GENERAL LAWS

OF THE

STATE OF IDAHO

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

Convened January 7, 2008
Adjourned April 2, 2008

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
(H.B. No. 373)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE ATTORNEY GENERAL FOR FISCAL YEAR 2008; 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 177, Laws of 2007, there is hereby appropriated to the Attorney General for State and Legal Services the sum of $95,000 from the Federal Grant Fund for personnel costs, for the period July 1, 2007, through June 30, 2008.

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

Approved February 7, 2008.

CHAPTER 2
(H.B. No. 374)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE STATE CONTROLLER FOR FISCAL YEAR 2008; 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 322, Laws of 2007, there is hereby appropriated to the State Controller the following amount, to be expended for the designated program according to the designated expense class from the listed fund for the period July 1, 2007, through June 30, 2008:

COMPUTER CENTER:

FOR:	
Operating Expenditures	$1,700,000
FROM:	
Data Processing Services 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 February 7, 2008.

CHAPTER 3
(S.B. No. 1308)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF COMMERCE FOR FISCAL YEAR 2008; 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 367, Laws of 2007, there is hereby appropriated to the Department of Commerce the sum of $1,120,000 from the Business and Jobs Development Fund for trustee and benefit payments for the period July 1, 2007, through June 30, 2008.

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

Approved February 8, 2008.

CHAPTER 4
(S.B. No. 1309)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF SELF-GOVERNING AGENCIES; AMENDING SECTION 2, CHAPTER 230, LAWS OF 2007, TO REVISE THE APPROPRIATION TO THE SELF-GOVERNING AGENCIES FOR THE MEDICAL BOARDS; AMENDING SECTION 3, CHAPTER 230, LAWS OF 2007, TO REVISE THE APPROPRIATION TO THE DEPARTMENT OF SELF-GOVERNING AGENCIES FOR THE REGULATORY BOARDS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 2, Chapter 230, Laws of 2007, is hereby amended to read as follows:

SECTION 2. There is hereby appropriated to the Department of Self-Governing Agencies for the medical boards 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	TOTAL
I. BOARD OF DENTISTRY:				
FROM:				
State Regulatory Fund	$ 203,800	$ 148,300	$ 2,500	$ 354,600
II. BOARD OF MEDICINE:				
FROM:				
State Regulatory Fund	$ 754,700	$ 675,100	$ 9,400	$1,439,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
III. BOARD OF NURSING:				
FROM:				
State Regulatory Fund	$ 503,600	$ 338,300	$ 6,800	$ 848,700
IV. BOARD OF PHARMACY:				
FROM:				
Federal Grant Fund	$ ~~21,000~~	$ ~~115,300~~		$ ~~136,300~~
	54,000	33,500		87,500
State Regulatory Fund	660,900	260,100	$50,500	$ 971,500
TOTAL	$ ~~681,900~~	$ ~~375,400~~	$50,500	$~~1,107,800~~
	714,900	293,600		1,059,000
V. BOARD OF VETERINARY MEDICINE:				
FROM:				
State Regulatory Fund	$ 107,000	$ 97,000	$ 3,400	$ 207,400
GRAND TOTAL	$~~2,251,000~~	$~~1,634,100~~	$72,600	$~~3,957,700~~
	2,284,000	1,552,300		3,908,900

SECTION 2. That Section 3, Chapter 230, Laws of 2007, is hereby amended to read as follows:

SECTION 3. There is hereby appropriated to the Department of Self-Governing Agencies for the regulatory boards 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. BOARD OF ACCOUNTANCY:					
FROM:					
State Regulatory Fund	$ 239,400	$ 186,700			$ 426,100
II. BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS:					
FROM:					
State Regulatory Fund	$ ~~307,900~~	$ ~~232,100~~			$ ~~540,000~~
	299,500	302,100	$ 1,000		602,600
III. BOARD OF PROFESSIONAL GEOLOGISTS:					
FROM:					
State Regulatory Fund	$ 32,800	$ 22,000			$ 54,800
IV. BUREAU OF OCCUPATIONAL LICENSES:					
FROM:					
State Regulatory Fund	$1,553,700	$1,238,200	$ 4,600	$52,500	$2,849,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
V. CERTIFIED SHORTHAND REPORTERS BOARD:					
FROM:					
State Regulatory Fund	$ 15,200	$ 14,000			$ 29,200
VI. OUTFITTERS AND GUIDES BOARD:					
FROM:					
State Regulatory Fund	$ 344,200	$ 212,100	$12,000		$ 568,300
VII. REAL ESTATE COMMISSION:					
FROM:					
State Regulatory Fund	$ 866,700	$ 527,500	$10,000		$1,404,200
GRAND TOTAL	~~$3,359,900~~ 3,351,500	~~$2,432,600~~ 2,502,600	~~$26,600~~ 27,600	$52,500	~~$5,071,600~~ 5,934,200

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

Approved February 8, 2008.

CHAPTER 5
(H.B. No. 340)

AN ACT

RELATING TO THE RETENTION OF TAX RECORDS; AMENDING SECTION 63-218, IDAHO CODE, TO PROVIDE THAT THE STATE TAX COMMISSION OR ANY POLITICAL SUBDIVISION MAY RETAIN TAX DOCUMENTS IN A FORM OR MEDIUM DIFFERENT FROM THAT IN WHICH THEY ARE RECEIVED IF THE DOCUMENT MAY BE ACCURATELY REPRODUCED, TO ALLOW FOR DISPOSAL OR DESTRUCTION OF ORIGINAL DOCUMENTS AND TO PROVIDE THE EFFECT OF SUCH REPRODUCED OR ORIGINAL RECORDS; AND AMENDING SECTION 63-3071, IDAHO CODE, TO PROVIDE AN EXCEPTION TO THE RETENTION OF INCOME TAX RETURNS WHEN REPRODUCED AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 63-218, Idaho Code, be, and the same is hereby amended to read as follows:

63-218. REPRODUCTION OF RECORDS -- DESTRUCTION OF ORIGINALS AUTHORIZED -- ADMISSIBILITY IN EVIDENCE. ~~--PREVALENCE OVER PREVIOUS LAW.~~ (1) The state tax commission or any political subdivision of the state of Idaho ~~is hereby authorized to photograph, microphotograph, film or reproduce by other technological means any document or record kept by it, or any tax return or report filed with it by any taxpayer or other~~

~~person,~~ may retain any document in a different form or medium from that in which it is received, provided that the form or medium in which the document is retained results in a permanent record which may be accurately reproduced during the period for which the document must be retained under any tax law administered or enforced by the state tax commission. ~~Upon reproducing such return, report or record, the state tax commission or any political subdivision of the state of Idaho in its discretion~~ The original document, once reproduced, may ~~cause the original records from which reproductions have been made, or any part thereof, to~~ be disposed of or destroyed~~; provided however, that original tax returns shall be retained for not less than one (1) year.~~

(2) ~~Photographs, microphotographs, films or other reproductions by technological means of any record as herein provided, shall have the same force and effect as the originals thereof would have had, and shall be treated as originals for the purpose of their admissibility in evidence. Duly certified or authenticated reproductions shall be admitted in evidence equally with the original documents~~ A document retained in any form or medium permitted under this section shall be deemed to be an original public record for all purposes. A reproduction or copy of such a document, certified by a state officer, shall be deemed to be a transcript or certified copy of the original, and shall be admissible in any court or administrative hearing.

SECTION 2. That Section 63-3071, Idaho Code, be, and the same is hereby amended to read as follows:

63-3071. DESTRUCTION OF OLD RETURNS. After the expiration of the period of limitations fixed in section 63-3068, Idaho Code, the state tax commission may destroy old returns unless an earlier destruction is authorized in section 63-218, Idaho Code.

Approved February 8, 2008.

CHAPTER 6
(H.B. No. 342)

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, 200~~7~~8.

(b) Provisions of the Internal Revenue Code amended, deleted, or added prior to the effective date of the latest amendment to this sec-

tion 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, 2008.

Approved February 8, 2008.

CHAPTER 7
(H.B. No. 341)

AN ACT

RELATING TO PROPERTY TAX AND TAXING DISTRICT BOUNDARIES; AMENDING SECTION 63-215, IDAHO CODE, TO REQUIRE THE STATE TAX COMMISSION TO REVIEW TAXING DISTRICT BOUNDARIES FOR COMPLIANCE WITH PROVISIONS OF IDAHO LAW RELATING TO BOUNDARIES AND TO AUTHORIZE THE STATE TAX COMMISSION TO DIRECT THAT THE NONCOMPLIANT BOUNDARIES NOT BE RECOGNIZED.

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

SECTION 1. That Section 63-215, Idaho Code, be, and the same is hereby amended to read as follows:

63-215. LEGAL DESCRIPTION AND MAP OF BOUNDARIES TO BE RECORDED AND FILED. (1) Any taxing district which shall be formed or organized hereafter, or which shall change any existing boundaries hereafter, shall cause one (1) copy of the legal description and map prepared in a draftsmanlike manner which shall plainly and clearly designate the boundaries of such district or municipality as formed or organized, or as altered, to be recorded with the county recorder and filed with the county assessor in the counties within which the unit is located and with the state tax commission within thirty (30) days following the effective date of such formation, organization or alteration but no later than the tenth day of January of the year following such formation, organization or alteration. In the case of fire protection districts, the board of county commissioners approving the boundaries shall be responsible for delivering to the assessor and recorder the map and legal description of the amended district boundaries.

(2) Urban renewal agencies shall comply with the requirements of subsection (1) of this section when a revenue allocation area within the jurisdiction of the urban renewal agency is formed or when the boundaries of such an area are altered.

(3) The state tax commission shall review filings required by subsections (1) and (2) of this section and if the commission finds that the formation of a district or a change in a district's boundaries fails to provide a proper legal description or fails to correctly identify the boundaries or does not comply with Idaho law relating to boundaries, the state tax commission may direct that the formation or change not be rec-

ognized. The state tax commission's review shall not include matters relating to notice, open meeting law requirements or compliance with provisions in Idaho law not relating to boundaries.

(4) The county assessor, county auditor and state tax commission shall retain on file in their respective offices all copies of legal descriptions of taxing district boundaries and maps filed by the various taxing jurisdictions authorized to impose a levy on property.

(~~4~~5) The state tax commission shall be responsible for providing copies of uniform tax code area numbers and maps to the county assessor, county auditor and county treasurer and various companies having operating property subject to assessment in the state of Idaho and under the jurisdiction of the state tax commission for assessment and taxation purposes.

(~~5~~6) Unless otherwise specifically authorized to form with noncontiguous boundaries, or to annex or de-annex properties so as to make noncontiguous boundaries, all taxing districts shall form with and maintain contiguous boundaries.

Approved February 13, 2008.

CHAPTER 8
(H.B. No. 343)

AN ACT

RELATING TO THE TAX REMITTED TO THE PERMANENT BUILDING FUND; AMENDING SECTION 63-3083, IDAHO CODE, TO REVISE THE DEFINITION OF "PERSON"; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-3083, Idaho Code, be, and the same is hereby amended to read as follows:

63-3083. "PERSON" DEFINED. "Person" as used in ~~this act shall~~ sections 63-3082 through 63-3087, Idaho Code, means any ~~corporation,~~ individual, or ~~estate, trust, or tax option corporation,~~ entity required to file a return under section 63-3030, Idaho Code, unless all of the income ~~of which is neither~~ or loss is distributed ~~nor~~ or otherwise reportable as a part of the taxable income of another taxpayer and the entity does not have any Idaho taxable income.

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, 2008.

Approved February 13, 2008.

CHAPTER 9
(H.B. No. 344)

AN ACT

RELATING TO INCOME TAX WITHHOLDING; AMENDING SECTION 63-3035, IDAHO CODE, TO REVISE THE DATE FOR FILING EMPLOYER RETURNS, TO REQUIRE THAT THE RETURN SHOW THE AMOUNT OF ANY DEFICIENCY OR REFUND DUE, TO PROVIDE THAT A COPY OF THE DECLARATION OF WITHHOLDING PROVIDED TO EMPLOYEES BE INCLUDED WITH THE RETURN AND TO MAKE TECHNICAL CORRECTIONS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 63-3035, Idaho Code, be, and the same is hereby amended to read as follows:

63-3035. STATE WITHHOLDING TAX ON PERCENTAGE BASIS -- WITHHOLDING, COLLECTION AND PAYMENT OF TAX. (a) Every employer who is required under the provisions of the Internal Revenue Code to withhold, collect and pay income tax on wages or salaries paid by such employer to any employee (other than employees specified in Internal Revenue Code section 3401(a)(2)) shall, at the time of such payment of wages, salary, bonus or other emolument to such employee, deduct and retain therefrom an amount substantially equivalent to the tax reasonably calculated by the state tax commission to be due from the employee under this chapter. The state tax commission shall prepare tables showing amounts to be withheld, and shall supply same to each employer subject to this section. In the event that an employer can demonstrate administrative inconvenience in complying with the exact requirements set forth in these tables, he may, with the consent of the state tax commission and upon application to it, use a different method which will produce substantially the same amount of taxes withheld. Every employer making payments of wages or salaries earned in Idaho, regardless of the place where such payment is made:

(1) ~~s~~Shall be liable to the state of Idaho for the payment of the tax required to be deducted and withheld under this section and shall not be liable to any individual for the amount deducted from his wages and paid over in compliance or intended compliance with this section;

(2) ~~m~~Must pay to the state tax commission monthly on or before the 20th day of the succeeding month, or at such other times as the state tax commission may allow, an amount of tax which, under the provisions of this chapter, he is required to deduct and withhold;

(3) ~~s~~Shall register with the state tax commission, in the manner prescribed by it, to establish an employer's withholding account number. The account number will be used to report all amounts withheld, for the annual reconciliation required in this section, and for such other purposes relating to withholding as the state tax commission may require; and

(4) ~~m~~Must, notwithstanding the provisions of paragraphs (1) and (2) of this subsection, if the amount of withholding of such employer for the preceding twelve (12) month period equals or exceeds two hundred forty thousand dollars ($240,000) per annum or an average of

twenty thousand dollars ($20,000) per month per annum, pay to the state tax commission on the basis of withholding periods which begin on the 16th day of the month and end on the 15th day of the following month, and payment shall be made not later than five (5) days after the end of the withholding period.

(5) If a payment required pursuant to subsection (a)(2) or (a)(4) of this section is not made or is made delinquently or if made is not equal to the withholding required under this section the state tax commission may treat the failure as a failure to file a return and may take administrative and judicial actions as authorized by this chapter in the case of a failure to file a return. Interest, at the rate provided by section 63-3045, Idaho Code, shall apply to any such underpayment.

(6) Commencing in 2006, the state tax commission shall determine whether the threshold amounts established by subsection (a)(4) of this section must be adjusted to reflect fluctuations in the cost of living. The commission shall base its determination on the cumulative effect of the annual cost-of-living percentage modifications determined by the United States secretary of health and human services pursuant to 42 USC 415(i). When the cumulative percentage applied to the monthly threshold amount equals or exceeds five thousand dollars ($5,000), the commission shall promulgate a rule adjusting the monthly threshold amount by five thousand dollars ($5,000) and making the necessary proportional adjustment to the annual threshold amount. The rule shall be effective for the next succeeding calendar year and each year thereafter until again adjusted by the commission. The tax commission shall determine subsequent adjustments in the same manner, in each case using the year of the last adjustment as the base year.

(b) (1) In addition to the payments required pursuant to subsections (a)(2) and (a)(4) of this section, every employer shall file a return upon such form as shall be prescribed by the state tax commission, but not more frequently than annually, or as required pursuant to any agreement between the state tax commission and the department of labor under section 63-3035B, Idaho Code, unless a shorter filing period and due date is prescribed by the state tax commission. The return shall be due on the last day of the <u>second</u> month following the end of the period to which the return relates. The return shall:

<u>(i) S</u>show<u>,</u> for the period to which it relates, the total amount of wages, salary, bonus or other emolument paid to his employees, the amount deducted therefrom in accordance with the provisions of the Internal Revenue Code, the amount deducted therefrom in accordance with the provisions of this section, the amount of any previous payments made pursuant to this section, <u>the amount of any deficiency due from the employer or refund payable by the state tax commission</u> and such pertinent and necessary information as the state tax commission may require.

