestic entity may be acquired by another domestic or foreign entity in exchange for interests, securities, obligations, rights to acquire interests or securities, cash, or other property, or any combination of the foregoing.

(2) Except as otherwise provided in this section, by complying with the provisions of this part applicable to foreign entities a foreign entity may be the acquiring or acquired entity in an interest exchange under this part if the interest exchange is authorized by the law of the foreign entity's jurisdiction of organization.

(3) If a protected agreement contains a provision that applies to a merger of a domestic entity but does not refer to an interest exchange, the provision applies to an interest exchange in which the domestic entity is the acquired entity as if the interest exchange were a merger until the provision is amended after the effective date of this chapter.

30-18-302. PLAN OF INTEREST EXCHANGE. (1) A domestic entity may be the acquired entity in an interest exchange under this part by approving a plan of interest exchange. The plan must be in a record and contain:

(a) The name and type of the acquired entity;

(b) The name, jurisdiction of organization, and type of the acquiring entity;

(c) The manner of converting the interests in the acquired entity into interests, securities, obligations, rights to acquire interests or securities, cash, or other property, or any combination of the foregoing;

(d) Any proposed amendments to the public organic document or private organic rules that are, or are proposed to be, in a record of the acquired entity;

(e) The other terms and conditions of the interest exchange; and

(f) Any other provision required by the law of this state or the organic rules of the acquired entity.

(2) A plan of interest exchange may contain any other provision not prohibited by law.

30-18-303. APPROVAL OF PLAN OF INTEREST EXCHANGE. (1) A plan of interest exchange is not effective unless it has been approved:

(a) By a domestic acquired entity:

(i) In accordance with the requirements, if any, in its organic rules for approval of an interest exchange;

(ii) Except as otherwise provided in subsection (4) of this section, if neither its organic law nor organic rules provide for approval of an interest exchange, in accordance with the requirements, if any, in its organic law and organic rules for approval of a merger, as if the interest exchange were a merger; or

(iii) If neither its organic law nor organic rules provide for approval of an interest exchange or a merger, by all of the interest holders of the entity entitled to vote on or consent to any matter; and

(b) In a record, by each interest holder of a domestic acquired entity that will have interest holder liability for liabilities that arise after the interest exchange becomes effective.

(2) An interest exchange involving a foreign acquired entity is not effective unless it is approved by the foreign entity in accordance with the law of the foreign entity's jurisdiction of organization.

(3) Except as otherwise provided in its organic law or organic rules, the interest holders of the acquiring entity are not required to approve the interest exchange.

(4) A provision of the organic law of a domestic acquired entity that would permit a merger between the acquired entity and the acquiring entity to be approved without the vote or consent of the interest holders of the acquired entity because of the percentage of interests in the acquired entity held by the acquiring entity does not apply to approval of an interest exchange under subsection (1)(a)(ii) of this section.

30-18-304. AMENDMENT OR ABANDONMENT OF PLAN OF INTEREST EXCHANGE -- STATEMENT OF ABANDONMENT. (1) A plan of interest exchange of a domestic acquired entity may be amended:

(a) In the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended; or

(b) By the governors or interest holders of the entity in the manner provided in the plan, but an interest holder that was entitled to vote on or consent to approval of the interest exchange is entitled to vote on or consent to any amendment of the plan that will change:

(i) The amount or kind of interests, securities, obligations, rights to acquire interests or securities, cash, or other property, or any combination of the foregoing, to be received by any of the interest holders of the acquired entity under the plan;

(ii) The public organic document or private organic rules of the acquired entity that will be in effect immediately after the interest exchange becomes effective, except for changes

that do not require approval of the interest holders of the acquired entity under its organic law or organic rules; or

(iii) Any other terms or conditions of the plan, if the change would adversely affect the interest holder in any material respect.

(2) After a plan of interest exchange has been approved by a domestic acquired entity and before a statement of interest exchange becomes effective, the plan may be abandoned:

(a) As provided in the plan; or

(b) Unless prohibited by the plan, in the same manner as the plan was approved.

(3) If a plan of interest exchange is abandoned after a statement of interest exchange has been filed with the secretary of state and before the filing becomes effective, a statement of abandonment, signed on behalf of the acquired entity, must be filed with the secretary of state before the time the statement of interest exchange becomes effective. The statement of abandonment takes effect upon filing, and the interest exchange is abandoned and does not become effective. The statement of abandonment must contain:

(a) The name of the acquired entity;

(b) The date on which the statement of interest exchange was filed; and

(c) A statement that the interest exchange has been abandoned in accordance with this section.

30-18-305. STATEMENT OF INTEREST EXCHANGE — EFFECTIVE DATE. (1) A statement of interest exchange must be signed on behalf of a domestic acquired entity and filed with the secretary of state.

(2) A statement of interest exchange must contain:

(a) The name and type of the acquired entity;

(b) The name, jurisdiction of organization, and type of the acquiring entity;

(c) If the statement of interest exchange is not to be effective upon filing, the later date and time on which it will become effective, which may not be more than ninety (90) days after the date of filing;

(d) A statement that the plan of interest exchange was approved by the acquired entity in accordance with this part; and

(e) Any amendments to the acquired entity's public organic document approved as part of the plan of interest exchange.

(3) In addition to the requirements of subsection (2) of this section, a statement of interest exchange may contain any other provision not prohibited by law.

(4) A plan of interest exchange that is signed on behalf of a domestic acquired entity and meets all of the requirements of subsection (2) of this section may be filed with the secretary of state instead of a statement of interest exchange and upon filing has the same effect. If the plan of interest exchange is filed as provided in this subsection (4), references in this chapter to a statement of interest exchange refer to the plan of interest exchange filed under this subsection (4).

(5) A statement of interest exchange becomes effective upon the date and time of filing or the later date and time specified in the statement of interest exchange.

30-18-306. EFFECT OF INTEREST EXCHANGE. (1) When an interest exchange becomes effective:

(a) The interests in the acquired entity that are the subject of the interest exchange cease to exist or are converted or exchanged, and the interest holders of those interests are entitled only to the rights provided to them under the plan of interest exchange and to any appraisal rights they have under section 30-18-109, Idaho Code;

(b) The acquiring entity becomes the interest holder of the interests in the acquired entity stated in the plan of interest exchange to be acquired by the acquiring entity;

(c) The public organic document, if any, of the acquired entity is amended as provided in the statement of interest exchange and remains binding on its interest holders; and

(d) The private organic rules of the acquired entity that are to be in a record, if any, are amended to the extent provided in the plan of interest exchange and remain binding on its interest holders.

(2) Except as otherwise provided in the organic law or organic rules of the acquired entity, the interest exchange does not give rise to any rights that an interest holder, governor, or third party would otherwise have upon a dissolution, liquidation, or winding-up of the acquired entity.

(3) When an interest exchange becomes effective, a person that did not have interest holder liability with respect to the acquired entity and that becomes subject to interest holder liability with respect to a domestic entity as a result of the interest exchange has interest holder liability only to the extent provided by the organic law of the entity and only for those liabilities that arise after the interest exchange becomes effective.

(4) When an interest exchange becomes effective, the interest holder liability of a person that ceases to hold an interest in a domestic acquired entity with respect to which the person had interest holder liability is as follows:

(a) The interest exchange does not discharge any interest holder liability under the organic law of the domestic acquired entity to the extent the interest holder liability arose before the interest exchange became effective;

(b) The person does not have interest holder liability under the organic law of the domestic acquired entity for any liability that arises after the interest exchange becomes effective;

(c) The organic law of the domestic acquired entity continues to apply to the release, collection, or discharge of any interest holder liability preserved under paragraph (a) of this subsection as if the interest exchange had not occurred; and

(d) The person has whatever rights of contribution from any other person as are provided by the organic law or organic rules of the domestic acquired entity with respect to any interest holder liability preserved under paragraph (a) of this subsection as if the interest exchange had not occurred.

PART 4
CONVERSION

30-18-401. CONVERSION AUTHORIZED. (1) Except as otherwise provided in this section, by complying with this part, a domestic entity may become:

(a) A domestic entity of a different type; or

(b) A foreign entity of a different type, if the conversion is authorized by the law of the foreign jurisdiction.

(2) Except as otherwise provided in this section, by complying with the provisions of this part applicable to foreign entities a foreign entity may become a domestic entity of a different type if the conversion is authorized by the law of the foreign entity's jurisdiction of organization.

(3) If a protected agreement contains a provision that applies to a merger of a domestic entity but does not refer to a conversion, the provision applies to a conversion of the entity as if the conversion were a merger until the provision is amended after the effective date of this chapter.

30-18-402. PLAN OF CONVERSION. (1) A domestic entity may convert to a different type of entity under this part by approving a plan of conversion. The plan must be in a record and contain:

(a) The name and type of the converting entity;

(b) The name, jurisdiction of organization, and type of the converted entity;

(c) The manner of converting the interests in the converting entity into interests, securities, obligations, rights to acquire interests or securities, cash, or other property, or any combination of the foregoing;

(d) The proposed public organic document of the converted entity if it will be a filing entity;

(e) The full text of the private organic rules of the converted entity that are proposed to be in a record;

(f) The other terms and conditions of the conversion; and

(g) Any other provision required by the law of this state or the organic rules of the converting entity.

(2) A plan of conversion may contain any other provision not prohibited by law.

30-18-403. APPROVAL OF PLAN OF CONVERSION. (1) A plan of conversion is not effective unless it has been approved:

(a) By a domestic converting entity:

(i) In accordance with the requirements, if any, in its organic rules for approval of a conversion;

(ii) If its organic rules do not provide for approval of a conversion, in accordance with the requirements, if any, in its organic law and organic rules for approval of a merger, as if the conversion were a merger; or

(iii) If neither its organic law nor organic rules provide for approval of a conversion or a merger, by all of the interest holders of the entity entitled to vote on or consent to any matter; and

(b) In a record, by each interest holder of a domestic converting

entity that will have interest holder liability for liabilities that arise after the conversion becomes effective.

(2) A conversion of a foreign converting entity is not effective unless it is approved by the foreign entity in accordance with the law of the foreign entity's jurisdiction of organization.

30-18-404. AMENDMENT OR ABANDONMENT OF PLAN OF CONVERSION — STATEMENT OF ABANDONMENT. (1) A plan of conversion of a domestic converting entity may be amended:

(a) In the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended; or

(b) By the governors or interest holders of the entity in the manner provided in the plan, but an interest holder that was entitled to vote on or consent to approval of the conversion is entitled to vote on or consent to any amendment of the plan that will change:

(i) The amount or kind of interests, securities, obligations, rights to acquire interests or securities, cash, or other property, or any combination of the foregoing, to be received by any of the interest holders of the converting entity under the plan;

(ii) The public organic document or private organic rules of the converted entity that will be in effect immediately after the conversion becomes effective, except for changes that do not require approval of the interest holders of the converted entity under its organic law or organic rules; or

(iii) Any other terms or conditions of the plan, if the change would adversely affect the interest holder in any material respect.

(2) After a plan of conversion has been approved by a domestic converting entity and before a statement of conversion becomes effective, the plan may be abandoned:

(a) As provided in the plan; or

(b) Unless prohibited by the plan, in the same manner as the plan was approved.

(3) If a plan of conversion is abandoned after a statement of conversion has been filed with the secretary of state and before the filing becomes effective, a statement of abandonment, signed on behalf of the entity, must be filed with the secretary of state before the time the statement of conversion becomes effective. The statement of abandonment takes effect upon filing, and the conversion is abandoned and does not become effective. The statement of abandonment must contain:

(a) The name of the converting entity;

(b) The date on which the statement of conversion was filed; and

(c) A statement that the conversion has been abandoned in accordance with this section.

30-18-405. STATEMENT OF CONVERSION — EFFECTIVE DATE. (1) A statement of conversion must be signed on behalf of the converting entity and filed with the secretary of state.

(2) A statement of conversion must contain:

(a) The name, jurisdiction of organization, and type of the converting entity;

(b) The name, jurisdiction of organization, and type of the converted entity;

(c) If the statement of conversion is not to be effective upon filing, the later date and time on which it will become effective, which may not be more than ninety (90) days after the date of filing;
(d) If the converting entity is a domestic entity, a statement that the plan of conversion was approved in accordance with this part or, if the converting entity is a foreign entity, a statement that the conversion was approved by the foreign converting entity in accordance with the law of its jurisdiction of organization;
(e) If the converted entity is a domestic filing entity, the text of its public organic document, as an attachment; and
(f) If the converted entity is a domestic limited liability partnership, the text of its statement of qualification, as an attachment.

(3) In addition to the requirements of subsection (2) of this section, a statement of conversion may contain any other provision not prohibited by law.

(4) If the converted entity is a domestic entity, its public organic document, if any, must satisfy the requirements of the law of this state, except that it does not need to be signed and may omit any provision that is not required to be included in a restatement of the public organic document.

(5) A plan of conversion that is signed on behalf of a domestic converting entity and meets all of the requirements of subsection (2) of this section may be filed with the secretary of state instead of a statement of conversion and upon filing has the same effect. If a plan of conversion is filed as provided in this subsection (5), references in this chapter to a statement of conversion refer to the plan of conversion filed under this subsection (5).

(6) A statement of conversion becomes effective upon the date and time of filing or the later date and time specified in the statement of conversion.

30-18-406. EFFECT OF CONVERSION. (1) When a conversion becomes effective:
(a) The converted entity is:
(i) Organized under and subject to the organic law of the converted entity; and
(ii) The same entity without interruption as the converting entity;
(b) All property of the converting entity continues to be vested in the entity without transfer, conveyance, assignment, reversion, or impairment;
(c) All liabilities of the converting entity continue as liabilities of the entity;
(d) Except as provided by law other than this chapter or the plan of conversion, all of the rights, privileges, immunities, powers, and purposes of the converting entity remain in the converted entity;
(e) The name of the converted entity may be substituted for the name of the converting entity in any pending action or proceeding;
(f) Unless otherwise provided by the organic law of the converting entity, the conversion does not cause the dissolution of the converting entity;

(g) If a converted entity is a filing entity, its public organic document is effective and is binding on its interest holders;

(h) If the converted entity is a limited liability partnership, its statement of qualification is effective simultaneously;

(i) The private organic rules of the converted entity that are to be in a record, if any, approved as part of the plan of conversion are effective and are binding on its interest holders; and

(j) The interests in the converting entity are converted, and the interest holders of the converting entity are entitled only to the rights provided to them under the plan of conversion and to any appraisal rights they have under section 30-18-109, Idaho Code.

(2) Except as otherwise provided in the organic law or organic rules of the converting entity, the conversion does not give rise to any rights that an interest holder, governor, or third party would otherwise have upon a dissolution, liquidation, or winding-up of the converting entity.

(3) When a conversion becomes effective, a person that did not have interest holder liability with respect to the converting entity and that becomes subject to interest holder liability with respect to a domestic entity as a result of a conversion has interest holder liability only to the extent provided by the organic law of the entity and only for those liabilities that arise after the conversion becomes effective.

(4) When a conversion becomes effective:

(a) The conversion does not discharge any interest holder liability under the organic law of a domestic converting entity to the extent the interest holder liability arose before the conversion became effective;

(b) A person does not have interest holder liability under the organic law of a domestic converting entity for any liability that arises after the conversion becomes effective;

(c) The organic law of a domestic converting entity continues to apply to the release, collection, or discharge of any interest holder liability preserved under paragraph (a) of this subsection as if the conversion had not occurred; and

(d) A person has whatever rights of contribution from any other person as are provided by the organic law or organic rules of the domestic converting entity with respect to any interest holder liability preserved under paragraph (a) of this subsection as if the conversion had not occurred.

(5) When a conversion becomes effective, a foreign entity that is the converted entity:

(a) May be served with process in this state for the collection and enforcement of any of its liabilities; and

(b) Appoints the secretary of state as its agent for service of process for collecting or enforcing those liabilities.

(6) If the converting entity is a qualified foreign entity, the certificate of authority or other foreign qualification of the converting entity is canceled when the conversion becomes effective.

PART 5
DOMESTICATION

30-18-501. DOMESTICATION AUTHORIZED. (1) Except as otherwise provided in this section, by complying with this part, a domestic entity may become a domestic entity of the same type in a foreign jurisdiction if the domestication is authorized by the law of the foreign jurisdiction.

(2) Except as otherwise provided in this section, by complying with the provisions of this part applicable to foreign entities a foreign entity may become a domestic entity of the same type in this state if the domestication is authorized by the law of the foreign entity's jurisdiction of organization.

(3) When the term "domestic entity" is used in this part with reference to a foreign jurisdiction, it means an entity whose internal affairs are governed by the law of the foreign jurisdiction.

(4) If a protected agreement contains a provision that applies to a merger of a domestic entity but does not refer to a domestication, the provision applies to a domestication of the entity as if the domestication were a merger until the provision is amended after the effective date of this chapter.

30-18-502. PLAN OF DOMESTICATION. (1) A domestic entity may become a foreign entity in a domestication by approving a plan of domestication. The plan must be in a record and contain:

(a) The name and type of the domesticating entity;

(b) The name and jurisdiction of organization of the domesticated entity;

(c) The manner of converting the interests in the domesticating entity into interests, securities, obligations, rights to acquire interests or securities, cash, or other property, or any combination of the foregoing;

(d) The proposed public organic document of the domesticated entity if it is a filing entity;

(e) The full text of the private organic rules of the domesticated entity that are proposed to be in a record;

(f) The other terms and conditions of the domestication; and

(g) Any other provision required by the law of this state or the organic rules of the domesticating entity.

(2) A plan of domestication may contain any other provision not prohibited by law.

30-18-503. APPROVAL OF PLAN OF DOMESTICATION. (1) A plan of domestication is not effective unless it has been approved:

(a) By a domestic domesticating entity:

(i) In accordance with the requirements, if any, in its organic rules for approval of a domestication;

(ii) If its organic rules do not provide for approval of a domestication, in accordance with the requirements, if any, in its organic law and organic rules for approval of a merger as if the domestication were a merger; or

(iii) If neither its organic law nor organic rules provide for approval of a domestication or a merger, by all of the interest holders of the entity entitled to vote on or consent to any matter; and

(b) In a record, by each interest holder of a domestic domesticating entity that will have interest holder liability for liabilities that arise after the domestication becomes effective.

(2) A domestication of a foreign domesticating entity is not effective unless it is approved in accordance with the law of the foreign entity's jurisdiction of organization.

30-18-504. AMENDMENT OR ABANDONMENT OF PLAN OF DOMESTICATION -- STATEMENT OF ABANDONMENT. (1) A plan of domestication of a domestic domesticating entity may be amended:

(a) In the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended; or

(b) By the governors or interest holders of the entity in the manner provided in the plan, but an interest holder that was entitled to vote on or consent to approval of the domestication is entitled to vote on or consent to any amendment of the plan that will change:

(i) The amount or kind of interests, securities, obligations, rights to acquire interests or securities, cash, or other property, or any combination of the foregoing, to be received by any of the interest holders of the domesticating entity under the plan;

(ii) The public organic document or private organic rules of the domesticated entity that will be in effect immediately after the domestication becomes effective, except for changes that do not require approval of the interest holders of the domesticated entity under its organic law or organic rules; or

(iii) Any other terms or conditions of the plan, if the change would adversely affect the interest holder in any material respect.

(2) After a plan of domestication has been approved by a domestic domesticating entity and before a statement of domestication becomes effective, the plan may be abandoned:

(a) As provided in the plan; or

(b) Unless prohibited by the plan, in the same manner as the plan was approved.

(3) If a plan of domestication is abandoned after a statement of domestication has been filed with the secretary of state and before the filing becomes effective, a statement of abandonment, signed on behalf of the entity, must be filed with the secretary of state before the time the statement of domestication becomes effective. The statement of abandonment takes effect upon filing, and the domestication is abandoned and does not become effective. The statement of abandonment must contain:

(a) The name of the domesticating entity;

(b) The date on which the statement of domestication was filed; and

(c) A statement that the domestication has been abandoned in accordance with this section.

30-18-505. STATEMENT OF DOMESTICATION -- EFFECTIVE DATE. (1) A statement of domestication must be signed on behalf of the domesticating entity and filed with the secretary of state.

(2) A statement of domestication must contain:

(a) The name, jurisdiction of organization, and type of the domesticating entity;

(b) The name and jurisdiction of organization of the domesticated entity;

(c) If the statement of domestication is not to be effective upon filing, the later date and time on which it will become effective, which may not be more than ninety (90) days after the date of filing;

(d) If the domesticating entity is a domestic entity, a statement that the plan of domestication was approved in accordance with this part or, if the domesticating entity is a foreign entity, a statement that the domestication was approved in accordance with the law of its jurisdiction of organization;

(e) If the domesticated entity is a domestic filing entity, its public organic document, as an attachment; and

(f) If the domesticated entity is a domestic limited liability partnership, its statement of qualification, as an attachment.

(3) In addition to the requirements of subsection (2) of this section, a statement of domestication may contain any other provision not prohibited by law.

(4) If the domesticated entity is a domestic entity, its public organic document, if any, must satisfy the requirements of the law of this state, except that it does not need to be signed and may omit any provision that is not required to be included in a restatement of the public organic document.

(5) A plan of domestication that is signed on behalf of a domesticating domestic entity and meets all of the requirements of subsection (2) of this section may be filed with the secretary of state instead of a statement of domestication and upon filing has the same effect. If a plan of domestication is filed as provided in this subsection (5), references in this chapter to a statement of domestication refer to the plan of domestication filed under this subsection (5).

(6) A statement of domestication becomes effective upon the date and time of filing or the later date and time specified in the statement of domestication.

30-18-506. EFFECT OF DOMESTICATION. (1) When a domestication becomes effective:

(a) The domesticated entity is:

(i) Organized under and subject to the organic law of the domesticated entity; and

(ii) The same entity without interruption as the domesticating entity;

(b) All property of the domesticating entity continues to be vested in the entity without transfer, conveyance, assignment, reversion, or impairment;

(c) All liabilities of the domesticating entity continue as liabilities of the entity;

(d) Except as provided by law other than this chapter or the plan of domestication, all of the rights, privileges, immunities, powers,

and purposes of the domesticating entity remain in the domesticated entity;

(e) The name of the domesticated entity may be substituted for the name of the domesticating entity in any pending action or proceeding;

(f) Unless otherwise provided by the organic law of the domesticating entity, the domestication does not cause the dissolution of the domesticating entity;

(g) If the domesticated entity is a filing entity, its public organic document is effective and is binding on its interest holders;

(h) If the domesticated entity is a limited liability partnership, its statement of qualification is effective simultaneously;

(i) The private organic rules of the domesticated entity that are to be in a record, if any, approved as part of the plan of domestication are effective and are binding on its interest holders; and

(j) The interests in the domesticating entity are converted to the extent and as approved in connection with the domestication, and the interest holders of the domesticating entity are entitled only to the rights provided to them under the plan of domestication and to any appraisal rights they have under section 30-18-109, Idaho Code.

(2) Except as otherwise provided in the organic law or organic rules of the domesticating entity, the domestication does not give rise to any rights that an interest holder, governor, or third party would otherwise have upon a dissolution, liquidation, or winding-up of the domesticating entity.

(3) When a domestication becomes effective, a person that did not have interest holder liability with respect to the domesticating entity and that becomes subject to interest holder liability with respect to a domestic entity as a result of the domestication has interest holder liability only to the extent provided by the organic law of the entity and only for those liabilities that arise after the domestication becomes effective.

(4) When a domestication becomes effective:

(a) The domestication does not discharge any interest holder liability under the organic law of a domesticating domestic entity to the extent the interest holder liability arose before the domestication became effective;

(b) A person does not have interest holder liability under the organic law of a domestic domesticating entity for any liability that arises after the domestication becomes effective;

(c) The organic law of a domestic domesticating entity continues to apply to the release, collection, or discharge of any interest holder liability preserved under paragraph (a) of this subsection as if the domestication had not occurred; and

(d) A person has whatever rights of contribution from any other person as are provided by the organic law or organic rules of a domestic domesticating entity with respect to any interest holder liability preserved under paragraph (a) of this subsection as if the domestication had not occurred.

(5) When a domestication becomes effective, a foreign entity that is the domesticated entity:

(a) May be served with process in this state for the collection and

enforcement of any of its liabilities; and

(b) Appoints the secretary of state as its agent for service of process for collecting or enforcing those liabilities.

(6) If the domesticating entity is a qualified foreign entity, the certificate of authority or other foreign qualification of the domesticating entity is canceled when the domestication becomes effective.

PART 6
(RESERVED)

PART 7
MISCELLANEOUS PROVISIONS

30-18-701. CONSISTENCY OF APPLICATION. In applying and construing this chapter, consideration must be given to the need to promote consistency of the law with respect to its subject matter among states that enact it.

30-18-702. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This chapter modifies, limits, and 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(c) of that act (15 U.S.C. section 7001(c)) or authorize electronic delivery of any of the notices described in section 103(b) of that act (15 U.S.C. section 7003(b)).

30-18-703. REQUIREMENTS FOR FILING OF DOCUMENTS. (1) To be entitled to filing by the secretary of state, a document must satisfy the following requirements and the requirements of any other provision of this chapter that adds to or varies these requirements:

(a) This chapter requires or permits filing the document in the office of the secretary of state.

(b) The document contains the information required by this chapter and may contain other information.

(c) The document is in a record.

(d) The document is in the English language, but the name of an entity need not be in English if written in English letters or Arabic or Roman numerals.

(e) The document is signed:

(i) By an officer of a domestic or foreign corporation;

(ii) By a person authorized by a domestic or foreign entity that is not a corporation; or

(iii) If the entity is in the hands of a receiver, trustee, or other court appointed fiduciary, by that fiduciary.

(f) The document must state the name and capacity of the person that signed it. The document may contain a corporate seal, attestation, acknowledgment, or verification.

(g) The document must be delivered to the office of the secretary of state for filing. Delivery may be made by electronic transmission if and to the extent permitted by the secretary of state. If a document is filed in typewritten or printed form and not transmitted electronically, the secretary of state may require one (1) exact or conformed copy to be delivered with the document.

(2) When a document is delivered to the office of the secretary of state for filing, the correct filing fee required to be paid therewith by this chapter or other law must be paid or provision for payment made in a manner permitted by the secretary of state.

30-18-704. FORMS. The secretary of state may prescribe and furnish, on request, forms for documents required or permitted to be filed by this chapter but their use is not mandatory.

30-18-705. FILING, SERVICE AND COPYING FEES. (1) The secretary of state shall collect a fee of ten dollars ($10.00) each time process is served on the secretary of state under this chapter. The party to a proceeding causing service of process may recover this fee as costs if the party prevails in the proceeding.

(2) The secretary of state shall collect the following fees for copying and certifying the copy of any document filed under this chapter:

(a) Twenty-five cents (25¢) per page for copying; and

(b) Ten dollars ($10.00) for the certificate.

(3) The secretary of state shall collect the following fees when the documents described are delivered for filing:

(a) Statement of merger $30.00

(b) Statement of abandonment of merger $30.00

(c) Statement of interest exchange $30.00

(d) Statement of abandonment of interest exchange $30.00

(e) Statement of conversion $30.00

(f) Statement of abandonment of conversion $30.00

(g) Statement of domestication $30.00

(h) Statement of abandonment of domestication $30.00

30-18-706. EFFECTIVE TIME AND DATE OF DOCUMENT. Except as provided in section 30-18-707, Idaho Code, a document accepted for filing is effective:

(1) At the date and time of filing, as evidenced by the means used by the secretary of state for recording the date and time of filing;

(2) At the time specified in the document as its effective time on the date it is filed;

(3) At a specified delayed effective time and date if permitted by this chapter; or

(4) If a delayed effective date but no time is specified, at the close of business on the date specified.

30-18-707. CORRECTING FILED DOCUMENT. (1) A domestic or foreign entity may correct a document filed by the secretary of state if:

(a) The document contains an inaccuracy;

(b) The document was defectively signed; or

(c) The electronic transmission of the document to the secretary of state was defective.

(2) A document is corrected by filing with the secretary of state a statement of correction that:

(a) Describes the document to be corrected and states its filing date or has attached a copy of the document;

(b) Specifies the inaccuracy or defect to be corrected; and

(c) Corrects the inaccuracy or defect.

(3) A statement of correction is effective on the effective date of the document it corrects except as to persons relying on the uncorrected document and adversely affected by the correction. As to those persons, a statement of correction is effective when filed.

30-18-708. FILING DUTY OF SECRETARY OF STATE. (1) A document delivered to the office of the secretary of state for filing that satisfies the requirements of section 30-18-703, Idaho Code, must be filed by the secretary of state.

(2) The secretary of state files a document by recording it as filed on the date and time of receipt. After filing a document, the secretary of state shall deliver to the domestic or foreign entity or its representative a copy of the document with an acknowledgment of the date and time of filing.

(3) If the secretary of state refuses to file a document, the secretary of state shall return the document to the domestic or foreign entity or its representative within five (5) days after the document was delivered, together with a brief, written explanation of the reason for the refusal.

(4) The duty of the secretary of state to file documents under this section is ministerial. The filing or refusal to file a document does not:

(a) Affect the validity or invalidity of the document in whole or in part;

(b) Relate to the correctness or incorrectness of information contained in the document; or

(c) Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect.

30-18-709. APPEAL FROM REFUSAL TO FILE A DOCUMENT. (1) If the secretary of state refuses to file a document delivered for filing, the domestic or foreign entity that submitted the document for filing may appeal the refusal within thirty (30) days after the return of the document to the fourth judicial district court of Ada county. The appeal is commenced by petitioning the court to compel filing the document and by attaching to the petition the document and the explanation of the secretary of state for the refusal to file. Notice of the petition shall be provided to the secretary of state.

(2) The court may summarily order the secretary of state to file the document or take other action the court considers appropriate.

(3) The court's final decision may be appealed as in other civil proceedings.

30-18-710. EVIDENTIARY EFFECT OF COPY OF FILED DOCUMENT. A certificate from the secretary of state, delivered with a copy of a document filed by the secretary of state, may be relied upon as prima facie evidence that the original document is on file with the secretary of state.

30-18-711. PENALTY FOR SIGNING FALSE DOCUMENT. A person commits a misdemeanor punishable by a fine of not to exceed five hundred dollars ($500) if the person signs a document the person knows is false in any material respect with intent that the document be delivered to the secretary of state for filing.

30-18-712. POWERS OF SECRETARY OF STATE. The secretary of state has the power reasonably necessary to perform the duties required by this chapter.

30-18-713. SAVINGS CLAUSE. This chapter does not affect an action or proceeding commenced or right accrued before the effective date of this chapter.

SECTION 2. That Section 30-1-858, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-858. VARIATION BY CORPORATE ACTION — APPLICATION OF INDEMNIFICATION PROVISIONS. (1) A corporation may, by a provision in its articles of incorporation or bylaws or in a resolution approved by its board of directors or shareholders, obligate itself in advance of the act or omission giving rise to a proceeding to provide indemnification in accordance with section 30-1-851, Idaho Code, or advance funds to pay for or reimburse expenses in accordance with section 30-1-853, Idaho Code. Any such obligatory provision shall be deemed to satisfy the requirements for authorization referred to in section 30-1-853(3), Idaho Code, and in section 30-1-855(3), Idaho Code. Any such provision that obligates the corporation to provide indemnification to the fullest extent permitted by law shall be deemed to obligate the corporation to advance funds to pay for or reimburse expenses in accordance with section 30-1-853, Idaho Code, to the fullest extent permitted by law, unless the provision specifically provides otherwise.

(2) Any provision pursuant to subsection (1) of this section shall not obligate the corporation to indemnify or advance expenses to a director of a predecessor of the corporation, pertaining to conduct with respect to the predecessor, unless otherwise specifically provided. Any provision for indemnification or advance for expenses in the articles of incorporation, bylaws, or a resolution of the board of directors or shareholders of a predecessor of the corporation in a merger or in a contract to which the predecessor is a party, existing at the time the merger takes effect, shall be governed by section 30-18-206, Idaho Code, or if excluded by said section pursuant to section 30-18-110, Idaho Code, by section 30-1-1107(1)(d), Idaho Code.

(3) A corporation may, by a provision in its articles of incorporation, limit any of the rights to indemnification or advance for expenses created by or pursuant to this part, other than the rights to mandatory indemnification under section 30-1-852, Idaho Code, and to court-ordered indemnification and advance for expenses under section 30-1-854, Idaho Code.

(4) Sections 30-1-850 through 30-1-859, Idaho Code, do not limit a corporation's power to pay or reimburse expenses incurred by a director or an officer in connection with his appearance as a witness in a proceeding at a time when he is not a party.

(5) Sections 30-1-850 through 30-1-859, Idaho Code, do not limit a corporation's power to indemnify, advance expenses to or provide or maintain insurance on behalf of an employee or agent.

SECTION 3. That Part 11, Chapter 1, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 30-1-1100, Idaho Code, and to read as follows:

30-1-1100. APPLICABILITY OF IDAHO ENTITY TRANSACTIONS ACT. (1) Unless excluded therefrom by section 30-18-110, Idaho Code, and except as provided in subsection (2) of this section, a merger or a share exchange in which a corporation is a party is governed by the Idaho entity transactions act, chapter 18, title 30, Idaho Code.

(2) Sections 30-1-1104 and 30-1-1105, Idaho Code, apply to transactions in which a corporation is a party under the Idaho entity transactions act, chapter 18, title 30, Idaho Code.

SECTION 4. That Section 30-3-50, Idaho Code, be, and the same is hereby amended to read as follows:

30-3-50. NOTICE OF MEETING. (1) A corporation shall give notice consistent with its bylaws of meetings of members in a fair and reasonable manner.

(2) Any notice that conforms to the requirements of subsection (3) of this section is fair and reasonable, but other means of giving notice may also be fair and reasonable when all the circumstances are considered; provided however, that notice of matters referred to in subsection (3)(b) of this section must be given as provided in subsection (3) of this section.

(3) Notice is fair and reasonable if:

(a) The corporation notifies its members of the place, date, and time of each annual, regular and special meeting of members no fewer than ten (10), ~~(or if notice is mailed by other than first class or registered mail, thirty (30))~~, nor more than sixty (60) days before the meeting date;

(b) Notice of an annual or regular meeting includes a description of any matters or matters that must be approved by the members under section 30-3-81, 30-3-88, 30-3-91, 30-3-97, 30-3-103, 30-3-107, ~~or~~ 30-3-112, 30-18-203, 30-18-303, 30-18-403 or 30-18-503, Idaho Code; and

(c) Notice of a special meeting includes a description of the matter or matters for which the meeting is called.

(4) Unless the bylaws require otherwise, if an annual, regular or special meeting of members is adjourned to a different date, time or place, notice need not be given of the new date, time or place, if the new date, time or place is announced at the meeting before adjournment. If a new record date for the adjourned meeting is or must be fixed under section 30-3-52, Idaho Code, however, notice of the adjourned meeting must be given under this section to the members of record as of the new record date.

(5) When giving notice of an annual, regular or special meeting of members, a corporation shall give notice of a matter a member intends to raise at the meeting if:

(a) Requested in writing to do so by a person entitled to call a special meeting; and

(b) The request is received by the secretary or president of the corporation at least ten (10) days before the corporation gives notice of the meeting.

SECTION 5. That Part 1, Chapter 3, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 30-3-100A, Idaho Code, and to read as follows:

30-3-100A. APPLICABILITY OF IDAHO ENTITY TRANSACTIONS ACT. (1) Unless the participating entity is excluded therefrom by section 30-18-110, Idaho Code, and except as provided in subsection (2) of this section, a merger in which a nonprofit corporation is a party is governed by the Idaho entity transactions act, chapter 18, title 30, Idaho Code.

(2) Section 30-3-101, Idaho Code, applies to transactions in which a nonprofit corporation is a party under the Idaho entity transactions act, chapter 18, title 30, Idaho Code.

SECTION 6. That Section 30-1309A, Idaho Code, be, and the same is hereby amended to read as follows:

30-1309A. DEATH OR DISQUALIFICATION OF SOLE SHAREHOLDER. If a corporation organized under this chapter has only one (1) shareholder, and that shareholder becomes disqualified under section 30-1309, Idaho Code, or dies, the disqualified shareholder or the personal representative of the deceased shareholder may, notwithstanding other provisions of this chapter, exercise the voting rights of the outstanding shares only for the purpose of dissolving the corporation pursuant to sections 30-1-1401 through 30-1-1440, Idaho Code, consolidating or merging the corporation pursuant to section 30-1312, Idaho Code, or converting the corporation to a corporation for profit under the Idaho entity transactions act, chapter 18, title 30, Idaho Code, or, if excluded by said act pursuant to section 30-18-110, Idaho Code, under the Idaho business corporation act, chapter 1, title 30, Idaho Code.

SECTION 7. That Section 30-1312, Idaho Code, be, and the same is hereby amended to read as follows:

30-1312. APPLICATION OF CORPORATION LAWS — MERGER. (1) Subsection (2) of this section applies only to mergers of professional corporations excluded from the Idaho entity transactions act by section 30-18-110, Idaho Code.

(2) The ~~B~~business ~~C~~corporation ~~A~~act of the state of Idaho shall be applicable to a corporation organized pursuant to this act except to the extent that any of the provisions of this act are interpreted to be in conflict with the provisions thereof, and in such event the provisions of this act shall take precedence with respect to a corporation organized pursuant to the provisions of this act. A professional corporation organized under this act shall consolidate or merge only with another professional corporation organized to render the same specific professional service or allied professional services.

SECTION 8. That Part 11, Chapter 2, Title 53, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 53-2-1100, Idaho Code, and to read as follows:

53-2-1100. APPLICABILITY OF IDAHO ENTITY TRANSACTIONS ACT. (1) Unless the participating entity is excluded therefrom by section 30-18-110, Idaho Code, and except as provided in subsection (2) of this section, a merger or a conversion in which a limited partnership is a party is governed by the Idaho entity transactions act, chapter 18, title 30, Idaho Code.

(2) Sections 53-2-1103, 53-2-1107 and 53-2-1110, Idaho Code, apply to transactions in which a limited partnership is a party under the Idaho entity transactions act, chapter 18, title 30, Idaho Code.

SECTION 9. That Section 53-3-101, Idaho Code, be, and the same is hereby amended to read as follows:

53-3-101. DEFINITIONS. In this act:

(1) "Business" includes every trade, occupation and profession.

(2) "Debtor in bankruptcy" means a person who is the subject of:

(i) An order for relief under title 11 of the United States Code or a comparable order under a successor statute of general application; or

(ii) Comparable order under federal, state, or foreign law governing insolvency.

(3) "Distribution" means a transfer of money or other property from a partnership to a partner in the partner's capacity as a partner or to the partner's transferee.

(4) "Execution" means any signature, mark or symbol affixed to a writing with the intent to authenticate the writing. It includes an electronically transmitted signature or symbol.

(5) "Foreign limited liability partnership" means a partnership that:

(i) Is formed under laws other than the laws of this state; and

(ii) Has the status of a limited liability partnership under those laws.

(6) "Legal entity" means an association of one (1) or more persons created pursuant to statute for the purpose of transacting business, whether for profit or otherwise. It includes, but is not limited to, a corporation, a limited liability company, a partnership or a limited liability partnership.

(7) "Limited liability partnership" means a partnership that has filed a statement of qualification under section 53-3-1001, Idaho Code, and does not have a similar statement in effect in any other jurisdiction.

(8) "Partnership" means an association of two (2) or more persons to carry on as co-owners a business for profit formed under section 53-3-202, Idaho Code, predecessor law, or comparable law of another jurisdiction.

(9) "Partnership agreement" means the agreement, whether written, oral, or implied, among the partners concerning the partnership, including amendments to the partnership agreement.

(10) "Partnership at will" means a partnership in which the partners have not agreed to remain partners until the expiration of a definite term or the completion of a particular undertaking.

(11) "Partnership interest" or "partner's interest in the partnership" means all of a partner's interests in the partnership, including the partner's transferable interest and all management and other rights.

(12) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited partnership, association, joint venture, limited liability company, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(13) "Property" means all property, real, personal, or mixed, tangible or intangible, or any interest therein.

(14) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States.

(15) "Statement" means a statement of partnership authority under section 53-3-303, Idaho Code, a statement of denial under section 53-3-304, Idaho Code, a statement of dissociation under section 53-3-704, Idaho Code, a statement of dissolution under section 53-3-805, Idaho Code, a statement of merger under section 53-3-907 or section 30-18-205, Idaho Code, a statement of qualification under section 53-3-1001, Idaho Code, a statement of foreign qualification under section 53-3-1102, Idaho Code, or an amendment or cancellation of any of the foregoing.

(16) "Transfer" includes an assignment, conveyance, lease, mortgage, deed and encumbrance.

SECTION 10. That Part 9, Chapter 3, Title 53, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 53-3-901A, Idaho Code, and to read as follows:

53-3-901A. APPLICABILITY OF IDAHO ENTITY TRANSACTIONS ACT. (1) Unless the participating entity is excluded therefrom by section 30-18-110, Idaho Code, and except as provided in subsection (2) of this section, a merger or a conversion in which a partnership is a party is governed by the Idaho entity transactions act, chapter 18, title 30, Idaho Code.

(2) Sections 53-3-903(b) and (c) and 53-3-905(c), Idaho Code, apply to transactions in which a partnership is a party under the Idaho entity transactions act, chapter 18, title 30, Idaho Code.

SECTION 11. That Chapter 6, Title 53, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 53-660A, Idaho Code, and to read as follows:

53-660A. APPLICABILITY OF IDAHO ENTITY TRANSACTIONS ACT. (1) Unless the participating entity is excluded therefrom by section 30-18-110, Idaho Code, and except as provided in subsection (2) of this section, a merger or a consolidation in which a limited liability company is a party is governed by the Idaho entity transactions act, chapter 18, title 30, Idaho Code.

(2) Section 53-662, Idaho Code, applies to transactions in which a limited liability company is a party under the Idaho entity transactions act, chapter 18, title 30, Idaho Code.

SECTION 12. This act shall be in full force and effect on and after July 1, 2007.

Approved March 21, 2007.

CHAPTER 117
(S.B. No. 1118)

AN ACT

RELATING TO SNOWMOBILE REGISTRATIONS; AMENDING SECTION 67-7101, IDAHO CODE, TO REVISE THE DEFINITION OF "SNOWMOBILE"; AMENDING SECTION 67-7103, IDAHO CODE, TO INCREASE THE REGISTRATION FEES FOR PRIVATELY OWNED SNOWMOBILES AND SNOWMOBILES USED FOR RENTAL PURPOSES; AMENDING SECTION 67-7104, IDAHO CODE, TO INCREASE THE REGISTRATION FEE FOR SNOWMOBILES OWNED BY NONRESIDENTS NOT USED FOR COMMERCIAL PURPOSES; AND AMENDING SECTION 67-7106, IDAHO CODE, TO DELETE AN APPLICATION PROCESS FOR ADDITIONAL SNOWMOBILE PROGRAM FUNDS, TO CLARIFY THE SOURCE OF FUNDS USED TO DEFRAY ADMINISTRATIVE COSTS, TO PROVIDE FOR DEPOSIT OF HANDLING FEES COLLECTED BY THE DEPARTMENT AND TO PROVIDE FOR DISTRIBUTION OF SNOWMOBILE REGISTRATION REVENUES GENERATED IN COUNTIES WITHOUT A BONA FIDE SNOWMOBILE PROGRAM.

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 unladened 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.

(17) "Winter recreational parking locations" means designated parking areas established and maintained with funds acquired from the cross-country skiing account.

SECTION 2. That Section 67-7103, Idaho Code, be, and the same is hereby amended to read as follows:

67-7103. APPLICATION FOR NUMBER -- ATTACHMENT OF NUMBER -- CERTIFICATE -- APPLICATION FOR TRANSFER OF CERTIFICATE -- TRANSFER OF CERTIFICATE FEE -- TEMPORARY NUMBER -- FEES. (1) On or before November 1 of each year the owner of each snowmobile requiring numbering by the state of Idaho shall file an application for number with the department on forms approved by it. The application shall be signed by the owner and shall, except as provided in subsection (7) of this section, be accompanied by a fee of ~~twenty~~ thirty-one dollars ($~~2~~31.00). Upon receipt of the application the department shall issue to the applicant a certificate of number stating the number assigned to the snowmobile and the name and address of the owner. The owner shall attach to the snowmobile the identification number in a manner as may be prescribed by rules of the department. The number shall be located on the right and left side

of the cowling of the snowmobile and shall be completely visible and shall be maintained in legible condition. The certificate of number shall be pocket size and shall be available at all times for inspection on the snowmobile for which issued, wherever the snowmobile is in operation.

(2) The department may issue any certificate of number directly or may authorize any persons to act as vendor for the issuance. In the event a person accepts the authorization, he may be assigned a block of numbers and certificates which upon issue, in conformity with this chapter and with any rules of the department, shall be valid as if issued directly by the department.

(3) All records of the department made or kept pursuant to this section shall be public records.

(4) Each snowmobile must be registered before it leaves the premises at the time of sale from any retail snowmobile dealer.

(5) The purchaser of a snowmobile shall, within fifteen (15) days immediately after acquisition, make application to the department for transfer to him of the certificate of number issued to the snowmobile, giving his name, address and the number of the snowmobile and shall at the same time pay to the department a fee of three dollars ($3.00). Upon receipt of the application and fee, the department shall transfer the certificate of number issued for the snowmobile to the new owner or owners. Unless the application is made and fee paid within fifteen (15) days, the snowmobile shall be considered to be without a certificate of number and it shall be unlawful for any person to operate that snowmobile until the certificate is issued.

(6) No number other than the number issued to a snowmobile pursuant to this chapter shall be painted, attached, or otherwise displayed on the snowmobile, except a temporary number may be attached to identify a snowmobile for the purpose of racing or other sporting events.

(7) Resident and nonresident owners of snowmobiles used for rental purposes shall purchase certificates of number for ~~fifty~~ sixty-one dollars ($~~5~~61.00) and the certificates of number shall be displayed on the machine at all times.

SECTION 3. That Section 67-7104, Idaho Code, be, and the same is hereby amended to read as follows:

67-7104. NONRESIDENT SNOWMOBILE USER CERTIFICATE REQUIRED. The owner of a nonresident, noncommercial snowmobile shall not be required to comply with the registration requirements of the state of Idaho, but shall be required to obtain a nonresident snowmobile user certificate. A fee of ~~twenty~~ thirty-one dollars ($~~2~~31.00) shall be imposed for the issuance of a nonresident snowmobile user certificate. The certificate of number shall be displayed in the same manner as provided in section 67-7103, Idaho Code. Such certificates shall be valid beginning November 1 through October 31 of the following year. Issuance and administration of nonresident snowmobile user certificates shall be conducted in the same manner as provided in section 67-7103, Idaho Code, for numbering of snowmobiles.

(1) For purposes of this section, "nonresident" shall be as defined in section 36-202, Idaho Code.

(2) In the absence of a bona fide program in the area or upon the request of the bona fide county snowmobile advisory committee of the

nearest affected county in Idaho, the requirements for the nonresident certificate may be waived by the parks and recreation board on specific trails where the snowmobile trail grooming is solely supported by a state other than Idaho.

SECTION 4. That Section 67-7106, Idaho Code, be, and the same is hereby amended to read as follows:

67-7106. DISTRIBUTION OF MONEYS COLLECTED -- COUNTY SNOWMOBILE FUND -- STATE SNOWMOBILE FUND -- STATE SNOWMOBILE SEARCH AND RESCUE FUND. (1) Each vendor shall not later than the fifteenth day of each month remit all moneys collected under the provisions of sections 67-7103 and 67-7104, Idaho Code, to the state treasurer for credit to the state snowmobile fund, established in the dedicated fund, to be administered by the director, except that one dollar ($1.00) from each snowmobile certificate of number fee, one dollar ($1.00) from each rental certificate of number fee, and one dollar ($1.00) from each nonresident snowmobile user certificate issued by the vendor shall be credited by the state treasurer to the state snowmobile search and rescue fund created in section 67-2913A, Idaho Code.

(2) Each county with a bona fide snowmobile program shall be entitled to receive from the department eighty-five percent (85%) of the moneys generated for that county during that registration period. ~~Application for additional funds shall be made to the department by each county prior to the second Monday of August of each year. The moneys applied for shall be used solely for a bona fide snowmobile program.~~ Counties with a bona fide snowmobile program may use up to fifteen percent (15%) of their county snowmobile moneys upon recommendation by their county snowmobile advisory committee for snowmobile law enforcement purposes.

(3) Up to fifteen percent (15%) of the ~~statewide~~ revenue generated from snowmobile ~~fund generated~~ registrations each year may be used by the department to defray administrative costs. Any moneys unused at the end of the fiscal year shall be returned to the state treasurer for deposit in the state snowmobile fund.

(4) Vendors shall be entitled to charge an additional one dollar and fifty cents ($1.50) handling fee per registration for the distribution of certificates of number. Handling fees collected by the department shall be deposited to the state snowmobile fund.

(5) ~~Counties which have not established~~ For those registrations not designated to a bona fide county snowmobile program, ~~shall remit the entire balance in the county snowmobile fund to the state treasurer for credit to~~ the moneys generated shall be deposited to the state snowmobile fund, and such fund shall be available to ~~counties with a bona fide snowmobile program. Application for these moneys shall be made prior to the second Monday of August of that registration period~~ the department for snowmobile-related expenses.

Approved March 21, 2007.

CHAPTER 118
(S.B. No. 1186)

AN ACT

RELATING TO THE APPROPRIATION FOR THE DEPARTMENT OF HEALTH AND WELFARE; AMENDING SECTION 1, CHAPTER 376, LAWS OF 2006, TO REVISE THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR MEDICAL ASSISTANCE SERVICES FOR FISCAL YEAR 2007; AMENDING CHAPTER 376, LAWS OF 2006, BY THE ADDITION OF A NEW SECTION 10, CHAPTER 376, LAWS OF 2006, TO PROVIDE LEGISLATIVE INTENT TO ALLOW THE DEPARTMENT OF HEALTH AND WELFARE TO TRANSFER FUNDS BETWEEN BUDGETED PROGRAMS IN THE MEDICAL ASSISTANCE SERVICES DIVISION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 1, Chapter 376, Laws of 2006, be, and the same is hereby amended to read as follows:

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for Medical Assistance Services 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:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MEDICAID ADMINISTRATION AND MEDICAL MANAGEMENT:					
FROM:					
Economic Recovery Reserve Fund	$ 57,000	$ 1,042,500	$461,800		$ 1,561,300
General Fund	~~5,902,400~~	~~6,903,300~~		$ ~~887,000~~	~~13,692,700~~
	6,397,700	7,284,000		1,311,000	14,992,700
Idaho Health Insurance Access Card Fund	136,200	152,000			288,200
Cooperative Welfare Fund (Dedicated)		1,383,800			1,383,800
Cooperative Welfare Fund (Federal)	~~11,466,300~~	~~22,412,900~~	458,400	~~2,062,600~~	~~36,400,200~~
	11,348,700	25,048,200		1,638,600	38,493,900
TOTAL	$~~17,561,900~~	$~~31,894,500~~	$920,200	$ 2,949,600	$ ~~53,326,200~~
	17,939,600	34,910,500			56,719,900

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. ELDERS:					
FROM:					
General Fund				$ ~~60,256,900~~ 57,986,200	$ ~~60,256,900~~ 57,986,200
Cooperative Welfare Fund (Dedicated)				9,677,500	9,677,500
Cooperative Welfare Fund (Federal)				~~127,987,900~~ 122,920,400	~~127,987,900~~ 122,920,400
TOTAL				$ ~~197,922,300~~ 190,584,100	$ ~~197,922,300~~ 190,584,100
III. INDIVIDUALS WITH DISABILITIES:					
FROM:					
General Fund				$ ~~157,220,900~~ 151,098,500	$ ~~157,220,900~~ 151,098,500
Idaho Health Insurance Access Card Fund				893,500	893,500
Medical Assistance Fund				2,500	2,500
Cooperative Welfare Fund (Dedicated)				32,614,100	32,614,100
Cooperative Welfare Fund (Federal)				~~348,389,300~~ 334,115,300	~~348,389,300~~ 334,115,300
TOTAL				$ ~~539,120,300~~ 518,723,900	$ ~~539,120,300~~ 518,723,900
IV. LOW-INCOME CHILDREN AND WORKING-AGE ADULTS:					
FROM:					
General Fund				$ ~~125,953,100~~ 120,684,800	$ ~~125,953,100~~ 120,684,800
Idaho Health Insurance Access Card Fund				1,717,400	1,717,400
Cooperative Welfare Fund (Dedicated)				33,616,400	33,616,400
Cooperative Welfare Fund (Federal)				~~294,629,100~~ 282,094,100	~~294,629,100~~ 282,094,100
TOTAL				$ ~~455,916,000~~ 438,112,700	$ ~~455,916,000~~ 438,112,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
GRAND TOTAL	~~$17,561,900~~	~~$31,894,500~~	$920,200	~~$1,195,908,200~~	~~$1,246,204,800~~
	17,939,600	34,910,500		1,150,370,300	1,204,140,600

SECTION 2. That Chapter 376, Laws of 2006, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 10, Chapter 376, Laws of 2006, and to read as follows:

SECTION 10. Notwithstanding the provisions of Section 67-3511, Idaho Code, funding provided for provider payments in the trustee and benefit payments expenditure object code in the budgeted Medical Assistance Services Division may be transferred in excess of ten percent (10%) between the Elders Program, Individuals with Disabilities Program, and Low-Income and Working-Age Adults Program, but shall not be transferred to any other budgeted programs or objects within the Department of Health and Welfare during fiscal year 2007.

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 21, 2007.

CHAPTER 119
(S.B. No. 1187)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 2007; 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 409, Laws of 2006, there is hereby appropriated to the State Board of Education for the Office of the State Board of Education the following amount, to be expended according to the designated expense class from the listed fund for the period July 1, 2006, through June 30, 2007:

OFFICE OF THE STATE BOARD OF EDUCATION:

FOR:	
Operating Expenditures	$1,700,000
FROM:	
General Fund	$1,700,000

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 March 21, 2007.

CHAPTER 120
(S.B. No. 1188)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF LANDS FOR FISCAL YEAR 2008; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; DIRECTING THE DISTRIBUTION OF THE FUNDING FOR EMPLOYEE COMPENSATION; 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 Lands 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, 2007, through June 30, 2008:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
I. SUPPORT SERVICES:						
FROM:						
General Fund	$ 495,600	$ 304,900	$ 68,300			$ 868,800
Department of Lands Fund	489,000	345,100	78,300			912,400
Indirect Cost Recovery Fund	59,500	128,500				188,000
Endowment Administrative Fund	2,025,100	1,102,500	234,900			3,362,500
TOTAL	$ 3,069,200	$1,881,000	$381,500			$ 5,331,700
II. FOREST RESOURCES MANAGEMENT:						
FROM:						
General Fund	$ 1,093,000	$ 70,300	$ 48,800			$ 1,212,100
Department of Lands Fund	590,400	350,700				941,100
Indirect Cost Recovery Fund	85,500	320,000				405,500
Endowment Administrative Fund	8,265,900	4,072,800	339,300	$ 598,500		13,276,500
Community Forestry Fund				79,700		79,700
Federal Grant Fund	653,300	962,700		1,306,300		2,922,300
TOTAL	$10,688,100	$5,776,500	$388,100	$1,984,500		$18,837,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
III. LAND, RANGE, AND MINERAL RESOURCE MANAGEMENT:						
FROM:						
General Fund	$ 747,300	$ 122,400	$ 21,800			$ 891,500
Department of Lands Fund	18,700	493,900				512,600
Land and Building Rental Fund	1,000	64,000				65,000
Endowment Administrative Fund	1,908,500	1,454,600	56,800	$ 10,300		3,430,200
TOTAL	$ 2,675,500	$2,134,900	$ 78,600	$ 10,300		$ 4,899,300
IV. FOREST AND RANGE FIRE PROTECTION:						
FROM:						
General Fund					$ 2,662,100	$ 2,662,100
Department of Lands Fund					4,030,600	4,030,600
Fire Suppression Deficiency Fund					131,300	131,300
Federal Grant Fund					3,596,400	3,596,400
TOTAL					$10,420,400	$10,420,400
V. SCALING PRACTICES:						
FROM:						
Department of Lands Fund	$ 193,500	$ 47,200	$ 2,000			$ 242,700
GRAND TOTAL	$16,626,300	$9,839,600	$850,200	$1,994,800	$10,420,400	$39,731,300

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Lands is authorized no more than two hundred sixty-five and sixty-one hundredths (265.61) full-time equivalent positions at any point during the period July 1, 2007, through June 30, 2008, 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. SALARY DISTRIBUTION. Agencies and institutions shall distribute the funding for employee compensation based on merit as follows:

(a) Agencies and institutions are directed to, based on merit, target funding first toward high turnover classifications and individuals below midpoint within their agency.

(b) Agencies and institutions are directed to, based on merit, target funding second toward positions within their agency that are below ninety percent (90%) of the Compa-Ratio.

(c) Agencies and institutions are directed to target any remaining funding based on merit using the merit matrix required by Idaho Code.

Agencies and institutions shall create compensation and distribution plans to ensure that they are consistent with the policies contained herein. Agency directors and institutional presidents shall approve all compensation and distribution plans and ensure that implementation of the plans is consistent with policies contained herein. Each agency and institution shall forward, for informational purposes, approved copies of the compensation and distribution plans to the Legislative Services Office and the Division of Financial Management by June 1, 2007. The effective date of implementation of ongoing salary adjustments shall be June 17, 2007.

SECTION 4. SALARY SAVINGS. The Department of Lands 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 21, 2007.

CHAPTER 121
(S.B. No. 1189)

AN ACT

RELATING TO APPROPRIATIONS; AMENDING SECTION 61-215, IDAHO CODE, TO PROVIDE FOR AN INCREASE IN SALARY FOR MEMBERS OF THE PUBLIC UTILITIES COMMISSION; AMENDING SECTION 63-102, IDAHO CODE, TO PROVIDE FOR AN INCREASE IN SALARY FOR MEMBERS OF THE STATE TAX COMMISSION; AMENDING SECTION 72-503, IDAHO CODE, TO PROVIDE FOR AN INCREASE IN SALARY FOR MEMBERS OF THE INDUSTRIAL COMMISSION; APPROPRIATING ADDITIONAL MONEYS TO THE PUBLIC UTILITIES COMMISSION FOR COMMISSIONER SALARIES FOR FISCAL YEAR 2008; APPROPRIATING ADDITIONAL MONEYS TO THE STATE TAX COMMISSION FOR COMMISSIONER SALARIES FOR FISCAL YEAR 2008; AND APPROPRIATING ADDITIONAL MONEYS TO THE INDUSTRIAL COMMISSION FOR COMMISSIONER SALARIES FOR FISCAL YEAR 2008.

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

SECTION 1. That Section 61-215, Idaho Code, be, and the same is hereby amended to read as follows:

61-215. SALARIES OF PUBLIC UTILITIES COMMISSIONERS. Each member of the public utilities commission shall devote full time to the performance of his/her duties. Commencing on July 1, 2006~~7~~, the annual salary of members of the public utilities commission shall be eighty~~-five~~nine thousand ~~two~~ four hundred ~~twenty-two~~ eighty-three dollars ($~~85,222~~89,483) and shall be paid from sources set by the legislature.

SECTION 2. That Section 63-102, Idaho Code, be, and the same is hereby amended to read as follows:

63-102. ORGANIZATION -- CHAIRMAN -- COMPENSATION -- QUORUM -- HEARINGS. (1) A member of the state tax commission shall be appointed by the governor, to serve at his pleasure, as chairman. Each member of the state tax commission shall devote full time to the performance of duties. Commencing on July 1, 2006~~7~~, the annual salary for members of the state tax commission shall be ~~seventy-nine~~ eighty-two thousand nine hundred fifty-nine dollars (~~$79,009~~82,959).

(2) A majority of the state tax commission shall constitute a quorum for the transaction of business. The state tax commission may delegate to any member of the commission or to its employees, the power to make investigations and hold hearings at any place it may deem proper, and such other matters as will facilitate the operations of the commission.

(3) The chairman of the state tax commission shall delegate to each commissioner the responsibility for policy management and oversight of one (1) or more of the taxes collected and/or activities supervised or administered by the commission. The state tax commission shall perform the duties imposed upon it by law and shall adopt all rules by majority decision.

In any case in which the state tax commission sits as an appellate body upon an appeal from a tax decision from one (1) of the various administrative units subject to its supervision, the state tax commissioner charged with responsibility for policy management and oversight of the tax in controversy shall not vote upon the appeal but may advise the remaining members of the commission on the technical aspects of the problems before them.

(4) The chairman shall be the chief executive officer and administrative head of the state tax commission and shall be responsible for, or may assign responsibility for, all personnel, budgetary and/or fiscal matters of the state tax commission.

SECTION 3. That Section 72-503, Idaho Code, be, and the same is hereby amended to read as follows:

72-503. SALARY. Commencing July 1, 2006~~7~~, the annual salary of each member of the industrial commission shall be eighty-~~two~~seven thousand ~~nine--hundred--fifty-one~~ ninety-nine dollars (~~$82,951~~87,099). Industrial commissioner salaries shall be paid from sources set by the legislature. Each member of the industrial commission shall devote full time to the performance of his duties.

SECTION 4. In addition to any other appropriation made by law, there is hereby appropriated to the Public Utilities Commission, the following amount to be expended for commissioner salaries and benefit costs according to the designated expense class from the listed fund for the period July 1, 2007, through June 30, 2008:

FOR:	
Personnel Costs	$15,500
FROM:	
Public Utilities Commission Fund	$15,500

SECTION 5. In addition to any other appropriation made by law, there is hereby appropriated to the State Tax Commission in the Department of Revenue and Taxation the following amounts to be expended for

commissioner salaries and benefits within the designated programs according to the designated expense class from the listed funds for the period July 1, 2007, through June 30, 2008:

I. GENERAL SERVICES:

FOR:	
Personnel Costs	$17,600
FROM:	
General Fund	$16,100
Administration Services for Transportation Fund	1,500
TOTAL	$17,600

II. AUDIT AND COLLECTIONS:

FOR:	
Personnel Costs	$ 1,700
FROM:	
Multistate Tax Compact Fund	$ 700
Abandoned Property Trust - Unclaimed Property Fund	1,000
TOTAL	$ 1,700
GRAND TOTAL	$19,300

SECTION 6. In addition to any other appropriation made by law, there is hereby appropriated to the Industrial Commission, the following amount to be expended for commissioner salaries and benefit costs within the designated program according to the designated expense class from the listed fund for the period July 1, 2007, through June 30, 2008:

ADJUDICATION:

FOR:	
Personnel Costs	$15,000
FROM:	
Industrial Administration Fund	$15,000

Approved March 21, 2007.

CHAPTER 122
(S.B. No. 1190)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR PUBLIC HEALTH SERVICES IN THE PHYSICAL HEALTH SERVICES PROGRAM FOR FISCAL YEAR 2007; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR PUBLIC HEALTH SERVICES IN THE SUBSTANCE ABUSE SERVICES PROGRAM FOR FISCAL YEAR 2007; 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 2006, there is hereby appropriated to the Department of Health and Welfare for public health services in the Physical Health Services Program the following amount, to be expended according to the designated expense class from the listed fund for the period July 1, 2006, through June 30, 2007:

FOR:

Trustee and Benefit Payments	$400,000

FROM:

Cooperative Welfare Fund (Dedicated)	$400,000

SECTION 2. In addition to the appropriation made in Section 7, Chapter 373, Laws of 2006, there is hereby appropriated to the Department of Health and Welfare for public health services in the Substance Abuse Services Program the following amount, to be expended according to the designated expense classes from the listed funds for the period July 1, 2006, through June 30, 2007:

FOR:

Personnel Costs	$ 4,600
Trustee and Benefit Payments	221,200
TOTAL	$225,800

FROM:

Cooperative Welfare Fund (Dedicated)	$ 4,600
Alcohol Intoxication Treatment Fund	221,200
TOTAL	$225,800

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 21, 2007.

CHAPTER 123
(H.B. No. 31)

AN ACT

RELATING TO THE BUNKER HILL MINING AND METALLURGICAL COMPLEX SUPERFUND FACILITY; AMENDING CHAPTER 1, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-130, IDAHO CODE, TO PROVIDE THAT CERTAIN REMOVAL AND REMEDIATION ACTIONS RELATED TO THE FACILITY SHALL NOT CONSTITUTE PUBLIC WORKS, TO PROVIDE THAT BONDING OF CONTRACTORS MAY BE REQUIRED AND TO PROVIDE THAT THE ADMINISTRATOR OF THE DIVISION OF WASTE AND REMEDIATION AND THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL HAVE AUTHORITY RELATING TO SPECIFIED OPEN COMPETITIVE BIDDING.

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

SECTION 1. That Chapter 1, 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 39-130, Idaho Code, and to read as follows:

39-130. REMOVAL -- REMEDIATION -- BUNKER HILL MINING AND METALLURGICAL COMPLEX SUPERFUND FACILITY. Notwithstanding any other provision of law to the contrary, removal and remediation actions in or related to any operable unit of the Bunker Hill mining and metallurgical complex superfund facility performed by or on behalf of the department of environmental quality shall not constitute public works pursuant to

chapter 57, title 67, Idaho Code, chapter 19, title 54, Idaho Code, or any other provision of Idaho Code. In the letting and oversight of contracts for such removal or remediation actions, bonding of contractors may be required. The administrator of the division of waste and remediation, department of environmental quality, and the director of the department of environmental quality, shall have the authority of the administrator of the division of purchasing, department of administration, and the director of the department of administration, respectively, in requiring open competitive bidding pursuant to sections 67-5715 through 67-5718A, 67-5725, 67-5726, 67-5729, 67-5730 and 67-5733, Idaho Code, and any relevant rules of the department of administration.

Approved March 21, 2007.

CHAPTER 124
(H.B. No. 124)

AN ACT

RELATING TO CRIME; AMENDING SECTION 19-403, IDAHO CODE, TO PROVIDE A STATUTE OF LIMITATIONS EXCEPTION FOR A PROSECUTION FOR FAILURE TO REPORT OR CAUSE TO BE REPORTED THE ABUSE, ABANDONMENT OR NEGLECT OF A CHILD.

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

SECTION 1. That Section 19-403, Idaho Code, be, and the same is hereby amended to read as follows:

19-403. MISDEMEANORS. (1) Except as provided in subsection (2) of this section, a~~A~~ prosecution for any misdemeanor must be commenced by the filing of the complaint or the finding of an indictment within one (1) year after its commission.

(2) A prosecution for failure to report or failure to cause to be reported the abuse, abandonment or neglect of a child as provided for in section 16-1605, Idaho Code, must be commenced by the filing of the complaint or the finding of an indictment within four (4) years after its commission.

Approved March 21, 2007.

CHAPTER 125
(H.B. No. 125, As Amended)

AN ACT

RELATING TO CHILD ABUSE; AMENDING SECTION 6-1701, IDAHO CODE, TO PROVIDE A CAUSE OF ACTION AGAINST AN EMPLOYER, SUBJECT TO SECTION 6-1607, IDAHO CODE, AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 6-1704, IDAHO CODE, TO PROVIDE FOR A STATUTE OF LIMITATIONS FOR DISCOVERY OF AN ACT, ABUSE OR EXPLOITATION AND ITS CAUSAL RELATIONSHIP

TO AN INJURY OR CONDITION, TO ALLOW FOR COMPUTATION OF THE DATE OF DISCOVERY FROM THE LAST ACT OF A SERIES OF CONTINUING ACTS, ABUSE OR EXPLOITATION BY THE SAME PERPETRATOR WHICH IS PART OF A COMMON SCHEME OR PLAN AND TO PROVIDE THAT THE KNOWLEDGE OF A CUSTODIAL PARENT OR GUARDIAN SHALL NOT BE IMPUTED TO A CHILD UNDER THE AGE OF EIGHTEEN YEARS.

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

SECTION 1. That Section 6-1701, Idaho Code, be, and the same is hereby amended to read as follows:

6-1701. TORT ACTIONS IN CHILD ABUSE CASES. (1) An action may be brought by or on behalf of any child against any person who has:

(~~1~~a) ~~Wilfully~~ Willfully and lewdly committed any lewd or lascivious act or acts upon or with the body or any part or member of a child under the age of sixteen (16) years as defined in section 18-1508, Idaho Code; or

(~~2~~b) Sexually abused any child as defined in section 18-1506, Idaho Code; or

(~~3~~c) Sexually exploited any child for a commercial purpose as defined in section 18-1507, Idaho Code; or

(~~4~~d) Injured a child as defined in section 18-1501, Idaho Code.

(2) If an act prohibited under subsection (1) of this section involves employment-related circumstances as provided under section 6-1607(2), Idaho Code, then an action may be brought under the common law by, or on behalf of, any child against the employer of the person who committed the act, subject to the requirements of section 6-1607, Idaho Code.

(3) ~~This~~ The civil causes of action provided for in this section exists independently of any criminal action commenced pursuant to chapter 15, title 18, Idaho Code. A civil action may be pursued under the provisions of this chapter even if a criminal prosecution is not pursued.

SECTION 2. That Section 6-1704, Idaho Code, be, and the same is hereby amended to read as follows:

6-1704. STATUTE OF LIMITATIONS. (1) Notwithstanding any limitation contained in chapter 2, title 5, Idaho Code, an action under the provisions of this chapter must be commenced within five (5) years from the date that an aggrieved child reaches the age of eighteen (18) years or, after the child reaches the age of eighteen (18) years, within five (5) years of the time the child discovers or reasonably should have discovered the act, abuse or exploitation and its causal relationship to an injury or condition suffered by the child, whichever occurs later.

(2) The child need not establish which act in a series of continuing acts, abuse or exploitation caused the injury complained of, but may compute the date of discovery from the date of discovery of the last act by the same perpetrator which is part of a common scheme or plan.

(3) The knowledge of a custodial parent or guardian shall not be imputed to a child under the age of eighteen (18) years.

Approved March 21, 2007.

CHAPTER 126
(H.B. No. 136)

AN ACT

RELATING TO BANKING; AMENDING SECTION 26-213, IDAHO CODE, TO REMOVE LANGUAGE REFERENCING PERSONAL FINANCIAL STATEMENTS SUBMITTED BY CERTAIN OFFICERS AND DIRECTORS; REPEALING SECTION 26-504, IDAHO CODE, RELATING TO BANK HOLDING COMPANIES EXISTING IN 1979; AMENDING SECTION 26-703, IDAHO CODE, TO REMOVE LANGUAGE REFERENCING FIRST LIENS; AMENDING SECTION 26-706, IDAHO CODE, TO REVISE DESCRIPTIVE LANGUAGE, TO REQUIRE CERTAIN EXECUTIVE OFFICERS AND DIRECTORS RECEIVING EXTENSIONS OF CREDIT TO SUBMIT FINANCIAL STATEMENTS TO BE MADE AVAILABLE TO REGULATORY AGENCIES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 26-801, IDAHO CODE, TO PROVIDE THAT BORROWINGS FROM FEDERAL HOME LOAN BANKS SHALL NOT BE INCLUDED FOR PURPOSES OF COMPUTING TOTAL BORROWINGS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 26-1102, IDAHO CODE, TO ALLOW FOR EXTENSIONS OF EXAMINATION PERIODS UNDER CERTAIN CONDITIONS; AMENDING SECTION 26-2802, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 67-2752, IDAHO CODE, TO PROHIBIT SPECIFIC CONDUCT RELATING TO THE USE OF THE NAME, TRADEMARK, SERVICE MARK OR LOGO OF A FINANCIAL INSTITUTION; AND AMENDING SECTION 67-2756, IDAHO CODE, TO REVISE DESCRIPTIVE LANGUAGE AND TO PROVIDE FOR CERTAIN ACTIONS BY FINANCIAL INSTITUTIONS TO ENJOIN PROHIBITED CONDUCT AND TO RECOVER DAMAGES.

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

SECTION 1. That Section 26-213, Idaho Code, be, and the same is hereby amended to read as follows:

26-213. BOARD OF DIRECTORS -- ELECTION, MEETINGS, DUTIES, LIABILITIES, OATH, REMOVAL — OFFICERS — ELECTION AND BOND. (1) The affairs, business and property of a bank shall be managed and controlled by a board of not less than five (5) directors, who shall be elected by the stockholders at their regular stated annual meetings. A majority of said directors shall be residents of the state of Idaho.

(2) No person shall be eligible to serve as a director of any bank organized or existing under the laws of this state, unless he shall be the owner in his own right of unhypothecated common stock of the bank in the amount of at least five hundred dollars ($500) par value. One (1) or more of the directors of a bank, the majority of the common stock of which is owned by a bank holding company, may satisfy the requirement of this subsection by owning in his own right at least five hundred dollars ($500) of the unhypothecated common stock of the bank holding company, either the par value or the book value.

(3) Any vacancy in the board of directors shall be filled by the board, and any directors so appointed shall hold office until the next annual meeting of stockholders. The board of directors shall immediately following each annual meeting of stockholders organize and elect a president, vice-president and cashier, who may also be the secretary and treasurer of the bank, and such other officers as shall be provided for in the bylaws, and shall fix the salary of all officers and employees or delegate such authority to its managing officer or officers. Directors

of every bank shall hold at least ten (10) meetings per year; provided, no more than sixty-five (65) days may elapse between board of directors meetings, and complete records of such meetings shall be entered in the minute book and signed by both the chairman and the secretary. The director may approve, upon written application, a reduction in the number and frequency of directors' meetings.

(4) Whenever a vote is taken upon any matter, a record shall be kept and entered in the minutes of those voting in the affirmative and those voting in the negative. At every meeting it shall be the duty of the directors to familiarize themselves with loans and investments made since the previous regular meeting and any director may request a listing of all loans made since the previous regular meeting. It shall be the duty of the president and cashier to furnish such information to the directors. The directors shall familiarize themselves with the existing liabilities to the bank of every officer and director of their bank at least once during each calendar year. The minutes of the meeting shall record the approval or disapproval of loans, investments and liabilities of officers. ~~Each officer and director who borrows money from the bank shall submit his personal financial statement to the chief executive officer of the bank at least once during each calendar year and such financial statements shall be made available to federal or state regulatory agencies upon request by the agency.~~

(5) Any director, officer or person who shall participate in any violation of the laws of this state relative to banks or banking, shall be liable for all damages which said bank, its stockholders, depositors, or creditors shall sustain in consequence of such violation. It shall be the duty of every director of a bank personally to attend all meetings of the board of directors unless unavoidably detained therefrom. Any director who shall habitually absent himself from such meeting shall be deemed to have participated in any violation of law that may have occurred in his absence, and he shall not be permitted to set up such absence as a defense thereto.

(6) Every director shall take and subscribe an oath that he will diligently and honestly perform his duty in such office and will not knowingly violate or permit a violation of any provisions of the bank act, and such oath of office shall be transmitted to and filed with the department of finance. A director may be removed from office at any time for violation of his oath of office by the affirmative vote of two-thirds (2/3) of the entire board, exclusive of the director to be removed.