<u>(ii) Include a copy of the declaration of withholding provided to employees pursuant to subsection (b)(2) of this section.</u>

(2) Every employer making a declaration of withholding as provided herein shall furnish to the employees annually, but not later than thirty (30) days after the end of the calendar year, a record of the

amount of tax withheld from such employee on forms to be prescribed, prepared and furnished by the state tax commission. ~~and on or before the last day of February every employer shall file a copy thereof with the state tax commission;~~

(3) Every employer who is required, under Internal Revenue Code section 6011, to file returns on magnetic media, machine readable form or electronic means, as defined in the Idaho uniform electronic transaction act, may be required by rules of the state tax commission to file corresponding state returns on similar magnetic media, machine readable form or electronic means. Such rules may provide a different due date for such returns which shall be no later than the date employers are required to file such returns with the internal revenue service or the social security administration.

(c) All moneys deducted and withheld by every employer shall immediately upon such deduction be state money and every employer who deducts and retains any amount of money under the provisions of this chapter shall hold the same in trust for the state of Idaho and for the payment thereof to the state tax commission in the manner and at the times in this chapter provided. Any employer who does not possess real property situated within the state of Idaho, which, in the opinion of the state tax commission, is of sufficient value to cover his probable tax liability, may be required to post a surety bond in such sum as the state tax commission shall deem adequate to protect the state.

(d) The provisions of this chapter relating to additions to tax in case of delinquency, and penalties, shall apply to employers subject to the provisions of this section and for these purposes any amount deducted, or required to be deducted and remitted to the state tax commission under this section, shall be considered to be the tax of the employer and with respect to such amount he shall be considered the taxpayer.

(e) Amounts deducted from wages of an employee during any calendar year in accordance with the provisions of this section shall be considered to be in part payment of the tax imposed on such employee for his tax year which begins within such calendar year and the return made by the employer under this subsection (e) shall be accepted by the state tax commission as evidence in favor of the employee of the amount so deducted from his wages. Where the total amount so deducted exceeds the amount of tax on the employee, based on his Idaho taxable income, or where his income is not taxable under this chapter, the state tax commission shall, after examining the annual return filed by the employee in accordance with this chapter, but not later than sixty (60) days after the filing of each return, refund the amount of the excess deducted.

(f) This section shall in no way relieve any taxpayer from his obligation of filing a return at the time required under this chapter, and, should the amount withheld under the provisions of this section be insufficient to pay the total tax of such taxpayer, such unpaid tax shall be paid at the time prescribed by section 63-3034, Idaho Code.

(g) An employee receiving wages shall on any day be entitled to not more than, but may claim fewer than, the number of withholding exemptions to which he is entitled under the Internal Revenue Code for federal income tax withholding purposes.

(h) An employer shall use the exemption certificate filed by the employee with the employer under the withholding exemption provisions of

the Internal Revenue Code in determining the amount of tax to be withheld from the employee's wages or salary under this chapter. The tax commission may redetermine the number of withholding exemptions to which an employee is entitled under subsection (g) of this section, and the state tax commission may require such exemption certificate to be filed on a form prescribed by the commission in any circumstance where the commission finds that the exemption certificate filed for Internal Revenue Code purposes does not properly reflect the number of withholding exemptions to which the employee is entitled under this chapter. In no event shall any employee give an exemption certificate which claims a higher number of withholding exemptions than the number to which the employee is entitled by subsection (g) of this section.

SECTION 2. This act shall be in full force and effect on and after January 1, 2009.

Approved February 13, 2008.

CHAPTER 10
(H.B. No. 345)

AN ACT

RELATING TO INCOME TAX; AMENDING SECTION 63-3068, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE.

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

SECTION 1. That Section 63-3068, Idaho Code, be, and the same is hereby amended to read as follows:

63-3068. PERIOD OF LIMITATIONS FOR ISSUING A NOTICE OF DEFICIENCY AND COLLECTION OF TAX. (a) Except as otherwise provided in this section, a notice of deficiency, as provided in section 63-3045, Idaho Code, for the tax imposed in this chapter shall be issued within three (3) years from either the due date of the return, without regard to extensions, or from the date the return was filed, whichever is later.

(b) If an assessment has been made as provided in this chapter, then such tax shall be collected either by levy, or by a proceeding brought in court, within a period of six (6) years from the date of entry of the record of assessment required by section 63-30445A, Idaho Code, of the tax and provided, further, that this shall not be in derogation of any of the remedies elsewhere provided in this chapter.

(c) In the case of a fraudulent return or a false return with the intent to evade the tax imposed in this chapter, or a willful attempt in any manner to defeat or evade the tax imposed in this chapter, a notice of deficiency may be issued, the tax may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time.

(d) In the case of a failure to file a return, for any reason, a notice of deficiency may be issued, the tax imposed in this chapter may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time.

(e) In the case of income received during the lifetime of a decedent, or by his estate during the period of administration, a notice of deficiency shall be issued, a claim shall be made, the tax shall be assessed or any proceeding in court without assessment for the collection of such tax shall be begun, within twelve (12) months after written request for prompt action is filed with the state tax commission by the executor, administrator, or other fiduciary representing the estate of such decedent. This subsection shall not apply if the return for which the request for prompt action relates has not been filed with the state tax commission.

(f) When Idaho taxable income or tax credits for any taxable year have been adjusted as a result of a final federal determination, the period of limitation for issuing a notice of deficiency 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 state tax commission by the taxpayer, 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 (a) and (m) 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.

(g) 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 resulting notice of deficiency may be issued even though such notice of deficiency would otherwise be barred under the provisions of this section.

(h) Notwithstanding any other provisions of this section, when an amended Idaho return is filed within the period of limitations as provided in subsections (a) and (m) of this section, the period of limitations for issuing a notice of deficiency shall be three (3) years from the date the amended return was filed. However, upon the expiration of the period of limitations as provided in subsections (a) and (m) of this section, only those specific items of income, deductions, gains, losses, or credits, which were adjusted in the amended Idaho return 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.

(i) If a taxpayer has filed an amended federal return, and no corresponding Idaho amended return has been filed with the state tax commission, then the period of limitations for issuing a notice of deficiency shall be reopened and shall not expire until three (3) years from the date of delivery to the tax commission by the taxpayer of the amended federal return. However, upon the expiration of the period of

limitations as provided in subsections (a) and (m) of this section, then only those specific items of income, deductions, gains, losses, or credits, which were adjusted in the amended federal return 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.

(j) Notwithstanding any other provisions of this section, a notice of deficiency, related to items on the return of any pass-through entity, as defined in this section, which other taxpayers are required by law to report, shall be issued to such other taxpayers within the later of three (3) years from the due date of the other taxpayers' return, without regard to extensions, three (3) years from the date the other taxpayers' returns were filed, or three (3) years from the date of filing of the pass-through entity's return. If the pass-through entity files an amended return, notices of deficiency may be issued to the other taxpayers within three (3) years from the date the amended return for the pass-through entity was filed with the state tax commission. If the pass-through entity files an amended return with the internal revenue service, or the internal revenue service issues a final determination to the pass-through entity, then the period of limitations for issuing a notice of deficiency to the other taxpayers shall be reopened and shall not expire until three (3) years from the date of delivery to the tax commission by the pass-through entity of the amended federal return or the later of one (1) year from the date of delivery to the state tax commission by the pass-through entity of the final federal determination, three (3) years from the due date of the pass-through entity's return, without regard to extensions, or three (3) years from the date the pass-through entity's return was filed.

(k) For purposes of this section, "pass-through entity" means a partnership, S-corporation, trust, limited liability company or any other entity whose items of income, deductions, gains, losses and credits must be reported by other taxpayer(s). For further purposes of this section, the term "other taxpayer" shall include, by way of unlimiting example, such taxpayers as partners, shareholders, beneficiaries, joint venturers or investors.

(l) In the case of a duplicate return filed under section 63-217(1)(b), Idaho Code, the limitation 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.

(m) Prior to the expiration of the time prescribed in this section for the issuance of a notice of deficiency for the tax imposed in this chapter, both the state tax commission, its delegate or deputy, and the taxpayer may consent in writing to extend the period of time within which a notice of deficiency may be issued. 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 this subsection, the period of limitations for the other taxpayers is automatically extended for the same period for the purpose of issuing a notice of deficiency to the other taxpayers reflecting the adjustments to the pass-through entity's return.

(n) The expiration of the period of limitations as provided in this section shall be suspended for the time period during which the state tax commission is prohibited from issuing a notice of deficiency, making

the assessment, or from collecting by levy or a proceeding in court, and for thirty (30) days thereafter.

(o) For the 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.

Approved February 13, 2008.

CHAPTER 11
(H.B. No. 346)

AN ACT

RELATING TO THE UNCLAIMED PROPERTY ACT; AMENDING SECTION 14-532, IDAHO CODE, TO EXCLUDE THE INTEREST RATE PROVISIONS OF SECTION 63-3045, IDAHO CODE.

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

SECTION 1. That Section 14-532, Idaho Code, be, and the same is hereby amended to read as follows:

14-532. ENFORCEMENT -- ACTIONS TO ENFORCE UNCLAIMED PROPERTY LAW. The collection and enforcement procedures provided by the Idaho income tax act, sections 63-3038, 63-3039, and 63-3042 through 63-3065A, Idaho Code, but excluding subsection (6) of section 63-3045, Idaho Code, shall apply and be available to the state tax commission for enforcement of the provisions of this chapter and collection of any property required to be transferred shall be treated in the same manner as taxes due the state of Idaho, and wherever liens or any other proceedings are defined as income tax liens or proceedings, they shall, when applied in enforcement of this chapter, be described as unclaimed property liens and proceedings.

Approved February 13, 2008.

CHAPTER 12
(H.B. No. 424)

AN ACT

RELATING TO THE APPROPRIATION TO THE BOARD OF TAX APPEALS FOR FISCAL YEAR 2008; AMENDING SECTION 1, CHAPTER 232, LAWS OF 2007, TO REVISE THE APPROPRIATION TO THE BOARD OF TAX APPEALS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 1, Chapter 232, Laws of 2007, be, and the same is hereby amended to read as follows:

SECTION 1. 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 funds for the period July 1, 2007, through June 30, 2008:

FOR:		
Personnel Costs	~~$364,400~~	384,400
Operating Expenditures	~~69,100~~	192,400
Capital Outlay	~~11,000~~	1,000
TOTAL	~~$444,500~~	577,800
FROM:		
General Fund	~~$444,500~~	577,800

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

Approved February 13, 2008.

CHAPTER 13
(S.B. No. 1259)

AN ACT

RELATING TO ALBERTSON COLLEGE OF IDAHO; AMENDING SECTION 49-418A, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 67-5205, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 49-418A, Idaho Code, be, and the same is hereby amended to read as follows:

49-418A. IDAHO COLLEGE AND UNIVERSITY PLATES. (1) Any person who is the owner of a vehicle registered under the provisions of section 49-402 or 49-434(1), Idaho Code, may apply for special plates featuring one (1) of Idaho's colleges or universities. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of Idaho college and university special license plates for other vehicles may be authorized by rule of the board.

(2) In addition to the regular operating fee, the applicant shall be charged a fee of thirty-five dollars ($35.00) for the initial issuance of the plates, and twenty-five dollars ($25.00) upon each succeeding annual registration. Ten dollars ($10.00) of the initial fee and ten dollars ($10.00) of the renewal fee shall be deposited in the state highway account to be used by the department to fund highway, road and bridge construction projects and to fund the cost of administration of this special license plate program. The department shall transfer twenty-five dollars ($25.00) of the initial fee and fifteen dollars ($15.00) of the renewal fee for deposit to the institution designated on the license plate.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may

transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates after receipt of new registration from the department.

(4) All special college and university plates shall be of a color and design comparable to the standard issue of license plates with blue numerals on a red, white and blue background and shall indicate the participating institution.

(a) The standard red, white and blue graphic shall be used, except that the word "Idaho" and "Famous Potatoes" shall appear on every plate, the identification of county shall be omitted, and the inscription "Scenic Idaho" may be omitted.

(b) Each college or university that chooses to participate in this program shall provide that portion of the design which features the particular institution and such design shall be acceptable to the president of the institution. For public colleges and universities, approval of the state board of education and board of regents of the university of Idaho shall also be required.

Each version of the special college and university plate featuring the participating college or university shall be approved by the department, utilizing a numbering system as determined by the department. Initial costs of the plate program, including the cost of plate design, shall be paid by the participating college or university.

(5) The state board of education and board of regents of the university of Idaho shall adopt rules to account for receipt and distribution of revenues accruing to participating public colleges and universities from the special license plate program. Revenues from the special plate program shall be used to:

(a) Fund scholarships for Idaho residents attending that college or university.

(b) Match funds contributed in equal amounts from nonstate sources for academic programs, provided that such expenditures for public colleges and universities shall be subject to prior approval by the state board of education and board of regents of the university of Idaho.

(6) For the purposes of this section, nonpublic colleges and universities shall mean and are limited to: ~~Albertson~~ The College of Idaho located in Caldwell, Idaho; Northwest Nazarene University located in Nampa, Idaho; and Brigham Young University-Idaho located in Rexburg, Idaho.

(7) Sample college and university license plates may be purchased from the department for a fee of thirty dollars ($30.00), ten dollars ($10.00) of which shall be retained by the department for deposit to the state highway account and twenty dollars ($20.00) of which shall be transferred by the department to the college or university designated on the license plate. No additional fee shall be charged for personalizing sample plates.

SECTION 2. That Section 67-5205, Idaho Code, be, and the same is hereby amended to read as follows:

67-5205. FORMAT -- COSTS -- DISTRIBUTION -- FUNDS. (1) The administrative code and the permanent supplements thereto shall be published in such a manner that every agency has an opportunity to procure at reasonable cost from the coordinator, individual printed pamphlet copies of

the rules and statements of policy of such agency published by authority of this chapter. No administrative rule or statement of policy published in the administrative code or the permanent supplements shall be reset or otherwise reprinted at public expense upon a format distinct from that of the administrative code without a certification by the coordinator that such special format is necessary for the effective performance by the agency of its functions.

(2) The prices to be charged for individual copies of and subscriptions to the administrative code, the permanent supplements thereto and the bulletin, for reprints and bound volumes thereof and for pamphlet rules and statements of policy, which prices may be fixed without reference to the restrictions placed upon and fixed for the sale of other publications of the state, and the number of copies which shall be distributed free for official use, in addition to those free copies required to be as provided in this section, shall be set by rules promulgated by the coordinator. The coordinator may set prices without reference to the restrictions placed upon the sale of other publications of the state. Free copies shall be distributed by the coordinator, as follows:

(a) One (1) to each county clerk for the use of the county law library.

(b) One (1) each to the senate and the house of representatives.

(c) One (1) to the attorney general.

(d) One (1) to the legislative services office.

(e) One (1) each to the state universities and colleges, and one (1) to each community college.

(f) One (1) to the state law library.

(g) One (1) to the commission for libraries.

(h) One (1) each to the following state depository libraries: Boise Public Library, East Bonner County Library, Idaho Falls Public Library, Lewiston City Library, Pocatello Library, ~~Albertson~~ The College of Idaho Library, Brigham Young University-Idaho Library and Twin Falls Public Library.

In addition to those free copies required to be distributed by this section, the coordinator shall provide to the legislature free copies of all rules subject to review by the legislature pursuant to section 67-5291, Idaho Code, and may distribute other free copies for official use.

(3) Without limiting the generality of the provisions of subsection (2) of this section, the rules of the coordinator may provide for volume discounts to be available to established law book publishers who agree to incorporate fully administrative rules, the permanent supplements thereto and the bulletin into their general scheme of promotion and distribution, and may provide for the free reciprocal exchange of publications between this state and other states and foreign jurisdictions. The provisions of this section include the authority to exchange, display, access and publish texts through electronic media.

(4) There is hereby created in the state treasury the administrative code fund. All moneys received from the production of rules, the sale of the administrative code, the permanent supplements thereto, or the bulletin, and for providing electronic access, shall be deposited in the fund. All agencies which have any material published in the bulletin, administrative code or supplements thereto, or newspapers, are hereby authorized and directed to pay out of their appropriations to the

coordinator their respective shares of the costs of publication and distribution of such material. All moneys placed in the fund may be appropriated to the coordinator for the administration of the provisions of this chapter, and for the publication and distribution of the bulletin, administrative code or supplements thereto, as authorized in this chapter.

The coordinator shall charge an annual fee to each participating agency for each page published in the administrative code not to exceed fifty-six dollars ($56.00) per page. In addition, the coordinator shall charge a fee to each participating agency for each page published in the bulletin not to exceed sixty-one dollars ($61.00) per page. A fee per page may be charged even though less than a full page of publication is required, and each participating agency shall promptly pay into the administrative code fund such charge.

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

Approved February 13, 2008.

CHAPTER 14
(H.B. No. 355)

AN ACT
RELATING TO CAPITOL COMMISSION LICENSE PLATES; AMENDING SECTION 49-420A, IDAHO CODE, TO DELETE THE EXPIRATION DATE.

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

SECTION 1. That Section 49-420A, Idaho Code, be, and the same is hereby amended to read as follows:

49-420A. IDAHO STATE CAPITOL COMMISSION PLATES. (1) On and after January 1, 2002, ~~and through December 31, 2012,~~ any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for and, upon department approval, receive special Idaho state capitol commission plates in lieu of regular license plates. ~~On and after January 1, 2013, the department shall not issue new plates pursuant to this section nor shall it renew any plates previously issued under this section, the provisions of section 49-443, Idaho Code, relating to time period for validity of plates, notwithstanding:~~

(2) The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of Idaho state capitol commission plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(3) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars ($35.00) for the initial issuance of plates, and twenty-

five dollars ($25.00) upon each succeeding annual registration. Ten dollars ($10.00) of the initial fee and ten dollars ($10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-five dollars ($25.00) of each initial fee and fifteen dollars ($15.00) of each renewal fee shall be deposited by the state treasurer in the Idaho capitol endowment income fund established in section 67-1611, Idaho Code, and shall be used exclusively for the purposes of chapter 16, title 67, Idaho Code.

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

(5) Notwithstanding the provisions of section 49-402C, Idaho Code, the Idaho state capitol commission license plate shall be of a color and design acceptable to the Idaho state capitol commission, except that the word "Idaho" shall appear on each plate and the county designator shall be omitted to provide for distinguishing designs and slogans. The design shall be approved by the department, utilizing a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the Idaho state capitol commission.

(6) Sample Idaho state capitol commission license plates may be purchased for a fee of thirty dollars ($30.00), ten dollars ($10.00) of which shall be deposited in the state highway account and twenty dollars ($20.00) of which shall be deposited in the Idaho capitol endowment income fund. No additional fee shall be charged for personalizing sample plates.

Approved February 19, 2008.

CHAPTER 15
(H.B. No. 361)

AN ACT

RELATING TO THE BOARD OF SOCIAL WORK EXAMINERS; AMENDING SECTION 54-3204, IDAHO CODE, TO AUTHORIZE THE BOARD TO ESTABLISH BY RULE AN INACTIVE LICENSE STATUS.

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

SECTION 1. That Section 54-3204, Idaho Code, be, and the same is hereby amended to read as follows:

54-3204. BOARD -- POWERS AND DUTIES. The board shall have the following powers and duties:

(1) Adopt and amend rules to administer and carry out the provisions of this chapter and for the conduct of its affairs, provided that such rules shall be promulgated in accordance with the provisions of chapters 26 and 52, title 67, Idaho Code;

(2) Maintain a list of the names and addresses of all persons licensed under this act;

(3) At its discretion, contract with the bureau of occupational licenses for those services deemed necessary for the proper administration of this chapter;

(4) To prescribe by rule the minimum amount and kind of continuing education to be required of each social worker seeking to renew a license in the state of Idaho;

(5) To establish by rule an inactive license status;

(6) To take such action as may be necessary to enforce the provisions of this chapter and to regulate the practice of social work.

Approved February 19, 2008.

CHAPTER 16
(H.B. No. 362)

AN ACT

RELATING TO THE STATE BOARD OF PODIATRY; AMENDING SECTION 54-604, IDAHO CODE, TO REVISE COMPENSATION FOR BOARD MEMBERS.

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

SECTION 1. That Section 54-604, Idaho Code, be, and the same is hereby amended to read as follows:

54-604. ESTABLISHMENT OF STATE BOARD OF PODIATRY. There is hereby established in the department of self-governing agencies a state board of podiatry to be composed of five (5) members to be appointed by the governor in the manner hereinafter set forth. Four (4) of said members shall be podiatrists, duly licensed under the laws of the state of Idaho, and who shall have been continuously engaged in the practice of podiatry for a period of not less than five (5) years prior to his appointment. The fifth member of the board shall be a layman, a resident of the state of Idaho for a period of not less than five (5) years prior to his appointment. With reference to the first board, the four (4) podiatrists shall be appointed for terms of one (1), two (2), three (3) and four (4) years, respectively. The lay board member shall be appointed for a term of three (3) years. Thereafter, all appointments to the board shall be made for terms of four (4) years. Vacancies upon the board, occurring for any reason, shall be filled by the governor. The governor in making appointments shall give consideration to but shall not be bound by the recommendations received from the Idaho Podiatric Medical Association.

Within thirty (30) days from the appointment of the board by the governor, the board shall organize itself, select a chairman, a vice chairman and secretary. The chairman and the secretary shall be podiatrists. The board shall meet annually for the purpose of conducting examinations and transacting any other business which may lawfully come before it. The board may meet in special session at the call of the chairman, or at the call of not less than two-thirds (2/3) of the membership of the board. The members of the board shall each be compensated as provided by section 59-509(gm), Idaho Code.

Examinations of applicants may be conducted by the board, or by designated representatives of the board.

A quorum will consist of at least three (3) members of the board. The chairman, or person acting as such, will vote only in the case of a tie.

Approved February 19, 2008.

CHAPTER 17
(H.B. No. 349)

AN ACT

RELATING TO VETERANS SERVICES; AMENDING SECTION 63-3067B, IDAHO CODE, TO PROVIDE FOR DESIGNATION OF A REFUND DUE AND PAYABLE FOR OVERPAYMENT OF INCOME TAXES OR FOR A DONATION IN ADDITION TO AN INCOME TAX OBLIGATION TO THE VETERANS SUPPORT FUND AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING CHAPTER 2, TITLE 65, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 65-209, IDAHO CODE, TO PROVIDE FOR THE CREATION AND OPERATION OF THE VETERANS SUPPORT FUND.

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

SECTION 1. That Section 63-3067B, Idaho Code, be, and the same is hereby amended to read as follows:

63-3067B. DESIGNATION BY INDIVIDUALS -- TRUST ACCOUNTS. (~~a~~1) Every resident individual who:

(~~i~~a) 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~~3) below; or

(~~ii~~b) 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~~3) of this section.

(~~b~~2) A designation under subsection (~~a~~1) 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~~3) The trust accounts authorized to receive moneys designated under subsection (~~a~~1) of this section are:

(~~i~~a) The fish and game set-aside account created ~~by~~ in section 36-111, Idaho Code;

(~~ii~~b) The Idaho ag in the classroom account created ~~by~~ in section 57-815, Idaho Code;

(~~iii~~c) The drug enforcement donation account created ~~by~~ in section 57-816, Idaho Code;

(~~iv~~d) The children's trust fund created ~~by~~ in section 39-6007, Idaho Code;

(~~v~~e) The United States olympic account created ~~by~~ in section 57-817, Idaho Code, but no donation shall exceed five dollars ($5.00);

(~~vi~~f) The Alzheimer's disease services account created in section 57-819, Idaho Code;

(~~vii~~g) The community forestry trust account created in section 38-136, Idaho Code; ~~and~~

(~~viii~~h) 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; and

(i) The veterans support fund created in section 65-209, Idaho Code.

(~~d~~4) Prior to the distribution of funds into any of the trust accounts specified in subsection (~~e~~3) of this section from the refund account, the state tax commission shall retain funds for the commission's costs for collecting and administering the moneys in the accounts as follows: three thousand dollars ($3,000) from each account for start-up costs during the first year of collections, and three thousand dollars ($3,000) or twenty percent (20%) of the moneys remitted to each account during the fiscal year, whichever is less, from each account during each fiscal year thereafter, which amounts are hereby appropriated to the tax commission.

SECTION 2. That Chapter 2, Title 65, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 65-209, Idaho Code, and to read as follows:

65-209. VETERANS SUPPORT FUND. (1) There is hereby created in the state treasury the "Veterans Support Fund" to which shall be credited:

(a) The moneys designated under section 63-3067B, Idaho Code;

(b) Gifts, grants, contributions and bequests to the fund;

(c) Interest earned on the investment of idle moneys in the fund, which shall be paid to the fund; and

(d) All other moneys as may be provided by law.

(2) Moneys in the fund shall be used exclusively for the purposes of programs to support veterans, and moneys shall be continuously appropriated for such purposes.

(3) Disbursements of moneys from the fund shall be made upon authorization of the administrator of the division of veterans services.

Approved February 19, 2008.

CHAPTER 18
(H.B. No. 356)

AN ACT

RELATING TO TRANSPORTATION; AMENDING SECTION 49-102, IDAHO CODE, TO REVISE A DEFINITION; AMENDING SECTION 49-304, IDAHO CODE, TO REVISE PROVISIONS RELATING TO MOTORCYCLE ENDORSEMENTS; AMENDING SECTION 49-327, IDAHO CODE, TO DELETE PROVISIONS RELATING TO THE RETENTION AND RETURN OF SURRENDERED DRIVER'S LICENSES BY THE IDAHO TRANSPORTATION DEPARTMENT, TO PROVIDE FOR APPLICATIONS FOR DUPLICATE DRIVER'S LICENSES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-328, IDAHO CODE, TO AUTHORIZE THE IDAHO TRANSPORTATION DEPARTMENT TO COLLECT CERTAIN FEES FOR REINSTATEMENT OF DRIVER'S LICENSES AFTER REVOCATION OR DISQUALIFICATION; AND AMENDING SECTION 49-1222, IDAHO CODE, TO PROVIDE FOR APPLICATIONS FOR DUPLICATE DRIVER'S LICENSES.

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

SECTION 1. That Section 49-102, Idaho Code, be, and the same is hereby amended to read as follows:

49-102. DEFINITIONS -- A. (1) "Abandon" means to leave a vehicle on private property without the permission of the person having rights to the possession of the property, or on a highway or other property open to the public for the purposes of vehicular traffic or parking, or upon or within the right-of-way of any highway, for twenty-four (24) hours or longer.

(2) "Abandoned vehicle" means any vehicle observed by an authorized officer or reported by a member of the public to have been left within the limits of any highway or upon the property of another without the consent of the property owner for a period of twenty-four (24) hours or longer, except that a vehicle shall not be considered abandoned if its owner-operator is unable to remove it from the place where it is located and has notified a law enforcement agency and requested assistance.

(3) "Accident" means any event that results in an unintended injury or property damage attributable directly or indirectly to the motion of a motor vehicle or its load, a snowmobile or special mobile equipment.

(4) "Actual physical control" means being in the driver's position of a motor vehicle with the motor running or the vehicle moving.

(5) "Administrator" means the federal highway administrator, the chief executive of the federal highway administration, an agency within the U.S. department of transportation.

(6) "Age of a motor vehicle" means the age determined by subtracting the manufacturer's year designation of the vehicle from the year in which the designated registration fee is paid. If the vehicle has the same manufacturer's year designation as the year in which the fee is paid, or if a vehicle has a manufacturer's year designation later than the year in which the fee is paid, the vehicle shall be deemed to be one (1) year old.

(7) "Air-conditioning equipment" means mechanical vapor compression refrigeration equipment which is used to cool the driver's or passenger compartment of any motor vehicle.

(8) "Alcohol or alcoholic beverage" means:

(a) Beer as defined in 26 U.S.C. section 5052(a), of the Internal Revenue Code;

(b) Wine of not less than one-half of one percent (.005%) of alcohol by volume; or

(c) Distilled spirits as defined in section 5002(a)(8), of the Internal Revenue Code.

(9) "Alley" means a public way of limited use intended only to provide access to the rear or side of lots or buildings in urban districts.

(10) "All-terrain vehicle" or "ATV" means any recreation 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. Such vehicles shall be registered under the provisions of section 49-402, Idaho Code, for operation on public highways, unless exempted under the provisions of section 49-426, Idaho Code.

(11) "Amateur radio operator." (See "Radio operator, amateur," section 49-119, Idaho Code)

(12) "Ambulance" means a motor vehicle designed and used primarily for the transportation of injured, sick, or deceased persons, on stretchers, cots, beds, or other devices for carrying persons in a prone position.

(13) "Applicant" means an individual who applies to obtain, transfer, upgrade, or renew a driver's license.

(14) "Approved driver training course" means a training course from a school licensed under the provisions of chapter 21 of this title or a driver training course approved by another United States jurisdiction provided the course was taken while an individual was a resident of that United States jurisdiction.

(15) "Approved testing agency" means a person, firm, association, partnership or corporation approved by the director of the Idaho state police which is:

(a) In the business of testing equipment and systems;

(b) Recognized by the director as being qualified and equipped to do experimental testing; and

(c) Not under the jurisdiction or control of any single manufacturer or supplier for an affected industry.

(16) "Armed forces" means the army, navy, marine corps, coast guard and the air force of the United States.

(17) "Authorized emergency vehicle." (See "Vehicle," section 49-123, Idaho Code)

(18) "Authorized officer" means any member of the Idaho state police, or any regularly employed and salaried deputy sheriff, or other county employee designated to perform the function of removing abandoned vehicles or junk vehicles by the board of county commissioners of the county in which a vehicle is located, or any regularly employed and salaried city peace officer or other city employee designated to perform the function of removing abandoned vehicles or junk vehicles by the city council, or a qualified person deputized or appointed by the proper authority as reserve deputy sheriff or city policeman, authorized within the jurisdiction in which the abandoned vehicle or junk vehicle is located.

(19) "Authorized transportation department employee" means any employee appointed by the board to perform duties relating to enforcement of vehicle laws as have been specifically defined and approved by order of the board (see section 40-510, Idaho Code).

(20) "Auto transporter" means a vehicle combination constructed for the purpose of transporting vehicles.

SECTION 2. That Section 49-304, Idaho Code, be, and the same is hereby amended to read as follows:

49-304. MOTORCYCLE ENDORSEMENT. The department shall issue a motorcycle "M" endorsement on a driver's license to applicants who complete the requirements to operate a motorcycle.

(1) ~~Any~~ No person ~~who holds a valid Idaho driver's license on September 1, 1994,~~ may operate a motorcycle upon a highway without a motorcycle "M" endorsement ~~until that driver's license expires or September 1, 1998, whichever occurs first~~ on a valid driver's license.

(2) Any person who applies for a driver's license or renewal of a license ~~after September 1, 1994,~~ may also ~~apply~~ for a motorcycle "M"

endorsement. ~~Until September 1, 1998, t~~The requirements for obtaining a motorcycle "M" endorsement are:

(a) The applicant shall be tested by written examination for his knowledge of safe motorcycle operating practices and traffic laws specific to the operation of motorcycles upon payment of the fee specified in section 49-306, Idaho Code.

(b) Upon successful completion of the knowledge test and upon payment of the fee required for an "M" endorsement, the applicant shall obtain a motorcycle "M" endorsement on his driver's license.

(3) No person under the age of twenty-one (21) years may apply for or obtain a motorcycle "M" endorsement on his driver's license unless he has successfully completed a motorcycle rider training course approved under the provisions of chapter 49, title 33, Idaho Code, in addition to satisfying the requirements specified in subsection (2) of this section. The provisions of this subsection shall not be effective unless and until the motorcycle rider training course is fully implemented by the department of education.

(4) Any person who applies for a motorcycle endorsement on a driver's license, ~~after September 1, 1998,~~ in addition to the requirements specified in subsection (2) of this section, may also be required to pass the motorcycle "M" skills test before he can obtain the motorcycle "M" endorsement.

(5) The operation of a motorcycle upon a highway by any person who has failed to obtain a motorcycle "M" endorsement as provided in this section shall constitute an infraction.

SECTION 3. That Section 49-327, Idaho Code, be, and the same is hereby amended to read as follows:

49-327. SURRENDER ~~AND RETURN~~ OF DRIVER'S LICENSE -- APPLICATION FOR DUPLICATE. (1) Upon suspending, ~~cancelling~~ canceling or revoking a driver's license, the department shall require that the driver's license be surrendered to ~~and be retained by~~ the department. At the end of the period of suspension, revocation or cancellation the driver may apply for a duplicate driver's license, ~~so surrendered shall be returned to the licensee if applicable~~ provided that the driver is eligible and has fulfilled all reinstatement requirements.

(2) If any person shall fail to return to the department the Idaho driver's license as required, the department may direct any peace officer to secure its possession and return the driver's license to the department.

SECTION 4. That Section 49-328, Idaho Code, be, and the same is hereby amended to read as follows:

49-328. REINSTATEMENT OF REVOKED, DISQUALIFIED OR SUSPENDED DRIVER'S LICENSE -- FEE -- WHEN REINSTATEMENT PROHIBITED. (1) When the period of revocation, disqualification or suspension of a driver's license has expired, or the reason for the revocation, disqualification or suspension no longer exists, the department shall reinstate the driver's license or driving privileges on application of the driver.