(7) Every active officer and employee of any bank in this state shall furnish a surety bond in the penal sum of fifty thousand dollars ($50,000) to the bank by which he is employed for the faithful performance of his duties, executed by a surety company authorized to do business in the state of Idaho as a surety. In lieu of the individual surety bonds required by this section, a bank may provide a bankers blanket or financial institution bond in a minimum amount of two hundred fifty thousand dollars ($250,000). The conditions of such bond, whether the instrument so describes the conditions or not, shall be that the principal shall protect the obligee against any loss or liability that the obligee may suffer or incur by reason of the acts of dishonesty of the principal.

(8) In lieu of the bonds required in subsection (7) of this section, a bank may, with the approval of the director of the department of

finance, provide to the director a certificate of deposit issued by any other bank in the state of Idaho. The principal amount of the certificate of deposit shall be payable to the director and shall be in an amount to be determined by the director, but not less than two hundred fifty thousand dollars ($250,000). The interest on the certificate of deposit shall be payable to the bank providing the certificate of deposit to the director. The certificate of deposit shall be maintained at all times the bank is authorized to do business under this chapter, and for a period of time thereafter to be determined by the director, but not to exceed three (3) years.

(9) Every bank shall provide adequate insurance protection or indemnity against robbery and burglary and other similar insurable losses.

(10) All surety bonds shall be approved by and filed with the directors. The directors or the director may require an increase of the amount of any such bond whenever either the directors or the director deem necessary for the better protection of the bank.

SECTION 2. That Section 26-504, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Section 26-703, Idaho Code, be, and the same is hereby amended to read as follows:

26-703. REAL ESTATE LOANS. Any bank may make real estate loans secured by ~~first~~ liens upon improved real estate, including improved farm land and improved business and residential properties, as are consistent with safe and sound banking practices. A loan secured by real estate within the meaning of this section shall be in the form of an obligation or obligations secured by mortgage, trust deed, or other such instrument which shall constitute a lien upon real estate.

SECTION 4. That Section 26-706, Idaho Code, be, and the same is hereby amended to read as follows:

26-706. LOANS TO OFFICERS AND DIRECTORS. Except as authorized under this section, no bank may extend credit in any manner to any of its own executive officers. Any extension of credit under this section must be approved by the board of directors of the bank, and may be made only if such credit extension comports with the principles of safety and soundness and is in compliance with regulation O of the board of governors of the federal reserve system, 12 ~~C.F.R.~~ CFR 215. Each executive officer and director who receives an extension of credit from the bank shall submit a personal financial statement to the chief executive officer of the bank at least once during each calendar year and such financial statement shall be made available to federal or state regulatory agencies upon request by the agency.

SECTION 5. That Section 26-801, Idaho Code, be, and the same is hereby amended to read as follows:

26-801. BORROWING MONEY -- LIMITATIONS. At no time shall the total borrowings of any bank exceed in the aggregate an amount equal to the capital structure of the bank, except with the consent of the director.

For the purpose of computing total borrowings the following items shall not be included:

(1) Federal funds purchased.

(2) The sale of securities by a bank, under an agreement to repurchase at the end of a stated period.

(3) Borrowings from the ~~F~~federal ~~R~~reserve ~~S~~system.

(4) The sale of mortgage loans by a bank, under agreement to repurchase at the end of a stated period.

(5) Money borrowed to meet seasonal requirements.

(6) Money borrowed to meet unexpected withdrawals.

(7) Capital notes issued in accordance with section 26-802, Idaho Code.

(8) Borrowing from federal home loan banks.

The total of all borrowings by a bank including those items excluded from the computation of total borrowings may not exceed in the aggregate an amount equal to two and one-half (2 1/2) times the capital structure of the bank, except with the consent of the director.

Whenever it shall appear to the director that a bank is borrowing money in excess of the above limitation, or for purposes other than as specified above, he may require it to reduce such borrowings within a time to be fixed by him.

SECTION 6. That Section 26-1102, Idaho Code, be, and the same is hereby amended to read as follows:

26-1102. EXAMINATION BY DEPARTMENT. (1) The director may examine no less often than once in eighteen (18) months, and more frequently whenever he shall deem it necessary, all records and other documents in the possession of or relating to the bank, bank trust department including records in the custody of a data processor or other person or company. For this purpose, the director shall have authority to demand and inspect all books, papers, moneys, notes, bonds, or evidences of debt of such bank and may examine on oath any of the directors, officers, agents, employees, customers, or depositors of such bank. Any willful false swearing in any examination shall be deemed perjury. During examinations, the directors, officers and employees shall give any assistance required by the director, but no examiner shall interfere with the routine duty of such directors, officers and employees.

(2) Whenever it shall come to the notice of the director that any bank has failed or refused to comply with any of the provisions of this act, the director is authorized to make a special examination of said bank and to charge and collect for such special examination; and to continue such examinations and charges at intervals of not less than thirty (30) days until such provisions are complied with.

(3) The director may in his discretion at any time omit his examination of any bank as above required and accept in lieu thereof the findings or result of an examination of such bank made by any bank regulatory or insuring agency of the United States authorized to make such examination.

(4) The director may in his discretion extend the examination period to no less often than once in twenty-four (24) months if:

(a) The bank has total assets of less than one billion dollars ($1,000,000,000);

(b) The bank is well capitalized, as defined in 12 U.S.C. section

1831o, the federal deposit insurance act;
(c) When the bank was most recently examined, it was found to be well-managed and its composite condition was found to be outstanding or good; and
(d) The bank is not currently subject to a formal enforcement proceeding or order by the department or the appropriate federal banking agency.

SECTION 7. That Section 26-2802, Idaho Code, be, and the same is hereby amended to read as follows:

26-2802. DEFINITIONS. As used in this chapter:
(1) "Department" means the department of finance of the state of Idaho.
(2) "Director" means the director of the department of finance.
(3) "Mortgage company" means any person who, directly or indirectly is engaged in one (1) of the following: ~~with respect to real property located in this state:~~
(a) Makes or offers to make residential mortgage loans. ~~secured by liens on real property.~~
(b) Services or offers to service residential mortgage loans. ~~secured by liens on real property.~~
(c) Buys or sells, ~~promissory notes secured by liens on real property or offers to buy or sell promissory notes secured by liens on real property~~ or offers to buy or sell, residential mortgage loans.
(4) "Person" means an individual, sole proprietorship, partnership, corporation or other association of individuals, however organized.
(5) "Residential mortgage loan" means a loan made primarily for personal, family or household use and is primarily secured by a security interest on residential real property located in this state.

SECTION 8. That Section 67-2752, Idaho Code, be, and the same is hereby amended to read as follows:

67-2752. FINANCIAL FRAUD ILLEGAL. It is unlawful for any person, directly or indirectly:
(1) To employ any device, scheme or artifice to defraud a financial institution;
(2) To obtain or attempt to obtain money, funds, credits, assets, securities, or other property owned by, or under the custody or control of a financial institution by means of false or fraudulent pretenses, representations, or promises or through the use of any fraudulent device, scheme, artifice, or fraudulent monetary instrument;
(3) To falsely represent that a person is a financial institution or a representative of a financial institution, for the purpose of obtaining money, goods, or services from any person;
(4) To obtain or record or attempt to obtain or record, personal identifying information of another person without the authorization of that person, for the purpose of obtaining money, goods, or services from any person, through a false or fraudulent representation that the person doing so is a financial institution. "Personal identifying information" has the same meaning as set forth in section 18-3122(10), Idaho Code, or any successor to that section;
(5) To fraudulently make, emboss, encode, or use a financial trans-

action card, financial transaction card account number, personal identification code or credit card sales draft, as defined in sections 18-3122, 18-3123, 18-3124 and 18-3125A, Idaho Code, or any successors to those sections, for the purpose of obtaining money, goods, or services from any person; or

(6) While serving as an employee, agent or representative of a financial institution, to obtain or attempt to obtain the money, funds, credits, assets, securities, or other property owned by, held by, or under the custody or control of, the financial institution by means of false or fraudulent pretenses, representations, or promises or by means of any fraudulent device, scheme or artifice, or through the use of a fraudulent monetary instrument.

(7) To use in a manner likely to cause confusion or mistake or to deceive, the name, trademark, service mark, or logo of a financial institution in connection with the sale, offering for sale, distribution or advertising of any product or service without the consent of the financial institution.

SECTION 9. That Section 67-2756, Idaho Code, be, and the same is hereby amended to read as follows:

67-2756. ~~CUSTOMER--INDEMNIFICATION~~ PRIVATE REMEDIES. (1) In the event a financial institution indemnifies its customer for damages caused by a violation of this act, or assumes the loss caused its customer by a violation of this act, the financial institution shall be entitled to sue the violator, at law or in equity, to recover any actual damages suffered by its customer, plus costs and attorney's fees incurred in the bringing of the action.

(2) A financial institution may bring an action to enjoin the use prohibited in section 67-2752(7), Idaho Code, and recover all damages suffered by reason of the prohibited use, including reasonable attorney's fees. The financial institution may recover any profits derived from the prohibited use.

Approved March 21, 2007.

CHAPTER 127
(H.B. No. 139)

AN ACT

RELATING TO PUBLIC CONTRACTORS; AMENDING SECTION 54-1914, IDAHO CODE, TO PROVIDE CIVIL SANCTIONS FOR KNOWINGLY FAILING TO COMPLY WITH CERTAIN PROVISIONS OF IDAHO CODE; AMENDING SECTION 54-1920, IDAHO CODE, TO PROVIDE CRIMINAL SANCTIONS FOR KNOWINGLY FAILING TO COMPLY WITH CERTAIN PROVISIONS OF IDAHO CODE; AND AMENDING SECTION 67-2310, IDAHO CODE, TO REQUIRE A GENERAL CONTRACTOR SELF-PERFORMING PLUMBING, HVAC WORK OR ELECTRICAL WORK TO BE PROPERLY LICENSED AND TO LIST THE LICENSE NUMBER ON THE BID FORM, TO PROVIDE THAT FAILURE TO DO SO SHALL RENDER ANY BID SUBMITTED BY A GENERAL CONTRACTOR UNRESPONSIVE AND VOID AND TO PROVIDE CORRECT TERMINOLOGY.

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

SECTION 1. That Section 54-1914, Idaho Code, be, and the same is hereby amended to read as follows:

54-1914. ADMINISTRATIVE ENFORCEMENT PROCEEDINGS. (1) The administrator may upon his own motion or at the direction of the board, and shall upon the verified complaint in writing of any person, investigate the actions of any public works contractor within the state and may undertake to reclassify, retype, place on probation, defer or precondition licensure, impose an administrative fine not to exceed twenty thousand dollars ($20,000) per violation, impose the administrative costs of bringing the action including, but not limited to, hearing officer fees, expert witness fees, attorney's fees, costs of hearing transcripts and copies, temporarily suspend or permanently revoke any license if the holder, while a licensee or applicant hereunder, is guilty of or commits any one (1) or more of the following acts or omissions:

(a) Abandonment without legal excuse of any construction project or operation engaged in or undertaken by the licensee as a contractor.

(b) Diversion of funds or property received under express agreement for prosecution or completion of a specific construction project or operation, or for a specified purpose in the prosecution or completion of any construction project or operation, and their application or use for any other construction project or operation, obligation or purpose, with intent to defraud or deceive creditors or the owner.

(c) Willful departure from or disregard of, plans or specifications in any material respect, and prejudicial to another, without consent of the owner or his duly authorized representative, and without the consent of the person entitled to have the particular construction project or operation completed in accordance with such plans and specifications.

(d) Willful or deliberate disregard and violation of valid building laws of the state, or of any political subdivision thereof, or of the safety laws or labor laws or compensation insurance laws of the state.

(e) Misrepresentation of a material fact by an applicant in obtaining a license.

(f) Aiding or abetting an unlicensed person to evade the provisions of this chapter or conspiring with an unlicensed person, or allowing one's license to be used by an unlicensed person, or acting as agent or partner or associate or otherwise, of an unlicensed person with the intent to evade the provisions of this chapter.

(g) Failure in any material respect to comply with the provisions of this chapter.

(h) Acting in the capacity of a contractor under any license issued hereunder except: (1) in the name of the licensee as set forth upon the license, or (2) in accordance with the personnel of the licensee as set forth in the application for such license, or as later changed as provided in this chapter.

(i) Knowingly accepting a bid from, or entering into a contract with another contractor for a portion of a public works project if at that time such contractor does not possess the appropriate license to do that work as provided in this chapter.

(j) Willful failure or refusal without legal excuse on the part of

a licensee as a contractor to finish a construction project or operation with reasonable diligence, causing material injury to another.
(k) Willful or deliberate failure by any licensee, or agent or officer thereof, to pay any moneys when due, for any materials or services rendered in connection with his operations as a contractor, when he has the capacity to pay or when he has received sufficient funds therefor as payment for the particular construction work, project or operation for which the services or materials were rendered or purchased; or denial of any such amount due or the validity of the claim thereof with intent to secure for himself, his employer, or other person, any discount upon such indebtedness or with intent to hinder, delay or defraud the person to whom such indebtedness is due.
(l) Suffers a change in financial circumstances which may impair the licensee's financial responsibility.
(m) Holding oneself or one's firm out as a public works contractor by engaging in any act meeting the definition or character of a public works contractor as defined herein without a legally required license.
(n) Failure to comply with subsection (1), (2) or (3) of section 67-2310, Idaho Code.

(2) The administrator may upon his own motion or at the direction of the board, and shall upon the verified complaint in writing of any licensed public works contractor eligible to perform public works contracting duties, investigate the actions of any public entity within the state and may impose an administrative fine not to exceed five thousand dollars ($5,000) per violation or impose the administrative costs of bringing the action including, but not limited to, hearing officer fees, expert witness fees, attorney's fees, costs of hearing transcripts and copies, if the public agency contracts for public works construction with an unlicensed or improperly licensed contractor or knowingly awards a contract based upon a bid or proposal not in compliance with subsection (1) or (2) of section 67-2310, Idaho Code.

SECTION 2. That Section 54-1920, Idaho Code, be, and the same is hereby amended to read as follows:

54-1920. PENALTIES -- INJUNCTION. (1) Any person, firm, copartnership, corporation, limited liability company, limited liability partnership, association or other organization acting in the capacity of a public works contractor within the meaning of this chapter, without a license as herein provided or fails to comply with the provisions of subsection (1), (2) or (3) of section 67-2310, Idaho Code, shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine not to exceed five thousand dollars ($5,000) or by imprisonment in the county jail for a term not to exceed one (1) year or by both such fine and imprisonment, at the discretion of the court. The same penalties shall apply, upon conviction to any member of a copartnership, or to any construction, managing or directing officer of any corporation, limited liability company or limited liability partnership, or other organization consenting to, participating in, or aiding or abetting any such violation of this chapter.

(2) Every public officer who knowingly lets a public contract to any person, firm, copartnership, corporation, limited liability company,

limited liability partnership, association or other organization who does not hold a license as required by the provisions of this chapter or knowingly fails to comply with the provisions of subsection (1) or (2) of section 67-2310, Idaho Code, shall be guilty of a misdemeanor and upon conviction, punishable as provided in this section, unless, however, there be no qualified bidder willing to undertake the public works covered by the contract. No person engaged in the business or acting in the capacity of a contractor, may bring or maintain any action in any court of this state for the collection of compensation for the performance of any act or contract for which a license is required by this chapter without alleging and providing that he was a duly licensed contractor at all times during the performance of such act or contract.

(3) In addition to any other penalties specified in this section, whenever any person violates the provisions of this chapter by acting as a public works contractor without a license, the administrator may maintain an action in the name of the state of Idaho to enjoin the person from any further violations. Such action may be brought either in the county in which the acts are claimed to have been or are being committed, in the county where the defendant resides or in Ada county. Upon the filing of a verified complaint in the district court, the court, if satisfied that the acts complained of have been or probably are being or may be committed, may issue a temporary restraining order and/or preliminary injunction, without bond, enjoining the defendant from the commission of any such act or acts constituting the violation. A copy of the complaint shall be served upon the defendant and the proceedings shall thereafter be conducted as in other similar civil actions. If the commission of the act or acts is established, the court shall enter a decree permanently enjoining the defendant from committing such act or acts. If an injunction issued under the provisions of this section is violated, the court, or the judge thereof at chambers, may summarily try and punish the offender for contempt of court.

SECTION 3. That Section 67-2310, Idaho Code, be, and the same is hereby amended to read as follows:

67-2310. SUBCONTRACTORS TO BE LISTED ON BID OF GENERAL CONTRACTOR -- EXCEPTIONS. (1) Hereafter, before the state of Idaho, the separate counties, cities, towns, villages or school districts within the state of Idaho shall let contracts for the construction, alteration or repair of any and all buildings, improvements or public works, and such construction, alteration or repair requires plumbing, ~~heating and air conditioning~~ HVAC work, or electrical work, the general contractor shall be required to include in his bid the name, or names and address, or addresses, of the subcontractors who shall, in the event the contractor secures the contract, subcontract the plumbing, ~~heating and air conditioning~~ HVAC work, and electrical work under the general contract. In the event that the general contractor intends to self-perform the plumbing, HVAC or electrical work, the general contractor must be properly licensed by the state of Idaho to perform such work. The general contractor shall demonstrate compliance with this requirement by listing the valid contractor's license number for the plumbing, HVAC or electrical work to be self-performed by the general contractor on the bid form.

(2) No general contractor shall name any subcontractor in his bid unless the general contractor has received communication from the sub-

contractor. For the purposes of this section, "communication" shall include telephone, mail, facsimile machine, in person, or by computer using the internet or a bid service.

(3) In the event a general contractor secures the contract, and if the general contractor and a named subcontractor cannot finalize the terms of agreement between them for any reason other than cost, the general contractor shall name another subcontractor by written notification within ten (10) days of being awarded the public works contract. The general contractor shall disclose to the public entity the cost for work to be performed by the substitute subcontractor. If the amount of the substitute subcontractor's bid is less than the original subcontractor's bid, the reduction in cost shall be passed through to the benefit of the public entity which awarded the contract.

(4) This act shall not apply to the construction, alteration or repair of public buildings under the jurisdiction of the board of regents of the University of Idaho.

(5) This act shall have no application to the preparation and submission of plans and specifications pursuant to statute or local ordinance.

(6) Failure to name subcontractors or list the valid contractor's license number for plumbing, HVAC or electrical work being self-performed by the general contractor as required by subsection (1) of this section shall render any bid submitted by a general contractor unresponsive and void.

(7) At the time subcontractors are named in accordance with the provisions of this section, they must possess the appropriate licenses or certificates of competency issued by the state of Idaho covering the contractor work classification in which each respective subcontractor is named.

Approved March 21, 2007.

CHAPTER 128
(H.B. No. 174, As Amended)

AN ACT

RELATING TO REPORTING CHILD ABUSE ACTIONS IN BAD FAITH; AMENDING SECTION 16-1607, IDAHO CODE, TO INCREASE THE AMOUNT OF STATUTORY DAMAGES THAT MAY BE ASSESSED AGAINST A PERSON WHO MAKES A REPORT OR ALLEGATION OF CHILD ABUSE, ABANDONMENT OR NEGLECT KNOWING THE SAME TO BE FALSE OR WHO REPORTS OR ALLEGES THE SAME IN BAD FAITH OR WITH MALICE.

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

SECTION 1. That Section 16-1607, Idaho Code, be, and the same is hereby amended to read as follows:

16-1607. REPORTING IN BAD FAITH -- CIVIL DAMAGES. Any person who makes a report or allegation of child abuse, abandonment or neglect knowing the same to be false or who reports or alleges the same in bad faith or with malice shall be liable to the party or parties against

whom the report was made for the amount of actual damages sustained or statutory damages of two thousand five hundred dollars ($2,500), whichever is greater, plus attorney's fees and costs of suit. If the court finds that the defendant acted with malice or oppression, the court may award treble actual damages or treble statutory damages, whichever is greater.

Approved March 21, 2007.

CHAPTER 129
(H.B. No. 181)

AN ACT

RELATING TO COMMUNITY COLLEGES; AMENDING SECTION 33-2111, IDAHO CODE, TO DECREASE THE MAXIMUM ALLOWABLE LEVY UPON THE TAXABLE PROPERTY WITHIN A COMMUNITY COLLEGE DISTRICT FROM SIXTEEN HUNDREDTHS PERCENT OF MARKET VALUE FOR ASSESSMENT PURPOSES TO ONE HUNDRED TWENTY-FIVE THOUSANDTHS PERCENT OF MARKET VALUE FOR ASSESSMENT PURPOSES; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 33-2111, Idaho Code, be, and the same is hereby amended to read as follows:

33-2111. TAXES AND OTHER FINANCIAL SUPPORT FOR COMMUNITY COLLEGES. For the maintenance and operation of each community college, in addition to the income from tuition paid by students as hereinbefore provided, the board of trustees may levy upon the taxable property within the district a tax not to exceed ~~sixteen-hundredths~~ one hundred twenty-five thousandths percent (.1625%) of the market value for assessment purposes on all taxable property within the district.

The tax levy determined by the board of trustees, within said limit, shall be certified to the board of county commissioners in each county in which the district may lie, not later than the second Monday in September of each year. No levy in excess of ~~sixteen-hundredths~~ one hundred twenty-five thousandths percent (.1625%) of the market value for assessment purposes on all taxable property within the district shall be made unless a supplemental levy in a specified amount be first authorized through an election held, as provided in sections 33-401 through 33-406, Idaho Code, as if the community college district were a school district and approved by a majority of the district electors voting in such election.

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, 2007.

Approved March 21, 2007.

CHAPTER 130
(H.B. No. 194)

AN ACT

RELATING TO DISTURBING THE PEACE; AMENDING SECTION 18-6409, IDAHO CODE, TO PROVIDE THE MISDEMEANOR PENALTY FOR MALICIOUSLY AND WILLFULLY DISTURBING THE DIGNITY OR REVERENTIAL NATURE OF ANY FUNERAL, MEMORIAL SERVICE, FUNERAL PROCESS, BURIAL CEREMONY OR VIEWING OF A DECEASED PERSON AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 18-6409, Idaho Code, be, and the same is hereby amended to read as follows:

18-6409. DISTURBING THE PEACE. (1) Every person who maliciously and ~~wilfully~~ willfully disturbs the peace or quiet of any neighborhood, family or person, by loud or unusual noise, or by tumultuous or offensive conduct, or by threatening, traducing, quarreling, challenging to fight or fighting, or fires any gun or pistol, or uses any vulgar, profane or indecent language within the presence or hearing of children, in a loud and boisterous manner, is guilty of a misdemeanor.

(2) Every person who maliciously and willfully disturbs the dignity or reverential nature of any funeral, memorial service, funeral procession, burial ceremony or viewing of a deceased person is guilty of a misdemeanor.

Approved March 21, 2007.

CHAPTER 131
(H.B. No. 202)

AN ACT

RELATING TO PUBLIC EMPLOYEE RETIREMENT; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1004H, IDAHO CODE, TO PERMIT SCHOOL DISTRICTS TO EMPLOY CERTAIN CERTIFICATED SCHOOL TEACHERS AND ADMINISTRATORS WHO ARE RECEIVING PUBLIC EMPLOYEE RETIREMENT BENEFITS AND TO PROVIDE THE CONDITIONS UNDER WHICH SUCH REEMPLOYMENT MAY OCCUR; AMENDING SECTION 59-1356, IDAHO CODE, TO PROVIDE THE CONDITIONS UNDER WHICH CERTAIN RETIRED SCHOOL TEACHERS AND ADMINISTRATORS MAY ELECT TO CONTINUE RECEIVING BENEFITS AND NOT ACCRUE ADDITIONAL SERVICE; AND PROVIDING FOR A SUNSET DATE FOR SECTION 1 OF THIS ACT.

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

SECTION 1. That Chapter 10, 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 33-1004H, Idaho Code, and to read as follows:

33-1004H. EMPLOYING RETIRED TEACHERS AND ADMINISTRATORS. (1) Notwithstanding the provisions of section 33-514, 33-1271 or 33-1273, Idaho Code, school districts may employ certificated school teachers and

administrators who are receiving retirement benefits from the public employee retirement system of Idaho, except those who received benefits under the early retirement program provided in section 33-1004G, Idaho Code, in positions requiring such certification, as at-will employees. Any employment contract between the retiree and the school district shall be separate and apart from the collective bargaining agreement of the school district.

(2) Retirees employed under this section shall accrue one (1) day per month of sick leave, with no annual sick leave accumulation unless additional sick leave is negotiated between the candidate and the school district at the time of employment. No sick leave accrued under this section qualifies for unused sick leave benefits under section 33-1228, Idaho Code.

(3) School districts are not required to provide health insurance or life insurance benefits to persons employed under this section. Post-termination benefits may be negotiated between the school district and the certificated employee at the time of rehiring but in no event can the parties affect or attempt to affect the provisions governing the public employee retirement system.

SECTION 2. 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) 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 be suspended and any contributions payable by such member under sections 59-1331 through 59-1334, Idaho Code, shall again commence. The 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, 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 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) If a retired school teacher or administrator, who retired on or after age sixty-two (62) years and is receiving a benefit that is not reduced under section 59-1346, Idaho Code, again becomes an employee as defined in this section and section 59-1302(14), Idaho Code, as a result of returning to employment with a school district as provided in section 33-1004H, Idaho Code, 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 during such reemployment and any benefit payable on behalf of such member shall continue. However, the school district shall pay the required employer contribution for that employee to the public employee retirement system. After June 30, 2012, this subsection (4) shall no longer be in force and effect and the other provisions of this section shall be applicable to all employment, including the employment of retirees who were employed under section 33-1004H, Idaho Code, before that date.

(5) For purposes of this section, "same employer" means the employer for which the retired member last worked prior to retirement.

SECTION 3. The provisions of Section 1 of this act shall be null, void and of no force and effect on and after July 1, 2012.

Approved March 21, 2007.

CHAPTER 132
(H.B. No. 266)

AN ACT

APPROPRIATING MONEYS TO THE SOIL CONSERVATION COMMISSION FOR FISCAL YEAR 2008; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; DIRECTING THE DISTRIBUTION OF THE FUNDING FOR EMPLOYEE COMPENSATION; 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 Soil Conservation Commission in the Department of Agriculture the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2007, through June 30, 2008:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Fund	$1,498,400	$ 971,200	$14,000	$1,885,200	$4,368,800
Resource Conservation and Rangeland Development Fund		101,600			101,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Clean Water Revolving Loan Fund (SCC)		30,000			30,000
Federal Grant Fund	198,400	245,000		76,400	519,800
TOTAL	$1,696,800	$1,347,800	$14,000	$1,961,600	$5,020,200

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Soil Conservation Commission is authorized no more than twenty-four (24) full-time equivalent positions at any point during the period July 1, 2007, through June 30, 2008, 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. Agencies and institutions shall distribute the funding for employee compensation based on merit as follows:

(a) Agencies and institutions are directed to, based on merit, target funding first toward high turnover classifications and individuals below midpoint within their agency.

(b) Agencies and institutions are directed to, based on merit, target funding second toward positions within their agency that are below ninety percent (90%) of the Compa-Ratio.

(c) Agencies and institutions are directed to target any remaining funding based on merit using the merit matrix required by Idaho Code.

Agencies and institutions shall create compensation and distribution plans to ensure that they are consistent with the policies contained herein. Agency directors and institutional presidents shall approve all compensation and distribution plans and ensure that implementation of the plans is consistent with policies contained herein. Each agency and institution shall forward, for informational purposes, approved copies of the compensation and distribution plans to the Legislative Services Office and the Division of Financial Management by June 1, 2007. The effective date of implementation of ongoing salary adjustments shall be June 17, 2007.

SECTION 4. The Soil Conservation Commission 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 21, 2007.

CHAPTER 133
(H.B. No. 278)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF CORRECTION FOR VARIOUS PROGRAMS FOR FISCAL YEAR 2007; REDUCING THE APPROPRIATION TO THE DEPARTMENT OF CORRECTION FOR CERTAIN PROGRAMS FOR FISCAL YEAR 2007; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO CERTAIN EXPENDITURES FOR FISCAL YEAR 2007; 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 301, Laws of 2006, there is hereby appropriated to the Department of Correction the following amounts, to be expended for the designated programs according to the designated expense class from the listed funds for the period July 1, 2006, through June 30, 2007:

I. OPERATIONS DIVISION:

A. COMMUNITY SUPERVISION:

FOR:	
Operating Expenditures	$ 27,900
FROM:	
General Fund	$ 27,900

B. COMMUNITY WORK CENTERS:

FOR:	
Operating Expenditures	$ 32,700
FROM:	
General Fund	$ 32,700

C. IDAHO STATE CORRECTIONAL INSTITUTION - BOISE:

FOR:	
Operating Expenditures	$ 553,000
FROM:	
General Fund	$ 274,600
Penitentiary Endowment Fund	278,400
TOTAL	$ 553,000

D. IDAHO CORRECTIONAL INSTITUTION - OROFINO:

FOR:	
Operating Expenditures	$ 13,600
FROM:	
General Fund	$ 13,600

E. NORTH IDAHO CORRECTIONAL INSTITUTION - COTTONWOOD:

FOR:	
Operating Expenditures	$ 3,300
FROM:	
General Fund	$ 3,300

F. SOUTH IDAHO CORRECTIONAL INSTITUTION - BOISE:

FOR:	
Operating Expenditures	$ 71,800
FROM:	
General Fund	$ 71,800

G. IDAHO MAXIMUM SECURITY INSTITUTION - BOISE:	
FOR:	
Operating Expenditures	$ 35,400
FROM:	
General Fund	$ 35,400
H. ST. ANTHONY WORK CAMP:	
FOR:	
Operating Expenditures	$ 11,500
FROM:	
General Fund	$ 11,500
I. POCATELLO WOMEN'S CORRECTIONAL CENTER:	
FOR:	
Operating Expenditures	$ 7,000
FROM:	
General Fund	$ 7,000
J. SOUTH BOISE WOMEN'S CORRECTIONAL CENTER:	
FOR:	
Operating Expenditures	$ 4,100
FROM:	
General Fund	$ 4,100
DIVISION TOTAL	$ 760,300
II. SUPPORT DIVISION:	
A. SUPPORT SERVICES:	
FOR:	
Operating Expenditures	$ 64,200
FROM:	
General Fund	$ 64,200
B. MEDICAL SERVICES CONTRACT:	
FOR:	
Operating Expenditures	$ 107,300
FROM:	
General Fund	$ 107,300
DIVISION TOTAL	$ 171,500
III. PRIVATELY-OPERATED STATE PRISON:	
FOR:	
Operating Expenditures	$2,338,600
FROM:	
General Fund	$2,338,600
IV. COMMISSION OF PARDONS AND PAROLE:	
FOR:	
Operating Expenditures	$ 30,200
FROM:	
General Fund	$ 30,200
GRAND TOTAL	$3,300,600

SECTION 2. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made in Section 1, Chapter 301, Laws of 2006, is hereby reduced by the following amount from the designated

programs according to the designated expense classes from the listed fund for the period July 1, 2006, through June 30, 2007:

I. OPERATIONS DIVISION:	
A. OPERATIONS ADMINISTRATION:	
FOR:	
Operating Expenditures	$1,644,200
FROM:	
General Fund	$1,644,200
B. OFFENDER PROGRAMS:	
FOR:	
Personnel Costs	$ 231,500
Operating Expenditures	1,210,900
TOTAL	$1,442,400
FROM:	
General Fund	$1,442,400
GRAND TOTAL	$3,086,600

SECTION 3. It is the intent of the Legislature that all General Fund moneys appropriated to the Idaho Department of Correction for county and out-of-state inmate placement for the period July 1, 2006, through June 30, 2007, be used exclusively for that purpose. Any unexpended balances at the end of June 30, 2007, are to be reverted back to the General Fund.

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 21, 2007.

CHAPTER 134
(H.B. No. 4)

AN ACT

RELATING TO THE IDAHO RESIDENTIAL CARE ADMINISTRATORS ACT; AMENDING SECTION 54-4205, IDAHO CODE, TO INCREASE THE MAXIMUM ALLOWABLE FEES THE BOARD MAY ESTABLISH BY RULE.

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

SECTION 1. That Section 54-4205, Idaho Code, be, and the same is hereby amended to read as follows:

54-4205. FUNCTIONS AND DUTIES OF THE BOARD -- FEE FOR LICENSE APPLICANTS -- RULES. (1) It shall be the functions and duties of such board to:

(a) Develop, impose and enforce standards consistent with this chapter which shall be met by individuals in order to receive and retain a license or permit as a residential care facility administrator. Such standards shall be designed to ensure that residential care facility administrators will be individuals who are of good

character and are otherwise suitable, and who, by training or experience in the field of institutional administration, are qualified to serve as residential care facility administrators;

(b) Develop and apply appropriate techniques, including examinations and investigations, for determining whether an individual meets such standards;

(c) Issue licenses and permits to individuals determined, after application of such techniques, to meet such standards, and revoke or suspend licenses and permits previously issued by the board in any case where the individual holding any such license or permit is determined to have violated the provisions of this chapter;

(d) Establish and carry out procedures designed to ensure that individuals licensed as residential care facility administrators will, during any period that they serve as such, comply with the requirements of such standards;

(e) Receive, investigate and take appropriate action with respect to any charge or complaint filed with the board charging that any individual licensed as a residential care facility administrator has failed to comply with the requirements of such standards;

(f) Conduct a continuing study and investigation of residential care facility administrators to improve the standards imposed in order to obtain a license or a permit and to improve the procedures and methods for the enforcement of such standards with respect to those who have obtained a license or a permit;

(g) The board shall establish by rule a fee schedule not to exceed ~~one~~ two hundred dollars (~~$1~~$200) each for applications for licenses, provisional permits, annual renewal and applications for endorsement of a license issued by the proper authorities in another state.

(2) The board or any committee or member thereof or any hearing officer designated by such board, acting in an official capacity, shall have powers and duties as provided by law. Such board shall not be bound by the strict rules of evidence in the conduct of its proceedings but any determinations made shall be founded upon sufficient legal evidence to sustain them.

(3) The board shall also have the authority to make rules not inconsistent with law as may be necessary for the proper performance of its duties.

(4) The board shall have the authority to adopt a code of ethics for residential care facility administrators in the state which shall be adopted in compliance with chapter 52, title 67, Idaho Code.

Approved March 21, 2007.

CHAPTER 135
(H.B. No. 79, As Amended in the Senate)

AN ACT

RELATING TO THE NEW CONSTRUCTION ROLL FOR REAL PROPERTY; AMENDING SECTION 63-301A, IDAHO CODE, TO REVISE INFORMATION TO BE INCLUDED IN THE NEW CONSTRUCTION ROLL, TO REVISE ITEMS ON THE NEW CONSTRUCTION ROLL FOR WHICH THE TAXABLE MARKET VALUE INCREASE MAY BE SHOWN AND TO PROVIDE AN EXCEPTION TO THE AMOUNT OF TAXABLE MARKET VALUE FOR NEW

CONSTRUCTION THAT IS NOT A CHANGE IN VALUE OF EXISTING PROPERTY THAT IS DUE TO EXTERNAL MARKET FORCES; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-301A, Idaho Code, be, and the same is hereby amended to read as follows:

63-301A. NEW CONSTRUCTION ROLL. (1) The county assessor shall prepare a new construction roll, which shall be in addition to the property roll, which new construction roll shall show:

(a) The name of the taxpayer;

(b) The description of the new construction, suitably detailed to meet the requirements of the individual county;

(c) A description of the land and its change in use, suitably detailed to meet the needs of the individual county;

(d) The amount of taxable market value added to the property on the current year's property roll that is directly the result of new construction or a change in use of the land or both;

(e) The amount of taxable market value added as provided in subsection (3)(g) of this section as a result of dissolution of any revenue allocation area.

(2) As soon as possible, but in any event by no later than the first Monday in June, the new construction roll shall be certified to the county auditor and a listing showing the amount of value on the new construction roll in each taxing district or unit be forwarded to the state tax commission on or before the fourth Monday in July. Provided however, the value shown in subsection (3)(f) of this section shall be reported to the appropriate county auditor by the state tax commission by the third Monday in July and the value sent by the county auditor to each taxing district. The value established pursuant to subsection (3)(f) of this section is subject to correction by the state tax commission until the first Monday in September and any such corrections shall be sent to the appropriate county auditor, who shall notify any affected taxing districts.

(3) The value shown on the new construction roll may include the taxable market value increase from:

(a) Construction of any new structure that previously did not exist; or

(b) Additions or alterations to existing nonresidential structures; or

(c) Installation of new or used manufactured housing that did not previously exist within the county; or

(d) Change of land use classification; or

(e) Property newly taxable as a result of loss of the exemption provided by section 63-602W, Idaho Code; or

(f) The construction of any improvement or installation of any equipment used for or in conjunction with the generation of electricity and the addition of any improvement or equipment intended to be so used, except property that has a value allocated or apportioned pursuant to section 63-405, Idaho Code, or that is owned by a cooperative or municipality, as those terms are defined in section 61-332A, Idaho Code, or that is owned by a public utility, as that

term is defined in section 61-332A, Idaho Code, owning any other property that is allocated or apportioned. No replacement equipment or improvements may be included; or

(g) Increases in value over the base value of property on the base assessment roll within an urban renewal revenue allocation area that has been terminated pursuant to section 50-2909(4), Idaho Code, to the extent that this increment ~~has not been previously included on any new construction rolls, provided however, the increased value during the existence of the revenue allocation area is due to changes identified in subsections (a) through (e) of this subsection~~ exceeds the incremental value as of December 31, 2006, or, for revenue allocation areas formed after December 31, 2006, the entire increment value. Notwithstanding other provisions of this section, the new construction roll shall not include new construction located within an urban renewal district's revenue allocation area, except as provided in this subsection (3)(g).

(4) The amount of taxable market value of new construction shall be the change in net taxable market value that is attributable directly to new construction or a change in use of the land or loss of the exemption provided by section 63-602W(3), Idaho Code. It shall not include any change in value of existing property that is due to external market forces such as general or localized inflation, except as provided in subsection (3)(g) 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, 2007.

Approved March 21, 2007.

CHAPTER 136
(H.B. No. 85, As Amended in the Senate)

AN ACT

RELATING TO IRRIGATION DISTRICTS; AMENDING CHAPTER 15, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1510, IDAHO CODE, TO PROVIDE FOR CERTAIN TAX EXEMPTIONS.

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

SECTION 1. That Chapter 15, Title 43, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 43-1510, Idaho Code, and to read as follows:

43-1510. TAX EXEMPTIONS. The following irrigation district property and the revenue therefrom shall be exempt from taxation: (1) water rights for the irrigation of lands; (2) irrigation structures described in section 63-602N(2), Idaho Code; (3) all operating property described in section 63-602N(3), Idaho Code; and (4) all parks and recreational facilities owned or maintained by an irrigation district pursuant to this title. Such property tax exemption shall not be subject to approval

by the county board of equalization. Bonds and interim notes, and interest thereon, issued pursuant to the authority contained in this title shall be exempt from taxation under the Idaho income tax law.

Approved March 21, 2007.

CHAPTER 137
(H.B. No. 102)

AN ACT

RELATING TO THE IDAHO ELEVATOR SAFETY CODE ACT; AMENDING SECTION 39-8611, IDAHO CODE, TO PROVIDE THAT CONVEYANCES SHALL COMPLY WITH SPECIFIED CODES; AMENDING SECTION 39-8614, IDAHO CODE, TO REVISE APPLICABLE CODES; AMENDING SECTION 39-8616, IDAHO CODE, TO REVISE FEES; AND AMENDING SECTION 39-8618, IDAHO CODE, TO SET FORTH PROVISIONS APPLICABLE TO COMPLIANCE AGREEMENTS.

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

SECTION 1. That Section 39-8611, Idaho Code, be, and the same is hereby amended to read as follows:

39-8611. CERTIFICATE TO OPERATE. (1) Inspection and certificate. No conveyance shall be placed into operation until an inspection has been performed and a certificate to operate has been issued by the division.

(2) Inspection prior to issuance. A certificate to operate may be issued only if, after a thorough inspection, the QEI finds that the conveyance meets the required safety standards. If the conveyance is found to be unsafe, the division shall prohibit the use of the conveyance until it is made safe. Conveyances shall comply with the codes set forth in section 39-8614, Idaho Code.

(3) Term of certificate. A certificate to operate shall be in effect for five (5) years, provided that the conveyance continues to meet the requirements of the appropriate codes as evidenced by annual inspections.

(4) Revocation of certificate. The certificate to operate shall remain the property of the state of Idaho and may be revoked at any time if the conveyance fails to meet the requirements of the appropriate codes or if the annual certification fee is not paid.

SECTION 2. That Section 39-8614, Idaho Code, be, and the same is hereby amended to read as follows:

39-8614. ADOPTION OF CODES. (1) The following codes, including those updates, ~~and~~ addenda and amendments thereto hereafter adopted by the division as set forth in the duly promulgated administrative rules, are hereby adopted for all conveyances subject to this chapter as may be applicable below:

(~~1~~a) ANSI/ASME, Safety Code for Elevators and Escalators.

(~~2~~b) ANSI/ASME, Guide for Inspection of Elevators, Escalators, and Moving Walks.

(~~3~~c) ANSI/ASME, Safety Code for Existing Elevators and Escalators.

(~~4~~d) ANSI/ASME, Guide for Emergency Personnel.

(~~5~~e) ANSI/ASME, Standards for Elevator and Escalator Electrical Equipment.

(~~6~~f) ANSI/ASME, Safety Requirements for Personnel Hoists and Employee Elevators for Construction and Demolition of Operations.

(~~7~~g) ICC/ANSI, American National Standard, Accessible and Usable Buildings and Facilities.

(~~8~~h) ANSI/ASME, Safety Standards for Platform Lifts and Stairway Chairlifts.

(~~9~~i) ASME, Standards for the Qualification of Elevator Inspectors.

(2) Conveyances placed into operation after July 1, 2004, shall comply with those codes in effect on the date the division received the application for the permit or certificate for the conveyance.

(3) Conveyances placed into operation prior to July 1, 2004, shall be required to comply only with the Safety Code for Existing Elevators and Escalators.

SECTION 3. That Section 39-8616, Idaho Code, be, and the same is hereby amended to read as follows:

39-8616. FEES. The division shall have authority to charge certain f~~F~~ees ~~to be charged~~ in accordance with the fee schedule established by the division, which schedule shall ~~be~~ not exceed the amounts set forth as follows and which amounts may be reduced by the division as set forth in duly promulgated administrative rules:

(1) Installation, alteration, modernization or relocation fee schedule. Fees include one (1) plan review and certificate to operate, and two (2) acceptance inspections (each inspection thereafter will incur a reinspection fee):

(a) Certification fee:
- (i) Traction and roped hydraulic elevator.....$1,500
- (ii) Moving walk/escalator.....$1,500
- (iii) Hydraulic elevator.....$1,000
- (iv) Platform lift/material lift/dumbwaiter.....$750

(b) Reinspection fee:
- (i) Traction and roped hydraulic elevator.....$500
- (ii) Moving walk/escalator.....$500
- (iii) Hydraulic elevator.....$500
- (iv) Platform lift/material lift/dumbwaiter.....$250

(2) Annual certificate to operate fee schedule. Fees include annual certificate to operate and periodic inspection (every five (5) years), and one (1) reinspection as may be necessary (each inspection thereafter will incur a reinspection fee):

(a) Certification fee:
- (i) Traction and roped hydraulic elevator.....$225
- (ii) Moving walk/escalator.....$225
- (iii) Hydraulic elevator.....$125
- (iv) Platform lift/material lift/dumbwaiter.....$100

(b) Reinspection fee:
- (i) Traction and roped hydraulic elevator.....$225
- (ii) Moving walk/escalator.....$225
- (iii) Hydraulic elevator.....$125
- (iv) Platform lift/material lift/dumbwaiter.....$100

(3) Temporary certificate to operate fee schedule (same as annual)

and one (1) reinspection fee as may be necessary (each inspection thereafter will incur a reinspection fee):

(a) Temporary certification fee:

(i) Traction and roped hydraulic elevator.....$225

(ii) Moving walk/escalator.....$225

(iii) Hydraulic elevator.....$125

(iv) Platform lift/material lift/dumbwaiter.....$100

(b) Reinspection fee:

(i) Traction and roped hydraulic elevator.....$225

(ii) Moving walk/escalator.....$225

(iii) Hydraulic elevator.....$125

(iv) Platform lift/material lift/dumbwaiter.....$100

(4) Application for initial certification (nonrefundable):

All conveyances.....$50

SECTION 4. That Section 39-8618, Idaho Code, be, and the same is hereby amended to read as follows:

39-8618. INSPECTION REPORTS AND COMPLIANCE AGREEMENTS. (1) Within fifteen (15) days of completion of the inspection, all inspection reports shall be filed with the division and a copy shall be sent to the owner for corrective actions as required.

(2) Within thirty (30) days of the delivery of an inspection report to the owner and the division, the owner and the division shall enter into a compliance agreement whereby the owner and the division shall agree upon a schedule for corrective actions identified in the inspection report. The division shall issue a temporary certificate to operate if the corrective actions are not related to life safety issues. The owner and the division shall thereafter act in good faith to comply with the provisions of the compliance agreement.

(3) Where there are practical difficulties involved in complying with this chapter or any provision of any applicable code, as part of a compliance agreement, the owner and the division may identify alternative means of compliance so long as such alternative means do not lessen health, fire and life safety requirements and are otherwise consistent with the intent and purpose of applicable codes.

(4) An owner's ~~f~~Failure to complete the corrective actions ~~within fifteen (15) days of receipt of the inspection report~~ set forth in the compliance agreement shall constitute grounds for the imposition of civil penalties and such further action as the division may deem appropriate if the owner:

(a) Fails to initiate corrective action; and

(b) Fails to provide evidence of compliance within thirty (30) days of the owner's receipt of written notice from the division of a failure to comply.

(5) An owner shall not be deemed to be in violation of this chapter:

(a) If the owner and the division are in the process of entering into a compliance agreement; or

(b) If the owner is undertaking corrective action as set forth in the compliance agreement; or

(c) If upon the expiration of thirty (30) days from receipt of written notice from the division specifying the particulars in which the owner has failed to perform its obligations under a compliance

agreement, the owner fails, prior to expiration of said thirty (30) day period, to rectify the particulars specified in such notice; or (d) If an owner's failure to perform under this chapter cannot be reasonably rectified within thirty (30) days from receipt of written notice from the division, but the owner, having received the notice, has commenced actions necessary to cure the failure and is diligently pursuing the cure of the failure.

Approved March 21, 2007.

CHAPTER 138
(H.B. No. 130, As Amended in the Senate)

AN ACT
RELATING TO STATE LANDS; AMENDING SECTION 58-307, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE LEASE OF STATE LANDS.

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

SECTION 1. That Section 58-307, Idaho Code, be, and the same is hereby amended to read as follows:

58-307. TERM OF LEASE -- APPLICATION FOR RENEWAL -- ALLOWANCE FOR IMPROVEMENTS. (1) No lease of state public school endowment lands, other than those valuable for stone, coal, oil, gas or other minerals, shall be for a longer term than ten (10) years.

(2) Notwithstanding any other provisions of law, all state lands may be leased for a period of up to twenty-five (25) years to the federal government, to federal agencies, state agencies, counties, or cities, school districts or political subdivisions when leased for public purposes. Such leases for public purposes may be entered into by negotiation and shall secure a rental amount based on the fair market value of the state land.

(3) Notwithstanding any other provisions of law, all state endowment lands may be leased for a period of up to forty-nine (49) years for commercial purposes, or for lands eligible for the federal conservation reserve enhancement program (CREP), under such terms and conditions as may be set by the board, provided that, for such leases in excess of ten (10) years, the board consults with the county commissioners of the county in which the lands are located before leasing the lands, and the use for which the land is leased shall be consistent with the local planning and zoning ordinances insofar as is reasonable and practicable. For each lease in excess of ten (10) years, the department shall hold a hearing in the county in which the parcel is located.

(4) The term "commercial purposes" means wind or geothermal energy projects, industrial enterprises, retail sales outlets, business and professional office buildings, hospitality enterprises, commercial recreational activities, multifamily residential developments and other similar businesses. For purposes of this section, agricultural leases, grazing leases, oil and gas leases, mineral leases, geothermal leases, communication site leases, single family, recreational cottage site and homesite leases, and leases for other similar uses, are not considered leases for commercial purposes.

(5) The board may require that all fixed improvements constructed upon land leased for commercial purposes be removed or become the property of the state upon termination of the lease, and that any heirs, encumbrances or claims of third parties with respect to any improvements shall be expressly subordinate and subject to the rights of the state under this section.

(6) Except for geothermal, oil and gas, mineral and commercial leases, the lease year shall run from January 1 through December 31, and all leases shall expire on December 31 of the year of expiration.

(7) All applications to lease or to renew an existing lease which expires December 31 of any year, shall be filed in the office of the director of the department of lands by the thirtieth day of April preceding the date of such expiration. Such applications will be considered by the state land board and be disposed of in the manner provided by law; except that the board may reject conflicting applications for a lease for commercial purposes if the lessee exercises the preference right to renew clause, and provided such right is specified in the lease.

(8) Where conflicts appear upon leases, except for mineral leases which, pursuant to chapter 7, title 47, Idaho Code, contain a preferential right to renew clause, such applications shall be considered as having been filed simultaneously. However, nothing herein shall be construed to prevent the state board of land commissioners from accepting and considering applications for new leases at any time.

(9) In case improvements have been made on land while under lease which is expiring, and the former lessee is not the successful bidder, but the land is leased to another, the amount of such improvements shall be paid to the former lessee. The following shall be considered improvements: plowing done within one (1) year, provided no crop has been raised on the plowed land after such plowing, fencing, buildings, cisterns, wells, growing crops and any other asset which shall be considered an improvement by the director.

(10) Commercial leases of the state lands shall not be subject to the conflict auction provisions of section 58-310, Idaho Code. The board may, at its discretion, consider individual applications or call for proposals and sealed bids by public advertisement, and may evaluate said proposals and award the lease to the bidder whose proposal achieves the highest return over the term of the lease and who is capable of meeting such terms and conditions as may be set by the board; in the alternative, the board may call for lease applications by public advertisement and if more than one (1) person files an application to hold an auction in the same manner as provided in section 58-310, Idaho Code. In ~~either~~ all cases, the board must obtain a reasonable rental, based upon fair market value of the state land, throughout the duration of the lease. The board may reject any or all proposals and any or all bids, and may reoffer the lease at a later date if the board determines that the proposals or bids do not achieve the highest and best use of the land at market rental.

Approved March 21, 2007.

CHAPTER 139
(H.B. No. 157)

AN ACT

RELATING TO THE BOARD OF NURSING; AMENDING SECTION 54-1404, IDAHO CODE, TO PROVIDE FOR BOARD OF NURSING REGULATION OF CERTIFIED MEDICATION ASSISTANTS AND TO PROVIDE CORRECT TERMINOLOGY; AND AMENDING CHAPTER 14, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-1406A, IDAHO CODE, TO PROVIDE FOR THE CERTIFICATION AND REGULATION OF CERTIFIED MEDICATION ASSISTANTS.

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

SECTION 1. That Section 54-1404, Idaho Code, be, and the same is hereby amended to read as follows:

54-1404. BOARD OF NURSING -- POWERS AND DUTIES. The board shall have all powers and duties necessary and incident to regulation of nursing and to enforcement of this ~~act~~ chapter, including but not limited to, the power and duty:

(1) To regulate individuals designated as certified medication assistants.

(2) To license qualified persons for practice of nursing in Idaho; to renew licenses; to limit, restrict, amend, deny, suspend or revoke licenses; and to accept the voluntary surrender of a license;

(~~2~~3) To establish standards, criteria, conditions and requirements for licensure and to investigate and determine eligibility and qualifications for licensure, and to administer examinations for licensure;

(~~3~~4) To establish standards of conduct and practice and to regulate the use of titles, abbreviations and designations for the practice of nursing;

(~~4~~5) To establish standards, criteria, and requirements for curricula for nursing education programs and to evaluate, survey, review and approve nursing education programs subject to the provisions of section 54-1406, Idaho Code;

(~~5~~6) To evaluate continuing competency of persons licensed pursuant to this ~~act~~ chapter and to develop standards which will advance the competency of licensees in accordance with developing scientific understanding and methods relating to the practice of nursing;

(~~6~~7) To receive and collect license and renewal fees assessed pursuant to this ~~act~~ chapter and to assess, receive and collect additional reasonable fees for the administration of examinations, investigations and evaluations of applicants, issuance of temporary licenses, duplication and verification of records, surveying and evaluating nursing education programs, and administrative fines not to exceed one hundred dollars ($100) for each count or separate offense of practicing nursing without current licensure, to be deposited in the state board of nursing account in the manner provided by this ~~act~~ chapter;

(~~7~~8) To employ personnel necessary to administer this ~~act~~ chapter and rules promulgated pursuant to this ~~act~~ chapter and perform such other duties as the board may require. Such personnel shall include an executive director, who shall be currently licensed to practice professional nursing in Idaho and who shall not be a member of the board;

(~~8~~9) To maintain a record of board proceedings, annually report to the governor and maintain a public register of names and addresses of licensed nurses;

(~~9~~10) To enter into interstate compacts, contracts or agreements to facilitate the practice and regulation of nursing in this state;

(~~10~~11) To make, adopt and publish rules pursuant to chapter 52, title 67, Idaho Code, as may be necessary or appropriate to carry out the provisions and purposes of this ~~act~~ chapter.

SECTION 2. That Chapter 14, 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 54-1406A, Idaho Code, and to read as follows:

54-1406A. CERTIFIED MEDICATION ASSISTANT (MA-C). (1) Effective July 1, 2008, an individual registered as a nursing assistant, without substantiated charges, on the nursing assistant registry currently maintained by the Idaho department of health and welfare, may, with additional education and training as set forth in rule as established by the board, become a certified medication assistant (MA-C) permitted to administer medications as prescribed by an authorized provider within the parameters set forth in rule. A licensed nurse shall supervise the certified medication assistant.

(2) The board shall adopt rules regarding the certification of certified medication assistants, including rules applicable to education, training and other qualifications for certification that will ensure that the certified medication assistant is competent to perform safely within the range of authorized functions.

(3) The board shall maintain a public registry of the names and addresses of all certified medication assistants.

(4) The board is authorized to impose and collect initial application and two (2) year renewal fees, as well as reinstatement fees, not to exceed one hundred dollars ($100), as determined by board rule. Fees collected pursuant to this section shall be deposited in the state board of nursing account for the administration of examinations, evaluations and investigations of applicants, issuance of certifications, evaluation of education and training programs, duplication and verification of records, and other administrative expenses.

(5) The board shall adopt by rule an application process and shall conduct state and federal criminal background checks on all applicants seeking certification pursuant to this section. Upon meeting all requirements and upon the successful completion of additional education, training and competency assessment prescribed by rule, an applicant shall be certified as a certified medication assistant (MA-C).

(6) A person may not use the title "certified medication assistant" or the abbreviation "MA-C" unless such person has been duly certified pursuant to this section.

(7) The board shall adopt rules governing the approval of education and training programs for certified medication assistants.

(8) The board shall set forth in rule criteria for acceptable certified medication assistant competency evaluations.

(9) (a) For any one (1) or a combination of grounds for discipline as set forth in paragraph (b) of this subsection, the board shall have the authority to:

(i) File a letter of concern if the board believes there is

insufficient evidence to support direct action against a certified medication assistant;

(ii) Deny certification or recertification, suspend, revoke, place on probation, reprimand, limit, restrict, condition or accept the voluntary surrender of a certificate issued pursuant to this section if a certified medication assistant commits an act that constitutes grounds for discipline;

(iii) Refer criminal violations of this section to the appropriate law enforcement agency;

(iv) Impose a civil penalty of not more than one hundred dollars ($100) per violation; and

(v) Recover costs of investigation and disciplinary proceedings, including attorney's fees.

(b) Grounds for discipline shall include:

(i) Substance abuse or dependency;

(ii) Client abandonment, neglect or abuse;

(iii) Fraud or deceit, which may include, but is not limited to:

(A) Filing false credentials;

(B) Falsely representing facts on an application for initial certification, renewal or reinstatement; and

(C) Giving or receiving assistance in taking the competency evaluation;

(iv) Boundary violations;

(v) Performance of unsafe client care;

(vi) Performing acts beyond the range of authorized functions or beyond those tasks delegated under the provisions of this section;

(vii) Misappropriation or misuse of property;

(viii) Obtaining money or property of a client, resident or other person by theft, fraud, misrepresentation or duress committed during the course of employment as a certified medication assistant;

(ix) Criminal conviction of a misdemeanor that directly relates to or affects the functions of a certified medication assistant or conviction of any felony as set forth in rule;

(x) Failure to conform to the standards of a certified medication assistant;

(xi) Putting clients at risk of harm; and

(xii) Violating the privacy or failing to maintain the confidentiality of client or resident information.

(10) The board shall comply with the provisions of the Idaho administrative procedure act, chapter 52, title 67, Idaho Code, in taking any disciplinary action against a certified medication assistant and shall maintain records of any such disciplinary action, which records shall be available for public inspection to the same extent as records regarding disciplinary proceedings against nurses and as otherwise consistent with chapter 3, title 9, Idaho Code.

(11) The board shall notify the Idaho nursing assistant registry of any disciplinary action taken against a certified medication assistant pursuant to this section.

Approved March 21, 2007.

CHAPTER 140
(H.B. No. 158)

AN ACT

RELATING TO PATIENT INFORMATION AND PRESCRIPTION CONFIDENTIALITY; AMENDING SECTION 54-1727, IDAHO CODE, TO PROVIDE THAT DISCLOSURE OF PATIENT SPECIFIC INFORMATION IS NOT PROHIBITED IF DISCLOSED TO LAW ENFORCEMENT AUTHORITIES PURSUANT TO A SEARCH WARRANT, SUBPOENA, OR OTHER COURT ORDER.

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

SECTION 1. That Section 54-1727, Idaho Code, be, and the same is hereby amended to read as follows:

54-1727. CONFIDENTIALITY OF PRESCRIPTIONS AND PATIENT INFORMATION. (1) All prescriptions, drug orders, records or any other prescription information that specifically identifies an individual patient shall be held in the strictest confidence. No person in possession of such information shall release the information, unless requested as follows:

(a) By the board, or its representatives, acting in their official capacity;

(b) By the patient, or the patient's designee, regarding the patient's own records;

(c) By the practitioner, or the practitioner's designee, who issued the prescription;

(d) By other licensed health care professionals who are responsible for the direct and acute care of the patient;

(e) By agents of the department of health and welfare when acting in their official capacity with reference to issues related to the practice of pharmacy (written requests by authorized agents of the department requesting such information are required);

(f) By agents of any board whose practitioners have prescriptive authority, when the board is enforcing laws governing that practitioner;

(g) By an agency of government charged with the responsibility for providing medical care for the patient (written requests by authorized agents of the agency requesting such information are required);

(h) By the federal food and drug administration (FDA), for purposes relating to monitoring of adverse drug events in compliance with the requirements of federal law, rules or regulations adopted by the federal food and drug administration;

(i) By the patient's authorized insurance benefit provider or health plan providing health care coverage or pharmacy benefits to the patient.

(j) Nothing in this section shall be construed to prohibit consultations between health care professionals who are involved in the diagnosis, care and treatment of the patient.

(k) Nothing in this section shall prohibit insurance companies and health plans from sharing patient specific information with law enforcement authorities or any of the entities identified in subsections (1)(a) through (i) of this section, in cases of suspected fraud and substance abuse.

(1) Nothing in this section shall prohibit disclosure of patient specific information to law enforcement authorities pursuant to a search warrant, subpoena, or other court order.

(2) Nothing in this section shall prevent the pharmacist or others from providing aggregate or other data, which does not identify the patient to qualified researchers, including pharmaceutical manufacturers, for purposes of clinical, pharmacoepidemiological, or pharmacoeconomic research.

(3) Any person who has knowledge by virtue of his office or occupation of any prescription drug order, record, or pharmacy related information that specifically identifies an individual patient shall not divulge such information except as authorized in subsections (1) and (2) of this section. Any person or entity to whom information is divulged pursuant to subsection (1) of this section shall not divulge such information except in compliance with this section.

(4) Nothing in this section shall limit the authority of the board or its representatives from inspecting the records of pharmacies or pharmacists or the authority of any other board with licensees who have prescriptive authority from performing any other duty or authority of that board, nor shall this section limit a court of competent jurisdiction from ordering the release or disclosure of such records upon a showing of just cause after such review or hearing as the court deems necessary and proper. This section shall not limit the authority of any other board or agency to inspect records of persons it regulates, notwithstanding that the records may contain information protected by the provisions of this section.

(5) In addition to all other penalties as provided by law, any person or entity found by the board to be in violation of the provisions of this section shall be subject to an administrative penalty not to exceed three thousand dollars ($3,000) for each violation.

(6) No person shall be liable, nor shall a cause of action exist, for any loss or damage based upon the proper good faith release of records pursuant to the provisions of subsection (1) or (2) of this section.

Approved March 21, 2007.

CHAPTER 141
(H.B. No. 180)

AN ACT

RELATING TO DISTRIBUTION OF MONEYS IN THE STATE LIQUOR ACCOUNT; AMENDING SECTION 23-404, IDAHO CODE, TO PROVIDE DISTRIBUTIONS FROM THE LIQUOR ACCOUNT TO THE SUBSTANCE ABUSE TREATMENT FUND, TO THE DRUG COURT, MENTAL HEALTH COURT AND FAMILY COURT SERVICES FUND AND TO THE DRUG AND MENTAL HEALTH COURT SUPERVISION FUND; AMENDING CHAPTER 4, TITLE 23, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 23-408, TO CREATE THE SUBSTANCE ABUSE TREATMENT FUND AND TO PROVIDE FOR WHAT THE MONEYS IN THE FUND MAY BE UTILIZED; AMENDING CHAPTER 4, TITLE 23, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 23-409, IDAHO CODE, TO CREATE THE DRUG AND MENTAL HEALTH COURT SUPERVISION FUND AND TO PROVIDE FOR WHAT THE MONEYS IN THE FUND MAY BE UTILIZED; AMENDING SEC-

TION 23-603, IDAHO CODE, TO PROVIDE A CORRECT FUND NAME AND TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 23-1008, IDAHO CODE, TO PROVIDE FOR DISTRIBUTIONS TO THE SUBSTANCE ABUSE TREATMENT FUND AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 23-1319, IDAHO CODE, TO PROVIDE FOR DISTRIBUTIONS TO THE SUBSTANCE ABUSE TREATMENT FUND.

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

SECTION 1. That Section 23-404, Idaho Code, be, and the same is hereby amended to read as follows:

23-404. DISTRIBUTION OF MONEYS IN LIQUOR ACCOUNT. (1) The moneys received into the liquor account shall be transferred or appropriated as follows:

(a) An amount of money equal to the actual cost of purchase of alcoholic liquor and payment of expenses of administration and operation of the dispensary, as determined by the superintendent and certified quarterly to the state controller, shall be transferred back to the dispensary; provided, that the amount so transferred back for administration and operation of the dispensary shall not exceed the amount authorized to be expended by regular appropriation authorization.

(b) From fiscal year 2006 through fiscal year 2009, forty percent (40%) of the balance remaining after transferring the amounts authorized by paragraph (a) of this subsection shall be transferred or appropriated pursuant to this paragraph (b). Beginning in fiscal year 2010 the percentage transferred pursuant to this paragraph (b) shall increase to forty-two percent (42%) with an increase of two percent (2%) for each subsequent fiscal year thereafter until fiscal year 2014 when such percentage shall be fifty percent (50%).

(i) For fiscal year 2006 and through fiscal year 2009, one million eight hundred thousand dollars ($1,800,000) shall be appropriated and paid to the cities and counties as set forth in paragraphs (c)(i) and (c)(ii) of this subsection;

(ii) ~~One~~ Two million ~~two--hundred~~ eighty thousand dollars (~~$1,200,000~~2,080,000) shall be transferred annually to the ~~alcoholism~~ substance abuse treatment fund, which is ~~hereby~~ created in ~~the trust and agency fund~~ section 23-408, Idaho Code;

(iii) Three hundred thousand dollars ($300,000) shall be transferred annually to the community college account, created by section 33-2139, Idaho Code;

(iv) One million two hundred thousand dollars ($1,200,000) shall be transferred annually to the public school income fund, as defined in section 33-903, Idaho Code;

(v) Six hundred fifty thousand dollars ($650,000) shall be transferred annually to the cooperative welfare account in the dedicated fund; ~~and~~

(vi) Six hundred eighty thousand dollars ($680,000) shall be transferred annually to the drug court, mental health court and family court services fund; and

(vii) Four hundred forty thousand dollars ($440,000) shall be transferred annually to the drug and mental health court supervision fund which is created in section 23-409, Idaho Code; and

(viii) The balance shall be transferred to the general fund.

(c) The remainder of the moneys received in the liquor account shall ~~be appropriat~~ed and paid as follows:

(i) Forty percent (40%) of the balance remaining after the transfers authorized by paragraphs (a) and (b) of this subsection have been made is hereby appropriated to and shall be paid to the several counties. Each county shall be entitled to an amount in the proportion that liquor sales through the dispensary in that county during the state's previous fiscal year bear to total liquor sales through the dispensary in the state during the state's previous fiscal year, except that no county shall be entitled to an amount less than that county received in distributions from the liquor account during the state's fiscal year 1981.

(ii) Sixty percent (60%) of the balance remaining after the transfers authorized by paragraphs (a) and (b) of this subsection have been made is hereby appropriated to and shall be paid to the several cities as follows:

1. Ninety percent (90%) of the amount appropriated to the cities shall be distributed to those cities which have a liquor store or distribution station located within the corporate limits of the city. Each such city shall be entitled to an amount in the proportion that liquor sales through the dispensary in that city during the state's previous fiscal year bear to total liquor sales through the dispensary in the state during the state's previous fiscal year, except that no city shall be entitled to an amount less than that city received in distributions from the liquor account during the state's fiscal year 1981;

2. Ten percent (10%) of the amount appropriated to the cities shall be distributed to those cities which do not have a liquor store or distribution station located within the corporate limits of the city. Each such city shall be entitled to an amount in the proportion that that city's population bears to the population of all cities in the state which do not have a liquor store or distribution station located within the corporate limits of the city, except that no city shall be entitled to an amount less than that city received in distributions from the liquor account during the state's fiscal year 1981.

(2) All transfers and distributions shall be made periodically, but not less frequently than quarterly but, the apportionments made to any county or city, which may during the succeeding three (3) year period be found to have been in error either of computation or transmittal, shall be corrected during the fiscal year of discovery by a reduction of apportionments in the case of over-apportionment or by an increase of apportionments in the case of under-apportionment. The decision of the superintendent on entitlements of counties and cities shall be final, and shall not be subject to judicial review.

SECTION 2. That Chapter 4, 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 23-408, Idaho Code, and to read as follows:

23-408. SUBSTANCE ABUSE TREATMENT FUND. There is hereby created in the state treasury, the substance abuse treatment fund. Moneys remitted to the substance abuse treatment fund by the state liquor dispensary and from the tax on beer and wine are intended to be utilized for substance abuse treatment services at both the state and local levels. Moneys in the fund may be expended pursuant to appropriation and are intended to assist state government and local units of government in providing affordable, accessible substance abuse treatment services, including crisis intervention and detoxification services, inpatient and outpatient treatment services, and recovery support services for all Idaho residents. The state treasurer is authorized to invest all idle moneys in the fund and the interest earned on such investment shall be returned to the fund.

SECTION 3. That Chapter 4, 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 23-409, Idaho Code, and to read as follows:

23-409. DRUG AND MENTAL HEALTH COURT SUPERVISION FUND. There is hereby created in the state treasury, the drug and mental health court supervision fund. Moneys remitted to the drug and mental health court supervision fund by the state liquor dispensary are intended to be utilized by the Idaho department of correction for the supervision of offenders sentenced to drug or mental health court. Moneys in the fund may be expended pursuant to appropriation and are intended to assist the courts in managing and monitoring this high-risk and high-need population. The state treasurer is authorized to invest all idle moneys in the fund and the interest earned on such investment shall be returned to the fund.

SECTION 4. That Section 23-603, Idaho Code, be, and the same is hereby amended to read as follows:

23-603. DISPENSING TO A PERSON UNDER THE AGE OF TWENTY-ONE YEARS. Any person who is eighteen (18) years of age or older who shall sell, give, or furnish, or cause to be sold, given, or furnished, alcohol beverage, including any distilled spirits, beer or wine, to a person under the age of twenty-one (21) years shall be guilty of a misdemeanor and upon conviction thereof may be punished by a fine of not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) per violation, or by imprisonment in the county jail for a period not to exceed one (1) year, or by both such fine and imprisonment. A second or subsequent violation of this section by the same defendant shall constitute a misdemeanor and upon conviction thereof the defendant shall be punished by a fine of not less than one thousand dollars ($1,000) nor more than two thousand dollars ($2,000) per violation, or imprisonment in the county jail for a period not to exceed one (1) year, or by both such fine and imprisonment. Notwithstanding the provisions of section 19-4705, Idaho Code, moneys received pursuant to such fines shall be deposited in the ~~alcoholism~~ substance abuse treatment fund, as created in section 23-40~~4~~8, Idaho Code. Upon conviction of any person for a violation of the provisions of this section, the court shall notify the director of the Idaho state police. The director shall review the circumstances of the conviction, and if the dispensing took place at a

licensed establishment or other retailer or distributor, the director may take administrative action he considers appropriate against the licensee or business including suspension of the license for not to exceed six (6) months, a fine, or both such suspension and fine.

SECTION 5. That Section 23-1008, Idaho Code, be, and the same is hereby amended to read as follows:

23-1008. TAX -- DISTRIBUTION -- RULES -- REPORTS. (1) A tax of four dollars and sixty-five cents ($4.65) per barrel of thirty-one (31) gallons, and a like rate for any other quantity or fraction thereof, is hereby levied and imposed upon each and every barrel of beer sold for use within the state of Idaho.

Any wholesaler who shall sell beer, upon which the tax herein imposed has not been paid and any person who shall purchase, receive, transport, store or sell any beer upon which the tax herein imposed has not been paid, shall be guilty of a misdemeanor, and any beer so purchased, received, transported, stored or possessed or sold shall be subject to seizure by the commission, any inspector or investigator of the commission, or by any sheriff, constable or other police officer, and same may be removed and kept for evidence. Upon conviction of any person for violation of this section, the said beer, and all barrels, kegs, cases, cartons and cans containing the same shall be forfeited to the state of Idaho, and, in addition, the person so convicted shall be subject to the other penalties in this act prescribed.

Beer and all barrels, kegs, cases, cartons or cans so forfeited to the state of Idaho shall be sold by the commission at public auction to any brewer, wholesaler or retailer, licensed under the provisions of this act, making the highest bid. Such sale shall be held at such place and time as may be designated by the commission after reasonable notice thereof given in such manner and for such time as the commission may by ~~regulation~~ rule prescribe. From the purchase price received upon such sale, the commission shall first deduct an amount sufficient to pay the tax due on such beer, and to pay all costs incurred in connection with such sale. The commission shall deposit the balance remaining with the state treasurer, who shall place the same in the general account of the state of Idaho, and it shall become a part thereof.

(2) The revenues received from the taxes, interest, penalties, or deficiency payments imposed by this section shall be distributed as follows:

(a) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized by law to be paid by the tax commission shall be paid through the state refund account and those moneys are continuously appropriated.

(b) The balance remaining after distributing the amount in paragraph (a) of this subsection shall be distributed as follows:

(i) Twenty percent (20%) shall be distributed to the ~~alcoholism--treatment--account~~ substance abuse treatment fund which is created in section 23-408, Idaho Code;

(ii) Thirty-three percent (33%) shall be distributed to the permanent building account; and

(iii) The remainder shall be distributed to the general account.

(3) The commission is empowered, and it shall be the commission's duty to prescribe rules: ~~and regulations:~~

(a) For reports by carriers for hire and also all other carriers owned and/or employed, directly or indirectly, by out of state brewers, dealers or other persons, of all deliveries of beer in and into the state of Idaho, stating especially the origin and destination of the beer, the quantity thereof, and also the names and addresses, respectively of the consignors and consignees.

(b) For reports by out of state brewers and manufacturers of beer, of all shipments by them of beer into the state of Idaho, stating especially the matters mentioned in paragraph (a) of this subsection.

SECTION 6. 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 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:

(i) Twelve percent (12%) shall be distributed to the ~~alcoholism--treatment--account~~ substance abuse treatment fund which is created in section 23-408, Idaho Code;

(ii) Five percent (5%) shall be distributed to the Idaho grape growers and wine producers commission account; and

(iii) 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 21, 2007.

CHAPTER 142
(H.B. No. 183)

AN ACT

RELATING TO SCHOOL BUILDING MAINTENANCE; AMENDING SECTION 33-1019, IDAHO CODE, TO PROVIDE FOR APPLICATION OF EXPENDITURES FOR SCHOOL BUILDING MAINTENANCE IN EXCESS OF A SPECIFIED PERCENTAGE AS A CREDIT AGAINST THE REQUIRED ANNUAL ALLOCATION FOR SCHOOL BUILDING MAINTENANCE, TO PROVIDE CORRECT TERMINOLOGY, TO CLARIFY USES OF ALLOCATED MONEYS, TO CLARIFY CALCULATION OF REPLACEMENT VALUE, TO REVISE THE DEFINITION OF "SCHOOL BUILDING" AND TO DEFINE "ANNUALLY"; AMENDING SECTION 39-8011, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 33-1019, Idaho Code, be, and the same is hereby amended to read as follows:

33-1019. ALLOCATION FOR SCHOOL BUILDING MAINTENANCE REQUIRED. (1) School districts shall annually ~~deposit to a~~ allocate moneys for school building maintenance ~~fund moneys~~ from any source available to the district equal to at least two percent (2%) of the replacement value of school buildings, less the ~~deposit~~ receipt of state funds as provided in this section. Any school district expending more than four percent (4%) of the replacement value of school buildings for school building mainte-

nance in any single fiscal year, beginning with the expenditures of fiscal year 2005, may apply the excess as a credit against the two percent (2%) requirement of this section until such credit is depleted or fifteen (15) years have expired. The state shall annually provide funds to be ~~deposited into the~~ allocated for school building maintenance ~~fund~~ as follows:

(a) Divide one (1) by the school district's value index for the fiscal year, as calculated pursuant to section 33-906B, Idaho Code; and

(b) Multiply the result by one-half of one percent (0.5%) of the replacement value of school buildings.

(c) For purposes of the calculation in this subsection (1), public charter schools shall be assigned a value index of one (1).

(2) State funds shall be appropriated through the educational support program/division of facilities, and disbursed from the school district building account. The order of funding sources used to meet the state funding requirements of this section shall be as follows:

(a) State lottery funds distributed pursuant to section 33-905(2), Idaho Code;

(b) If state lottery funds are insufficient to meet the state funding requirements of this section, then other state funds available pursuant to section 33-905(3), Idaho Code, shall be utilized; and

(c) If the funds in paragraphs (a) and (b) of this subsection (2) are insufficient to meet the state funding requirements of this section, then funds available pursuant to section 33-1018B, Idaho Code, shall be utilized.