(2) The application shall be in the form prescribed by the department and accompanied by a reinstatement fee of fifteen dollars ($15.00) which shall be deposited in the state highway account.

(3) A driver's license which has been suspended under section 49-1505, Idaho Code, for failure to pay an infraction penalty shall not be reinstated until the licensee provides proof that the infraction penalty has been paid to the court.

(4) In addition to any other fees required in this section to be collected, the department shall collect fifty dollars ($50.00) for reinstating a driver's license after conviction for driving under the influence, without privileges, and after conviction or other violation of any other traffic related misdemeanor or infraction, of which fees forty dollars ($40.00) shall be paid over to the county treasurer of the county in which the conviction occurred for support of that county's justice fund, or the current expense fund if no county justice fund has been established and the ten dollars ($10.00) shall be deposited in the state highway account.

(5) In addition to any other fees required in this section to be collected, the department shall collect one hundred fifteen dollars ($115) for reinstating a driver's license after a suspension imposed under the provisions of section 18-8002 or section 18-8002A, Idaho Code, or after a revocation, disqualification or suspension arising out of any alcohol or drug related offense, other than a suspension imposed upon a person under eighteen (18) years of age pursuant to section 18-1502(d), Idaho Code. Funds collected pursuant to this subsection shall be deposited in the state highway account. The department shall reevaluate the amount of the reinstatement fee herein imposed not later than February, 2000, to determine the sufficiency of the fee to meet the costs associated with the implementation of section 18-8002A, Idaho Code.

(6) When there is more than one (1) reason why a driver's license was revoked or suspended or why a driver was disqualified, the department shall not collect multiple fees for reinstatement, but shall only collect one (1) reinstatement fee, which shall be the greater reinstatement fee, provided however, the department shall collect a reinstatement fee for each revocation, disqualification or suspension under chapter 80, title 18, Idaho Code.

SECTION 5. That Section 49-1222, Idaho Code, be, and the same is hereby amended to read as follows:

49-1222. SURRENDER OF IDAHO DRIVER'S LICENSE. Any person whose Idaho driver's license shall have been suspended, canceled or revoked as provided in this chapter, or whose policy of insurance or bond, when required under this chapter, shall have been canceled or terminated, or who shall neglect to furnish other proof upon request of the department, shall immediately return his driver's license to the department. If any person shall fail to return to the department the driver's license as required, the department may direct any peace officer to secure its possession and return the driver's license to the department. At the end of the period of suspension, cancellation or revocation, the driver may apply for a duplicate driver's license, provided that the driver is eligible and has fulfilled all reinstatement requirements.

Approved February 19, 2008.

CHAPTER 19
(H.B. No. 357)

AN ACT

RELATING TO THE SALES AND USE TAX EXEMPTION FOR PRESCRIPTIONS; AMENDING SECTION 63-3622N, IDAHO CODE, TO REVISE LANGUAGE AS TO WHICH PRESCRIPTION SALES ARE EXEMPT FROM THE SALES AND USE TAX AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 63-3622N, Idaho Code, be, and the same is hereby amended to read as follows:

63-3622N. PRESCRIPTIONS. (a) There are exempted from the taxes imposed by this chapter the following when administered or distributed by a practitioner ~~licensed by the state under title 54, Idaho Code, to administer or distribute such items~~ or when purchased by or on behalf of an individual for use by such individual under a prescription or work order of a practitioner: ~~licensed by the state under title 54, Idaho Code, to prescribe such items:~~

(1) Drugs, hypodermic syringes, insulin, insulin syringes, artificial eyes, hearing aids, and hearing aid parts and accessories;

(2) Drugs and supplies used in hemodialysis and peritoneal dialysis;

(3) Braces and other orthopedic appliances;

(4) Dental prostheses and other orthodontic appliances, ~~but not~~ including fillings;

(5) Catheters, urinary accessories, colostomy supplies, and other prosthetic devices which shall include, but ~~is~~ are not limited to, enteral and parenteral feeding equipment and supplies, (tubing, pumps, containers) catheter devices and supplies, but not including eyeglasses and contact lenses;

(6) Equipment and devices or chemical reagents which are used to test or monitor blood or urine of a diabetic;

(7) Other durable medical equipment and devices and related parts and supplies specifically designed for those products which shall include, but ~~is~~ are not limited to: oxygen equipment, oxygen cylinders, cylinder transport devices (sheaths, carts), cylinder stands, support devices, regulators, flowmeters, tank wrench, oxygen concentrators, liquid oxygen base dispenser, liquid oxygen portable dispenser, oxygen tubing, nasal cannulas, face masks, oxygen humidifiers, oxygen fittings and accessories, respiratory therapy equipment, room humidifiers, aspirators, aerosol compressors (stationary and portable), ultrasonic nebulizers, volume ventilators, respirators and related device supplies, percussors, vibrators, IPPB, circuits, devices and supplies, air oxygen mixers, manual resuscitators, nebulizers, tubing, emergency oxygen delivery units, patient care equipment, physical and occupational therapy items, hospital beds, trapeze bars and bar stand, bed rails, geriatric chairs, lift recliners, bedside commodes, overbed tables, patient lifts, patient lift slings, traction stands and pulleys, shower seating, shower grip bars, raised toilet seats, toilet safety

frames, walking canes, quad canes and accessories, walkers, wheeled walkers, walker accessories, I.V. stands, crawlers, posture back supports for seating, posture back supports, wheelchairs, crutches, crutch pads, tips, grips, restraints, standing frame devices and accessories, hand exercise equipment and putty, specially designed hand utensils, leg weights, paraffin baths, hydrocollators, hydrotherm heating pads, communication aids for physically impaired, specialized seating, desks, work stations, foam wedges, writing and speech aids for the impaired, dressing aids, button loops and zipper aids, grooming aids, dental aids, eating and drinking aids, splints, holders, household aids for the impaired, shampoo trays, reaching aids, foam seating pads, decubitus seating pads, bed pads, fitted stroller, alternating pressure pads and pumps, stethoscope, sphygmomanometers, otoscopes, sitting and sleeping cushions, patient transport devices, boards, stairglides, lifts in home, transcutaneous nerve stimulators, muscle stimulators~~,~~ and bone fracture therapy devices.

(b) The term "practitioner" means a physician, physician assistant, surgeon, podiatrist, chiropractor, dentist, optometrist, psychologist, ophthalmologist, nurse practitioner, denturist, orthodontist, audiologist, ~~or~~ hearing aid dealer or fitter or any person licensed by the state under title 54, Idaho Code, to prescribe, administer or distribute items identified in subsection (a) of this section.

(c) The term "drug" means a drug which is:

(1) Defined in section 54-1705, Idaho Code~~,~~; and

(2) Either:

(i) ~~t~~Listed in a drug compendia which the state board of pharmacy requires to be maintained by Idaho licensed pharmacies~~,~~; or

(ii) ~~t~~The use of which requires a prescription under state or federal law. The term shall not include articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in animals other than man.

(d) The term "durable medical equipment" means equipment which:

(1) Can withstand repeated use;

(2) Is primarily and customarily used to serve a medical purpose;

(3) Generally is not useful to a person in the absence of illness or injury; and

(4) Is appropriate for use in the home.

(e) The term "prosthetic device" means a device which replaces a missing part or function of the human body and shall include any supplies physically connected to such devices.

Approved February 19, 2008.

CHAPTER 20
(H.B. No. 358)

AN ACT

RELATING TO TAXES ON CIGARETTE AND TOBACCO PRODUCTS; AMENDING SECTION 63-2503, IDAHO CODE, TO PROVIDE THAT A CIGARETTE PERMIT HELD BY A PERSON WHO REPORTS NO CIGARETTE ACTIVITY FOR TWELVE CONSECUTIVE MONTHS SHALL EXPIRE AUTOMATICALLY; AMENDING SECTION 63-2551, IDAHO

CODE, TO REVISE THE DEFINITION OF "WHOLESALE SALES PRICE"; AND AMENDING CHAPTER 25, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-2552B, IDAHO CODE, TO IMPOSE A TOBACCO PRODUCTS USE TAX ON TOBACCO PRODUCTS NOT OTHERWISE TAXED.

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

SECTION 1. That Section 63-2503, Idaho Code, be, and the same is hereby amended to read as follows:

63-2503. PERMITS. (1) It shall be unlawful for a person to act as a wholesaler of cigarettes without a permit. The permit shall be obtained by application to the tax commission upon a form furnished by it, accompanied by a fee of fifty dollars ($50.00). The wholesaler permit shall be nonassignable and shall continue in force until surrendered or canceled.

(2) It shall be unlawful for any retailer to purchase, sell, offer for sale, distribute, store or possess any cigarettes without first applying for and receiving a seller's permit under section 63-3620, Idaho Code.

(3) A permit shall be held only by persons actively engaged in making wholesale sales of cigarettes subject to tax under this chapter. Any person not so engaged shall forthwith surrender his permit to the state tax commission for cancellation.

(4) Whenever any person fails to comply with any provision of this chapter relating to the purchase, sale or offering for sale or distribution of cigarettes or any rules of the state tax commission relating to the cigarette tax prescribed and adopted under this chapter, the state tax commission may revoke or suspend any permit held by the person or may deny a new permit to such person.

(5) The state tax commission may revoke the permit of a person not actively engaged in activities requiring a permit under this section.

(6) Notice of revocation shall be given in the manner provided for deficiencies in taxes in section 63-3629, Idaho Code, which shall be subject to review as provided in section 63-3631, Idaho Code.

(7) A permit, held by a person who for a period of twelve (12) consecutive months ~~reports--no-cigarette-tax-due~~ files reports showing no cigarette activity reportable under this chapter, shall expire automatically upon the state tax commission providing notice of the expiration to the last known address of the person to whom the permit was issued.

(8) A person who engaged in activities requiring a permit under this section without a permit or after a permit has been revoked or suspended, and any person who is a responsible person, as defined in section 63-3627, Idaho Code, of such a business shall, after receiving written notice from the state tax commission, be subject to a civil penalty not in excess of one hundred dollars ($100), and each day shall constitute a separate offense, which the state tax commission may assess as a deficiency pursuant to section 63-2516, Idaho Code.

SECTION 2. That Section 63-2551, Idaho Code, be, and the same is hereby amended to read as follows:

63-2551. TOBACCO PRODUCTS TAX -- DEFINITIONS. As used in this act:

(1) "Tobacco products" shall mean any cigars, cheroots, stogies,

smoking tobacco (including granulated, plug, cut, crimp cut, ready rubbed and any other kinds and forms of tobacco suitable for smoking in a pipe or cigarette), chewing tobacco (including cavendish, twist, plug, scrap and any other kinds and forms of tobacco suitable for chewing) and snuff, however prepared; and shall include any other articles or products made of tobacco or any substitute therefor, except cigarettes;

(2) "Manufacturer" means a person who manufactures and sells tobacco products;

(3) "Distributor" means (a) any person engaged in the business of selling tobacco products in this state who brings, or causes to be brought, into this state from without the state any tobacco products for sale, (b) any person who makes, manufactures, or fabricates tobacco products in this state for sale in this state, (c) any person engaged in the business of selling tobacco products without this state who ships or transports tobacco products to retailers in this state, to be sold by those retailers;

(4) "Subjobber" means any person, other than a manufacturer or distributor, who buys tobacco products from a distributor and sells them to persons other than the ultimate consumers;

(5) "Retailer" means any person engaged in the business of selling tobacco products to ultimate consumers;

(6) "Sale" means any transfer, exchange, or barter, in any manner or by any means whatsoever, for a consideration, and includes and means all sales made by any person. It includes a gift by a person engaged in the business of selling tobacco products, for advertising, as a means of evading the provisions of this chapter, or for any other purposes whatsoever;

(7) "Wholesale sales price" means the established price for which a manufacturer sells a tobacco product to a distributor <u>that is not a related person as defined in section 267 of the Internal Revenue Code,</u> exclusive of any discount or other reduction;

(8) "Business" means any trade, occupation, activity, or enterprise engaged in for the purpose of selling or distributing tobacco products in this state;

(9) "Place of business" means any place where tobacco products are manufactured, stored, or kept for the purpose of sale or consumption, including any vessel, vehicle, airplane, train, or vending machine;

(10) "Retail outlet" means each place of business from which tobacco products are sold to consumers;

(11) "Commission" means the Idaho state tax commission.

SECTION 3. That Chapter 25, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a <u>NEW SECTION,</u> to be known and designated as Section 63-2552B, Idaho Code, and to read as follows:

63-2552B. TOBACCO PRODUCTS USE TAX. Any person who does not hold a tobacco products tax permit who possesses, purchases or consumes tobacco products upon which tax imposed by this chapter has not been paid, including tobacco products sold by internet, catalog, telephone and facsimile sellers, is liable for the taxes imposed by sections 63-2552 and 63-2552A, Idaho Code, to be reported and paid as required in section 63-2560, Idaho Code.

Approved February 19, 2008.

CHAPTER 21
(H.B. No. 430)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF JUVENILE CORRECTIONS; AMENDING SECTION 1, CHAPTER 268, LAWS OF 2007, TO REVISE THE APPROPRIATION TO THE DEPARTMENT OF JUVENILE CORRECTIONS FOR FISCAL YEAR 2008; AMENDING SECTION 2, CHAPTER 268, LAWS OF 2007, TO INCREASE THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS FOR THE DEPARTMENT OF JUVENILE CORRECTIONS FOR FISCAL YEAR 2008; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 1, Chapter 268, Laws of 2007, is hereby amended to read as follows:

SECTION 1. There is hereby appropriated to the Department of Juvenile Corrections the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2007, through June 30, 2008:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
General Fund	$ ~~2,010,600~~ 2,028,400	$ ~~822,500~~ 1,048,700	$ ~~96,000~~ 98,200	$ ~~6,000~~ 20,000	$ ~~2,943,100~~ 3,195,300
Miscellaneous Revenue Fund	67,000	18,300	34,000		119,300
TOTAL	$ ~~2,085,600~~ 2,095,400	$ ~~840,800~~ 1,067,000	$~~130,000~~ 132,200	$ ~~6,000~~ 20,000	$ ~~3,062,400~~ 3,314,600
II. COMMUNITY SERVICES:					
FROM:					
General Fund	$ 690,400	$ 93,300		$ 3,465,500	$ 4,249,200
Juvenile Corrections - Cigarette/Tobacco Tax Fund				4,770,300	4,770,300
Juvenile Corrections Fund	85,500	89,200			174,700
Federal Grant Fund	2,000	34,300			36,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Miscellaneous Revenue Fund		115,000			115,000
TOTAL	$ 777,900	$ 331,800		$ 8,235,800	$ 9,345,500
III. INSTITUTIONS:					
FROM:					
General Fund	$15,710,900	$1,652,200	$ 53,000	$10,292,600	$27,708,700
Federal Grant Fund	170,700	153,700		1,080,400	1,404,800
State Juvenile Corrections Center Endowment Income Fund		629,700	58,800		688,500
Miscellaneous Revenue Fund		413,600		460,000	873,600
TOTAL	$15,881,600	$2,849,200	$111,800	$11,833,000	$30,675,600
IV. JUVENILE JUSTICE COMMISSION:					
FROM:					
General Fund	$ 246,000	$ 48,800		$ ~~1,189,000~~ 939,000	$ ~~1,483,800~~ 1,233,800
Federal Grant Fund	144,400	240,300		2,460,600	2,845,300
TOTAL	$ 390,400	$ 289,100		$ ~~3,649,600~~ 3,399,600	$ ~~4,329,100~~ 4,079,100
GRAND TOTAL	~~$19,135,500~~ 19,145,300	~~$4,310,900~~ 4,537,100	~~$241,800~~ 244,000	~~$23,724,400~~ 23,488,400	~~$47,412,600~~ 47,414,800

SECTION 2. That Section 2, Chapter 268, Laws of 2007, is hereby amended to read as follows:

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Juvenile Corrections is authorized no more than three hundred sixty-one and seventy-five hundredths (360~~0~~1.75) 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. 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, 2008.

CHAPTER 22
(S.B. No. 1246)

AN ACT

RELATING TO CUSTODY OF THE JURY DURING TRIAL; AMENDING SECTION 19-2126, IDAHO CODE, TO PROVIDE THAT THE JURY MAY NOT BE PERMITTED TO SEPARATE AFTER SUBMISSION OF THE CAUSE AND COMPLETION OF THE SPECIAL SENTENCING PROCEEDING WHERE THE DEFENDANT HAS BEEN CHARGED WITH FIRST-DEGREE MURDER AND THE PROSECUTING ATTORNEY HAS FILED, AND NOT WITHDRAWN, A NOTICE TO SEEK THE DEATH PENALTY.

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

SECTION 1. That Section 19-2126, Idaho Code, be, and the same is hereby amended to read as follows:

19-2126. CUSTODY OF JURY DURING TRIAL. The jury sworn to try any felony may, at any time during the trial, and after the submission of the cause, in the discretion of the court, be permitted to separate, or they may be kept together, in the charge of a proper officer. Provided however, that in causes where the defendant has been charged with first-degree murder, <u>and the prosecuting attorney has filed a notice of intent to seek the death penalty pursuant to section 18-4004A, Idaho Code, and such notice has not been withdrawn,</u> the jury may not be permitted to separate after submission of the cause and completion of the special sentencing proceeding held pursuant to section 19-2515 or 19-2515A, Idaho Code. Before permitting the jury to separate after the cause has been submitted, the court shall permit counsel to place objections, if any, on the record outside the presence of the jury. In case the court orders the jury to be kept together the county must provide a suitable place for the board and lodging of the jury, at the expense of the county, and when first given custody of the jury the officer or bailiff must be sworn to keep the jury together during each recess and adjournment during the trial; to allow no person to speak to or communicate with them, or any of them, nor to do so himself, on any subject connected with the trial, and to return them into court as ordered by the court.

Approved February 21, 2008.

CHAPTER 23
(S.B. No. 1247)

AN ACT

RELATING TO DEFENSES TO A CHARGE OF THEFT OF PROPERTY; AMENDING SECTION 18-2406, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE UNLAWFUL RETENTION OF PROPERTY OF ANOTHER.

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

SECTION 1. That Section 18-2406, Idaho Code, be, and the same is hereby amended to read as follows:

18-2406. DEFENSES. (1) It is no defense to a charge of theft of property that the offender has an interest therein, when the owner also has an interest to which the offender is not entitled.

(2) Where the property involved is that of the offender's spouse, no prosecution for theft may be maintained unless the parties were not living together as man and wife and were living in separate abodes at the time of the alleged theft.

(3) In any prosecution for theft committed by trespassory taking or the offense previously known as embezzlement, it is an affirmative defense that the property was appropriated openly and avowedly, and under a claim of right made in good faith. It is not a defense to a theft committed by such conduct that the accused intended to restore the property taken, but may be considered by the court to mitigate punishment if the property is voluntarily and actually restored (or tendered) prior to the filing of any complaint or indictment relating thereto, and this provision does not excuse the unlawful retention of the property of another to offset or pay demands held against ~~the accused~~ such other person.

(4) In any prosecution for theft by extortion committed by instilling in the victim a fear that he or another person would be charged with a crime, it is an affirmative defense that the defendant reasonably believed the threatened charge to be true and that his sole purpose was to compel or induce the victim to take reasonable action to make good the wrong which was the subject of such threatened charge.

(5) It is no defense to a prosecution for theft under a provision of this chapter that the defendant, by reason of the same conduct, also committed an act specified as a crime in another chapter of title 18, or another title of the Idaho Code.

Approved February 21, 2008.

CHAPTER 24
(S.B. No. 1270)

AN ACT

RELATING TO THE COURT OF APPEALS; AMENDING SECTION 1-2404, IDAHO CODE, TO INCREASE THE NUMBER OF JUDGES ON THE COURT OF APPEALS, TO DELETE OBSOLETE LANGUAGE, AND TO PROVIDE FOR APPOINTMENT AND TERM OF OFFICE.

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

SECTION 1. That Section 1-2404, Idaho Code, be, and the same is hereby amended to read as follows:

1-2404. NUMBER OF JUDGES -- QUALIFICATIONS -- CONDUCT AND DISCIPLINE -- TERM -- SELECTION -- ELECTION -- COMPENSATION. (1) The court of appeals shall consist of ~~three~~ four (~~3~~4) judges, and shall sit in panels of not less than three (3) judges each.

(2) No person shall be appointed or elected to the office of judge of the court of appeals unless he has attained the age of thirty (30) years at the time of his appointment or election, is a citizen of the United States, shall have been admitted to the practice of law for at

least ten (10) years prior to taking office, and is admitted to practice law in the state of Idaho, and has resided within this state two (2) years next preceding his appointment or election.

(3) A judge of the court of appeals shall be governed by the code of judicial conduct as promulgated by the Idaho supreme court, and shall be subject to removal, discipline, or retirement pursuant to section 1-2103, Idaho Code.

(4) (a) Judges of the court of appeals shall be appointed by the governor effective the first Monday of January, 1982, for the following initial terms: one (1) judge shall be appointed for a term to expire on the first Monday of January, 1985, one (1) judge shall be appointed for a term expiring two (2) years later, and one (1) judge shall be appointed for a term expiring two (2) further years later. Thereafter, the term of office of a judge of the court of appeals shall be six (6) years~~, except that no judge of the court of appeals shall serve beyond the limits set forth in section 1-2007, Idaho Code~~.

(b) Vacancies in the office of judge of the court of appeals shall be filled in the same manner as vacancies in the office of supreme court justice or district judge.

(c) The positions of judges of the Idaho court of appeals shall first be filled as vacancies. The judicial council shall submit to the governor its recommendations for the offices at the earliest practicable time after the effective date of this act. The governor may make the appointment at any time thereafter, to be effective the first Monday of January, 1982, for the terms set forth in section 1-2404(4)(a), Idaho Code.

(d) In making its nominations for the initial vacancies to be created by this act, the Idaho judicial council shall submit the names of not less than six (6) nor more than nine (9) qualified persons for the initial three (3) vacancies to be created by this act. Otherwise, the judicial council shall submit the names of not less than two (2) nor more than four (4) persons for each vacancy. The governor shall appoint the judges, identifying each appointment by the length of the term of appointment.

(e) Nominations and appointments to fill initial or subsequent vacancies shall be made with due regard for balanced geographical membership of the court of appeals.

(f) Subsequent terms of office of a judge who has been appointed to the court of appeals shall be subject to a statewide nonpartisan election to be held in the primary election next preceding the expiration of an appointed term in the same method and manner as a justice of the supreme court.

(g) A fourth judge of the court of appeals shall be appointed by the governor effective the first Monday of January, 2009, for an initial term to expire on the first Monday of January, 2013. Thereafter, the term of office for this position shall be six (6) years. The judicial council shall submit the names of not less than two (2) nor more than four (4) persons for the initial vacancy in this position under the procedure set forth in section 1-2102, Idaho Code. This position shall be subject to all of the provisions relating to qualifications, removal, discipline, retirement, filling of vacancies, election and compensation set forth in this chapter.

(5) Judges of the court of appeals shall receive an annual salary in an amount of one thousand dollars ($1,000) less than the annual salary of a supreme court justice and except for judges who have made an election to remain in the public employee retirement system of Idaho pursuant to section 1-2011, Idaho Code, shall receive compensation upon retirement as provided in chapter 20, title 1, Idaho Code.

Approved February 21, 2008.

CHAPTER 25
(S.B. No. 1271)

AN ACT

RELATING TO THE STATE LAW LIBRARY; AMENDING SECTION 4-101, IDAHO CODE, TO DELETE THE PROVISION THAT THE STATE LAW LIBRARY BE KEPT IN THE STATE CAPITOL OR THE SUPREME COURT AND LAW LIBRARY BUILDING; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 4-101, Idaho Code, be, and the same is hereby amended to read as follows:

4-101. ESTABLISHMENT OF A STATE LAW LIBRARY. A state law library for the use of the courts and members of the bar of this state is hereby established in the city of Boise. The Boise state law library ~~shall be kept in the state capitol building or the Supreme Court and law library building, and~~ is hereby also designated as the state depository for official publications received from other states and the federal government.

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, 2008.

CHAPTER 26
(S.B. No. 1284)

AN ACT

RELATING TO HORSE RACING; AMENDING SECTION 54-2510, IDAHO CODE, TO PROVIDE FOR BONUSES FOR IDAHO BRED WINNERS, TO PROVIDE THAT CERTAIN RACES MAY BE WRITTEN AS IDAHO BRED PREFERRED RACES, TO PROVIDE FOR THE PAYMENT OF A PERCENTAGE OF FIRST PLACE PURSE MONEY BY LICENSEES TO BREEDERS, TO PROVIDE THAT CERTAIN MONEYS SHALL BE INCLUDED AND CERTAIN MONEYS EXCLUDED FROM CALCULATION OF BREEDER PAYMENTS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 54-2510, Idaho Code, be, and the same is hereby amended to read as follows:

54-2510. RACE EXCLUSIVELY FOR IDAHO BRED HORSES -- BONUS FOR IDAHO BRED WINNERS. (1) For the purpose of encouraging the breeding, within this state, of valuable thoroughbred, purebred and/or registered horses, at least one (1) race each day at each horse race meet shall be limited to Idaho bred horses. If in the opinion of the commission sufficient competition cannot be had among such class of horses, said race may be ~~eliminated for said days and a substitute provided~~ written as an Idaho bred preferred race instead.

(2) A sum equal to ten ~~per cent~~ percent (10%) of the first place purse money ~~of every purse~~ won by an Idaho bred horse shall be paid by the licensee conducting the race meet to the breeder of such horse. All purse moneys derived from pari-mutuel racing and all purse enhancement moneys from the Idaho state racing commission shall be included in the calculation of these breeder payments. All nominating and sustaining fees, and any moneys from outside sponsors shall be excluded from the calculation of these breeder payments.

Approved February 21, 2008.

CHAPTER 27
(S.B. No. 1338)

AN ACT

RELATING TO CODIFIER'S CORRECTIONS IN STATUTES; AMENDING CHAPTER 16, TITLE 6, IDAHO CODE, BY THE ADDITION OF A NEW HEADING FOR CHAPTER 16, TITLE 6, IDAHO CODE; AMENDING SECTION 9-335, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 9-340D, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 15-5-405, IDAHO CODE, TO DELETE VERBIAGE; AMENDING SECTION 18-8105, IDAHO CODE, TO PROVIDE DESCRIPTIVE LANGUAGE; AMENDING THE HEADING FOR CHAPTER 24, TITLE 28, IDAHO CODE; AMENDING SECTION 31-2202, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-1002, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-2106, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 46-206, IDAHO CODE, TO REVISE DESCRIPTIVE LANGUAGE; AMENDING SECTION 49-2902, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS AND TO PROVIDE REFERENCE TO THE DEPARTMENT OF COMMERCE; AMENDING SECTION 49-2903, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-2905, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 58-304, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING CHAPTER 13, TITLE 58, IDAHO CODE, BY THE ADDITION OF A NEW HEADING FOR CHAPTER 13, TITLE 58, IDAHO CODE; AMENDING SECTION 59-1356, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-2601, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS AND TO PROVIDE REFERENCE TO MODULAR BUILDINGS; AMENDING SECTION 67-4727, IDAHO CODE, TO PROVIDE REFERENCE TO THE DEPARTMENT OF LABOR; AND AMENDING SECTION 67-7903, IDAHO CODE, TO PROVIDE REFERENCE TO THE DEPARTMENT OF LABOR.

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

SECTION 1. That Chapter 16, Title 6, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW HEADING, to be known and designated as the Heading for Chapter 16, Title 6, Idaho Code, be, and read as follows:

CHAPTER 16
PERIODIC PAYMENT OF JUDGMENTS -- LIMITATION
ON CERTAIN TORT DAMAGES AND LIABILITIES

SECTION 2. That Section 9-335, Idaho Code, be, and the same is hereby amended to read as follows:

9-335. EXEMPTIONS FROM DISCLOSURE -- CONFIDENTIALITY. (1) Notwithstanding any statute or rule of court to the contrary, nothing in this chapter nor chapter 10, title 59, Idaho Code, shall be construed to require disclosure of investigatory records compiled for law enforcement purposes by a law enforcement agency, but such exemption from disclosure applies only to the extent that the production of such records would:

(a) Interfere with enforcement proceedings;

(b) Deprive a person of a right to a fair trial or an impartial adjudication;

(c) Constitute an unwarranted invasion of personal privacy;

(d) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement agency in the course of a criminal investigation, confidential information furnished only by the confidential source;

(e) Disclose investigative techniques and procedures; or

(f) Endanger the life or physical safety of law enforcement personnel.

(2) Notwithstanding subsection (1) of this section, any person involved in a motor vehicle collision which is investigated by a law enforcement agency, that person's authorized legal representative and the insurer shall have a right to a complete, unaltered copy of the impact report, or its successors, and the final report prepared by the agency.

(3) An inactive investigatory record shall be disclosed unless the disclosure would violate the provisions of subsection (1)(a) through (f) of this section. Investigatory record as used herein means information with respect to an identifiable person or group of persons compiled by a law enforcement agency in the course of conducting an investigation of a specific act or omission and shall not include the following information:

(a) The time, date, location, and nature and description of a reported crime, accident or incident;

(b) The name, sex, age, and address of a person arrested, except as otherwise provided by law;

(c) The time, date, and location of the incident and of the arrest;

(d) The crime charged;

(e) Documents given or required by law to be given to the person arrested;

(f) Informations and indictments except as otherwise provided by law; and

(g) Criminal history reports.

As used herein, the term "law enforcement agency" means the office

of the attorney general, the office of the state controller, the Idaho state police, the office of any prosecuting attorney, sheriff or municipal police department.

(~~3~~4) Whenever it is made to appear by verified petition to the district court of the county where the records or some part thereof are situated that certain investigative records are being improperly withheld from a member of the public, the court shall order the officer or person charged with withholding the records to disclose the investigative record or show cause why he should not do so. The court shall decide the case after examining the record in camera, papers filed by the parties, and such oral argument and additional evidence as the court may allow.

If the court finds that the public official's decision to refuse disclosure is not justified, he shall order the public officials to make the record public. If the judge determines that the public official was justified in refusing to make the record public, he shall return the item to the public official without disclosing its content with an order supporting the decision refusing disclosure. Any person who fails to obey the order of the court shall be cited to show cause why he is not in contempt of court. The court may, in its discretion, award costs and fees to the prevailing party.

SECTION 3. 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 oilseed commission and pertaining to the individual production records of 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

least ten (10) years prior to taking office, and is admitted to practice law in the state of Idaho, and has resided within this state two (2) years next preceding his appointment or election.

(3) A judge of the court of appeals shall be governed by the code of judicial conduct as promulgated by the Idaho supreme court, and shall be subject to removal, discipline, or retirement pursuant to section 1-2103, Idaho Code.

(4) (a) Judges of the court of appeals shall be appointed by the governor effective the first Monday of January, 1982, for the following initial terms: one (1) judge shall be appointed for a term to expire on the first Monday of January, 1985, one (1) judge shall be appointed for a term expiring two (2) years later, and one (1) judge shall be appointed for a term expiring two (2) further years later. Thereafter, the term of office of a judge of the court of appeals shall be six (6) years~~;--except-that-no-judge-of-the-court-of-appeals shall--serve--beyond--the--limits-set-forth-in-section-1-2007,-Idaho Code~~.

(b) Vacancies in the office of judge of the court of appeals shall be filled in the same manner as vacancies in the office of supreme court justice or district judge.

(c) The positions of judges of the Idaho court of appeals shall first be filled as vacancies. The judicial council shall submit to the governor its recommendations for the offices at the earliest practicable time after the effective date of this act. The governor may make the appointment at any time thereafter, to be effective the first Monday of January, 1982, for the terms set forth in section 1-2404(4)(a), Idaho Code.

(d) In making its nominations for the initial vacancies to be created by this act, the Idaho judicial council shall submit the names of not less than six (6) nor more than nine (9) qualified persons for the initial three (3) vacancies to be created by this act. Otherwise, the judicial council shall submit the names of not less than two (2) nor more than four (4) persons for each vacancy. The governor shall appoint the judges, identifying each appointment by the length of the term of appointment.

(e) Nominations and appointments to fill initial or subsequent vacancies shall be made with due regard for balanced geographical membership of the court of appeals.

(f) Subsequent terms of office of a judge who has been appointed to the court of appeals shall be subject to a statewide nonpartisan election to be held in the primary election next preceding the expiration of an appointed term in the same method and manner as a justice of the supreme court.

(g) A fourth judge of the court of appeals shall be appointed by the governor effective the first Monday of January, 2009, for an initial term to expire on the first Monday of January, 2013. Thereafter, the term of office for this position shall be six (6) years. The judicial council shall submit the names of not less than two (2) nor more than four (4) persons for the initial vacancy in this position under the procedure set forth in section 1-2102, Idaho Code. This position shall be subject to all of the provisions relating to qualifications, removal, discipline, retirement, filling of vacancies, election and compensation set forth in this chapter.