(3) Moneys ~~in a school district's~~ allocated for school building maintenance ~~fund~~ shall be used exclusively for the maintenance and repair of school buildings or any serious or imminent safety hazard on the property of said school buildings as identified pursuant to chapter 80, title 39, Idaho Code, and shall be utilized, first, to abate serious or imminent safety hazards, as identified pursuant to chapter 80, title 39, Idaho Code. Unexpended moneys in a school district's school building maintenance ~~fund~~ allocation shall be carried over from year to year, and shall remain allocated for the purposes specified in this subsection (3). The replacement value of school buildings shall be determined by multiplying the number of square feet of building floor space in school buildings by eighty dollars ($80.00). Notwithstanding the definition in subsection (4) of this section, school buildings that are less than one (1) year old on the first day of school shall not be used in the replacement value calculation. The joint finance-appropriations committee shall annually review the replacement value per square foot when setting appropriations for the educational support program, and may make adjustments to this figure as necessary. School districts shall submit the following to the state department of education by not later than December 1:

(a) The number of square feet of school building floor space; and

(b) The funds and fund sources ~~deposited into the school district's~~ allocated for school building maintenance ~~fund~~ and ~~the fund balance~~ any unexpended allocations carried forward from ~~the~~ prior fiscal years; and

(c) The projects on which moneys from the school district's school building maintenance ~~fund~~ allocation were expended, and the amount and categories of expenditures; ~~from the fund;~~ and

(d) The planned uses of ~~moneys--in~~ the school district's school building maintenance ~~fund~~ allocation.

The state department of education shall transmit a summary of such reports to the legislature by not later than January 15 of the following year.

(4) For the purposes of this section:

(a) "School building" means buildings that are owned by the school district or leased by the school district through a lease-purchase agreement and are regularly occupied by students.

(b) "School district" means a school district or public charter school.

(c) "Annually" means each fiscal year.

SECTION 2. That Section 39-8011, Idaho Code, be, and the same is hereby amended to read as follows:

39-8011. VIOLATIONS. (1) If a school district, the district superintendent, principal, board of trustees, or other person in charge willfully violates the provisions of this chapter, the state superintendent of public instruction shall withhold such ensuing apportionments as are necessary to make repairs to abate the identified imminent safety hazard or serious safety hazard. Withheld funds, not to exceed one and one-half percent (1 1/2%) of the district's appropriation, shall be disbursed only to pay for such repairs.

(2) If the funds that would be raised over two (2) fiscal years from applying the provisions of subsection (1) of this section are insufficient, in combination with all moneys that will be available in the district's school building maintenance ~~fund~~ allocation for the same period, to provide sufficient moneys to abate the identified imminent or serious safety hazard, then the administrator shall submit an application to abate said hazard to the Idaho public school facilities cooperative funding program panel pursuant to section 33-909, Idaho Code.

(3) It is a misdemeanor to remove, without permission of the administrator, a notice or order posted pursuant to this chapter.

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 July 1, 2006.

Approved March 21, 2007.

CHAPTER 143
(H.B. No. 189)

AN ACT

RELATING TO PRODUCERS OF ELECTRICITY BY MEANS OF WIND ENERGY; AMENDING SECTION 63-3501, IDAHO CODE, TO REVISE DEFINITIONS, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING CHAPTER 35, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3502B, IDAHO CODE, TO PROVIDE FOR A WIND ENERGY TAX; AMENDING CHAPTER 35, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3503B, IDAHO CODE, TO PROVIDE FOR THE FILING OF OPERATORS' STATE-

MENTS BY PRODUCERS OF ELECTRICITY BY MEANS OF WIND ENERGY, TO PROVIDE FOR THE COMPUTATION, ALLOTMENT AND APPORTIONMENT OF TAX DUE FROM PRODUCERS OF ELECTRICITY BY MEANS OF WIND ENERGY BY THE STATE TAX COMMISSION AND TO REQUIRE CERTAIN NOTIFICATIONS; AMENDING SECTION 63-3504, IDAHO CODE, TO AUTHORIZE COUNTY TREASURERS TO COLLECT SPECIFIED TAXES FROM PRODUCERS OF ELECTRICITY BY MEANS OF WIND ENERGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 63-3505, IDAHO CODE, TO PROVIDE FOR TAX LIENS ON PROPERTY OF PRODUCERS OF ELECTRICITY BY MEANS OF WIND ENERGY, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 63-3506, IDAHO CODE, TO PROVIDE FOR THE ASSESSMENT OF NONOPERATING PROPERTY OF PRODUCERS OF ELECTRICITY BY MEANS OF WIND ENERGY; AMENDING CHAPTER 6, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-602JJ, IDAHO CODE, TO PROVIDE AN EXEMPTION FROM TAXATION FOR CERTAIN OPERATING PROPERTY OF PRODUCERS OF ELECTRICITY BY MEANS OF WIND ENERGY; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-3501, Idaho Code, be, and the same is hereby amended to read as follows:

63-3501. DEFINITIONS. For the purposes of this ~~act~~ chapter:

(a) The term "cooperative electrical association" means any nonprofit, cooperative association organized and maintained by its members, whether incorporated or unincorporated, for the purpose of transmitting, distributing or delivering electric power to its members.

(b) The term "cooperative natural gas association" means any nonprofit cooperative association organized and maintained by its members, whether incorporated or unincorporated, for the purpose of transmitting, distributing or delivering natural gas to its members.

(c) The term "cost of power" means the cost of power purchases and generation included in reports to, and in accordance with applicable requirements of, the rural electrification administration, United States department of agriculture, by cooperative electrical associations which are borrowers from the rural electrification administration, and for cooperative electrical associations which are not borrowers from the rural electrification administration, such costs which could have been included by such cooperative electrical associations using equivalent reporting and accounting requirements. The state tax commission shall prescribe necessary rules ~~and regulations~~ for the purpose of providing a uniform method of reporting cost of power purchases and generation by cooperative electrical associations, consistent with the reporting and accounting requirements of the rural electrification administration.

(d) The term "cost of gas" means the cost of natural gas purchased by cooperative natural gas associations from wholesale or other suppliers of natural gas for delivery to members of the cooperative natural gas association.

(e) The term "gross electrical earnings" means the gross receipts of a cooperative electrical association from the distribution, delivery and sale of electric power within the state of Idaho, but shall not include any earnings or receipts from the distribution, delivery or sale of electric power consumed in pumping water for irrigation or drainage purposes within the state of Idaho, upon the land of such consumer and

for the use and benefit of his own land, and where such consumer has received from the association a refund, rebate, or credit of three and one-half percent (3 1/2%) of the cost to him of the electric power so used and consumed.

(f) The term "gross natural gas earnings" means the gross receipts of a cooperative natural gas association from the distribution, delivery and sale of natural gas within the state of Idaho.

(g) The term "gross wind energy earnings" means the gross receipts of a wind energy generator from the distribution, delivery and sale to a customer for the direct use or resale of electrical energy generated, manufactured or produced by means of wind energy within the state of Idaho.

(h) The term "operating property" means and includes all real estate, fixtures or personal property owned, controlled, operated or managed by such electrical or natural gas association, or producer of electricity by means of wind energy, excluding entities that are regulated by the Idaho public utilities commission as to price, in connection with or to facilitate the generation, transmission, distribution, delivery, or measuring of electric power, ~~or~~ natural gas, or electrical energy generated, manufactured or produced by means of wind energy, excluding entities that are regulated by the Idaho public utilities commission as to price, and all conduits, ducts, or other devices, materials, apparatus or property for containing, holding or carrying conductors used ~~or to be used~~ for the transmission, distribution and delivery of electric power, ~~and~~ natural gas, or electrical energy generated, manufactured or produced by means of wind energy, excluding entities that are regulated by the Idaho public utilities commission as to price, including construction tools, materials and supplies.

(~~h~~i) The term "nonoperating property" means all other property, real or personal, owned, controlled or managed by such electrical or natural gas association.

(~~i~~j) The term "taxing unit" shall include any of the following that had property taxes levied in the prior year: the separate taxing districts of the county as well as the county itself and any such taxing district's fund having a different geographical boundary than such taxing district itself.

(~~j~~k) The term "tax levy" means the total tax levies fixed by each taxing district, as defined herein, in the prior calendar year. ~~next preceding.~~

(~~k~~l) The term "WPPSS 4 and 5 costs" means, for a cooperative electrical association which is a participant under the Washington public power supply system nuclear projects numbers 4 and 5 participants' agreement, dated July 14, 1976, all of its costs in connection with Washington public power supply system nuclear projects numbers 4 and 5.

(~~l~~m) The term "weighted wire mileage factor" means a figure which is arrived at by multiplying the tax levy of each taxing unit by the number of wire miles of transmission and distribution lines of such cooperative electrical association situated in such taxing unit.

(~~m~~n) The term "gas line mileage factor" means a figure which is arrived at by multiplying the tax levy of each taxing unit by the number of miles of natural gas transmission and distribution lines of such cooperative natural gas association situated in such taxing unit.

SECTION 2. That Chapter 35, 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 63-3502B, Idaho Code, and to read as follows:

63-3502B. LEVY OF TAX ON WIND ENERGY ELECTRICAL PRODUCTION. There shall be levied against every producer of electricity by means of wind energy a wind energy tax equal to three percent (3%) of such producer's gross wind energy earnings. This wind energy tax shall be in lieu of all other taxes on the operating property, as defined in section 63-3501(h), Idaho Code, of such wind energy producer.

SECTION 3. That Chapter 35, 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 63-3503B, Idaho Code, and to read as follows:

63-3503B. FILING OPERATORS' STATEMENTS -- ALLOTMENT AND APPORTIONMENT OF TAX DUE FROM PRODUCERS OF ELECTRICITY BY MEANS OF WIND ENERGY BY STATE TAX COMMISSION. Every producer of electricity by means of wind energy in this state shall file with the state tax commission of the state of Idaho an operator's statement in the manner as provided for in section 63-404, Idaho Code, and shall include thereon a statement of the prior calendar year's gross wind energy earnings. Upon examining and verifying said statement, the state tax commission shall compute the amount of the wind energy tax based on the gross wind energy earnings and shall allot to each county in which the operating property of such producer is situate that proportion of the total wind energy tax of such producer shown to be due as the same proportion that the total original cost of operating property situate in such county bears to the total original cost of operating property of such producer for the wind energy project. The state tax commission shall then, for each county, apportion the wind energy tax so allotted to such county among the several taxing units thereof within which any operating property of such producer is situate, by apportioning to each such taxing unit that proportion of the wind energy tax so allotted to such county. For such apportionment, the state tax commission shall calculate the weighted original cost which shall be the product of the original cost of such operating property within such taxing unit times such taxing unit's property tax levy for the prior year and the weighted apportionment rate which shall be the ratio of the wind energy tax, allotted to such county, to the aggregate weighted original cost for all such taxing units within which the operating property is located and then shall calculate the apportionment of the wind energy tax for each such taxing unit to be equal to the product of the weighted original cost times the weighted apportionment rate. The state tax commission shall, on or before the second Monday in August, notify the state superintendent of public instruction, the county auditor, and the county treasurer of such allotment and apportionment and the amounts thereof. On or before the third Monday in August, the county auditor shall notify the appropriate taxing units of the amount of wind energy tax being apportioned.

SECTION 4. That Section 63-3504, Idaho Code, be, and the same is hereby amended to read as follows:

63-3504. COLLECTION BY COUNTY TREASURER -- PENALTY AND INTEREST IMPOSED WHEN DELINQUENT. Upon receipt of the notification of the allotment and apportionment of such taxes by the state tax commission by the county treasurer, said county treasurer shall, not later than June 15~~th~~ of each year, notify each cooperative electrical association, ~~and each~~ natural gas cooperative, and producer of electricity by means of wind energy, of the amount of taxes owed, and the apportionment thereof to the county and to the several taxing districts in the county and such tax shall be due and payable not later than July 1, following and, upon the payment thereof, the county treasurer shall pay over to each taxing district its apportionment as herein determined. Any such taxes not paid by July 1, as aforesaid, shall become delinquent and a penalty of five percent (5%) thereof shall be imposed, together with interest at the rate of one percent (1%) per month from July 1 until paid.

SECTION 5. That Section 63-3505, Idaho Code, be, and the same is hereby amended to read as follows:

63-3505. TAXES A LIEN ON PROPERTY OF ASSOCIATION OR PRODUCER UNTIL PAID. All taxes due and payable under this ~~act~~ chapter shall be a lien on all property, real and personal, of the electrical, or natural gas association, or the producer of electricity by means of wind energy, owing the same, as of June 15~~th~~ of each year and shall be discharged only by the payment thereof. In any action to enforce payment of any delinquent taxes due under this ~~act~~ chapter, the county prosecuting such action shall be entitled to a judgment for the reasonable costs of prosecuting such action, as well as for the delinquent taxes, penalty and interest.

SECTION 6. That Section 63-3506, Idaho Code, be, and the same is hereby amended to read as follows:

63-3506. ASSESSMENT OF NONOPERATING PROPERTY BY ASSESSOR. The nonoperating property of any cooperative electrical or natural gas association, or producer of electricity by means of wind energy, shall be assessed by the county assessor of the county wherein such property is situate, and taxes levied against the same shall be a lien, and shall be due and payable, in the same manner as are any other taxes on property.

SECTION 7. That Chapter 6, 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 63-602JJ, Idaho Code, and to read as follows:

63-602JJ. PROPERTY EXEMPT FROM TAXATION -- CERTAIN OPERATING PROPERTY OF PRODUCER OF ELECTRICITY BY MEANS OF WIND ENERGY. The following property is exempt from taxation: operating property of producers of electricity by means of wind energy exclusively used to produce electricity by means of wind energy on which the tax on gross wind energy earnings will be paid.

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, 2007.

Approved March 21, 2007.

CHAPTER 144
(H.B. No. 197)

AN ACT

RELATING TO SCHOOL DISTRICT FUNDING; AMENDING SECTION 33-906B, IDAHO CODE, TO REVISE THE VALUE INDEX CALCULATION; AMENDING SECTION 63-802, IDAHO CODE, TO PROVIDE APPLICATION TO ANY SCHOOL DISTRICT LEVY REDUCTION RESULTING FROM A DISTRIBUTION OF STATE FUNDS FROM THE SALES TAX ACCOUNT; DECLARING AN EMERGENCY, PROVIDING RETROACTIVE APPLICATION AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 33-906B, Idaho Code, be, and the same is hereby amended to read as follows:

33-906B. VALUE INDEX CALCULATION. The state department of education shall establish a value index for each school district, based on each school district's market value per support unit for equalization purposes, the average annual seasonally-adjusted unemployment rate in the county in which a plurality of the school district's market value for assessment purposes of taxable property is located and the per capita income in the county in which a plurality of the school district's market value for assessment purposes is located. The value index for each school district shall be calculated as the sum of the following three (3) components:

(1) The state department of education shall annually calculate ~~the~~ each school district's market value per support unit, ~~that--is--used--to equalize--school--funding-for-each-school-district-in-the-state~~ based on the market values that would be used to calculate a bond levy, and the statewide average. The first portion of the value index shall be calculated by dividing the school district's ~~market--value--for--equalization purposes--per--support-unit~~ figure by the statewide average ~~market-value for-equalization-per-support-unit~~ figure and dividing the result of this calculation by two (2).

(2) The second portion of the value index shall be calculated by dividing the statewide unemployment rate by the unemployment rate in the county in which a plurality of the school district's market value for assessment purposes of taxable property is located, and dividing the result of this calculation by four (4). For the purposes of this subsection, the statewide unemployment rate and county unemployment rates shall be based on the most recent average annual seasonally-adjusted unemployment rate data reported by the United States department of labor, for which there is a complete calendar year of data.

(3) The third portion of the value index shall be calculated by dividing the county per capita income in the county in which a plurality of the school district's market value for assessment purposes of taxable

property is located by the statewide per capita income, and dividing the result of this calculation by four (4). For the purposes of this subsection, the statewide per capita income and county per capita income shall be based on the most recent data reported by the United States department of commerce, for which there is a complete calendar year of data.

SECTION 2. That Section 63-802, Idaho Code, be, and the same is hereby amended to read as follows:

63-802. LIMITATION ON BUDGET REQUESTS -- LIMITATION ON TAX CHARGES -- EXCEPTIONS. (1) Except as provided in subsection (3) of this section for tax year 1995, and each year thereafter, no taxing district shall certify a budget request for an amount of property tax revenues to finance an annual budget that exceeds the greater of:

(a) The dollar amount of property taxes certified for its annual budget for any one (1) of the three (3) tax years preceding the current tax year, whichever is greater, which amount may be increased by a growth factor of not to exceed three percent (3%) plus the amount of revenue that would have been generated by applying the levy of the previous year, not including any levy described in subsection (4) of this section, <u>or any school district levy reduction resulting from a distribution of state funds pursuant to section 63-3638(10), Idaho Code,</u> to any increase in market value subject to taxation resulting from new construction or change of land use classification as evidenced by the value shown on the new construction roll compiled pursuant to section 63-301A, Idaho Code; and by the value of annexation during the previous calendar year, as certified by the state tax commission for market values of operating property of public utilities and by the county assessor; or

(b) The dollar amount of property taxes certified for its annual budget during the last year in which a levy was made; or

(c) The dollar amount of the actual budget request, if the taxing district is newly created except as may be provided in subsection (1)(h) of this section; or

(d) In the case of school districts, the restriction imposed in section 33-802, Idaho Code; or

(e) In the case of a nonschool district for which less than the maximum allowable increase in the dollar amount of property taxes is certified for annual budget purposes in any one (1) year, such a district may, in any following year, recover the foregone increase by certifying, in addition to any increase otherwise allowed, an amount not to exceed one hundred percent (100%) of the increase originally foregone. Said additional amount shall be included in future calculations for increases as allowed; or

(f) In the case of cities, if the immediately preceding year's levy subject to the limitation provided by this section, is less than 0.004, the city may increase its budget by an amount not to exceed the difference between 0.004 and actual prior year's levy multiplied by the prior year's market value for assessment purposes. The additional amount must be approved by sixty percent (60%) of the voters voting on the question at an election called for that purpose and held on the date in May or November provided by law, and may be included in the annual budget of the city for purposes of this section; or

(g) A taxing district may submit to the electors within the district the question of whether the budget from property tax revenues may be increased beyond the amount authorized in this section, but not beyond the levy authorized by statute. The additional amount must be approved by sixty-six and two-thirds percent (66 2/3%) or more of the voters voting on the question at an election called for that purpose and held on the May or November dates provided by section 34-106, Idaho Code. If approved by the required minimum sixty-six and two-thirds percent (66 2/3%) of the voters voting at the election, the new budget amount shall be the base budget for the purposes of this section; or

(h) When a nonschool district consolidates with another nonschool district or dissolves and a new district performing similar governmental functions as the dissolved district forms with the same boundaries within three (3) years, the maximum amount of a budget of the district from property tax revenues shall not be greater than the sum of the amounts that would have been authorized by this section for the district itself or for the districts that were consolidated or dissolved and incorporated into a new district; or

(i) In the instance or case of cooperative service agencies, the restrictions imposed in sections 33-315 through 33-318, Idaho Code.

(2) In the case of fire districts, during the year immediately following the election of a public utility or public utilities to consent to be provided fire protection pursuant to section 31-1425, Idaho Code, the maximum amount of property tax revenues permitted in subsection (1) of this section may be increased by an amount equal to the current year's taxable value of the consenting public utility or public utilities multiplied by that portion of the prior year's levy subject to the limitation provided by subsection (1) of this section.

(3) No board of county commissioners shall set a levy, nor shall the state tax commission approve a levy for annual budget purposes which exceeds the limitation imposed in subsection (1) of this section, unless authority to exceed such limitation has been approved by a majority of the taxing district's electors voting on the question at an election called for that purpose and held pursuant to section 34-106, Idaho Code, provided however, that such voter approval shall be for a period of not to exceed two (2) years.

(4) The amount of property tax revenues to finance an annual budget does not include revenues from nonproperty tax sources, and does not include revenue from levies that are voter approved for bonds, override levies or supplemental levies, plant facilities reserve fund levies, school emergency fund levies or for levies applicable to newly annexed property or for levies applicable to new construction as evidenced by the value of property subject to the occupancy tax pursuant to section 63-317, Idaho Code, for the preceding tax year.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, Section 2 of this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2007. Section 1 of this act shall be in full force and effect on and after July 1, 2007.

Approved March 21, 2007.

CHAPTER 145
(H.B. No. 257)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO STATE HISTORICAL SOCIETY FOR FISCAL YEAR 2008; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; DIRECTING THE DISTRIBUTION OF THE FUNDING FOR EMPLOYEE COMPENSATION; DIRECTING THE ALLOCATION OF SALARY SAVINGS; AND REAPPROPRIATING A CERTAIN UNEXPENDED AND UNENCUMBERED BALANCE.

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

SECTION 1. There is hereby appropriated to the State Board of Education for the Idaho State Historical Society 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, 2007, through June 30, 2008:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. HISTORIC PRESERVATION AND EDUCATION:					
FROM:					
General Fund	$1,507,100	$ 743,300	$333,200	$ 51,600	$2,635,200
Federal Grant Fund	828,400	146,600		100,000	1,075,000
Permanent Building Fund	235,200	305,800			541,000
Miscellaneous Revenue Fund	131,400	338,300			469,700
TOTAL	$2,702,100	$1,534,000	$333,200	$151,600	$4,720,900
II. HISTORIC SITE MAINTENANCE AND INTERPRETATION:					
FROM:					
General Fund	$ 177,500	$ 139,700	$ 9,800		$ 327,000
Miscellaneous Revenue Fund	177,900	129,900			307,800
TOTAL	$ 355,400	$ 269,600	$ 9,800		$ 634,800
GRAND TOTAL	$3,057,500	$1,803,600	$343,000	$151,600	$5,355,700

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Idaho State Historical Society is authorized no more than forty-nine and two hundredths (49.02) full-time equivalent positions at any point during the period July 1, 2007, through June 30, 2008, 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. Agencies and institutions shall distribute the funding for employee compensation based on merit as follows:

(a) Agencies and institutions are directed to, based on merit, target funding first toward high turnover classifications and individuals below midpoint within their agency.
(b) Agencies and institutions are directed to, based on merit, target funding second toward positions within their agency that are below ninety percent (90%) of the Compa-Ratio.
(c) Agencies and institutions are directed to target any remaining funding based on merit using the merit matrix required by Idaho Code.

Agencies and institutions shall create compensation and distribution plans to ensure that they are consistent with the policies contained herein. Agency directors and institutional presidents shall approve all compensation and distribution plans and ensure that implementation of the plans is consistent with policies contained herein. Each agency and institution shall forward, for informational purposes, approved copies of the compensation and distribution plans to the Legislative Services Office and the Division of Financial Management by June 1, 2007. The effective date of implementation of ongoing salary adjustments shall be June 17, 2007.

SECTION 4. The Idaho State Historical Society 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 5. There is hereby reappropriated to the Idaho State Historical Society, the unexpended and unencumbered balance of the Permanent Building Fund appropriated by Section 6, Chapter 455, Laws of 2006, to be used for the period July 1, 2007, through June 30, 2008.

Approved March 21, 2007.

CHAPTER 146
(H.B. No. 258)

AN ACT

APPROPRIATING MONEYS TO THE BOARD OF LAND COMMISSIONERS FOR THE ENDOWMENT FUND INVESTMENT BOARD FOR FISCAL YEAR 2008; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; PROVIDING A CONTINUOUS APPROPRIATION FOR CERTAIN COSTS; EXPRESSING LEGISLATIVE INTENT REGARDING THE TRANSFER OF MONEYS FROM THE EARNINGS RESERVE FUNDS TO THE INCOME FUNDS; DIRECTING THE DISTRIBUTION OF THE FUNDING FOR EMPLOYEE COMPENSATION; 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 State Board of Land Commissioners for the Endowment Fund Investment Board the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2007, through June 30, 2008:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
ENDOWMENT FUND INVESTMENT BOARD:				
FROM:				
Miscellaneous Revenue Fund	$ 77,700	$ 46,400	$1,300	$125,400
Endowment Administrative Fund	315,700	193,600	4,700	514,000
TOTAL	$393,400	$240,000	$6,000	$639,400

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Endowment Fund Investment Board is authorized no more than four (4) full-time equivalent positions at any point during the period July 1, 2007, through June 30, 2008, 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 Endowment Fund Investment Board is hereby granted continuous appropriation authority for moneys in the Endowment Administrative Fund for consulting fees, bank custodial fees and portfolio-related external costs for the period July 1, 2007, through June 30, 2008.

SECTION 4. It is legislative intent that for fiscal year 2008, the Endowment Fund Investment Board transfer $38,617,000 as follows: $26,995,000 from the Public School Earnings Reserve Fund to the Public School Income Fund; $725,000 from the Agricultural College Earnings Reserve Fund to the Agricultural College Income Fund; $2,582,000 from the Charitable Institutions Earnings Reserve Fund to the Charitable Institutions Income Fund; $2,310,000 from the Normal School Earnings Reserve Fund to the Normal School Income Fund; $728,000 from the Penitentiary Earnings Reserve Fund to the Penitentiary Income Fund; $2,138,000 from the Scientific School Earnings Reserve Fund to the Scientific School Income Fund; $1,149,000 from the Mental Hospital Earnings Reserve Fund to the Mental Hospital Income Fund; and $1,990,000 from the University Earnings Reserve Fund to the University Income Fund.

SECTION 5. SALARY DISTRIBUTION. Agencies and institutions shall distribute the funding for employee compensation based on merit as follows:

(a) Agencies and institutions are directed to, based on merit, target funding first toward high turnover classifications and individuals below midpoint within their agency.

(b) Agencies and institutions are directed to, based on merit, target funding second toward positions within their agency that are below ninety percent (90%) of the Compa-Ratio.

(c) Agencies and institutions are directed to target any remaining funding based on merit using the merit matrix required by Idaho Code.

Agencies and institutions shall create compensation and distribution plans to ensure that they are consistent with the policies contained

herein. Agency directors and institutional presidents shall approve all compensation and distribution plans and ensure that implementation of the plans is consistent with policies contained herein. Each agency and institution shall forward, for informational purposes, approved copies of the compensation and distribution plans to the Legislative Services Office and the Division of Financial Management by June 1, 2007. The effective date of implementation of ongoing salary adjustments shall be June 17, 2007.

SECTION 6. SALARY SAVINGS. The Endowment Fund Investment Board 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 21, 2007.

CHAPTER 147
(H.B. No. 259)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE GOVERNOR FOR THE OFFICE OF SPECIES CONSERVATION FOR FISCAL YEAR 2008; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; DIRECTING THE DISTRIBUTION OF THE FUNDING FOR EMPLOYEE COMPENSATION; DIRECTING THE ALLOCATION OF SALARY SAVINGS; AND DIRECTING THE ADMINISTRATOR OF THE OFFICE OF SPECIES CONSERVATION TO MAKE CERTAIN MONEYS AVAILABLE TO THE ANIMAL DAMAGE CONTROL BOARD FOR WOLF MANAGEMENT.

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, 2007, through June 30, 2008:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General Fund	$476,200	$109,100		$ 585,300
Miscellaneous Revenue Fund		15,000		15,000
Federal Grant Fund	100,000	300,000	$7,000,000	7,400,000
TOTAL	$576,200	$424,100	$7,000,000	$8,000,300

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, 2007,

through June 30, 2008, 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. Agencies and institutions shall distribute the funding for employee compensation based on merit as follows:

(a) Agencies and institutions are directed to, based on merit, target funding first toward high turnover classifications and individuals below midpoint within their agency.

(b) Agencies and institutions are directed to, based on merit, target funding second toward positions within their agency that are below ninety percent (90%) of the Compa-Ratio.

(c) Agencies and institutions are directed to target any remaining funding based on merit using the merit matrix required by Idaho Code.

Agencies and institutions shall create compensation and distribution plans to ensure that they are consistent with the policies contained herein. Agency directors and institutional presidents shall approve all compensation and distribution plans and ensure that implementation of the plans is consistent with policies contained herein. Each agency and institution shall forward, for informational purposes, approved copies of the compensation and distribution plans to the Legislative Services Office and the Division of Financial Management by June 1, 2007. The effective date of implementation of ongoing salary adjustments shall be June 17, 2007.

SECTION 4. 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.

SECTION 5. Of moneys made available from the United States Fish and Wildlife Service for the purpose of managing wolves in the state of Idaho, the Administrator of the Office of Species Conservation shall make $45,000 available to the Animal Damage Control Board through the Idaho State Department of Agriculture for the period July 1, 2007, through June 30, 2008. The Animal Damage Control Board shall use said moneys expressly for the purpose of managing wolves.

Approved March 21, 2007.

CHAPTER 148
(S.B. No. 1105)

AN ACT

RELATING TO DEPENDENTS; AMENDING SECTION 41-2103, IDAHO CODE, TO REVISE REQUIREMENTS FOR POLICIES OF DISABILITY INSURANCE AND TO DEFINE "DEPENDENT"; AMENDING SECTION 41-4703, IDAHO CODE, TO REVISE THE DEFINITION FOR "DEPENDENT" AND TO PROVIDE A CORRECT CODE REFERENCE;

AMENDING SECTION 41-4706, IDAHO CODE, TO REVISE APPLICABLE AGE OF DEPENDENTS; AMENDING SECTION 41-5203, IDAHO CODE, TO REVISE THE DEFINITION FOR "DEPENDENT"; AMENDING SECTION 41-5206, IDAHO CODE, TO REVISE APPLICABLE AGE OF DEPENDENTS; AMENDING SECTION 41-5501, IDAHO CODE, TO REVISE THE DEFINITION FOR "DEPENDENT"; AND AMENDING SECTION 63-3022K, IDAHO CODE, TO REVISE APPLICABLE AGE OF DEPENDENTS.

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

SECTION 1. That Section 41-2103, Idaho Code, be, and the same is hereby amended to read as follows:

41-2103. SCOPE AND FORMAT OF POLICY. No policy of disability insurance shall be delivered or issued for delivery to any person in this state unless it otherwise complies with this code, and complies with the following:

(1) The entire money and other considerations therefor shall be expressed therein;

(2) The time when the insurance takes effect and terminates shall be expressed therein;

(3) It shall purport to insure only one (1) person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family, who shall be deemed the policy holder, any two (2) or more eligible members of that family, including husband, wife~~,~~ and any other dependent ~~children or any children under a specified~~ or dependents. As used in this subsection (3), "dependent" includes an unmarried child under the age ~~which shall not exceed nineteen~~ of twenty-one (21) years, ~~and any other person dependent upon the policy holder~~ an unmarried child who is a full-time student under the age of twenty-five (25) years and who is financially dependent upon the parent, and an unmarried child of any age who is medically certified as disabled and dependent upon the parent;

(4) The style, arrangement and overall appearance of the policy shall give no undue prominence to any portion of the text, and every printed portion of the text of the policy and of any endorsements or attached papers shall be plainly printed in light-faced type of a style in general use, the size of which shall be uniform and not less than ten (10) point with a lower case unspaced alphabet length not less than one hundred and twenty (120) point (the "text" shall include all printed matter except the name and address of the insurer, name or title of the policy, the brief description, if any, and captions and subcaptions);

(5) The exceptions and reductions of indemnity shall be set forth in the policy and, other than those contained in sections 41-2105 to 41-2127, inclusive, of this chapter, shall be printed, at the insurer's option, either included with the benefit provisions to which they apply, or under an appropriate caption such as "exceptions," or "exceptions and reductions," except that if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of such exception or reduction shall be included with the benefit provision to which it applies;

(6) Each such form, including riders and endorsements, shall be identified by a form number in the lower left-hand corner of the first page thereof;

(7) The policy shall contain no provision purporting to make any

portion of the charter, rules, constitution or by-laws of the insurer a part of the policy unless such portion is set forth in full in the policy, except in the case of the incorporation of, or reference to, a statement of rates or classification of risks, or short-rate table filed with the director;

(8) When the policy provides payment for medical or surgical expense to the insured, on a reimbursement basis, or otherwise, the insured shall be entitled to a free choice of medical doctor to perform said services, or the free choice of a podiatrist if the latter is authorized by law to perform the particular medical or surgical services covered under the terms of said policy;

(9) When the policy provides for payment for the expense of services that are within the lawful scope of practice of a duly licensed optometrist, on a reimbursement basis or otherwise, the insured shall be entitled to a free choice of medical doctor or optometrist to perform such services.

SECTION 2. That Section 41-4703, Idaho Code, be, and the same is hereby amended to read as follows:

41-4703. DEFINITIONS. As used in this chapter:

(1) "Actuarial certification" means a written statement by a member of the American academy of actuaries or other individual acceptable to the director that a small employer carrier is in compliance with the provisions of section 41-4706, Idaho Code, based upon the person's examination and including a review of the appropriate records and the actuarial assumptions and methods used by the small employer carrier in establishing premium rates for applicable health benefit plans.

(2) "Affiliate" or "affiliated" means any entity or person who directly or indirectly through one (1) or more intermediaries, controls or is controlled by, or is under common control with, a specified entity or person.

(3) "Agent" means a producer as defined in section 41-1003(9~~8~~), Idaho Code.

(4) "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under a rating system for that class of business by the small employer carrier to small employers with similar case characteristics for health benefit plans with the same or similar coverage.

(5) "Board" means the board of directors of the small employer reinsurance program and the individual high risk reinsurance pool as provided for in section 41-5502, Idaho Code.

(6) "Carrier" means any entity that provides, or is authorized to provide, health insurance in this state. For the purposes of this chapter, carrier includes an insurance company, a hospital or professional service corporation, a fraternal benefit society, a health maintenance organization, any entity providing health insurance coverage or benefits to residents of this state as certificate holders under a group policy issued or delivered outside of this state, and any other entity providing a plan of health insurance or health benefits subject to state insurance regulation.

(7) "Case characteristics" means demographic or other objective characteristics of a small employer that are considered by the small employer carrier in the determination of premium rates for the small

employer, provided that claim experience, health status and duration of coverage shall not be case characteristics for the purposes of this chapter.

(8) "Catastrophic health benefit plan" means a higher limit health benefit plan developed pursuant to section 41-4712, Idaho Code.

(9) "Class of business" means all or a separate grouping of small employers established pursuant to section 41-4705, Idaho Code.

(10) "Control" shall be defined in the same manner as in section 41-3801(2), Idaho Code.

(11) "Dependent" means a spouse, an unmarried child under the age of ~~nineteen~~ twenty-one (~~2~~19) years, an unmarried child who is a full-time student under the age of twenty-~~three~~five (~~23~~25) years and who is financially dependent upon the parent, and an unmarried child of any age who is medically certified as disabled and dependent upon the parent.

(12) "Director" means the director of the department of insurance of the state of Idaho.

(13) "Eligible employee" means an employee who works on a full-time basis and has a normal work week of thirty (30) or more hours or, by agreement between the employer and the carrier, an employee who works between twenty (20) and thirty (30) hours per week. The term includes a sole proprietor, a partner of a partnership, and an independent contractor, if the sole proprietor, partner or independent contractor is included as an employee under a health benefit plan of a small employer, but does not include an employee who works on a part-time, temporary, seasonal or substitute basis. The term eligible employee may include public officers and public employees without regard to the number of hours worked when designated by a small employer.

(14) "Established geographic service area" means a geographic area, as approved by the director and based on the carrier's certificate of authority to transact insurance in this state, within which the carrier is authorized to provide coverage.

(15) "Health benefit plan" means any hospital or medical policy or certificate, any subscriber contract provided by a hospital or professional service corporation, or managed care organization subscriber contract. Health benefit plan does not include policies or certificates of insurance for specific disease, hospital confinement indemnity, accident-only, credit, dental, vision, medicare supplement, long-term care, or disability income insurance, student health benefits only coverage issued as a supplement to liability insurance, worker's compensation or similar insurance, automobile medical payment insurance or nonrenewable short-term coverage issues for a period of twelve (12) months or less.

(16) "Index rate" means, for each class of business as to a rating period for small employers with similar case characteristics, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate.

(17) "Late enrollee" means an eligible employee or dependent who requests enrollment in a health benefit plan of a small employer following the initial enrollment period during which the individual is entitled to enroll under the terms of the health benefit plan, provided that the initial enrollment period is a period of at least thirty (30) days. However, an eligible employee or dependent shall not be considered a late enrollee if:

(a) The individual meets each of the following:

(i) The individual was covered under qualifying previous coverage at the time of the initial enrollment;

(ii) The individual lost coverage under qualifying previous coverage as a result of termination of employment or eligibility, or the involuntary termination of the qualifying previous coverage; and

(iii) The individual requests enrollment within thirty (30) days after termination of the qualifying previous coverage.

(b) The individual is employed by an employer which offers multiple health benefit plans and the individual elects a different plan during an open enrollment period.

(c) A court has ordered coverage be provided for a spouse or minor or dependent child under a covered employee's health benefit plan and request for enrollment is made within thirty (30) days after issuance of the court order.

(d) The individual first becomes eligible.

(e) If an individual seeks to enroll a dependent during the first sixty (60) days of eligibility, the coverage of the dependent shall become effective:

(i) In the case of marriage, not later than the first day of the first month beginning after the date the completed request for enrollment is received;

(ii) In the case of a dependent's birth, as of the date of such birth; or

(iii) In the case of a dependent's adoption or placement for adoption, the date of such adoption or placement for adoption.

(18) "New business premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or offered or which could have been charged or offered by the small employer carrier to small employers with similar case characteristics for newly issued health benefit plans with the same or similar coverage.

(19) "Plan of operation" means the plan of operation of the program established pursuant to section 41-4711, Idaho Code.

(20) "Plan year" means the year that is designated as the plan year in the plan document of a group health benefit plan, except that if the plan document does not designate a plan year or if there is no plan document, the year plan is:

(a) The deductible/limit year used under the plan;

(b) If the plan does not impose deductibles or limits on a yearly basis, then the plan year is the policy year;

(c) If the plan does not impose deductibles or limits on a yearly basis or the insurance policy is not renewed on an annual basis, then the plan year is the employer's taxable year; or

(d) In any other case, the plan year is the calendar year.

(21) "Premium" means all moneys paid by a small employer and eligible employees as a condition of receiving coverage from a small employer carrier, including any fees or other contributions associated with the health benefit plan.

(22) "Program" means the Idaho small employer reinsurance program created in section 41-4711, Idaho Code.

(23) "Qualifying previous coverage" and "qualifying existing coverage" mean benefits or coverage provided under:

(a) Medicare or medicaid, civilian health and medical program for uniformed services (CHAMPUS), the Indian health service program, a

state health benefit risk pool or any other similar publicly sponsored program; or

(b) Any other group or individual health insurance policy or health benefit arrangement whether or not subject to the state insurance laws, including coverage provided by a health maintenance organization, hospital or professional service corporation, or a fraternal benefit society, that provides benefits similar to or exceeding benefits provided under the basic health benefit plan.

(24) "Rating period" means the calendar period for which premium rates established by a small employer carrier are assumed to be in effect.

(25) "Reinsuring carrier" means a small employer carrier participating in the reinsurance program pursuant to section 41-4711, Idaho Code.

(26) "Restricted network provision" means any provision of a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of health care providers that have entered into a contractual arrangement with the carrier to provide health care services to covered individuals.

(27) "Risk-assuming carrier" means a small employer carrier whose application is approved by the director pursuant to section 41-4710, Idaho Code.

(28) "Small employer" means any person, firm, corporation, partnership or association that is actively engaged in business that employed an average of at least two (2) but no more than fifty (50) eligible employees on business days during the preceding calendar year and that employs at least two (2) but no more than fifty (50) eligible employees on the first day of the plan year, the majority of whom were and are employed within this state. In determining the number of eligible employees, companies that are affiliated companies, or that are eligible to file a combined tax return for purposes of state taxation, shall be considered one (1) employer.

(29) "Small employer basic health benefit plan" means a lower cost health benefit plan developed pursuant to section 41-4712, Idaho Code.

(30) "Small employer carrier" means a carrier that offers health benefit plans covering eligible employees of one (1) or more small employers in this state.

(31) "Small employer catastrophic health benefit plan" means a higher limit health benefit plan developed pursuant to section 41-4712, Idaho Code.

(32) "Small employer standard health benefit plan" means a health benefit plan developed pursuant to section 41-4712, Idaho Code.

SECTION 3. That Section 41-4706, Idaho Code, be, and the same is hereby amended to read as follows:

41-4706. RESTRICTIONS RELATING TO PREMIUM RATES. (1) Premium rates for health benefit plans subject to the provisions of this chapter shall be subject to the following provisions:

(a) The index rate for a rating period for any class of business shall not exceed the index rate for any other class of business by more than twenty percent (20%).

(b) For a class of business, the premium rates charged during a rating period to small employers with similar case characteristics for the same or similar coverage, or the rates that could be charged

to such employers under the rating system for that class of business, shall not vary from the index rate by more than fifty percent (50%) of the index rate.

(c) The percentage increase in the premium rate charged to a small employer for a new rating period may not exceed the sum of the following:

(i) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a health benefit plan into which the small employer carrier is no longer enrolling new small employers, the small employer carrier shall use the percentage change in the base premium rate, provided that such change does not exceed, on a percentage basis, the change in the new business premium rate for the most similar health benefit plan into which the small employer carrier is actively enrolling new small employers;

(ii) Any adjustment, not to exceed fifteen percent (15%) annually and adjusted pro rata for rating periods of less than one (1) year, due to the claim experience, health status or duration of coverage of the employees or dependents of the small employer as determined from the small employer carrier's rate manual for the class of business; and

(iii) Any adjustment due to change in coverage or change in the case characteristics of the small employer as determined from the small employer carrier's rate manual for the class of business.

(d) Adjustments in rates for claim experience, health status and duration of coverage shall not be charged to individual employees or dependents. Any such adjustment shall be applied uniformly to the rates charged for all employees and dependents of the small employer.

(e) Premium rates for health benefit plans shall comply with the requirements of this section notwithstanding any assessments paid or payable by small employer carriers pursuant to section 41-4711, Idaho Code, or chapter 55, title 41, Idaho Code.

(f) (i) Small employer carriers shall apply rating factors, including case characteristics, consistently with respect to all small employers in a class of business. Rating factors shall produce premiums for identical groups which differ only by the amounts attributable to plan design and do not reflect differences due to the nature of the groups assumed to select particular health benefit plans; and

(ii) A small employer carrier shall treat all health benefit plans issued or renewed in the same calendar month as having the same rating period.

(g) For the purposes of this subsection, a health benefit plan that utilizes a restricted provider network shall not be considered similar coverage to a health benefit plan that does not utilize such a network, provided that utilization of the restricted provider network results in substantial differences in claims costs.

(h) The small employer carrier shall not use case characteristics, other than age, individual tobacco use, geography, as defined by rule of the director, or gender, without prior approval of the director.

(i) A small employer carrier may utilize age as a case characteristic in establishing premium rates, provided that the same rating factor shall be applied to all dependents under twenty-~~three~~five (23~~5~~) years of age, and the same rating factor may be applied on an annual basis as to individuals or nondependents twenty (20) years of age or older.

(j) The director may establish rules to implement the provisions of this section and to assure that rating practices used by small employer carriers are consistent with the purposes of this chapter, including rules that:

(i) Assure that differences in rates charged for health benefit plans by small employer carriers are reasonable and reflect objective differences in plan design, not including differences due to the nature of the groups assumed to select particular health benefit plans;

(ii) Prescribe the manner in which case characteristics may be used by small employer carriers; and

(iii) Prescribe the manner in which a small employer carrier is to demonstrate compliance with the provisions of this section, including requirements that a small employer carrier provide the director with actuarial certification as to such compliance.

(2) A small employer carrier shall not transfer a small employer involuntarily into or out of a class of business. A small employer carrier shall not offer to transfer a small employer into or out of a class of business unless such offer is made to transfer all small employers in the class of business without regard to case characteristics, claim experience, health status or duration of coverage since issue.

(3) The director may suspend for a specified period the application of subsection (1)(a) of this section as to the premium rates applicable to one (1) or more small employers included within a class of business of a small employer carrier for one (1) or more rating periods upon a filing by the small employer carrier and a finding by the director either that the suspension is reasonable in light of the financial condition of the small employer carrier or that the suspension would enhance the efficiency and fairness of the marketplace for small employer health insurance.

(4) In connection with the offering for sale of any health benefit plan to a small employer, a small employer carrier shall make a reasonable disclosure, as part of its solicitation and sales materials, of all of the following:

(a) The extent to which premium rates for a specified small employer are established or adjusted based upon the actual or expected variation in claims costs or actual or expected variation in health status of the employees of the small employer and their dependents;

(b) The provisions of the health benefit plan concerning the small employer carrier's right to change premium rates and the factors, other than claim experience, that affect changes in premium rates;

(c) The provisions relating to renewability of policies and contracts; and

(d) The provisions relating to any preexisting condition provision.

(5) (a) Each small employer carrier shall maintain at its principal place of business a complete and detailed description of its rating

practices and renewal underwriting practices, including information and documentation that demonstrate that its rating methods and practices are based upon commonly accepted actuarial assumptions and are in accordance with sound actuarial principles.

(b) Each small employer carrier shall file with the director annually on or before March 15, an actuarial certification certifying that the carrier is in compliance with the provisions of this chapter and that the rating methods of the small employer carrier are actuarially sound. Such certification shall be in a form and manner, and shall contain such information, as specified by the director. A copy of the certification shall be retained by the small employer carrier at its principal place of business.

(c) A small employer carrier shall make the information and documentation described in subsection (4)(a) of this section available to the director upon request. Except in cases of violations of the provisions of this chapter, the information shall be considered proprietary and trade secret information and shall not be subject to disclosure by the director to persons outside of the department except as agreed to by the small employer carrier or as ordered by a court of competent jurisdiction.

SECTION 4. That Section 41-5203, Idaho Code, be, and the same is hereby amended to read as follows:

41-5203. DEFINITIONS. As used in this chapter:

(1) "Actuarial certification" means a written statement by a member of the American academy of actuaries or other individual acceptable to the director that an individual carrier is in compliance with the provisions of section 41-5206, Idaho Code, based upon the person's examination and including a review of the appropriate records and the actuarial assumptions and methods used by the individual carrier in establishing premium rates for applicable health benefit plans.

(2) "Affiliate" or "affiliated" means any entity or person who directly or indirectly through one (1) or more intermediaries, controls or is controlled by, or is under common control with, a specified entity or person.

(3) "Agent" means a producer as defined in section 41-1003(8), Idaho Code.

(4) "Base premium rate" means, as to a rating period, the lowest premium rate charged or that could have been charged under a rating system by the individual carrier to individuals with similar case characteristics for health benefit plans with the same or similar coverage.

(5) "Carrier" means any entity that provides health insurance in this state. For purposes of this chapter, carrier includes an insurance company, a hospital or professional service corporation, a fraternal benefit society, a health maintenance organization, any entity providing health insurance coverage or benefits to residents of this state as certificate holders under a group policy issued or delivered outside of this state, and any other entity providing a plan of health insurance or health benefits subject to state insurance regulation.

(6) "Case characteristics" means demographic or other objective characteristics of an individual that are considered by the individual carrier in the determination of premium rates for the individual, provided that claim experience, health status and duration of coverage

shall not be case characteristics for the purposes of this chapter.

(7) "Control" shall be defined in the same manner as in section 41-3801(2), Idaho Code.

(8) "Dependent" means a spouse, an unmarried child under the age of ~~nineteen~~ twenty-one (2~~1~~9) years, an unmarried child who is a full-time student under the age of twenty-~~three~~five (23~~5~~) years and who is financially dependent upon the parent, and an unmarried child of any age who is medically certified as disabled and dependent upon the parent.

(9) "Director" means the director of the department of insurance of the state of Idaho.

(10) "Eligible individual" means an Idaho resident individual or dependent of an Idaho resident:

(a) Who is under the age of sixty-five (65) years, is not eligible for coverage under a group health plan, part A or part B of title XVIII of the social security act (medicare), or a state plan under title XIX (medicaid) or any successor program, and who does not have other health insurance coverage; or

(b) Who is a federally eligible individual (one who meets the eligibility criteria set forth in the federal health insurance portability and accountability act of 1996 Public Law 104-191, Sec. 2741(b)(HIPAA)).

An "eligible individual" can be the dependent of an eligible employee, which eligible employee is receiving health insurance benefits subject to the regulation of title 41, Idaho Code.

(11) "Established geographic service area" means a geographic area, as approved by the director and based on the carrier's certificate of authority to transact insurance in this state, within which the carrier is authorized to provide coverage.

(12) "Health benefit plan" means any hospital or medical policy or certificate, any subscriber contract provided by a hospital or professional service corporation, or health maintenance organization subscriber contract. Health benefit plan does not include policies or certificates of insurance for specific disease, hospital confinement indemnity, accident-only, credit, dental, vision, medicare supplement, long-term care, or disability income insurance, student health benefits only, coverage issued as a supplement to liability insurance, worker's compensation or similar insurance, automobile medical payment insurance, or nonrenewable short-term coverage issued for a period of twelve (12) months or less.

(13) "Index rate" means, as to a rating period for individuals with similar case characteristics, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate.

(14) "Individual basic health benefit plan" means a lower cost health benefit plan developed pursuant to chapter 55, title 41, Idaho Code.

(15) "Individual catastrophic A health benefit plan" means a higher limit health benefit plan developed pursuant to chapter 55, title 41, Idaho Code.

(16) "Individual catastrophic B health benefit plan" means a health benefit plan with limits higher than an individual catastrophic A health benefit plan developed pursuant to chapter 55, title 41, Idaho Code.

(17) "Individual HSA compatible health benefit plan" means a health savings account compatible health benefit plan developed pursuant to section 41-5511, Idaho Code.

(18) "Individual standard health benefit plan" means a health benefit plan developed pursuant to chapter 55, title 41, Idaho Code.

(19) "New business premium rate" means, as to a rating period, the lowest premium rate charged or offered or which could have been charged or offered by the individual carrier to individuals with similar case characteristics for newly issued health benefit plans with the same or similar coverage.

(20) "Premium" means all moneys paid by an individual and eligible dependents as a condition of receiving coverage from a carrier, including any fees or other contributions associated with the health benefit plan.

(21) "Qualifying previous coverage" and "qualifying existing coverage" mean benefits or coverage provided under:

(a) Medicare or medicaid, civilian health and medical program for uniformed services (CHAMPUS), the Indian health service program, a state health benefit risk pool, or any other similar publicly sponsored program; or

(b) Any group or individual health insurance policy or health benefit arrangement whether or not subject to the state insurance laws, including coverage provided by a managed care organization, hospital or professional service corporation, or a fraternal benefit society, that provides benefits similar to or exceeding benefits provided under the basic health benefit plan.

(22) "Rating period" means the calendar period for which premium rates established by a carrier are assumed to be in effect.

(23) "Reinsuring carrier" means a carrier participating in the Idaho individual high risk reinsurance pool established in chapter 55, title 41, Idaho Code.

(24) "Restricted network provision" means any provision of a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of health care providers that have entered into a contractual arrangement with the carrier to provide health care services to covered individuals.

(25) "Risk-assuming carrier" means a carrier whose application is approved by the director pursuant to section 41-5210, Idaho Code.

(26) "Individual carrier" means a carrier that offers health benefit plans covering eligible individuals and their dependents.

SECTION 5. That Section 41-5206, Idaho Code, be, and the same is hereby amended to read as follows:

41-5206. RESTRICTIONS RELATING TO PREMIUM RATES. (1) Premium rates for health benefit plans subject to the provisions of this chapter shall be subject to the following provisions:

(a) The premium rates charged during a rating period to individuals with similar case characteristics for the same or similar coverage, or the rates that could be charged to such individuals under the rating system, shall not vary from the index rate by more than fifty percent (50%) of the index rate.

(b) The percentage increase in the premium rate charged to an individual for a new rating period may not exceed the sum of the following:

(i) The percentage change in the new business premium rate measured from the first day of the prior rating period to the

first day of the new rating period. In the case of a health benefit plan into which the individual carrier is no longer enrolling new individuals, the individual carrier shall use the percentage change in the base premium rate, provided that such change does not exceed, on a percentage basis, the change in the new business premium rate for the most similar health benefit plan into which the individual carrier is actively enrolling new individuals.

(ii) Any adjustment, not to exceed fifteen percent (15%) annually and adjusted pro rata for rating periods of less than one (1) year, due to the claim experience, health status or duration of coverage of the individual or dependents as determined from the individual carrier's rate manual; and

(iii) Any adjustment due to change in coverage or change in the case characteristics of the individual as determined from the individual carrier's rate manual.

(c) Premium rates for health benefit plans shall comply with the requirements of this section notwithstanding any assessments paid or payable by carriers pursuant to section 41-4711, Idaho Code, or chapter 55, title 41, Idaho Code.

(d) (i) Individual carriers shall apply rating factors, including case characteristics, consistently with respect to all individuals. Rating factors shall produce premiums for identical individuals which differ only by the amounts attributable to plan design and do not reflect differences due to the nature of the individuals assumed to select particular health benefit plans; and

(ii) An individual carrier shall treat all health benefit plans issued or renewed in the same calendar month as having the same rating period.

(e) For purposes of this subsection, a health benefit plan that utilizes a restricted provider network shall not be considered similar coverage to a health benefit plan that does not utilize such a network, provided that utilization of the restricted provider network results in substantial differences in claims costs.

(f) The individual carrier shall not use case characteristics, other than age, individual tobacco use, geography as defined by rule of the director, or gender, without prior approval of the director.

(g) An individual carrier may utilize age as a case characteristic in establishing premium rates, provided that the same rating factor shall be applied to all dependents under twenty-~~three~~five (23~~3~~5) years of age, and the same rating factor may be applied on an annual basis as to individuals or nondependents twenty (20) years of age or older.

(h) The director may establish rules to implement the provisions of this section and to assure that rating practices used by individual carriers are consistent with the purposes of this chapter, including rules that:

(i) Assure that differences in rates charged for health benefit plans by individual carriers are reasonable and reflect objective differences in plan design, not including differences due to the nature of the individuals assumed to select particular health benefit plans;

(ii) Prescribe the manner in which case characteristics may be used by individual carriers; and

(iii) Prescribe the manner in which an individual carrier is to demonstrate compliance with the provisions of this section, including requirements that an individual carrier provide the director with actuarial certification as to such compliance.

(2) The director may suspend for a specified period the application of subsection (1)(a) of this section as to the premium rates applicable to one (1) or more individuals for one (1) or more rating periods upon a filing by the individual carrier and a finding by the director either that the suspension is reasonable in light of the financial condition of the individual carrier or that the suspension would enhance the efficiency and fairness of the marketplace for individual health insurance.

(3) In connection with the offering for sale of any health benefit plan to an individual, an individual carrier shall make a reasonable disclosure, as part of its solicitation and sales materials, of all of the following:

(a) The extent to which premium rates for an individual are established or adjusted based upon the actual or expected variation in claims costs or actual or expected variation in health status of the individual and his dependents;

(b) The provisions of the health benefit plan concerning the individual carrier's right to change premium rates and the factors, other than claim experience, that affect changes in premium rates;

(c) The provisions relating to renewability of policies and contracts; and

(d) The provisions relating to any preexisting condition provision.

(4) (a) Each individual carrier shall maintain at its principal place of business a complete and detailed description of its rating practices and renewal underwriting practices, including information and documentation that demonstrate that its rating methods and practices are based upon commonly accepted actuarial assumptions and are in accordance with sound actuarial principles.

(b) Each individual carrier shall file with the director annually on or before September 15, an actuarial certification certifying that the carrier is in compliance with the provisions of this chapter and that the rating methods of the individual carrier are actuarially sound. Such certification shall be in a form and manner, and shall contain such information, as specified by the director. A copy of the certification shall be retained by the individual carrier at its principal place of business.

(c) An individual carrier shall make the information and documentation described in subsection (4)(a) of this section available to the director upon request. Except in cases of violations of the provisions of this chapter, the information shall be considered proprietary and trade secret information and shall not be subject to disclosure by the director to persons outside of the department except as agreed to by the individual carrier or as ordered by a court of competent jurisdiction.

SECTION 6. That Section 41-5501, Idaho Code, be, and the same is hereby amended to read as follows:

41-5501. DEFINITIONS. As used in this chapter:

(1) "Agent" means a producer as defined in section 41-1003(8), Idaho Code.

(2) "Board" means the board of directors of the Idaho high risk individual reinsurance pool established in this chapter and the Idaho small employer reinsurance program established in section 41-4711, Idaho Code.

(3) "Carrier" means any entity that provides, or is authorized to provide, health insurance in this state. For purposes of this chapter, carrier includes an insurance company, any other entity providing reinsurance including excess or stop loss coverage, a hospital or professional service corporation, a fraternal benefit society, a managed care organization, any entity providing health insurance coverage or benefits to residents of this state as certificate holders under a group policy issued or delivered outside of this state, and any other entity providing a plan of health insurance or health benefits subject to state insurance regulation.

(4) "Dependent" means a spouse, an unmarried child under the age of ~~nineteen~~ twenty-one (~~2~~19) years, an unmarried child who is a full-time student under the age of twenty-~~three~~five (~~23~~5) years and who is financially dependent upon the parent, and an unmarried child of any age who is medically certified as disabled and dependent upon the parent.

(5) "Director" means the director of the department of insurance of the state of Idaho.

(6) "Eligible individual" means:

(a) An Idaho resident individual or dependent of an Idaho resident who is under the age of sixty-five (65) years, is not eligible for coverage under a group health plan, part A or part B of title XVIII of the social security act (medicare), or a state plan under title XIX (medicaid) or any successor program, and who does not have other health insurance coverage; or

(b) An individual who is legally domiciled in Idaho on the date of application to the pool and is eligible for the credit for health insurance costs under section 35 of the Internal Revenue Code of 1986; or

(c) An Idaho resident individual or a dependent of an Idaho resident who is a federally eligible individual (one who meets the eligibility criteria set forth in the federal health insurance portability and accountability act of 1996 Public Law 104-191, Sec. 2741(b) (HIPAA)).

Coverage under a basic, standard, catastrophic A, catastrophic B, or HSA compatible health benefit plan shall not be available to any individual who is covered under other health insurance coverage. For purposes of this chapter, to be eligible, an individual must also meet the requirements of section 41-5510, Idaho Code.

(7) "Health benefit plan" means any hospital or medical policy or certificate, any subscriber contract provided by a hospital or professional service corporation, or health maintenance organization subscriber contract. Health benefit plan does not include policies or certificates of insurance for specific disease, hospital confinement indemnity, accident-only, credit, dental, vision, medicare supplement, long-term care, or disability income insurance, student health benefits only, coverage issued as a supplement to liability insurance, worker's compensation or similar insurance, automobile medical payment insurance, or

nonrenewable short-term coverage issued for a period of twelve (12) months or less.

(8) "Individual basic health benefit plan" means a lower cost health benefit plan developed pursuant to section 41-5511, Idaho Code.

(9) "Individual carrier" means a carrier that offers health benefit plans covering eligible individuals and their dependents.

(10) "Individual catastrophic A health benefit plan" means a higher limit health benefit plan developed pursuant to section 41-5511, Idaho Code.

(11) "Individual catastrophic B health benefit plan" means a health benefit plan offering limits higher than a catastrophic A health benefit plan developed pursuant to section 41-5511, Idaho Code.

(12) "Individual HSA compatible health benefit plan" means a health savings account compatible health benefit plan developed pursuant to section 41-5511, Idaho Code.

(13) "Individual standard health benefit plan" means a health benefit plan developed pursuant to section 41-5511, Idaho Code.

(14) "Plan" or "pool plan" means the individual basic, standard, catastrophic A, catastrophic B, or HSA compatible health benefit plan established pursuant to section 41-5511, Idaho Code.

(15) "Plan of operation" means the plan of operation of the individual high risk reinsurance pool established pursuant to this chapter.

(16) "Pool" means the Idaho high risk reinsurance pool.

(17) "Premium" means all moneys paid by an individual and eligible dependents as a condition of receiving coverage from a carrier, including any fees or other contributions associated with the health benefit plan.

(18) "Qualifying previous coverage" and "qualifying existing coverage" mean benefits or coverage provided under:

(a) Medicare or medicaid, civilian health and medical program for uniformed services (CHAMPUS), the Indian health service program, a state health benefit risk pool, or any other similar publicly sponsored program; or

(b) Any group or individual health insurance policy or health benefit arrangement whether or not subject to the state insurance laws, including coverage provided by a managed care organization or a fraternal benefit society.

(19) "Reinsurance premium" means the premium set by the board pursuant to section 41-5506, Idaho Code, to be paid by a reinsuring carrier for plans issued under the pool.

(20) "Reinsuring carrier" means a carrier participating in the individual high risk reinsurance pool established by this chapter.

(21) "Restricted network provision" means any provision of a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of health care providers that have entered into a contractual arrangement with the carrier to provide health care services to covered individuals.

SECTION 7. That Section 63-3022K, Idaho Code, be, and the same is hereby amended to read as follows:

63-3022K. MEDICAL SAVINGS ACCOUNT. (1) For taxable years commencing on and after January 1, 1995, annual contributions to a medical savings account not exceeding two thousand dollars ($2,000) for the account

holder and interest earned on a medical savings account shall be deducted from taxable income by the account holder, if such amount has not been previously deducted or excluded in arriving at taxable income. For married individuals the maximum deduction shall be computed separately for each individual. Contributions to the account shall not exceed the amount deductible under this section.

(2) For the purpose of this section, the following terms have the following meanings unless the context clearly denotes otherwise:

(a) "Account holder" means an individual, in the case of married individuals each spouse, including a self-employed person, on whose behalf the medical savings account is established.

(b) "Dependent" means a person for whom a deduction is permitted under section 151(b) or (c) of the Internal Revenue Code if a deduction for the person is claimed for that person on the account holder's Idaho income tax return.

(c) "Dependent child" means a child or grandchild of the account holder who is not a dependent if the account holder actually pays the eligible medical expenses of the child or grandchild and the child or grandchild is any of the following:

(i) Under ~~nineteen~~ twenty-one (~~2~~19) years of age, or enrolled as a full-time student at an accredited college or university.

(ii) Legally entitled to the provision of proper or necessary subsistence, education, medical care or other care necessary for his or her health, guidance or well-being and not otherwise emancipated, self-supporting, married or a member of the armed forces of the United States.

(iii) Mentally or physically incapacitated to the extent that he or she is not self-sufficient.

(d) "Depository" means a state or national bank, savings and loan association, credit union or trust company authorized to act as a fiduciary or an insurance administrator or insurance company authorized to do business in this state, a broker or investment advisor regulated by the department of finance, a broker or insurance agent regulated by the department of insurance or a health maintenance organization, fraternal benefit society, hospital and professional service corporation as defined in section 41-3403, Idaho Code, or nonprofit mutual insurer regulated under title 41, Idaho Code.

(e) "Eligible medical expense" means an expense paid by the taxpayer for medical care described in section 213(d) of the Internal Revenue Code, and long-term care expenses of the account holder and the spouse, dependents and dependent children of the account holder.

(f) "Long-term care expenses" means expenses incurred in providing custodial care in a nursing facility as defined in section 39-1301, Idaho Code, and for insurance premiums relating to long-term care insurance under chapter 46, title 41, Idaho Code.

(g) "Medical savings account" means an account established with a depository to pay the eligible medical expenses of the account holder and the dependents and dependent children of the account holder. Medical savings accounts shall carry the name of the account holder, a designated beneficiary or beneficiaries of the account holder and shall be designated by the depository as a "medical savings account."

(3) Upon agreement between an employer and employee, an employer may establish and contribute to the employee's medical savings account

or contribute to an employee's existing medical savings account. The total combined annual contributions by an employer and the account holder shall not exceed two thousand dollars ($2,000) for the account holder. Employer contributions to an employee's medical savings account shall be owned by the employee.

(4) Funds held in a medical savings account may be withdrawn by the account holder at any time. Withdrawals for the purpose of paying eligible medical expenses shall not be subject to the tax imposed in this chapter. The burden of proving that a withdrawal from a medical savings account was made for an eligible medical expense is upon the account holder and not upon the depository or the employer of the account holder. Other withdrawals shall be subject to the following restrictions and penalties:

(a) There shall be a distribution penalty for withdrawal of funds by the account holder for purposes other than the payment of eligible medical expenses. The penalty shall be ten percent (10%) of the amount of withdrawal from the account and, in addition, the amount withdrawn shall be subject to the tax imposed in this chapter. The direct transfer of funds from a medical savings account to a medical savings account at a different depository shall not be considered a withdrawal for purposes of this section. Charges relating to the administration and maintenance of the account by the depository are not withdrawals for purposes of this section.

(b) After an account holder reaches fifty-nine and one-half (59 1/2) years of age, withdrawals may be made for eligible medical expenses or for any other reason without penalty, but subject to the tax imposed by this section.

(c) Upon the death of an account holder, the account principal, as well as any interest accumulated thereon, shall be distributed without penalty to the designated beneficiary or beneficiaries.

(d) Funds withdrawn which are later reimbursed shall be taxable unless redeposited into the account within sixty (60) days of the reimbursement. Deposits of reimbursed eligible medical expenses shall not be included in calculating the amount deductible.

(e) Funds deposited in a medical savings account which are deposited in error or unintentionally and which are withdrawn within thirty (30) days of being deposited shall be treated as if the amounts had not been deposited in the medical savings account. Funds withdrawn from a medical savings account which are withdrawn in error or unintentionally and which are redeposited within thirty (30) days of being withdrawn shall be treated as if the amounts had not been withdrawn from the medical savings account.

(f) Funds withdrawn which are, not later than the sixtieth day after the day of the withdrawal, deposited into another medical savings account for the benefit of the same account holder are not a withdrawal for purposes of this section and shall not be included in calculating the amount deductible.

(5) Reporting. Depositories, in the case of medical savings accounts, shall provide to the state tax commission, in the routine fashion used for all interest-bearing accounts, the same information that is provided for any interest-bearing bank account. So as to minimize the burden of reporting, the information shall be provided in the format in which information is provided for any interest-bearing bank account to the state tax commission. There shall be no other reporting

requirements. Account holders shall provide on any state income tax form in which they take a deduction for a medical savings account the account number of their medical savings account and the depository at which the account is held.

(6) Any medical care savings account established pursuant to chapter 53, title 41, Idaho Code, as enacted by chapter 186, laws of 1994, may be continued pursuant to the provisions of this section and all duties, privileges and liabilities imposed in this section upon account holders of medical care savings accounts and the beneficiaries of those accounts shall apply to account holders of medical care savings accounts and their beneficiaries established pursuant to chapter 53, title 41, Idaho Code, as enacted by chapter 186, laws of 1994, as if the medical care savings account were a medical savings account established pursuant to this section.

(7) (a) If the account holder's surviving spouse acquires the account holder's interest in a medical savings account by reason of being the designated beneficiary of such account at the death of the account holder, the medical savings account shall be treated as if the spouse were the account holder.

(b) If, by reason of the death of the account holder, any person acquires the account holder's interest in a medical savings account in a case to which subparagraph (7)(a) of this section does not apply:

(i) Such account shall cease to be a medical savings account as of the date of death; and

(ii) An amount equal to the fair market value of the assets in such account on such date shall be includable, if such person is not the estate of such holder, in such person's Idaho taxable income for the taxable year which includes such date, or if such person is the estate of such holder, in such holder's Idaho taxable income for the last taxable year of such holder.

(c) The amount includable in Idaho taxable income under subparagraph (b) of this subsection (7) by any person, other than the estate, shall be reduced by the amount of qualified medical expenses which were incurred by the decedent before the date of the decedent's death and paid by such person within one (1) year after such date.

Approved March 21, 2007.

CHAPTER 149
(H.B. No. 110)

AN ACT

RELATING TO THE STATE ATHLETIC COMMISSION; AMENDING SECTION 54-401, IDAHO CODE, TO PROVIDE FOR AN HONORARIUM FOR THE STATE ATHLETIC COMMISSIONER; AMENDING SECTION 54-402, IDAHO CODE, TO REVISE DEFINITIONS AND DEFINE TERMS; AMENDING SECTION 54-403, IDAHO CODE, TO REVISE DESCRIPTIVE LANGUAGE AND TO REVISE PROVISIONS RELATING TO AGENTS, EMPLOYEES AND INSPECTORS OF THE COMMISSION; AMENDING SECTION 54-404, IDAHO CODE, TO REVISE DESCRIPTIVE LANGUAGE, TO REFERENCE COMMISSION AGENTS AND TO REMOVE LANGUAGE RELATING TO SEALS OF THE

COMMISSION; AMENDING SECTION 54-405, IDAHO CODE, TO REVISE DESCRIPTIVE LANGUAGE AND TO REFERENCE KICKBOXING AND MARTIAL ARTS CONTESTS AND EXHIBITIONS; AMENDING SECTION 54-406, IDAHO CODE, TO REVISE POWERS AND DUTIES OF THE COMMISSION AND TO REVISE EXEMPTIONS; AMENDING SECTION 54-408, IDAHO CODE, TO PROVIDE FOR APPLICABILITY TO ALL CONTESTS OR EXHIBITIONS, TO REVISE A CODE REFERENCE AND TO PROVIDE FOR BOND PROCEEDS TO BE DEPOSITED INTO THE OCCUPATIONAL LICENSES FUND; AMENDING SECTION 54-411, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A STATEMENT AND REPORT OF AN EVENT AND TO PROVIDE FOR LEVIES TO BE DEPOSITED INTO THE OCCUPATIONAL LICENSES FUND; AMENDING SECTION 54-412, IDAHO CODE, TO REVISE DESCRIPTIVE LANGUAGE AND TO PROVIDE FOR THE DEPOSIT AND DISTRIBUTION OF FEES; AMENDING SECTION 54-413, IDAHO CODE, TO PROVIDE FOR APPLICABILITY TO ALL CONTESTS OR EXHIBITIONS AND TO REMOVE LANGUAGE REGARDING THE PAYMENT OF RECEIPTS INTO THE STATE ATHLETIC COMMISSION FUND; AMENDING SECTION 54-415, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO A PHYSICIAN'S ATTENDANCE AT CONTESTS OR EXHIBITIONS AND THE EXAMINATION OF CONTESTANTS; AMENDING SECTION 54-416, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE, TO PROVIDE FOR APPLICABILITY TO ALL CONTESTS OR EXHIBITIONS, TO REMOVE LANGUAGE REGARDING THE DEPOSIT OF FEES INTO THE STATE ATHLETIC COMMISSION FUND; AMENDING SECTION 54-417, IDAHO CODE, TO PROVIDE THAT CERTAIN PERSONS SHALL FORFEIT ANY LICENSES ISSUED PURSUANT TO THE CHAPTER; AMENDING SECTION 54-419, IDAHO CODE, TO REFER TO THE COMMISSION'S AGENT, TO MAKE GRAMMATICAL CHANGES, TO PROVIDE FOR THE FORFEITURE OF LICENSES AND ACTIONS TO COLLECT AND TO PROVIDE FOR THE DEPOSIT OF MONEYS COLLECTED INTO THE OCCUPATIONAL LICENSES FUND; AMENDING SECTION 54-420, IDAHO CODE, TO REFERENCE KICKBOXING AND MARTIAL ARTS CONTESTS OR EXHIBITIONS, TO REVISE A CODE REFERENCE, TO REFERENCE THE COMMISSION'S AGENT AND TO PROVIDE FOR THE DEPOSIT OF PENALTIES INTO THE OCCUPATIONAL LICENSES FUND.

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

SECTION 1. That Section 54-401, Idaho Code, be, and the same is hereby amended to read as follows:

54-401. STATE ATHLETIC COMMISSION. There is hereby created and established the state athletic commission in the department of self-governing agencies. The state athletic commission shall be administered by the state athletic commissioner who shall be appointed by the governor subject to confirmation by the senate and shall be subject to removal at the pleasure of the governor. The state athletic commissioner shall be appointed for a term of four (4) years and shall receive ~~compensation~~ an honorarium not to exceed that provided in section 59-509(~~h~~p), Idaho Code.

SECTION 2. That Section 54-402, Idaho Code, be, and the same is hereby amended to read as follows:

54-402. DEFINITIONS. (1) The terms used in this chapter have the following meanings:

(a) "Amateur" means an individual who has never been a professional boxer, kickboxer, martial artist or professional wrestler, as defined in this chapter, as well as an individual who has never

received nor competed for any purse or other article of value, either for participating in any ~~boxing~~ contest or exhibition of unarmed combat or for the expenses of training therefor, other than a noncash prize which does not exceed fifty dollars ($50.00) in value.

(b) "Applicant" means any individual, club, association, corporation, partnership, trust or other business entity which submits an application to the ~~athletic~~ commission for a license or permit pursuant to this chapter.

(c) "Booking agent" means persons who act as bookers, agents, agencies and representatives who secure engagements and contracts for boxers.

(d) "Boxing" means the pugilistic act of attack and defense with the fists, practiced as a sport. The term includes all variations of the sport permitting or using other parts of the human body to deliver blows upon an opponent including, but not limited to, the foot, knee, leg, elbow or head. "Boxing" includes, but is not limited to, kickboxing and martial arts but does not include professional wrestling.

(e) "Broadcast" means any audio or visual transmission sent by any means of signal within, into, or from this state, whether live or taped or time delayed, and includes any replays thereof.

(f) "Bureau" means the Idaho bureau of occupational licenses.

(g) "Closed-circuit telecast" means any telecast of professional boxing contests, professional boxing exhibitions or professional wrestling exhibitions which is not intended to be available for viewing without the payment of a fee, collected or based upon each telecast viewed, or for the privilege of viewing the telecast.

(~~g~~h) "Club" means an incorporated or unincorporated association or body of individuals voluntarily united and acting together for some common or special purpose.

(~~h~~i) "College" and/or ~~"univerity"~~ "university" means:

(i) An educational institution of higher learning that typically grants associate's, bachelor's, master's or doctorate degrees;

(ii) A division or school of a university; and

(iii) As used in this chapter, also includes educational institutions known as junior colleges, community colleges and professional-technical schools.

(~~i~~j) "Commission" means the state athletic commission.

(~~j~~k) "Commissioner" means the state athletic commissioner.

(~~k~~l) "Contest" means a match in which the participants strive earnestly in good faith to win.

(~~l~~m) "Contestant" means an individual who takes part as a competitor in a boxing contest, boxing exhibition or wrestling exhibition.

(~~m~~n) "Corner person" means, but shall not be limited to, a trainer, a second, or any other individual who attends the contestant during a match.

(~~n~~o) "Exhibition" means an engagement in which the participants show or display their skill without necessarily striving to win, such as a wrestling match between professional wrestlers or boxing match where contestants are sparring.

(~~o~~p) "Judge" means an individual other than a referee who shall have a vote in determining the winner of any contest.
(~~p~~q) "Kickboxing" means any form of competitive pugilistic ~~professional~~ contest or ~~professional~~ exhibition in which blows are delivered with the hand and any part of the foot.
(~~q~~r) "License" means a certificate issued by the commission to participants of sanctioned professional contests and exhibitions or amateur contests and exhibitions which are not exempt from regulation under section 54-406(~~2~~3), Idaho Code, which is required for participation in such events.
(~~r~~s) "Licensee" means a person who has been issued a license by the commission.
(~~s~~t) "Manager" means a person who controls or administers the affairs of any professional contestant. The term "manager" includes a person acting as a booking agent or a person acting as the representative of a manager.
(~~t~~u) "Martial arts" means any form of karate, kung fu, tae ~~kwon-do~~ kwon do, sumo, judo or any other system or form of combat or self-defense art.
(~~u~~v) "Matchmaker" means a person who brings together or induces ~~professional--boxing--or-wrestling~~ contestants regulated by the commission to participate in contests or exhibitions regulated by the commission or a person who arranges ~~professional~~ contests or ~~professional~~ exhibitions regulated by the commission.
(~~v~~w) "Participant" means any person who is required by this chapter to be licensed by the commission in connection with taking part in or being associated with a ~~boxing~~ contest~~,--boxing--exhibition~~ or ~~wrestling~~ exhibition regulated by the commission.
(~~w~~x) "Person" means any individual, partnership, limited liability company, club, association, corporation, organization, secondary school, college, university, trust or other legal entity.
(~~x~~y) "Physician" means an individual licensed under the laws of this state to engage in the general practice of medicine or osteopathic medicine.
(~~y~~z) "Professional boxer" means an individual eighteen (18) years of age or older who participates as a contestant in a boxing event for money, prizes, or purses, or who teaches, instructs, or assists in the practice of boxing or sparring as a means of obtaining pecuniary gain.
(~~z~~aa) "Professional contest and professional exhibition" means any boxing match or wrestling exhibition conducted within this state involving professional boxing or wrestling contestants.
(~~aa~~bb) "Professional wrestler" means an individual eighteen (18) years of age or older who participates as a contestant in a wrestling exhibition for money, prizes, or purses, or who teaches, instructs, or assists in wrestling exhibitions as a means of obtaining pecuniary gain.
(~~bb~~cc) "Professional wrestling" means an activity, other than boxing, in which contestants struggle hand-to-hand primarily for the purpose of providing entertainment to spectators and which does not comprise a bona fide athletic contest or competition.
(~~cc~~dd) "Promoter" means any person including an owner, officer, partner, member, director, employee or shareholder thereof, who produces, arranges or stages any professional wrestling exhibition, any

professional ~~boxing~~ contest or exhibition, or any amateur ~~boxing~~ contest or exhibition which is not exempt from regulation pursuant to section 54-406(~~2~~3), Idaho Code.

(~~dd~~ee) "Pugilistic" means an act related to the skill or practice of fighting with the fists.

(~~ee~~ff) "Purse" means the financial guarantee or any other remuneration or thing of value for which a person participates in a professional boxing contest, professional boxing exhibition or professional wrestling exhibition.

(~~ff~~gg) "Ring official" means any individual who performs an official function during the progress of a regulated ~~boxing~~ contest or ~~a regulated boxing or wrestling~~ exhibition including, but not limited to, timekeepers, judges, referees and attending physicians.

(~~gg~~hh) "Sanctioning permit" means a license issued by the commission to a promoter which authorizes the holding of ~~boxing~~ contests~~, boxing~~ and exhibitions, kickboxing contests and exhibitions, martial arts contests and exhibitions or professional wrestling contests and exhibitions.

(~~hh~~ii) "Secondary school" shall mean a school which, for operational purposes, is organized and administered on the basis of grades seven (7) through twelve (12), inclusive, or any combination thereof.

(~~ii~~jj) "Sparring" means to engage in a form of boxing with jabbing or feinting movements, and the exchange of few heavy blows, such as occurs in a practice or exhibition ~~boxing~~ match.

(~~jj~~kk) "Trainer" means an individual who assists, coaches or instructs any ~~boxer or wrestler~~ unarmed combatant with respect to physical conditioning, strategy, techniques or preparation for competition in ~~boxing~~ contests~~, boxing exhibitions~~ or ~~professional wrestling~~ exhibitions which are not exempt from regulation pursuant to section 54-406(~~2~~3), Idaho Code.

(11) "Unarmed combat" means a fight or contest between individuals or groups without the use of weapons other than the natural appurtenances of the human body.

(2) To the extent the commission deems pertinent, any specialized term not otherwise defined in this chapter may be defined by rule.

SECTION 3. That Section 54-403, Idaho Code, be, and the same is hereby amended to read as follows:

54-403. ~~OFFICERS~~ AGENTS, EMPLOYEES~~,~~ AND INSPECTORS. (1) The commission ~~may~~ shall contract with the bureau of occupational licenses to act as the board's agent and employ ~~and fix the compensation of~~ such ~~officers,~~ employees and inspectors as may be necessary to provide the required administrative, investigative, legal and fiscal services and otherwise administer the provisions of this chapter.

(2) The commissioner may appoint up to five (5) deputy state athletic commissioners who shall be assigned such duties and given such authority as designated by the commissioner. Deputy commissioners shall serve at the discretion of the commissioner and may be appointed for a term not to exceed the tenure of the commissioner. Deputy commissioners shall be entitled to ~~compensation~~ an honorarium as provided in section 59-509(~~b~~n), Idaho Code.

(3) ~~The commission may appoint official inspectors at least~~ No less than one (1) ~~of whom, in the absence of the~~ commissioner or ~~a~~ deputy

commissioner~~,~~ or agent of the commission shall be present at any ~~boxing~~ contest or ~~boxing~~ exhibition held under the provisions of this chapter. ~~and may be present at any wrestling exhibition.~~ Such ~~inspectors~~ agents shall carry ~~a card signed by the state athletic commissioner~~ official identification evidencing their authority. It shall be their duty to see that all rules of the commission and the provisions of this chapter are strictly complied with and to be present at the accounting of the gross receipts of any contest or exhibition, and such ~~inspector~~ agent is authorized to receive from the licensee conducting the contest or exhibition the statement of gross receipts herein provided for and to immediately transmit such reports to the commission. ~~Each inspector shall receive a fee from the licensee to be set by the commission for each contest or exhibition officially attended and, in addition, each inspector shall be compensated by the commission in accordance with section 59-509(b), Idaho Code.~~

SECTION 4. That Section 54-404, Idaho Code, be, and the same is hereby amended to read as follows:

54-404. RECORDS ~~--- SEAL~~ — OATHS -- COMPULSORY PROCESS. The commission or its agent shall keep full and correct minutes of its transactions and proceedings, which shall at all times be open to public inspection. ~~The commission shall adopt and procure a seal and all processes or certificates issued by it shall be attested under such seal. Copies of the record of the commission shall be certified by the secretary and attested with the seal of the commission.~~ Any ~~employee of the commission officially designated by the commissioner~~ agent of the commission shall have the power to administer oaths in all matters pertaining to or concerning the proceedings of the official duties of the commission. The commission shall have power to summon witnesses to appear and testify on any matter deemed material to the proper discharge of its duties. Such summons shall be served in like manner as a subpoena issued out of the district court and shall be served by the sheriff of the proper county, and such service returned by him to the commission without compensation.

SECTION 5. That Section 54-405, Idaho Code, be, and the same is hereby amended to read as follows:

54-405. SANCTIONING PERMIT FOR BOXING, KICKBOXING, MARTIAL ARTS AND WRESTLING EVENTS -- TELECASTS. The commission shall have power to issue and for cause to revoke any sanctioning permit to conduct boxing contests~~, boxing~~ and exhibitions, kickboxing contests and exhibitions, martial arts contests and exhibitions, or wrestling contests and exhibitions, including a simultaneous telecast of any live, current or spontaneous ~~boxing~~ contests~~, boxing exhibitions or wrestling~~ and exhibitions on a closed circuit telecast within this state, whether originating in this state or elsewhere, and for which a charge is made, as herein provided under such terms and conditions and at such times and places as the commission may determine. Such permit shall entitle the holder thereof to conduct ~~boxing~~ contests and ~~boxing~~ exhibitions ~~or wrestling exhibitions~~ under such terms and conditions and at such times and places as the commission may determine. In case the commission shall refuse to grant a permit to any applicant, or shall cancel any permit, such appli-

cant, or the holder of such canceled permit shall be entitled, upon application, to a hearing to be held not less than sixty (60) days after the filing of such order at such place as the commission may designate; provided however, that it has been found by a valid finding and such finding is fully set forth in the order, that the applicant or permittee has been guilty of any felony or of disobeying any provision of this chapter, such hearing shall be denied.

SECTION 6. That Section 54-406, Idaho Code, be, and the same is hereby amended to read as follows:

54-406. DUTIES OF COMMISSION -- SANCTIONING PERMITS -- LICENSING -- EXEMPTIONS -- MEDICAL CERTIFICATION. (1) The commission shall have power, and it shall be its duty, to direct, supervise and control all boxing contests~~,--boxing~~ and exhibitions, kickboxing contests and exhibitions, martial arts contests and exhibitions, and wrestling contests and exhibitions conducted within the state and no such ~~boxing~~ contest~~,--boxing--exhibitions,~~ or ~~wrestling~~ exhibition shall be held or given within this state except in accordance with the provisions of this chapter. The commission has authority to adopt rules to implement the provisions of this chapter and to implement each of the duties and responsibilities conferred upon the commission including, but not limited to:

(a) Development of an ethical code of conduct for commissioners, commission staff and commission officials;

(b) Facility and safety requirements relating to the ring, floor plan and apron seating, emergency medical equipment and services, and other equipment and services necessary for the conduct of a program of matches;

(c) Requirements regarding a participant's apparel, bandages, handwraps, gloves, mouthpiece and appearance during a match;

(d) Requirements relating to a manager's participation, presence, and conduct during a match;

(e) Duties and responsibilities of all licensees under this chapter;

(f) Procedures for hearings and resolution of disputes;

(g) Qualifications for appointment of referees and judges;

(h) Designation and duties of a knockdown timekeeper;

(i) Setting fee and reimbursement schedules for referees and other officials appointed by the commission or the representative of the commission; and

(j) Establishment of criteria for approval, disapproval, suspension of approval, and revocation of approval of amateur sanctioning organizations for amateur boxing and kickboxing matches held in this state including, but not limited to, the health and safety standards the organizations use before, during and after the matches to ensure the health, safety and well-being of the amateurs participating in the matches, including the qualifications and numbers of health care personnel required to be present, the qualifications required for referees, and other requirements relating to the health, safety and well-being of the amateurs participating in the matches. The commission may adopt by rule, or incorporate by reference into rule, the health and safety standards of United States amateur boxing, inc., as the minimum health and safety standards for an amateur boxing sanctioning organization, and the health and safety standards of the

international amateur kickboxing sport association as the minimum health and safety standards for an amateur kickboxing sanctioning organization.

(2) The commission may, in its discretion, issue or refuse to issue and for cause revoke sanctioning permits to conduct, hold or give ~~boxing~~ contests~~,--boxing-exhibitions-and-wrestling~~ or exhibitions ~~where~~ whether or not an admission fee is charged by any person, organization, association or fraternal society. The commission may also, in its discretion, issue or refuse to issue and for cause revoke or suspend or otherwise sanction licenses for participants of sanctioned contests and exhibitions.

(~~2~~3) Specifically exempt from the provisions of this chapter are all ~~boxing~~ contests~~,-boxing-exhibitions~~ or ~~wrestling~~ exhibitions which:

(a) Are contests or exhibitions conducted by any secondary school, college or university, whether public or private, where all the participating contestants are bona fide students enrolled in any secondary school, college or university, within or without this state; or

(b) Are entirely contests or exhibitions, in which all contestants are amateurs, which have been sanctioned as amateur athletic events by any of the following associations:

(i) United States amateur boxing, inc., also known as USA boxing, inc.;

(ii) Amateur athletic union of United States, inc., also known as the national amateur athletic union, the amateur athletic union and the AAU;

(iii) Any other entity that the commission approves as an officially recognized amateur boxing or other amateur athletic sanctioning authority; or

(c) Are contests or exhibitions held under the auspices or sanction of an established nonprofit secondary school activities organization or of its public or nonprofit accredited secondary school members, or held under the auspices or sanction of an established college or university activities organization or its public or not-for-profit accredited college or university members;

(d) Are contests or exhibitions conducted by any military installation or branch of the United States armed forces, or the state national guard, where the participants are employed by the military installation, are members of the branch of the armed forces, or the state national guard unit conducting the contest or exhibition.

(~~3~~4) Provided, further, that every contestant in any ~~boxing~~ contest or ~~boxing-exhibition-or-wrestling~~ exhibition ~~not-conducted~~ exempt under the provisions of this chapter, prior to engaging in and conducting such contest or exhibition, shall be examined by a licensed physician at least once in each calendar year, or where such contest is conducted by a secondary school, college or university or organization as further described in this section, once in each academic year in which instance the physician shall also designate the maximum and minimum weights at which the contestant shall be medically certified to participate. Provided further, that no contestant shall be permitted to participate in any such ~~boxing~~ contest~~,-boxing-exhibitions~~ or ~~wrestling~~ exhibition in any weight classification other than that or those for which he is certificated. Provided further, that the exempted organizations shall be governed by the provisions of section 54-414, Idaho Code, as that sec-

tion applies to boxing contests~~,--boxing-exhibitions~~ or wrestling exhibitions conducted by persons exempted in this section from the general provisions of this chapter. No boxing contest~~,--boxing-exhibition~~ or wrestling exhibition shall be conducted within this state except pursuant to a license issued in accordance with the provisions of this chapter and the rules of the commission except as hereinabove provided.

SECTION 7. That Section 54-408, Idaho Code, be, and the same is hereby amended to read as follows:

54-408. PROMOTERS -- BOND -- MEDICAL INSURANCE. (1) Before any sanctioning permit is issued to any promoter to conduct or hold a boxing contest~~,--boxing-exhibition~~ or wrestling exhibition which is not exempt from regulation pursuant to section 54-406(~~2~~3), Idaho Code, the applicant shall file with the commission a bond payable to the state of Idaho in an amount determined by the commission, executed by the applicant and a surety company or companies authorized to do business in this state, and conditioned upon the faithful performance by the promoter, which shall include, but not be limited to, the cancellation of a boxing contest~~,--boxing--exhibition~~ or wrestling exhibition without good cause as determined by the commission once the event has been approved by the commission.

(2) The bond required under this section shall guarantee the payment of all taxes, fees, fines and other moneys due and payable pursuant to the provisions of this chapter and the rules of the commission including, but not limited to, the payment of purses to the participants, other than the promoter, any contributions for required insurance, pensions, disability and medical examinations, the repayment to ticketholders of purchased tickets, the payment of fees to ring officials and physicians and, in the event of the cancellation of a boxing contest~~,--boxing-exhibition~~ or wrestling exhibition approved by the commission without good cause, an amount determined by the commission.

(3) After issuance of a sanctioning permit to a promoter, the commission may modify the amount of bond required to ensure adequate and sufficient coverage for payment of taxes, fees, fines, purses, and other moneys due and payable pursuant to the provisions of this section. Failure of any promoter to secure a modified bond required pursuant to this subsection within such period of time as the commission may prescribe, shall be grounds for revocation of the sanctioning permit of such promoter.

(4) All bond proceeds collected pursuant to the provisions of this section shall be deposited in the state treasury to the credit of the ~~state-athletic-commission~~ occupational licenses fund.

(5) Boxing and wrestling promoters must obtain health insurance to cover any injuries incurred by participants, other than the promoter, at the time of the event.

SECTION 8. That Section 54-411, Idaho Code, be, and the same is hereby amended to read as follows:

54-411. STATEMENT AND REPORT OF EVENT -- TAX ON GROSS RECEIPTS. (1) Any promoter as herein provided shall, within seven (7) days prior to the holding of any boxing contest or exhibition, file with the commission a statement setting forth the name of each contestant, his manager

or managers and such other information as the commission may require. ~~Any promoter shall, within seven (7) days before holding any wrestling exhibition, file with the commission a statement setting forth the name of each contestant, his manager or managers and such other information as the commission may require.~~ Participant changes within a twenty-four (24) hour period regarding a wrestling exhibition may be allowed after notice to the commission, if the new participant holds a valid license under this chapter. Within seventy-two (72) hours after the termination of any contest or exhibition the promoter shall file with the ~~designated~~ commission representative a gross receipts report, duly verified as the commission may require showing the number of tickets sold for such contest, the price charged for such tickets and the gross receipts thereof, and such other and further information as the commission may require. The promoter shall pay to the commission at the time of filing the above report a tax equal to five percent (5%) of the gross receipts for deposit by the commission.

(2) The number of complimentary tickets shall be limited to two percent (2%) of the total tickets sold per event location. All complimentary tickets exceeding this set amount shall be subject to taxation.

(3) Gross receipts reports signed under oath shall also include:

(a) The name of the promoter;

(b) The boxing contest, boxing exhibition or wrestling exhibition sanctioning permit number;

(c) The promoter's business address and any license or sanctioning permit number required of such promoter by law;

(d) Gross receipts as specified by this section, during the period specified by this section; and

(e) Such further information as the commission may require to enable it to compute correctly and collect the assessment levied pursuant to this section.

(4) In addition to the information required on gross receipts reports, the commission may request, and the promoter shall furnish, any information deemed necessary for a correct computation of the assessment levied pursuant to this section.

(5) All levies pursuant to this section shall be collected by the commission and shall be deposited in the state treasury to the credit of the ~~state athletic commission~~ occupational licenses fund.

(6) The moneys collected from the assessment levied pursuant to the provisions of this section shall be in addition to all other revenues and funds received by the ~~state athletic~~ commission.

(7) The promoter shall compute and pay to the commission the required assessment due. If the payment of the assessment is not postmarked or delivered to the commission as specified in subsection (1) of this section, the assessment shall be delinquent from such date.

(8) It shall be the duty of every promoter required to make a gross receipts report and pay any assessment pursuant to the provisions of this section to keep and preserve suitable records and documents which may be necessary to determine the amount of assessment due as will substantiate and prove the accuracy of such reports. All such records shall be preserved for a period of three (3) years, unless the commission, in writing, has authorized their destruction or disposal at an earlier date, and shall be open to examination at any time by the commission or by its authorized agents.

SECTION 9. That Section 54-412, Idaho Code, be, and the same is hereby amended to read as follows:

54-412. ~~STATE--ATHLETIC--COMMISSION~~ FUNDS. ~~The "State Athletic Commission Fund" is a dedicated fund created, effective July 1, 1992, in the state treasury in the name of the commission. Moneys in the fund may be expended pursuant to appropriation and shall be utilized by the commission to administer~~ 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 a charge against and paid from such fund.

SECTION 10. That Section 54-413, Idaho Code, be, and the same is hereby amended to read as follows:

54-413. SIMULTANEOUS OR CLOSED CIRCUIT TELECASTS -- REPORT -- TAX ON GROSS RECEIPTS. Every licensee who charges and receives an admission fee for exhibiting a simultaneous telecast of any live, current or spontaneous ~~boxing~~ contest~~, boxing exhibition~~ or ~~wrestling~~ exhibition on a closed circuit telecast viewed within this state shall, within seventy-two (72) hours after such event, furnish to the commission a verified gross receipts report on a form which is supplied by the commission showing the number of tickets issued or sold, and the gross receipts therefor without any deductions whatsoever. Such licensee shall also, at the same time pay to the commission a tax equal to five percent (5%) of such gross receipts paid for admission to the showing of the contest or exhibition. In no event, however, shall the tax be less than twenty-five dollars ($25.00). The tax shall apply uniformly at the same rate to all persons subject to the tax. ~~Such receipts shall be paid within twenty-four (24) hours by the commission into the state athletic commission fund.~~

SECTION 11. That Section 54-415, Idaho Code, be, and the same is hereby amended to read as follows:

54-415. PHYSICIAN'S ATTENDANCE -- EXAMINATION OF CONTESTANTS. Each contestant for a boxing contest or boxing exhibition shall be examined within eight (8) hours prior to the contest or exhibition by a physician appointed by the commission. The physician shall forthwith and before such contest or exhibition report in writing and over his signature the physical condition of each and every contestant to the commissioner~~, deputy commissioner or inspector~~ or agent present at such contest. Blank forms of physicians' reports shall be provided by the commission and all questions upon such blanks shall be answered in full. At the discretion of the commission and immediately prior to a ~~wrestling~~ contest or exhibition, the commission may require a contestant to be examined by a physician appointed by the commission. No contestant whose physical condition is not approved by the examining physician shall be permitted to participate in any contest or exhibition. The promoter conducting such contest or exhibition shall pay the examining physician a fee in the amount designated by the commission. No boxing contest, boxing exhibition or wrestling exhibition shall be held unless a physician appointed by the commission is present throughout the contest or exhibition. The

promoter shall pay the fees, in the amount designated by the commission, of the physician who is required to be present at a ~~boxing~~ contest~~, boxing exhibition~~ or ~~wrestling~~ exhibition.

The commission may select any practicing physician as the examining or attending physician. The physician present at the contest or exhibition shall have the authority to stop any contest or exhibition when in the physician's opinion it would be dangerous for a contestant to continue.

SECTION 12. That Section 54-416, Idaho Code, be, and the same is hereby amended to read as follows:

54-416. ANNUAL LICENSES — FEES -- REVOCATION. (1) The commission ~~may~~ shall grant annual licenses in compliance with the rules prescribed by the commission, and the payment of the fees, the amount of which is to be determined by the commission upon application, prescribed to promoters, managers, booking agents, matchmakers, ring officials, boxers, wrestlers, and corner persons; provided, that the provisions of this section shall not apply to contestants or other persons who may participate in contests or exhibitions which are exempted from the provisions of this chapter pursuant to section 54-406(~~2~~3), Idaho Code.

(2) Any such license may be revoked by the commission for any cause which it shall deem sufficient.

(3) No person shall participate or serve in any of the above capacities unless licensed as provided in this chapter.

(4) The ring officials for any ~~boxing~~ contest shall be designated by the commission from among the active pool of licensed or appointed ring officials.

(5) The ring officials for any ~~wrestling~~ exhibition shall be provided by the promoter and licensed by the commission.

~~(6) All fees collected pursuant to this section shall be deposited in the state athletic commission fund.~~

SECTION 13. That Section 54-417, Idaho Code, be, and the same is hereby amended to read as follows:

54-417. PARTICIPATION IN PURSE — CONDUCTING SHAM BOXING EVENTS -- FORFEITURE OF LICENSE. Any person promoting boxing exhibitions or contests who shall directly or indirectly participate in the purse or fee of any manager of any boxers or any boxer and any licensee who shall conduct or participate in any sham or fake boxing contest or exhibition shall thereby forfeit ~~his~~ any licenses issued pursuant to this chapter and the commission shall declare the license canceled and void and the licensee shall not thereafter be entitled to receive another such license, or any license issued pursuant to the provisions of this chapter.

SECTION 14. That Section 54-419, Idaho Code, be, and the same is hereby amended to read as follows:

54-419. FAILURE TO MAKE REPORTS — ADDITIONAL TAX -- NOTICE -- PENALTY FOR DELINQUENCY. Whenever any licensee shall fail to make a report of any contest or exhibition within the time prescribed in this chapter or when such report is unsatisfactory to the commission, the ~~commis-~~

~~sioner~~ commission or ~~his designee~~ its agent shall examine the books and records of such licensee; ~~he~~ and may subpoena and examine under oath any officer of such licensee and such other person or persons as ~~he may deem~~ be necessary to ~~a determination of~~ determine the total gross receipts from any contest or exhibition and the amount of tax thereon. If, upon the completion of such examination it shall be determined that an additional tax is due, notice thereof shall be served upon the licensee, and if such licensee shall fail to pay such additional tax within twenty (20) days after service of such notice the delinquent licensee shall forfeit ~~his~~ any licenses issued pursuant to this chapter and shall forever be disqualified from receiving any new license and in addition thereto, such licensee shall be liable to this state in the penal sum of ten thousand dollars ($10,000) to be collected by the attorney general by ~~civil~~ such action ~~in the name of the state~~ as may be necessary and in the manner provided by law. All moneys collected pursuant to the provisions of this section shall be remitted to the ~~state athletic commission~~ occupational licenses fund.

SECTION 15. That Section 54-420, Idaho Code, be, and the same is hereby amended to read as follows:

54-420. PROHIBITIONS -- PENALTIES -- INJUNCTIONS. (1) Any person conducting or participating in boxing contests~~, boxing exhibitions~~ or ~~wrestling~~ exhibitions, kickboxing contests or exhibitions, martial arts contests or exhibitions or wrestling contests or exhibitions within this state without first having obtained a license or sanctioning permit ~~therefor~~ in the manner provided in this chapter is in violation of the provisions of this chapter, excepting such contests excluded from the operation of the provisions of this chapter in section 54-406(~~2~~3), Idaho Code.

(2) It is unlawful for any promoter or person associated with or employed by any promoter to destroy any ticket or ticket stub, whether sold or unsold, within three (3) months after the date of any contest or exhibition.

(3) The striking of any individual who is not a licensed contestant in that particular boxing contest, boxing exhibition or wrestling exhibition shall constitute grounds for suspension, revocation or both of a license issued pursuant to the provisions of this chapter.

(4) Any person violating any of the provisions of this chapter or the rules of the commission for which no penalty is otherwise herein provided, upon conviction, shall be guilty of a misdemeanor and shall be punished by the imposition of a fine of not more than one thousand dollars ($1,000) or by incarceration in the county jail for not more than thirty (30) days or by both such fine and incarceration. The commission shall suspend or revoke the license of any person convicted of violating the provisions of this chapter and the rules of the commission.

(5) In addition to other penalties provided by law if, after a hearing in accordance with the provisions of this chapter and the rules of the commission, the commission shall find any person to be in violation of any of the provisions of this chapter, such person may be subject to an administrative penalty equal to the greater of five hundred dollars ($500) or one percent (1%) of gross receipts received for each violation. Each day a person is in violation of the provisions of this chapter and the rules of the commission may constitute a separate viola-

tion. All administrative penalties collected pursuant to the provisions of this subsection shall be deposited in the state treasury to the ~~credit of the state athletic commission~~ occupational licenses fund. Upon the request of the commission or its agent, the attorney general may institute action to enforce the administrative penalties imposed pursuant to this subsection in the district court for Ada county.

(6) Upon the request of the commission or its agent, the county prosecutor in the county where a violation has occurred or is about to occur may make application to the district court in the county for an order enjoining the acts or practices prohibited by the provisions of this chapter and the rules of the commission, and upon a showing that the person has engaged or is about to engage in any of the prohibited acts or practices, an injunction, restraining order, or other order as may be appropriate shall be granted by the court.

Approved March 22, 2007.

CHAPTER 150
(H.B. No. 135)

AN ACT

RELATING TO THE IDAHO REAL ESTATE BROKERAGE REPRESENTATION ACT; AMENDING SECTION 54-2083, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 54-2086, IDAHO CODE, TO REVISE DUTIES TO CUSTOMERS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-2087, IDAHO CODE, TO REVISE DUTIES TO CLIENTS; AMENDING SECTION 54-2089, IDAHO CODE, TO PROVIDE THAT BROKER COMPENSATION OR AN AGREEMENT FOR BROKER COMPENSATION SHALL NOT CONSTITUTE AN AGREEMENT FOR AGENCY REPRESENTATION OR OTHERWISE CREATE AN AGENCY RELATIONSHIP; AND AMENDING SECTION 54-2091, IDAHO CODE, TO REVISE DESCRIPTIVE LANGUAGE AND TO REVISE PROVISIONS RELATING TO THE DURATION OF AN AGENCY RELATIONSHIP.

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

SECTION 1. That Section 54-2083, Idaho Code, be, and the same is hereby amended to read as follows:

54-2083. DEFINITIONS. As used in sections 54-2082 through 54-2097, Idaho Code:

(1) "Adverse material fact" means a fact that would significantly affect the desirability or value of the property to a reasonable person or which establishes a reasonable belief that a party to the transaction is not able to or does not intend to complete that party's obligations under a real estate contract.

(2) "Agency representation" or "representation" means the statutory agency relationship between a client and a brokerage in a regulated real estate transaction with respect to which the duties defined in section 54-2087, Idaho Code, are applicable. See also "representation."

(3) "Assigned agent" means, where a brokerage is representing more than one (1) party to the transaction as a limited dual agent as provided in section 54-2088, Idaho Code, the sales associate assigned by the brokerage to act on behalf of one (1) client and to represent solely

that client consistent with the applicable duties set forth in section 54-2087, Idaho Code. The designated broker shall not act as an assigned agent of the brokerage.

(4) "Brokerage" means a licensed designated broker, the licensed real estate business represented by that broker and its associated licensees.

(5) "Client" means a buyer or seller, or a prospective buyer or seller, or both who have entered into an express written contract or agreement with a brokerage for agency representation in a regulated real estate transaction.

(6) "Confidential client information" means information gained from or about a client that:

(a) Is not a matter of public record;

(b) The client has not disclosed or authorized to be disclosed to third parties;

(c) If disclosed, would be detrimental to the client; and

(d) The client would not be personally obligated to disclose to another party to the transaction. Information which is required to be disclosed by statute or rule or where the failure to disclose would constitute fraudulent misrepresentation is not confidential client information within the provisions of ~~this act~~ sections 54-2082 through 54-2097, Idaho Code. Information generally disseminated in the marketplace, including "sold" prices of property, is also not confidential client information within the provisions of ~~this act~~ such sections.

(7) "Customer" means a buyer or seller, or prospective buyer or seller, who is not represented in an agency relationship in a regulated real estate transaction.

(8) "Customer services agreement" or "compensation agreement" means an agreement between a real estate brokerage and a customer for the provision of any real estate services for which the brokerage has the right to be compensated by the customer.

(9) "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.

~~(9) "Express agreement" or "express contract" means a written agreement by the parties to undertake brokerage representation. An express agreement under this statute can only be made in writing, and cannot be made orally or by assumption or implication.~~

(10) "Idaho real estate license law and rules" means chapter 20, title 54, Idaho Code, and all administrative rules promulgated thereunder.

(11) "Limited dual agent" means a brokerage that is representing both a buyer and a seller as clients in a regulated real estate transaction, as provided in section 54-2088, Idaho Code.

(12) "Ministerial acts" means reasonably necessary and customary acts typically performed by real estate licensees in assisting a transaction to its closing or conclusion.

(13) "Nonagent" means a brokerage and its licensees working with or assisting a buyer or seller as a customer to which the duties provided in section 54-2086, Idaho Code, are applicable.

(14) "Regulated real estate transaction" means those real estate

transactions for which a real estate license is required under chapter 20, title 54, Idaho Code.

(15) "Representation" or "brokerage representation" or "represented" means the statutory agency relationship between a client and a brokerage in a regulated real estate transaction with respect to which the duties provided in section 54-2087, Idaho Code, are applicable.

(16) "Representation agreement" or "contract for representation" means a written agreement between a buyer, seller, or both, and a real estate brokerage for agency representation in a regulated real estate transaction. A representation agreement under this chapter can only be made in writing, and cannot be made orally or by assumption or implication.

(17) "Sales associate" means a salesperson or an associate broker licensed under and associated with a designated broker.

SECTION 2. That Section 54-2086, Idaho Code, be, and the same is hereby amended to read as follows:

54-2086. DUTIES TO A CUSTOMER. (1) If a buyer, prospective buyer, or seller is not represented by a brokerage in a regulated real estate transaction, that buyer or seller remains a customer, and as such, the brokerage and its licensees are nonagents and owe the following legal duties and obligations:

(a) To perform ministerial acts to assist the buyer or seller in the sale or purchase of real estate;

(b) To perform these acts with honesty, good faith, reasonable skill and care;

(c) To properly account for moneys or property placed in the care and responsibility of the brokerage;

(d) To disclose to the buyer/customer all adverse material facts actually known or which reasonably should have been known by the licensee;

(e) To disclose to the seller/customer all adverse material facts actually known or which reasonably should have been known by the licensee~~;~~.

(2) If a customer has entered into a compensation agreement or customer services agreement with the brokerage, the brokerage shall have the obligation to be available to the customer to receive and timely present all written offers and counteroffers.

(3) The duties set forth in this section are mandatory and may not be waived or abrogated, either unilaterally or by agreement.

(4) Nothing in this section prohibits a brokerage from charging a separate fee or commission for each service provided to the customer in the transaction.

(5) A nonagent brokerage and its licensees owe no duty to a buyer/customer to conduct an independent inspection of the property for the benefit of that buyer/customer and owe no duty to independently verify the accuracy or completeness of any statement or representation made by the seller or any source reasonably believed by the licensee to be reliable.

(~~3~~6) A nonagent brokerage and its licensees owe no duty to a seller/customer to conduct an independent investigation of the buyer's financial condition for the benefit of that seller/customer and owe no duty to independently verify the accuracy or completeness of statements

made by the buyer or any source reasonably believed by the licensee to be reliable.

SECTION 3. That Section 54-2087, Idaho Code, be, and the same is hereby amended to read as follows:

54-2087. DUTIES TO A CLIENT. If a buyer or seller enters into a written contract for representation in a regulated real estate transaction, that buyer or seller becomes a client to whom the brokerage and its licensees owe the following agency duties and obligations:

(1) To perform the terms of the written agreement with the client;

(2) To exercise reasonable skill and care;

(3) To be available to the client to receive and timely present all written offers and counteroffers;

(4) To promote the best interests of the client in good faith, honesty and fair dealing including, but not limited to:

(a) Disclosing to the client all adverse material facts actually known or which reasonably should have been known by the licensee;

(b) Seeking a buyer to purchase the seller's property at a price, and under terms and conditions acceptable to the seller and assisting in the negotiation therefor; or

(c) Seeking a property for purchase at a price and under terms and conditions acceptable to the buyer and assisting in the negotiation therefor;

(d) For the benefit of a client/buyer: when appropriate, advising the client to obtain professional inspections of the property or to seek appropriate tax, legal and other professional advice or counsel;

(e) For the benefit of a client/seller: upon written request by a client/seller, requesting reasonable proof of a prospective buyer's financial ability to purchase the real property which is the subject matter of the transaction. This duty may be satisfied by any appropriate method suitable to the transaction or, when deemed necessary by the real estate licensee, by advising the client to consult with an accountant, lawyer, or other professional as dictated by the transaction.

(~~4~~5) To properly account for moneys or property placed in the care and responsibility of the brokerage; and

(~~5~~6) To maintain the confidentiality of specific client information as defined by and to the extent required in this chapter, and as follows:

(a) The duty to a client continues beyond the termination of representation only so long as the information continues to be confidential client information as defined in this chapter, and only so long as the information does not become generally known in the marketing community from a source other than the brokerage or its associated licensees;

(b) A licensee who personally has gained confidential client information about a buyer or seller while associated with one (1) broker and who later associates with a different broker remains obligated to maintain the client confidentiality as required by this chapter;

(c) If a brokerage represents a buyer or seller whose interests conflict with those of a former client, the brokerage shall inform the second client of the brokerage's prior representation of the

former client and that confidential client information obtained during the first representation cannot be given to the second client. Nothing in this section shall prevent the brokerage from asking the former client for permission to release such information;

(d) Nothing in this section is intended to create a privileged communication between any client and any brokerage or licensee for purposes of civil, criminal or administrative legal proceedings.

(~~6~~7) Unless otherwise agreed to in writing, a brokerage and its licensees owe no duty to a client to conduct an independent inspection of the property and owe no duty to independently verify the accuracy or completeness of any statement or representation made regarding a property. Unless otherwise agreed to in writing, a brokerage and its licensees owe no duty to conduct an independent investigation of either party's financial ability to complete a real estate transaction.

(8) The duties set forth in this section are mandatory and may not be waived or abrogated, either unilaterally or by agreement.

(9) Nothing in this section prohibits a brokerage from charging a separate fee or commission for each service provided to the client in the transaction.

SECTION 4. That Section 54-2089, Idaho Code, be, and the same is hereby amended to read as follows:

54-2089. BROKER COMPENSATION. Payment of compensation or a written agreement only for payment of compensation to a brokerage shall not constitute an ~~express~~ agreement ~~creating~~ for agency representation or otherwise create an agency relationship.

SECTION 5. That Section 54-2091, Idaho Code, be, and the same is hereby amended to read as follows:

54-2091. DURATION OF ~~EXPRESS--REPRESENTATION~~ AGENCY RELATIONSHIP. (1) A brokerage's agency relationship and corresponding representation duties under ~~this act~~ sections 54-2082 through 54-2097, Idaho Code, shall commence on the date indicated on the written agreement between the brokerage and a buyer/client or seller/client and shall end at the earliest of:

(a) Performance or completion of the representation;

(b) Agreement by the parties;

(c) Expiration of the agency relationship agreement.

(2) Nothing in ~~this act~~ sections 54-2082 through 54-2097, Idaho Code, shall prohibit the brokerage and the buyer or seller from changing the legal nature of their relationship or representation in accordance with ~~this act~~ such sections during the course of the real estate transaction. However, the brokerage is not relieved thereby from meeting the disclosure requirements and obtaining the written agreements, consents or confirmations required by ~~this act~~ sections 54-2082 through 54-2097, Idaho Code.

Approved March 22, 2007.

CHAPTER 151
(H.B. No. 190)

AN ACT

RELATING TO INSURANCE; AMENDING SECTION 41-402, IDAHO CODE, TO SET FORTH A TAX FOR CONTRACTS FOR DENTAL CARE SERVICES AND DENTAL INSURANCE AND TO PROVIDE APPLICATION.

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

SECTION 1. That Section 41-402, Idaho Code, be, and the same is hereby amended to read as follows:

41-402. PREMIUM TAX. (1) Each authorized insurer, and each formerly authorized insurer with respect to insurance transacted while an authorized insurer, shall file with the director on or before the dates in each year set forth in subsections (3) and (4) of this section, a statement (on forms as prescribed and furnished by the director) under oath for the period set forth in subsections (3) and (4) of this section, and pay the director a tax at the rate set forth in subsection (2) of this section, on the following amounts:

(a) As to life insurers, the amount of all gross premiums received by the insurer on direct risks resident in this state, and also, if a domestic insurer, on direct risks resident in any other jurisdiction or jurisdictions in which the insurer is not licensed and upon which no premium tax is otherwise paid or payable, less returned coupons and dividends paid to or credited to policyholders.

(b) As to all insurers other than life insurers, the amount of gross direct premiums written on policies covering subjects of insurance resident, located or performed in this state, and also, if a domestic insurer, on such premiums in any other jurisdiction or jurisdictions in which the insurer is not licensed and upon which no premium tax is otherwise paid or payable, less returned premiums, premiums on policies not taken and dividends paid or credited to policyholders. As to title insurance "gross premium" means the insurance risk portion of the amount charged for title insurance.

(2) Subject to section 41-403, Idaho Code, as that section applies through calendar year 2009, the rate of tax shall be as follows:

(a) As to title insurance, the rate of tax shall be one and five-tenths percent (1.5%).

(b) As to all other kinds of insurance, the rate of tax shall be:

(i) For calendar year 2004 and before, two and seventy-five hundredths percent (2.75%);

(ii) For calendar year 2005, two and five-tenths percent (2.5%);

(iii) For calendar year 2006, two and three-tenths percent (2.3%);

(iv) For calendar year 2007, two and one-tenth percent (2.1%);

(v) For calendar year 2008, one and nine-tenths percent (1.9%);

(vi) For calendar year 2009, one and seven-tenths percent (1.7%); and

(vii) For calendar year 2010 and thereafter, one and five-tenths percent (1.5%).

(3) (a) Every insurer with a tax obligation under this section shall make prepayment of the tax obligations for the current calendar year's business, if the sum of the tax obligations for the preceding calendar year's business is four hundred dollars ($400) or more.

(b) The director shall credit the prepayments toward the appropriate tax obligations of the insurer for the current calendar year.

(c) The minimum amounts of the prepayments shall be percentages of the insurer's tax obligation based on the preceding calendar year's business and the current year's rate, and shall be paid to the director's office by the due dates and in the following amounts:

(i) On or before June 15, sixty percent (60%);

(ii) On or before September 15, twenty percent (20%); and

(iii) On or before December 15, fifteen percent (15%).

(4) On or before March 1, any balance of tax due for the preceding calendar year shall be paid to the director.

(5) The effect of transferring policies of insurance from one insurer to another insurer is to transfer the tax prepayment obligation with respect to the policies.

(6) This section shall not apply as to any reciprocal insurer doing exclusively a worker's compensation business and complying with the provisions of the worker's compensation law of this state and writing worker's compensation only for members under that law, if its representatives or agents or the attorney in fact executing such contracts are not compensated on a commission basis.

(7) This section shall not apply as to life insurance policies issued under pension plans or profit-sharing plans exempt or qualified under section 401(a), 403, 404, 408 or 501(a) of the United States Internal Revenue Code, as hereafter amended or renumbered from time to time, nor to annuity contracts in general.

(8) This section shall not apply to any reciprocal insurer which exclusively insures members who are governmental entities, as defined by section 6-902(1), (2) and (3), Idaho Code.

(9) Except as otherwise provided in this subsection, this section shall not apply as to any dental care services or as to any dental insurance authorized by title 41, Idaho Code. A tax is hereby imposed upon each contract for dental care services and dental insurance, at the rate of four cents (4¢) per contract, per month, such amount to be computed each month. Tax payments shall be made consistent with the documentation requirements and payment dates set forth in this section. The tax imposed in this subsection shall be in lieu of the premium tax provided in this section and in lieu of all other taxes, licenses and fees as provided by section 41-405, Idaho Code; provided however, that this subsection shall not apply to entities governed by chapter 34, title 41, Idaho Code.

(10) The amount of tax due for the current year shall be paid in full in the manner and at the times required in this section without any credit or offset for refunds or other amounts due or claimed to be due by the insurer.

Approved March 22, 2007.

CHAPTER 152
(H.B. No. 198)

AN ACT

RELATING TO THE IDAHO HOUSING AND FINANCE ASSOCIATION; AMENDING SECTION 67-6201, IDAHO CODE, TO INCLUDE ASSISTANCE FOR ECONOMIC DEVELOPMENT PROJECTS AS PUBLIC PURPOSES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-6205, IDAHO CODE, TO PROVIDE AN ADDITIONAL DEFINITION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-6206, IDAHO CODE, TO PROVIDE POWERS RELATING TO THE FINANCING OF ECONOMIC DEVELOPMENT PROJECTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-6207A, IDAHO CODE, TO PROVIDE ADDITIONAL POWERS TO THE IDAHO HOUSING AND FINANCE ASSOCIATION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-6223, IDAHO CODE, TO PROVIDE AUTHORITY TO RECEIVE STATE, PRIVATE OR FEDERAL ASSISTANCE FOR ECONOMIC DEVELOPMENT PROJECTS, TO REVISE THE BORROWING POWER, FINANCIAL ASSISTANCE AND COOPERATION WITH THE STATE AND FEDERAL GOVERNMENT BY THE ASSOCIATION AND TO MAKE A TECHNICAL CORRECTION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-6201, Idaho Code, be, and the same is hereby amended to read as follows:

67-6201. PURPOSE. It is hereby declared:

(a) That within the state there is a shortage of safe or sanitary dwelling accommodations available which persons of low incomes can afford and that such persons are forced to occupy overcrowded and congested dwelling accommodations; that the aforesaid conditions cause an increase in and spread of disease and crime, and constitute a menace to the health, safety, morals and welfare of the residents of the state and impair economic values; that these conditions necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident protection, and other public services and facilities.

(b) That private enterprise has not been able to provide, without assistance, an adequate supply of safe and sanitary dwellings at prices or rents which persons and families of low income can afford, or to achieve rehabilitation of much of the present low-income housing. It is imperative that the supply of housing for persons and families of low income be increased and that coordination and cooperation among private enterprise, state and local government be encouraged to sponsor, build and rehabilitate residential housing for such persons and families.

(c) That the clearance, replanning and reconstruction of the areas in which unsanitary or unsafe housing conditions exist, and the providing of safe and sanitary dwelling accommodations for persons of low incomes (which ~~dwelling accommodations~~ dwelling accommodations need not be solely for persons of low incomes in order to avoid concentrations of such persons in specific localities), are public uses, and uses and purposes for which public money may be spent and private property acquired, and are governmental functions.

(d) It is also declared and the legislature hereby finds that char-

itable, educational, human service, cultural and other purposes pursued by nonprofit corporations are important public functions and public purposes that should be encouraged and that financing of nonprofit facilities for these purposes should be encouraged, without using state funds or lending the credit of the state, through the issuance of nonrecourse revenue bonds and the lending of the proceeds thereof to nonprofit corporations to promote their purposes.

(e) It is further declared that in this state:

(1) There exists an inadequate supply of funds at interest rates sufficiently low to enable persons engaged in agriculture in this state, particularly beginning farmers and ranchers, to pursue agricultural operations at present levels;

(2) That such inability to pursue agricultural operations reduces the supply of agricultural commodities available to fulfill the needs of the citizens of this state;

(3) That such inability to continue operations decreases available employment in the agricultural sector of the state and results in unemployment and its attendant problems;

(4) That such conditions prevent the acquisition of an adequate capital stock of farm and ranch equipment and machinery, therefore impairing the productivity of agricultural land;

(5) That such conditions are conducive to consolidation of acreage of agricultural land with fewer individuals living and farming and ranching on the traditional family farm and ranch;

(6) That these conditions result in a loss in population, unemployment and movement of persons from rural to urban areas accompanied by added costs to communities for creation of new public facilities and services;

(7) That there have been recurrent shortages of funds from private market sources at reasonable rates of interest;

(8) That these shortages have made the sale and purchase of agricultural land to beginning farmers and ranchers a virtual impossibility in many parts of the state;

(9) That the ordinary operations of private enterprise have not in the past corrected these conditions; and

(10) That a stable supply of adequate funds for agricultural financing is required to encourage beginning farmers and ranchers in an orderly and sustained manner and to reduce the problems described herein.

(f) It is further declared that in this state there is an urgent need to promote higher employment; encourage the development of new jobs; maintain and supplement the capital investments in industry and commerce that currently exist in this state; encourage future employment by ensuring future capital investment; attract environmentally sound industry and commerce to the state; protect and enhance the quality of natural resources and the environment; and promote the production and conservation of energy; and that financing of economic development projects in partnership with private financial institutions and state or local economic development entities for these purposes should be encouraged, without using state funds or lending the credit of the state through the issuance of nonrecourse revenue bonds and the lending of the proceeds thereof for such purposes.

(g) It is hereby further declared that:

(1) The growth of the economy of this state has prompted new and

ever-increasing uses of public highways, roads, and other transportation infrastructure, and the existing transportation infrastructure of this state cannot adequately accommodate such greatly increased uses;

(2) One of the major concerns of the citizens of this state is the ability of the state to address the long-term transportation infrastructure needs of this state that are critical to the continued growth of the state's economy and the maintenance of citizens' quality of life;

(3) Utilizing bonds or notes to finance projects for transportation infrastructure results in significant cost savings to the state, since such transportation projects can be completed at present day costs and at an accelerated pace, but such bonds and notes need to be issued promptly in order to realize these cost savings; and

(4) It is reasonable and necessary to utilize such bonds or notes for the financing of transportation projects.

(~~g~~h) It is hereby further declared that all of the foregoing are public purposes and uses for which public moneys may be borrowed, expended or granted and that such activities are governmental functions and serve a public purpose in improving or otherwise benefiting the people of this state; that the necessity of enacting the provisions hereinafter set forth is in the public interest and is hereby so declared as a matter of express legislative determination.

SECTION 2. That Section 67-6205, Idaho Code, be, and the same is hereby amended to read as follows:

67-6205. DEFINITIONS. The following terms, wherever used or referred to in this chapter, shall have the following respective meanings, unless a different meaning clearly appears from the context:

(a) "Association" or "housing association" shall mean the Idaho housing and finance association created by section 67-6202, Idaho Code.

(b) "Housing project" shall mean any work or undertaking:

(1) To demolish, clear or remove buildings from any slum area; such work or undertaking may embrace the adoption of such area to public purposes, including parks or other recreational or community purposes; or

(2) To construct, sell, lease, finance, improve, operate or otherwise provide decent, safe and sanitary urban or rural dwellings, apartments or other living accommodations for persons of low income; such work or undertaking may include buildings, land, equipment, facilities and other real or personal property which are necessary, convenient or desirable appurtenances, such as, but not limited to, streets, sewers, water service, parks, site preparation, gardening, administrative, community, health, recreational, and welfare or other purposes; or

(3) To accomplish a combination of the foregoing. The term "housing project" also may be applied to the planning of the buildings and improvements, for either single or multi-family housing, the acquisition of property, the demolition of existing structures, the construction, reconstruction, rehabilitation, alteration and repair of the buildings and improvements and all other work in connection therewith.

(c) "Governing body" shall mean the city council, board of commis-

sioners, board of trustees or other body having charge of the locality in which the association desires to undertake a housing project.

(d) "Federal government" shall include the United States of America, or any other agency or instrumentality, corporate or otherwise, of the United States of America.

(e) "City" shall mean any city in the state of Idaho, including each city having a special charter.

(f) "County" or "counties" shall include all counties in the state of Idaho as designated in chapter 1, title 31, Idaho Code.

(g) "Clerk" shall mean the clerk of the city or county as the case may be or the officer charged with the duties customarily imposed on such clerk.

(h) "Area of operation" shall mean the state of Idaho.

(i) "Slum" shall mean any area where dwellings predominate which, by reason of dilapidation, overcrowding, lack of ventilation, light or sanitary facilities or any combination of these factors, are detrimental to safety, health or morals.

(j) "Person of low-income" means persons deemed by the association, including those defined as "elderly" in the United States Housing Act of 1937 [42 U.S.C., sec. 1437--~~1437dd~~ et seq.], as amended, to require assistance available under this act on account of insufficient personal or family income, to pay the rents or carrying charges required by the unaided operation of private enterprise in providing an adequate supply of decent, safe and sanitary housing and in making such determination the association shall take into consideration, without limitation, such factors as:

(1) The amount of the total income of such persons available for housing needs;

(2) The size of the family;

(3) The cost and condition of housing facilities available;

(4) Standards established for various federal programs determining eligibility based on income of such persons; and

(5) The ability of such persons to compete successfully in the normal housing market and to pay the amounts at which private enterprise is providing decent, safe and sanitary housing.

(k) "Bonds," "notes" or "bond anticipation notes," and "obligations" shall mean any bonds, notes, interim certificates, debentures or other evidences of financial indebtedness issued by the association pursuant to this chapter.

(l) "Real property" shall include all lands, including improvements and fixtures thereon, and property of any nature, appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise and the indebtedness secured by such liens.

(m) "Housing authority" or "authority" means a housing authority established pursuant to the "housing authorities and cooperation law" constituting chapter 19, title 50, Idaho Code.

(n) "Rent" shall mean the periodic payment made by a person of low-income in a housing project whether such money is being used as rent, or for the development of equity by such person.

(o) "Interim financing" means a short-term construction loan for planning and/or development of residential housing for persons of low-income and other persons which loan shall run until financing can be

assumed through other federal, state or private financing.

(p) "Housing sponsor" means individuals, joint ventures, partnerships, limited partnerships, public bodies, trusts, firms, associations, or other legal entities or any combination thereof, and corporations, cooperatives, and condominiums, approved by the association as qualified either to own, construct, acquire, rehabilitate, operate, manage or maintain a housing project, subject to the regulatory powers of the association and other terms and conditions set forth in this chapter. A "housing sponsor" shall be either a "limited profit" sponsor or a "nonprofit" sponsor.

(q) "Mortgage lender" means any bank or trust company, savings bank, mortgage company, mortgage banker, credit union, national banking association, savings and loan association, building and loan association, life insurance company, and any other financial institution authorized to transact business in the state.

(r) "Mortgage loan" means an interest-bearing obligation secured by a deed of trust, a mortgage, bond, note, or other instrument which is a lien on property in the state except in the case of loans insured by the federal housing administration or the association and which are made for the rehabilitation or improvement of existing dwellings; in such case the loans need not be secured by an instrument constituting a lien on property in the state.

(s) "Mixed income housing project" means a housing project which contains dwellings occupied or to be occupied by persons of low-income constituting at least twenty percent (20%) of such occupancy.

(t) "Facilities" means land, rights in land, buildings, structures, equipment, landscaping, utilities, approaches, roadways and parking, handling and storage areas, and portions of any of the foregoing and similar ancillary facilities.

(u) "Nonprofit corporation" means a nonprofit corporation organized and operating in accordance with Idaho law or a nonprofit corporation organized and operating in accordance with comparable laws within another state or territory of the United States.

(v) "Nonprofit facilities" means facilities owned or used by a nonprofit corporation for a nonprofit purpose of the corporation; provided that facilities for health facilities which may be funded pursuant to chapter 14, title 39, Idaho Code, shall not be included in this definition, except for such health facilities as may be specifically approved by the Idaho health facilities authority. Facilities owned or used, consistent with its nonprofit purpose, by a nonprofit corporation recognized by a state institution of higher education as its college or university foundation shall be considered nonprofit facilities under this chapter.

(w) "Project costs of a nonprofit facility" means costs of:

(1) Acquisition, construction and improvement of any facilities included in a nonprofit facility;

(2) Architectural, engineering, consulting, accounting and legal costs related directly to the development, financing and construction of a nonprofit facility, including costs of studies assessing the feasibility of a nonprofit facility;

(3) Finance costs, including discounts, if any, the costs of issuing bonds, and costs incurred in carrying out any provisions thereof;

(4) Interest during construction and during the six (6) months

after estimated completion of construction, and capitalized debt service or repair and replacement or other appropriate reserves;

(5) The refunding of any outstanding obligations incurred for any of the costs outlined in this subsection; and

(6) Other costs incidental to any of the costs listed in this section.

(x) "Agricultural facility or facilities" means land, any building or other improvement thereon or thereto, to be owned by a beginning farmer or rancher and any personal properties deemed necessary or suitable for use, whether or not now in existence in farming or ranching, the production of agricultural commodities, including, without limitation, the products of aquaculture, hydroponics and silviculture, or the treating, processing or storing of such agricultural commodities when such activities are customarily engaged in by beginning farmers or ranchers as a part of farming or ranching.

(y) "Municipality" means any county, municipal corporation, highway district, taxing district or other political subdivision of this state.

(z) "State" means the state of Idaho.

(aa) "State body" means any department, board, commission or agency of the state of Idaho.

(bb) "Transportation board" means the Idaho transportation board and its successors.

(cc) "Transportation department" means the Idaho transportation department and its successors.

(dd) "Transportation project" means any transportation infrastructure project including, without limitation, a road, street, parkway, right-of-way, bridge, railroad crossing, drainage structure, sign, guardrail, structure, interstate, surface, resurface, shoulder, roadside, or any other work, and any planning development, management and construction related thereto, all as approved or recommended to the association by the transportation board.

(ee) "Economic development project or projects" means any commercial or industrial project including, without limitation, any manufacturing, processing, production, assembly, warehousing, solid waste disposal, recreation, office, research and development, energy or other business project owned by one (1) or more persons or other legal entities, any costs relating thereto including, without limitation, costs for buildings, land, equipment, furnishings, interest, costs of operation, financing, architectural, engineering and other professional costs and other related costs, as well as any working capital costs or expenses for such businesses.

SECTION 3. That Section 67-6206, Idaho Code, be, and the same is hereby amended to read as follows:

67-6206. POWERS OF ASSOCIATION. The housing and finance association is an independent public body corporate and politic, exercising public and essential governmental functions, and having all the powers which are hereby declared to be public purposes necessary or convenient to carry out and effectuate the purposes and provisions of this ~~act~~ chapter, including the following powers in addition to others herein granted:

(a) To sue and to be sued; to have a seal and to alter the same at pleasure; to have perpetual succession; to make and execute contracts

and other instruments necessary or convenient to the exercise of the powers of the association; and to make and from time to time amend and repeal bylaws, rules, not inconsistent with this ~~act~~ chapter, to carry into effect the powers and purposes of the association.

(b) To conduct its operations within any or all of the counties of the state.

(c) To cooperate with housing authorities throughout Idaho in the development of housing projects.

(d) To assign priorities for action and revise or modify said priorities from time to time.

(e) To make and execute agreements, contracts and other instruments necessary or convenient in the exercise of the powers and functions of the association under this ~~act~~ chapter, including contracts with any housing sponsor, mortgage lender, person, firm, corporation, governmental agency, or other entity; and to include in any contract let in connection with a project, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum wages and maximum hours of labor, and comply with any conditions which the federal government may have attached to its financial aid of the project and to designate mortgage lenders to act for and in behalf of the association, with respect to originating or servicing and processing mortgage loans of the association, and to pay the reasonable value of service rendered to the association by such mortgage lenders pursuant to contracts with mortgage lenders.

(f) To lease, sell, construct, finance, reconstruct, restore, rehabilitate, operate or rent any housing projects, nonprofit facilities or any dwellings, houses, accommodations, lands, buildings, structures or facilities embraced in any housing project or nonprofit facilities and, subject to the limitations contained in this ~~act~~ chapter, to establish and revise the rents or charges therefor.

(g) To own, hold and improve real or personal property; to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, eminent domain or otherwise, any real or personal property or any interest therein.

(h) To acquire any real property; to sell, lease, exchange, transfer, assign, pledge or dispose of any real or personal property or any interest therein.

(i) To insure or provide for the insurance of any real or personal property or operation of the association against any risks or hazards, and to procure or agree to the procurement of insurance or guarantees from the federal government or other source for the payment or purchase of any bonds or parts thereof issued by the association, including the power to pay for any such insurance or guarantees.

(j) To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or securities in which a bank, as defined in the "bank act," title 26, Idaho Code, may legally invest funds including without limitation, to agree to purchase the obligations of any federal, state or local government upon such conditions as the association may determine to be prudent and in its best interest.

(k) Within its area of operation: to investigate into living, dwelling and housing conditions and into the means and methods of improving such conditions; to determine where slum areas exist or where there is a shortage of adequate, safe and sanitary dwelling accommoda-

tions for persons of low-income; to make studies and recommendations relating to the problem of clearing, replanning and reconstruction of slum areas and the problem of providing dwelling accommodations for persons of low-income, and to cooperate with the city, the county, the state or any political subdivision thereof in action taken in connection with such problems; and to engage in research, studies and experimentation on the subject of housing.

(l) To participate in cooperative ventures with any agencies, organizations and individuals in order to undertake the provision of housing for persons of low-income, to undertake the provision of nonprofit facilities, economic development projects or agricultural facilities.

(m) To provide research and technical assistance to eligible agencies, organizations and individuals eligible to develop low cost housing and to research new low cost housing development and construction methods.

(n) To make and undertake commitments to make or participate in the making of mortgage loans to persons of low-income and to housing sponsors, including without limitation federally insured mortgage loans, and to make temporary loans and advances in anticipation of permanent loans to housing sponsors; said mortgage loans to housing sponsors shall be made to finance the construction, improvement, or rehabilitation of housing projects for persons of low-income, and/or mixed income housing projects upon the terms and conditions set forth in this ~~act~~ chapter; provided, however, that such loans shall be made only upon the determination by the association that mortgage loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions.

(o) To purchase, or make commitments to purchase or participate in the purchase of mortgage loans from mortgage lenders which loans have been made for the construction, improvement, or rehabilitation of housing projects for persons of low-income and/or mixed income housing projects or loans which have been made to persons of low-income for residential housing, upon terms set forth in this ~~act~~ chapter; provided, however, that any such purchase shall be made only upon the determination by the association that the mortgage loans to be made are not otherwise being made by mortgage lenders upon reasonably equivalent terms and conditions. Also, to purchase, or make commitments to purchase or participate in the purchase of mortgage loans from mortgage lenders whether or not said loans were made to persons of low-income, upon terms set forth in this ~~act~~ chapter; provided, however, that the proceeds from such purchase or the equivalent thereof shall be reinvested in obligations of the association, in mortgage loans to persons of low-income or in mortgage loans for housing projects for persons of low-income and/or mixed income housing projects, and provided that any such purchase shall be made only upon the determination by the association that the mortgage loans to be made are not otherwise being made by mortgage lenders upon reasonably equivalent terms and conditions.

(p) To provide interim financing for housing projects including mixed income housing projects approved by the association, provided that the association has determined that such financing is not otherwise available from mortgage lenders upon reasonably equivalent terms and conditions.

(q) To prescribe rules and policies in connection with the performance of its functions and duties.

(r) To do all other things deemed necessary and desirable to accomplish the objectives of this ~~act~~ chapter.

(s) To borrow money and issue bonds and notes or other obligations, to invest the proceeds thereof in any lawful manner and to fund or refund the same, and to provide for the rights of the holders of its obligations as provided in this ~~act~~ chapter and in connection therewith, to waive, by resolution or other document of the association, the exemption from federal income taxation of interest on any of the association's obligations under existing or future federal law and to establish, maintain and preserve the association's general obligation rating and any rating on its bonds, notes or other obligations.

(t) To receive and accept aid or contributions from any source.

(u) To employ architects, engineers, attorneys, accountants, housing construction and financial experts and such other advisors, consultants and agents as may be necessary in its judgment and to fix their compensation.

(v) To insure mortgage payments of any mortgage loan made for the purpose of constructing, rehabilitating, purchasing, leasing, or refinancing housing projects upon such terms and conditions as the association may prescribe.

(w) To fix and revise from time to time and charge and collect fees and charges in connection with loans made or other services provided by the association pursuant to this ~~act~~ chapter, and to make and publish rules respecting the making and purchase of mortgage loans.

(x) To organize a nonprofit corporation to assist the association in providing for housing projects.

(y) To enter upon and inspect any housing project, including housing projects undertaken by housing sponsors, for the purpose of investigating the physical and financial condition thereof, and its construction, rehabilitation, operation, management and maintenance, and to examine all books and records with respect to capitalization, income and other matters relating thereto.

(z) To order such alterations, changes or repairs as may be necessary to protect the security of its investment in a housing project or the health, safety, and welfare of the occupants thereof.

(aa) To make or purchase secured loans for the purpose of providing temporary or permanent financing or refinancing of all or part of the project costs of any nonprofit facility, economic development project or agricultural facility, including the refunding of any outstanding obligations, mortgages or advances issued, made or given by any person for the project costs of a nonprofit facility, economic development project or agricultural facility; provided that private financial institutions shall be involved in providing such financing for economic development projects, and further, that the association will work with private financial institutions as the primary or preferred credit enhancement providers if credit enhancement is needed for such financings, and to charge and collect interest on the loans for the loan payments upon such terms and conditions, including without limitation bond rating and issuance conditions, as the board of commissioners considers advisable which are not in conflict with this chapter.

(bb) As security for the payment of the principal of and interest on any revenue bonds issued and any agreements made in connection therewith, to mortgage, pledge, or otherwise encumber any or all of nonprofit facilities, economic development projects or agricultural facilities or

any part or parts thereof, whether then owned or thereafter acquired, and to assign any mortgage and repledge any security conveyed to the association, to secure any loan made by the association and to pledge the revenues and receipts therefrom.

(cc) To issue bonds for the purpose of financing all or part of the project cost on any nonprofit facility, economic development project or agricultural facility and to secure the payment of the bonds as provided in this chapter.

(dd) To purchase or sell by installment contract or otherwise, and convey all or any part of any nonprofit facility, economic development project or agricultural facility for such purchase price and upon such terms and conditions as this board of commissioners considers advisable which are not in conflict with this chapter.

(ee) To lease all or any part of any nonprofit facility, economic development project or agricultural facility for such rentals and upon such terms and conditions, including options to purchase, as the board of commissioners considers advisable and not in conflict with this chapter.

(ff) To construct and maintain one (1) or more nonprofit facilities, economic development projects or agricultural facilities, provided that the association shall not operate any nonprofit facility, economic development project or agricultural facility as a business other than as lessor, seller or lender. The purchase, holding and enforcing of mortgages, deeds of trust, or other security interests and contracting for any servicing thereof is not considered the operation of a nonprofit facility, economic development project or agricultural facility as a business.

(gg) To act as the designated housing resource clearinghouse in the state for matters relating to affordable housing.

(hh) To coordinate the development and maintenance of a housing policy for the state.

(ii) To enter into agreements or other transactions and accept grants, reimbursements or other payments, with the cooperation of the United States or any agency thereof or of the state of Idaho or any agency thereof or municipality of the state in furtherance of the purposes of this act, including, but not limited to, the development, maintenance, operation and financing of any transportation project and to do any and all things necessary in order to avail the association of such aid and cooperation.

(jj) To borrow money and issue bonds and notes or other evidences of indebtedness thereof as hereinafter provided to finance transportation projects approved and recommended by the transportation board.

SECTION 4. That Section 67-6207A, Idaho Code, be, and the same is hereby amended to read as follows:

67-6207A. ADDITIONAL POWERS. In addition to all other powers, the association also shall have the following specific powers:

(a) To make and publish rules respecting making mortgage loans pursuant to this act, the regulations of borrowers, housing sponsors, mortgage lenders, and the construction of ancillary commercial facilities.

(b) To make rules respecting the qualifications for admission to housing projects pursuant to this ~~act~~ chapter.

(c) To invest in, purchase, sell, or to make commitments to pur-

chase, and take assignments from lenders, of notes and mortgages or other obligations evidencing loans for housing projects, loans for nonprofit facilities, loans for economic development projects or loans for agricultural facilities, at public or private sale, with or without public bidding.

(d) To make loans to mortgage lenders under terms and conditions requiring the proceeds thereof to be used by such mortgage lenders for the making of new mortgage loans for housing projects.

(e) To enter into mortgage insurance agreements with mortgage lenders in connection with the lending of money by such institutions for housing projects.

(f) Subject to any agreement with bondholders or noteholders, to collect, enforce the collection of, and foreclose on any collateral securing its loans to mortgage lenders and acquire or take possession of such collateral and sell the same at public or private sale, with or without public bidding, and otherwise deal with such collateral as may be necessary to protect the interest of the association therein.

SECTION 5. That Section 67-6223, Idaho Code, be, and the same is hereby amended to read as follows:

67-6223. BORROWING POWER -- FINANCIAL ASSISTANCE -- COOPERATION WITH STATE AND FEDERAL GOVERNMENT. In addition to the powers conferred upon the association by other provisions of this ~~act~~ chapter, the association is empowered to administer any other state, private or federal assistance program including without limitation all tax credit programs, guaranty, loan or investment funds and block grants and to borrow money or accept contributions, grants or other financial assistance or investment from private sources or from the state or federal government for or in aid of any housing project, nonprofit facility, economic development project or agricultural facility within its area of operation, to take over or lease or manage any housing project, nonprofit facility, economic development project or agricultural facility or undertaking constructed or owned by the federal government, and to these ends, to comply with such conditions and to make such trust indentures, leases or agreements as may be necessary, convenient or desirable. It is the purpose and intent of this act to authorize the association to do any and all things necessary or desirable to secure the financial aid or cooperation of the state or federal government in the undertaking, construction, maintenance or operation of any housing project, nonprofit facility, economic development project or agricultural facility by the association. The association is specifically authorized to work with the Idaho department of agriculture in connection with any loan for an agricultural facility and the Idaho department of agriculture shall assist in the provisions of such loans.

SECTION 6. 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, 2007.

CHAPTER 153
(H.B. No. 269)

AN ACT

APPROPRIATING MONEYS TO THE LEGISLATIVE COUNCIL FOR FISCAL YEAR 2008; DIRECTING THE DISTRIBUTION OF THE FUNDING FOR EMPLOYEE COMPENSATION; DIRECTING THE ALLOCATION OF SALARY SAVINGS; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; APPROPRIATING ADDITIONAL MONEYS TO THE LEGISLATIVE COUNCIL FOR FISCAL YEAR 2007; REAPPROPRIATING UNEXPENDED AND UNENCUMBERED BALANCES FROM THE PERMANENT BUILDING FUND; AND DECLARING AN EMERGENCY FOR SECTIONS 5 AND 6 OF THIS ACT.

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, 2007, through June 30, 2008:

A. LEGISLATIVE SERVICES OFFICE:	
FROM:	
General Fund	$4,114,300
Miscellaneous Revenue Fund	44,800
Professional Services Fund	1,226,500
TOTAL	$5,385,600
B. LEGISLATIVE TECHNOLOGY:	
FROM:	
General Fund	$ 529,600
C. OFFICE OF PERFORMANCE EVALUATIONS:	
FROM:	
General Fund	$ 799,000
D. CAPITOL RESTORATION AND RENOVATION:	
FROM:	
Permanent Building Fund	$ 509,600
GRAND TOTAL	$7,223,800

SECTION 2. Agencies and institutions shall distribute the funding for employee compensation based on merit as follows:

(a) Agencies and institutions are directed to, based on merit, target funding first toward high turnover classifications and individuals below midpoint within their agency.

(b) Agencies and institutions are directed to, based on merit, target funding second toward positions within their agency that are below ninety percent (90%) of the Compa-Ratio.

(c) Agencies and institutions are directed to target any remaining funding based on merit using the merit matrix required by Idaho Code.

Agencies and institutions shall create compensation and distribution plans to ensure that they are consistent with the policies contained herein. Agency directors and institutional presidents shall approve all compensation and distribution plans and ensure that implementation of the plans is consistent with policies contained herein. Each agency and

institution shall forward, for informational purposes, approved copies of the compensation and distribution plans to the Legislative Services Office and the Division of Financial Management by June 1, 2007. The effective date of implementation of ongoing salary adjustments shall be June 17, 2007.

SECTION 3. 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 4. There is hereby reappropriated to the Legislative Council the unexpended and unencumbered balance of any appropriation contained in Section 1, Chapter 189, Laws of 2006, to be used for nonrecurring expenditures for the period July 1, 2007, through June 30, 2008.

SECTION 5. In addition to the appropriation made in Section 1, Chapter 189, Laws of 2006, there is hereby appropriated to the Legislative Council the following amount to be expended for the designated program from the listed fund for the period July 1, 2006, through June 30, 2007:

CAPITOL RESTORATION AND RENOVATION:
FROM:
Permanent Building Fund $1,500,000

SECTION 6. There is hereby reappropriated to the Legislative Council for the Capitol Restoration and Renovation Program, the unexpended and unencumbered balance of the Permanent Building Fund appropriated in Section 5 of this act, for the period July 1, 2007, through June 30, 2008.

SECTION 7. An emergency existing therefor, which emergency is hereby declared to exist, Sections 5 and 6 of this act shall be in full force and effect on and after passage and approval.

Approved March 22, 2007.

CHAPTER 154
(S.B. No. 1191)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE IDAHO STATE POLICE FOR FISCAL YEAR 2007; 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 299, Laws of 2006, there is hereby appropriated to the Idaho State Police the following amounts, to be expended for the designated

programs according to the designated expense class from the listed fund for the period July 1, 2006, through June 30, 2007:

I. DIVISION OF THE IDAHO STATE POLICE:

A. INVESTIGATIONS:

FOR:

Operating Expenditures	$ 39,200
FROM:	
General Fund	$ 39,200

B. PATROL:

FOR:

Operating Expenditures	$210,300
FROM:	
General Fund	$210,300
GRAND TOTAL	$249,500

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, 2007.

CHAPTER 155
(S.B. No. 1200)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO COMMISSION FOR LIBRARIES FOR FISCAL YEAR 2008; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; DIRECTING THE DISTRIBUTION OF THE FUNDING FOR EMPLOYEE COMPENSATION; 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 State Board of Education for the Idaho Commission for Libraries the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2007, through June 30, 2008:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Fund	$1,940,600	$ 821,200	$118,000		$2,879,800
Federal Grant Fund	244,300	634,500	25,000	$607,000	1,510,800
Miscellaneous Revenue Fund		24,300	25,000	26,000	75,300
TOTAL	$2,184,900	$1,480,000	$168,000	$633,000	$4,465,900

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Idaho Commission for Libraries is authorized no more than forty and

five-tenths (40.50) full-time equivalent positions at any point during the period July 1, 2007, through June 30, 2008, 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. Agencies and institutions shall distribute the funding for employee compensation based on merit as follows:

(a) Agencies and institutions are directed to, based on merit, target funding first toward high turnover classifications and individuals below midpoint within their agency.

(b) Agencies and institutions are directed to, based on merit, target funding second toward positions within their agency that are below ninety percent (90%) of the Compa-Ratio.

(c) Agencies and institutions are directed to target any remaining funding based on merit using the merit matrix required by Idaho Code.

Agencies and institutions shall create compensation and distribution plans to ensure that they are consistent with the policies contained herein. Agency directors and institutional presidents shall approve all compensation and distribution plans and ensure that implementation of the plans is consistent with policies contained herein. Each agency and institution shall forward, for informational purposes, approved copies of the compensation and distribution plans to the Legislative Services Office and the Division of Financial Management by June 1, 2007. The effective date of implementation of ongoing salary adjustments shall be June 17, 2007.

SECTION 4. The Idaho Commission for Libraries 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 23, 2007.

CHAPTER 156
(S.B. No. 1201)

AN ACT

APPROPRIATING MONEYS FOR THE HEALTH EDUCATION PROGRAMS FOR FISCAL YEAR 2008; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES FOR THE SEVERAL DESIGNATED PROGRAMS; AND SETTING CONDITIONS FOR REAPPROPRIATION.

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

SECTION 1. There is hereby appropriated to the Board of Regents of the University of Idaho and the State Board of Education the following amounts to be expended for the designated programs according to the des-

ignated expense classes from the listed funds for the period July 1, 2007, through June 30, 2008:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. WOI VETERINARY EDUCATION:					
FROM:					
General Fund	$ 536,300	$1,187,400	$20,000		$1,743,700
UI Restricted Fund				$ 100,000	100,000
TOTAL	$ 536,300	$1,187,400	$20,000	$ 100,000	$1,843,700
II. WWAMI MEDICAL EDUCATION:					
FROM:					
General Fund	$ 704,900	$ 99,300		$2,564,400	$3,368,600
Unrestricted Fund (Uncontrolled)	22,600	116,500		156,300	295,400
TOTAL	$ 727,500	$ 215,800		$2,720,700	$3,664,000
III. IDEP DENTAL EDUCATION:					
FROM:					
General Fund	$ 232,500	$ 15,000	$ 5,900	$ 889,100	$1,142,500
Unrestricted Fund	122,900	10,000			132,900
TOTAL	$ 355,400	$ 25,000	$ 5,900	$ 889,100	$1,275,400
IV. UNIVERSITY OF UTAH MEDICAL EDUCATION:					
FROM:					
General Fund				$1,088,800	$1,088,800
V. FAMILY PRACTICE RESIDENCIES:					
FROM:					
General Fund	$ 456,700	$ 264,900		$ 846,100	$1,567,700
VI. WICHE:					
FROM:					
General Fund				$ 228,800	$ 228,800
GRAND TOTAL	$2,075,900	$1,693,100	$25,900	$5,873,500	$9,668,400

SECTION 2. In accordance with Section 67-3519, Idaho Code, the agency is authorized no more than twenty and thirty-nine hundredths (20.39) full-time equivalent positions at any point during the period July 1, 2007, through June 30, 2008, 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. There is hereby reappropriated to the Board of Regents of the University of Idaho and the State Board of Education for the WOI

Veterinary Education Program, WWAMI Medical Education Program, IDEP Dental Education Program, University of Utah Medical Education Program, Family Practice Residencies Program, and the WICHE Program, subject to the provisions of Section 4 of this act, the unexpended and unencumbered balance of any appropriation contained in Section 1, Chapter 333, Laws of 2006, to be used for nonrecurring expenditures, for the period July 1, 2007, through June 30, 2008.