(5) Judges of the court of appeals shall receive an annual salary in an amount of one thousand dollars ($1,000) less than the annual salary of a supreme court justice and except for judges who have made an election to remain in the public employee retirement system of Idaho pursuant to section 1-2011, Idaho Code, shall receive compensation upon retirement as provided in chapter 20, title 1, Idaho Code.

Approved February 21, 2008.

CHAPTER 25
(S.B. No. 1271)

AN ACT

RELATING TO THE STATE LAW LIBRARY; AMENDING SECTION 4-101, IDAHO CODE, TO DELETE THE PROVISION THAT THE STATE LAW LIBRARY BE KEPT IN THE STATE CAPITOL OR THE SUPREME COURT AND LAW LIBRARY BUILDING; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 4-101, Idaho Code, be, and the same is hereby amended to read as follows:

4-101. ESTABLISHMENT OF A STATE LAW LIBRARY. A state law library for the use of the courts and members of the bar of this state is hereby established in the city of Boise. The Boise state law library ~~shall be kept in the state capitol building or the Supreme Court and law library building, and~~ is hereby also designated as the state depository for official publications received from other states and the federal government.

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, 2008.

CHAPTER 26
(S.B. No. 1284)

AN ACT

RELATING TO HORSE RACING; AMENDING SECTION 54-2510, IDAHO CODE, TO PROVIDE FOR BONUSES FOR IDAHO BRED WINNERS, TO PROVIDE THAT CERTAIN RACES MAY BE WRITTEN AS IDAHO BRED PREFERRED RACES, TO PROVIDE FOR THE PAYMENT OF A PERCENTAGE OF FIRST PLACE PURSE MONEY BY LICENSEES TO BREEDERS, TO PROVIDE THAT CERTAIN MONEYS SHALL BE INCLUDED AND CERTAIN MONEYS EXCLUDED FROM CALCULATION OF BREEDER PAYMENTS AND TO MAKE A TECHNICAL CORRECTION.

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

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.

(25~~6~~) 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.

(25~~7~~) 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.

SECTION 4. That Section 15-5-405, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-405. NOTICE. ~~1 and ; Idaho 0 2 ; Idaho Code; 1 ; Idaho 0~~ 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.

SECTION 5. That Section 18-8105, Idaho Code, be, and the same is hereby amended to read as follows:

18-8105. 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 remaining portions of this act.

SECTION 6. That the Heading for Chapter 24, Title 28, Idaho Code, be, and the same is hereby amended to read as follows:

CHAPTER 24
SUPPLIERS AND DEALERS IN AGRICULTURE EQUIPMENT

SECTION 7. That Section 31-2202, Idaho Code, be, and the same is hereby amended to read as follows:

31-2202. DUTIES OF SHERIFF. The policy of the state of Idaho is that the primary duty of enforcing all penal provisions and statutes of the state is vested with the sheriff of each county as provided in section 31-2227, Idaho Code. The sheriff shall perform the following:

(1) Preserve the peace.

(2) Arrest and take before the nearest magistrate for examination all persons who attempt to commit or who have committed a public offense, unless otherwise provided by law.

(3) Prevent and suppress all affrays, breaches of the peace, riots and insurrections which may come to his knowledge.

(4) Attend all courts, including magistrate's division of the district court when ordered by a district judge, at their respective terms held within his county, and obey the lawful orders and directions of the courts.

(5) Command the aid of as many inhabitants of the county as he may think necessary in the execution of these duties.

(6) Take charge of and keep the county jail and the prisoners therein.

(7) Indorse upon all process and notices the year, month, day, hour and minute of reception, and issue therefor to the person delivering it, on payment of fees, a certificate showing the names of the parties, title of paper and time of reception.

(8) Serve all process and notices in the manner prescribed by law.

(9) Certify under his hand upon process or notices the manner and time of service, or, if he fails to make service, the reasons of his failure, and return the same without delay.

(10) Perform such other duties as are required of him by law.

(11) Keep a record of all stolen cars reported within his county, which record shall contain the name of the motor vehicle, the engine

number thereof, a complete description of such vehicle and such other information as may aid in the identification of the stolen car. Such record shall be open to public inspection during office hours, and immediately upon receiving a report of a stolen car the sheriff shall prepare and forward a copy thereof to the director of the Idaho state police and he shall also notify the director of the Idaho state police of any and all cars recovered.

(12) At the specific request of the governor or his designated agent prevent the unauthorized importation of wild omnivores or carnivores capable of causing injury to people or their property.

(13~~.~~) Work in his county with the Idaho state police in the following respects:

(a) Require all persons using the highways in the state to do so carefully, safely and with exercise of care for the persons, property and safety of others;

(b) Safeguard and protect the surface and other physical portions of the state highways;

(c) Enforce all of the laws of the state enacted for the identification, inspection and transportation of livestock and all laws of the state designed to prevent the theft of livestock;

(d) Regulate traffic on all highways and roads in the state; and respond to calls following wrecks and make investigations relative thereto;

(e) Use whatever force is necessary to protect the public from wild or domestic omnivores or carnivores in a manner that is consistent with 50 C.F.R. section 17.84(i).

(14) Work in his county with the Idaho transportation department to give examinations for and sell drivers' licenses and identification cards.

(15) Expeditiously and promptly investigate all cases involving missing children when such cases are reported to him.

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 employee severance payments as provided in section 33-521, Idaho Code;

(k) For distributions to the Idaho digital learning academy as provided in section 33-1020, Idaho Code;

(kl) 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~~m) 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 9. That Section 33-2106, Idaho Code, be, and the same is hereby amended to read as follows:

33-2106. TRUSTEES OF COMMUNITY COLLEGE DISTRICTS. (1) The board of trustees of each 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 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, and three (3) for terms of four (4) years each. Thereafter the successors of persons so elected shall be elected for terms of four (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 community college districts shall be biennially in even-numbered years, and shall be held on 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 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 community college trustee election, the board shall organize, and shall elect one (1) of its members 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 community college districts shall be limited in the manner prescribed in section 33-507, Idaho Code.

SECTION 10. 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. Upon request, any commissioned officer, warrant officer or enlisted member of the national guard of Idaho who has a total military service in the armed forces of the United States of twenty (20) years may be placed on the retirement list. In the discretion of the adjutant general, any member may be advanced one (1) grade prior to retirement. Promotions under this section shall be honorary.

SECTION 11. That Section 49-2902, Idaho Code, be, and the same is hereby amended to read as follows:

49-2902. INTERAGENCY WORKING GROUP CREATED. (1) An interagency working group is hereby created to advise the department of agriculture on issues and policies in support of the department of ~~is~~ agriculture's administration of the rural economic development and integrated freight transportation program established in section 49-2901, Idaho Code. The interagency working group shall participate in planning and identifying program needs and shall carry out its duties specified in section 49-2903, Idaho Code. Before recommending state funding, using state dedicated funds, and recommending priorities, the interagency working group shall seek pertinent information, facts and data from state and local governments, and agencies regarding rural freight transportation issues.

(2) The interagency working group shall be composed of eight (8) members:

(a) Four (4) members shall be appointed by the director of the Idaho transportation department, two (2) of whom shall be employees of the Idaho transportation department with a working knowledge of rail and truck freight transportation and intermodal entities, one

(1) member, not a state employee, shall represent freight shipping interests, and one (1) member shall be a representative from the local highway technical assistance council;

(b) Three (3) members shall be appointed by the director of the department of ~~,~~ agriculture, two (2) of whom shall be employees of the department of agriculture with a working knowledge of economic development issues, and one (1) member, not a state employee, shall represent business development and financing interests; and

(c) One (1) member shall be appointed by the director of the department of commerce ~~and labor~~ and shall be an employee with knowledge of rural economic development issues.

(d) At the beginning of each state fiscal year, the director of the Idaho transportation department shall designate one (1) of his appointees as cochairman, and the director of the department of commerce shall designate one (1) of his appointees as cochairman.

(e) Each member appointed shall serve at the pleasure of the appointing authority, provided however, the service of state employee members shall run concurrently with their state employment. Nonstate employee members shall serve one (1) term of five (5) years, but may be appointed to serve nonconsecutive terms, and shall be reimbursed according to the provisions of section 59-509(b), Idaho Code.

(f) The interagency working group shall meet at such times as necessary and appropriate to review applications for funds distributed pursuant to the provisions of this chapter, but not less frequently than annually.

(3) The department of agriculture shall determine and provide for amounts appropriated to the fund, a one-time amount not to exceed three percent (3%) for planning and operating expenses and staff assistance and support from the department of agriculture and the Idaho transportation department in order to administer the program, and to administer the fund established in section 49-2904, Idaho Code.

SECTION 12. That Section 49-2903, Idaho Code, be, and the same is hereby amended to read as follows:

49-2903. DUTIES OF THE INTERAGENCY WORKING GROUP. (1) The interagency working group shall provide recommendations to the department of agriculture in order for that department to establish criteria for evaluating intermodal projects of significance to the state, and the interagency working group shall continue to monitor projects for which it provides assistance to the department of ~~,~~ agriculture.

(2) The interagency working group shall provide recommendations to the department of agriculture in order for the department to develop criteria for prioritizing freight rail and intermodal projects that meet the minimum eligibility requirements for state financial support from the revolving loan fund created in section 49-2904, Idaho Code. Project criteria should consider the level of local financial commitment to the project as well as the cost/benefit ratio. Railroads, shippers, intermodal commerce authorities as defined in chapter 22, title 70, Idaho Code, and others who benefit from the project should participate financially to the greatest extent practicable.

(3) The interagency working group shall provide the assistance necessary for the department to ensure that the state maintains a contin-

gent interest in any equipment, property, rail line, or facility that has outstanding grants or loans. The owner of a qualified line as defined in section 49-2904, Idaho Code, shall not use the line as collateral, remove track, bridges or associated elements for salvage, or use it in any other manner subordinating the state's interest until any loan made to the owner pursuant to this chapter has been repaid in full. As the state is not a primary lender of money, it is understood the state may need to take a subordinate position for its contingent interest.

SECTION 13. That Section 49-2905, Idaho Code, be, and the same is hereby amended to read as follows:

49-2905. STATE RAIL AND INTERMODAL FACILITY SYSTEM PLAN. (1) The Idaho transportation department shall prepare and periodically update a state rail and intermodal facility system plan, a primary objective of which is to identify, evaluate and encourage the development and preservation of essential rail and truck intermodal services. The plan shall:

(a) Identify and describe the state's rail system;

(b) Prepare state rail system maps;

(c) Identify and evaluate mainline capacity issues in cooperation with the railroads;

(d) Identify and evaluate rail access and congestion issues;

(e) Identify and evaluate rail commodity flows and traffic types;

(f) Identify lines and corridors that have been rail banked or preserved;

(g) Identify and evaluate other rail and intermodal issues affecting the state's freight transportation system and regional and local economies;

(h) Identify and evaluate those rail freight lines that are potentially subject to abandonment in the future because of unmet capital needs or other reasons, or have recently been approved for abandonment but the track improvements are still in place;

(i) Whenever possible provide priorities for determining which rail lines or intermodal commerce authorities should receive state support, and provide to the interagency working group supporting information used in establishing such priorities for use by the interagency working group in advising the department of agriculture. The priorities should include:

(i) The anticipated benefits to the state and local economy;

(ii) Coordinated freight transportation system including the anticipated cost of road and highway improvements necessitated by the proposed project;

(iii) Establishment of an intermodal facility, if indicated;

(iv) The likelihood the qualified line receiving funding can meet operating costs from freight charges, surcharges on rail traffic and other funds; and

(v) The impact of abandonment or capacity constraints if the project does not obtain state support; and

(j) Identify and describe the state's intermodal rural rail and truck freight system by:

(i) Preparing state intermodal and regional freight transfer station system maps;

(ii) Identifying and evaluating intermodal and truck and rail

freight transfer capacity and coordination issues in cooperation with local government and the railroad and truck interests;

(iii) Identifying and evaluating intermodal and freight transfer access and highway capacity issues; and

(iv) Identifying and evaluating major freight commodity origins, destinations and traffic flows by mode and corridor.

(2) The Idaho transportation department shall provide information to the interagency working group for assisting and advising the department of agriculture to monitor the status of the state's mainline, short line and branch line common carrier railroads through the state rail planning process and various analyses. In addition, the Idaho transportation department shall submit to the interagency working group, its evaluation of alternatives to abandonment prior to federal surface transportation board proceedings, where feasible.

(3) The state rail and intermodal facility system plan may be prepared in conjunction with any rail plan currently prepared by the Idaho transportation department pursuant to other federal rail assistance programs, or which may be enacted, including if applicable, the federal local rail freight assistance program.

SECTION 14. That Section 58-304, Idaho Code, be, and the same is hereby amended to read as follows:

58-304. LEASES. (1) 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.

(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.

SECTION 15. That Chapter 13, Title 58, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW HEADING, to be known and designated as the Heading for Chapter 13, Title 58, Idaho Code, be, and read as follows:

CHAPTER 13
NAVIGATIONAL ENCROACHMENTS

SECTION 16. 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) 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) 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 delinquent 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~~6~~) For purposes of this section, "same employer" means the employer for which the retired member last worked prior to retirement.

SECTION 17. 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; 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: 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; ~~the--Idaho--building-code-act;~~ and modular buildings, chapter 43, title 39, Idaho Code~~;-relating-to~~.

(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 18. That Section 67-4727, Idaho Code, be, and the same is hereby amended to read as follows:

67-4727. NURSING WORKFORCE ADVISORY COUNCIL -- MEMBERS -- OFFICERS -- COMPENSATION -- IDAHO NURSING WORKFORCE CENTER. (1) The state of Idaho recognizes the need to understand and address the critical issue of Idaho's nursing shortage and the opportunity to collaborate and take full advantage of research, educational and incentive programs to address the current and future nursing shortage. The nursing workforce advisory council is hereby created within the department of ~~commerce-and~~ labor to advise the department, the state board of education, state colleges and universities, and other state, local, federal and private sector agencies and organizations on nursing workforce issues and to assist with the development and implementation of a state strategic plan for addressing the nursing shortage.

(2) Except as otherwise provided, the council shall be appointed by

and serve at the pleasure of the governor and shall include:

(a) Two (2) senators and two (2) members of the house of representatives, to be appointed by the legislative council;

(b) One (1) representative each from the nursing programs at Boise State University, the College of Southern Idaho, Idaho State University, Lewis-Clark State College, North Idaho College and Eastern Idaho Technical College;

(c) One (1) representative each from a rural hospital and an urban hospital, as determined based upon location within or outside of a metropolitan statistical area (MSA) as defined by the United States bureau of the census;

(d) One (1) representative each from the department of ~~commerce and~~ labor, the Idaho board of nursing, the office of the state board of education, and the office of the governor; and

(e) One (1) representative from the Idaho alliance of leaders in nursing.

(3) The governor shall designate a chairman from the council's membership and the council shall designate such other officers from its membership as it deems necessary. A majority of the members shall constitute a quorum. The council shall be staffed and supported by the department of ~~commerce and~~ labor.

(4) Members of the council who are not state employees shall not be compensated, but shall be reimbursed for travel expenses incurred for attendance at council meetings.

(5) The Idaho nursing workforce center is hereby established within the department of ~~commerce and~~ labor to assist the nursing workforce advisory council in planning for a qualified workforce necessary to meet the current and future nursing and health care needs of the state. The Idaho nursing workforce center shall:

(a) Conduct research activities, including the collection of valid and reliable data about Idaho's current nursing workforce and the forecasting of future needs, or contract for such research activities to be conducted by an Idaho college or university; and

(b) Provide expertise in workforce planning and project evaluation.

(6) The Idaho nursing workforce center shall report to the nursing workforce advisory council and shall be funded pursuant to state appropriation in addition to any funding from grants, federal moneys, donations or funds from any other sources.

SECTION 19. That Section 67-7903, Idaho Code, be, and the same is hereby amended to read as follows:

67-7903. VERIFICATION OF LAWFUL PRESENCE -- EXCEPTIONS -- REPORTING. (1) Except as otherwise provided in subsection (3) of this section or where exempted by federal law, each agency or political subdivision of this state shall verify the lawful presence in the United States of each natural person eighteen (18) years of age or older who applies for state or local public benefits or for federal public benefits for the applicant.

(2) This section shall be enforced without regard to race, religion, gender, ethnicity or national origin.