SECTION 4. The reappropriation for the General Fund moneys granted in Section 3 of this act shall be subject to the following provisions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 2007, is zero, the reappropriation for the General Fund moneys in Section 3 is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 2007, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, that amount reappropriated in Section 3 of this act shall be in the proportion that the reappropriation for the Office of the State Board of Education bears to the total General Fund reappropriation authority granted to all state agencies.

Approved March 23, 2007.

CHAPTER 157
(H.B. No. 218)

AN ACT

RELATING TO THE CAPITOL BUILDING; STATING LEGISLATIVE FINDINGS; AUTHORIZING AND APPROVING THE USE OF CERTAIN FUNDS ALREADY PROVIDED THROUGH AGREEMENTS AND AUTHORIZATIONS FROM THE STATE BUILDING AUTHORITY; AMENDING SECTION 67-1602, IDAHO CODE, TO REVISE ALLOCATION OF SPACE IN THE CAPITOL BUILDING BETWEEN THE LEGISLATIVE AND EXECUTIVE BRANCHES OF GOVERNMENT; AND DECLARING AN EMERGENCY.

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

SECTION 1. The Legislature finds that the authority to develop a Capitol Master Plan rests solely with the Idaho Capitol Commission pursuant to Section 67-1608, Idaho Code. Further, the Capitol Master Plan approved by the Capitol Commission, which includes the restoration of the Capitol Building, construction of single-story atrium wing additions at the east and west ends of the Capitol Building of approximately 25,000 square feet each, and a reconfiguration of space in the Capitol Building and which provides for the allocation and control of the first floor of the Capitol Building to be by the legislative department, is hereby declared to be reasonable and necessary.

SECTION 2. The Legislature hereby approves and authorizes the use of funds for the modified Capitol Master Plan for the restoration and expansion of the Capitol Building that have already been provided through agreements and authorizations from the Idaho Capitol Commission, the Department of Administration and the Idaho State Building Authority

pursuant to House Concurrent Resolution No. 47 adopted by the Second Regular Session of the Fifty-eighth Idaho Legislature in 2006. Such funds are hereby authorized for the restoration and refurbishment of the Capitol Building, the construction of single story atrium wing additions to the east and west ends of the Capitol Building, provisions to allow future connectivity between the Capitol Building atrium wings and other adjoining state facilities in the Capitol Mall and, if there are funds available after the completion of the project herein described, such funds are to be applied to the debt service fund to pay principal and interest on bonds, thereby reducing annual rent in that year.

SECTION 3. That Section 67-1602, Idaho Code, be, and the same is hereby amended to read as follows:

67-1602. IDAHO STATE CAPITOL -- ALLOCATION AND CONTROL OF SPACE. The space within the interior of the capitol building shall be allocated and controlled as follows:

(1) Public space. The interior within the rotunda, the hallways on the first and second floors, the restrooms located adjacent thereto, the elevators, the stairways between the first, second, third and fourth floors (excepting the interior stairways between the third and fourth floors within the legislative chambers), shall be space within the capitol building open to the public ("public space"). Subject to this chapter, the director of the department of administration shall maintain all public space.

(2) Executive department. The governor shall determine the use and allocate the space within the ~~first and~~ second floors. The director of the department of administration shall maintain such space.

(3) Legislative department. The legislative department shall determine the use of the space on the first, third and fourth floors as well as the basement, which basement shall include the underground atrium wings. All space within the first, third and fourth floors and the basement shall be allocated by the presiding officers of the senate and house of representatives. The presiding officers shall maintain such space and provide equipment and furniture thereto, provided however, that the presiding officers may contract with the director of the department of administration to maintain such space and provide equipment and furniture thereto.

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.

Law Without Signature.

CHAPTER 158
(H.B. No. 277)

AN ACT

RELATING TO THE CAPITOL BUILDING; APPROPRIATING MONEYS TO THE BOND PAYMENT PROGRAM IN THE DEPARTMENT OF ADMINISTRATION; APPROPRIATING MONEYS TO THE CAPITOL ENDOWMENT INCOME FUND; APPROPRIATING MONEYS TO

THE CAPITOL COMMISSION; APPROPRIATING MONEYS TO THE PERMANENT BUILDING FUND; APPROPRIATING MONEYS TO THE DIVISION OF PUBLIC WORKS IN THE DEPARTMENT OF ADMINISTRATION; APPROPRIATING MONEYS TO THE DIVISION OF INFORMATION TECHNOLOGY IN THE DEPARTMENT OF ADMINISTRATION; DECLARING AN EMERGENCY AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. In addition to any other appropriation provided by law for annual bond payments, there is hereby appropriated the sum of $20,100,600 from the Permanent Building Fund to the Bond Payment Program in the Department of Administration for the period July 1, 2007, through June 30, 2008, for the purpose of making the annual bond payment for the Capitol Master Plan as adopted by the Capitol Commission.

SECTION 2. There is hereby appropriated and transferred the sum of $5,150,000 from the General Fund to the Capitol Endowment Income Fund.

SECTION 3. There is hereby appropriated the sum of $5,150,000 from the Capitol Endowment Income Fund to the Capitol Commission for the purpose of providing funding for: restoring and refurbishing historical furniture and artifacts, purchasing new furnishings as necessary for the renovated Capitol Building and leasing space for the storage of historical furniture and artifacts. Any unexpended and unencumbered balances in the appropriation herein provided shall have carryover authority through the period ending June 30, 2010.

SECTION 4. There is hereby appropriated and transferred the sum of $839,000 from the General Fund to the Permanent Building Fund.

SECTION 5. There is hereby appropriated the sum of $500,000 from the Permanent Building Fund to the Division of Public Works in the Department of Administration for the period July 1, 2007, through June 30, 2008, for the purpose of providing a design for the renovation of the Borah Building.

SECTION 6. There is hereby appropriated the sum of $339,000 from the Permanent Building Fund to the Division of Information Technology in the Department of Administration for the purpose of providing upgrades in the fiber-optic, cabling and broadband communications network in the Capitol Mall during the Capitol Building renovation and expansion project. Any unexpended and unencumbered balances in the appropriation herein provided shall have carryover authority through the period ending June 30, 2010.

SECTION 7. An emergency existing therefor, which emergency is hereby declared to exist, Sections 2, 3, 4 and 6 of this act shall be in full force and effect on and after passage and approval. Sections 1 and 5 of this act shall be in full force and effect on and after July 1, 2007.

Law Without Signature.

CHAPTER 159
(H.B. No. 191)

AN ACT

RELATING TO FEE INCREASES OF TAXING DISTRICTS; AMENDING SECTION 63-1311A, IDAHO CODE, TO PROVIDE THAT NO TAXING DISTRICT MAY MAKE A DECISION APPROVING A FEE INCREASE THAT IS IN EXCESS OF FIVE PERCENT OF THE AMOUNT OF THE FEE LAST COLLECTED OR A DECISION IMPOSING A NEW FEE UNLESS IT HOLDS A HEARING ON SUCH FEE INCREASE, TO PROVIDE FOR NOTICE OF ITS INTENT TO MAKE A DECISION ON A PROPOSED FEE INCREASE THAT IS IN EXCESS OF FIVE PERCENT OF THE AMOUNT OF FEES LAST COLLECTED AND TO MAKE TECHNICAL CORRECTIONS; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-1311A, Idaho Code, be, and the same is hereby amended to read as follows:

63-1311A. ADVERTISEMENT OF AND HEARING ON FEE INCREASES. No taxing district may make a decision approving a fee increase that ~~exceeds--one hundred~~ is in excess of five ~~per-cent~~ percent (~~105%~~) of the amount of the fee last collected or a decision imposing a new fee, unless it first holds a hearing upon such proposed fee increase or fee imposition at a regular or special meeting of the district's governing body and after it gives public notice of such hearing in the manner provided in this section. Any taxing district that is required to hold a hearing and give public notice of the hearing as provided in this section, and which fails to do so, shall have the validity of all or a portion of the fee increase that it collects be voidable.

The taxing district shall give public notice of its intent to make a decision on a proposed fee increase, that ~~exceeds-one-hundred~~ is in excess of five ~~per-cent~~ percent (~~105%~~) of the amount of fees last collected prior to such decision, or a decision to impose a new fee by giving public notice either by advertising in at least one (1) newspaper as defined in section 60-106, Idaho Code, or by holding three (3) public meetings in three (3) different locations in the district or by a single mailing notice to all district residents, providing that the same information is given and providing the meeting shall be held not less than seven (7) days after mailing of the notice. An advertisement used to satisfy the requirements of this section shall be run once each week for the two (2) weeks preceding the week during which the hearing required by this section will be held. The advertisement shall state that the taxing district will meet on a certain day, time and place fixed in the advertisement, for the purpose of hearing public comments regarding any proposed fee increase beyond the limits prescribed by this section, or imposition of a new fee and to explain the reasons for such action.

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, 2007.

Approved March 22, 2007.

CHAPTER 160
(H.B. No. 86)

AN ACT
RELATING TO IRRIGATION DISTRICTS; AMENDING SECTION 43-111, IDAHO CODE, TO REVISE PROCEDURES RELATING TO THE QUALIFICATIONS OF VOTERS.

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.

Approved March 23, 2007.

CHAPTER 161
(H.B. No. 87)

AN ACT
RELATING TO IRRIGATION DISTRICTS; AMENDING SECTION 43-803, IDAHO CODE, TO PROVIDE FOR THE RECORDING OF NOTICES OF ELECTION AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 43-804, IDAHO CODE, TO REVISE TIMING PROVISIONS RELATING TO THE REDEMPTION OR REPURCHASE OF WATER RIGHTS.

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

SECTION 1. That Section 43-803, Idaho Code, be, and the same is hereby amended to read as follows:

43-803. NOTICE OF ELECTION BY DISTRICT -- RESERVATION OF TITLE TO WATER RIGHT. To constitute an election as provided in section 43-801, Idaho Code, the irrigation district shall, at least ten (10) days prior to the date of the issuance of tax deed to the county treasurer on behalf of any taxing unit, or at least ten (10) days prior to the date of any sale of real property acquired by a county on account of delinquent taxes, file with the county treasurer and the clerk of the board of county commissioners of the county a notice in writing, in substantially the following form:

"Notice is hereby given that .... irrigation district has elected to accept a cancellation of taxes in favor of said irrigation district and constituting part of the taxes delinquent upon which tax deed may or has issued and in lieu thereof to retain title to the water right for the purchase of which the assessments in favor of the irrigation district were levied. The property affected by this notice is described as follows, to wit:
(....)"

Upon the issuance of a tax deed to any lands within an irrigation district organized as aforesaid for delinquent taxes or a sale of any lands acquired by a county on account of delinquent taxes, the receipt of this notice by the county treasurer or the clerk of the board of county commissioners of the county, substantially in form as herein provided, shall be recorded in the chain of title of the subject real property and shall obligate the officer accepting a deed on behalf of a taxing unit and/or the officers executing a deed to lands acquired by the county for delinquent taxes, to reserve title to the water right and title to said water right shall thereupon vest in the irrigation district subject to redemption as hereinafter provided; provided, however, said irrigation district shall as a prerequisite to withdrawal of said water right from the lands and revesting thereof in said district, pay to the county the amount paid by the county to the state as state taxes levied against said lands from which said water right is to be withdrawn.

SECTION 2. That Section 43-804, Idaho Code, be, and the same is hereby amended to read as follows:

43-804. REDEMPTION OR REPURCHASE OF WATER RIGHTS. The purchaser of any lands within an irrigation district at a sale of lands acquired by a county on account of delinquent taxes, or the holder of a tax deed to any lands within an irrigation district, or the then owner of said lands, the water right to which has vested in said irrigation district under the provisions of this chapter, may, within six (6) months from the date of the issuance of the tax deed, or of the sale of said lands by the county, whichever is earlier, appear before the board of directors of said irrigation district at a regular or special meeting of said board and make application to redeem or repurchase the water right originally bought for use and to be made appurtenant to said land, and the said board of directors shall, upon receipt of payment of all taxes for-

merly delinquent against said land in favor of the irrigation district and expenses incurred by the district in connection therewith, reinstate said water right and thereafter said land and water shall be subject to all of the charges required to be paid by lands within the district: provided, however, that during the interim between the issuance of the tax deed to the land, or the sale of said land by the county as herein referred to, and the date of the application to redeem, water represented by said water right shall not be delivered to the land except upon the express consent of the board of directors of the irrigation district.

Should no redemption be made as herein provided within the period herein stated, title to the water right shall vest absolutely in the irrigation district.

Approved March 23, 2007.

CHAPTER 162
(H.B. No. 140)

AN ACT

RELATING TO THE DIVISION OF BUILDING SAFETY; AMENDING SECTION 67-2601, IDAHO CODE, TO DELETE AN OBSOLETE REFERENCE AND TO REVISE PROVISIONS RELATING TO THE POWERS AND DUTIES OF THE DIVISION OF BUILDING SAFETY; AND AMENDING CHAPTER 26, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2601A, IDAHO CODE, TO SET FORTH THE ORGANIZATION OF THE DIVISION OF BUILDING SAFETY AND THE POWERS AND DUTIES OF THE ADMINISTRATOR OF THE DIVISION.

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

SECTION 1. 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 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; 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;-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~~ building code board, chapter 41, title 39, Idaho Code; manufactured home advisory board, chapter 21, title 44, Idaho Code; electrical board, chapter 10, title 54, Idaho Code; public works contractors board, chapter 19, title 54, Idaho Code; plumbing board, chapter 26, title 54, Idaho Code; public works construction management, chapter 45, title 54, Idaho Code; and the heating, ventilation and air conditioning board, chapter 50, title 54, Idaho Code.

(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 2. That Chapter 26, 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 67-2601A, Idaho Code, and to read as follows:

67-2601A. DIVISION OF BUILDING SAFETY. (1) The division of building safety will be headed by an administrator appointed by and serving at the will of the governor. The division administrator, deputy administrators and bureau chiefs shall be nonclassified employees exempt from the provisions of chapter 53, title 67, Idaho Code.

(2) The administrator shall administer the following provisions and shall perform such additional duties as are imposed on him by law: chap-

ter 41, title 39, Idaho Code, relating to the building code board; chapter 40, title 39, Idaho Code, relating to manufactured homes; 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 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 45, title 54, Idaho Code, relating to public works construction management licensing; chapter 50, title 54, Idaho Code, relating to heating, ventilation and air conditioning systems; chapter 80, title 39, Idaho Code, relating to school building safety; and chapter 86, title 39, Idaho Code, relating to elevator safety.

(3) The 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 shall 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.

(4) In administering the laws regulating professions, trades and occupations that are devolved for administration upon the division, and in addition to the authority granted to the administrator by the laws and rules of the agencies and entities within the division, the administrator may:

(a) Revise the operating structure of the division as needed to provide efficient and appropriate services to the various professions, trades, occupations and programs administered within the division;

(b) Conduct examinations to ascertain the qualifications and fitness of applicants to exercise the profession, trade or occupation for which an examination is held; pass upon the qualifications of applicants for reciprocal licenses, certificates and authorities; prescribe rules for a fair and impartial method of examination of candidates to exercise the respective professions, trades or occupations; and issue registrations, licenses and certificates;

(c) Conduct hearings on proceedings to discipline, renew or reinstate licenses, certificates or authorities of persons exercising the respective professions, trades or occupations; appoint hearing officers, administer oaths, issue subpoenas, and compel the attendance of witnesses; revoke, suspend, refuse to renew, or take other disciplinary action against such licenses, certifications or authorities; and prescribe rules to recover costs and fees incurred in the investigation and prosecution of any certificate holder, licensee or registrant of the division, its boards, bureaus and programs, in accordance with the contested case provisions of chapter 52, title 67, Idaho Code, and the laws and rules of the boards, bureaus and programs the division administers;

(d) Assess civil penalties as authorized;

(e) Promulgate rules establishing: a coordinated system for the

issuance, renewal, cancellation and reinstatement of licenses, certificates, registrations and permits; assessment of all related fees; the terms by which fees may be prorated, if any; and procedures for the replacement of lost or destroyed licenses, certificates or registrations; and

(f) Promulgate other rules as may be necessary for the orderly administration of the chapters specified in subsection (2) of this section and such rules as may otherwise be required by those chapters as well as rules for the standardization of operating procedures.

(5) Notwithstanding any law governing any specific board, bureau or program comprising the division of building safety, each board member shall hold office until a successor has been duly appointed and qualified.

(6) The administrator shall have the authority to employ individuals, make expenditures, enter into contracts, require reports, make investigations, travel, and take other actions deemed necessary.

Approved March 23, 2007.

CHAPTER 163
(H.B. No. 147)

AN ACT

RELATING TO DISTRICT BOARDS OF HEALTH; AMENDING SECTION 39-411, IDAHO CODE, TO PROVIDE MINIMUM AND MAXIMUM NUMBERS OF MEMBERS FOR BOARDS OF TRUSTEES FOR DISTRICT BOARDS OF HEALTH.

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

SECTION 1. That Section 39-411, Idaho Code, be, and the same is hereby amended to read as follows:

39-411. COMPOSITION OF DISTRICT BOARD -- QUALIFICATIONS OF MEMBERS -- APPOINTMENT AND REMOVAL -- TERMS -- TRUSTEE SELECTED FOR BOARD OF TRUSTEES OF DISTRICT BOARDS OF HEALTH. For those districts comprised of less than eight (8) counties, the district board of health shall consist of seven (7) members to be appointed by the boards of county commissioners within each district acting jointly, and each board of county commissioners may appoint a board member. For those districts comprised of eight (8) counties, the district board of health shall consist of <u>not less than</u> eight (8) members <u>nor more than nine (9) members</u> and each board of county commissioners may appoint a board member. Each member of the district board of health shall be a citizen of the United States, a resident of the state of Idaho and the public health district for one (1) year immediately last past, and a qualified elector. One (1) member of the district board, if available to serve, shall be a physician licensed by the Idaho state board of medicine and no more than one (1) member shall be appointed from any professional or special interest group. All members shall be chosen with due regard to their knowledge and interest in public health and in promoting the health of the citizens of the state and the public health district. Representation shall

be assured from rural as well as urban population groups. All appointments to the district board shall be confirmed by a majority vote of all the county commissioners of all the counties located within the public health district. Any member of the district board may be removed by majority vote of all the county commissioners of all the counties located within the district. The members of the district board, each year, shall select a chairman, a vice-chairman and a trustee. The trustee shall represent the district board as a member of the board of trustees of the Idaho district boards of health. The board of trustees of the Idaho district boards of health shall have authority to allocate appropriations from the legislature to the health districts. The board of trustees shall develop and administer a formula for the allocation of legislative appropriations.

The members of the district board of health shall be appointed for the purpose of organization as follows: One (1) member to be appointed for a term of one (1) year, one (1) for two (2) years, one (1) for three (3) years, two (2) for four (4) years and two (2) for five (5) years. Each succeeding vacancy shall be filled by the boards of county commissioners within the district acting jointly and with confirmation as herein described for a term of five (5) years, subject to reappointment; and vacancies on the board for an unexpired term shall be filled for the balance of the unexpired term.

Approved March 23, 2007.

CHAPTER 164
(H.B. No. 154)

AN ACT

RELATING TO ENERGY FACILITIES; AMENDING CHAPTER 23, TITLE 67, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 67-2351, 67-2352, 67-2353, 67-2354 AND 67-2355, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROVIDE A CITY OR COUNTY REQUEST FOR ADVICE REGARDING AN ENERGY FACILITY, TO PROVIDE STATE DEPARTMENT RESPONSIBILITIES, TO PROVIDE FOR CONSIDERATION OF AN APPLICATION, TO PROVIDE PROHIBITED FACTORS FOR CONSIDERATION AND TO PROVIDE FOR PUBLIC HEARINGS AND COMMENTS.

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

SECTION 1. That Chapter 23, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 67-2351, 67-2352, 67-2353, 67-2354 and 67-2355, Idaho Code, and to read as follows:

67-2351. SHORT TITLE. This act shall be known and may be cited as the "Energy Facility Site Advisory Act."

67-2352. DEFINITIONS. As used in this act, the following definitions shall apply:

(1) "Department" means any department of state government as defined in section 67-2402, Idaho Code.

(2) "Energy facility" means any electrical generating facility with a rated capacity at location and at fifty-nine (59) degrees of more than fifty (50) megawatts regardless of fuel source.

67-2353. CITY OR COUNTY REQUEST FOR ADVICE. (1) In the event that a city or county has before it a matter in which it considers a permit to construct and operate an energy facility that will be used for the generation of electricity, the city or county may request assistance in the evaluation of the environmental attributes and impacts of the operation of the facility from any department of state government as provided in this act. The request to a department for assistance shall specify the scope of the requested assistance, shall request a written response to the request and shall include the information provided to the city or county by the applicant that relates to the request for assistance.

(2) In addition to such other information as the ordinances of the city or county may require, a city or county may require an applicant for the construction of an energy facility to submit preliminary air emission and preliminary water consumption data concerning the proposed energy facility based on the design of the facility.

(3) If a city or county requests assistance from more than one (1) department, the city or county may designate one of the departments to coordinate the reporting by all departments pursuant to this act.

67-2354. DEPARTMENT RESPONSIBILITIES. (1) Upon receiving a request for assistance from a city or county, the department receiving the request shall review the information provided to the department by the city or county. The department may make such investigations as it considers necessary to respond to the request for advice. Within sixty (60) days of receiving a request for assistance, the department shall issue a written report to the city or county that made the request. If a city or county requests assistance from more than one (1) department, all departments to which a request is made shall cooperate with the department designated by the city or county to coordinate the activities of all departments in performing their reporting obligation.

(2) A department that has received a request for assistance pursuant to this act shall cause a qualified employee of the department to appear at a hearing on the application held pursuant to section 67-2355(3), Idaho Code, upon the request of the city or county that requested the assistance.

(3) Compliance with this act shall not preempt or otherwise affect the duties of the department under state law.

67-2355. CONSIDERATION OF APPLICATION -- LOCAL REGULATION. (1) The city or county shall consider an application for the construction of an energy facility under its existing ordinances except as otherwise provided in this section.

(2) In considering an application for the construction of an energy facility, the city or county may not consider the following factors or attributes of an energy facility because the factors are the responsibility of the public utilities commission, an electric cooperative governing board or a city council overseeing a municipal electric system:

(a) The need for or use of the energy by the applicant or by one (1) or more electric utilities or purchasers of the energy;

(b) The resource plan or financial characteristics of an electric utility or purchaser of the energy; or

(c) Alternative resource options or alternative energy facility sites that were considered by the applicant or utility owner or purchaser, or that may be or were available or should have been considered for comparative purposes.

(3) The city or county shall hold at least one (1) public hearing affording the public an opportunity to comment on each proposed energy facility before the approval of the facility. Several sites may be considered at any one (1) public hearing. A representative of the state department or departments that have provided written reports shall appear at the hearing at the request of the city or county. Members of the public who are not residents of the city or county may provide comments at the hearing. The city or county, when deciding whether to approve the application, shall duly consider all comments. The city or county may approve or disapprove the application regardless of the written advice by a state department. A hearing held pursuant to the existing ordinances of the city or county that meets all of the requirements of this subsection is held in compliance with this subsection.

Approved March 23, 2007.

CHAPTER 165
(H.B. No. 177)

AN ACT

RELATING TO INCOME TAX CREDITS; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3029M, IDAHO CODE, TO PROVIDE FOR AN INCOME TAX CREDIT FOR CAPITAL INVESTMENT IN BIOFUEL INFRASTRUCTURE, TO DEFINE TERMS, TO PROVIDE A LIMIT, TO PROVIDE THE MAXIMUM AMOUNT OF THE CREDIT, TO PROVIDE FOR CARRY FORWARD AUTHORITY, TO PROVIDE FOR RECAPTURE, TO PROVIDE FOR ADMINISTRATIVE PROVISIONS AND TO PROVIDE FOR RULES; PROVIDING AN EFFECTIVE DATE AND PROVIDING A SUNSET DATE.

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

SECTION 1. 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 63-3029M, Idaho Code, and to read as follows:

63-3029M. INCOME TAX CREDIT FOR CAPITAL INVESTMENT IN BIOFUEL INFRASTRUCTURE. (1) The definitions contained in the Idaho income tax act shall apply to this section unless the context clearly requires another definition.

(2) As used in this section:

(a) "Biofuel" means any fuel offered for sale as a transportation fuel that is agriculturally derived and meets applicable ASTM standards as required in section 37-2506, Idaho Code, including, but not limited to, ethanol, ethanol-blended fuel, biodiesel and biodiesel blends.

(b) "Fuel distributor" or "distributor" means any business with a

situs in Idaho that distributes motor vehicle fuel including, but not limited to, wholesalers, jobbers, distributors or terminal operators.

(c) "Fueling infrastructure" means necessary tanks, piping, pumps, pump stands, hoses, monitors, blending equipment, meters, rack injection systems or any other equipment including installation of equipment necessary for a fuel distributor to offer biofuel to its customers, or for a retail fuel outlet to offer biofuel for sale.

(d) "Placed into service" means that biofuel is offered for sale and continues to be offered for sale through the fueling infrastructure made available by the qualified investment.

(e) "Qualified investment" means installation of new fueling infrastructure dedicated to the purpose of selling or offering for sale biofuel; or upgrading existing fueling infrastructure demonstrated to be incompatible with the biofuel to be offered, including cleaning of existing fuel storage tanks, trucks or other equipment for the purpose of providing biofuels.

(f) "Recapture period" means a period of five (5) years from the date the qualified investment was placed into service. During this period, biofuel must be offered for sale on a continuous basis.

(g) "Retail fuel dealer" or "dealer" means any business with a situs in Idaho that sells or offers for sale at the retail level motor vehicle fuel.

(3) For taxable years beginning on or after January 1, 2007, and before December 31, 2011, and subject to the limitations of this section, a taxpayer who has placed into service a qualified investment after July 1, 2007, shall, in lieu of the investment tax credit provided in section 63-3029B, Idaho Code, be allowed a nonrefundable credit against taxes imposed by sections 63-3024, 63-3025 and 63-3025A, Idaho Code, in the amount of six percent (6%) of the amount of qualified investment as defined in subsection (2) of this section, and made during a taxable year, wherever located within this state.

(4) The credit allowed by this section shall not exceed fifty percent (50%) of the income tax liability of the taxpayer.

(5) In the case of a group of corporations filing a combined report under subsection (t) of section 63-3027, 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 (6) 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 who earned the credit is no longer included in the combined group.

(6) If the credit allowed by subsection (3) of this section exceeds the limitation under subsection (4) of this section, the excess amount may be carried forward for a period that does not exceed the next five (5) taxable years.

(7) In the event that the qualified investment upon which the credit allowed by this section has been used ceases to qualify for the credit during the recapture period, the recapture of credit under this section shall be in the same proportion and subject to the same provisions as the amount of credit required to be recaptured under section 63-3029B, Idaho Code.

(8) In addition to other needed rules, the state tax commission may promulgate rules prescribing, in the case of S corporations, partner-

ships, limited liability companies, trusts or estates, a method of attributing the credit under this section to the shareholders, partners or beneficiaries in proportion to their share of the income from the S corporation, partnership, trust or estate.

SECTION 2. This act shall be in full force and effect on and after July 1, 2007, and shall be null, void and of no force and effect on and after January 1, 2012.

Approved March 23, 2007.

CHAPTER 166
(H.B. No. 182)

AN ACT

RELATING TO NOTICE REQUIREMENTS FOR SCHOOL DISTRICT AFFAIRS; AMENDING SECTION 33-402, IDAHO CODE, TO PROVIDE THAT NOTICES CALLING FOR CERTAIN BIDS SHALL BE GIVEN IN A NEWSPAPER OF GENERAL CIRCULATION AS REQUIRED BY CHAPTER 1, TITLE 60, IDAHO CODE AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 33-402, Idaho Code, be, and the same is hereby amended to read as follows:

33-402. NOTICE REQUIREMENTS. a. Notice of all school elections must be given by posting and publishing notice of said elections and such notice shall state:

1. The date of holding the election;
2. The hours between which the polls will be open;
3. The definite place or places of holding the election;
4. In the case of election of trustees, the offices to be filled, the trustee zones, and a statement that declarations of candidacy must be filed not later than 5:00 p.m. on the fifth Friday prior to the day of the election;
5. In the case of bond election, the amount of the issue, the purpose and period of the issue;
6. In the case of the assumption of a debt, the amount of any such debt to be assumed by each district, or part of a district; and
7. In all other elections, a brief statement of the question being submitted to the electors.

b. In school elections involving (i) the incurring or increasing of a debt, (ii) approving a levy for a plant facilities reserve fund and term thereof, (iii) excising and annexing territory, (iv) consolidating districts, or (v) dividing a district, notice of the election shall be posted not less than twenty-one (21) days prior to the day of the election in at least three (3) places in each district participating in or affected by such election, one (1) of which places shall be at or near the main door of the administrative offices of each such district, and by publishing at least once each week for three (3) consecutive weeks prior to the day of the election in a newspaper as provided in section

60-106, Idaho Code, published in the county or in any county in which such district may lie and having general circulation within such district.

c. Notice of all other school elections shall be given in the same manner, except that the posting shall be for not less than ten (10) days, and publishing shall be at least once each week for two (2) consecutive weeks prior to the day of the election.

d. Notice of the deadline for filing declaration of candidacy for election of trustees shall be posted for not less than ten (10) days and published at least once each week for two (2) consecutive weeks prior to the last day for filing nominating petitions as required by section 33-502, Idaho Code.

e. In elections for excising and annexing the territory of school districts, or to create new school districts by consolidation or division, the clerk of the board of county commissioners of the county in which the district lies, or of the home county if the district be a joint district, shall prepare, post, sign and arrange for the publishing of, the notice of election. In all other elections it shall be the duty of the clerk of the board of trustees so to do.

f. Notice of annual meeting of elementary school districts as provided for in section 33-510, Idaho Code, and of intent to discontinue a school, as provided for in section 33-511, Idaho Code, and annual budget hearing as provided for in section 33-801, Idaho Code, shall be given by posting and publishing as outlined in subsection b. of this section except that posting shall be for not less than ten (10) days, and publishing shall be once in a newspaper as provided in section 60-106, Idaho Code, published within the district, or, if there be none, then in a newspaper as provided in section 60-106, Idaho Code, published in the county in which such district lies. If more than one (1) newspaper is printed and published in said district or county, then in the newspaper most likely to give best general notice of the election within said district; provided that if no newspaper is published in the said district or county, then in a newspaper as provided in section 60-106, Idaho Code, most likely to give best general notice of the election within the district.

g. Notices calling for bids for the acquisition, use, or disposal of real and personal property as provided for in section 33-601, Idaho Code, and contracting for transportation services as provided for in section 33-1510, Idaho Code, shall be given in a newspaper of general circulation as required by chapter ~~28~~ 1, title ~~67~~ 60, Idaho Code, except that the notice for contracting for transportation services shall be made not less than four (4) weeks before the date of opening bids.

h. Proof of posting notice shall be upon the affidavit of the person posting the same; and proof of publication shall be upon the affidavit of the publisher of the newspaper or newspapers respectively. Such affidavits shall be filed with his board by the clerk responsible for the posting and the publishing of said notice, before the day of the election named in the notice.

Approved March 23, 2007.

CHAPTER 167
(H.B. No. 204)

AN ACT

RELATING TO DEVELOPMENT IMPACT FEES; AMENDING SECTION 67-8204A, IDAHO CODE, TO AUTHORIZE GOVERNMENTAL ENTITIES TO ENTER INTO INTERGOVERNMENTAL AGREEMENTS WITH ADDITIONAL DISTRICTS AS SPECIFIED.

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

SECTION 1. That Section 67-8204A, Idaho Code, be, and the same is hereby amended to read as follows:

67-8204A. INTERGOVERNMENTAL AGREEMENTS. Governmental entities as defined in section 67-8203(14), Idaho Code, which are jointly affected by development are authorized to enter into intergovernmental agreements with each other or with highway districts, fire districts, water districts, sewer districts, recreational water and sewer districts or irrigation districts for the purpose of developing joint plans for capital improvements or for the purpose of agreeing to collect and expend development impact fees for system improvements, or both, provided that such agreement complies with any applicable state laws. Governmental entities are also authorized to enter into agreements with the Idaho transportation department for the expenditure of development impact fees pursuant to a developer's agreement under section 67-8214, Idaho Code.

Approved March 23, 2007.

CHAPTER 168
(H.B. No. 215)

AN ACT

RELATING TO LAND USED TO PROTECT WILDLIFE AND WILDLIFE HABITAT; AMENDING SECTION 63-605, IDAHO CODE, TO REVISE AND CLARIFY THE APPLICATION PROCESS TO CLAIM THE TAX STATUS PROVIDED IN THIS SECTION, TO REQUIRE THAT THE MANAGEMENT PLAN SHALL INCLUDE CONTROLLING NOXIOUS WEEDS, TO REQUIRE AN ANNUAL PROGRESS REPORT ON MANAGEMENT OF THE TARGET SPECIES AND CONTROLLING NOXIOUS WEEDS WHEN MAKING SUBSEQUENT ANNUAL APPLICATION UNDER THIS SECTION, TO PROVIDE AN EXCEPTION TO THE REQUIREMENT TO ANNUALLY FILE THE CONSERVATION AGREEMENT OR A COPY OF THE DOCUMENT CREATING THE CONSERVATION EASEMENT, TO PROVIDE CONDITIONS THAT RESULT IN LOSS OF THE TAX STATUS PROVIDED IN THIS SECTION AND TO MAKE TECHNICAL CORRECTIONS; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-605, Idaho Code, be, and the same is hereby amended to read as follows:

63-605. LAND USED TO PROTECT WILDLIFE AND WILDLIFE HABITAT. (1) For the tax year commencing January 1, 2007, an application for appraisal, assessment and taxation under this section as land actively

devoted to agriculture pursuant to section 63-604, Idaho Code, shall be filed in the office of the county assessor on or before the fourth Monday in June 2007. For the tax year commencing January 1, 2008, and for each and every year thereafter, an application for appraisal, assessment and taxation under this section as land actively devoted to agriculture pursuant to section 63-604, Idaho Code, shall be filed in the office of the county assessor between January 1 and April 15 of each year for which the requested tax status is to apply. Land eligible for this tax status is land which is either:

(~~1~~a) Owned and used for wildlife habitat by a private, nonprofit corporation which corporation has a recognized tax exempt status under section 501(c)(3) of the ~~i~~Internal ~~r~~Revenue ~~c~~Code, and which corporation qualifies for exemption status under section 63-602C, Idaho Code, and which corporation is dedicated to the conservation of wildlife or wildlife habitat; or

(~~2~~b) Being managed pursuant to a conservation easement or a conservation agreement, as defined in this section and which easement or agreement has been entered into with a private, nonprofit corporation which has a tax exempt status under section 501(c)(3) of the ~~i~~Internal ~~r~~Revenue ~~c~~Code, which corporation qualifies for exemption status under section 63-602C, Idaho Code, and which land ~~formerly~~ qualified, for three (3) consecutive years immediately preceding management of the land pursuant to a conservation easement or a conservation agreement, as land actively devoted to agriculture pursuant to section 63-604, Idaho Code~~, dry grazing land or waste pursuant to rule, shall be eligible for appraisal, assessment and taxation as agricultural property, dry grazing land or waste pursuant to rule~~.

(2) As used in this section, "conservation agreement" means a written document between a private, nonprofit corporation enumerated in subsection (1) of this section and the landowner which defines wildlife, flora or fauna or freshwater biota to be protected and outlines a minimum of a ten (10) year management plan to protect target species and to control noxious weeds in accordance with Idaho noxious weed law in chapter 24, title 22, Idaho Code. Progress in managing the target species and controlling noxious weeds shall be monitored and an annual progress report shall be submitted each year along with the application filed as required in this section.

(3) The conservation agreement or a copy of the document creating the conservation easement shall be filed with the county assessor by April 15 of the year for which application for the tax status is ~~claimed~~ made. Following initial approval of an application in any tax year, for each subsequent, consecutive year in which application is made and the tax status is claimed, it shall not be necessary to resubmit the conservation agreement or a copy of the document creating the conservation easement unless the agreement or easement document has been amended. In the event the document is amended, the amended version shall be submitted with that year's application.

(4) Failure to file an application for each year that tax status under this section is claimed, or failure to annually document progress in managing the target species and controlling noxious weeds as required in subsection (2) of this section, shall result in loss of the tax status provided in 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, 2007.

Approved March 23, 2007.

CHAPTER 169
(H.B. No. 231)

AN ACT

RELATING TO FISCAL AFFAIRS OF SCHOOL DISTRICTS; AMENDING SECTION 33-701, IDAHO CODE, TO CLARIFY THAT SCHOOL DISTRICTS MAY INVEST IN THE INVESTMENTS PERMITTED BY THE PROVISIONS OF SECTIONS 67-1210 AND 67-1210A, IDAHO CODE.

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

SECTION 1. That Section 33-701, Idaho Code, be, and the same is hereby amended to read as follows:

33-701. FISCAL YEAR — PAYMENT AND ACCOUNTING OF FUNDS. The fiscal year of each school district shall be a period of twelve (12) months commencing on the first day of July in each year.

The board of trustees of each school district shall have the following powers and duties:

1. To determine and order paid all lawful expenses for salaries, wages and purchases, whether or not there be money in the treasury for payment of warrants drawn against any fund of the district. Warrants shall be signed by the treasurer of the district and countersigned by the chairman or vice-chairman of the board of trustees.

Whenever any school district has sufficient funds on deposit to do so, it may pay any allowed claim for salaries, wages or purchases by regular bank check signed by the treasurer or assistant treasurer of the district and countersigned by the chairman, or vice-chairman, of the board of trustees.

The total amount of warrants or orders for warrants drawn on any fund, together with disbursements from such fund in any other manner made, shall not exceed ninety-five percent (95%) of the estimated income and revenue accrued or accruing to such fund for the same school year, until such income and revenue shall have been paid into the treasury to the credit of the district;

2. To invest all or part of any plant facilities reserve fund, or any fund accumulated for the payment of interest on, and the redemption of, outstanding bonds, or other obligations of the district in bonds or certificates of indebtedness of the United States of America, or in bonds or <u>investments permitted by sections 67-1210 and 67-1210A, Idaho Code, or</u> warrants of the state of Idaho, or in warrants or tax anticipation notes of any county or school district of the state of Idaho, when such investments shall be due and payable on or before the date any plant facilities reserve fund shall be required to be expended or any bonds or other obligations, or interest thereon, of the investing district shall become payable.

Whenever in the judgment of the board of trustees, the proceeds of any bond issue should be temporarily invested pending the expenditure of such proceeds for the purposes for which such bonds were issued, the proceeds may be invested in the manner and form hereinabove prescribed. Any interest, or profits accruing from such investments shall be used for the purposes for which the bonds were issued. Unless otherwise provided by law, any interest or profits accruing from the investment of any funds shall be credited to the general fund of the district;

3. To insure any schoolhouse and other property, and the district, against any loss by fire, casualty, or liability, and the board, its officers and employees, and to preserve its property for the benefit of the district. In case of loss of any insured property, any proceeds from insurance:

(a) May be expended in constructing a temporary or permanent structure, but no sum greater than the insurance proceeds shall be so expended except upon approval of a majority of the school district electors voting in an election called for that purpose; or

(b) May be placed in and made a part of the school plant facilities reserve fund of the district, if the district has such a fund; or

(c) May be placed in a separate account in the bond interest and redemption fund of the district to repay any kind of obligation incurred by the district in replacing or restoring the property for which the insurance proceeds were received, and shall not be included in the computations of bond and bond interest levies as provided in section 33-802A, Idaho Code.

If the proceeds of any insurance received by a school district by reason of loss on real property shall be less than five thousand dollars ($5,000), such proceeds may be credited to the general fund of the district;

4. To pay from the general fund of the district the expense of any member of the board incurred while traveling on the business of the board, or attending any meeting called by the state board of education or by the state superintendent of public instruction, or attending any annual or special meetings of the state school trustees association, and to pay the membership fee of the board of trustees in said association. Whenever any member of the board of trustees resides at such distance from the meeting place of the board as to require, in the judgment of the board, such member to incur extraordinary expense in traveling from his home to and from said meeting place, the board may approve payment to such member of the extraordinary expense incurred in attending any meeting of the board.

For the purpose of this paragraph, the term "expense" or "extraordinary expense" shall include allowance for mileage or actual travel expense incurred;

5. To prepare, or cause to be prepared and published, in the manner hereinafter prescribed, within one hundred twenty (120) days from the last day of each fiscal year, an annual statement of financial condition and report of the school district as of the end of such fiscal year in a form prescribed by the state superintendent of public instruction. Such annual statement shall include, but not be limited to, the amounts of money budgeted and received and from what sources, and the amounts budgeted and expended for salaries and other expenses by category. Salaries may be reported in gross amount. Each school district shall have available at the administrative office, upon request, a full and complete

list of vendors and the amount paid to each and a list of the number of teachers paid at each of the several stated gross salary levels in effect in the district.

Nothing herein provided shall be construed as limiting any school district as to any additional or supplementary statements and reports it may elect to make for the purpose of informing the public of its financial operations, either as to form, content, method, or frequency; and if all the information required herein to be published shall have been published as provided herein at regular intervals during the fiscal year covering successive portions of the fiscal year, then such information may be omitted from the annual statement of financial condition and report for such portions of the fiscal year as already have been reported.

The annual statement of financial condition and report shall be published within the time above prescribed in one (1) issue of a newspaper printed and published within the district, or, if there be none, then in a newspaper as provided in section 60-106, Idaho Code, published within the district, or, if there be none, then in a newspaper as provided in section 60-106, Idaho Code, in the county in which the school district is located, or, if more than one (1) newspaper is published in said district or county, then in the newspaper most likely to give best general notice of the contents of such annual statement of financial condition and report to the residents of said district; provided, that if no newspaper is published in the district or county, then such statement of financial condition and report shall be published in a newspaper as provided in section 60-106, Idaho Code, most likely to give best general notice of the contents to the residents of said district.

The chairman, clerk and treasurer of each school district shall certify the annual statement of financial condition and report to be true and correct, and the certification shall be included in each published statement.

In the event the board of trustees of any school district shall fail to prepare or cause to be prepared or to publish the annual statement of financial condition and report as herein required, the state superintendent of public instruction shall cause the same to be prepared and published, and the cost thereof shall be an obligation of the school district. One (1) copy of the annual statement of financial condition and report shall be retained in the office of the clerk of the board of school trustees, where the same shall be open at all times to examination and inspection by any person;

6. To cause to be made a full and complete audit of the financial statements of the district as required in section 67-450B, Idaho Code.

The auditor shall be employed on written contract.

One (1) copy of the audit report shall be filed with the state department of education, after its acceptance by the board of trustees, but not later than October 15;

7. To file annually with the state department of education such financial and statistical reports as said state superintendent of public instruction may require;

8. To order and have destroyed any canceled check or warrant, or any form of claim or voucher which has been paid, at any time after five (5) years from the date the same was canceled and paid;

9. To review the school district budget periodically and make appropriate budget adjustments to reflect the availability of funds and

the requirements of the school district. Any person or persons proposing a budget adjustment under this section shall notify in writing each member of the board of trustees one (1) week prior to the meeting at which such proposal will be made. Prior to the final vote on such a proposal, notice shall be posted and published once, as prescribed in section 33-402, Idaho Code. A budget adjustment shall not be approved unless voted affirmatively by sixty percent (60%) of the members of the board of trustees. Such amended budgets shall be submitted to the state superintendent of public instruction;

10. To invest any money coming into the hands of the school district in investments permitted by section 67-1210, Idaho Code. Unless otherwise provided by law, any interest or profits accruing from the investment of any funds shall be credited to the general fund of the district.

Approved March 23, 2007.

CHAPTER 170
(H.B. No. 232)

AN ACT

RELATING TO THE COLLEGE SAVINGS PROGRAM; AMENDING SECTION 33-5403, IDAHO CODE, TO PROVIDE THE MAXIMUM TERM OF AGREEMENT BETWEEN THE IDAHO COLLEGE SAVINGS PROGRAM BOARD AND A CONTRACTED MANAGER OF THE PROGRAM SHALL NOT EXCEED TEN YEARS.

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

SECTION 1. That Section 33-5403, Idaho Code, be, and the same is hereby amended to read as follows:

33-5403. USE OF CONTRACTOR AS ACCOUNT DEPOSITORY AND MANAGER. (1) The board shall implement the program through the use of one (1) or more financial institutions to act as the depositories and managers. Under the program, persons may establish accounts through the program at the depository.

(2) The board shall solicit proposals from financial institutions to act as the depositories and managers of the program. Financial institutions that submit proposals must describe the financial instruments that will be held in accounts.

(3) The board shall select as program depositories and managers the financial institution or institutions from among bidding financial institutions that demonstrate the most advantageous combination, both to potential program participants and this state, of the following factors:

(a) Financial stability and integrity;

(b) The safety of the investment instruments being offered, taking into account any insurance provided with respect to these instruments;

(c) The ability of the investment instruments to track estimated costs of higher education as calculated by the board and provided by the financial institution to the account holder;

(d) The ability of the financial institutions, directly or through a subcontract, to satisfy recordkeeping and reporting requirements;

(e) The financial institution's plan for promoting the program and the investment it is willing to make to promote the program;

(f) The fees, if any, proposed to be charged to persons for maintaining accounts;

(g) The minimum initial deposit and minimum contributions that the financial institution will require and the willingness of the financial institution to accept contributions through payroll deduction plans and other deposit plans;

(h) Any other benefits to this state or its residents included in the proposal, including an account opening fee payable to the board by the account owner and an additional fee from the financial institution for statewide program marketing by the board.

(4) The board shall enter into a contract with a financial institution or, except as provided in subsection (5) of this section, contracts with financial institutions, to serve as program managers and depositories.

(5) The board may select more than one (1) financial institution and investment for the program if both of the following conditions exist:

(a) The United States internal revenue service has provided guidance that giving a contributor a choice of two (2) investment instruments under a state plan will not cause the plan to fail to qualify for favorable tax treatment under section 529 of the Internal Revenue Code;

(b) The board concludes that the choice of instrument vehicles is in the best interest of college savers and will not interfere with the promotion of the program.

(6) A program manager shall:

(a) Take all action required to keep the program in compliance with the requirements of this chapter and all action not contrary to this chapter or its contract to manage the program so that it is treated as a qualified state tuition plan under section 529 of the Internal Revenue Code;

(b) Keep adequate records of each account, keep each account segregated from each other account and provide the board with the information necessary to prepare statements required by section 33-5404, Idaho Code, or file these statements on behalf of the board;

(c) Compile and total information contained in statements required to be prepared under section 33-5404, Idaho Code, and provide these compilations to the board;

(d) If there is more than one (1) program manager, provide the board with this information to assist the board to determine compliance with section 33-5404, Idaho Code;

(e) Provide representatives of the board, including other contractors or other state agencies, access to the books and records of the program manager to the extent needed to determine compliance with the contract;

(f) Hold all accounts in trust for the benefit of this state and the account owner.

(7) Any contract executed between the board and a financial institution pursuant to this section shall be for a term not to exceed ~~five~~ ten (~~5~~10) years.

(8) If a contract executed between the board and a financial institution pursuant to this section is not renewed, all of the follow-

ing conditions apply at the end of the term of the nonrenewed contract:

(a) Accounts previously established and held in investment instruments at the financial institution shall not be terminated;

(b) Additional contributions may be made to the accounts;

(c) No new accounts may be placed with that financial institution.

(9) The board may terminate a contract with a financial institution at any time for good cause on the recommendation of the board. If a contract is terminated pursuant to this subsection, the board shall take custody of accounts held at that financial institution and shall seek to promptly transfer the accounts to another financial institution that is selected as a program manager and into investment instruments as similar to the original investments as is possible.

Approved March 23, 2007.

CHAPTER 171
(H.B. No. 238)

AN ACT

RELATING TO THE HEALTH QUALITY PLANNING COMMISSION; AMENDING SECTION 56-1054, IDAHO CODE, TO REVISE COMMISSION MEMBERSHIP TERMS AND TO EXTEND DATES RELATING TO INTERIM AND FINAL REPORTS.

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

SECTION 1. That Section 56-1054, Idaho Code, be, and the same is hereby amended 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~~ two (~~1~~2) years. The term of office shall commence on July 1, 2006, and shall expire on June 30, 20~~07~~8.

(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~~7~~. The final report of the commission shall be due to the director and the legislative health care task force on June 30, 20~~07~~8. 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 maintenance 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 recommended system to improve the quality of health care through access to reliable, evidence-based current treatment guidelines; 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 grantee 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~~7~~. The final report of the commission shall be due to the director and the legislative health care task force on June 30, 2007~~8~~;

(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 maintained in all instances where personal identification is not required for public health necessity.

Approved March 23, 2007.

CHAPTER 172
(H.B. No. 250)

AN ACT

RELATING TO THE SALES AND USE TAX; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3641, IDAHO CODE, TO PROVIDE A SALES AND USE TAX REBATE TO CERTAIN DEVELOPERS OF CERTAIN RETAIL COMMERCIAL COMPLEXES, TO PROVIDE QUALIFICATIONS, TO PROVIDE PROCEDURES, TO PROVIDE WHEN THE REBATE IS NO LONGER PAID AND TO DEFINE TERMS; AND AMENDING SECTION 63-3638, IDAHO CODE, TO PROVIDE FOR DISTRIBUTION OF MONEYS TO CERTAIN DEVELOPERS OF CERTAIN RETAIL COMMERCIAL COMPLEXES WHO HAVE INCURRED CERTAIN COSTS FOR IMPROVEMENTS.

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 63-3641, Idaho Code, and to read as follows:

63-3641. TANGIBLE PERSONAL PROPERTY SOLD BY CERTAIN RETAILERS. (1) A developer of a retail commercial complex whose stores sell tangible personal property or taxable services and collected sales or use tax from customers at the location of the developer's retail commercial complex may qualify for a rebate of taxes paid on such purchases, but only if the developer of a retail commercial complex whose stores sell tangible personal property or taxable services has built a complex in Idaho that is of a minimum cost as provided in subsection (2) of this section and has incurred costs in excess of eight million dollars ($8,000,000) for the installation of an interchange from an interstate highway or a highway enumerated in section 40-201, Idaho Code, by the Idaho transpor-

tation department or a political subdivision or a contractor of the transportation department or political subdivision and/or freeway interchange improvements on land owned by the state of Idaho or a political subdivision and/or auxiliary lanes necessitated by the design and construction of interchanges.

(2) To qualify for the rebate, the developer of a retail commercial complex whose stores sell tangible personal property or taxable services shall have those stores collect sales and use taxes on sales of tangible personal property or taxable services from the retail commercial complex. Any improvement or alteration to a public highway must be bonded in accordance with the public contracts bond act in chapter 19, title 54, Idaho Code. Once the developer of a retail commercial complex whose stores sell tangible personal property or taxable services certifies that the retail commercial complex has cost a minimum of four million dollars ($4,000,000) and the developer of a retail commercial complex whose stores sell tangible personal property or taxable services has expended in excess of eight million dollars ($8,000,000) for the installation of an interchange and/or related interchange improvements from an interstate highway by the Idaho transportation department or a political subdivision or a contractor of the transportation department or political subdivision and/or freeway interchange improvements, the developer may file with the state tax commission a refund request of sixty percent (60%) of the sales and use taxes collected for the sale of tangible personal property or taxable services from stores in the retail commercial complex. The refund request shall state that the developer of a retail commercial complex whose stores sell tangible personal property or taxable services has constructed a retail facility that meets the minimum expenditure requirements and also meets the minimum expenditure requirements for an interchange and/or related freeway interchange improvements and/or highway improvements to be eligible for the rebate, and that the developer is entitled to receive a rebate of sixty percent (60%) of all sales and use taxes collected by the stores in the retail commercial complex that qualifies for the rebate created by this section. The state tax commission may require that sufficient documentation be provided by the developer of a retail commercial complex whose stores sell tangible personal property or taxable services regarding expenditures and shall require an attestation from the Idaho transportation department or a political subdivision that the minimum requirements of this section have been met. The transportation department or the political subdivision shall verify to the state tax commission the amount of expenditures the developer has expended on the interchange and/or related freeway interchange improvements and/or highway improvements.

(3) Upon filing of a written refund claim by the developer of a retail commercial complex whose stores sell tangible personal property or taxable services entitled to the rebate, and subject to such reasonable documentation and verification as the state tax commission may require, the rebate shall be paid by the state tax commission from the demonstration pilot project fund, which is hereby created in the state treasury, in a timely manner not to exceed sixty (60) calendar days after receipt as funds are available. To qualify for the rebate, stores in an eligible complex shall report their sales to the state tax commission separately from other stores they own in the state. Nothing in this section shall be deemed to hold the state of Idaho or any political subdivision liable for any and all liens filed on a project subject to

rebate pursuant to this section. All sales and use tax information remitted by retailers shall be deemed a trade secret, shall be confidential and shall not be disclosed by the state tax commission. A developer of a retail commercial complex whose stores sell tangible personal property or taxable services must submit a claim for refund pursuant to this section within two (2) years of the developer's last expenditure on the interchange and/or related freeway interchange improvements and/or highway improvements. No interest shall be paid by the state on moneys refunded and all moneys refunded shall be paid from the sales tax account pursuant to subsection (11) of section 63-3638, Idaho Code, and shall be limited to a total aggregate of thirty-five million dollars ($35,000,000) or lesser amount if that is what was expended.

(4) Once the developer of a retail commercial complex whose stores sell tangible personal property or taxable services has recouped its costs of funding the interchange and/or related freeway interchange improvements and/or highway improvements and/or related transportation infrastructure, the developer shall be ineligible to receive the rebate pursuant to this section.

(5) As used in this section:

(a) "Development of a retail commercial complex whose stores sell tangible personal property or taxable services" includes all buildings, the parking lot, sidewalks and all accessory equipment including, but not limited to, lighting and traffic signs. Retail stores in the retail commercial complex shall sell tangible personal property or taxable services that are subject to the sales and use tax.

(b) "Freeway interchange improvements" includes on and off ramps, overpass and underpass improvements and signalization to facilitate the effective access from the interstate highway system.

(c) "Highway improvements" shall be improvements or upgrades to highways enumerated in section 40-201, 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 appropri-

ated 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) Eleven and five-tenths percent (11.5%) 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 subsection (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 subsection (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 subsection (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 subsection (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 subsection (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 minus .004 times the market value on December 31, 2000, in the district of the property exempt from taxation pursuant to section 63-602EE, Idaho Code, provided that the result of these calculations shall not be less than zero (0). The result of these school district calculations shall be further increased by six percent (6%). 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) Amounts necessary to pay refunds as provided in subsection (3) of section 63-3641, Idaho Code, to a developer of a retail commercial complex whose stores sell tangible personal property or taxable services subject to the sales and use tax up to an aggregate total of

thirty-five million dollars ($35,000,000) per project shall be remitted to the demonstration pilot project fund created in subsection (3) of section 63-3641, Idaho Code, and shall be specific to and accounted for by each project.

(12) 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.

Approved March 26, 2007.

CHAPTER 173
(S.B. No. 1016, As Amended in the House)

AN ACT

RELATING TO THE MANAGEMENT OF INSTITUTIONAL FUNDS; REPEALING CHAPTER 50, TITLE 33, IDAHO CODE, PROVIDING FOR THE UNIFORM MANAGEMENT OF INSTITUTIONAL FUNDS ACT; AND AMENDING TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 50, TITLE 33, IDAHO CODE, TO PROVIDE FOR THE UNIFORM PRUDENT MANAGEMENT OF INSTITUTIONAL FUNDS ACT, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROVIDE A STANDARD OF CONDUCT IN MANAGING AND INVESTING AN INSTITUTIONAL FUND, TO PROVIDE FOR APPROPRIATION FOR EXPENDITURE OR ACCUMULATION OF AN ENDOWMENT FUND, TO PROVIDE RULES OF CONSTRUCTION, TO PROVIDE FOR THE DELEGATION OF MANAGEMENT AND INVESTMENT FUNCTIONS, TO PROVIDE FOR RELEASE OR MODIFICATION OF RESTRICTIONS ON MANAGEMENT, INVESTMENT OR PURPOSE OF A FUND, TO PROVIDE FOR REVIEWING COMPLIANCE, TO PROVIDE APPLICATION TO EXISTING INSTITUTIONAL FUNDS, TO ADDRESS RELATION OF CHAPTER TO THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT AND TO PROVIDE FOR UNIFORMITY OF APPLICATION AND CONSTRUCTION.

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

SECTION 1. That Chapter 50, Title 33, Idaho Code, be, and the same is hereby repealed.

SECTION 2. 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 50, Title 33, Idaho Code, and to read as follows:

CHAPTER 50
UNIFORM PRUDENT MANAGEMENT OF INSTITUTIONAL FUNDS ACT

33-5001. SHORT TITLE. This chapter shall be known and may be cited as the "Uniform Prudent Management of Institutional Funds Act."

33-5002. DEFINITIONS. In this chapter:

(1) "Charitable purpose" means the relief of poverty, the advancement of education or religion, the promotion of health, the promotion of a governmental purpose, or any other purpose the achievement of which is beneficial to the community.

(2) "Endowment fund" means an institutional fund or part thereof that, under the terms of a gift instrument, is not wholly expendable by the institution on a current basis. The term does not include assets

that an institution designates as an endowment fund for its own use nor endowment funds managed pursuant to chapter 7, title 57, Idaho Code.

(3) "Gift instrument" means a record or records, including an institutional solicitation, under which property is granted to, transferred to, or held by an institution as an institutional fund.

(4) "Institution" means:

(a) A person, other than an individual, organized and operated exclusively for charitable purposes;

(b) A government or governmental subdivision, agency or instrumentality, to the extent that it holds funds exclusively for a charitable purpose; and

(c) A trust that had both charitable and noncharitable interests, after all noncharitable interests have terminated.

(5) "Institutional fund" means a fund held by an institution exclusively for charitable purposes. The term does not include:

(a) Program related assets;

(b) A fund held for an institution by a trustee that is not an institution; or

(c) A fund in which a beneficiary that is not an institution has an interest, other than an interest that could arise upon violation or failure of the purposes of the fund.

(6) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality, or any other legal or commercial entity.

(7) "Program related asset" means an asset held by an institution primarily to accomplish a charitable purpose of the institution and not primarily for investment.

(8) "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.

33-5003. STANDARD OF CONDUCT IN MANAGING AND INVESTING INSTITUTIONAL FUND. (1) Subject to the intent of a donor expressed in a gift instrument, an institution, in managing and investing an institutional fund, shall consider the charitable purposes of the institution and the purposes of the institutional fund.

(2) In addition to complying with the duty of loyalty imposed by law other than this chapter, each person responsible for managing and investing an institutional fund shall manage and invest the fund in good faith and with the care an ordinarily prudent person in a like position would exercise under similar circumstances.

(3) In managing and investing an institutional fund, an institution:

(a) May incur only costs that are appropriate and reasonable in relation to the assets, the purposes of the institution, and the skills available to the institution; and

(b) Shall make a reasonable effort to verify facts relevant to the management and investment of the fund.

(4) An institution may pool two (2) or more institutional funds for purposes of management and investment.

(5) Except as otherwise provided by a gift instrument, the following rules apply:

(a) In managing and investing an institutional fund, the following factors, if relevant, must be considered:

(i) General economic conditions;

(ii) The possible effect of inflation or deflation;

(iii) The expected tax consequences, if any, of investment decisions or strategies;

(iv) The role that each investment or course of action plays within the overall investment portfolio of the fund;

(v) The expected total return from income and the appreciation of investments;

(vi) Other resources of the institution;

(vii) The needs of the institution and the fund to make distributions and to preserve capital; and

(viii) An asset's special relationship or special value, if any, to the charitable purposes of the institution.

(b) Management and investment decisions about an individual asset must be made not in isolation but rather in the context of the institutional fund's portfolio of investments as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the fund and to the institution.

(c) Except as otherwise provided by law other than this chapter, an institution may invest in any kind of property or type of investment consistent with this section.

(d) An institution shall diversify the investments of an institutional fund unless the institution reasonably determines that, because of special circumstances, the purposes of the fund are better served without diversification.

(e) Within a reasonable time after receiving property, an institution shall make and carry out decisions concerning the retention or disposition of the property or to rebalance a portfolio, in order to bring the institutional fund into compliance with the purposes, terms and distribution requirements of the institution or necessary to meet other circumstances of the institution and the requirements of this chapter.

(f) A person that has special skills or expertise, or is selected in reliance upon the person's representation that the person has special skills or expertise, has a duty to use those skills or that expertise in managing and investing institutional funds.

33-5004. APPROPRIATION FOR EXPENDITURE OR ACCUMULATION OF ENDOWMENT FUND — RULES OF CONSTRUCTION. (1) Subject to the intent of a donor expressed in the gift instrument, an institution may appropriate for expenditure or accumulate so much of an endowment fund as the institution determines is prudent for the uses, benefits, purposes and duration for which the endowment fund is established. Unless stated otherwise in the gift instrument, the assets in an endowment fund are donor restricted assets until appropriated for expenditure by the institution. In making a determination to appropriate or accumulate, the institution shall act in good faith, with the care that an ordinarily prudent person in a like position would exercise under similar circumstances, and shall consider, if relevant, the following factors:

(a) The duration and preservation of the endowment fund;

(b) The purposes of the institution and the endowment fund;

(c) General economic conditions;

(d) The possible effect of inflation or deflation;
(e) The expected total return from income and the appreciation of investments;
(f) Other resources of the institution; and
(g) The investment policy of the institution.
(2) To limit the authority to appropriate for expenditure or accumulate under subsection (1) of this section, a gift instrument must specifically state the limitation.
(3) Terms in a gift instrument designating a gift as an endowment, or a direction or authorization in the gift instrument to use only "income," "interest," "dividends" or "rents, issues or profits," or "to preserve the principal intact," or words of similar import:
(a) Create an endowment fund of permanent duration unless other language in the gift instrument limits the duration or purpose of the fund; and
(b) Do not otherwise limit the authority to appropriate for expenditure or accumulate under subsection (1) of this section.

33-5005. DELEGATION OF MANAGEMENT AND INVESTMENT FUNCTIONS. (1) Subject to any specific limitation set forth in a gift instrument or in law other than this chapter, an institution may delegate to an external agent the management and investment of an institutional fund to the extent that an institution could prudently delegate under the circumstances. An institution shall act in good faith, with the care that an ordinarily prudent person in a like position would exercise under similar circumstances, in:
(a) Selecting an agent;
(b) Establishing the scope and terms of the delegation, consistent with the purposes of the institution and the institutional fund; and
(c) Periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the scope and terms of the delegation.
(2) In performing a delegated function, an agent owes a duty to the institution to exercise reasonable care to comply with the scope and terms of the delegation.
(3) An institution that complies with subsection (1) of this section is not liable for the decisions or actions of an agent to which the function was delegated.
(4) By accepting delegation of a management or investment function from an institution that is subject to the laws of this state, an agent submits to the jurisdiction of the courts of this state in all proceedings arising from or related to the delegation or the performance of the delegated function.
(5) An institution may delegate management and investment functions to its committees, officers or employees as authorized by law of this state other than this chapter.

33-5006. RELEASE OR MODIFICATION OF RESTRICTIONS ON MANAGEMENT, INVESTMENT OR PURPOSE. (1) If the donor consents in a record, an institution may release or modify, in whole or in part, a restriction contained in a gift instrument on the management, investment or purpose of an institutional fund. A release or modification may not allow a fund to be used for a purpose other than a charitable purpose of the institution.

(2) The court, upon application of an institution, may modify a restriction contained in a gift instrument regarding the management or investment of an institutional fund if the restriction has become impracticable or wasteful, if it impairs the management or investment of the fund, or if, because of circumstances not anticipated by the donor, a modification of a restriction will further the purposes of the fund. The institution shall notify the attorney general of the application, and the attorney general must be given an opportunity to be heard. To the extent practicable, any modification must be made in accordance with the donor's probable intention.

(3) If a particular charitable purpose or a restriction contained in a gift instrument on the use of an institutional fund becomes unlawful, impracticable, impossible to achieve, or wasteful, the court, upon application of an institution, may modify the purpose of the fund or the restriction on the use of the fund in a manner consistent with the charitable purposes expressed in the gift instrument. The institution shall notify the attorney general of the application, and the attorney general must be given an opportunity to be heard.

(4) If an institution determines that a restriction contained in a gift instrument on the management, investment or purpose of an institutional fund is unlawful, impracticable, impossible to achieve, or wasteful, the institution, sixty (60) days after notification to the attorney general and the donor if available, may release or modify the restriction, in whole or part, if:

(a) The institutional fund subject to the restriction has a total value of less than twenty-five thousand dollars ($25,000);

(b) More than ten (10) years have elapsed since the fund was established; and

(c) The institution uses the property in a manner consistent with the charitable purposes expressed in the gift instrument.

33-5007. REVIEWING COMPLIANCE. Compliance with this chapter is determined in light of the facts and circumstances existing at the time a decision is made or action is taken, and not by hindsight.

33-5008. APPLICATION TO EXISTING INSTITUTIONAL FUNDS. This chapter applies to institutional funds existing on or established after July 1, 2007. As applied to institutional funds existing on July 1, 2007, this chapter governs only decisions made or actions taken on or after that date.

33-5009. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This chapter modifies, limits, and supersedes the 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).

33-5010. 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.

Approved March 26, 2007.

CHAPTER 174
(S.B. No. 1085)

AN ACT

RELATING TO MEETINGS OF PUBLIC AGENCIES; AMENDING SECTION 67-2344, IDAHO CODE, TO REVISE PROVISIONS RELATING TO MINUTES OF EXECUTIVE SESSIONS AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 67-2345, IDAHO CODE, TO REQUIRE PRESIDING OFFICERS TO SPECIFICALLY REFERENCE AUTHORIZATION FOR HOLDING EXECUTIVE SESSIONS AND TO REVISE THE PURPOSES FOR WHICH EXECUTIVE SESSIONS MAY BE HELD.

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

SECTION 1. That Section 67-2344, Idaho Code, be, and the same is hereby amended to read as follows:

67-2344. WRITTEN MINUTES OF MEETINGS. (1) The governing body of a public agency shall provide for the taking of written minutes of all its meetings. Neither a full transcript nor a recording of the meeting is required, except as otherwise provided by law. All minutes shall be available to the public within a reasonable time after the meeting, and shall include at least the following information:

(a) All members of the governing body present;

(b) All motions, resolutions, orders, or ordinances proposed and their disposition;

(c) The results of all votes, and upon the request of a member, the vote of each member, by name~~;~~.

(2) Minutes of executive sessions ~~may be limited to material the disclosure of which is not inconsistent with the provisions of section 67-2345, Idaho Code, but shall contain sufficient detail to convey the general tenor of the meeting~~ shall be limited to a specific reference to the statutory subsection authorizing the executive session and sufficient detail to convey the general subject matter but shall not contain information sufficient to compromise the purpose of going into executive session.

SECTION 2. That Section 67-2345, Idaho Code, be, and the same is hereby amended to read as follows:

67-2345. EXECUTIVE SESSIONS — WHEN AUTHORIZED. (1) Nothing contained in this act shall be construed to prevent, upon a two-thirds (2/3) vote recorded in the minutes of the meeting by individual vote, a governing body of a public agency from holding an executive session during any meeting, after the presiding officer has identified the authorization ~~under this act~~ by specific reference to one (1) or more of para-

graphs (a) through (j) of this subsection for the holding of such executive session. An executive session may be held:

(a) To consider hiring a public officer, employee, staff member or individual agent. This paragraph does not apply to filling a vacancy in an elective office;

(b) To consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, or public school student;

(c) To conduct deliberations concerning labor negotiations or to acquire an interest in real property which is not owned by a public agency;

(d) To consider records that are exempt from disclosure as provided in chapter 3, title 9, Idaho Code;

(e) To consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations;

(f) To ~~consider--and--advise--its-legal-representatives-in-pending litigation-or-where-there-is-a-general-public-awareness-of--probable litigation~~ communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. The mere presence of legal counsel at an executive session does not satisfy this requirement;

(g) By the commission of pardons and parole, as provided by law;

(h) By the sexual offender classification board, as provided by chapter 83, title 18, Idaho Code;

(i) By the custody review board of the Idaho department of juvenile corrections, as provided by law; or

(j) To engage in communications with a representative of the public agency's risk manager or insurance provider to discuss the adjustment of a pending claim or prevention of a claim imminently likely to be filed. The mere presence of a representative of the public agency's risk manager or insurance provider at an executive session does not satisfy this requirement.

(2) Labor negotiations may be conducted in executive session if either side requests closed meetings. Notwithstanding the provisions of section 67-2343, Idaho Code, subsequent sessions of the negotiations may continue without further public notice.

(3) No executive session may be held for the purpose of taking any final action or making any final decision.

Approved March 26, 2007.

CHAPTER 175
(S.B. No. 1161, As Amended in the House)

AN ACT

RELATING TO BAIL; AMENDING SECTION 19-2927, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO THE FORFEITURE OF BAIL; AND AMENDING SECTIONS 19-2928 AND 19-2929, IDAHO CODE, TO REVISE TIMELINES.

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

SECTION 1. That Section 19-2927, Idaho Code, be, and the same is hereby amended to read as follows:

19-2927. FORFEITURE OF BAIL. If, without sufficient excuse, the defendant ~~neglects~~ fails to appear before the court upon any occasion when his presence has been ordered the court must immediately direct the fact to be entered upon its minutes, order the forfeiture of the undertaking of bail, or the money deposited instead of bail, as the case may be, and order the issuance of a bench warrant for the arrest of the defendant. The clerk shall mail written notice within five (5) days of the forfeiture for failure to appear to the last known address of the person posting the undertaking of bail or, if the bail consists of a surety bond, to the surety or its designated agent. A failure to give timely notice shall exonerate the bail or undertaking. If at any time within ~~ninety~~ one hundred eighty (9180) days after such entry in the minutes, the defendant appears and satisfactorily excuses his neglect, the court shall direct the forfeiture of the undertaking or the deposit to be exonerated.

If within ~~ninety~~ one hundred eighty (9180) days of the date of forfeiture, a person, other than the defendant, who has provided bail for the defendant, surrenders the defendant to ~~any Idaho peace officer~~ the jail facility of the county which issued the warrant, the undertaking of bail or deposits are thereby exonerated.

The court which has forfeited the undertaking of bail, or the money deposited instead of bail, may, before remittance of the forfeiture, and with the written consent of the person posting the same, set aside the forfeiture and reinstate the undertaking of bail or money deposited instead of bail.

SECTION 2. That Section 19-2928, Idaho Code, be, and the same is hereby amended to read as follows:

19-2928. ENFORCEMENT OF FORFEITURE. If the forfeiture is not discharged, as provided in the last section, the prosecuting attorney may, at any time after ~~ninety~~ one hundred eighty (9180) days from the entry upon the minutes, as provided in the last section, proceed by action in the name of the county, against the bail upon their undertaking.

SECTION 3. That Section 19-2929, Idaho Code, be, and the same is hereby amended to read as follows:

19-2929. FORFEITURE OF DEPOSIT. If, by reason of the neglect of the defendant to appear, money deposited instead of bail is forfeited, the clerk shall mail written notice within five (5) days to the last known address of the person posting the money of the forfeiture for failure to appear. A failure to give timely notice shall exonerate the bail. If the forfeiture is not discharged or remitted, the clerk with whom it is deposited must, at the end of ~~ninety~~ one hundred eighty (9180) days, of the date of forfeiture, unless the court has before that time discharged the forfeiture, pay over the money deposited to the county treasurer.

Approved March 26, 2007.

CHAPTER 176
(S.B. No. 1192)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO STATE POLICE FOR FISCAL YEAR 2008; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; DIRECTING THE DISTRIBUTION OF THE FUNDING FOR EMPLOYEE COMPENSATION; 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 Idaho State Police 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, 2007, through June 30, 2008:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. BRAND INSPECTION:					
FROM:					
State Brand Board Fund	$ 2,236,700	$ 273,800	$ 85,500		$ 2,596,000
II. DIVISION OF THE IDAHO STATE POLICE:					
A. DIRECTOR'S OFFICE:					
FROM:					
General Fund	$ 1,944,500	$ 597,400			$ 2,541,900
Idaho Law Enforcement Fund	39,800				39,800
Peace Officers Fund	800				800
Miscellaneous Revenue Fund	51,400	56,400			107,800
Federal Grant Fund	645,600	152,700	$ 15,900	$3,805,300	4,619,500
TOTAL	$ 2,682,100	$ 806,500	$ 15,900	$3,805,300	$ 7,309,800
B. EXECUTIVE PROTECTION:					
FROM:					
General Fund	$ 219,400	$ 81,900			$ 301,300
Idaho Law Enforcement Fund	3,000				3,000
TOTAL	$ 222,400	$ 81,900			$ 304,300
C. INVESTIGATIONS:					
FROM:					
General Fund	$ 5,448,900	$ 1,070,700	$ 117,000		$ 6,636,600
Drug Donation Fund	108,100	275,900			384,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Idaho Law Enforcement Fund	213,000				213,000
Federal Grant Fund	220,300	289,600			509,900
TOTAL	$ 5,990,300	$ 1,636,200	$ 117,000		$ 7,743,500
D. PATROL:					
FROM:					
General Fund	$ 2,567,900	$ 923,600	$2,381,700		$ 5,873,200
Idaho Law Enforcement Fund	15,341,700	2,381,500			17,723,200
Hazardous Materials/ Waste Enforcement Fund	143,000	18,100		$ 69,100	230,200
Federal Grant Fund	1,659,700	1,107,400	314,500		3,081,600
TOTAL	$19,712,300	$ 4,430,600	$2,696,200	$ 69,100	$26,908,200
E. LAW ENFORCEMENT PROGRAMS:					
FROM:					
General Fund	$ 508,000	$ 321,400	$ 3,500		$ 832,900
Idaho Law Enforcement Fund	89,700	8,100			97,800
Miscellaneous Revenue Fund	76,200	18,700			94,900
Federal Grant Fund	36,900	30,600			67,500
TOTAL	$ 710,800	$ 378,800	$ 3,500		$ 1,093,100
F. SUPPORT SERVICES:					
FROM:					
General Fund	$ 1,313,600	$ 826,200	$ 324,500		$ 2,464,300
Idaho Law Enforcement Fund	274,000	3,100			277,100
Idaho Law Enforcement Telecommunications Fund	360,200	509,800			870,000
Miscellaneous Revenue Fund	883,700	1,410,800			2,294,500
Federal Grant Fund		285,800			285,800
TOTAL	$ 2,831,500	$ 3,035,700	$ 324,500		$ 6,191,700
G. FORENSIC SERVICES:					
FROM:					
General Fund	$ 2,227,300	$ 571,500	$ 404,900		$ 3,203,700
Idaho Law Enforcement Fund	48,500				48,500
Drug Donation Fund		132,500			132,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Miscellaneous Revenue Fund	70,100	183,100			253,200
Federal Grant Fund		20,200			20,200
TOTAL	$ 2,345,900	$ 907,300	$ 404,900		$ 3,658,100
DIVISION TOTAL	$34,495,300	$11,277,000	$3,562,000	$3,874,400	$53,208,700
III. PEACE OFFICERS STANDARDS AND TRAINING ACADEMY:					
FROM:					
Idaho Law Enforcement Fund	$ 29,300				$ 29,300
Peace Officers Fund	1,625,400	$ 1,509,200	$ 103,000	$ 95,400	3,333,000
Miscellaneous Revenue Fund		209,000			209,000
Federal Grant Fund	76,900	221,200		38,600	336,700
TOTAL	$ 1,731,600	$ 1,939,400	$ 103,000	$ 134,000	$ 3,908,000
IV. RACING COMMISSION:					
FROM:					
Idaho State Racing Commission Fund	$ 376,500	$ 327,000	$ 3,000		$ 706,500
Pari-mutuel Distributions Fund				$ 85,000	85,000
TOTAL	$ 376,500	$ 327,000	$ 3,000	$ 85,000	$ 791,500
GRAND TOTAL	$38,840,100	$13,817,200	$3,753,500	$4,093,400	$60,504,200

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Idaho State Police is authorized no more than five hundred forty-five and seven-hundredths (545.07) full-time equivalent positions at any point during the period July 1, 2007, through June 30, 2008, 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. Agencies and institutions shall distribute the funding for employee compensation based on merit as follows:

(a) Agencies and institutions are directed to, based on merit, target funding first toward high turnover classifications and individuals below midpoint within their agency.

(b) Agencies and institutions are directed to, based on merit, target funding second toward positions within their agency that are below ninety percent (90%) of the Compa-Ratio.

(c) Agencies and institutions are directed to target any remaining funding based on merit using the merit matrix required by Idaho Code.

Agencies and institutions shall create compensation and distribution plans to ensure that they are consistent with the policies contained herein. Agency directors and institutional presidents shall approve all compensation and distribution plans and ensure that implementation of the plans is consistent with policies contained herein. Each agency and institution shall forward, for informational purposes, approved copies of the compensation and distribution plans to the Legislative Services Office and the Division of Financial Management by June 1, 2007. The effective date of implementation of ongoing salary adjustments shall be June 17, 2007.

SECTION 4. The Idaho State Police 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 26, 2007.

CHAPTER 177
(S.B. No. 1193)

AN ACT

APPROPRIATING MONEYS TO THE ATTORNEY GENERAL FOR FISCAL YEAR 2008; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; DIRECTING THE DISTRIBUTION OF THE FUNDING FOR EMPLOYEE COMPENSATION; DIRECTING THE ALLOCATION OF SALARY SAVINGS; DIRECTING THE STATE CONTROLLER TO TRANSFER MONEYS FROM THE SPECIAL LITIGATION PROGRAM TO THE GENERAL FUND; REAPPROPRIATING UNEXPENDED AND UNENCUMBERED BALANCES OF THE GENERAL FUND; AND SETTING FORTH THE CONDITIONS FOR THE REAPPROPRIATION.

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

SECTION 1. There is hereby appropriated to the Attorney General 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, 2007, through June 30, 2008:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. STATE LEGAL SERVICES:					
FROM:					
General Fund	$15,848,200	$ 716,100	$117,600	$25,000	$16,706,900
Consumer Protection Fund	92,900	86,900			179,800
TOTAL	$15,941,100	$ 803,000	$117,600	$25,000	$16,886,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. SPECIAL LITIGATION:					
FROM:					
General Fund		$ 951,600			$ 951,600
GRAND TOTAL	$15,941,100	$1,754,600	$117,600	$25,000	$17,838,300

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Attorney General is authorized no more than one hundred ninety-three and fifteen hundredths (193.15) full-time equivalent positions at any point during the period July 1, 2007, through June 30, 2008, 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. Agencies and institutions shall distribute the funding for employee compensation based on merit as follows:

(a) Agencies and institutions are directed to, based on merit, target funding first toward high turnover classifications and individuals below midpoint within their agency.

(b) Agencies and institutions are directed to, based on merit, target funding second toward positions within their agency that are below ninety percent (90%) of the Compa-Ratio.

(c) Agencies and institutions are directed to target any remaining funding based on merit using the merit matrix required by Idaho Code.

Agencies and institutions shall create compensation and distribution plans to ensure that they are consistent with the policies contained herein. Agency directors and institutional presidents shall approve all compensation and distribution plans and ensure that implementation of the plans is consistent with policies contained herein. Each agency and institution shall forward, for informational purposes, approved copies of the compensation and distribution plans to the Legislative Services Office and the Division of Financial Management by June 1, 2007. The effective date of implementation of ongoing salary adjustments shall be June 17, 2007.

SECTION 4. The Office of the Attorney General 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 5. Upon the closing of fiscal year 2007, the State Controller shall, at the request of the Office of the Attorney General, transfer $700,000 from the Special Litigation Program to the General Fund.

SECTION 6. There is hereby reappropriated to the Office of the Attorney General for Special Litigation, subject to the provisions of

Section 7 of this act, the unexpended and unencumbered balance of General Fund moneys as appropriated for Special Litigation for fiscal year 2007, to be used for nonrecurring expenditures, for the period July 1, 2007, through June 30, 2008.

SECTION 7. The reappropriation for the General Fund granted in Section 6 of this act shall be subject to the following provisions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 2007, is zero, the reappropriation for the General Fund in Section 6 of this act is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 2007, is greater than zero, but less than the total General Fund reappropriation authority granted to all state agencies, that amount reappropriated in Section 6 of this act shall be in the proportion that the reappropriation of the Office of the Attorney General bears to the total General Fund reappropriation authority granted to all state agencies.

Approved March 26, 2007.

CHAPTER 178
(S.B. No. 1194)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF FINANCE FOR FISCAL YEAR 2008; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; DIRECTING THE DISTRIBUTION OF THE FUNDING FOR EMPLOYEE COMPENSATION; 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 Finance the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2007, through June 30, 2008:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
State Regulatory Fund	$3,616,200	$1,370,900	$102,700	$5,089,800
Securities Investor Education and Training Fund	50,000			50,000
TOTAL	$3,666,200	$1,370,900	$102,700	$5,139,800

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Finance is authorized no more than fifty-two (52) full-time equivalent positions at any point during the period July 1, 2007, through June 30, 2008, 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. Agencies and institutions shall distribute the funding for employee compensation based on merit as follows:

(a) Agencies and institutions are directed to, based on merit, target funding first toward high turnover classifications and individuals below midpoint within their agency.

(b) Agencies and institutions are directed to, based on merit, target funding second toward positions within their agency that are below ninety percent (90%) of the Compa-Ratio.

(c) Agencies and institutions are directed to target any remaining funding based on merit using the merit matrix required by Idaho Code.

Agencies and institutions shall create compensation and distribution plans to ensure that they are consistent with the policies contained herein. Agency directors and institutional presidents shall approve all compensation and distribution plans and ensure that implementation of the plans is consistent with policies contained herein. Each agency and institution shall forward, for informational purposes, approved copies of the compensation and distribution plans to the Legislative Services Office and the Division of Financial Management by June 1, 2007. The effective date of implementation of ongoing salary adjustments shall be June 17, 2007.

SECTION 4. The Department of Finance 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 26, 2007.

CHAPTER 179
(S.B. No. 1195)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF INSURANCE FOR FISCAL YEAR 2008; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; DIRECTING THE DISTRIBUTION OF THE FUNDING FOR EMPLOYEE COMPENSATION; 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 Insurance 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, 2007, through June 30, 2008:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. INSURANCE REGULATION:					
FROM:					
Self-Governing Operating Fund	$3,717,300	$2,043,500	$134,900		$5,895,700
Miscellaneous Revenue Fund	82,700	15,700			98,400
Federal Grant Fund	142,800	94,200		$8,000	245,000
TOTAL	$3,942,800	$2,153,400	$134,900	$8,000	$6,239,100
II. STATE FIRE MARSHAL:					
FROM:					
Self-Governing State Fire Marshal Fund	$ 682,100	$ 349,500	$ 48,900		$1,080,500
GRAND TOTAL	$4,624,900	$2,502,900	$183,800	$8,000	$7,319,600

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Insurance is authorized no more than seventy-three (73) full-time equivalent positions at any point during the period July 1, 2007, through June 30, 2008, 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. Agencies and institutions shall distribute the funding for employee compensation based on merit as follows:

(a) Agencies and institutions are directed to, based on merit, target funding first toward high turnover classifications and individuals below midpoint within their agency.

(b) Agencies and institutions are directed to, based on merit, target funding second toward positions within their agency that are below ninety percent (90%) of the Compa-Ratio.

(c) Agencies and institutions are directed to target any remaining funding based on merit using the merit matrix required by Idaho Code.

Agencies and institutions shall create compensation and distribution plans to ensure that they are consistent with the policies contained herein. Agency directors and institutional presidents shall approve all compensation and distribution plans and ensure that implementation of the plans is consistent with policies contained herein. Each agency and institution shall forward, for informational purposes, approved copies of the compensation and distribution plans to the Legislative Services Office and the Division of Financial Management by June 1, 2007. The effective date of implementation of ongoing salary adjustments shall be June 17, 2007.

SECTION 4. The Department of Insurance 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 26, 2007.

CHAPTER 180
(S.B. No. 1198)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE GOVERNOR FOR THE COMMISSION ON THE ARTS FOR FISCAL YEAR 2008; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; DIRECTING THE DISTRIBUTION OF THE FUNDING FOR EMPLOYEE COMPENSATION; 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 Commission on the Arts the following amounts from the listed funds for the period July 1, 2007, through June 30, 2008:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
COMMISSION ON THE ARTS:					
FROM:					
General Fund	$338,000	$178,200	$10,400	$430,000	$ 956,600
Miscellaneous Revenue Fund		85,900		16,300	102,200
Federal Grant Fund	279,100	108,800		291,700	679,600
TOTAL	$617,100	$372,900	$10,400	$738,000	$1,738,400

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Commission on the Arts is authorized no more than eleven (11) full-time equivalent positions at any point during the period July 1, 2007, through June 30, 2008, 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. Agencies and institutions shall distribute the funding for employee compensation based on merit as follows:

(a) Agencies and institutions are directed to, based on merit, target funding first toward high turnover classifications and individuals below midpoint within their agency.

(b) Agencies and institutions are directed to, based on merit, target funding second toward positions within their agency that are below ninety percent (90%) of the Compa-Ratio.

(c) Agencies and institutions are directed to target any remaining funding based on merit using the merit matrix required by Idaho Code.

Agencies and institutions shall create compensation and distribution plans to ensure that they are consistent with the policies contained herein. Agency directors and institutional presidents shall approve all compensation and distribution plans and ensure that implementation of the plans is consistent with policies contained herein. Each agency and institution shall forward, for informational purposes, approved copies of the compensation and distribution plans to the Legislative Services Office and the Division of Financial Management by June 1, 2007. The effective date of implementation of ongoing salary adjustments shall be June 17, 2007.

SECTION 4. The Commission on the Arts 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 26, 2007.

CHAPTER 181
(S.B. No. 1199)

AN ACT

APPROPRIATING MONEYS FOR THE STATE LIQUOR DISPENSARY FOR FISCAL YEAR 2008; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; TRANSFERRING MONEYS FROM THE LIQUOR CONTROL FUND TO THE LIQUOR WAREHOUSE REMODEL FUND; DIRECTING THE DISTRIBUTION OF THE FUNDING FOR EMPLOYEE COMPENSATION; DIRECTING THE ALLOCATION OF SALARY SAVINGS; AND DECLARING AN EMERGENCY FOR SECTION 3 OF THIS ACT.

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 State Liquor Dispensary the following amounts to be expended according to the designated expense classes from the listed fund for the period July 1, 2007, through June 30, 2008:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. DISPENSARY OPERATIONS:				
FROM:				
Liquor Control Fund	$9,545,900	$4,411,900	$ 683,100	$14,640,900
Liquor Warehouse Remodel Fund			2,000,000	2,000,000
TOTAL	$9,545,900	$4,411,900	$2,683,100	$16,640,900

SECTION 2. In accordance with Section 67-3519, Idaho Code, the State Liquor Dispensary is authorized no more than one hundred ninety-three (193) full-time equivalent positions at any point during the period July 1, 2007, through June 30, 2008, 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. On or before June 30, 2007, the State Controller, at the request of the director of the State Liquor Dispensary, shall transfer $2,000,000 from the Liquor Control Fund to the Liquor Warehouse Remodel Fund.

SECTION 4. Agencies and institutions shall distribute the funding for employee compensation based on merit as follows:

(a) Agencies and institutions are directed to, based on merit, target funding first toward high turnover classifications and individuals below midpoint within their agency.

(b) Agencies and institutions are directed to, based on merit, target funding second toward positions within their agency that are below ninety percent (90%) of the Compa-Ratio.

(c) Agencies and institutions are directed to target any remaining funding based on merit using the merit matrix required by Idaho Code.

Agencies and institutions shall create compensation and distribution plans to ensure that they are consistent with the policies contained herein. Agency directors and institutional presidents shall approve all compensation and distribution plans and ensure that implementation of the plans is consistent with policies contained herein. Each agency and institution shall forward, for informational purposes, approved copies of the compensation and distribution plans to the Legislative Services Office and the Division of Financial Management by June 1, 2007. The effective date of implementation of ongoing salary adjustments shall be June 17, 2007.

SECTION 5. The State Liquor Dispensary 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 6. An emergency existing therefor, which emergency is hereby declared to exist, Section 3 of this act shall be in full force and effect on and after passage and approval.

Approved March 26, 2007.

CHAPTER 182
(H.B. No. 25, As Amended in the Senate)

AN ACT

RELATING TO STATE LANDS; AMENDING SECTION 58-127, IDAHO CODE, TO PROVIDE THAT ALL MONEYS COLLECTED FOR FEES BY THE BOARD OF LAND COMMISSIONERS SHALL BE CREDITED TO THE ENDOWMENT EARNINGS RESERVE ACCOUNT FOR ENDOWMENT LAND MANAGEMENT, AND TO THE GENERAL ACCOUNT FOR ALL OTHER ACTIVITIES UNLESS OTHERWISE PROVIDED BY LAW AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 58-127, Idaho Code, be, and the same is hereby amended to read as follows:

58-127. FEES. The board of land commissioners is hereby empowered to set the fees for sales, leases, easements of state land and all other transactions in the department of lands.

All moneys collected for fees shall be paid to the state treasurer ~~of the state~~ and shall be credited to the ~~general account~~ endowment earnings reserve account for endowment land management, and to the general account for all other activities unless otherwise provided by law; provided, however, that in all cases where filing or other fees or rent moneys have been paid to the ~~said~~ board by two (2) or more applicants for the same lands, such fees, or rent moneys, may be returned to the unsuccessful applicant from any moneys in the possession of ~~said~~ the board; provided, that such payments shall be made out of the account to which they may have been credited.

Approved March 26, 2007.

CHAPTER 183
(H.B. No. 101)

AN ACT

RELATING TO CONTRACTOR REGISTRATION; AMENDING SECTION 54-5213, IDAHO CODE, TO REVISE PROVISIONS RELATING TO RECIPROCAL REGISTRATION; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 54-5213, Idaho Code, be, and the same is hereby amended to read as follows:

54-5213. RECIPROCAL REGISTRATION. (1) ~~Nothing in this chapter shall be construed as preventing any~~ On and after January 1, 2007, no incorporated municipality, county, alternative form of local government, or other municipal or political corporation or subdivision of this state ~~from implementing~~ shall implement its own ~~regulation~~ program for the registration or licensure of construction contractors~~, provided that no~~

~~such--code,--ordinance,--rule--or--regulation-enacted-or-adopted-by-such entity-shall-contain-provisions-less-stringent-than--those--requirements provided-for-by-this-chapter.~~

(2) A contractor may provide a verified copy of any current and unrestricted license, registration, or other type of certification granted to the contractor by any incorporated municipality, county, alternative form of local government, or other municipal or political corporation or subdivision of this state issued pursuant to a duly adopted and enacted ordinance prior to January 1, 2007, to the board~~,~~ for review, along with a reciprocal registration fee not to exceed fifty dollars ($50.00), as determined by board rule, which is necessary for the administration and processing of such application. If the review indicates that the license, registration or certification was granted under provisions that were not less stringent than those provided by this chapter, the applicant shall be issued a registration based upon reciprocal registration.

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, 2007.

Approved March 26, 2007.

CHAPTER 184
(H.B. No. 137)

AN ACT

RELATING TO BUILDING CODES; AMENDING SECTION 39-4109, IDAHO CODE, TO PROVIDE A DATE CHANGE REGARDING VARIOUS CODES, TO PROVIDE FOR THE ADOPTION OF THE 2006 INTERNATIONAL RESIDENTIAL ENERGY CONSERVATION CODE AS PUBLISHED BY THE INTERNATIONAL CODE COUNCIL AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 39-4109, Idaho Code, be, and the same is hereby amended to read as follows:

39-4109. APPLICATION OF CODES. The following codes are hereby adopted effective January 1, 200~~5~~8, for the state of Idaho division of building safety and shall only be applied by local governments as prescribed by section 39-4116, Idaho Code:

(1) The 2003 International Building Code:

(a) Including appendices thereto pertaining to building accessibility;

(b) Excluding the incorporated electrical codes, mechanical code, fuel gas code, plumbing codes, fire codes or property maintenance codes other than specifically referenced subjects or sections of the International Fire Code;

(c) Including the incorporated International Residential Code, parts I, II, III, IV and IX; International Energy Conservation Code;

and rules promulgated by the board to provide equivalency with the provisions of the Americans with disabilities act accessibility guidelines and the fair housing act accessibility guidelines shall be included; and

(d) Replacing section 903.2.7 of the 2003 International Building Code with sections 903.2.7, 903.2.8 and 903.2.9 of the 2000 International Building Code, which pertain to fire sprinklers in group R occupancies.

(2) The 2003 International Residential Code as published by the International Code Council, except for parts V, VI, VII and VIII as they pertain to mechanical, fuel gas, plumbing and electrical requirements;

(3) The 200~~3~~6 International Energy Conservation Code as published by the International Code Council ~~except that in chapter 7, the reference to the ASHRAE/IESNA 90.1 standard shall be the 2001 edition of such standard, including addendum G~~; and

(4) The ~~and~~ existing 2003 International Building Code as published by the International Code Council.

Approved March 26, 2007.

CHAPTER 185
(H.B. No. 150)

AN ACT

RELATING TO ENERGY GRANTS; AMENDING CHAPTER 18, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-1806, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DEFINE A TERM, TO CREATE THE IDAHO ECONOMIC DEVELOPMENT BIOFUEL INFRASTRUCTURE MATCHING GRANT FUND AND TO PROVIDE ADMINISTRATIVE PROCEDURES FOR APPROVING GRANT APPLICATIONS; PROVIDING AN EFFECTIVE DATE AND PROVIDING A SUNSET DATE.

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

SECTION 1. That Chapter 18, 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 42-1806, Idaho Code, and to read as follows:

42-1806. RURAL IDAHO ECONOMIC DEVELOPMENT BIOFUEL INFRASTRUCTURE, CONSUMER CHOICE AND FUEL INDEPENDENCE ACT OF 2007 -- RETAIL FUEL OUTLET MATCHING GRANTS FOR BIOFUEL INFRASTRUCTURE. (1) This act shall be known and cited as the "Rural Idaho Economic Development Biofuel Infrastructure, Consumer Choice and Fuel Independence Act of 2007."

(2) As used in this section "fueling infrastructure" means necessary tanks, piping, pumps, pump stands, hoses or monitors, including installation of equipment.

(3) There is hereby created in the state treasury, the rural Idaho economic development biofuel infrastructure matching grant fund. Moneys in the fund may be used for providing grants for up to fifty percent (50%) of the cost of installing new fueling infrastructure dedicated to offering biofuel for retail sale, or for upgrading existing fueling infrastructure that is certified as incompatible with biofuel, including cleaning existing storage tanks, for the purpose of offering biofuel for

retail sale. The energy division of the department of water resources is authorized to administer the fund. Moneys in the fund may be expended pursuant to appropriation and shall be utilized only for the purposes specified in this section. Surplus 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 other surplus or idle moneys in the state treasury. Interest earned on the investments shall be returned to the fund.

(4) Eligible applicants may file an application with the energy division for a grant from the fund for the purpose of financing fuel infrastructure projects necessary to provide biofuel for sale at retail fuel outlets. Such an application shall be filed in such a manner and shall be in such form, and accompanied by such information as may be prescribed by the director of the department of water resources, provided however, that any such application filed under the provisions of this section shall, at a minimum:

(a) Describe the nature of the project, including which biofuel will be offered;

(b) Set forth the need for replacing existing fueling infrastructure to offer biofuel, if the project is to upgrade existing fueling infrastructure, including documentation from manufacturers of the components that clearly state such incompatibility;

(c) Include such technical, economic and estimated cost data as may be required by the director;

(d) Include documentation that sets forth the amount of funds the applicant shall use to complete the project.

(5) Within thirty (30) days of receipt of the application, the division shall review and evaluate and, if deemed necessary, investigate all aspects of the proposed project. As part of such investigation, the division shall determine whether the project plan is satisfactory and shall advise the director of that fact. If the division determines that the plan is unsatisfactory, it shall return the application to the applicant and the division may make recommendations to the applicant as considered necessary to make the plan satisfactory. If the division determines either the plan, or a plan revised pursuant to recommendations of the division is satisfactory, it shall be considered for funding by the director.

(6) The applicant must make biofuel available through the project continuously for a period of five (5) years from the date the project is placed into service, or the applicant will be subject to recapture of any grant moneys received.

(7) If the applicant receives grant funding under this section and also applies for income tax credits under section 63-3029M, Idaho Code, on the same project, the qualified investment used to calculate the tax credits must be reduced by the amount of the grant awarded under this section. The division shall report grant recipients and amounts received under this section to the state tax commission by April 15 of each year for the previous year.

SECTION 2. This act shall be in full force and effect on and after July 1, 2007; and shall be null, void and of no force and effect on and after July 1, 2012.

Approved March 26, 2007.

CHAPTER 186
(H.B. No. 152)

AN ACT

RELATING TO SITING OF CERTAIN ELECTRICAL TRANSMISSION FACILITIES; AMENDING TITLE 61, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 17, TITLE 61, IDAHO CODE, TO PROVIDE LEGISLATIVE PURPOSE AND FINDINGS, TO DEFINE TERMS, TO PROVIDE AUTHORITY OF THE PUBLIC UTILITIES COMMISSION REGARDING SITING OF ELECTRIC TRANSMISSION FACILITIES IN A NATIONAL INTEREST ELECTRIC TRANSMISSION CORRIDOR WITHIN IDAHO, TO PROVIDE FOR NOTICE OF INTENT TO FILE, CONTENT OF THE FILING AND PREFILING PROCEDURES, TO PROVIDE FOR APPLICATION FOR A ROUTE CERTIFICATE, TO PROVIDE CONSTRUCTION STANDARDS, TO PROVIDE FOR PUBLIC WORKSHOPS, TO PROVIDE THE EFFECT OF ISSUANCE OF ROUTE CERTIFICATION, TO PROVIDE PUBLIC UTILITIES COMMISSION PROCEDURES, AN ADMINISTRATIVE REMEDY, RECONSIDERATION AND JUDICIAL REVIEW; AMENDING SECTION 67-6508, IDAHO CODE, TO PROVIDE PLANNING DUTIES REGARDING NATIONAL ELECTRIC TRANSMISSION CORRIDORS AND TO MAKE TECHNICAL CORRECTIONS; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Title 61, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 17, Title 61, Idaho Code, and to read as follows:

CHAPTER 17
SITING OF CERTAIN ELECTRICAL TRANSMISSION FACILITIES

61-1701. LEGISLATIVE PURPOSES AND FINDINGS. (1) The provisions of this chapter apply to the construction or modification of transmission facilities located in a national interest electric transmission corridor designated by the secretary of the United States department of energy under section 1221 of the energy policy act of 2005. The purpose of this chapter is to provide for the efficient and timely review of applications for the siting of electric transmission facilities in federally designated national interest electric transmission corridors. The review is intended to facilitate participation from all interested entities and individuals and to avoid federal preemption.

(2) The legislature finds that the efficient and safe transmission of electricity is critical to the well-being of the citizens and the economy of this state, the region and the nation. The legislature further finds that enactment of this chapter is necessary for the protection of the public welfare and public interest.

(3) After the secretary has designated national interest electric transmission corridors in Idaho, no construction or modification of transmission facilities may be undertaken in a national interest electric transmission corridor without first obtaining a route certificate from the commission.

61-1702. DEFINITIONS. (1) "Affected landowner" includes owners of property interests, as reflected in the most recent county or city tax records as receiving the tax notice, whose property:

(a) Is directly affected, either crossed or used, by the proposed transmission line, including all facility sites, rights-of-way, access roads and temporary work spaces; and

(b) Abuts either side of an existing right-of-way or facility site owned in fee by any utility company, or abuts the edge of a proposed transmission line or right-of-way which runs along a property line in the area in which the transmission line would be constructed, or contains a residence within fifty (50) feet of the proposed transmission line.

(2) "Application" means any request by a transmitting utility for a route certificate for the construction and operation of new transmission facilities or the modification of existing transmission facilities located in a national interest electric transmission corridor in Idaho.

(3) "Commission" means the Idaho public utilities commission.

(4) "Local government" means a city or county.

(5) "National interest electric transmission corridor" is any geographic area designated by the secretary of energy as experiencing electric energy transmission capacity constraints or congestion pursuant to section 1221 of the energy policy act of 2005.

(6) "Secretary" means the secretary of the United States department of energy.

(7) "Transmission facility" means:

(a) Newly constructed high voltage transmission lines with an operating level capacity of one hundred fifteen thousand (115,000) volts or more;

(b) Rebuilt and upgraded existing high voltage transmission lines with an operating level capacity of at least fifty-seven thousand (57,000) volts to one hundred fifteen thousand (115,000) volts or more along the same right-of-way; or

(c) Electric facilities associated with high voltage transmission lines such as substations, switchyards or temporary contractor work yards.

(7) "Transmitting utility" is an entity that owns, operates or controls facilities used for the transmission of electric energy in interstate commerce.

61-1703. COMMISSION AUTHORITY — PREEMPTION -- RULES. (1) In the event that the secretary designates a national interest electric transmission corridor within Idaho, the public utilities commission is authorized to review the siting of all electric transmission facilities within such federally designated corridor. After notice and an opportunity for hearing, the commission shall review and deny, approve, or approve with conditions an application seeking a route certificate to construct transmission facilities within a designated national interest electric transmission corridor.

(2) In reviewing an application for a route certificate, the commission shall base its findings on the following standards:

(a) The regional or national benefits expected to be achieved by the proposed construction or modification of transmission facilities;

(b) The proposed construction or modification will significantly reduce transmission congestion in interstate commerce and benefit electric consumers;

(c) The proposed construction or modification is consistent with sound national energy policy and will enhance energy independence;

(d) The proposed construction or modification is consistent with the public interest;

(e) The proposed route minimizes adverse impacts on the important environmental features of the state and localities to the extent reasonable and economical;

(f) The transmission utility has the financial ability and experience to undertake the construction of transmission facilities; and

(g) The proposed modification will maximize, to the extent reasonable and economical, and consistent with reliability planning, the transmission capabilities of existing towers or structures.

(3) The commission is vested with the authority to preempt local government land use decisions pertaining to the construction of transmission facilities in national interest electric transmission corridors in the following instances:

(a) If a local government has denied or not authorized a transmitting utility to construct transmission facilities in a designated national interest electric transmission corridor by sixty (60) days after an application for a route certificate has been filed with the commission; or

(b) If the transmitting utility claims that a local land use condition imposed by a local government is unreasonable or not economical, then the commission may preempt the local government's denial, lack of decision or conditioned decision after giving the affected local government an opportunity to appear before the commission.

The transmitting utility shall have the burden of demonstrating that the local government's final land use decision will not be timely issued, is unreasonable, or is not economical.

(4) The commission may promulgate temporary and proposed rules as may be necessary to implement the timely review of applications for transmission routing certificates in a national interest electric transmission corridor.

61-1704. NOTICE OF INTENT TO FILE -- CONTENT -- PREFILING PROCEDURES. (1) Each transmission utility seeking authority to site electric transmission facilities in a national interest electric transmission corridor, shall submit a notice of intent to file an application for a route certificate. The notice of intent shall be filed with the commission at least one hundred twenty (120) days before the transmission utility intends to file an application for a transmission route certificate. If the application described in the notice of intent is not filed within one hundred eighty (180) days, the notice will be considered withdrawn unless the transmitting utility provides a written statement that it still intends to file an application as originally described in the notice of intent.

(2) The notice of intent shall include, but is not limited to, the following information:

(a) The name and mailing address of the transmitting utility including a contact name, address and telephone number of the contact person for the notice of intent. If the transmitting utility is a corporation, copies of its articles of incorporation and proof of its authorization and/or registration to conduct business in Idaho;

(b) A detailed description of the proposed transmission route,

including location maps and plot plans to scale showing all major components including a description of zoning and site availability for any permanent transmission facility;

(c) A description of the proposed right-of-way width for the transmission line, including to what extent a new right-of-way will be required or an existing right-of-way will be widened;

(d) A description of the proposed transmission line structures and their dimensions;

(e) A description of the schedule desired for the project including the expected application filing date, the desired date for commission approval, the beginning date for construction, and the proposed project operation date;

(f) A list of the federal, state, tribal and local government permitting entities including mailing address, contact names, telephone numbers and e-mail addresses. The notice shall disclose how the transmitting utility intends to account for each of the permitting entities and when it proposes to file with these permitting entities for the respective permits or other authorizations prior to the route certificate application in section 61-1705, Idaho Code;

(g) A statement that the transmitting utility has, or will within three (3) days of filing the notice of intent with the commission, provide a copy of such notice to affected landowners, local governments, and tribal, federal and state permitting entities;

(h) A list and description of the website and physical locations where copies of the notice of intent are located in each county traversed by the proposed transmission route; and

(i) An explanation of what rights the affected landowner has at the commission and in proceedings under the Idaho eminent domain laws.

(3) Within three (3) days of filing the notice of intent with the commission, the transmitting utility shall publish notice of its filing. The transmitting utility shall:

(a) Make available copies of the notice of intent in publicly accessible locations in each county or city throughout the project area in either electronic or paper format;

(b) Create and maintain an up-to-date project website devoted solely to dispense information about the proposed transmission project;

(c) Designate a single point of contact and explain how the transmitting utility will respond to requests for information from the public as well as federal, state, local government and tribal permitting entities; and

(d) Cause to be published in a daily or weekly newspaper of general circulation at least once per week for two (2) weeks in each county where the proposed transmission route is located that a notice of intent has been filed with the commission. This public notice shall describe the proposed route including a map of the route, and advise readers how to obtain more information.

(4) The commission shall, within twenty-one (21) days from when the notice of intent is filed, convene a preapplication conference with the transmitting utility, federal, state, local government and tribal permitting entities, for the purpose of reviewing the notice of intent.

61-1705. APPLICATION FOR A ROUTE CERTIFICATE. (1) Each application for a route certificate to construct a transmission facility within a

designated national interest electric transmission corridor shall contain the following general information:

(a) The exact legal name of the transmitting utility; its principal place of business; whether the transmitting utility is an individual, partnership, corporation, or otherwise; the state laws under which the transmitting utility is organized or authorized; and the name, title, mailing address and e-mail address of the person or persons to whom communications concerning the application are to be addressed;

(b) A concise description of the transmitting utility's existing operation;

(c) A concise description of the proposed project sufficient to explain its scope and purpose. The description must, at a minimum: describe the proposed location of the principal project transmission facilities and the planned routing of the transmission line; contain the general characteristics of the transmission line including voltage, types of towers, and origin and termination point of the transmission line; describe the geographic character of areas traversed by the line; and be accompanied by an overview map of sufficient scale to show the entirety of the transmission route on no more than two (2) pages measuring eight and one-half (8.5) inches by eleven (11) inches;

(d) Verification that the proposed route lies within a national interest electric transmission corridor designated by the secretary;

(e) A demonstration that the transmission facility to be authorized by the certificate will be used for the transmission of electric energy in interstate commerce, and that the proposed construction or modification is consistent with the standard set out in subsection (2) of section 61-1703, Idaho Code;

(f) A general description of project financing;

(g) A description of the proposed construction and operation of the facilities, including the proposed date for the beginning and completion of construction and the date for commencement of service;

(h) A list of the local governments that have already approved local land use applications for the transmission project under applicable comprehensive plans and land use ordinances;

(i) A full statement as to whether any other permitting application filed in conjunction with the proposed project is outstanding, and if so, the nature and status of each such permitting application;

(j) A full statement as to whether the transmitting utility is requesting the preemption of local governments that have not yet issued a final decision, have denied, or have conditioned land use applications in an allegedly unreasonable or uneconomical manner; and

(k) A table of contents listing all exhibits and documents by their appropriate titles in alphabetical letter designations. A table of contents will list each exhibit and document.

(2) Each application for a route certificate must be accompanied by exhibits containing the following information in substantially the same format.

(a) Exhibit A - Articles of incorporation and bylaws if the transmitting utility is a corporation. If the transmitting utility is not a corporation, then other similar documents showing the business relationship of the transmitting utility.

(b) Exhibit B - State Authorization. Proof that the transmitting utility is authorized to do business in Idaho, a statement showing the date of such authorization, the scope of the business the transmitting utility is authorized to carry on, and all limitations, if any, including an expiration date and renewal obligations.
(c) Exhibit C - Company Officials. A list of the names and business addresses of the transmitting utility's officers and directors, or similar officials if the transmitting utility is not a corporation.
(d) Exhibit D - Pending Applications and Filings. A list of applications and filings submitted by the transmitting utility that are pending before a federal, state, tribal, or local government permitting entity that affect the proposed transmission project, including explanation of any material effect that the approval or denial of these permits will have on the application for a route certificate.
(e) Exhibit E - Approved or Denied Applications. A list of applications and filings submitted by the transmitting utility to a federal, state, tribal or local government permitting entity that have been granted, conditionally granted, or denied at the time of the application that affect the proposed transmission project, including explanation of any material effect that the approval or denial of these permits will have on the application for a route certificate.
(f) Exhibit F - Local Government Preemption. A list of local government land use applications that are pending, denied or contain approval conditions to which the transmitting utility objects and seeks commission review. The transmitting utility shall indicate whether it seeks commission preemption of specific local government land use decisions or unfinished transmission route proceedings. The transmitting utility has the burden of demonstrating that the local government land use decisions will not be completed in the next sixty (60) days. If the local government land use application was denied or conditioned, the transmitting utility has the burden of demonstrating that the denial or imposed conditions were unreasonable or not economical.
(g) Exhibit G - Map of the Proposed Route. A general location map to scale showing the location of the proposed transmission route in a scale sufficient to advise the public of the exact location of the proposed route.
(h) Exhibit H - Corridor Selection Assessment. The corridor selection assessment shall explain how the transmitting utility selected the proposed route. This exhibit shall disclose whether the transmitting utility evaluated other corridors, including the specific location of such other corridors and the reasons why those corridors were not utilized. The transmitting utility shall also provide a map in a format no larger than eleven (11) inches by seventeen (17) inches showing the selected proposed route and those route alternatives that were discarded.
(i) Exhibit I - Characteristics of the Proposed Route. The transmitting utility shall prepare an exhibit that discloses:

(i) The length of the proposed transmission line;
(ii) The proposed right-of-way width of the proposed transmission including to what extent a new right-of-way will be required or an existing right-of-way will be widened;
(iii) If the proposed transmission route follows or includes a public right-of-way, a description of where the facilities

would be located within the public right-of-way, to the extent known. If the transmitting utility might locate all or part of the transmission facilities adjacent to but not within the public right-of-way, describe the reasons to justify locating the transmission facility outside the public right-of-way. The transmitting utility must include a set of clear and objective criteria and adequately demonstrate that its decision to locate the proposed transmission facility outside the public right-of-way is based on those criteria;

(iv) Streams, rivers and wetlands that may be disturbed during construction;

(v) Portions of the route located within lands that require zoning changes, variances or exceptions;

(vi) Whether the proposed transmission line would be outside of areas where historical, cultural or archeological resources are likely to exist, are listed, or determined by the state historic preservation officer to be eligible for listing on the national register of historic places; and

(vii) A description of the transmission structures and their dimensions.

(j) Exhibit J - Construction Schedule. The construction schedule shall include the dates when the transmitting utility proposes to begin construction and the estimated date when construction will be completed. This schedule should be broken down into topics including surveying, exploration or other activities. The transmitting utility shall also provide a map showing all areas that may be temporarily disturbed by any activity related to the design, construction and operation of the proposed transmission facility.

(k) Exhibit K - Map. A map identifying all areas designated for protection by a tribe, the state or federal government including, but not limited to, monuments, wilderness areas, wildlife refuges, scenic waterways and similar areas. The map shall identify affected tribal lands and locations that may have cultural significance to any tribe. If the proposed route traverses wetland areas, provide copies of all permits related to such wetlands. The map shall denote all airports and private airstrips within ten thousand (10,000) feet of the centerline of the proposed route. The map shall show all commercial AM radio transmitters and all FM radio transmitters within ten thousand (10,000) feet of the centerline and all microwave relay stations or similar installations within two thousand (2,000) feet of the centerline of the proposed route.

(l) Exhibit L - Affected Landowners. Describe the efforts utilized to notify all affected landowners. Indicate in a quantitative fashion the amount of property already acquired or optioned from affected landowners.

(m) Exhibit M - Soils and Geotechnical Work. Describe the locations along the proposed transmission route where the transmitting utility proposes to perform site specific geotechnical work including, but not limited to, railroad crossings, major road crossings, river crossings, dead ends, or corners. Describe where geological reconnaissance and other site specific studies provide evidence of existing landslides or marginally stable slopes that could be made unstable by the planned construction. This exhibit shall also contain a map showing the location of existing and significant potential geo-

logical and soil stability hazards and problems, if any, on the proposed route and in the adjacent vicinity that could adversely affect, or be aggravated by, the construction and operation of the proposed transmission facility.

(n) Exhibit N - Seismic Hazards. The transmitting utility shall include an analysis and assessment of the seismic hazards that may occur along the proposed transmission route.

(3) The transmitting utility shall also provide any other information that the commission requests.

(4) The transmitting utility shall include, with its application for a route certificate, written prefiled testimony that supports the information contained in the application. Such testimony shall be in a form that conforms to the commission's rules of procedure.

(5) After notice and an opportunity for hearing, the commission shall issue its final order denying, granting, or granting with conditions the application for a route certificate. The commission shall issue its final order no later than twelve (12) months after the application for a route certificate is filed, unless the transmitting utility agrees to an extension in writing.

(6) The transmitting utility will make available copies of its complete application on its project website and at publicly accessible locations in each county. The application will also be available on the commission's website.

61-1706. CONSTRUCTION STANDARDS. Each transmitting utility will construct, install, operate, and maintain its transmission facility in compliance with the current edition of the national electrical safety code published by the institute of electrical and electronic engineers, inc. Transmission facilities shall be constructed and operated in a manner to best accommodate the public and to prevent interference with service furnished by other public utilities insofar as practical.

61-1707. PUBLIC WORKSHOPS. (1) After a transmitting utility has filed its notice of intent with the commission and before it files the application for a route certificate, the transmitting utility shall conduct informal public workshops at location(s) along the proposed transmission route. The purpose of the workshops is to provide information about the transmission project and the process for obtaining construction authority.

(2) After a transmitting utility has filed an application for a route certificate, the commission will determine whether the staff should conduct an informational public workshop at locations along the proposed transmission route. The purpose of the public workshop is for the commission staff to dispense information concerning the transmission utility's application and to advise interested persons on how to participate in the commission's review proceeding.

(3) Notice of the public workshops shall be issued a minimum of fourteen (14) days prior to the workshop to newspapers of general circulation and radio and television stations in the affected area.

61-1708. EFFECT OF ISSUANCE OF ROUTE CERTIFICATION. (1) Subject to any conditions attached to the certificate by the commission, a final commission order granting a route certificate shall bind the state and each of its agencies, divisions, bureaus, commissions, boards and local

governments as to the approval of the authorized transmission route and the construction and operation of the authorized transmission facility.

(2) Issuance of a route certificate to a transmitting utility authorizes the utility to exercise the right of eminent domain pursuant to chapter 7, title 7, Idaho Code.

(3) Issuance of the route certificate shall not be construed to preempt jurisdiction of any state agency or local government over matters that are not included in and governed by the route certificate including, but not limited to, employee health and safety, wage and hour or other labor regulations, other design and operational issues that do not relate to the siting of the transmission facilities.

61-1709. COMMISSION PROCEDURES -- ADMINISTRATIVE REMEDY — RECONSIDERATION -- JUDICIAL REVIEW. (1) All matters arising under this chapter shall be governed by the commission's rules of procedure.

(2) The commission's proceeding to review an application for a route certificate for the construction of transmission facilities in a designated national interest electric transmission corridor shall constitute a necessary administrative remedy for a person aggrieved by a local government's final land use action on a transmitting utility's application to construct transmission facilities in a designated national interest electric transmission corridor. Judicial review shall not be available from a local government's final land use decision concerning a transmitting utility's application to construct transmission facilities in a national interest electric transmission corridor. A person aggrieved by a local government's final land use action involving the construction of a proposed transmission facility route in a national interest electric transmission corridor must participate in the commission's proceeding and seek judicial review of the commission's final order.

(3) Reconsideration of, appeal from, and stay of orders issued pursuant to this chapter shall be governed by law as for orders of the commission in other matters.

SECTION 2. That Section 67-6508, Idaho Code, be, and the same is hereby amended to read as follows:

67-6508. PLANNING DUTIES. It shall be the duty of the planning or planning and zoning commission to conduct a comprehensive planning process designed to prepare, implement, and review and update a comprehensive plan, hereafter referred to as the plan. The plan shall include all land within the jurisdiction of the governing board. The plan shall consider previous and existing conditions, trends, desirable goals and objectives, or desirable future situations for each planning component. The plan with maps, charts, and reports shall be based on the following components as they may apply to land use regulations and actions unless the plan specifies reasons why a particular component is unneeded.

(a) Property Rights -- An analysis of provisions which may be necessary to ~~insure~~ ensure that land use policies, restrictions, conditions and fees do not violate private property rights, adversely impact property values or create unnecessary technical limitations on the use of property and analysis as prescribed under the declarations of purpose in chapter 80, title 67, Idaho Code.

(b) Population — A population analysis of past, present, and

future trends in population including such characteristics as total population, age, sex, and income.

(c) School Facilities and Transportation -- An analysis of public school capacity and transportation considerations associated with future development.

(d) Economic Development -- An analysis of the economic base of the area including employment, industries, economies, jobs, and income levels.

(e) Land Use -- An analysis of natural land types, existing land covers and uses, and the intrinsic suitability of lands for uses such as agriculture, forestry, mineral exploration and extraction, preservation, recreation, housing, commerce, industry, and public facilities. A map shall be prepared indicating suitable projected land uses for the jurisdiction.

(f) Natural Resources -- An analysis of the uses of rivers and other waters, forests, range, soils, harbors, fisheries, wildlife, minerals, thermal waters, beaches, watersheds, and shorelines.

(g) Hazardous Areas -- An analysis of known hazards as may result from susceptibility to surface ruptures from faulting, ground shaking, ground failure, landslides or mudslides; avalanche hazards resulting from development in the known or probable path of snowslides and avalanches, and floodplain hazards.

(h) Public Services, Facilities, and Utilities -- An analysis showing general plans for sewage, drainage, power plant sites, utility transmission corridors, water supply, fire stations and fire fighting equipment, health and welfare facilities, libraries, solid waste disposal sites, schools, public safety facilities and related services. The plan may also show locations of civic centers and public buildings.

(i) Transportation -- An analysis, prepared in coordination with the local jurisdiction(s) having authority over the public highways and streets, showing the general locations and widths of a system of major traffic thoroughfares and other traffic ways, and of streets and the recommended treatment thereof. This component may also make recommendations on building line setbacks, control of access, street naming and numbering, and a proposed system of public or other transit lines and related facilities including rights-of-way, terminals, future corridors, viaducts and grade separations. The component may also include port, harbor, aviation, and other related transportation facilities.

(j) Recreation -- An analysis showing a system of recreation areas, including parks, parkways, trailways, river bank greenbelts, beaches, playgrounds, and other recreation areas and programs.

(k) Special Areas or Sites -- An analysis of areas, sites, or structures of historical, archeological, architectural, ecological, wildlife, or scenic significance.

(l) Housing -- An analysis of housing conditions and needs; plans for improvement of housing standards; and plans for the provision of safe, sanitary, and adequate housing, including the provision for low-cost conventional housing, the siting of manufactured housing and mobile homes in subdivisions and parks and on individual lots which are sufficient to maintain a competitive market for each of those housing types and to address the needs of the community.

(m) Community Design -- An analysis of needs for governing landscaping, building design, tree planting, signs, and suggested patterns and standards for community design, development, and beautification.

(n) Implementation -- An analysis to determine actions, programs, budgets, ordinances, or other methods including scheduling of public expenditures to provide for the timely execution of the various components of the plan.

(o) National Interest Electric Transmission Corridors - After notification by the public utilities commission concerning the likelihood of a federally designated national interest electric transmission corridor, prepare an analysis showing the existing location and possible routing of high voltage transmission lines, including national interest electric transmission corridors based upon the United States department of energy's most recent national electric transmission congestion study pursuant to sections 368 and 1221 of the energy policy act of 2005. "High-voltage transmission lines" means lines with a capacity of one hundred fifteen thousand (115,000) volts or more supported by structures of forty (40) feet or more in height.

Nothing herein shall preclude the consideration of additional planning components or subject matter.

SECTION 3. 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 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 26, 2007.

CHAPTER 187
(H.B. No. 170)

AN ACT

RELATING TO THE ADJUDICATION OF WATER RIGHTS; AMENDING SECTION 42-1409, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE TRUTH AND ACCURACY OF STATEMENTS CONTAINED IN NOTICES OF CLAIM OR AMENDED NOTICES OF CLAIM.

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

SECTION 1. That Section 42-1409, Idaho Code, be, and the same is hereby amended to read as follows:

42-1409. NOTICE OF CLAIM. (1) The director shall prepare and furnish on request a standard notice of claim form.

The notice of claim form shall include the following:

(a) the name and address of the claimant;

(b) the source of water;

(c) the quantity of water claimed:

(i) the quantity of water claimed to be used for water rights acquired under state law shall describe the rate of diversion

or, for an instream flow claim, a rate of water flow in cubic feet per second or the annual volume of diversion of water for use or storage in acre-feet per year, or both;

(ii) the quantity of water claimed for water rights established under federal law shall describe for each and every purpose the rate of present and future water diversion or, in the case of an instream flow claim the rate of flow in cubic feet per second or annual volume of present and future diversion in acre-feet per year or both;

(d) the date of priority claimed:

(i) the date of priority claimed for water rights acquired under state law shall be from any license, permit, or decree; or if the right is not based upon a license, permit, or decree, then the date when the water was first applied to beneficial use;

(ii) the date of priority claimed for water rights established under federal law shall be determined in accordance with federal law;

(e) the number thereof, if founded upon a right on file with the department; or if the right is founded upon judicial decree not on file with the department, then the title of the court and cause, number of the action and the date of entry;

(f) the legal description of the existing point(s) of diversion; if the claim is for an instream flow, then a legal description of the beginning and ending points of the claimed instream flow;

(g) the purpose(s) of use and the period of use:

(i) the purpose(s) of use for water rights acquired under state law shall describe each purpose of use and the period of the year when water is used for each purpose;

(ii) the purpose(s) of use for a water right established under federal law shall describe the purposes for which the water included in the claim is presently being used, if at all, and the period of the year when water is necessary for the designated purposes;

(h) a legal description of the place of use:

(i) the legal description of the place of use for water rights acquired under state law shall describe the land where the water is beneficially used; if one (1) of the purposes of use is irrigation, then the number of irrigated acres within each forty (40) acre subdivision, except as provided in section 42-219, Idaho Code;

(ii) the legal description of the place of use for a water right established under federal law shall describe the federal reservation and the existing or proposed place of use for each consumptive use;

(i) the dates of any changes or enlargements in use for water rights acquired under state law, including the dimension of the diversion works as originally constructed and as enlarged;

(j) conditions on the exercise of any water right included in any decree, license, approved transfer application or other document; and

(k) such remarks and other matters as are necessary for definition of the right, for clarification of any element of a right or for administration of the right by the director.

(2) With respect to any water right for which a change was approved by the director pursuant to section 42-211 or 42-222, Idaho Code, after filing the notice of claim and prior to filing of the director's report, the claimant shall amend the notice of claim consistent with the determination of the director on the change.

(3) Each claimant, through submission of a claim, shall ~~sign and verify under oath~~ solemnly swear or affirm under penalty of perjury that the statements contained in ~~a~~ the notice of claim or amended notice of claim are true and correct.

(4) All claimants of water rights that are included in a general adjudication shall file with the director a notice of claim for all water rights, except for those types of water rights designated in paragraphs (a) through (d) of subsection (1) of section 42-1420, Idaho Code.

(5) Any person who fails to submit a required notice of claim shall be deemed to have been constructively served with notice of a general adjudication by publication and mailing as required by section 42-1408, Idaho Code.

(6) Each purchaser of a water right from the water system shall inquire of the director whether a notice of claim has been filed, and if not, shall file a notice of claim in accordance with this section. All claimants and purchasers shall provide the director written notice of any change in ownership or of any change in mailing address during the pendency of a general adjudication. All purchasers shall submit some evidence of ownership along with the notice of change of ownership.

(7) At least one hundred twenty (120) days prior to filing of the director's report with the court, the director may notify each holder of a permit or license to appropriate water from the water system, for which proof of beneficial use was filed after entry of the court's order commencing a general adjudication, to file a notice of claim within thirty (30) days of mailing of the notice. The director shall notify the holder of the permit or license by certified mail at the most recent address shown in the records of the department.

(8) The district court or director may extend the time for filing a notice of claim.

Approved March 26, 2007.

CHAPTER 188
(H.B. No. 178, As Amended)

AN ACT

RELATING TO ABATEMENT DISTRICTS; AMENDING THE HEADING FOR CHAPTER 28, TITLE 39, IDAHO CODE; AMENDING CHAPTER 28, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-2801, IDAHO CODE, TO DEFINE TERMS; AMENDING SECTION 39-2801, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE PROVISIONS RELATING TO THE FORMATION OF ABATEMENT DISTRICTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-2802, IDAHO CODE, TO REVISE PROCEDURES FOR THE FORMATION OF ABATEMENT DISTRICTS; AMENDING SECTION 39-2804, IDAHO CODE, TO REVISE THE POWERS AND DUTIES OF ABATEMENT DISTRICTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-2806, IDAHO CODE, TO DELETE REFERENCE TO MOSQUITO ABATEMENT DISTRICTS AND TO REVISE PROVISIONS RELATING TO

ANNEXATION TO ABATEMENT DISTRICTS; AMENDING SECTION 39-2809, IDAHO CODE, TO REVISE SHORT TITLE PROVISIONS; AMENDING SECTION 39-2810, IDAHO CODE, TO DELETE REFERENCE TO MOSQUITO ABATEMENT DISTRICTS; AMENDING SECTION 39-2811, IDAHO CODE, TO DELETE REFERENCE TO MOSQUITO ABATEMENT DISTRICTS; AMENDING CHAPTER 28, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-2812, IDAHO CODE, TO PROVIDE FOR THE DECLARATION OF PUBLIC HEALTH AND WELFARE PESTS, TO PROVIDE FOR DISASTERS AND EMERGENCIES AND TO PROVIDE FOR INTERIM ABATEMENT DISTRICTS; AMENDING CHAPTER 28, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-2813, IDAHO CODE, TO PROVIDE FOR THE OPERATION OF ABATEMENT DISTRICTS BY COUNTIES; AMENDING CHAPTER 28, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-2814, IDAHO CODE, TO PROVIDE FOR SEVERABILITY; AMENDING SECTION 22-2508, IDAHO CODE, TO DELETE REFERENCE TO MOSQUITO ABATEMENT DISTRICTS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 22-2811, IDAHO CODE, TO DELETE REFERENCE TO MOSQUITO ABATEMENT DISTRICTS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That the Heading for Chapter 28, Title 39, Idaho Code, be, and the same is hereby amended to read as follows:

CHAPTER 28
~~MOSQUITO~~ ABATEMENT DISTRICTS

SECTION 2. That Chapter 28, 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 39-2801, Idaho Code, and to read as follows:

39-2801. DEFINITIONS. When used in this chapter:

(1) "Vector" means an animal, such as an insect, that transmits a disease producing organism from one host to another.

(2) "Vermin" means small animals, including insects, of public health and welfare concern which are difficult to control when they appear in large numbers.

SECTION 3. That Section 39-2801, Idaho Code, be, and the same is hereby amended to read as follows:

39-2801A. AUTHORIZATION TO FORM ABATEMENT DISTRICTS. There may be formed, under the provisions of this ~~act~~ chapter, districts for the abatement of mosquitoes ~~and/~~or other vermin of public health and welfare importance, in any area of the state from territory of one (1) or more counties, one (1) or more cities or towns, or any combination or portion thereof. No district shall contain noncontiguous areas except where a noncontiguous area of land consisting of not less than forty (40) contiguous acres, is separated from the district by public property owned by the federal, state or local government, such noncontiguous land may be included in the district by election or agreement of the private property owners. Any abatement district formed under this chapter, including an interim district formed under the provisions of section 39-2812, Idaho Code, shall be governed by the provisions of section 39-2804, Idaho Code.

SECTION 4. That Section 39-2802, Idaho Code, be, and the same is hereby amended to read as follows:

39-2802. PROCEDURES FOR FORMATION OF ABATEMENT DISTRICTS. (1) Abatement districts may be formed in the following ways:

(a) Upon presentation to the board of county commissioners of a petition requesting the formation of an abatement district, which is signed by ~~qualified resident~~ property owners of the territory of the proposed abatement district, equal to not less than ten percent (10%) of the ~~resident~~ property owners ~~that voted in the last general election~~ within the proposed district, the commissioners shall publish such petition when the following conditions are met: the petition must define the boundaries of the proposed district and assessed tax valuation of the property therein. When the above conditions have been met the county commissioners shall publish the petition, and if after thirty (30) days no protests are received, an election must be held ~~at the next~~ on a regularly scheduled election date specified in section 34-106, Idaho Code. The ~~petitioners~~ abatement district shall bear the expense of holding their portion of the election upon their successful formation from the first tax moneys collected. If there are written protests, the county commissioners must hold a public hearing within thirty (30) days after receipt of the written protests and after the hearing hold an election. Notice of the time and place of such election shall be published at least once not less than twelve (12) days prior to the election and a second time not less than five (5) days prior to the election in at least one (1) newspaper having general circulation in the proposed abatement district. ~~Only qualified electors who own land within the district, or the proposed district, and are residents of the county in which the district, or a portion thereof, is located, or are spouses of such landowners residing in such county, may vote on the formation of the district. A majority of the votes cast will establish the district.~~

(b) The board of county commissioners may place the question on a ballot during either a primary or general election as to whether to create an abatement district. If the board of county commissioners determines to place such a question on the ballot, it shall be after they define the boundaries of the proposed district and assessed tax valuation of the property therein. Notice of the time and place of such election shall be published at least once not less than twelve (12) days prior to the election and a second time not less than five (5) days prior to the election in at least one (1) newspaper having general circulation in the proposed abatement district.

(2) No person shall be entitled to vote at any election held under the provisions of this chapter unless he shall possess all the qualifications required of electors under the general laws of the state and be a resident of the proposed district. A majority of the votes cast by the qualified electors shall establish the district.

SECTION 5. That Section 39-2804, Idaho Code, be, and the same is hereby amended to read as follows:

39-2804. POWERS AND DUTIES OF ABATEMENT DISTRICTS. The abatement district board of trustees is authorized:

~~a.~~(1) To appoint a director to direct the activities of the district, in accordance with training and experience necessary to fulfill the duties of the position.

~~b.~~(2) To appoint such other persons as necessary, determine their duties and compensation, and make rules and regulations respecting them.

~~c.~~(3) To take all necessary and proper steps for the control of mosquitoes and other vermin of public health and welfare importance in the district and for these purposes shall have the right to enter upon any and all lands.

~~d.~~(4) To sue and be sued.

~~e.~~(5) To ~~c~~Contract to purchase, hold, dispose of, and acquire by gift real and personal property in the name of the district. To exercise the right of eminent domain and for these purposes to condemn any necessary land ~~and~~/or rights-of-way in accordance with general law.

~~f.~~(6) To abate as nuisance breeding places of mosquitoes ~~and~~/or other vermin of public health and welfare importance within the district or within migrating distance of the district by use of chemicals ~~and~~/or permanent control measures and in this connection have the right to enter upon any and all lands.

~~g.~~(7) To work with the lateral ditch water users associations, irrigation, drainage and flood control districts and other cooperating organizations. The board of trustees of the abatement district may supplement funds of cooperating organizations for improvement, repair, maintenance and cleaning of ditches which will temporarily or permanently eliminate mosquito breeding or for other activities which will benefit the district.

~~h.~~(8) To file annually with the board of county commissioners for their approval an estimate of funds required for the next year, a plan of the work to be done, and methods to be employed. No procedure, work or contract for any year of operation shall be done or entered upon until plans and budget have been jointly approved by the board of county commissioners.

~~i.~~(9) To file, annually or by February 1 of the succeeding year, with the board of county commissioners a report setting forth the moneys expended during the previous year, methods employed, and work accomplishments.

(10) To approve a written mosquito or other vermin management plan submitted by a landowner requesting that their property be excluded from treatment by the abatement district. Such plan must be specific to the landowner's property, provide adequate control measures, and be implemented by the landowner. The abatement district shall refrain from treatment of property included in the approved plan, but shall maintain monitoring and surveillance activities. If the landowner fails to follow the plan or does not provide adequate control measures, the abatement district may abate the mosquitoes or other vermin.

(11) To cooperate with other entities. At its discretion, a district may cooperate with and enter into annual agreements or contract with governmental agencies of this state, other states, agencies of the federal government, private associations, and private individuals in order to carry out the purposes and provisions of this chapter.

SECTION 6. That Section 39-2806, Idaho Code, be, and the same is hereby amended to read as follows:

39-2806. ANNEXATION TO ABATEMENT DISTRICTS. Contiguous territories may be annexed to organized ~~mosquito~~ abatement districts upon petition of a majority of the legal voters in the territory seeking annexation and of the owners of more than half, by assessed value, of the taxable property in such territory, or by written request for annexation of a designated area, submitted to the trustees of the existing ~~mosquito~~ abatement district and signed by all members of the board of county commissioners in which county the territory seeking annexation is located. For annexations that will increase the size of an existing contiguous district, there shall be no size restriction on the property being annexed. Noncontiguous areas shall not be annexed unless the area meets the provisions of section 39-2801A, Idaho Code. Upon receiving this petition or written request, the trustees of the existing ~~mosquito~~ abatement district must submit the question of annexation to the legal voters of the district at an election held subject to the provisions of section 34-106, Idaho Code.

SECTION 7. That Section 39-2809, Idaho Code, be, and the same is hereby amended to read as follows:

39-2809. SHORT TITLE. This ~~act~~ chapter may be cited as the "Idaho Mosquito and Vermin Abatement Act."

SECTION 8. That Section 39-2810, Idaho Code, be, and the same is hereby amended to read as follows:

39-2810. WITHDRAWAL. Any portion of an ~~mosquito~~ abatement district which will not be reasonably benefited by remaining within such district may be withdrawn as in this section provided. Upon receiving a petition signed by fifty (50) or more landowners within the portion desired to be withdrawn from any ~~mosquito~~ abatement district, or by a majority of such landowners, if there are less than one hundred (100) landowners within the portion sought to be withdrawn, requesting the withdrawal of such portion from the district on the ground that such portion will not be reasonably benefited by remaining in said district, the board of county commissioners shall fix a time for hearing on such petition and for hearing protests to the continuance of the remaining territory as an ~~mosquito~~ abatement district. The hearing shall not be less than ten (10) days nor more than thirty (30) days after the receipt thereof. The board shall, at least one (1) week prior to the time so fixed, publish notice of such hearing by one (1) publication in a newspaper of general circulation in the district, which the board deems most likely to give notice to the inhabitants thereof, of the proposed withdrawal.

SECTION 9. That Section 39-2811, Idaho Code, be, and the same is hereby amended to read as follows:

39-2811. HEARING OF PETITION FOR WITHDRAWAL. Any person interested may appear at the hearing and object to the withdrawal of the portion from the district, or may object to the continuance of the remaining territory as an ~~mosquito~~ abatement district. The board of county commissioners shall consider all objections and shall pass upon the same, and if it finds that portion of the district sought to be withdrawn will not be reasonably benefited by remaining within the district, and the terri-

tory not sought to be withdrawn will be reasonably benefited by continuing as an ~~mosquito~~ abatement district, it shall grant the petition and enter an order thereon upon its records. In the event the board finds the district will not be reasonably benefited by continuing as an ~~mosquito~~ abatement district, it shall enter an order upon its records completely dissolving and terminating the previously existing ~~mosquito~~ abatement district. Upon the withdrawal of any territory from an ~~mosquito~~ abatement district, as in this section provided, all property acquired for the district shall remain vested in the county and be used for the purposes of the district. Upon complete dissolution of an ~~mosquito~~ abatement district as herein provided, all property acquired for the district shall remain vested in the county and be used for any general purpose of the county.

SECTION 10. That Chapter 28, 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 39-2812, Idaho Code, and to read as follows:

39-2812. PESTS — PUBLIC HEALTH AND WELFARE -- DISASTERS -- EMERGENCIES — INTERIM ABATEMENT DISTRICTS. (1) To provide for the timely response to an elevated or anticipated pest population that may constitute a risk to public health and welfare, the board of county commissioners of each county of this state, in collaboration with duly recognized local and state officials, and after a public hearing is called for such purpose as a special meeting pursuant to the provisions of section 67-2343(2), Idaho Code, is hereby granted full power and authority to declare such pests as public health and welfare pests, and to initiate activities to hinder in the potential spread of disease, or adverse economic impact, caused by these pests by taking appropriate steps to intervene in the natural biological cycle of the pests or disease.

(2) Boards of county commissioners are further authorized and empowered, in the event of a disaster or emergency declared by such boards, to make direct appropriations for the purpose of controlling public health and welfare pests as declared pursuant to this section. All moneys raised by direct appropriation shall be placed in a county public health and welfare pest fund, which shall be used exclusively for the control of pests of public health and welfare significance and for payment of all necessary expenses incurred in such control program. In addition, the county may impose an annual property tax assessment pursuant to section 39-2805, Idaho Code, and in accordance with the provisions of sections 63-802 and 63-803, Idaho Code, for the term of the disaster or emergency or until all expenses incurred during the disaster or emergency have been recovered. Such fund shall be a revolving fund and all moneys returned to the fund under any of the provisions of this chapter shall continue to be available for the operation of the control program.

(3) The disaster or emergency declaration of a pest of public health and welfare significance within a county and subsequent pest management activity shall, except as provided herein, place the whole county into an interim abatement district for administrative purposes for no more than two (2) years. The transition of an interim abatement district into a formally defined abatement district, shall be brought to a vote of the electorate within twenty-four (24) months of the declara-

tion, subject to the notification and establishment requirements provided in this chapter and conducted during a general election held on the first Tuesday following the first Monday in November of even numbered years, and if passed, the district shall be recognized and the provisions of this chapter shall be implemented. If the measure fails, the balance of revolving fund moneys shall be distributed as required by state law. In the event the disaster or emergency exceeds the county's capacity or resources, provisions should be made to request state or federal disaster or emergency funds to address the evolving situation. If the interim abatement district provides the same service as an existing abatement district, the interim abatement district shall exclude any area within an existing abatement district.

SECTION 11. That Chapter 28, 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 39-2813, Idaho Code, and to read as follows:

39-2813. OPERATION OF ABATEMENT DISTRICTS BY COUNTY. Any district board of trustees may seek operation of the district by the board of county commissioners by adoption of a resolution by a majority vote of its members and by a majority vote of the board of county commissioners. The board of county commissioners may provide by ordinance that the abatement district board of trustees shall function as an advisory board to the board of county commissioners. If such an ordinance is adopted, the board of county commissioners shall retain and may exercise the powers, duties and responsibilities otherwise charged to the abatement district board of trustees by the provisions of this chapter. Any such ordinance shall set forth the powers, duties, responsibilities, compensation, and terms of office of the abatement advisory board and may provide for any such other rules under which the abatement advisory board shall advise the board of county commissioners and conduct its operations. Any such ordinance may be repealed at any time and, if repealed, the provisions of this chapter shall apply as if no such ordinance had been adopted.

SECTION 12. That Chapter 28, 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 39-2814, Idaho Code, and to read as follows:

39-2814. 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 13. That Section 22-2508, Idaho Code, be, and the same is hereby amended 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 ~~U~~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 14. That Section 22-2811, Idaho Code, be, and the same is hereby amended 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.

SECTION 15. 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 26, 2007.

CHAPTER 189
(H.B. No. 230)

AN ACT

RELATING TO GEOTHERMAL RESOURCES; AMENDING SECTION 42-4003, IDAHO CODE, TO REVISE FILING FEE PROVISIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 42-4004, IDAHO CODE, TO REVISE PROCEDURES RELATING TO THE PROCESSING OF APPLICATIONS AND INVESTIGATIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 42-4005, IDAHO CODE, TO REVISE REQUIREMENTS RELATING TO THE PROVISION OF GOOD AND SUFFICIENT SECURITY, TO AUTHORIZE THE DIRECTOR TO ACCEPT A COMPREHENSIVE SECURITY AND TO MAKE A TECHNICAL CORRECTION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 42-4003, Idaho Code, be, and the same is hereby amended to read as follows:

42-4003. PERMITS -- APPLICATION -- FEE -- EXCEPTIONS. (a) Any person who, as owner or operator, proposes to construct a well or to alter a well or to construct or to alter an injection well shall first apply to the director for a geothermal resource well permit. Such application shall set out the following information on a form or forms prescribed by the department:

(1) The name of any person making the application; if such person is a partnership, joint-venture, association, or other unincorporated group of corporate or natural persons, the names and places of domicile of each of the constituent persons who have general partnership responsibility and authority for and in such unincorporated group of persons; if any person named on a permit application is a corporation, its place of domicile, the names and places of domicile

of its principal executive officers, and the names and places of domicile of any person or persons owning a thirty percent (30%) or greater interest, whether legal, beneficial, or a combined legal and beneficial interest, in such corporate person; if the applicant is making an application as an agent for any other person, it shall be clearly so stated and any person who is the applicant's principal shall be subject to each and all of the disclosure requirements of this ~~subdivision~~ subsection; for purposes of this ~~subdivision~~ subsection, the domicile of a corporation is at all of the following:

a. ~~t~~The place of incorporation~~,~~;

b. ~~t~~The principal place of business~~,~~;

c. ~~t~~The place, by city and state, of the home office, and in any instance where domicile is required to be disclosed all of these places shall be specified.

(2) The location of the proposed well; and/or the injection well described particularly by the quarter-quarter section according to the township and range system of the United States public lands survey.

(3) The length, size, type, and thickness of casing proposed to be used in such well and/or such injection well and any other devices or techniques to be used in the drilling, operation, and maintenance of such well and/or injection well for the purpose of conserving geothermal resources and their availability, avoiding waste and for the protection of other subsurface natural resources.

(4) The character and composition of the material expected to be derived from such well.

(5) The means proposed to be used to contain and manage the material expected to be derived from such well or injected into such injection well in order to avoid unreasonable damage to life, property, or surface and atmospheric natural resources.

(6) Whether such well or such injection well is proposed to be constructed as a part of a program for exploration or for development of an already explored geothermal resource area.

(7) Such other information as the director may determine to be necessary for the administration of this chapter.

(b) Any application for a permit to construct a well which is made pursuant to this section, if the construction or operation of such well will involve the use of water, or if such well may be expected to yield water to be used, for any beneficial purpose, other than as a mineral source, an energy source, or otherwise as a material medium, shall be accompanied by an application to appropriate the public waters of this state in the form prescribed in chapter 2, title 42, Idaho Code, and by ~~regulations~~ rules adopted pursuant thereto, and such application to appropriate the public waters shall be governed in all respects by that chapter.

(c) Any application for a permit made pursuant to this section shall be accompanied by a filing fee of:

(1) ~~One~~ Two hundred dollars (~~$1~~200) if for a well~~,~~; or

(2) ~~Fifty~~ One hundred dollars (~~$50.~~100) for an injection well~~,~~;

and no application shall be accepted and filed by the director until such filing fee has been deposited with him. All moneys received under provisions of this ~~act~~ chapter shall be deposited with the state treasurer in the water administration fund as provided in section 42-238a, Idaho Code.

(d) No person shall construct or alter a well or an injection well without having first secured a permit therefor; provided however, that the director may, by general rule ~~or regulation~~ adopted pursuant to chapter 52, title 67, Idaho Code, exempt specific categories of wells or injection wells otherwise embraced by this ~~act~~ chapter upon a finding that the purposes of this ~~act~~ chapter do not require that such wells be subject to the permit requirement of this section.

(e) Nothing in this ~~act~~ chapter shall be construed as affecting any valid, vested water rights for water in use on or before July 1, 1987.

(f) The director shall have the authority to and may designate any area of the state a "geothermal area" when the director finds or has reason to believe that such designation is necessary to protect the geothermal resource from waste and to protect other resources of the state from contamination or waste.

(g) No person shall drill a well for any purpose to a depth of three thousand (3,000) feet or more below land surface in a designated "geothermal area" without first obtaining a permit under the provisions of this section. Such permit shall be in addition to any permit required by other provisions of law.

(h) The owner of any well constructed or being constructed pursuant to section 47-320, Idaho Code, ~~which~~ who encounters a geothermal resource, and who intends or desires to utilize such resource, shall make application for a geothermal permit as required under this section, provided however, that no additional filing fee shall be required.

(i) A geothermal resource shall be utilized primarily for its heat value. Usage of a geothermal resource primarily for some reason other than its heat value shall not be deemed a beneficial use of the resource.

SECTION 2. That Section 42-4004, Idaho Code, be, and the same is hereby amended to read as follows:

42-4004. PROCESSING OF APPLICATIONS -- INVESTIGATIONS -- HEARINGS. (a) Upon receipt of an application made pursuant to section 42-4003, Idaho Code, it shall be the duty of the director to examine such application to ascertain, within thirty (30) days of receipt, if it sets forth all information required by that section and all the information necessary for the director to make the determination required by this section. If upon such examination the application is found to be defective, the director shall return such application for correction, or notify the applicant that such application is defective, and the applicant may correct such application within thirty (30) days or make a new application. All applications which comply with the provisions of this ~~act~~ chapter and with the ~~regulations~~ rules of the water resource board shall be accepted by the director and numbered in a manner which will aid in their identification.

(b) ~~Upon~~ Within thirty (30) days of the receipt and acceptance of a proper application and the determination of its completeness in accordance with subsection (a) of this section, the director shall undertake and thereafter diligently conduct such investigations as necessary to determine that the construction or alteration of the proposed well or injection well will be in the public interest. The director may consider, but is not limited in his consideration to:

(1) The financial resources of the applicant, his principal, or

other person who may be legally responsible for the subject well or injection well, and the probability that such person will be financially able to bear all costs for which he might be responsible which may be incident to the construction, operation, and maintenance of the well or injection well proposed to be constructed or altered.

(2) The adequacy of measures proposed to safeguard subsurface, surface, and atmospheric resources from unreasonable degradation, and especially to protect ground-water aquifers and surface-water sources from contamination which would render such water of lesser quality than it would have had but for the contamination.

(3) The possibility that the construction and maintenance of the proposed well will cause waste or will damage any geothermal resource, reservoir, or other source, by unreasonable reduction of pressures or unreasonable reduction of any geothermal resource material medium or in any other manner, so as to render any geothermal resource of unreasonably less value.

(4) The adequacy of measures proposed to safeguard the environment of the area around the site of the proposed well from unreasonable contamination or pollution.

(5) Any possible interdependence between any geothermal resource, reservoir, pool, or other source expected to be affected under the permit and any aquifers or other sources of ground waters used for beneficial uses other than uses as a material medium or a mineral source, and the probability that such interdependence may cause such ground-water sources to be inadequate to meet demands on them under existing water rights.

(c) Upon completion of the investigations required under subsection (b) of this section, the director shall approve the application in whole or in part or upon conditions, or reject the application. Any applicant or the director shall have a right to have a public hearing concerning the propriety of issuing a permit for which an application has been made under section 42-4003, Idaho Code. Hearings held under this ~~subdivision of this section~~ subsection shall be governed by rules of procedure adopted by the water resource board pursuant to chapter 52, title 67, Idaho Code. Hearings held under this ~~subdivision~~ subsection shall be held at any location found to be appropriate by the water resource board.

SECTION 3. That Section 42-4005, Idaho Code, be, and the same is hereby amended to read as follows:

42-4005. PERMIT -- ISSUANCE -- ~~BOND~~ SUFFICIENT SECURITY -- REVIEW -- APPEAL. (a) If the director finds that the well or the injection well as proposed to be constructed or altered is in the public interest, he shall issue a permit. The director may issue a permit substantially in accordance with the specifications on the application, or the director may limit the scope of the permit granted or may issue a permit subject to conditions.

(b) If the director finds that the well or injection well as it is proposed to be constructed or altered in the application will not be in the public interest, he shall refuse to issue a permit. In no case shall the director issue a permit to construct or alter a well or injection well if he finds that use of the proposed well or injection well may be

expected to unreasonably reduce the quality of any surface or ground waters below the quality which such waters would have had but for the proposed well.

(c) If the director refuses to issue a permit, or issues one subject to conditions or limitations, he shall issue a clear statement of his reasons for refusing to issue or issuing the limited permit. The director shall issue a statement of findings of fact and conclusions of law that provides a factual and legal basis for the order. The refusal of the director to issue a permit, together with the clear statement of the reasons for refusing to issue the permit shall be served on the applicant by certified mail. A permit issued conditionally or subject to limitations shall, with the statement of reasons required under this ~~subdivision~~ subsection, be served in the same manner as a refusal to issue a permit.

(d) An applicant denied a permit or issued a limited or conditional permit may seek a public hearing before the water resource board. A certified transcript of the proceedings and the evidence received at such hearing shall be maintained by the board. The board shall affirm, modify or reject the director's decision, and make its decision in the form of an order to the director. The hearing shall be conducted in accordance with chapter 52, title 67, Idaho Code. Judicial review of the final determination by the board may be secured pursuant to chapter 52, title 67, Idaho Code.

(e) The director shall not issue a permit if he finds that the operation of any well under a proposed permit will decrease ground water in any aquifer or other ground water source or will unreasonably decrease ground water available for prior water rights in any aquifer or other ground water source of water for beneficial uses, other than uses as a mineral source, an energy source, or otherwise as a material medium, unless and until the applicant has also obtained a permit for the appropriation of ground waters under chapter 2, title 42, Idaho Code.