(3) Verification of lawful presence in the United States shall not be required:

(a) For any purpose for which lawful presence in the United States

is not required by law, ordinance or rule;

(b) For obtaining health care items and services that are necessary for the treatment of an emergency medical condition of the person involved and are not related to an organ transplant procedure;

(c) For short-term, noncash, in-kind emergency disaster relief;

(d) For public health assistance for immunizations with respect to immunizable diseases and testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease;

(e) For programs, services or assistance, such as soup kitchens, crisis counseling and intervention and short-term shelter specified by federal law or regulation that:

(i) Deliver in-kind services at the community level, including services through public or private nonprofit agencies;

(ii) Do not condition the provision of assistance, the amount of assistance provided or the cost of assistance provided on the individual recipient's income or resources; and

(iii) Are necessary for the protection of life or public safety;

(f) For prenatal care;

(g) For postnatal care not to exceed twelve (12) months; or

(h) For food assistance for a dependent child under eighteen (18) years of age.

Notwithstanding the provisions of this subsection (3), for the county indigent program, the limitations contained in section 31-3502(18)B., Idaho Code, shall apply.

(4) An agency or a political subdivision shall verify the lawful presence in the United States of each applicant eighteen (18) years of age or older for federal public benefits or state or local public benefits by:

(a) Employing electronic means to verify an applicant is legally present in the United States; or

(b) Requiring the applicant to provide:

(i) An Idaho driver's license or an Idaho identification card issued pursuant to section 49-2444, Idaho Code; or

(ii) A valid driver's license or similar document issued for the purpose of identification by another state or territory of the United States, if such license or document contains a photograph of the individual or such other personal identifying information relating to the individual that the director of the department of health and welfare or, with regard to unemployment compensation benefits, the director of the department of ~~commerce--and~~ labor finds, by rule, sufficient for purposes of this section; or

(iii) A United States military card or a military dependent's identification card; or

(iv) A United States coast guard merchant mariner card; or

(v) A native American tribal document; or

(vi) A valid United States passport; and

(c) Requiring the applicant to provide a valid social security number that has been assigned to the applicant; and

(d) Requiring the applicant to attest, under penalty of perjury and on a form designated or established by the agency or the political subdivision, that:

(i) The applicant is a United States citizen or legal permanent resident; or

(ii) The applicant is otherwise lawfully present in the United States pursuant to federal law.

(5) Notwithstanding the requirements of subsection (4)(b) of this section, the agency or political subdivision may establish by appropriate legal procedure such rules or regulations to ensure that certain individuals lawfully present in the United States receive authorized benefits including, but not limited to, homeless state citizens.

(6) For an applicant who has attested pursuant to subsection (4)(d) of this section stating that the applicant is an alien lawfully present in the United States, verification of lawful presence for federal public benefits or state or local public benefits shall be made through the federal systematic alien verification of entitlement program, which may be referred to as the "SAVE" program, operated by the United States department of homeland security or a successor program designated by the United States department of homeland security. Until such verification of lawful presence is made, the attestation may be presumed to be proof of lawful presence for purposes of this section.

(a) Errors and significant delays by the SAVE program shall be reported to the United States department of homeland security to ensure that the application of the SAVE program is not wrongfully denying benefits to legal residents of this state.

(b) Agencies or political subdivisions may adopt variations of the requirements of subsection (4)(d) of this section to improve efficiency or reduce delay in the verification process or to provide for adjudication of unique individual circumstances in which the verification procedures in this section would impose unusual hardship on a legal resident of this state; except that the variations shall be no less stringent than the requirements of subsection (4)(d) of this section.

(c) A person who knowingly makes a false, fictitious or fraudulent statement or representation in an attestation executed pursuant to subsection (4)(d) or (6)(b) of this section shall be guilty of a misdemeanor.

(7) An agency or political subdivision may accept as prima facie evidence of an applicant's lawful presence in the United States the information required in subsection (4) of this section, as may be modified by subsection (5) of this section, when issuing a professional license or a commercial license.

Approved February 21, 2008.

CHAPTER 28
(S.B. No. 1346)

AN ACT

RELATING TO APPROPRIATIONS AND TRANSFERS OF FUNDS; PROVIDING AN APPROPRIATION AND A TRANSFER OF FUNDS TO THE FIRE SUPPRESSION DEFICIENCY FUND; PROVIDING AN APPROPRIATION AND A TRANSFER OF FUNDS TO THE PEST CONTROL DEFICIENCY FUND; PROVIDING AN APPROPRIATION AND A TRANSFER OF FUNDS TO THE HAZARDOUS SUBSTANCE EMERGENCY RESPONSE FUND; GRANT-

ING A CONTINUOUS APPROPRIATION FOR THE BUREAU OF HOMELAND SECURITY'S MISCELLANEOUS REVENUE FUND FOR FISCAL YEAR 2008; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated and the State Controller shall transfer $21,500,000 from the General Fund to the Fire Suppression Deficiency Fund. Such moneys shall be used to reimburse costs incurred by the Forest and Range Fire Protection Program in the Department of Lands pursuant to Sections 38-131 and 38-131A, Idaho Code.

SECTION 2. There is hereby appropriated and the State Controller shall transfer $255,000 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. There is hereby appropriated and the State Controller shall transfer $69,300 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. The Military Division is hereby granted continuous appropriation authority for the Bureau of Homeland Security's Miscellaneous Revenue Fund for the period July 1, 2007, through June 30, 2008, for the purpose of covering incurred costs arising out of hazardous substance incidents.

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 February 21, 2008.

CHAPTER 29
(S.B. No. 1347)

AN ACT

RELATING TO APPROPRIATIONS TO THE DEPARTMENT OF WATER RESOURCES; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 2008; REDUCING THE APPROPRIATION TO THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 2008; AMENDING SECTION 2, CHAPTER 299, LAWS OF 2007, TO PROVIDE A CORRECT EFFECTIVE DATE AND TO REAPPROPRIATE UNEXPENDED AND UNENCUMBERED MONEYS TO THE OFFICE OF ENERGY RESOURCES FOR FISCAL YEAR 2009; 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 321, Laws of 2007, there is hereby appropriated to the Depart-

ment of Water Resources 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, 2007, through June 30, 2008:

ENERGY RESOURCES:

FOR:	
Personnel Costs	$169,600
Operating Expenditures	43,300
TOTAL	$212,900
FROM:	
Miscellaneous Revenue Fund	$212,900

SECTION 2. The appropriation made in Section 1, Chapter 321, Laws of 2007, to the Department of Water Resources is hereby reduced by the following amount for the designated program according to the designated expense classes from the listed fund for the period July 1, 2007, through June 30, 2008:

ENERGY RESOURCES:

FOR:	
Personnel Costs	$169,600
Operating Expenditures	43,300
TOTAL	$212,900
FROM:	
Petroleum Price Violation Fund	$212,900

SECTION 3. That Section 2, Chapter 299, Laws of 2007, be, and the same is hereby amended to read as follows:

SECTION 2. In addition to any other appropriation provided by law, there is hereby appropriated to the Department of Water Resources for the Energy Resources Program the sum of $690,000 from the Idaho Economic Development Biofuel Infrastructure Matching Grant Fund to be used for matching grants pursuant to Section 42-1806, Idaho Code, for the period July 1, 2008~~7~~, through June 30, 2009~~8~~. Any unexpended and unencumbered moneys remaining at the end of fiscal year 2008 are hereby reappropriated to the Office of Energy Resources in the Office of the Governor to be used for the same purposes for the period July 1, 2008, through June 30, 2009.

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 21, 2008.

CHAPTER 30
(S.B. No. 1358)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION/STATE DEPARTMENT OF EDUCATION FOR FISCAL YEAR 2008; 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 2007, there is hereby appropriated to the Superintendent of Public Instruction/State Department of Education the following amount 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	$109,400
Operating Expenditures	50,000
TOTAL	$159,400
FROM:	
Miscellaneous Revenue Fund	$159,400

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, 2008.

CHAPTER 31
(H.B. No. 359)

AN ACT

RELATING TO AIRCRAFT ENGINE FUEL TAX; AMENDING SECTION 63-2408, IDAHO CODE, TO INCREASE EXCISE TAX ON AVIATION GASOLINE AND JET FUEL.

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

SECTION 1. That Section 63-2408, Idaho Code, be, and the same is hereby amended to read as follows:

63-2408. AIRCRAFT ENGINE FUEL TAX. (1) An excise tax is hereby imposed on all aircraft engine fuel received in this state. The tax is to be paid by the distributor, and measured by the total number of gallons received by him, at the rate of ~~five and one-half~~ seven cents (~~5-1/2~~7¢) per gallon of aviation gasoline, and ~~four--and--one-half~~ six cents (~~4-1/2~~6¢) per gallon of jet fuel. The tax, together with any penalty and/or interest due, shall be remitted with the monthly distributor's report required in section 63-2406, Idaho Code.

(2) For gasoline, other than aircraft engine fuel, used in aircraft engines, the refund of gasoline tax provided in section 63-2410, Idaho Code, shall be the amount of gasoline tax paid less the aviation gasoline fuel tax required in this section.

(3) A tax is hereby imposed on fuel which is placed into the fuel supply tank of aircraft in this state on which tax is not collected under subsection (1) of this section, the tax shall be payable at the rate established in subsection (1) of this section, to the commission by the user or consumer of the fuels and shall be a debt owing to the state until it is paid. The tax shall be imposed without regard to whether the fuel is used in the performance of a government contract.

Approved February 22, 2008.

CHAPTER 32
(S.B. No. 1260)

AN ACT

RELATING TO EXHIBITIONS OF DOGFIGHTS; AMENDING SECTION 25-3507, IDAHO CODE, TO PROVIDE THAT PERSONS WHO KNOWINGLY OR INTENTIONALLY PARTICIPATE IN CERTAIN ACTIVITIES RELATED TO DOGFIGHTING EXHIBITIONS SHALL BE GUILTY OF A FELONY AND TO EXEMPT FROM APPLICATION CERTAIN ACTIVITIES.

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

SECTION 1. That Section 25-3507, Idaho Code, be, and the same is hereby amended to read as follows:

25-3507. EXHIBITION OF DOGFIGHTS. (1) Every person who knowingly owns, possesses, keeps, trains, buys or sells dogs for the purpose of a public or private display of combat between two (2) or more dogs in which the fighting, killing, maiming or injuring of dogs is a significant feature is guilty of a felony.

(2) Every person who knowingly advertises, promotes, organizes, participates or knowingly has a monetary interest in a public or private display of combat between two (2) or more dogs in which the fighting, killing, maiming or injuring of dogs is a significant feature is guilty of a ~~misdemeanor and shall, upon conviction, be punished in accordance with section 25-3520A, Idaho Code~~ felony.

(3) Every person who is knowingly present as a spectator at any place where preparations are being made for an exhibition of the fighting of dogs with the intent to be present at such preparations or to be knowingly present at such exhibition shall be guilty of a misdemeanor and shall, upon conviction, be punished in accordance with section 25-3520A, Idaho Code.

(4) Nothing in this section prohibits: demonstrations of the hunting, herding, working or tracking skills of dogs or the lawful use of dogs for hunting, herding, working, tracking or self and property protection; the use of dogs in the management of livestock or the training, raising, breeding or keeping of dogs for any purpose not prohibited by law. An exhibition of dogfighting shall not be construed to mean the type of confrontation that happens unintentionally because of a chance encounter between two (2) or more uncontrolled dogs.

Approved February 25, 2008.

CHAPTER 33
(S.B. No. 1272)

AN ACT

RELATING TO SALARIES AND DISTRICT COURT REPORTERS; AMENDING SECTION 1-1102, IDAHO CODE, TO REVISE PROVISIONS RELATING TO COURT REPORTER SALARIES, TO DELETE OBSOLETE LANGUAGE AND TO DELETE PROVISIONS RELATING TO SALARY AND ORDER OF TRANSCRIPTS PREPARED.

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

SECTION 1. That Section 1-1102, Idaho Code, be, and the same is hereby amended to read as follows:

1-1102. OATH, BOND, SALARY AND EXPENSES -- COST OF LIVING ADJUSTMENTS. (1) Said reporter shall take the oath required to be taken by the judicial officers; and be bonded to the state of Idaho in the form and manner prescribed by chapter 8, title 59, Idaho Code; and hold ~~his~~ office during the pleasure of said judge~~;~~. ~~and shall receive an annual salary commencing on July 1, 1989, according to the following schedule:~~

~~Years as Idaho District Court Reporter~~	~~Annual Salary~~
~~0-1 (if hired after 7-1-89)~~	~~$27,000~~
~~1-2~~	~~$28,505~~
~~3-4~~	~~$29,503~~
~~5 or more~~	~~$30,603~~

The ~~salary~~ salaries of district court reporters shall be paid on regular pay periods not less frequently than monthly as determined by order of the supreme court. The supreme court may, in its discretion, authorize a higher starting salary ~~than that set forth in subsection (1) of this section~~ for any shorthand reporter who has been certified as either a certified shorthand reporter or registered public reporter and who has previous court reporting experience in another state.

(2) ~~Commencing July 1, 1990, the chief justice of t~~The supreme court shall establish and maintain, consistent with the provisions of this section and other applicable provisions of law, a personnel plan for district court reporters governing their appointment, promotion, classification, minimum qualifications, compensation, expenses, leave, transfer, lay-off, removal, discipline and other incidents of employment of those district court reporters. ~~The salary schedule promulgated pursuant to the authority conferred in this section shall be of temporary effect and must be ratified by the legislature at the regular legislative session first following its adoption. Any such salary schedule, or portions thereof, not approved in the above manner shall be rejected, null and void and of no force and effect on July 1 of the year, following submission of such schedule to the legislature. Provided, however, that any such salary schedule, or portions thereof, previously ratified by the legislature in the manner provided for herein shall continue in full force and effect until modified in the manner provided for herein.~~ To the extent possible, the personnel plan shall recognize performance as measured by factors such as productivity, reliability, effectiveness and longevity.

(3) There shall be paid in addition to said salary, to each of the court reporters of the district courts, out of the state treasury, for each term of district court held by the judge thereof, for the trial and disposition of causes and the transaction of business under the laws of the state, in other counties than that in which said court reporter resides, ~~his~~ actual and necessary expenses for traveling and attending each term~~; provided, however, that no stenographic reporter shall be paid his salary, or any portion thereof, unless he shall have first taken and subscribed an oath that he has prepared the transcript of the testimony on appeal either in a civil or criminal action, or specified portion thereof, in the order in which the copy of the order directing~~

~~him-to-prepare-the-same-has-been-served--upon--him;--provided,--however, that--the-estimated-cost-of-transcribing-such-transcript-shall-have-been paid-to-such-reporter-at-the-time-of-the-service--of--the--copy--of--the order-upon-him.~~

Approved February 25, 2008.

CHAPTER 34
(S.B. No. 1248)

AN ACT

RELATING TO ASSIGNMENT OF JUSTICE PRO TEMPORE TO SUPREME COURT; AMENDING TITLE 1, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 1-215, IDAHO CODE, TO PROVIDE FOR ASSIGNMENT OF A JUSTICE PRO TEMPORE IN THE EVENT OF VACANCY, DISQUALIFICATION, DISABILITY OR ABSENCE OF A SUPREME COURT JUSTICE.

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

SECTION 1. That Chapter 2, Title 1, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 1-215, Idaho Code, and to read as follows:

1-215. ASSIGNMENT OF JUSTICE PRO TEMPORE IN EVENT OF VACANCY, DISQUALIFICATION, DISABILITY OR ABSENCE. (1) When there is a vacancy in any of the positions of justice of the supreme court, and until the vacancy is filled as provided by law, the supreme court may assign a senior justice of the supreme court, an active or senior judge of the court of appeals, an active or senior district judge, or an active or senior magistrate judge to sit in a cause before the supreme court.

(2) When a justice of the supreme court is disqualified from sitting in a cause before the supreme court or is unable to sit in such cause because of disability or absence, the supreme court may assign a senior justice of the supreme court, an active or senior judge of the court of appeals, an active or senior district judge, or an active or senior magistrate judge to sit in such cause.

(3) A senior justice of the supreme court, an active or senior judge of the court of appeals, an active or senior district judge, or an active or senior magistrate judge assigned pursuant to this section shall exercise all of the powers of a justice of the supreme court as to the cause upon which he or she is assigned to sit.

Approved February 26, 2008.