(f) The director shall require, as a condition of every permit, that every person who engages in the construction, alteration, testing, or operation of a well ~~to file with the director, on a form prescribed by the director, a bond indemnifying the state of Idaho providing~~ provide evidence of good and sufficient security~~, conditioned upon the performance of~~ in the form of a bond, trust fund, letter of credit, insurance or other acceptable surety that ensures that the applicant perform the duties required by this chapter and ~~the proper abandonment of~~ properly abandon any well covered by such permit. ~~The bond~~ Good and sufficient security shall be ~~in~~ an amount not less than ~~five~~ ten thousand dollars ($5~~1~~0,000) or more than one hundred thousand dollars ($100,000) as determined by the director based on the size and depth of the well, the complexity of the well, the resource to be recovered, the area of operation, and other relevant factors.

(g) Notwithstanding the requirements for sufficient security for individual permits identified in this section, the director shall have the discretion to accept evidence of good and sufficient security in the form of a comprehensive wellfield or statewide bond, trust fund, letter of credit, insurance or other acceptable surety for all well permits owned by the applicant within a field or within the state, provided the amount of the comprehensive security does not exceed the total sum of the amounts under each individual permit.

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 26, 2007.

CHAPTER 190
(H.B. No. 239)

AN ACT

RELATING TO INCOME TAX; AMENDING SECTION 63-3022, IDAHO CODE, TO PROVIDE THAT WITHDRAWALS FROM THE IDAHO COLLEGE SAVINGS PROGRAM THAT ARE TRANSFERRED TO A QUALIFIED PROGRAM OPERATED BY ANOTHER STATE SHALL BE INCLUDED AS TAXABLE INCOME IN IDAHO.

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.

(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.

(l) 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.

(p) In the case of an individual, add the amount of a withdrawal from an individual trust account or savings account established pursuant to chapter 54, title 33, Idaho Code, transferred to a qualified tuition program, as defined in section 529 of the Internal Revenue Code, that is operated by a state other than Idaho.

Approved March 26, 2007.

CHAPTER 191
(H.B. No. 240)

AN ACT

RELATING TO CREDIT FOR INCOME TAXES PAID TO ANOTHER STATE; AMENDING SECTION 63-3029, IDAHO CODE, TO PROVIDE THAT WHEN TAX IS PAID TO ANOTHER STATE ON INCOME OF AN S CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY, OR TRUST, THE INCOME TAX LIMITATION WITH RESPECT TO THAT INCOME SHALL BE BASED ON THE PROPORTION THAT THE INDIVIDUAL TAXPAYER'S SHARE OF THE ENTITY'S TAXABLE INCOME CORRECTLY REPORTED TO THE OTHER STATE UNDER THE LAWS OF THE OTHER STATE BEARS TO THE INDIVIDUAL'S ADJUSTED GROSS INCOME, TO PROVIDE THAT THE LIMITATION SHALL APPLY WHETHER THE TAX IS PAID TO THE OTHER STATE BY THE INDIVIDUAL OR BY THE S CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY OR TRUST AND TO PROVIDE THAT THE CREDIT PROVIDED UNDER THIS SECTION SHALL FURTHER BE LIMITED TO THE TAX PAID TO THE OTHER STATE; DECLARING AN EMERGENCY AND PROVIDING APPLICATION.

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

SECTION 1. That Section 63-3029, Idaho Code, be, and the same is hereby amended to read as follows:

63-3029. CREDIT FOR INCOME TAXES PAID ANOTHER STATE. (1) A resident individual shall be allowed a credit against the tax otherwise due under this chapter for the amount of any income tax imposed on the individual, an S corporation, partnership, limited liability company, or trust of which the individual is a shareholder, partner, member, or beneficiary (to the extent attributable to the individual as a result of the individual's share of the S corporation's, partnership's, limited liability company's or trust's taxable income in another state), for the taxable year by another state on income derived from sources therein while domiciled in Idaho and that is also subject to tax under this chapter.

(2) For purposes of this section, "state" shall include any state of the United States, the District of Columbia, or any possession or territory of the United States.

(3) (a) Except as provided in subsection (3)(b), t~~T~~he credit provided under this section shall not exceed the proportion of the tax otherwise due under this chapter that the amount of the adjusted gross income of the taxpayer derived from sources in the other state as modified by this chapter bears to the adjusted gross income of the taxpayer as modified by this chapter. This limitation applies to all individuals. ~~whether the tax paid to the other state is paid by the individual or by an S corporation, partnership, limited liability company, or trust. Further, the credit shall not exceed the tax paid to the other state.~~

(b) When tax is paid to another state on income of an S corporation, partnership, limited liability company, or trust, the limitation calculated in subsection (3)(a) with respect to that income shall be based on the proportion that the individual taxpayer's share of the entity's taxable income correctly reported to the other state under the laws of the other state bears to the individual's adjusted gross income. This limitation shall apply whether the tax is paid to the other state by the individual or by the S corporation, partnership, limited liability company or trust.

(c) The credit provided under this section shall further be limited to the tax paid to the other state.

(4) To substantiate the credit allowed under this section, the state tax commission may require a copy of any receipt showing payment of income taxes to the other state or a copy of any return or returns filed with such other state, or both.

(5) No credit allowed under this section shall be applied in calculating tax due under this chapter if the tax upon which the credit is based has been claimed as a deduction, unless the tax is restored to income on the Idaho return.

(6) The credit shall not be allowed if such other state allows a credit against taxes imposed by such state for taxes paid or payable under this act.

(7) For purposes of this section an income tax imposed on an S corporation, partnership, limited liability company, or trust includes:

(a) A direct tax imposed upon the income for the taxable year of

the S corporation, partnership, limited liability company or trust; and

(b) An excise or franchise tax that is measured by the income for the taxable year of the S corporation, partnership, limited liability company, or trust.

(8) For purposes of subsection (7) of this section, an excise or franchise tax is "measured by income" only if the statute imposing the excise or franchise tax provides that the base for the tax:

(a) Includes:

(i) Revenue from sales;

(ii) Revenue from services rendered; and

(iii) Income from investments; and

(b) Permits a deduction for the cost of goods sold and the cost of services rendered.

(9) A part-year resident is entitled to a credit, determined in the manner prescribed by the state tax commission, for income taxes paid to another state in regard to income which is:

(a) Earned while the taxpayer is domiciled in this state; and

(b) Subject to tax in such other state.

(10) If the interest in an S corporation, partnership, or limited liability company was held for less than the entire taxable year, the share attributable to the individual shall be allocated in the same manner as for federal purposes.

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 shall apply 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 26, 2007.

CHAPTER 192
(H.B. No. 280)

AN ACT

APPROPRIATING MONEYS FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM FOR FISCAL YEAR 2008; CLARIFYING THE APPROPRIATION FOR THE PORTFOLIO INVESTMENT PROGRAM; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; DIRECTING THE DISTRIBUTION OF THE FUNDING FOR EMPLOYEE COMPENSATION; 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 Public Employee Retirement System the following amounts to be expended for the named programs according to the designated expense classes from the listed funds for the period July 1, 2007, through June 30, 2008:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. RETIREMENT ADMINISTRATION:				
FROM:				
PERSI Administrative Fund	$3,287,500	$2,461,600	$ 90,700	$5,839,800
II. PORTFOLIO INVESTMENT:				
FROM:				
PERSI Special Fund	$ 503,000	$ 263,500	$ 15,100	$ 781,600
GRAND TOTAL	$3,790,500	$2,725,100	$105,800	$6,621,400

SECTION 2. Notwithstanding Section 59-1311(4)(d), Idaho Code, moneys appropriated in Section 1 of this act for the Portfolio Investment Program are for administrative costs of the Portfolio Investment Program as provided in Section 59-1311(3), Idaho Code. Amounts necessary to pay all other investment expenses related to the Portfolio Investment Program are perpetually appropriated to the Public Employee Retirement System Board as provided in Section 59-1311(4)(a), (b) and (c), Idaho Code.

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Public Employee Retirement System is authorized no more than sixty-three (63) full-time equivalent positions at any point during the period July 1, 2007, through June 30, 2008, 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 4. Agencies and institutions shall distribute the funding for employee compensation based on merit as follows:

(a) Agencies and institutions are directed to, based on merit, target funding first toward high turnover classifications and individuals below midpoint within their agency.

(b) Agencies and institutions are directed to, based on merit, target funding second toward positions within their agency that are below ninety percent (90%) of the Compa-Ratio.

(c) Agencies and institutions are directed to target any remaining funding based on merit using the merit matrix required by Idaho Code.

Agencies and institutions shall create compensation and distribution plans to ensure that they are consistent with the policies contained herein. Agency directors and institutional presidents shall approve all compensation and distribution plans and ensure that implementation of the plans is consistent with policies contained herein. Each agency and institution shall forward, for informational purposes, approved copies of the compensation and distribution plans to the Legislative Services Office and the Division of Financial Management by June 1, 2007. The effective date of implementation of ongoing salary adjustments shall be June 17, 2007.

SECTION 5. The Public Employee Retirement System 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 26, 2007.

CHAPTER 193
(S.B. No. 1082, As Amended)

AN ACT

RELATING TO ABORTION; REPEALING CHAPTER 393, LAWS OF 2005, RELATING TO ABORTION; AMENDING SECTION 9-340G, IDAHO CODE, TO REVISE A PUBLIC RECORDS EXEMPTION AND TO PROVIDE FOR A CORRECT CODE REFERENCE; AMENDING SECTION 18-605, IDAHO CODE, TO PROVIDE FOR CRIMINAL ACT STATE OF MIND; REPEALING SECTION 18-609A, IDAHO CODE, RELATING TO CONSENT REQUIRED FOR ABORTIONS FOR MINORS; AMENDING CHAPTER 6, TITLE 18, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 18-609A, 18-609F AND 18-609G, IDAHO CODE, TO PROVIDE PROCEDURES FOR OBTAINING CONSENT FOR ABORTIONS FOR MINORS, TO PROVIDE FOR REPORTING BY COURTS AND TO PROVIDE FOR STATISTICAL RECORDS; AMENDING SECTION 18-614, IDAHO CODE, TO DELETE PROVISIONS RELATING TO AFFIRMATIVE DEFENSE AND A MEDICAL EMERGENCY AND TO MAKE TECHNICAL CORRECTIONS; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 393, Laws of 2005, be, and the same is hereby repealed.

SECTION 2. That Section 9-340G, Idaho Code, be, and the same is hereby amended to read as follows:

9-340G. EXEMPTION FROM DISCLOSURE -- RECORDS OF COURT PROCEEDINGS REGARDING JUDICIAL AUTHORIZATION OF ABORTION PROCEDURES FOR MINORS. In accordance with section 18-609A, Idaho Code, the following records are exempt from public disclosure: all records contained in court files of judicial proceedings ~~regarding judicial authorization of a minor's consent to an abortion or the performance of abortion procedures upon a minor who would otherwise have to obtain consent for the procedure from a parent or guardian, in addition to records of any judicial proceedings filed~~ arising under section 18-609A~~(3)~~, Idaho Code, are exempt from disclosure.

SECTION 3. That Section 18-605, Idaho Code, be, and the same is hereby amended to read as follows:

18-605. UNLAWFUL ABORTIONS -- PROCUREMENT OF -- PENALTY. (1) Every person not licensed or certified to provide health care in Idaho who knowingly, except as permitted by this chapter, provides, supplies or

administers any medicine, drug or substance to any woman or uses or employs any instrument or other means whatever upon any then-pregnant woman with intent thereby to cause or perform an abortion shall be guilty of a felony and shall be fined not to exceed five thousand dollars ($5,000) and/or imprisoned in the state prison for not less than two (2) and not more than five (5) years.

(2) Any person licensed or certified to provide health care pursuant to title 54, Idaho Code, and who knowingly, except as permitted by the provisions of this chapter, provides, supplies or administers any medicine, drug or substance to any woman or uses or employs any instrument or other means whatever upon any then-pregnant woman with intent to cause or perform an abortion shall:

(a) For the first violation, be subject to professional discipline and be assessed a civil penalty of not less than one thousand dollars ($1,000), payable to the board granting such person's license or certification;

(b) For the second violation, have their license or certification to practice suspended for a period of not less than six (6) months and be assessed a civil penalty of not less than two thousand five hundred dollars ($2,500), payable to the board granting such person's license or certification; and

(c) For each subsequent violation, have their license or certification to practice revoked and be assessed a civil penalty of not less than five thousand dollars ($5,000), payable to the board granting such person's license or certification.

(3) Any person who is licensed or certified to provide health care pursuant to title 54, Idaho Code, and who knowingly violates the provisions of this chapter is guilty of a felony punishable as set forth in subsection (1) of this section, separate from and in addition to the administrative penalties set forth in subsection (2) of this section.

SECTION 4. That Section 18-609A, Idaho Code, be, and the same is hereby repealed.

SECTION 5. That Chapter 6, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 18-609A, 18-609F and 18-609G, Idaho Code, and to read as follows:

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

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

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

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

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

(4) Proceedings in the court under this section shall be closed and have precedence over other pending matters. A judge who conducts proceedings under this section shall make in writing specific factual findings and legal conclusions supporting the decision and shall order a confidential record of the evidence to be maintained including the judge's own findings and conclusions. The minor may file the petition using a fictitious name. All records contained in court files of judicial proceedings arising under the provisions of this section shall be confidential and exempt from disclosure pursuant to section 9-340G, Idaho Code. Dockets and other court records shall be maintained and court proceedings undertaken so that the names and identities of the parties to actions brought pursuant to this section will not be disclosed to the public.

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

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

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

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

(b) A medical emergency exists for the minor and the attending physician records the symptoms and diagnosis upon which such judgment was made in the minor's medical record.

18-609F. REPORTING BY COURTS. The administrative director of the courts shall compile statistics for each calendar year, accessible to the public, including:

(1) The total number of petitions filed pursuant to section 18-609A, Idaho Code; and

(2) The number of such petitions filed where a guardian ad litem was requested and the number where a guardian ad litem or other person acting in such capacity was appointed; and

(3) The number of petitions where counsel appeared for the minor without court appointment; and

(4) The number of petitions where counsel was requested by the minor and the number where counsel was appointed by the court; and

(5) The number of such petitions for which the right to self-consent was granted; and

(6) The number of such petitions for which the court granted its informed consent; and

(7) The number of such petitions which were denied; and

(8) The number of such petitions which were withdrawn by the minor; and

(9) For categories described in subsections (3), (4) and (7) of this section, the number of appeals taken from the court's order in each category; and

(10) For each of the categories set out in subsection (9) of this section, the number of cases for which the district court's order was affirmed and the number of cases for which the district court's order was reversed; and

(11) The age of the minor for each petition; and

(12) The time between the filing of the petition and the hearing of each petition; and

(13) The time between the hearing and the decision by the court for each petition; and

(14) The time between the decision and filing a notice of appeal for each case, if any; and

(15) The time of extension granted by the court in each case, if any.

18-609G. STATISTICAL RECORDS. (1) The bureau of vital statistics of the department of health and welfare shall, in addition to other information required pursuant to section 39-261, Idaho Code, require the complete and accurate reporting of information relevant to each abortion performed upon a minor which shall include, at a minimum, the following:

(a) Whether the abortion was performed following the physician's receipt of:

(i) The written informed consent of a parent, guardian or conservator and the minor; or

(ii) The written informed consent of an emancipated minor for herself; or

(iii) The written informed consent of a minor for herself pursuant to a court order granting the minor the right to self-consent; or

(iv) The court order which includes a finding that the performance of the abortion, despite the absence of the consent of a parent, is in the best interests of the minor; or

(v) Certification from the pregnant minor to the attending physician pursuant to section 18-609A, Idaho Code, that parental consent is not required because the pregnancy resulted from rape as defined in section 18-6101, Idaho Code, excepting subsection 1. thereof, or sexual conduct with the minor by the minor's parent, stepparent, uncle, grandparent, sibling, adoptive parent, legal guardian or foster parent.

(b) If the abortion was performed due to a medical emergency and without consent from a parent, guardian or conservator or court order, the diagnosis upon which the attending physician determined that the abortion was immediately necessary due to a medical emergency.

(2) The knowing failure of the attending physician to perform any one (1) or more of the acts required under this section is grounds for discipline pursuant to section 54-1814(6), Idaho Code, and shall subject

the physician to assessment of a civil penalty of one hundred dollars ($100) for each month or portion thereof that each such failure continues, payable to the bureau of vital statistics of the department of health and welfare, but such failure shall not constitute a criminal act.

SECTION 6. That Section 18-614, Idaho Code, be, and the same is hereby amended to read as follows:

18-614. DEFENSES TO PROSECUTION. (1) No physician shall be subject to criminal or administrative liability for causing or performing an abortion upon a minor in violation ~~of any provision~~ of subsection (1) of section 18-609A, Idaho Code, if prior to causing or performing the abortion the physician obtains either positive identification or other documentary evidence from which a reasonable person would have concluded that the woman seeking the abortion was either an emancipated minor or was not then a minor and if the physician retained, at the time of receiving the evidence, a legible photocopy of such evidence in the physician's office file for the woman. ~~This defense is an affirmative defense that shall be raised by the defendant and is not an element of any crime or administrative violation that must be proved by the state.~~

~~(2) If, due to a medical emergency as defined in subsection (5) of section 18-609A, Idaho Code, there was insufficient time for the physician to confirm that the woman, due to her age, did not then come within the provisions of subsection (1) of section 18-609A, Idaho Code, the physician shall not be subject to criminal or administrative liability for performing the abortion in violation of subsection (1)(a)(v) of section 18-609A, Idaho Code, if, as soon as possible but in no event longer than twenty-four (24) hours after performing the abortion, the physician obtained positive identification or other documentary evidence from which a reasonable person would have concluded that the woman seeking the abortion was either an emancipated minor or was not then a minor and if the physician retained, at the time of receiving the evidence, a legible photocopy of such evidence in the physician's office file for the woman. This defense is an affirmative defense that shall be raised by the defendant and is not an element of any crime or administrative violation that must be proved by the state.~~

~~(3) If after performing an abortion under circumstances of a medical emergency as defined in subsection (5) of section 18-609A, Idaho Code, the physician, after reasonable inquiry, is unable to determine whether or not the woman is a minor, the physician shall not be subject to criminal, civil or administrative liability for taking any action that would have been required by subsection (1)(a)(v) of section 18-609A, Idaho Code, if the woman had been a minor at the time the abortion was caused or performed.~~

(~~4~~2) For purposes of this section, "positive identification" means a lawfully issued state, district, territorial, possession, provincial, national or other equivalent government driver's license, identification card or military card, bearing the person's photograph and date of birth, the person's valid passport or a certified copy of the person's birth certificate.

SECTION 7. SEVERABILITY. If any one or more provision, section, subsection, sentence, clause, phrase or word of this act or the applica-

tion thereof to any person or circumstance, or application to any other section of Idaho Code is found to be unconstitutional, the same is hereby declared to be severable and the balance of this act shall remain effective notwithstanding such unconstitutionality. The Legislature hereby declares that it would have passed this act, and each provision, section, subsection, sentence, clause, phrase or word thereof, irrespective of the fact that any one or more provision, section, subsection, sentence, clause, phrase or word be declared unconstitutional.

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.

Approved March 27, 2007.

CHAPTER 194
(H.B. No. 99, As Amended)

AN ACT

RELATING TO THE PETROLEUM CLEAN WATER TRUST FUND; AMENDING SECTION 41-4909, IDAHO CODE, TO CORRECT A STATUTORY CITATION, TO INCREASE THE UNENCUMBERED BALANCE IN THE TRUST FUND BEFORE THE IMPOSITION OF THE TRANSFER FEE SHALL BE SUSPENDED AND TO INCREASE THE FUND BALANCE AMOUNT THAT WILL ALLOW THE IMPOSITION OF THE TRANSFER FEE TO BE REINITIATED; AND AMENDING SECTION 41-4914, IDAHO CODE, TO PROVIDE THAT THE BOARD OF TRUSTEES MAY ORDER THE STATE TREASURER TO INVEST MONEYS NOT NEEDED FOR IMMEDIATE OR CURRENTLY ANTICIPATED USE.

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

SECTION 1. That Section 41-4909, Idaho Code, be, and the same is hereby amended to read as follows:

41-4909. SOURCE OF TRUST FUND -- APPLICATION FEES -- APPLICATION FOR ENROLLMENT -- TRANSFER FEES. (1) Every owner or operator of an underground storage tank may, if he desires to apply to the trust fund to insure the underground tank, make application for and pay into the trust fund an initial application fee set by the administrator, but not to exceed twenty-five dollars ($25.00) for each tank for which application for coverage is made.

(2) Every owner or operator of an aboveground storage tank may, if he desires to apply to the trust fund to insure the aboveground tank, make application for and pay into the trust fund an initial application fee set by the administrator, but not to exceed twenty-five dollars ($25.00) for each tank for which application for coverage is made.

(3) Every owner or operator of a farm tank or residential tank may, if he desires to apply to the trust fund to insure the tank, make application for and pay into the trust fund an initial application fee set by the administrator, but not to exceed twenty-five dollars ($25.00) for each tank for which application for coverage is made.

(4) Every owner or operator of a heating tank may, if he desires to apply to the trust fund to insure the tank, make application for and pay

into the trust fund an initial application fee set by the administrator, but not to exceed five dollars ($5.00) for each tank for which application for coverage is made.

(5) The application for insurance shall be made to the administrator on forms furnished and prescribed by the administrator for the purpose of eliciting reasonably available information as to the type and use of the storage tank, the type of business enterprise of the tank owner or operator, the age of the storage tank, the materials used in the construction of the tank and the inside and outside protective coatings and other corrosion protective measures, leak detection methods, spill and overfill prevention methods of the tank, the location of the tank and its proximity to roads and buildings, the foundation and type of material used as a bedding and fill for the tank, any available inspection records of the tank including the gallons of petroleum products entered into the tank and the gallon dispersements from the tank, and other information that is reasonably prudent in order to obtain a sufficient body of statistical data to determine the relative hazards of various categories of tanks, the potential that future leaks or discharges may occur, and the conditions under which cleanup costs and personal injury and property damage costs may occur and vary in the severity of the release and the resultant costs to the trust fund.

(6) The administrator shall act upon the application for insurance with all reasonable promptness, and the administrator shall make such investigations of the applicant as the administrator deems advisable to determine if the information contained in the application for insurance is accurate and complete. The administrator shall determine if the applicant's storage tanks meet all the eligibility requirements and promptly notify the applicant of the acceptance or nonacceptance of the application for insurance. The absence of unknown data requested on the application shall not preclude an applicant's acceptance for coverage by the trust fund, if the applicant is otherwise eligible for insurance under this chapter.

(7) In addition to the application fees received by the trust fund pursuant to this section, the trust fund shall receive the revenue produced by the imposition of a "transfer fee" of one cent (1¢) per gallon on the delivery or storage of all petroleum products as defined in subsection (243) of section 41-4903, Idaho Code, delivered or stored within the state of Idaho. This transfer fee is hereby imposed upon the first licensed distributor who receives, as receipt is determined in section 63-2403, Idaho Code, a petroleum product within this state for the privilege of engaging in the delivery or storage of petroleum products whose delivery or storage may present the danger of a discharge into the environment and thus create the liability to be funded. The fee imposed by this subsection shall not apply to: (a) petroleum or petroleum products which are first delivered or stored in this state in a container of fifty-five (55) gallons or less if such container is intended to be transferred to the ultimate consumer of the petroleum or petroleum products; or (b) petroleum or petroleum products delivered or stored in this state for the purpose of packaging or repackaging into containers of fifty-five (55) gallons or less if such container is intended to be transferred to the ultimate consumer of the petroleum or petroleum products.

(8) The transfer fee shall be collected by the commission on all petroleum products delivered or stored within this state after April 1, 1990. This transfer fee shall be in addition to any excise tax imposed

on motor fuel or other petroleum products and shall be remitted to the commission with the distributor's monthly report as required in section 63-2406, Idaho Code. The distributor may deduct from his monthly report those gallons of petroleum products returned to a licensed distributor's refinery or pipeline terminal storage or exported from the state when supported by proper documents approved by the commission. For the purpose of carrying out its duties under the provisions of this chapter, the commission shall have the powers and duties provided in sections 63-3038, 63-3039, 63-3042 through 63-3066, 63-3068, 63-3071, and 63-3074 through 63-3078, Idaho Code, which sections are incorporated by reference herein as though set out verbatim.

(9) No person shall be excused from liability for any duty or fee imposed in this chapter for failure to obtain a distributor's license.

(10) The director shall certify to the commission when the unencumbered balance in the trust fund equals ~~twenty~~thirty-five million dollars ($~~2~~35,000,000). Effective the first day of the second month following the date of such certification, the imposition of the transfer fee shall be suspended. Thereafter, the director shall certify to the commission when the unencumbered balance in the trust fund equals ~~fifteen~~ twenty-five million dollars ($~~1~~25,000,000). Effective the first day of the second month following the date of such certification, the imposition of the transfer fee shall be reinitiated.

SECTION 2. That Section 41-4914, Idaho Code, be, and the same is hereby amended to read as follows:

41-4914. DEPOSIT AND INVESTMENT OF FUNDS -- INTEREST. The state treasurer shall deposit or, on order of the ~~administrator~~ board of trustees of the trust fund, invest any portion of the Idaho petroleum clean water trust fund not needed for immediate or currently anticipated use, in the manner provided by law. Interest earned by such invested portion of the trust fund shall be collected by the state treasurer and placed to the credit of the trust fund.

Approved March 27, 2007.

CHAPTER 195
(H.B. No. 107)

AN ACT

RELATING TO BARBERS, BARBER-STYLISTS AND BARBER INSTRUCTORS; AMENDING SECTION 54-501, IDAHO CODE, TO REMOVE OBSOLETE DATES, TO REFERENCE BARBER-STYLING AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-502, IDAHO CODE, TO DEFINE THE PRACTICE OF BARBER INSTRUCTING AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-506, IDAHO CODE, TO SET FORTH LICENSURE QUALIFICATIONS FOR BARBER INSTRUCTORS; AMENDING SECTION 54-511, IDAHO CODE, TO PROVIDE FOR THE ISSUANCE OF CERTIFICATES OF REGISTRATION AND LICENSES TO BARBER INSTRUCTORS; AMENDING SECTION 54-512, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO PERSONS HAVING PRACTICED BARBERING OR BARBER-STYLING IN ANOTHER STATE OR COUNTRY; AMENDING SECTION 54-513, IDAHO CODE, TO FURTHER LIMIT THE PERFORMANCE OF CERTAIN SERVICES; AMENDING SECTION 54-514,

IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO THE DISPLAY OF LICENSES; AMENDING SECTION 54-518, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 54-519, IDAHO CODE, TO REVISE PROHIBITED ACTS; AMENDING SECTION 54-521, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE POWERS AND DUTIES OF THE BOARD OF BARBER EXAMINERS; AMENDING SECTION 54-522, IDAHO CODE, TO REQUIRE THE BOARD TO MAINTAIN A PUBLIC RECORD OF CERTAIN DOCUMENTS; AMENDING SECTION 54-524, IDAHO CODE, TO REVISE DESCRIPTIVE LANGUAGE AND TERMINOLOGY AND TO REQUIRE A COPY OF SANITARY REQUIREMENTS TO BE FURNISHED TO AND DISPLAYED BY THE OWNER OR MANAGER OF EACH BARBERSHOP OR BARBER SCHOOL AND TO MAKE TECHNICAL CORRECTIONS; AND REPEALING SECTIONS 54-527, 54-528 AND 54-529, IDAHO CODE, RELATING TO TEACHER LICENSES AND QUALIFICATIONS AND STUDENT REQUIREMENTS.

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

SECTION 1. That Section 54-501, Idaho Code, be, and the same is hereby amended to read as follows:

54-501. REQUIREMENTS OF LICENSURE AND BARBERSHOP LICENSURE. ~~After July 1, 1927, in~~ In order to safeguard the public health, safety and welfare, it shall be unlawful to practice, or attempt to practice~~,~~ barbering or barber-styling without a license ~~as a registered barber~~ issued pursuant to provisions of this ~~act~~ chapter by the board of barber examiners.

~~After July 1, 1957, in~~ In order to safeguard the public health, safety and welfare, it shall be unlawful to own or operate any barbershop unless a barbershop license is first obtained from the board. The applicant for such license must furnish proof that the shop is located and equipped to meet the sanitary requirements and rules of the board. The maintenance of a bona fide establishment with a permanent and definite location shall be prerequisite for the issuance of a barbershop license, the establishment of itinerant shops being prohibited. The holder of a barbershop license must notify the board in writing of any change of address and at the same time shall return said license, upon the fact of which such change shall be properly ~~indorsed~~ endorsed. A change of address by a licensee without such notice and ~~indorsement~~ endorsement shall operate to cancel the license.

SECTION 2. That Section 54-502, Idaho Code, be, and the same is hereby amended to read as follows:

54-502. PRACTICE DEFINED. Any one (1) or any combination of the following practices, ~~(~~when done upon the upper part of the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments and when done for payment either directly or indirectly or without payment for the public generally~~)~~, constitutes the practice of barbering or barber-styling:

(1) Barber-~~S~~styling:

(a) Shaving or trimming the beard or cutting, trimming, arranging, dressing, curling, waving by any method, straightening, cleansing, singeing, bleaching, coloring, or similar work upon the hair;

(b) Fitting, cutting or dressing hairpieces or toupees;

(c) Giving facial and scalp massage or treatments with oils,

creams, lotions or other preparations, either by hand or mechanical appliances;

(d) Applying cosmetic preparations, antiseptics, powders, oils, clays or lotions to scalp, face, neck or upper part of the body.

(2) Barbering:

(a) Shaving or trimming the beard or cutting, trimming, arranging, dressing, curling, cleansing, singeing, or similar work upon the hair;

(b) Fitting, cutting or dressing hairpieces or toupees;

(c) Giving facial and scalp massage or treatments with oils, creams, ~~lotionsor~~ lotions or other preparations, either by hand or mechanical appliances;

(d) Applying cosmetic preparations, antiseptics, powders, oils, clays or lotions to scalp, face, neck or upper part of the body.

(3) Barber Instructing: Providing practical and theoretical instruction in any one (1) or any combination of the practices set forth in subsections (1) and (2) of this section. A barber instructor license issued by the board shall permit the holder to both practice and instruct only within the scope of the instructor's board approved training and experience. The holder of a barber license issued by the board who is subsequently issued a barber instructor license shall be permitted to practice and instruct only within the definition of barbering.

SECTION 3. That Section 54-506, Idaho Code, be, and the same is hereby amended to read as follows:

54-506. QUALIFICATIONS FOR LICENSURE. (1) A person is qualified to receive a license to practice as a barber-stylist who:

(a) Has two (2) years of high school or an equivalent education as determined by an examination conducted by the board; and

(b) Is at least sixteen and one-half (16 1/2) years of age; and

(c) Is of good moral character; and

(d) Has completed and graduated from a course of instruction of at least one thousand eight hundred (1,800) hours in a school of barbering approved by the board; and

(e) Successfully passes an examination under the supervision of the board of barber examiners.

(2) A person is qualified to receive a license to practice as a barber who:

(a) Has two (2) years of high school or an equivalent education as determined by an examination conducted by the board; and

(b) Is at least sixteen and one-half (16 1/2) years of age; and

(c) Is of good moral character; and

(d) Has completed and graduated from a course of instruction of at least nine hundred (900) hours in a school of barbering approved by the board; and

(e) Successfully passes an examination under the supervision of the board of barber examiners.

(3) A person is qualified to receive a license to practice as a barber instructor who:

(a) Holds a current barber or barber-stylist license issued by the board; and

(b) Has satisfactorily completed a minimum six (6) month course of barber instructing as a student in a properly licensed barber col-

lege and has a minimum of one (1) year's experience in practical barbering within the last three (3) years; and
(c) Is of good moral character; and
(d) Successfully passes an examination under the supervision of the board of barber examiners.
(4) A person is qualified to be a student who:
(a) Has attained the age of sixteen and one-half (16 1/2) years; and
(b) Has a tenth grade or an equivalent education as determined by the board; and
(c) Registers as a student in a licensed barber college.

SECTION 4. That Section 54-511, Idaho Code, be, and the same is hereby amended to read as follows:

54-511. ISSUANCE OF CERTIFICATE OF REGISTRATION AND LICENSE. Whenever the provisions of this chapter have been complied with, the board shall issue a certificate of registration and license as ~~either~~ a barber, ~~or~~ barber-stylist or barber instructor.

SECTION 5. That Section 54-512, Idaho Code, be, and the same is hereby amended to read as follows:

54-512. PERSONS HAVING PRACTICED BARBERING OR BARBER-STYLING IN ANOTHER STATE OR COUNTRY. (1) A person who is at least eighteen (18) years of age and of good moral character ~~and who~~ may be granted a license by the board to practice as a registered barber or barber-stylist upon application and payment of the required fee if such person has completed two (2) years of high school or its equivalent as determined by the board, and either:
(~~1~~a) Has a license or certificate of registration as a practicing barber or barber-stylist from another state or country, which has substantially the same requirements ~~for licensing or registering barbers or barber-stylists~~ as required by this chapter~~,~~; or
(~~2~~b) Who has been licensed as a barber or barber-stylist in another state or country for at least three (3) years immediately prior to making application in this state~~:~~
~~May be granted a license by the board to practice as a registered barber or barber-stylist upon application and payment of the required fee.~~
(2) No such license may be issued except upon authorization by the board. It is unlawful for any person to practice as a barber or barber-stylist without a license.

SECTION 6. That Section 54-513, Idaho Code, be, and the same is hereby amended to read as follows:

54-513. PERFORMANCE OF SERVICES TO BE LIMITED TO LICENSED SHOPS AND SCHOOLS OR COLLEGES. It shall be unlawful to practice barbering or barber-styling in other than a properly licensed barbershop or barber school or college except that ~~a licensed barber or barber-stylist~~ the holder of a license issued pursuant to this chapter may ~~work~~ practice in a properly licensed cosmetology shop and except that a licensed barber instructor may ~~work~~ practice in a properly licensed cosmetology school.

SECTION 7. That Section 54-514, Idaho Code, be, and the same is hereby amended to read as follows:

54-514. DISPLAY OF LICENSE. Every holder of a license shall display it in a publicly conspicuous place adjacent to or near ~~his work chair~~ the area where practice is conducted. A barbershop license must at all times during the term thereof be publicly displayed in the barbershop for which it is issued.

SECTION 8. That Section 54-518, Idaho Code, be, and the same is hereby amended to read as follows:

54-518. FEES. The various fees to be paid by applicants for original registrations, original licenses, annual renewals, and examinations as required under this chapter shall be fixed by rules of the board in amounts not to exceed the following:

(1) Original licenses and annual renewals thereof:
approved barber college within the state, original license/annual renewals.....$200.00
approved barber college located outside the state, original license/annual renewals.....100.00
barbershop original license/annual renewals.....50.00
barber, original license/annual renewals.....50.00
barber-stylist, original license/annual renewals.....50.00
~~teacher~~ barber instructor, original license/annual renewals 60.00
student registration (no renewal fees required).....60.00
endorsement.....80.00

(2) Examination/Reexamination:
barber and barber-stylist.....$ 75.00
~~teacher license examination~~ barber instructor.....100.00

All fees shall be paid to the bureau of occupational licenses. The fee for reinstatement shall be as provided in section 67-2614, Idaho Code.

SECTION 9. That Section 54-519, Idaho Code, be, and the same is hereby amended to read as follows:

54-519. CERTAIN ACTS PROHIBITED. Each of the following shall be unlawful and punishable as a misdemeanor:

(1) The violation of any of the provisions of this chapter;

(2) Permitting any person in one's employ, supervision or control to practice as a barber, ~~or~~ barber-stylist or barber instructor unless that person has ~~a valid, unrevoked license as a barber, barber stylist, or a temporary permit from the department~~ complied with the provisions of this chapter, or to practice cosmetology unless that person has ~~a valid, unrevoked certificate of registration as a registered cosmetologist~~ complied with the provisions of chapter 8, title 54, Idaho Code;

(3) Obtaining or attempting to obtain a license for money other than the required fee, or any other thing of value, or by fraudulent misrepresentation;

(4) Practicing or attempting to practice by fraudulent misrepresentations;

(5) The willful failure to display a license as required by section 54-514, Idaho Code; ~~or~~

(6) The use of any room or place for cutting or trimming the hair which is also used for residential or business purposes, ~~(~~except the sale of such commodities as are used in barbershops~~)~~, unless a substantial partition of ceiling height separates the portion used for residential or business purposes~~.~~; or

(7) Maintaining or operating a barbershop or barber college unless licensed as herein provided.

SECTION 10. That Section 54-521, Idaho Code, be, and the same is hereby amended to read as follows:

54-521. BOARD OF BARBER EXAMINERS -- POWERS AND DUTIES -- DESIGNATION OF PERSONS TO REPORT TO BOARD. There is hereby created, and established in the department of self-governing agencies, the board of barber examiners. The board may, by written agreement, authorize the bureau of occupational licenses as agent to act in ~~its~~ the board's interest. ~~(in this chapter referred to as the board) and in~~ In addition to the powers ~~herein--elsewhere~~ otherwise conferred by this chapter, ~~shall have the following powers and~~ it shall be the duty of the board:

(1) To conduct examinations to ascertain the qualifications and fitness of applicants for licenses hereunder and to pass upon the qualifications of all applicants for licenses.

(2) To conduct hearings and proceedings in accordance with the provisions of chapter 52, title 67, Idaho Code, to revoke licenses issued under this chapter and to revoke such licenses subject to the provisions of this chapter.

(3) To designate what schools of barbering within and without the state are approved schools, and from time to time, to change such designations and to keep public records thereof.

(4) To prescribe rules in accordance with the provisions of chapter 52, title 67, Idaho Code, for a fair and wholly impartial method of examination of applicants for licenses hereunder and, subject to the provisions of chapter 52, title 67, Idaho Code, for conducting hearings for the revocation of licenses, defining the qualifications of an approved school of barbering and for the administration of this chapter in general.

Excepting the regulation of schools under section 54-507, Idaho Code, hereof, and the issuance of licenses under section 54-513, Idaho Code, none of the powers and duties specified in subsections (1) through (4) of this section, shall be exercised by the said bureau except on the action of the board of barber examiners. When vacancies occur on said board, the governor shall appoint new members, but not more than a total of three (3) members, each of whom shall be a registered barber, and shall have been a resident of, and lawfully practicing barbering within the state of Idaho for a period of at least five (5) years next before his appointment, and who is neither directly nor indirectly in any way connected with or interested in the barber supply business nor in any institution offering instruction in barbering. In appointing the members of such board the governor shall give consideration to all nominations. The board and all assistants shall be compensated as provided by section 59-509(h), Idaho Code.

The regular term of office of a member of the board shall begin as

of the first Monday of July of the year in which he is appointed and shall continue for three (3) years thereafter. A member appointed to fill a vacancy occasioned otherwise than by expiration of a term shall serve the unexpired term of his predecessor.

A vacancy in membership in the board shall occur, and be declared by the governor, whenever the regular term of a member expires, or whenever a member dies, resigns, or is found by the governor to be mentally or physically incapable of acting, or to be neglecting or refusing to act, or to cease to have the qualifications of a member, or to have acquired disqualifications of a member, or to have been absent without reasonable cause from two (2) successive meetings of the board.

The board of barber examiners shall select from its members a chairman~~,~~ and vice chairman~~,and secretary~~ who shall serve at the pleasure of the board.

The action and report in writing of the board so designated shall be sufficient authority upon which the bureau may act.

Whenever the board is satisfied that substantial justice has not been done, either in examination or in revocation of a license or otherwise, it may order a reexamination or rehearing of the matter.

SECTION 11. That Section 54-522, Idaho Code, be, and the same is hereby amended to read as follows:

54-522. PUBLIC RECORD FOR LICENSES. The board shall ~~keep in a book appropriate for that purpose~~ maintain a public record of all applications for licenses, the action of the board thereon, of all licenses issued and of all licenses revoked or forfeited with the reasons for such revocation or forfeiture and of all renewals.

SECTION 12. That Section 54-524, Idaho Code, be, and the same is hereby amended to read as follows:

54-524. INSPECTION. ~~RULES.~~ Inspection of barbers and ~~barber shops~~ barbershops for the purpose of enforcing the provisions of this chapter shall be made by the bureau of occupational ~~licensing~~ licenses. The board of barber examiners shall have authority to make reasonable rules for the administration of the provisions of this chapter and prescribe sanitary requirements for ~~barber shops~~ barbershops and barber schools, and the officers of said agency, or its agents, shall have authority to enter upon and to inspect any ~~barber shop~~ barbershop or barber school at any time during business hours. A copy of the ~~rules~~ sanitary requirements adopted by the board shall be furnished ~~by the said board~~ to the owner ~~and~~ or manager of each ~~barber shop~~ barbershop and barber school, and such copy shall be posted in a conspicuous place in ~~such barber shop~~ each barbershop or barber school.

SECTION 13. That Sections 54-527, 54-528 and 54-529, Idaho Code, be, and the same are hereby repealed.

Approved March 27, 2007.

CHAPTER 196
(H.B. No. 119, As Amended)

AN ACT

RELATING TO MEDICAL CARE DECISIONS; AMENDING SECTION 39-4501, IDAHO CODE, TO PROVIDE A CODE REFERENCE; AMENDING CHAPTER 45, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-4502, IDAHO CODE, TO DEFINE TERMS; AMENDING SECTION 39-4502, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE TERMINOLOGY; AMENDING SECTION 39-4503, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS APPLICABLE TO PERSONS WHO MAY GIVE CONSENT TO CARE FOR OTHERS; AMENDING SECTION 39-4504, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 39-4505, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE FOR THE REFUSAL TO CONSENT; AMENDING SECTION 39-4506, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE FOR A SPECIFIC FORM OF EXPRESSION RELATING TO FORM OF CONSENT; AMENDING SECTION 39-4507, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO DELETE LANGUAGE REFERENCING LAY OR PROFESSIONAL EMPLOYEES; AMENDING SECTION 39-4508, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE DESCRIPTIVE LANGUAGE, TO REVISE THE STATEMENT OF POLICY AND TO DEFINE A TERM; REPEALING SECTION 39-4509, IDAHO CODE, RELATING TO DEFINITIONS; AMENDING SECTION 39-4510, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO A LIVING WILL AND DURABLE POWER OF ATTORNEY FOR HEALTH CARE; AMENDING SECTION 39-4511, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO REVOCATION; AMENDING CHAPTER 45, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-4512A, IDAHO CODE, TO PROVIDE FOR PHYSICIAN ORDERS FOR SCOPE OF TREATMENT; AMENDING CHAPTER 45, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-4512B, IDAHO CODE, TO SET FORTH PROVISIONS APPLICABLE TO ADHERENCE TO PHYSICIAN ORDERS FOR SCOPE OF TREATMENT PROTOCOL; AMENDING CHAPTER 45, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-4512C, IDAHO CODE, TO PROVIDE A DUTY TO INSPECT; AMENDING SECTION 39-4513, IDAHO CODE, TO REVISE PROVISIONS RELATING TO IMMUNITY; AMENDING SECTION 39-4514, IDAHO CODE, TO REVISE GENERAL PROVISIONS; REPEALING SECTIONS 56-1020 THROUGH 56-1035, IDAHO CODE, RELATING TO DECISIONS RELATIVE TO THE RENDERING OR WITHHOLDING OF MEDICAL CARE; AND AMENDING SECTION 66-405, 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 or chapter 4, title 66, Idaho Code, as those provisions pertain to 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 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 39-4502, Idaho Code, and to read as follows:

39-4502. DEFINITIONS. As used in this chapter:

(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 pain management medication or the performance of any medical procedure deemed necessary to provide comfort care or 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) "Cardiopulmonary resuscitation" or "CPR" means measures to restore cardiac function and/or to support ventilation in the event of cardiac or respiratory arrest.

(5) "Comfort care" means treatment and care to provide comfort and cleanliness. "Comfort care" includes:

(a) Oral and body hygiene;

(b) Reasonable efforts to offer food and fluids orally;

(c) Medication, positioning, warmth, appropriate lighting and other measures to relieve pain and suffering; and

(d) Privacy and respect for the dignity and humanity of the patient.

(6) "Consent to care" includes refusal to consent to care and/or withdrawal of care.

(7) "Directive" or "health care directive" means a document meeting the requirements of section 39-4510(1), Idaho Code, and/or a "Physician Orders for Scope of Treatment (POST)" form signed by a physician.

(8) "Emergency medical services personnel" means personnel engaged in providing initial emergency medical assistance including, but not limited to, first responders, emergency medical technicians and paramedics.

(9) "Health care provider" or "provider" means any person or entity licensed, certified, or otherwise authorized by law to administer health care in the ordinary course of business or practice of a profession, including emergency or other medical services personnel.

(10) "Persistent vegetative state" means an irreversible state that has been medically confirmed by a neurological specialist who is an expert in the examination of nonresponsive individuals in which the person has intact brain stem function but no higher cortical function and no awareness of self or environment.

(11) "Physician" means a person who holds a current active license to practice medicine and surgery or osteopathic medicine and surgery in Idaho and is in good standing with no restriction upon or actions taken against his or her license.

(12) "Physician orders for scope of treatment (POST) form" means a standardized form containing orders by a physician that states a person's treatment wishes.

(13) "Physician orders for scope of treatment (POST) identification device" means standardized jewelry which can be worn around the wrist, neck or ankle, and which has been approved by the department of health and welfare.

(14) "Terminal condition" means an incurable or irreversible condition which, without the administration of life-sustaining procedures, will, in the opinion of a physician, result in death if it runs its usual course.

SECTION 3. That Section 39-4502, Idaho Code, be, and the same is hereby amended to read as follows:

39-450~~2~~3. PERSONS WHO MAY CONSENT TO THEIR OWN CARE. Any person of ordinary intelligence and awareness sufficient for him or her generally to comprehend the need for, the nature of and the significant risks ordinarily inherent in, any contemplated hospital, medical, dental or surgical care, treatment or procedure is competent to consent thereto on his or her own behalf. Any ~~physician, dentist, hospital or other duly authorized person~~ health care provider may provide such health care and services in reliance upon such a consent if the consenting person appears to the ~~physician or dentist~~ health care provider securing the consent to possess such requisite intelligence and awareness at the time of giving the consent.

SECTION 4. That Section 39-4503, Idaho Code, be, and the same is hereby amended to read as follows:

39-450~~3~~4. PERSONS WHO MAY GIVE CONSENT TO CARE FOR OTHERS. (1) Consent for the furnishing of hospital, medical, dental or surgical care, treatment or procedures to any person who is not then capable of giving such consent as provided in this chapter or who is a minor or incompetent person, may be given or refused in the order of priority set forth hereafter unless the patient is a competent person who has refused to give such consent, and provided further that this subsection shall not be deemed to authorize any person to override the express refusal by a competent patient to give such consent himself:

(a) The legal guardian of such person;

(b) The person named in a "Living Will and Durable Power of Attor-

ney for Health Care" pursuant to section 39-4510, Idaho Code, or a similar document authorized by this chapter;

(c) If married, the spouse of such person;

(d) A parent of such person;

(e) Any relative representing himself or herself to be an appropriate, responsible person to act under the circumstances;

(f) Any other competent individual representing himself or herself to be responsible for the health care of such person; or

(g) If the subject person presents a medical emergency or there is a substantial likelihood of his or her life or health being seriously endangered by withholding or delay in the rendering of such hospital, medical, dental or surgical care to such patient and the subject person has not communicated and is unable to communicate his or her treatment wishes, the attending physician or dentist may, in his or her discretion, authorize and/or provide such care, treatment or procedure as he or she deems appropriate, and all persons, agencies and institutions thereafter furnishing the same, including such physician or dentist, may proceed as if informed, valid consent therefor had been otherwise duly given.

(2) No person who, in good faith, gives consent or authorization for the provision of hospital, medical, dental or surgical care, treatment or procedures to another as provided by this chapter shall be subject to civil liability therefor.

(3) No ~~physician, dentist, hospital or other duly authorized person~~ health care provider who, in good faith, obtains consent from a person pursuant to either section 39-450~~2~~3 or 39-450~~3~~4(1), Idaho Code, shall be subject to civil liability therefor.

SECTION 5. That Section 39-4504, Idaho Code, be, and the same is hereby amended to read as follows:

39-450~~4~~5. BLOOD TESTING. (1) A physician may consent to ordering tests of a patient's or a deceased person's blood or other body fluids for the presence of blood-transmitted or body fluid-transmitted viruses or diseases without the prior consent of the patient if:

(a) There has been or is likely to be a significant exposure to the patient's or a deceased person's blood or body fluids by a person providing emergency or medical services to such patient which may result in the transmittal of a virus or disease; and

(b) The patient is unconscious or incapable of giving informed consent and the physician is unable to obtain consent pursuant to section 39-450~~3~~4, Idaho Code.

(2) The department of health and welfare shall promulgate rules identifying the blood-transmitted or body fluid-transmitted viruses or diseases for which blood tests or body fluid tests can be ordered under this section and defining the term "significant exposure" as provided in this section.

(3) Results of tests conducted under this section which confirm the presence of a blood-transmitted or body fluid-transmitted virus or disease shall be reported to the director of the department of health and welfare in the name of the patient or deceased person. The department records containing such test results shall be used only by public health officials who must conduct investigations. The exposed person shall only be informed of the results of the test and shall not be informed of the

name of the patient or deceased person. Protocols shall be established by hospitals to maintain confidentiality while disseminating the necessary test result information to persons who may have a significant exposure to blood or other body fluids and to maintain records of such tests to preserve the confidentiality of the test results.

(4) Any person who willfully or maliciously discloses the results of a test conducted under this section, except pursuant to a written authorization by the person whose blood was tested or by such person's authorized representative, or as otherwise authorized by law, shall be guilty of a misdemeanor.

SECTION 6. That Section 39-4505, Idaho Code, be, and the same is hereby amended to read as follows:

39-450~~5~~6. SUFFICIENCY OF CONSENT. Consent, or refusal to consent, for the furnishing of hospital, medical, dental or surgical care, treatment or procedures shall be valid in all respects if the person giving or refusing the consent is sufficiently aware of pertinent facts respecting the need for, the nature of, and the significant risks ordinarily attendant upon, such a patient receiving such care, as to permit the giving or withholding of such consent to be a reasonably informed decision. Any such consent shall be deemed valid and so informed if the physician or dentist to whom it is given or by whom it is secured has made such disclosures and given such advice respecting pertinent facts and considerations as would ordinarily be made and given under the same or similar circumstances, by a like physician or dentist of good standing practicing in the same community. As used in this section, the term "in the same community" refers to that geographic area ordinarily served by the licensed general hospital at or nearest to which such consent is given.

SECTION 7. That Section 39-4506, Idaho Code, be, and the same is hereby amended to read as follows:

39-450~~6~~7. FORM OF CONSENT. It is not essential to the validity of any consent for the furnishing of hospital, medical, dental or surgical care, treatment or procedures that the consent be in writing or any other specific form of expression; provided however, when the giving of such consent is recited or documented in writing and expressly authorizes the care, treatment or procedures to be furnished, and when such writing or form has been executed or initialed by a person competent to give such consent for himself or another, such written consent, in the absence of convincing proof that it was secured maliciously or by fraud, is presumed to be valid for the furnishing of such care, treatment or procedures, and the advice and disclosures of the attending physician or dentist, as well as the level of informed awareness of the giver of such consent, shall be presumed to be sufficient.

SECTION 8. That Section 39-4507, Idaho Code, be, and the same is hereby amended to read as follows:

39-450~~7~~8. RESPONSIBILITY FOR CONSENT AND DOCUMENTATION. Obtaining consent for health care is the duty of the attending physician or dentist or of another physician or dentist acting on his or her behalf or

actually providing the contemplated care, treatment or procedure; provided however, a licensed hospital and any medical or dental office ~~lay or professional~~ employee, acting with the approval of such an attending or other physician or dentist, may perform the ministerial act of documenting such consent by securing the completion and execution of a form or statement in which the giving of consent for such care is documented by or on behalf of the patient. In performing such a ministerial act, the hospital or medical or dental office ~~lay or professional~~ employee shall not be deemed to have engaged in the practice of medicine or dentistry.

SECTION 9. That Section 39-4508, Idaho Code, be, and the same is hereby amended to read as follows:

39-4508~~9~~. STATEMENT OF POLICY -- DEFINITION. For purposes of sections 39-4508~~9~~ through 39-451~~4~~5, Idaho Code:

(1) The legislature ~~finds that~~ recognizes the established common law and the fundamental right of adult persons ~~have the fundamental right~~ to control the decisions relating to the rendering of their medical care, including the decision to have life-sustaining procedures withheld or withdrawn. The legislature further finds that modern medical technology has made possible the artificial prolongation of human life beyond natural limits. The legislature further finds that patients are sometimes unable to express their desire to withhold or withdraw such artificial life prolongation procedures which provide nothing medically necessary or beneficial to the patient because of the patient's inability to communicate with the physician.

(2) In recognition of the dignity and privacy which patients have a right to expect, the legislature hereby declares that the laws of this state shall recognize the right of a competent person to have his or her wishes for medical treatment and for the withdrawal of artificial life-sustaining procedures carried out even though that person is no longer able to communicate with the physician.

(3) It is the intent of the legislature to establish an effective means for such communication. It is not the intent of the legislature that the procedures described in ~~this chapter~~ sections 39-4509 through 39-4515, Idaho Code, are the only effective means of such communication, and nothing in ~~this chapter~~ sections 39-4509 through 39-4515, Idaho Code, shall impair or supersede any legal right or legal responsibility which a person may have to effect the withholding or withdrawal of life-sustaining procedures in any lawful manner. Any authentic expression of a person's wishes with respect to health care should be honored.

(4) "Competent person" means any emancipated minor or person eighteen (18) or more years of age who is of sound mind.

SECTION 10. That Section 39-4509, Idaho Code, be, and the same is hereby repealed.

SECTION 11. 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 or irreversible injury, disease, illness or condition, and ~~two (2)~~ a medical doctor~~s~~ who ~~have~~ has examined me ~~have~~ has 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~~,~~ and 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~~3. 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.

4. Check one box and initial the line after such box:

☐ ..... I have discussed these decisions with my physician and have also completed a Physician Orders for Scope of Treatment (POST) form that contains directions that may be more specific than, but are compatible with, this Directive. I hereby approve of those orders and incorporate them herein as if fully set forth.

OR

☐ ..... I have not completed a Physician Orders for Scope of Treatment (POST) form. If a POST form is later signed by my physician, then this living will shall be deemed modified to be compatible with the terms of the POST form.

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 operator 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 artificial life~~prolonging~~sustaining care, treatment, services and procedures, including such desires set forth in a living will, Physician Orders for Scope of Treatment (POST) form, 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 artificial life~~prolonging~~sustaining 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 my Physician Orders for Scope of Treatment (POST) form, 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 12. That Section 39-4511, Idaho Code, be, and the same is hereby amended to read as follows:

39-4511. REVOCATION. (1) A "~~L~~living ~~W~~will and ~~D~~durable ~~P~~power of ~~A~~attorney for ~~H~~health ~~C~~care" or physician orders for scope of treatment (POST) form 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) The maker of the revoked living will and durable power of attorney for health care is responsible for notifying his physician of the revocation.

(3) There shall be no criminal or civil liability on the part of any person for the failure to act upon a revocation of a "~~L~~living ~~W~~will and ~~D~~durable ~~P~~power of ~~A~~attorney for ~~H~~health ~~C~~care" or physician orders for scope of treatment (POST) form 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 13. 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 39-4512A, Idaho Code, and to read as follows:

39-4512A. PHYSICIAN ORDERS FOR SCOPE OF TREATMENT (POST). (1) A physician orders for scope of treatment (POST) form is appropriate in cases where a patient has an incurable or irreversible injury, disease, illness or condition, or where a patient is in a persistent vegetative state. A POST form is also appropriate if such conditions are anticipated.

(2) The POST form shall be effective from the date of execution unless otherwise revoked. If there is a conflict between the person's expressed directives, the POST form, and the decisions of the durable power of attorney representative or surrogate, the orders contained in the POST form shall be followed.

(3) The attending physician shall, upon request of the patient, provide the patient with a copy of the POST form, discuss with the patient the form's content and ramifications and treatment options, and assist the patient in the completion of the form.

(4) The attending physician shall review the POST form:

(a) Each time the physician examines the patient, or at least every seven (7) days, for patients who are hospitalized; and

(b) Each time the patient is transferred from one (1) care setting or care level to another; and

(c) Any time there is a substantial change in the patient's health status; and

(d) Any time the patient's treatment preferences change.

Failure to meet these review requirements does not affect the POST form's validity or enforceability. As conditions warrant, the physician may issue a superseding POST form. The physician shall, whenever practical, consult with the patient or the patient's agent.

(5) A patient who has completed a POST form signed by a physician may wear a POST identification device as provided in section 39-4502(13), Idaho Code.

(6) The department of health and welfare shall develop the POST form.

SECTION 14. 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 39-4512B, Idaho Code, and to read as follows:

39-4512B. ADHERENCE TO PHYSICIAN ORDERS FOR SCOPE OF TREATMENT (POST) PROTOCOL. (1) Health care providers and emergency medical services personnel shall comply with a patient's physician orders for scope of treatment (POST) instruction when presented with a completed POST form signed by a physician or when a patient is wearing a proper POST identification device pursuant to section 39-4512A(5), Idaho Code.

(2) A completed POST form is deemed to meet the requirements of "Do Not Resuscitate (DNR)" forms of all Idaho health care facilities. Health care providers and emergency medical services personnel shall not require the completion of other forms in order for the patient's wishes to be respected.

SECTION 15. 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 39-4512C, Idaho Code, and to read as follows:

39-4512C. DUTY TO INSPECT. Health care providers and emergency medical services personnel shall make reasonable efforts to inquire as to whether the patient has completed a physician orders for scope of treatment (POST) form and inspect the patient for a POST identification device when presented with a situation calling for artificial life-sustaining treatment not caused by severe trauma or involving mass casualties and with no indication of homicide or suicide.

SECTION 16. That Section 39-4513, Idaho Code, be, and the same is hereby amended to read as follows:

39-4513. IMMUNITY. (1) No emergency medical services personnel, ~~or~~ health care provider, facility, or individual employed by, acting as the agent of, or under contract with any such health care provider or facility shall be civilly or criminally liable or subject to discipline for unprofessional conduct for acts or omissions carried out or performed in

good faith pursuant to the directives in a facially valid POST form or 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, before withdrawal of his or her participation, makes a good faith effort to assist the patient in obtaining the services of another physician or other health care provider ~~before withdrawal~~ who is willing to provide care for the patient in accordance with the patient's expressed or documented wishes.

(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.

(5) Health care providers and emergency medical services personnel may disregard the POST form or a POST identification device:

(a) If they believe in good faith that the order has been revoked; or

(b) To avoid oral or physical confrontation; or

(c) If ordered to do so by the attending physician.

SECTION 17. That Section 39-4514, Idaho Code, be, and the same is hereby amended to read as follows:

39-4514. GENERAL PROVISIONS. (1) Application. This chapter shall have no effect or be in any manner construed to apply to persons not executing a "~~L~~living ~~W~~will and ~~D~~durable ~~P~~power of ~~A~~attorney for ~~H~~health ~~C~~are" care or POST form pursuant to this chapter nor shall it in any manner affect the rights of any such persons or of others acting for or on behalf of such persons to give or refuse to give consent or withhold consent for any medical care, neither shall this chapter be construed to affect chapter 3 or chapter 4, title 66, Idaho Code, in any manner.

(2) ~~The making of a "Living Will and Durable Power of Attorney for Health Care" pursuant to this chapter shall not restrict, inhibit or impair in any manner the sale, procurement or issuance of any policy of life insurance, nor shall it be deemed to modify the terms of an existing policy of life insurance. No policy of life insurance shall be legally impaired or invalidated in any manner by the withholding or withdrawal of artificial life sustaining procedures from an insured patient, notwithstanding any term of the policy to the contrary~~ Euthanasia, mercy killing, or assisted suicide. This chapter does not make legal, and in no way condones, euthanasia, mercy killing, or

assisted suicide or permit an affirmative or deliberate act or omission to end life, other than to allow the natural process of dying.

(3) ~~No physician, health facility or other health care provider and no health care service plan, insurer issuing disability insurance, self-insured employee plan, welfare benefit plan or nonprofit hospital service plan shall require any person to execute a "Living Will and Durable Power of Attorney for Health Care" as a condition for being insured for, or receiving, health care services~~ Comfort care. Individuals caring for a patient for whom artificial life-sustaining procedures or artificially administered nutrition and hydration are withheld or withdrawn shall provide comfort care as defined in section 39-4502, Idaho Code.

(4) Presumed consent to resuscitation. There is a presumption in favor of consent to cardiopulmonary resuscitation (CPR) unless:

(a) A completed living will for that person is in effect, pursuant to section 39-4510, Idaho Code, and the person is in a terminal condition or persistent vegetative state; or

(b) A completed durable power of attorney for health care for that person is in effect, pursuant to section 39-4510, Idaho Code, in which the person has indicated that he or she does not wish to receive cardiopulmonary resuscitation, or his or her representative has determined that the person would not wish to receive cardiopulmonary resuscitation; or

(c) The patient has a completed physician orders for scope of treatment (POST) form indicating otherwise and/or proper POST identification pursuant to section 39-4502(13), Idaho Code.

(5) Futile care. Nothing in this chapter shall be construed to require medical treatment that is medically inappropriate or futile.

(6) Existing directives and directives from other states. A health care directive executed prior to July 1, 2007, but which was in the living will, durable power of attorney for health care, DNR, or POST 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. Health care directives or similar documents executed in another state that substantially comply with this chapter shall be deemed to be in compliance with this chapter.

(7) Insurance.

(a) The making of a living will and/or durable power of attorney for health care or physician orders for scope of treatment (POST) form pursuant to this chapter shall not restrict, inhibit or impair in any manner the sale, procurement or issuance of any policy of life insurance, nor shall it be deemed to modify the terms of an existing policy of life insurance. No policy of life insurance shall be legally impaired or invalidated in any manner by the withholding or withdrawal of artificial life-sustaining procedures from an insured patient, notwithstanding any term of the policy to the contrary.

(b) No physician, health care facility or other health care provider and no health care service plan, insurer issuing disability insurance, self-insured employee plan, welfare benefit plan or nonprofit hospital service plan shall require any person to execute a living will and durable power of attorney for health care or physician orders for scope of treatment (POST) form as a condition for

being insured for, or receiving, health care services.

(8) Portability and copies.

(a) A completed physician orders for scope of treatment (POST) form signed by a physician shall be transferred with the patient to, and be effective in, all care settings including, but not limited to, home care, ambulance or other transport, hospital, residential care facility, and hospice care. The POST form shall remain in effect until such time as there is a valid revocation pursuant to section 39-4511, Idaho Code, or new orders are issued by a physician.

(b) A photostatic, facsimile or electronic copy of a valid physician orders for scope of treatment (POST) form may be treated as an original by a health care provider or by an institution receiving or treating a patient.

(9) Registration. A directive or the revocation of a directive meeting the requirements of this chapter may be registered with the secretary of state pursuant to section 39-4515, Idaho Code. Failure to register the health care directive shall not affect the validity of the health care directive.

(10) Rulemaking authority.

(a) The department of health and welfare shall adopt those rules and protocols necessary to administer the provisions of this chapter.

(b) In the adoption of a physician orders for scope of treatment (POST) or DNR protocol, the department shall adopt standardized POST identification to be used statewide.

SECTION 18. That Sections 56-1020 through 56-1035, Idaho Code, be, and the same are hereby repealed.

SECTION 19. That Section 66-405, Idaho Code, be, and the same is hereby amended to read as follows:

66-405. ORDER IN PROTECTIVE PROCEEDINGS. (1) If it is determined that the respondent is not developmentally disabled but appears in need of protective services, the court may cause the proceeding to be expanded or altered for consideration under the uniform probate code.

(2) If it is determined that the respondent is able to manage financial resources and meet essential requirements for physical health or safety, the court shall dismiss the petition.

(3) If it is determined that the respondent is developmentally disabled and is unable to manage some financial resources or meet some essential requirements for physical health or safety, the court may appoint a partial guardian and/or partial conservator on behalf of the respondent. An order establishing partial guardianship or partial conservatorship shall define the powers and duties of the partial guardian or partial conservator so as to permit the respondent to meet essential requirements for physical health or safety and to manage financial resources commensurate with his ability to do so, and shall specify all legal restrictions to which he is subject. A person for whom a partial guardianship or partial conservatorship has been appointed under this chapter retains all legal and civil rights except those which have by court order been limited or which have been specifically granted to the partial guardian or partial conservator by the court.

(4) If it is determined that the respondent is developmentally dis-

abled and is unable to manage financial resources or meet essential requirements for physical health or safety even with the appointment of a partial guardian or partial conservator, the court may appoint a total guardian and/or total conservator.

(5) In the event that more than one (1) person seeks to be appointed guardian and/or conservator, the court shall appoint the person or persons most capable of serving on behalf of the respondent; the court shall not customarily or ordinarily appoint the department or any other organization or individual, public or private, that is or is likely to be providing services to the respondent.

(6) Subject to the limitations of the provisions of subsection (7) of this section, guardians or conservators may have any of the duties and powers as provided in sections 15-5-312(a)(1) through (4), 15-5-424 and 15-5-425, Idaho Code, and as specified in the order. Any order appointing a partial or total guardian or partial or total conservator under the provisions of this section must require a report to the court at least annually. In addition to such other requirements imposed by law or order, the report shall include:

(a) A description of the respondent's current mental, physical and social condition;

(b) The respondent's present address and living arrangement;

(c) A description of any significant changes in the capacity of the respondent to meet essential requirements for physical health or safety or to manage financial resources;

(d) A description of services being provided the respondent;

(e) A description of significant actions taken by the guardian or conservator during the reporting period;

(f) Any significant problems relating to the guardianship or conservatorship;

(g) A complete financial statement of the financial resources under the control or supervision of the guardian or conservator; and

(h) A description of the need for continued guardianship or conservatorship services.

(7) No guardian appointed under this chapter shall have the authority to refuse or withhold consent for medically necessary treatment when the effect of withholding such treatment would seriously endanger the life or health and well-being of the person with a developmental disability. To withhold or attempt to withhold such treatment shall constitute neglect of the person and be cause for removal of the guardian. No physician or caregiver shall withhold or withdraw such treatment for a respondent whose condition is not terminal or whose death is not imminent. If the physician or caregiver cannot obtain valid consent for medically necessary treatment from the guardian, he shall provide the medically necessary treatment as authorized by section 39-4503~~4~~(1)(g), Idaho Code.

(8) A guardian appointed under this chapter may consent to withholding or withdrawal of artificial life-sustaining procedures, only if the respondent:

(a) Has an incurable injury, disease, illness or condition, certified by the respondent's attending physician and at least one (1) other physician to be terminal such that the application of artificial life-sustaining procedures would not result in the possibility of saving or significantly prolonging the life of the respondent, and would only serve to prolong the moment of the respondent's death

for a period of hours, days or weeks, and where both physicians certify that death is imminent, whether or not the life-sustaining procedures are used; or

(b) Has been diagnosed by the respondent's attending physician and at least one (1) other physician as being in a persistent vegetative state which is irreversible and from which the respondent will never regain consciousness.

(9) Any person, who has information that medically necessary treatment of a respondent has been withheld or withdrawn, may report such information to adult protective services or to the Idaho protection and advocacy system for people with developmental disabilities, who shall have the authority to investigate the report and in appropriate cases to seek a court order to ensure that medically necessary treatment is provided.

If adult protective services or the protection and advocacy system determines that withholding of medical treatment violates the provisions of this section, they may petition the court for an ex parte order to provide or continue the medical treatment in question. If the court finds, based on affidavits or other evidence, that there is probable cause to believe that the withholding of medical treatment in a particular case violates the provisions of this section, and that the life or health of the patient is endangered thereby, the court shall issue an ex parte order to continue or to provide the treatment until such time as the court can hear evidence from the parties involved. Petitions for court orders under this section shall be expedited by the courts and heard as soon as possible. No bond shall be required of a petitioner under this section.

(10) No partial or total guardian or partial or total conservator appointed under the provisions of this section may without specific approval of the court in a proceeding separate from that in which such guardian or conservator was appointed:

(a) Consent to medical or surgical treatment the effect of which permanently prohibits the conception of children by the respondent unless the treatment or procedures are necessary to protect the physical health of the respondent and would be prescribed for a person who is not developmentally disabled;

(b) Consent to experimental surgery, procedures or medications; or

(c) Delegate the powers granted by the order.

Approved March 27, 2007.

CHAPTER 197
(H.B. No. 132)

AN ACT

RELATING TO THE DIVISION OF BUILDING SAFETY; AMENDING SECTION 54-1016, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO EXEMPTIONS RELATED TO ELECTRICAL CONTRACTORS AND JOURNEYMEN AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-2602, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO EXCEPTIONS RELATED TO PLUMBING; AMENDING SECTION 54-2610, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-2620, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-2622A, IDAHO CODE, TO PROVIDE A CORRECT CODE

REFERENCE; AMENDING SECTION 54-5015, IDAHO CODE, TO REVISE DESCRIPTIVE LANGUAGE AND TO SET FORTH PROVISIONS CLARIFYING CERTIFICATION, LICENSING AND PERMITTING REQUIREMENTS RELATED TO HEATING, VENTILATION AND AIR CONDITIONING SYSTEMS; AND AMENDING SECTION 54-5016, IDAHO CODE, TO REVISE PERMITTING REQUIREMENTS RELATED TO HEATING, VENTILATION AND AIR CONDITIONING SYSTEMS AND TO PROVIDE FOR THE PROMULGATION OF FEE RULES.

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

SECTION 1. That Section 54-1016, Idaho Code, be, and the same is hereby amended to read as follows:

54-1016. EXEMPTIONS. (1) Nothing in this chapter shall be deemed to apply to:

(a) Any regulated utility, telephone company, rural telephone cooperative or municipal communications utility, or ~~their~~ its employees, in the installation or maintenance of communication circuits, wires and apparatus by or for such entities or their communications service customers;

(b) Any electrical public utility, or its employees, in the installation and maintenance of electrical wiring, circuits, apparatus and equipment by or for such public utility, or comprising a part of its plants, lines or system;

(c) Modular buildings as defined in section 39-4105, Idaho Code, that are constructed in the state of Idaho for installation on building sites outside the state; provided however, that no modular building shall be installed on a building site in the state of Idaho until it has been approved and bears the insignia of approval of the division as being in compliance with the requirements set forth in section 39-4121, Idaho Code.

(2) The licensing provisions of this chapter shall not apply to:

(a) Any property owner performing electrical work in the owner's primary or secondary residence or associated outbuildings;

(b) Any person regularly employed as a maintenance electrician performing electrical maintenance work on the premises of the person's employer;

(c) Any telephone company, rural telephone cooperative, or municipal communications utility, ~~their~~ its employees, ~~their~~ its subsidiaries, and employees of the subsidiaries performing work on customer-owned facilities under the exclusive control of the telephone company, rural telephone cooperative, or municipal communications utility;

(d) Any telephone company, rural telephone cooperative, or municipal communications utility, ~~their~~ its employees, ~~their~~ its subsidiaries, and employees of the subsidiaries performing repair work on customer-owned facilities at the request of the customer;

(e) Any electrical public utility, rural electrical cooperative, municipal power utility, ~~their~~ its employees, ~~their~~ its subsidiaries, and employees of the subsidiaries performing work on customer-owned facilities under the exclusive control of the electrical public utility, rural electrical cooperative, or municipal power utility; and

(f) Any electrical public utility, rural electrical cooperative,

municipal power utility, ~~their~~ its employees, ~~their~~ its subsidiaries, and employees of the subsidiaries performing emergency repair work on customer-owned facilities at the request of the customer.

(3) The licensing provisions of this chapter shall not apply to individuals licensed pursuant to chapter 50, title 54, Idaho Code, or certificated pursuant to chapter 26, title 54, Idaho Code, as follows:

(a) Individuals holding a current heating, ventilation and air conditioning (HVAC) license or a current plumbing certification may install electrical circuitry from the disconnecting means to a water heater and electrical connections to the water heater as long as the disconnect is in sight from the unit and the circuit from the disconnecting means to the water heater is no more than fifty (50) feet long.

(b) Individuals holding a current HVAC license may install:

(i) Electrical space heaters with no attached ductwork;

(ii) Electrical connections to HVAC equipment from the disconnecting means to the unit as long as the disconnect is in sight from the unit and the circuit from the disconnecting means to the HVAC equipment is no more than fifty (50) feet long; and

(iii) Ventilating fans, except ducted range hoods in residences.

(c) HVAC licensees may install control wiring of twenty-four (24) volt or less for HVAC equipment of five (5) tons or less in capacity. Plumbing certificate holders are not authorized to install control wiring in HVAC equipment, regardless of voltage.

(4) To the extent that a plumbing or HVAC installation permit issued by the Idaho division of building safety includes any part of an electrical installation, the permit issued and inspection performed shall be sufficient to satisfy the permitting and inspecting requirements of this chapter if all required permit fees have been paid.

SECTION 2. That Section 54-2602, Idaho Code, be, and the same is hereby amended to read as follows:

54-2602. EXCEPTIONS. (1) Certificate of competency requirements of this chapter shall not be deemed to apply to:

(a) Any person who does plumbing work in a single or duplex family dwelling, including accessory buildings, quarters and grounds in connection with such dwelling; provided that such person owns or is a contract purchaser of the premises, and provided further that such person shall comply with the minimum standards and rules applicable to plumbing practices provided by this chapter.

(b) Farm buildings located outside the incorporated limits of any city unless such buildings are connected to a public water or sewer system; and a farm is hereby defined to be an agricultural unit on which the owner or occupant resides and from which the owner or occupant derives his principal income and livelihood.

(c) Logging, mining or construction camps when plumbing installations are made to conform with the recommendations of the department of health and welfare.

(d) Piping systems in industrial processing plants located outside the incorporated limits of any city unless such systems are connected to a public water or sewer system.

(e) Work on plumbing systems on premises owned or operated by an

employer who regularly employs maintenance or construction plumbers, provided that alterations, extensions and new construction shall comply with the minimum standards and rules applicable to plumbing practices provided by this chapter.

(f) Nothing contained in this section or any other provision of this code shall be construed or applied to require a sewer contractor, sewage disposal contractor, or any excavating or utility contractor who generally engages in the business of installing, altering or repairing sewers, private and public sewage disposal systems, and water distribution and/or drainage lines outside the foundation walls of any building or structure, to obtain a valid contractor's certificate of competency or to employ only journeymen plumbers possessing a valid journeyman plumber's certificate of competency or registration, or to in any way require that his employees be registered, licensed or declared competent by the board.

(g) Water treatment installations and repairs when installed in residential or business properties, provided the same when installed, repaired or completed, shall be inspected by a designated, qualified and properly identified agent of the division of building safety as to quality of workmanship and compliance with the applicable provisions of this chapter.

(h) Plumbing work within modular buildings as defined in section 39-4105, Idaho Code, that are constructed in the state of Idaho for installation on building sites outside the state; provided however, that no modular building shall be installed on a building site in the state of Idaho until it has been approved and bears the insignia of approval of the division as being in compliance with the requirements set forth in section 39-4121, Idaho Code.

(i) Individuals licensed pursuant to chapter 10, title 54, Idaho Code, or chapter 50, title 54, Idaho Code, as follows:

(i) Individuals holding a current HVAC or electrical license may install electrical circuitry from the disconnecting means to a water heater and electrical connections to the water heater as long as the disconnect is in sight from the unit and the circuit from the disconnecting means to the water heater is no more than fifty (50) feet long.

(ii) Individuals holding a current HVAC license may install gas piping and piping for hydronic systems.

(iii) Individuals holding a current HVAC license may install boilers that are not otherwise subject to inspection by the industrial commission or its authorized agent.

(2) To the extent that an electrical or HVAC installation permit issued by the Idaho division of building safety includes any part of a plumbing installation, the permit issued and inspection performed shall be sufficient to satisfy the permitting and inspecting requirements of this chapter if all required permit fees have been paid.

(3) Any person, firm, copartnership, association or corporation making water treatment installations and/or repairs in accordance with the provisions of this ~~act~~ chapter shall maintain a surety bond in the amount of two thousand dollars ($2,000).

SECTION 3. That Section 54-2610, Idaho Code, be, and the same is hereby amended to read as follows:

54-2610. CERTIFICATE A PREREQUISITE. It shall be unlawful for any person or firm, copartnership, association or corporation, to engage in the business, trade, practice or work of plumbing in this state after the adoption of this ~~act~~ chapter, unless such person, or responsible person representing such firm, copartnership, association or corporation, has successfully passed an examination as provided herein and has issued to him a state certificate of competency, which shall not be transferable, and said certificates of competency shall not be required for sewer contractors, sewage disposal contractors, or any excavating or utility contractors, or for their employees, as set forth and defined in section 54-2602(1)(f), Idaho Code.

SECTION 4. That Section 54-2620, Idaho Code, be, and the same is hereby amended to read as follows:

54-2620. PERMITS REQUIRED -- EXCEPTIONS. It shall be unlawful for any person, firm, copartnership, association or corporation to do, or cause or permit to be done, after the adoption of this act, whether acting as principal, agent or employee, any construction, installation, improvement, extension or alteration of any plumbing system in any building, residence or structure, or service lines thereto, in the state of Idaho, without first procuring a permit from the division of building safety authorizing such work to be done, except:

(~~a~~1) Within the boundaries of incorporated cities, including those specially chartered, where such work is regulated and enforced by an ordinance or code equivalent to this ~~act~~ chapter;

(~~b~~2) Within such additional area within five (5) miles of the city limits over which such city has elected to exercise jurisdiction relative to building drains and building sewers pursuant to section 50-606, Idaho Code, on buildings, residences and structures being converted from an on-site sewage disposal system to a sewage disposal system supplied by the ~~said~~ city, where such work is regulated and enforced by an ordinance or code equivalent to this ~~act~~ chapter. Cities shall provide the division of building safety written notice of the area over which such jurisdiction will be exercised. No city may exercise such jurisdiction within the limits of another city unless both cities have agreed by ordinance to allow such jurisdiction. For purposes of this ~~act~~ chapter building drain and building sewer will be defined according to the definition found in the uniform plumbing code or as adopted by the board, pursuant to section 54-2601, Idaho Code.

Permits shall be issued only to a person, or to a firm, copartnership, association or corporation represented by a person holding a valid certificate of competency, or to a person who does his own work in a family dwelling as defined in section 54-2602(1)(a), Idaho Code, except that permits shall not be required for plumbing work as defined in section 54-2602(1)(b), (1)(c)~~,~~ and (1)(d), Idaho Code.

Provided, a licensed plumber is hereby authorized, after making application for permit and pending receipt of permit, to proceed and complete improvements or alterations to plumbing systems, when the cost of said improvement or alteration does not exceed the sum of five hundred dollars ($500). Inspection of such work shall be the responsibility of the permit holder pending an official inspection, which shall be made within sixty (60) days after notification of inspection.

SECTION 5. That Section 54-2622A, Idaho Code, be, and the same is hereby amended to read as follows:

54-2622A. INSPECTIONS OF MODULAR BUILDINGS -- WHEN AUTHORIZED -- APPROVAL AND CERTIFICATION. Notwithstanding the exception provided in subsection (1)(h) of section 54-2602, Idaho Code, the administrator of the division of building safety may make plumbing inspections of any modular building upon written request from the manufacturer.

(1) Inspections shall be made in accordance with the codes adopted in this chapter.

(2) Inspection fees shall be as promulgated in board rule and shall be paid prior to the inspection.

(3) The administrator may issue inspection tags for inspections if the buildings are in compliance with the codes adopted in this chapter.

SECTION 6. That Section 54-5015, Idaho Code, be, and the same is hereby amended to read as follows:

54-5015. EXCLUSIVE JURISDICTION OF THE STATE -- RESTRICTION ON REQUIREMENT FOR ADDITIONAL LICENSES OR FEES -- CLARIFICATION OF CERTIFICATION, LICENSING AND PERMITTING REQUIREMENTS. (1) Only the administrator of the division of building safety of the state of Idaho is authorized and empowered to conduct examinations and to pass upon the qualifications of applicants, and to grant and issue certificates of competency and registration of apprentices to such applicants as are found to be qualified to engage in the trade, business, work or practice of heating, ventilation and air conditioning.

(2) No local jurisdiction shall have the authority to require additional certification or registration or to require payment of any fees in order for any HVAC contractor, specialty contractor, journeyman, specialty journeyman, apprentice, or specialty apprentice to engage in the heating, ventilation and air conditioning trade within the local jurisdiction or to issue certificates to persons certified or registered under the provisions of this chapter.

(3) Nothing in this chapter shall restrict a city or county from imposing stricter public safety rules, notwithstanding any provision of Idaho Code.

(4) A certificate issued pursuant to chapter 26, title 54, Idaho Code, or a license issued pursuant to chapter 10, title 54, Idaho Code, shall be acceptable for all HVAC installation work that falls within the scope of the certificate or license that has been issued. This will allow:

(a) Individuals holding a current HVAC or electrical license or a current plumbing certification to install electrical circuitry from the disconnecting means to a water heater and electrical connections to the water heater as long as the disconnect is in sight from the unit and the circuit from the disconnecting means to the water heater is no more than fifty (50) feet long;

(b) Individuals holding a current HVAC or electrical license to install:

(i) Electrical space heaters with no attached ductwork;

(ii) Electrical connections to HVAC equipment from the disconnecting means to the unit as long as the disconnect is in sight from the unit and the circuit from the disconnecting means to the HVAC equipment is no more than fifty (50) feet long; and

(iii) Ventilating fans, except ducted range hoods in residences;

(c) Individuals holding either an HVAC license or plumbing certification to install:

(i) Boilers that are not otherwise subject to inspection by the industrial commission or its authorized agent; and

(ii) Gas piping and piping for hydronic systems; and

(d) HVAC licensees to install control wiring of twenty-four (24) volts or less for HVAC equipment of five (5) tons or less in capacity.

(5) Notwithstanding any other provision of this section, plumbing certificate holders are not authorized to install control wiring in HVAC equipment, regardless of voltage.

SECTION 7. That Section 54-5016, Idaho Code, be, and the same is hereby amended to read as follows:

54-5016. PERMITS REQUIRED — EXCEPTION -- LOCAL GOVERNMENT FEES ALLOWED. (1) On and after January 1, 2005, it shall be unlawful for any person, firm, partnership, company, association or corporation to do or cause to be done, whether acting as principal, agent or employee, any construction, installation, improvement, extension or alteration of any heating, ventilation or air conditioning system, in any building, residence or structure in the state of Idaho, without first obtaining a permit from the authority having jurisdiction, authorizing such work to be done, except that no permit shall be required to perform work related to repair or maintenance of an existing HVAC system.

(2) To the extent that a plumbing or electrical installation permit issued by the Idaho division of building safety includes any part of an HVAC system installation, or an HVAC installation permit issued by the division includes any part of a plumbing or electrical installation, the permit issued and inspection performed shall be sufficient to satisfy the permitting and inspection requirements of the other division entities.

(3) The plumbing, HVAC and electrical boards shall promulgate rules adopting fees that will allow the division of building safety entity issuing a permit to charge, in addition to the permit fee it would originally charge, additional permit fees that relate to the HVAC portion of an installation for which a plumbing or electrical installation permit is being obtained, or the electrical and plumbing portions of an installation for which an HVAC permit is being obtained.

(4) No provision of this chapter shall preclude local governments from collecting fees for permits and inspections where such work is regulated and enforced by city or county code or ordinance. Municipalities may also require fees for permits and inspections in areas designated by local code or ordinance as areas of city impact.

Approved March 27, 2007.

CHAPTER 198
(H.B. No. 109)

AN ACT

RELATING TO THE IDAHO LIQUEFIED PETROLEUM GAS PUBLIC SAFETY ACT; AMENDING SECTION 54-5308, IDAHO CODE, TO REQUIRE A CERTIFICATE ISSUED BY AN INSURANCE COMPANY AUTHORIZED TO DO BUSINESS IN IDAHO AS PROOF THAT A GENERAL LIABILITY POLICY OF A SPECIFIED SUM IS IN EFFECT; AND AMENDING SECTION 54-5309, IDAHO CODE, TO REVISE TERMINOLOGY.

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

SECTION 1. That Section 54-5308, Idaho Code, be, and the same is hereby amended to read as follows:

54-5308. 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; and

(j) A certificate issued by an insurance company authorized to do business in the state of Idaho as proof that the applicant has procured and has in effect a general liability policy in the sum of not less than one million dollars ($1,000,000) single limit.

(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 2. That Section 54-5309, Idaho Code, be, and the same is hereby amended to read as follows:

54-5309. 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~~ firefighter in a rural area of the state; and one (1) of whom shall be a ~~fireman~~ firefighter 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~~ firefighter member shall serve for two (2) years; one (1) dealer member shall serve for three (3) years; and one (1) ~~fireman~~ firefighter 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.

Approved March 27, 2007.

CHAPTER 199
(H.B. No. 159)

AN ACT

RELATING TO HEALTH CARE; AMENDING TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 32, TITLE 39, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO CREATE THE COMMUNITY HEALTH CENTER GRANT FUND, TO DEFINE TERMS, TO PROVIDE FOR SCOPE OF GRANT SUPPORT, TO SET FORTH APPLICATION REQUIREMENTS, TO PROVIDE A GRANT AWARD SCHEDULE, TO PROVIDE GRANT AWARD CRITERIA, TO PROHIBIT FRAUDULENT INFORMATION ON GRANT APPLICATIONS AND TO PROVIDE FOR ADMINISTRATIVE APPEALS; AMENDING SECTION 39-5903, IDAHO CODE, TO REVISE A DEFINITION; AND AMENDING SECTION 39-5904, IDAHO CODE, TO REVISE TERMINOLOGY AND TO REVISE MEMBERSHIP OF THE HEALTH CARE ACCESS GRANT REVIEW BOARD.

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

SECTION 1. That Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 32, Title 39, Idaho Code, and to read as follows:

CHAPTER 32
IDAHO COMMUNITY HEALTH CENTER GRANT PROGRAM

39-3201. SHORT TITLE. This chapter shall be known and may be cited as the "Idaho Community Health Center Grant Program."

39-3202. COMMUNITY HEALTH CENTER GRANT FUND. There is hereby created in the state treasury a fund known as the "Community Health Center Grant Fund." Subject to appropriation by the legislature, moneys in the fund shall be used exclusively for the purpose of grants for community health centers in order to improve access to health care services for Idahoans and to provide for the administration of grants pursuant to this chapter.

39-3203. DEFINITIONS. As used in this chapter:

(1) "Applicant" means an entity submitting documents required by the community health center grant program for the purpose of requesting a grant from the community health center grant fund.

(2) "Application period" means the time period from July 1 to August 30 of the state fiscal year for which funding is requested.

(3) "Approval" means written notification that the application will be awarded funding through the community health center grant fund.

(4) "Board" means the health care access grant review board, as established in section 39-5904, Idaho Code.

(5) "Community health center" or "CHC" means a nonprofit organization or county-based governmental entity that:

(a) Provides comprehensive primary and preventive medical services and provides or makes referrals for dental and mental health services;

(b) Provides outpatient services to persons who are uninsured or have medicaid coverage without regard to a person's ability to pay, provided that a minimum of twenty-five percent (25%) of such persons served by the organization or entity are uninsured;

(c) Charges for services using a sliding fee schedule based upon income and family size; and

(d) Is governed by a community-based board.

(6) "Community health center grant" means a grant awarded pursuant to this chapter.

(7) "Community health center grant program" means the program that administers the community health center grant fund.

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

(9) "Director" means the director of the department of health and welfare.

(10) "Grant period" means the time period from July 1 through June 30 (state fiscal year) for which funding is granted.

39-3204. SCOPE OF GRANT SUPPORT. The board may award grants, in accordance with the procedures and criteria in this chapter, to community health centers for the purpose of improving access to health care services.

(1) Individual grant awards will be limited to a total of five hundred thousand dollars ($500,000) for direct and indirect costs, per year.

(2) No project may be funded for more than a total of one (1) year.

(3) In addition to other uses as approved by the board, funds awarded under a grant may be used for the purchase, construction, renovation or improvement of real property or for projects which are solely or predominantly designed for the purchase of equipment, including information technology and electronic health records.

39-3205. APPLICATION REQUIRED. (1) A completed community health center grant application must be submitted by the applicant for the purpose of requesting a grant on or before the conclusion of the application period specified for the appropriate grant cycle.

(2) Each application shall include:

(a) Identification of geographical area to be served;

(b) Individual or entity requesting funds;

(c) Narrative description of the community health needs and the methods to be used to address such needs and demonstrate the potential of the project to improve patient health outcomes and access to health care services in the community;

(d) Identification of measurable goals, objectives and patient health outcomes to be used to reach the goals, and the resources necessary to complete each activity;

(e) Estimation of how long it will take to accomplish the individual activities of the project;

(f) Demonstrated community support for the project;
(g) Proposed project budget including:
(i) A line item budget with a brief description of each expense category, including any anticipated operating expenses, capital and equipment or contract expenses;
(ii) Documentation of one (1) or more vendor price quotes for all proposed equipment purchases;
(iii) Contact person for verification of fiscal information; and
(h) Federal tax identification number.
(3) All applications must include the required information.
(4) The grant application and any attachments submitted by the applicant shall be the primary source of information for awarding a grant.

39-3206. GRANT AWARD SCHEDULE. The board shall conduct the grant process in accordance with the following schedule:
(1) The director shall develop an application form in conformance with section 39-3205, Idaho Code, and make guidance available no later than July 1 which shall initiate the application period.
(2) The completed application shall be submitted no later than August 30 of the application period.
(3) The board shall issue notification to every applicant regarding the disposition of their grant request by October 30 of the grant period.
(4) Funds for approved grants shall be disbursed during November of that grant period or over the course of the current grant year as funds become available.

39-3207. AWARD CRITERIA. The board shall award grants based on the following weighted criteria:
(1) Background of applicant organization. The applicant must show adequate experience, knowledge, and qualifications to adequately perform the scope of work: weight = 15%;
(2) Community support. The applicant must demonstrate community support for the project: weight = 10%;
(3) Specificity and clarity of scope of project. The proposal will be evaluated based upon demonstrated need and the extent to which the goals and objectives are specific, measurable, and relevant to the purpose of the proposal and the activities planned to accomplish those objectives are germane and can be sustained beyond the grant time frame: weight = 30%;
(4) Monitoring and evaluation. The proposal will be evaluated based on the extent to which the monitoring and evaluation system will document program progress, or improved patient health outcomes if applicable, and measure effectiveness: weight = 15%;
(5) Budget. The proposal will be evaluated based on the extent to which a detailed itemized budget and justification are consistent with stated objectives and planned program activities: weight = 20%;
(6) Geographical community health center equity. The board shall consider the geographical distribution of past grant awards and shall endeavor to meet community health centers' needs in an equitable manner statewide: weight = 10%.

39-3208. FRAUDULENT INFORMATION ON GRANT APPLICATION. Providing false information on any application or document submitted under this chapter is a misdemeanor and grounds for declaring the applicant ineligible. Any and all funds determined to have been acquired on the basis of fraudulent information must be returned to the community health center grant fund. This section shall not limit other remedies which may be available for the filing of false or fraudulent applications.

39-3209. ADMINISTRATIVE APPEALS. Applicants aggrieved by the award or failure to award a grant pursuant to this chapter shall be afforded the remedies provided in chapter 52, title 67, Idaho Code.

SECTION 2. That Section 39-5903, Idaho Code, be, and the same is hereby amended to read as follows:

39-5903. DEFINITIONS. As used in this chapter:

(1) "Applicant" means an entity submitting documents required by the rural health care access program for the purpose of requesting a grant from the rural health care access fund.

(2) "Application period" means the time period from January 15 to April 15 prior to the state fiscal year for which funding is requested.

(3) "Approval" means written notification that the application will be awarded funding through the rural health care access fund.

(4) "Board" means the ~~rural~~ health care access program review board.

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

(6) "Director" means the director of the department of health and welfare.

(7) "Grant period" means the time immediately following the application period from July 1 through June 30 (state fiscal year) for which funding is granted.

(8) "Nurse practitioner" means a health care provider licensed pursuant to chapter 14, title 54, Idaho Code.

(9) "Oral health care provider" means a dentist or dental hygienist licensed pursuant to chapter 9, title 54, Idaho Code.

(10) "Physician assistant" means a health care provider licensed pursuant to chapter 18, title 54, Idaho Code.

(11) "Primary care" means the provision of professional comprehensive health services, including oral health care services, that includes health education and disease prevention, initial assessment of health problems, treatment of acute care and chronic health problems, and the overall management of an individual's or family's health care services as provided by an Idaho licensed internist, obstetrician, gynecologist, pediatrician, family practitioner, general practitioner, dentist, dental hygienist, nurse practitioner or physician assistant. It provides the initial contact for health services and referral for secondary and tertiary care.

(12) "Primary care health professional shortage area" means a geographic area or population group which the U.S. secretary of health and human services has determined is underserved by primary care health professional(s).

(13) "Medically underserved area" means a geographic area which the U.S. secretary of health and human services has determined is underserved by primary care health professional(s).

(14) "Rural health care access grant" means a grant awarded pursuant to this chapter.

(15) "Rural health care access program" means the program that administers the rural health care access fund.

SECTION 3. That Section 39-5904, Idaho Code, be, and the same is hereby amended to read as follows:

39-5904. ~~RURAL~~ HEALTH CARE ACCESS GRANT REVIEW BOARD. (1) The director shall appoint the members of a board to be known as the ~~rural~~ health care access grant review board, who shall serve at the pleasure of the director. Board members shall not be compensated, but shall be reimbursed for travel expenses incurred for attendance at board meetings.

(2) The board shall meet at least annually, for the purposes described in this chapter.

(3) The board shall be composed of the following: a representative from the Idaho academy of family physicians, a representative from the nurse practitioner conference group, a rural hospital administrator, a representative from the physician assistant association, the health resources section supervisor from the division of health, a faculty member from one (1) of the Idaho family residency programs, an Idaho medical association representative, an Idaho hospital association representative, ~~and~~ an Idaho primary care association representative, and an Idaho association of counties representative.

(4) Appointments to the board shall be for three (3) years. Board members may be reappointed at the end of each three (3) year period. Initial appointments shall be staggered in such a manner that approximately one-third (1/3) are appointed for one (1) year, one-third (1/3) are appointed for two (2) years, and one-third (1/3) are appointed for three (3) years.

(5) A majority of the board members constitutes a quorum for the transaction of business. A majority vote is required by the quorum in finalizing decisions.

Approved March 27, 2007.

CHAPTER 200
(H.B. No. 168)

AN ACT

RELATING TO PUBLIC ASSISTANCE; AMENDING SECTION 56-251, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 56-252, IDAHO CODE, TO DEFINE A TERM; AMENDING 56-253, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO PROVIDE A FEDERAL LAW REFERENCE; AMENDING SECTION 56-254, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 56-255, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO REVISE BENEFITS FOR ALL MEDICAID PARTICIPANTS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 56-256, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY, TO REMOVE PROVISIONS ON PERSONAL HEALTH ACCOUNT FUNDING, USE AND DISPOSITION AND TO PROVIDE FOR USE OF PREVENTIVE HEALTH ASSISTANCE BENEFITS.

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

SECTION 1. That Section 56-251, Idaho Code, be, and the same is hereby amended to read as follows:

56-251. LEGISLATIVE INTENT. (1) The legislature finds that the current federal medicaid law and regulations have not kept pace with modern health care management practices, create obstacles to quality care and impose unnecessary costs on the delivery of effective and efficient health care. The legislature believes that the state of Idaho must strive to balance efforts to contain medicaid costs, improve program quality and improve access to services. The legislature further believes that the state of Idaho could achieve improved health outcomes for medicaid participants by simplifying eligibility and developing health benefits for medicaid participants according to their health needs, including appropriate preventive and wellness services.

(2) The legislature supports development, at a minimum, of the following health-need categories:

(a) Low-Income Children and Working-Age Adults with No Special Health Needs. The broad policy goal for the medicaid program for low-income children and working-age adults with no special health needs is to achieve and maintain wellness by emphasizing prevention and by proactively managing health. Additional specific goals are:

(i) To emphasize preventive care and wellness;

(ii) To increase participant ability to make good health choices; and

(iii) To strengthen the employer-based health insurance system.

(b) Persons with Disabilities or Special Health Needs. The broad policy goal for the medicaid program for persons with disabilities or special health needs is to finance and deliver cost-effective individualized care. Additional specific goals are:

(i) To emphasize preventive care and wellness;

(ii) To empower individuals with disabilities to manage their own lives;

(iii) To provide opportunities for employment for persons with disabilities; and

(iv) To provide and to promote family-centered, community-based, coordinated care for children with special health care needs.

(c) ~~Elders~~ Persons with Medicare and Medicaid Coverage. The broad policy goal for the medicaid program for ~~elders~~ persons with medicare and medicaid coverage is to finance and deliver cost-effective individualized care which is integrated, to the greatest extent possible, with medicare coverage. Additional specific goals are:

(i) To emphasize preventive care and wellness;

(ii) To improve coordination between medicaid and medicare coverage;

(iii) To increase nonpublic financing options for long-term care; and

(iv) To ensure participants' dignity and quality of life.

(3) To the extent practicable, the department shall achieve savings and efficiencies through use of modern care management practices, in areas such as network management, cost-sharing, benefit design and premium assistance.

(4) The department's duty to implement these changes in accordance with the intent of the legislature is contingent upon federal approval.

SECTION 2. That Section 56-252, Idaho Code, be, and the same is hereby amended to read as follows:

56-252. DEFINITIONS. As used in sections 56-250 through 56-255, Idaho Code:

(1) "Benchmark plan" means a package of health benefits coverage that provides coverage for a specified population in accordance with section 6044 of the deficit reduction act of 2005.

(2) "Benefit design" means selection of services, providers and beneficiary cost-sharing to create the scope of coverage for participants.

(~~2~~3) "Community supports" means services that promote the ability of persons with disabilities to be self-sufficient and live independently in their own communities.

(~~3~~4) "Cost-sharing" means participant payment for a portion of medicaid service costs such as deductibles, coinsurance or copayment amounts.

(~~4~~5) "Department" means the department of health and welfare.

(~~5~~6) "Director" means the director of the department of health and welfare.

(~~6~~7) "Health risk assessment" means a process of assessing the health status and health needs of participants.

(~~7~~8) "Medicaid" means Idaho's medical assistance program.

(~~8~~9) "Medical assistance" means payments for part or all of the cost of services funded by titles XIX or XXI of the federal social security act as amended, as may be designated by department rule.

(~~9~~10) "Medical home" means a primary care case manager designated by the participant or the department to coordinate the participant's care.

(~~10~~11) "Network management" means establishment and management of contracts between the department and limited groups of providers or suppliers of medical and other services to participants.

(~~11~~12) "Participant" means a person eligible for and enrolled in the Idaho medical assistance program.

(~~12~~13) "Premium assistance" means use of medicaid funds to pay part or all of the costs of enrolling eligible individuals into private insurance coverage.

(~~13~~14) "Primary care case manager" means a primary care physician who contracts with medicaid to coordinate the care of certain participants.

(~~14~~15) "Provider" means any individual, partnership, association, corporation or organization, public or private, which provides residential or assisted living services, certified family home services, nursing facility services or services offered pursuant to medical assistance.

(~~15~~16) "Self-determination" means medicaid services that allow persons with disabilities to exercise choice and control over the services and supports they receive.

(~~16~~17) "State plan" means the contract between the state and federal government under 42 U.S.C. section 1396a(a).

SECTION 3. That Section 56-253, Idaho Code, be, and the same is hereby amended to read as follows:

56-253. POWERS AND DUTIES OF THE DIRECTOR. (1) The director is hereby encouraged and empowered to obtain federal approval in order that Idaho design and implement changes to its medicaid program that advance the quality of services to participants while allowing access to needed services and containing excessive costs. The design of Idaho's medicaid program shall incorporate the concepts expressed in section 56-251, Idaho Code.

(2) The director may create health-need categories other than those stated in section 56-251(2)(a), Idaho Code, subject to legislative approval, and may develop a medicaid ~~state~~ benchmark plan for each category.

(3) Each ~~state~~ benchmark plan shall include explicit policy goals for the covered population identified in the plan, as well as specific benefit packages, delivery system components and performance measures in accordance with section 67-1904, Idaho Code.

(4) The director shall establish a mechanism to ensure placement of participants into the appropriate ~~state~~ benchmark plan as allowed under section 6044 of the deficit reduction act of 2005. This mechanism shall include, but not be limited to, a health risk assessment. This assessment shall comply with federal requirements for early and periodic screening, diagnosis and treatment (EPSDT) services for children, in accordance with section 1905(a)(4)(B) of the social security act.

(5) The director may require, subject to federal approval, participants to designate a medical home. Applicants for medical assistance shall receive information about primary care case management, and, if required to so designate, shall select a primary care provider as part of the eligibility determination process.

(6) The director may, subject to federal approval, enter into contracts for medical and other services when such contracts are beneficial to participant health outcomes as well as economically prudent for the medicaid program.

(7) The director may obtain agreements from medicare, school districts and other entities to provide medical care if it is practical and cost-effective.

(8) The director is given authority to promulgate rules consistent with this act.

SECTION 4. That Section 56-254, Idaho Code, be, and the same is hereby amended to read as follows:

56-254. ELIGIBILITY FOR MEDICAL ASSISTANCE. The department shall make payments for medical assistance to, or on behalf of, the following persons eligible for medical assistance.

(1) The ~~state~~ benchmark plan for low-income children and working-age adults with no special health needs includes the following persons:

(a) Children in families whose family income does not exceed one hundred eighty-five percent (185%) of the federal poverty guideline and who meet age-related and other eligibility standards in accordance with department rule;

(b) Pregnant women of any age whose family income does not exceed one hundred thirty-three percent (133%) of the federal poverty guideline and who meet other eligibility standards in accordance with department rule, or who meet the presumptive eligibility guidelines in accordance with section 1920 of the social security act;

(c) Infants born to medicaid-eligible pregnant women. Medicaid eligibility must be offered throughout the first year of life so long as the infant remains in the mother's household and she remains eligible, or would be eligible if she were still pregnant;
(d) Adults in families with dependent children as described in section 1931 of the social security act, who meet the requirements in the state's assistance to families with dependent children (AFDC) plan in effect on July 16, 1996;
(e) Families who are provided six (6) to twelve (12) months of medicaid coverage following loss of eligibility under section 1931 of the social security act due to earnings, or four (4) months of medicaid coverage following loss of eligibility under section 1931 of the social security act due to an increase in child or spousal support;
(f) Employees of small businesses who meet the definition of "eligible adult" as described in section 56-238, Idaho Code, whose eligibility is limited to the medical assistance program described in section 56-241, Idaho Code; and
(g) All other mandatory groups as defined in title XIX of the social security act, if not listed separately in subsection (2) or (3) of this section.

(2) The ~~state~~ benchmark plan for persons with disabilities or special health needs includes the following persons:
(a) Persons under age sixty-five (65) years eligible in accordance with title XVI of the social security act, as well as persons eligible for aid to the aged, blind and disabled (AABD) under titles I, X and XIV of the social security act;
(b) Persons under age sixty-five (65) years who are in need of the services of a licensed nursing facility, a licensed intermediate care facility for the developmentally disabled, a state mental hospital, or home-based and community-based care, whose income does not exceed three hundred percent (300%) of the social security income (SSI) standard and who meet the asset standards and other eligibility standards in accordance with federal law and regulation, Idaho law and department rule;
(c) Certain disabled children described in 42 CFR 435.225 who meet resource limits for aid to the aged, blind and disabled (AABD) and income limits for social security income (SSI) and other eligibility standards in accordance with department rules;
(d) Persons under age sixty-five (65) years who are eligible for services under both titles XVIII and XIX of the social security act;
(e) Children who are eligible under title IV-E of the social security act for subsidized board payments, foster care or adoption subsidies, and children for whom the state has assumed temporary or permanent responsibility and who do not qualify for title IV-E assistance but are in foster care, shelter or emergency shelter care, or subsidized adoption, and who meet eligibility standards in accordance with department rule;
(f) Eligible women under age sixty-five (65) years with incomes at or below two hundred percent (200%) of the federal poverty level, for cancer treatment pursuant to the federal breast and cervical cancer prevention and treatment act of 2000;
(g) Low-income children and working-age adults under age sixty-five (65) years who qualify under subsection (1) of this section and who

require the services for persons with disabilities or special health needs listed in subsection 56-255(3), Idaho Code; and

(h) Persons over age sixty-five (65) years who choose to enroll in this state plan.

(3) The ~~state~~ benchmark plan for ~~elders~~ persons over twenty-one (21) years of age who have medicare and medicaid coverage includes the following persons:

(a) Persons ~~aged sixty-five (65) years or older~~ eligible in accordance with title XVI of the social security act, as well as persons eligible for aid to the aged, blind and disabled (AABD) under titles I, X and XIV of the social security act;

(b) Persons ~~aged sixty-five (65) years or older~~ who are in need of the services of a licensed nursing facility, a licensed intermediate care facility for the developmentally disabled, a state mental hospital, or home-based and community-based care, whose income does not exceed three hundred percent (300%) of the social security income (SSI) standard and who meet the assets standards and other eligibility standards in accordance with federal and state law and department rule;

(c) Persons ~~aged sixty-five (65) years or older~~ who are eligible for services under both titles XVIII and XIX of the social security act who have enrolled in the medicare program; and

(d) Persons ~~under age sixty-five (65) years~~ who are eligible for services under both titles XVIII and XIX of the social security act and who elect to enroll in this state plan.

SECTION 5. That Section 56-255, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

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

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

(ii) Participants with family incomes above one hundred thirty-three percent (133%) of the federal poverty guideline will

be required to pay premiums in accordance with department rule.

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

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

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

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

(d) Mental health services, including:

(i) Inpatient psychiatric facility services whether in a hospital, or for persons under age twenty-two (22) years in a freestanding psychiatric facility, as permitted by federal law, in excess of those limits in department rules on inpatient psychiatric facility services provided under subsection (5) of this section;

(ii) Outpatient mental health services in excess of those limits in department rules on outpatient mental health services provided under subsection (5) of this section; and

(iii) Psychosocial rehabilitation for reduction of mental disability for children under the age of eighteen (18) years with a serious emotional disturbance (SED) and for severely and persistently mentally ill adults, aged eighteen (18) years or older, with severe and persistent mental illness;

(e) Long-term care services, including:

(i) Nursing facility services, other than services in an institution for mental diseases, subject to participant cost-sharing;

(ii) Home-based and community-based services, subject to federal approval, provided to individuals who require nursing facility level of care who, without home-based and community-based services, would require institutionalization. These services will include community supports, including an option for self-determination, which will enable individuals to have greater freedom to manage their own care; and

(iii) Personal care services in a participant's home, prescribed in accordance with a plan of treatment and provided by a qualified person under supervision of a registered nurse;

(f) Services for persons with developmental disabilities, including:

(i) Intermediate care facility services, other than such services in an institution for mental diseases, for persons determined in accordance with section 1902(a)(31) of the social security act to be in need of such care, including such services in a public institution, or distinct part thereof, for the mentally retarded or persons with related conditions;

(ii) Home-based and community-based services, subject to federal approval, provided to individuals who require an intermediate care facility for the mentally retarded (ICF/MR) level of care who, without home-based and community-based services, would require institutionalization. These services will include community supports, including an option for self-determination, which will enable individuals to have greater freedom to manage their own care; and

(iii) Developmental services. The department shall pay for rehabilitative services, including medical or remedial services provided by a facility that has entered into a provider agreement with the department and is certified as a developmental disabilities agency by the department;

(g) Home health services, including:

(i) Intermittent or part-time nursing services provided by a home health agency or by a registered nurse when no home health agency exists in the area;

(ii) Home health aide services provided by a home health agency; and

(iii) Physical therapy, occupational therapy or speech pathology and audiology services provided by a home health agency or medical rehabilitation facility;

(h) Hospice care in accordance with section 1905(o) of the social security act;

(i) Specialized medical equipment and supplies; and

(j) Medicare cost-sharing, including:

(i) Medicare cost-sharing for qualified medicare beneficiaries described in section 1905(p) of the social security act;

(ii) Medicare part A premiums for qualified disabled and working individuals described in section 1902(a)(10)(E)(ii) of the social security act;

(iii) Medicare part B premiums for specified low-income medicare beneficiaries described in section 1902(a)(10)(E)(iii) of the social security act; and

(iv) Medicare part B premiums for qualifying individuals described in section 1902(a)(10)(E)(iv) and subject to section 1933 of the social security act.

(4) Specific health benefits for ~~elders~~ persons over twenty-one (21) years of age who have medicare and medicaid coverage include:

(a) All services described in subsection (5) of this section, other than if provided under the federal medicare program;

(b) All services described in subsection (3) of this section, other than if provided under the federal medicare program; and

(c) Other services that supplement medicare coverage.

(5) Benefits for all medicaid participants, unless specifically limited in subsection (2), (3) or (4) of this section include the following:

(a) Health care coverage including, but not limited to, basic inpatient and outpatient medical services, and including:

(i) Physicians' services, whether furnished in the office, the patient's home, a hospital, a nursing facility or elsewhere;

(ii) Services provided by a physician or other licensed practitioner to prevent disease, disability and other health conditions or their progressions, to prolong life, or to promote physical or mental health; and

(iii) Hospital care, including:

1. Inpatient hospital services other than those services provided in an institution for mental diseases;

2. Outpatient hospital services; and

3. Emergency hospital services;

(iv) Laboratory and x-ray services;

(v) Prescribed drugs;
(vi) Family planning services and supplies for individuals of child-bearing age;
(vii) Certified pediatric or family nurse practitioners' services;
(viii) Emergency medical transportation;
(ix) Mental health services, including:
1. Outpatient mental health services that are appropriate, within limits stated in department rules; and
2. Inpatient psychiatric facility services within limits stated in department rules;
(x) Medical supplies, equipment, and appliances suitable for use in the home; and
(xi) Physical therapy and related services;
(b) Primary care case management;
(c) Dental services, and medical and surgical services furnished by a dentist in accordance with section 1905(a)(5)(B) of the social security act;
(d) Medical care and any other type of remedial care recognized under Idaho law, furnished by licensed practitioners within the scope of their practice as defined by Idaho law, including:
(i) Podiatrists' services;
(ii) Optometrists' services;
(iii) Chiropractors' services; and
(iv) Other practitioners' services, in accordance with department rules;
(e) Services for individuals with speech, hearing and language disorders, provided by or under the supervision of a speech pathologist or audiologist;
(f) Eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist;
(g) Services provided by essential providers, including:
(i) Rural health clinic services and other ambulatory services furnished by a rural health clinic in accordance with section 1905(l)(1) of the social security act;
(ii) Federally qualified health center (FQHC) services and other ambulatory services that are covered under the plan and furnished by an FQHC in accordance with section 1905(l)(2) of the social security act;
(iii) Indian health services; ~~and~~
(iv) District health departments; <u>and</u>
<u>(v) The family medicine residency of Idaho and the Idaho state university family medicine residency;</u>
(h) Any other medical care and any other type of remedial care recognized under state law, specified by the secretary of the federal department of health and human services;
(i) Nonemergency medical transportation; and
(j) Physician, hospital or other services deemed experimental are excluded from coverage. The director may allow coverage of procedures or services deemed investigational if the procedures or services are as cost-effective as traditional, standard treatments.

SECTION 6. That Section 56-256, Idaho Code, be, and the same is hereby amended to read as follows:

56-256. ~~PERSONAL~~ PREVENTIVE HEALTH ~~ACCOUNTS~~ ASSISTANCE. (1) The department of health and welfare may establish ~~a personal~~ preventive health ~~account~~ assistance benefits available to a medicaid participant in order to provide incentives to promote healthy behavior and responsible use of health care services.

(2) ~~Each--personal--health-account-shall-be-funded-by-a-base-amount determined-by-department-rule.-Amounts-may-be-added-to-the-account~~ Preventive health assistance benefits are available when the participant complies with recommended preventive care and demonstrates healthy behaviors or conducts other activities as specified in department rule. ~~Funds-in-a-personal-health-account-are-not-the-personal-property-of--the participant,--but--represent--the-value-of-benefits-available-for-use-by the-participant-while-eligible.-If-funds-remain--in--a--personal--health account--when--a--participant--terminates-participation,-such-unexpended funds-revert-to-the-state~~ Preventive health assistance benefits are only available during a participant's period of eligibility.

(3) The uses of ~~funds-in-personal~~ preventive health ~~accounts~~ assistance may include, but not be limited to, participant payments for preventive health products and services and participant cost-sharing payments as specified in department rule.

(4) ~~Copayments-for-services-and-delinquent-premium-payments-may--be automatically-deducted-from-personal-health-account-funds-by-the-department,--subject--to--notice-and-opportunity-for-hearing~~ Preventive health assistance benefits may be used to cover delinquent cost-sharing obligations when participants have complied with recommended preventive care as described in department rule.

Approved March 27, 2007.

CHAPTER 201
(H.B. No. 207)

AN ACT

RELATING TO STATEMENTS REGARDING PROPOSED CONSTITUTIONAL AMENDMENTS; AMENDING SECTION 67-453, IDAHO CODE, TO PROVIDE THAT THE SECRETARY OF STATE SHALL CAUSE TO BE PRINTED IN EITHER THE VOTERS' PAMPHLET OR IN A PAMPHLET SIMILAR TO THE VOTERS' PAMPHLET, THE STATEMENTS PREPARED BY THE LEGISLATIVE COUNCIL REGARDING SUBMITTED CONSTITUTIONAL AMENDMENTS AND THE QUESTION THAT WILL BE ON THE GENERAL ELECTION BALLOT AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 67-453, Idaho Code, be, and the same is hereby amended to read as follows:

67-453. STATEMENTS REGARDING PROPOSED CONSTITUTIONAL AMENDMENTS. (1) Whenever the legislature shall have directed the submission of a proposal to amend the constitution of the state of Idaho to the electors, the legislative council shall, not less than one hundred twenty (120) days prior to the date of the election at which the proposed amendment will be submitted to the people, prepare and file with the secretary of state a dossier containing the following:

(~~1~~a) ~~a~~A brief statement setting forth in simple, understandable language the meaning and purpose of the proposed amendment and the result to be accomplished by such amendment. The statement shall be included in the publications of the proposed amendment required by law of the secretary of state, and shall be printed on the official ballot by which such proposed amendment is submitted to the electors; and

(~~2~~b) ~~a~~A concise presentation of the major arguments advanced by the proponents and opponents of the proposed amendment designed to represent as fairly as possible the arguments relative to the proposed amendment. In preparing such arguments, the legislative council may seek the advice and suggestions of known supporters and opponents or any other persons or groups and may, in its sole discretion, use any of the suggested arguments. If any such suggestions are utilized by the legislative council, no recognition shall be given to the persons or groups which submitted the argument. The arguments shall be published in the publications required by law of the secretary of state, but shall not appear on the ballot by which such proposed amendment is submitted to the electors.

(2) The secretary of state shall cause to be printed in either the voters' pamphlet pursuant to section 34-1812C, Idaho Code, or in a pamphlet similar to the voters' pamphlet, the arguments prepared pursuant to subsection (1) of this section and the question that will be on the general election ballot.

Approved March 27, 2007.

CHAPTER 202
(H.B. No. 214)

AN ACT

RELATING TO MISCELLANEOUS PROVISIONS OF MUNICIPAL AND GENERAL ELECTION LAWS; AMENDING SECTION 18-2318, IDAHO CODE, TO REVISE THE CRIME OF ELECTIONEERING AT THE POLLS; AMENDING SECTION 34-732, IDAHO CODE, TO PROVIDE PROCEDURES FOR A CANDIDATE NOT PLACED ON THE BALLOT BY THE SECRETARY OF STATE TO FILE A DECLARATION OF CANDIDACY ACCOMPANIED BY A FEE AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTIONS 34-907A AND 34-907B, IDAHO CODE, RELATING TO INFORMATION ON LEGISLATORS' SUPPORT FOR CONGRESSIONAL TERM LIMITS AMENDMENT AND RELATING TO A TERM LIMITS PLEDGE; AMENDING SECTION 34-1005, IDAHO CODE, TO REVISE PROCEDURES FOR RETURN OF AN ABSENTEE BALLOT AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 34-1007, IDAHO CODE, TO REVISE PROCEDURES FOR TRANSMISSION OF ABSENTEE BALLOTS TO THE POLLS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 34-1107, IDAHO CODE, TO REVISE THE MANNER OF VOTING; AMENDING SECTION 34-1805, IDAHO CODE, TO DELETE CERTAIN REQUIREMENTS FOR INITIATIVE OR REFERENDUM PETITIONS; AMENDING SECTION 34-2409, IDAHO CODE, TO PROVIDE FOR CERTIFICATION OF VOTING MACHINES OR VOTE TALLY SYSTEMS BY THE FEDERAL ELECTION ASSISTANCE COMMISSION; REPEALING SECTION 50-211, IDAHO CODE, RELATING TO SUPERVISION OF CITY ELECTIONS; AMENDING CHAPTER 2, TITLE 50, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 50-211, IDAHO CODE, TO PROVIDE FOR SUPERVISION OF CITY ELECTIONS BY THE CITY COUNCIL;

AMENDING SECTION 50-403, IDAHO CODE, TO PROVIDE PROCEDURE IN THE EVENT A NATIONAL OR LOCAL EMERGENCY OR OTHER SITUATION MAKES COMPLIANCE WITH MUNICIPAL ELECTION LAWS IMPOSSIBLE OR UNREASONABLE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 50-410, IDAHO CODE, TO REVISE THE LAW REGARDING POLL WATCHERS OR CHALLENGERS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 50-447, IDAHO CODE, TO REVISE THE PROCEDURE FOR RETURN OF AN ABSENTEE BALLOT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 50-449, IDAHO CODE, TO REVISE THE PROCEDURE FOR TRANSMISSION OF ABSENTEE BALLOTS TO THE POLLS; AMENDING SECTION 50-459, IDAHO CODE, TO REVISE PROCEDURES FOR THE MANNER OF VOTING; AMENDING SECTION 50-477, IDAHO CODE, TO PROVIDE APPLICATION OF THE STATE SUNSHINE LAW TO CITY ELECTIONS IN CERTAIN CITIES; AMENDING SECTION 50-2105, IDAHO CODE, TO REVISE APPLICATION OF THE MUNICIPAL ELECTION LAW TO QUESTIONS OF WHETHER CITIES SHOULD BE CONSOLIDATED AND TO MAKE A TECHNICAL CORRECTION; AND PROVIDING SEVERABILITY.

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

SECTION 1. 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 thousand dollars ($1,000).

SECTION 2. That Section 34-732, Idaho Code, be, and the same is hereby amended to read as follows:

34-732. SELECTION OF CANDIDATES FOR NOMINATION IN PRESIDENTIAL PRIMARY. Each qualified elector shall have the opportunity to vote on the official presidential preference primary ballot for one (1) person to be the candidate for nomination by a party for president of the United States. The name of any candidate for a political party nomination for president of the United States shall be printed on the ballots only:

(1) If the secretary of state shall have determined, in his sole discretion, that the person's candidacy is generally advocated or recog-

nized in national news media throughout the United States. For the purpose of promoting the aspect of a regional primary in this regard, the ~~S~~secretary of ~~S~~state may consult with the chief election officers of neighboring states which conduct a presidential primary election on the fourth Tuesday in May. The secretary of state shall publish the names of such persons determined by him to be such candidates, together with their party affiliation, not less than sixty (60) days prior to the date of the presidential preference primary~~.~~; or

(2) ~~If a petition for nomination meeting the requirements of subsection 3 of this section is filed with the secretary of state by members of a political party to which the candidate belongs:~~

~~(3) The petition referred to in subsection (2) hereof shall:~~

~~(a) Have attached thereto a sheet or sheets containing the signatures of at least a number of qualified electors equal to one per cent (1%) of the number of votes cast in this state for presidential electors at the previous general election at which a president of the United States was elected;~~

~~(b) Be filed with the secretary of state not later than thirty (30) days prior to the date of the presidential preference primary;~~

~~(c) The format of the signature petition sheets shall be prescribed by the secretary of state and shall be patterned after, but not limited to, such sheets as used for state initiative and referendum measures;~~

~~(d) The petitions and signatures so submitted shall be verified in the manner prescribed in section 34-1807, Idaho Code~~ Any candidate who was not placed upon the ballot by the secretary of state under the provisions of subsection (1) of this section shall be placed upon the ballot after filing a declaration of candidacy accompanied by a one thousand dollar ($1,000) filing fee. The declaration shall be filed with the secretary of state no later than the fiftieth day prior to the date of the presidential preference primary.

SECTION 3. That Sections 34-907A and 34-907B, Idaho Code, be, and the same are hereby repealed.

SECTION 4. That Section 34-1005, Idaho Code, be, and the same is hereby amended to read as follows:

34-1005. RETURN OF ABSENTEE BALLOT. The return envelope shall be mailed or delivered to the officer who issued the same; provided, that an absentee ballot must be received by the issuing officer by 8:00 p.m. on the day of election before such ballot may be counted.

Upon receipt of an absent elector's ballot the county clerk of the county wherein such elector resides shall verify the authenticity of the affidavit and shall write or stamp upon the envelope containing the same, the date and hour such envelope was received in his office. ~~and, if the ballot was delivered in person, the name and address of the person delivering the same.~~ He shall safely keep and preserve all absent electors' ballots unopened until the time prescribed for delivery to the judges in accordance with this act.

SECTION 5. That Section 34-1007, Idaho Code, be, and the same is hereby amended to read as follows:

34-1007. TRANSMISSION OF ABSENTEE BALLOTS TO POLLS. On receipt of such absent elector's ballot or ballots, the officer receiving them shall forthwith ~~inclose~~ enclose the same, unopened in a carrier envelope endorsed with the name and official title of such officer and the words: "absent electors' ballot to be opened only at the polls." He shall hold the same until the delivery of the official ballots to the judges of election of the precinct in which the elector resides and shall deliver the ballot or ballots to the judges with such official ballots.

In those counties which count ballots at a central location, absentee ballots that are received ~~on election day~~ may, in the discretion of the county clerk, be retained in a secure place in the clerk's office and such ballots shall be added to the precinct returns at the time of ballot tabulation. The clerk shall deliver to the polls a list of those absentee ballots received to record in the official poll book that the elector has voted.

SECTION 6. That Section 34-1107, Idaho Code, be, and the same is hereby amended to read as follows:

34-1107. 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 ticket so that the official stamp is visible and the face of the ballot is completely inclosed.~~

After marking his ballot, the elector shall present himself to the judge ~~in charge of the additional copy of the combination election record and poll book~~ at the ballot box and state his name and residence. The elector shall then deposit his ballot in the proper box or hand his ballot to the election judge, who shall deposit it. ~~The judge shall deposit the ballot in the proper box after ascertaining that the ballot is folded correctly.~~ The judge shall then record that the elector has voted and proclaim the same in an audible voice.

SECTION 7. That Section 34-1805, Idaho Code, be, and the same is hereby amended to read as follows:

34-1805. SPONSORS TO PRINT PETITION — NUMBER OF SIGNERS REQUIRED. After the form of the initiative or referendum petition has been approved by the secretary of state as in sections 34-1801A through 34-1822, Idaho Code, provided, the same shall be printed by the person or persons or organization or organizations under whose authority the measure is to be referred or initiated and circulated in the several counties of the state for the signatures of legal voters. Before such petitions shall be entitled to final filing and consideration by the secretary of state there shall be affixed thereto the signatures of legal voters equal in number to not less than six percent (6%) of the qualified electors of the state at the time of the last general election. ~~Provided, that the petition must contain a number of signatures of qualified electors from each of twenty-two (22) counties equal to not less than six percent (6%) of the qualified electors at the time of the last general election in each of those twenty-two (22) counties.~~

SECTION 8. That Section 34-2409, Idaho Code, be, and the same is hereby amended to read as follows:

34-2409. EXAMINATION OF MACHINES BY SECRETARY OF STATE PRIOR TO ADOPTION. (1) The secretary of state shall publicly examine all makes of voting machines or vote tally systems submitted to him and determine whether the machines or vote tally systems comply with the requirements of this chapter, and can safely be used by voters at elections under the provisions of this chapter. In order for any voting machine or vote tally system to be certified in Idaho it must meet the federal election commission standards and be approved for use by an independent testing authority sanctioned by the national association of state election directors (NASED) or be certified by the federal election assistance commission.

(2) Any person owning or interested in a voting machine or vote tally system may submit it to the secretary of state for examination. No examination shall be conducted unless documentation is provided indicating that the voting machine or vote tally system meets the federal election commission standards. For the purpose of assistance in examining the machine or vote tally system the secretary of state may employ not more than three (3) individuals who are expert in one (1) or more of the fields of data processing, mechanical engineering and public administration. The compensation of these assistants shall be paid by the person submitting the machine or vote tally system.

(3) Within thirty (30) days after completing the examination and approval of any voting machine or vote tally system the secretary of state shall make and file in his office his report on the machine or vote tally system, together with a written or printed description and drawings and photographs clearly identifying the machine or vote tally system and the operation thereof. As soon as practicable after such filing, the secretary of state upon request shall send a copy of the report to any governing body within the state.

(4) Any voting machine or vote tally system that receives the approval of the secretary of state may be used for conducting elections in this state. Any machine or vote tally system that does not receive such approval shall not be adopted for or used at any election. After a voting machine or vote tally system has been approved by the secretary of state, any change or improvement in the machine or vote tally system that does not impair its accuracy, efficiency or capacity shall not render necessary a reexamination or reapproval of the machine or vote tally system.

(5) Any voting system, including paper ballots, that was used in the 2004 general election shall be continued to be authorized for use as long as the voting system meets the requirements of the "Help America Vote Act of 2002," Public Law 107-252.

(6) For all elections conducted after 2004, no direct recording electronic voting device shall be used unless the direct recording electronic voting device has a voter verifiable paper audit trail. Any certifications of a direct recording electronic voting device without a voter verifiable paper audit trail are hereby declared null and void.

(7) The secretary of state may periodically review the various voting systems that have been certified for use in the state to ensure such systems meet the standards set forth by the federal election assistance commission and the national institute of standards and technology. Any voting system that does not meet such standards may be decertified after a public hearing.

SECTION 9. That Section 50-211, Idaho Code, be, and the same is hereby repealed.

SECTION 10. That Chapter 2, 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 50-211, Idaho Code, and to read as follows:

50-211. SUPERVISION OF ELECTIONS. The city council shall:

(1) Establish a convenient number of election precincts as provided in section 50-407, Idaho Code;

(2) Establish the time of opening the polls by ordinance as provided in section 50-453, Idaho Code; and

(3) Canvass the results of the election as provided in section 50-467, Idaho Code.

SECTION 11. That Section 50-403, Idaho Code, be, and the same is hereby amended to read as follows:

50-403. SUPERVISION OF ADMINISTRATION OF ELECTION LAWS BY CITY CLERK. Each city clerk is the chief elections officer and shall exercise general supervision of the administration of the election laws in his city for the purpose of achieving and maintaining a maximum degree of correctness, impartiality, efficiency and uniformity. The city clerk shall meet with and issue instructions to election judges and clerks prior to the opening of the polls to ~~insure~~ ensure uniformity in the application, operation and interpretation of the election laws during the election.

If a national or local emergency or other situation arises which makes substantial compliance with the provisions of this chapter impossible or unreasonable, the city clerk may prescribe, by directive, such special procedures or requirements as may be necessary to facilitate absentee voting by those citizens directly affected who otherwise are eligible to vote in city elections.

SECTION 12. That Section 50-410, Idaho Code, be, and the same is hereby amended to read as follows:

50-410. CHALLENGERS -- WATCHERS. The city 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 candidate 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 to be present to ~~watch the receiving and counting of the votes~~ observe the conduct of the election. Where the issue before the electors is other than the election of officers, the clerk shall, upon receipt of a written request no later than five (5) days prior to the date of voting on the issue or issues, direct that 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 ~~candidate~~ requesting person, and filed with the city clerk. 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. Persons permitted to be present to watch the counting of the votes shall not absent themselves until the polls are closed.

SECTION 13. That Section 50-447, Idaho Code, be, and the same is hereby amended to read as follows:

50-447. RETURN OF ABSENTEE BALLOT. The return envelope shall be mailed or delivered to the officer who issued the same; provided, that an absentee ballot must be received by the issuing officer by 8:00 p.m. on the day of election before such ballot may be counted.

Upon receipt of an absent elector's ballot the city clerk of the city wherein such elector resides shall write or stamp upon the envelope containing the same, the date and hour such envelope was received in his office, comparing the signature upon the return envelope with the elector's registration card to ~~insure~~ ensure that signatures correspond. ~~and, if the ballot was delivered in person, the name and address of the person delivering the same.~~ He shall safely keep and preserve all absent elector's ballots unopened until the time prescribed for delivery to the judges in accordance with this chapter.

SECTION 14. That Section 50-449, Idaho Code, be, and the same is hereby amended to read as follows:

50-449. TRANSMISSION OF ABSENTEE BALLOTS TO POLLS. On receipt of such absent elector's ballot or ballots, the city clerk shall forthwith enclose the same unopened in a carrier envelope endorsed with the name and official title of such officer and the words: "absent elector's ballots to be opened only at the polls." He shall hold the same until the delivery of the official ballots to the judges of election of the precinct in which the elector resides and shall deliver the ballot or ballots to the judges with such official ballots.

In those cities which count ballots at a central location, absentee ballots that are received may, in the discretion of the city clerk, be retained in a secure place in the clerk's office and such ballots shall be added to the precinct returns at the time of ballot tabulation. The clerk shall deliver a list of those absentee ballots received to the polls to record in the official poll book that the elector has voted.

SECTION 15. That Section 50-459, Idaho Code, be, and the same is hereby amended 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 deposit his ballot in the proper box or hand his ballot to the receiving clerk, who shall deposit it. The clerk shall ~~deposit the ballot in the proper box after ascertaining that the ballot is folded correctly, and shall~~ then pro-

claim in an audible voice that the elector has voted. The election officials shall then record that the elector has voted.

SECTION 16. That Section 50-477, Idaho Code, be, and the same is hereby amended to read as follows:

50-477. APPLICATION OF CAMPAIGN ~~EXPENDITURES~~ REPORTING LAW TO ELECTIONS IN CERTAIN CITIES. The provisions of sections 67-6601 through 67-6616 and 67-6623 through 67-6630, Idaho Code, ~~insofar as they relate to the reporting of campaign contributions,~~ are hereby made applicable to all elections for mayor, councilman and citywide measures in cities of five thousand (5,000) or more population, except that the city clerk shall stand in place of the secretary of state, and the city attorney shall stand in place of the attorney general.

SECTION 17. That Section 50-2105, Idaho Code, be, and the same is hereby amended to read as follows:

50-2105. SUBMISSION OF QUESTION TO ELECTORS -- SPECIAL ELECTION. In each of the cities proposed to be consolidated, on the date fixed by resolution, there shall be held a special election for the purpose of submitting to the qualified electors of each of said cities, the question whether such cities shall become consolidated into one (1) city. Such election in each city shall be conducted ~~in the manner prescribed by sections 50-401 through 50-422, for general and special city elections~~ according to the provisions of chapter 4, title 50, Idaho Code.

SECTION 18. 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.

Approved March 27, 2007.

CHAPTER 203
(H.B. No. 223)

AN ACT

RELATING TO TELEPHONE CALLS; AMENDING CHAPTER 10, TITLE 48, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 48-1003C, IDAHO CODE, TO PROVIDE DUTIES WHEN A PERSON INTENDS TO UTILIZE AN AUTOMATIC DIALING-ANNOUNCING DEVICE TO SEND A MESSAGE AND TO DEFINE TERMS.

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

SECTION 1. That Chapter 10, Title 48, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 48-1003C, Idaho Code, and to read as follows:

48-1003C. AUTOMATIC DIALING-ANNOUNCING DEVICE.

(1) When a person intends to utilize an automatic dialing-announcing device to send a message by using or connecting to a telephone line, the person must, at the outset of the message, disclose the following:

(a) The name of the person for whom the message is being made;

(b) The purpose of the message; and

(c) The contact information of the caller.

(2) As used in this section:

(a) "Automatic dialing-announcing device" means a device that selects and dials telephone numbers and that, working alone or in conjunction with other equipment, disseminates a prerecorded or synthesized voice message to the telephone number called.

(b) "Caller" means a person who contacts, or attempts to contact, a subscriber in this state by using an automatic dialing-announcing device.

(c) "Subscriber" means a person who has subscribed to telephone service from a telephone company, or other persons living or residing with the subscribing person.

Approved March 27, 2007.

CHAPTER 204
(H.B. No. 241)

AN ACT

RELATING TO WATER; AMENDING SECTION 42-620, IDAHO CODE, TO REVISE WATER DISTRICT EXPENSE PROVISIONS RELATING TO COSTS OF THE DEPARTMENT OF WATER RESOURCES FOR ADMINISTRATION OF CERTAIN WATER RIGHTS AND TO PROVIDE FOR AN APPROPRIATION REQUEST.

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

SECTION 1. That Section 42-620, Idaho Code, be, and the same is hereby amended to read as follows:

42-620. ADDITIONAL WATER DISTRICT EXPENSES RELATING TO COSTS OF THE DEPARTMENT OF WATER RESOURCES FOR ADMINISTRATION OF WATER RIGHTS ON THE EASTERN SNAKE RIVER PLAIN. (1) The director of the department of water resources shall create or modify water districts pursuant to section 42-604, Idaho Code, to administer all water rights from water sources hydraulically connected to the Eastern Snake Plain Aquifer (ESPA). In adopting a budget under section 42-612, Idaho Code, ~~the water users in~~ each such water district, beginning in ~~2006~~ fiscal year 2008, shall include the department's costs, not otherwise funded from other sources, for monitoring conditions of the ESPA, updating the ESPA ground water model, updating surface water modeling tools, and updating accounting for water rights. The department's costs shall be apportioned ~~between~~ among water districts based on the amount of water delivered in the same manner as provided in sections 42-605A and 42-612, Idaho Code, provided a factor or factors developed by the director in consultation with the advisory committee designated under subsection (2) of this section,

shall be applied to each district to obtain an approximate overall balance in the apportionment of the department's costs between surface water diversions and ground water diversions subject to the payment of these costs. The factor for surface water diversions shall fairly apportion costs between consumptive and nonconsumptive diversions.

(2) At its annual meeting, each water district distributing water among rights from water sources hydraulically connected to the ESPA shall select one (1) or more water user representative(s) from within the district to serve on an advisory committee to the director of the department of water resources for purposes of implementing the provisions of this section. ~~The number of water users to be selected to serve on the advisory committee from each water district shall be apportioned based on the amount of water delivered in each water district.~~

(3) The total amount of the department's costs to be included pursuant to subsection (1) of this section shall not exceed one million two hundred thousand dollars ($1,200,000) in 2005 dollars, multiplied by the inflation factor for each year as determined by the joint finance-appropriations committee of the legislature.

(4) The director of the department of water resources shall request an appropriation from the state general fund to the department's annual budget in an amount of not less than fifty percent (50%) of the costs of the requirements of subsection (1) of this section. This appropriation is to be used exclusively for the implementation of the requirements of subsection (1) of this section.

Approved March 27, 2007.

CHAPTER 205
(H.B. No. 243)

AN ACT

RELATING TO RECORDS EXEMPT FROM DISCLOSURE; AMENDING SECTION 9-340D, IDAHO CODE, TO PROVIDE THAT CERTAIN RECORDS OF LABORATORY TEST RESULTS CONDUCTED BY THE IDAHO STATE DEPARTMENT OF AGRICULTURE SEED LABORATORY ARE EXEMPT FROM DISCLOSURE.

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 25-207B, 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 confidentiality; 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.

(24) 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.

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

Approved March 27, 2007.

CHAPTER 206
(H.B. No. 244)

AN ACT

RELATING TO RECORDS EXEMPT FROM DISCLOSURE; AMENDING SECTION 9-340D, IDAHO CODE, TO PROVIDE THAT CERTAIN RECORDS OF LABORATORY TEST RESULTS CONDUCTED BY THE IDAHO STATE DEPARTMENT OF AGRICULTURE ANIMAL HEALTH LABORATORY ARE EXEMPT FROM DISCLOSURE.

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 25-207B, 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 confidentiality; 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.

(24) 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.

(25) Results of laboratory tests which have no known adverse impacts to human health conducted by the Idaho state department of agriculture animal health laboratory, related to diagnosis of animal diseases of individual animals or herds, on samples submitted by veterinarians or animal owners unless:

(a) The laboratory test results indicate the presence of a state or federally reportable or regulated disease in animals;

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

(c) The test result is identified as representing a threat to animal or human health or to the livestock industry by the Idaho state department of agriculture or the United States department of agriculture. 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, or the duty of any person to report contagious or infectious diseases as required by state or federal law.

Approved March 27, 2007.

CHAPTER 207
(H.B. No. 282)

AN ACT
APPROPRIATING MONEYS FOR SPECIAL PROGRAMS FOR FISCAL YEAR 2008; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Board of Regents of the University of Idaho and the State Board of Education for Special Programs 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, 2007, through June 30, 2008:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. FOREST UTILIZATION RESEARCH:					
FROM:					
General Fund	$ 531,400	$ 95,200			$ 626,600
II. IDAHO GEOLOGICAL SURVEY:					
FROM:					
General Fund	$ 838,600	$ 26,200	$10,000		$ 874,800
III. SCHOLARSHIPS AND GRANTS:					
FROM:					
General Fund				$7,537,500	$ 7,537,500
Federal Grant Fund				440,000	440,000
TOTAL				$7,977,500	$ 7,977,500
IV. IDAHO MUSEUM OF NATURAL HISTORY:					
FROM:					
General Fund	$ 533,900	$ 13,800	$47,800		$ 595,500
V. IDAHO SMALL BUSINESS DEVELOPMENT CENTERS:					
FROM:					
General Fund	$ 302,700				$ 302,700
VI. IDAHO COUNCIL ON ECONOMIC EDUCATION:					
FROM:					
General Fund				$ 57,500	$ 57,500
VII. TECHHELP:					
FROM:					
General Fund	$ 176,200				$ 176,200
GRAND TOTAL	$2,382,800	$135,200	$57,800	$8,035,000	$10,610,800

SECTION 2. In accordance with Section 67-3519, Idaho Code, there is hereby authorized no more than forty-eight and ninety-two hundredths (48.32) full-time equivalent positions at any point during the period July 1, 2007, through June 30, 2008, for the Forest Utilization Research Program, Idaho Geological Survey Program, the Idaho Museum of Natural History, Small Business Development Centers, and TechHelp as 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.

Approved March 27, 2007.

CHAPTER 208
(H.B. No. 283)

AN ACT

APPROPRIATING MONEYS FOR THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 2008; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; EXPRESSING LEGISLATIVE INTENT REGARDING RESOURCE SHARING; DIRECTING THE DISTRIBUTION OF THE FUNDING FOR EMPLOYEE COMPENSATION; DIRECTING THE ALLOCATION OF SALARY SAVINGS; AND EXPRESSING LEGISLATIVE INTENT REGARDING FUNDING FOR NEW COMMUNITY COLLEGES.

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

SECTION 1. There is hereby appropriated to the State Board of Education for the Office of the State Board of Education the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2007, through June 30, 2008:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
OFFICE OF THE STATE BOARD OF EDUCATION:					
FROM:					
General Fund	$1,545,900	$ 4,110,300	$2,000	$5,087,500	$10,745,700
Indirect Cost Recovery Fund	35,000	50,000			85,000
Federal Grant Fund	503,800	6,168,400		1,864,400	8,536,600
Miscellaneous Revenue Fund	7,000	123,200		10,200	140,400
TOTAL	$2,091,700	$10,451,900	$2,000	$6,962,100	$19,507,700

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Office of the State Board of Education is authorized no more than twenty-seven (27) full-time equivalent positions at any point during the period July 1, 2007, through June 30, 2008, 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 Legislature reaffirms that the Division of Professional-Technical Education and the Office of the State Board of Education each play unique and vital roles in the state's educational system. The Legislature authorizes these agencies to share administrative resources only to the extent necessary to achieve readily obtainable administrative efficiencies. The shared resources authorized in this section shall be narrowly defined as reception services. Each division administrator shall retain management decision-making autonomy over their respective divisions. The employees of the Division of Professional-Technical Education shall not be considered or used as adjunct staff by the Office of the State Board of Education. Under no circumstances shall this arrangement impair the individual ability of these agencies to fulfill their individual missions. This authorization is automatically withdrawn to the extent it is found to be inconsistent with laws or regulations pertaining to the use of federal or dedicated funds. The Legislature shall review this authorization each year and reserve its prerogative to withdraw it at any time.

SECTION 4. Agencies and institutions shall distribute the funding for employee compensation based on merit as follows:

(a) Agencies and institutions are directed to, based on merit, target funding first toward high turnover classifications and individuals below midpoint within their agency.
(b) Agencies and institutions are directed to, based on merit, target funding second toward positions within their agency that are below ninety percent (90%) of the Compa-Ratio.
(c) Agencies and institutions are directed to target any remaining funding based on merit using the merit matrix required by Idaho Code.

Agencies and institutions shall create compensation and distribution plans to ensure that they are consistent with the policies contained herein. Agency directors and institutional presidents shall approve all compensation and distribution plans and ensure that implementation of the plans is consistent with policies contained herein. Each agency and institution shall forward, for informational purposes, approved copies of the compensation and distribution plans to the Legislative Services Office and the Division of Financial Management by June 1, 2007. The effective date of implementation of ongoing salary adjustments shall be June 17, 2007.

SECTION 5. The Office of the State Board of Education 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 6. The Legislature seeks to encourage local communities to establish new community college districts under existing law. As such, it is legislative intent that a newly formed community college district shall be eligible for up to $5,000,000 in ongoing General Fund moneys. The State Board of Education shall evaluate the business and operating plans of any newly created community college in determining the amount of General Fund moneys the college is eligible to receive. Any portion of the $5,000,000 which is not allocated to a new college shall be reverted to the General Fund. In the event that more than one (1) district is formed, and the Board determines that additional funding is necessary, the Board may request additional funding as a part of the annual budget process.

Approved March 27, 2007.

CHAPTER 209
(H.B. No. 284)

AN ACT

APPROPRIATING MONEYS FOR THE AGRICULTURAL RESEARCH AND COOPERATIVE EXTENSION SERVICE PROGRAM FOR FISCAL YEAR 2008; REAPPROPRIATING ANY UNEXPENDED AND UNENCUMBERED FUND BALANCES; AND SETTING FORTH THE CONDITIONS FOR REAPPROPRIATION.

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

SECTION 1. There is hereby appropriated to the Board of Regents of the University of Idaho for the Agricultural Research and Cooperative Extension Service Program the following amounts from the listed funds for the period July 1, 2007, through June 30, 2008:

FROM:	
General Fund	$27,665,700
Equine Education Fund	50,000
Miscellaneous Revenue Fund (Uncontrolled)	189,900
Federal Grant Fund (Uncontrolled)	4,782,000
TOTAL	$32,687,600

SECTION 2. There is hereby reappropriated to the Board of Regents for the University of Idaho for the Agricultural Research and Cooperative Extension Service, subject to the provisions of Section 3 of this act, the unexpended and unencumbered balance of any appropriation contained in Section 1, Chapter 325, Laws of 2006, to be used for nonrecurring expenditures, for the period July 1, 2007, through June 30, 2008.

SECTION 3. The reappropriation for the General Fund moneys granted in Section 2 of this act shall be subject to the following provisions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 2007, is zero, the reappropriation for the General Fund moneys in Section 2 is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 2007, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, that amount reappropriated in Section 2 of this act shall be in the proportion that the reappropriation for the Board of Regents for the University of Idaho for the Agricultural Research and Cooperative Extension Service bears to the total General Fund reappropriation authority granted to all state agencies.

Approved March 27, 2007.

CHAPTER 210
(H.B. No. 285)

AN ACT

APPROPRIATING MONEYS FOR COMMUNITY COLLEGE SUPPORT FOR FISCAL YEAR 2008; AND EXPRESSING LEGISLATIVE INTENT IN REGARD TO ALLOCATION OF GENERAL FUNDS.

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

SECTION 1. There is hereby appropriated to the State Board of Education for Community College Support the following amount to be expended according to the designated expense class from the listed funds for the period July 1, 2007, through June 30, 2008:

FOR:	
Trustee and Benefit Payments	$23,887,700
FROM:	
General Fund	$23,587,700
Community College Fund	300,000
TOTAL	$23,887,700

SECTION 2. The General Fund moneys appropriated in Section 1 of this act shall be allocated pursuant to the formula as agreed to and set forth in the 2006 document entitled "College of Southern Idaho and North Idaho College: State General Fund Distribution Process."

Approved March 27, 2007.

CHAPTER 211
(H.B. No. 286)

AN ACT

APPROPRIATING MONEYS FOR PROFESSIONAL-TECHNICAL EDUCATION FOR FISCAL YEAR 2008; REAPPROPRIATING ANY UNEXPENDED AND UNENCUMBERED BALANCES; SETTING FORTH THE CONDITIONS FOR REAPPROPRIATION; EXPRESSING LEGISLATIVE INTENT REGARDING RESOURCE SHARING; DIRECTING THE DISTRIBUTION OF THE FUNDING FOR EMPLOYEE COMPENSATION; AND DIRECTING THE USE OF SALARY SAVINGS.

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

SECTION 1. There is hereby appropriated to the State Board for Professional-Technical Education the following amounts to be expended by the Division of Professional-Technical Education for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2007, through June 30, 2008:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
I. STATE LEADERSHIP AND TECHNICAL ASSISTANCE:						
FROM:						
General Fund	$1,656,300	$341,200	$35,000			$ 2,032,500
Federal Grant Fund	328,500	16,100				344,600
TOTAL	$1,984,800	$357,300	$35,000			$ 2,377,100
II. GENERAL PROGRAMS:						
FROM:						
General Fund	$ 235,900	$ 42,400	$15,400	$11,194,700		$11,488,400
Hazardous Materials/ Waste Enforcement Fund				67,800		67,800
Federal Grant Fund	171,700	9,300		4,877,200		5,058,200
TOTAL	$ 407,600	$ 51,700	$15,400	$16,139,700		$16,614,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
III. POSTSECONDARY PROGRAMS:						
FROM:						
General Fund					$37,618,500	$37,618,500
Unrestricted Fund					456,200	456,200
TOTAL					$38,074,700	$38,074,700
IV. UNDERPREPARED ADULTS/DISPLACED HOMEMAKERS:						
FROM:						
General Fund				$ 239,100		$ 239,100
Displaced Homemaker Fund				170,000		170,000
Federal Grant Fund				2,020,700		2,020,700
TOTAL				$ 2,429,800		$ 2,429,800
V. CAREER INFORMATION SYSTEM:						
FROM:						
General Fund	$ 187,600	$ 28,900				$ 216,500
Miscellaneous Revenue Fund	358,500	144,700				503,200
TOTAL	$ 546,100	$173,600				$ 719,700
GRAND TOTAL	$2,938,500	$582,600	$50,400	$18,569,500	$38,074,700	$60,215,700

SECTION 2. There is hereby reappropriated to the State Board for Professional-Technical Education for the Division of Professional-Technical Education, subject to the provisions of Section 3 of this act, the unexpended and unencumbered balance of any appropriation contained in Section 1, Chapter 389, Laws of 2006, to be used for nonrecurring expenditures, for the period July 1, 2007, through June 30, 2008.

SECTION 3. The reappropriation for the General Fund moneys granted in Section 2 of this act shall be subject to the following provisions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 2007, is zero, the reappropriation for the General Fund moneys in Section 2 is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 2007, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, that amount reappropriated in Section 2 of this act shall be in the proportion that the reappropriation for the State Board of Education bears to the total General Fund reappropriation authority granted to all state agencies.

SECTION 4. The Legislature reaffirms that the Division of Professional-Technical Education and the Office of the State Board of Education each play unique and vital roles in the state's educational system. The Legislature authorizes these agencies to share administrative resources only to the extent necessary to achieve readily obtainable administrative efficiencies. The shared resources authorized in this section shall be narrowly defined as reception services. Each division administrator shall retain management decision-making autonomy over their respective divisions. The employees of the Division of Professional-Technical Education shall not be considered or used as adjunct staff by the Office of the State Board of Education. Under no circumstances shall this arrangement impair the individual ability of these agencies to fulfill their individual missions. This authorization is automatically withdrawn to the extent it is found to be inconsistent with laws or regulations pertaining to the use of federal or dedicated funds. The Legislature shall review this authorization each year and reserves its prerogative to withdraw it at any time.

SECTION 5. Agencies and institutions shall distribute the funding for employee compensation based on merit as follows:

(a) Agencies and institutions are directed to, based on merit, target funding first toward high turnover classifications and individuals below midpoint within their agency.

(b) Agencies and institutions are directed to, based on merit, target funding second toward positions within their agency that are below ninety percent (90%) of the Compa-Ratio.

(c) Agencies and institutions are directed to target any remaining funding based on merit using the merit matrix required by Idaho Code.

Agencies and institutions shall create compensation and distribution plans to ensure that they are consistent with the policies contained herein. Agency directors and institutional presidents shall approve all compensation and distribution plans and ensure that implementation of the plans is consistent with policies contained herein. Each agency and institution shall forward, for informational purposes, approved copies of the compensation and distribution plans to the Legislative Services Office and the Division of Financial Management by June 1, 2007. The effective date of implementation of ongoing salary adjustments shall be June 17, 2007.

SECTION 6. The Division of Professional-Technical Education 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 27, 2007.