CHAPTER 35
(S.B. No. 1261)

AN ACT

RELATING TO MEDIATION; AMENDING TITLE 9, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 8, TITLE 9, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROVIDE FOR THE SCOPE OF THE CHAPTER, TO PROVIDE FOR A PRIVILEGE AGAINST DISCLOSURE, TO PROVIDE FOR A LIMITATION OF

THE PRIVILEGE, TO PROVIDE FOR THE WAIVER AND PRECLUSION OF THE PRIVILEGE, TO PROVIDE FOR EXCEPTIONS TO THE PRIVILEGE, TO PROVIDE FOR PROHIBITION ON MEDIATOR REPORTS, TO PROVIDE WHAT A MEDIATOR MAY DISCLOSE, TO PROVIDE A PROHIBITION ON USE OF IMPROPERLY DISCLOSED COMMUNICATIONS REGARDING A MEDIATION, TO PROVIDE FOR CONFIDENTIALITY, TO PROVIDE FOR INQUIRY AND DISCLOSURE OF A MEDIATOR'S CONFLICTS OF INTEREST, TO PROVIDE CONSEQUENCES FOR NONDISCLOSURE, TO PROVIDE NO SPECIAL QUALIFICATIONS FOR A MEDIATOR, TO PROVIDE FOR WHO MAY PARTICIPATE IN A MEDIATION AND FOR RESCISSION OF WAIVER OF PARTICIPATION, TO DEFINE A TERM, TO PROVIDE FOR APPLICATION OF THE MODEL LAW ON INTERNATIONAL COMMERCIAL CONCILIATION, TO PROVIDE FOR RELATION TO THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT, TO PROVIDE FOR UNIFORMITY OF APPLICATION AND CONSTRUCTION, TO PROVIDE APPLICATION TO EXISTING AGREEMENTS OR REFERRALS; AND PROVIDING FOR SEVERABILITY.

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

SECTION 1. That Title 9, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 8, Title 9, Idaho Code, and to read as follows:

CHAPTER 8
UNIFORM MEDIATION ACT

9-801. SHORT TITLE. This chapter may be cited as the "Uniform Mediation Act."

9-802. DEFINITIONS. In this chapter:

(1) "Mediation" means a process in which a mediator facilitates communication and negotiation between parties to assist them in reaching a voluntary agreement regarding their dispute.

(2) "Mediation communication" means a statement, whether oral or in a record or verbal or nonverbal, that occurs during a mediation or is made for purposes of considering, conducting, participating in, initiating, continuing or reconvening a mediation or retaining a mediator.

(3) "Mediation party" means a person that participates in a mediation and whose agreement is necessary to resolve the dispute.

(4) "Mediator" means an individual who conducts a mediation.

(5) "Nonparty participant" means a person, other than a party or mediator, that participates in a mediation.

(6) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity.

(7) "Proceeding" means:

(a) A judicial, administrative, arbitral or other adjudicative process, including related prehearing and posthearing motions, conferences and discovery; or

(b) A legislative hearing or similar process.

(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.

(9) "Sign" means:

(a) To execute or adopt a tangible symbol with the present intent to authenticate a record;
(b) To attach or logically associate an electronic symbol, sound or process to or with a record with the present intent to authenticate a record; or
(c) To assent on a stenographic record with the present intent to authenticate a record.

9-803. SCOPE. (1) Except as otherwise provided in subsection (2) or (3) of this section, this chapter applies to a mediation in which:
(a) The mediation parties are required to mediate by statute or court or administrative agency rule or referred to mediation by a court, administrative agency or arbitrator;
(b) The mediation parties and the mediator agree to mediate in a record that demonstrates an expectation that mediation communications will be privileged against disclosure; or
(c) The mediation parties use as a mediator an individual who holds himself or herself out as a mediator or the mediation is provided by a person that holds itself out as providing mediation.
(2) This chapter does not apply to a mediation:
(a) Relating to the establishment, negotiation, administration or termination of a collective bargaining relationship;
(b) Relating to a dispute that is pending under or is part of the processes established by a collective bargaining agreement, except that the chapter applies to a mediation arising out of a dispute that has been filed with an administrative agency or court;
(c) Conducted by a judge who might make a ruling on the case; or
(d) Conducted under the auspices of:
(i) A primary or secondary school if all the parties are students, or
(ii) A correctional institution for youth if all the parties are residents of that institution.
(3) If the parties agree in advance in a signed record, or a record of proceeding reflects agreement by the parties, that all or part of a mediation is not privileged, the privileges under sections 9-804 through 9-806, Idaho Code, do not apply to the mediation or part agreed upon. However, sections 9-804 through 9-806, Idaho Code, apply to a mediation communication made by a person that has not received actual notice of the agreement before the communication is made.

9-804. PRIVILEGE AGAINST DISCLOSURE -- ADMISSIBILITY -- DISCOVERY. (1) Except as otherwise provided in section 9-806, Idaho Code, a mediation communication is privileged as provided in subsection (2) of this section and is not subject to discovery or admissible in evidence in a proceeding unless waived or precluded as provided by section 9-805, Idaho Code.
(2) In a proceeding, the following privileges apply:
(a) A mediation party may refuse to disclose, and may prevent any other person from disclosing, a mediation communication.
(b) A mediator may refuse to disclose a mediation communication, and may prevent any other person from disclosing a mediation communication of the mediator.

(c) A nonparty participant may refuse to disclose, and may prevent any other person from disclosing, a mediation communication of the nonparty participant.

(3) Evidence or information that is otherwise admissible or subject to discovery does not become inadmissible or protected from discovery solely by reason of its disclosure or use in a mediation.

9-805. WAIVER AND PRECLUSION OF PRIVILEGE. (1) A privilege under section 9-804, Idaho Code, may be waived in a record or orally during a proceeding if it is expressly waived by all parties to the mediation and:

(a) In the case of the privilege of a mediator, it is expressly waived by the mediator; and

(b) In the case of the privilege of a nonparty participant, it is expressly waived by the nonparty participant.

(2) A person that discloses or makes a representation about a mediation communication which prejudices another person in a proceeding is precluded from asserting a privilege under section 9-804, Idaho Code, but only to the extent necessary for the person prejudiced to respond to the representation or disclosure.

(3) A person that intentionally uses a mediation to plan, attempt to commit or commit a crime or to conceal an ongoing crime or ongoing criminal activity is precluded from asserting a privilege under section 9-804, Idaho Code.

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

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

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

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

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

(e) Sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice filed against a mediator;

(f) Except as otherwise provided in subsection (3) of this section, sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice filed against a mediation party, nonparty participant or representative of a party based on conduct occurring during a mediation; or

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

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

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

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

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

(4) If a mediation communication is not privileged under subsection (1) or (2) of this section, only the portion of the communication necessary for the application of the exception from nondisclosure may be admitted. Admission of evidence under subsection (1) or (2) of this section does not render the evidence, or any other mediation communication, discoverable or admissible for any other purpose.

9-807. PROHIBITED MEDIATOR REPORTS. (1) Except as otherwise provided in subsection (2) of this section, a mediator may not make a report, assessment, evaluation, recommendation, finding or other communication regarding a mediation to a court, administrative agency or other authority that may make a ruling on the dispute that is the subject of the mediation.

(2) A mediator may disclose:

(a) Whether the mediation occurred or has terminated, whether a settlement was reached, and attendance;

(b) A mediation communication as permitted under section 9-806, Idaho Code;

(c) A mediation communication evidencing abuse, neglect, abandonment or exploitation of an individual to a public agency responsible for protecting individuals against such mistreatment; or

(d) In mediation governed by Idaho rule of civil procedure 16(j), information permitted under Idaho rule of civil procedure 16(j).

(3) A communication made in violation of subsection (1) of this section may not be considered by a court, administrative agency or arbitrator.

9-808. CONFIDENTIALITY. Unless subject to sections 9-337 through 9-347 or 67-2340 through 67-2347, Idaho Code, mediation communications are confidential to the extent agreed by the parties or provided by other law or rule of this state.

9-809. MEDIATOR'S DISCLOSURE OF CONFLICTS OF INTEREST -- BACKGROUND. (1) Before accepting a mediation, an individual who is requested to serve as a mediator shall:

(a) Make an inquiry that is reasonable under the circumstances to determine whether there are any known facts that a reasonable individual would consider likely to affect or create the appearance of affecting the impartiality of the mediator, including a financial or personal interest in the outcome of the mediation and an existing or past relationship with a mediation party or foreseeable participant in the mediation; and

(b) Disclose any such known fact to the mediation parties as soon as is practical before accepting a mediation.

(2) If a mediator learns any fact described in subsection (1)(a) of this section after accepting a mediation, the mediator shall disclose it as soon as is practicable.

(3) At the request of a mediation party, an individual who is requested to serve as a mediator shall disclose the mediator's qualifications to mediate a dispute.

(4) A person that violates subsection (1) or (2) of this section is precluded by the violation from asserting a privilege under section 9-804, Idaho Code.

(5) Subsections (1), (2) and (3) of this section do not apply to an individual acting as a judge.

(6) This chapter does not require that a mediator have a special qualification by background or profession.

(7) A mediator must be impartial unless, after disclosure of the facts required in subsections (1) and (2) of this section to be disclosed, the parties agree otherwise.

9-810. PARTICIPATION IN MEDIATION. Unless otherwise provided by court rule or order, an attorney or other individual designated by a party may accompany the party to and participate in a mediation. A waiver of participation given before the mediation may be rescinded.

9-811. INTERNATIONAL COMMERCIAL MEDIATION. (1) In this section, "model law" means the model law on international commercial conciliation adopted by the United Nations commission on international trade law on June 28, 2002, and recommended by the United Nations general assembly in a resolution (A/RES/57/18) dated November 19, 2002, and "international commercial mediation" means an international commercial conciliation as defined in article 1 of the model law.

(2) Except as otherwise provided in subsections (3) and (4) of this section, if a mediation is an international commercial mediation, the mediation is governed by the model law.

(3) Unless the parties agree in accordance with section 9-803(3), Idaho Code, that all or part of an international commercial mediation is not privileged, sections 9-804, 9-805 and 9-806, Idaho Code, and any applicable definitions in section 9-802, Idaho Code, also apply to the mediation and nothing in article 10 of the model law derogates from sections 9-804, 9-805 and 9-806, Idaho Code.

(4) If the parties to an international commercial mediation agree under article 1, subsection 7., of the model law that the model law does not apply, this chapter applies.

9-812. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This chapter modifies, limits or supersedes the federal electronic signatures in global and national commerce act, 15 U.S.C. section 7001 et seq., but this chapter does not modify, limit or supersede section 101(c) of that act or authorize electronic delivery of any of the notices described in section 103(b) of that act.

9-813. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this chapter, consideration should be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

9-814. APPLICATION TO EXISTING AGREEMENTS OR REFERRALS. This chapter governs a mediation occurring after the effective date of this chapter pursuant to a referral or an agreement to mediate, whenever made.

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.

Approved February 26, 2008.

CHAPTER 36
(S.B. No. 1262)

AN ACT

RELATING TO THE IDAHO ENTITY TRANSACTION ACT; REPEALING SECTION 30-1-901, IDAHO CODE, RELATING TO EXCLUDED TRANSACTIONS, SECTION 30-1-902, IDAHO CODE, RELATING TO REQUIRED APPROVALS, SECTION 30-1-920, IDAHO CODE, RELATING TO DOMESTICATIONS, SECTION 30-1-922, IDAHO CODE, RELATING TO ARTICLES OF DOMESTICATION AND SECTION 30-1-924, IDAHO CODE, RELATING TO EFFECT OF DOMESTICATION; AMENDING SECTION 30-18-102, IDAHO CODE, TO REVISE DEFINITIONS AND TO DEFINE NEW TERMS; AMENDING SECTION 30-18-104, IDAHO CODE, TO PROVIDE FOR THE REQUIRED NOTICE FOR AN INTEREST EXCHANGE, CONVERSION OR DOMESTICATION, TO REMOVE REFERENCES TO THE COMMON LAW AND SPECIFIC STATUTES AND TO PROVIDE FOR OBTAINING AN APPROPRIATE ORDER OF THE ATTORNEY GENERAL FOR CERTAIN TRANSACTIONS; AMENDING SECTION 30-18-109, IDAHO CODE, TO REMOVE A PROVISION FOR APPRAISAL RIGHTS FOR CORPORATION SHAREHOLDERS AND TO PROVIDE FOR APPRAISAL RIGHTS; AMENDING SECTION 30-18-203, IDAHO CODE, TO REVISE PROCEDURE FOR APPROVAL OF A PLAN OF MERGER; AMENDING SECTION 30-18-205, IDAHO CODE, TO PROVIDE AN ADDITIONAL REQUIREMENT TO BE CONTAINED IN A STATEMENT OF MERGER; AMENDING SECTION 30-18-206, IDAHO CODE, TO REVISE TERMINOLOGY AND TO REVISE THE EFFECT OF A MERGER; AMENDING SECTION 30-18-303, IDAHO CODE, TO REVISE THE PROCEDURE FOR APPROVAL OF A PLAN OF INTEREST EXCHANGE; AMENDING SECTION 30-18-306, IDAHO CODE, TO REVISE THE EFFECT OF AN INTEREST EXCHANGE; AMENDING SECTION 30-18-403, IDAHO CODE, TO REVISE THE PROCEDURE FOR APPROVAL OF A PLAN OF CONVERSION; AMENDING SECTION 30-18-405, IDAHO CODE, TO PROVIDE AN ADDITIONAL REQUIREMENT TO BE CONTAINED IN A STATEMENT OF CONVERSION; AMENDING SECTION 30-18-406, IDAHO CODE, TO REVISE THE EFFECT OF A CONVERSION; AMENDING SECTION 30-18-503, IDAHO CODE, TO REVISE THE PROCEDURE FOR APPROVAL OF A PLAN OF DOMESTICATION; AMENDING SECTION 30-18-505, IDAHO CODE, TO PROVIDE AN ADDITIONAL REQUIREMENT TO BE CONTAINED IN A STATEMENT OF DOMESTICATION; AMENDING SECTION 30-18-506, IDAHO CODE, TO REVISE THE EFFECT OF A DOMESTICATION AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 30-18-702, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Sections 30-1-901, 30-1-902, 30-1-920, 30-1-922 and 30-1-924, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Section 30-18-102, Idaho Code, be, and the same is hereby amended to read as follows:

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~~ acquired 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) "Business corporation" means a corporation whose internal affairs are governed by the Idaho business corporation act, chapter 1, title 30, Idaho Code.

(5) "Conversion" means a transaction authorized by part 4 of this chapter.

(~~5~~6) "Converted entity" means the converting entity as it continues in existence after a conversion.

(~~6~~7) "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~~8) "Domestic entity" means an entity whose internal affairs are governed by the law of this state.

(~~8~~9) "Domesticated entity" means the domesticating entity as it continues in existence after a domestication.

(~~9~~10) "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~~11) "Domestication" means a transaction authorized by part 5 of this chapter.

(~~11~~12) "Entity" means: ~~a~~

(a) A business corporation;

(b) A nonprofit corporation;

(c) A general partnership, including a limited liability partnership;

(d) A limited partnership, including a limited liability limited partnership;

(e) A limited liability company;

(f) A statutory trust entity;

(g) An unincorporated nonprofit association;

(h) A cooperative;

(i) A limited cooperative association; or

(j) Any other 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~~i) An individual;

(~~b~~ii) A testamentary, inter vivos, or charitable trust, with the exception of a business trust or similar trust;

(~~c~~iii) An association or relationship that is not a partnership solely by reason of section 53-3-202(c), Idaho Code, or a similar provision of the law of any other jurisdiction;

(~~d~~iv) A decedent's estate; or

(~~e~~v) A government, a governmental subdivision, agency, or instrumentality, or a quasi-governmental instrumentality.

(1~~2~~3) "Filing entity" means an entity that is created by the filing of a public organic document.

(1~~3~~4) "Foreign entity" means an entity other than a domestic entity.

(1~~4~~5) "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.

(1~~5~~6) "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.

(1~~6~~7) "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.

(1~~7~~8) "Interest exchange" means a transaction authorized by part 3 of this chapter.

(1~~8~~9) "Interest holder" means a direct holder of an interest.

(~~19~~20) "Interest holder liability" means:

(a) A personal liability for a liability of an entity that is imposed on a person:

(~~a~~i) Solely by reason of the status of the person as an interest holder; or

(~~b~~ii) 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; or

(b) An obligation of an interest holder under the organic rules of an entity to contribute to the entity.

(2~~0~~1) "Jurisdiction of organization" of an entity means the jurisdict~~ion whose law includ~~es the organic law of the entity.

(2~~1~~2) "Liability" includes a liability arising in any manner, regardless of whether ~~or not~~ it is secured or whether it is contingent.

(2~~2~~3) "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.

(2~~3~~4) "Merging entity" means an entity that is a party to a merger and exists immediately before the merger becomes effective.

(25) "Nonprofit corporation" means a corporation whose internal affairs are governed by the Idaho nonprofit corporation act, chapter 3, title 30, Idaho Code.

(2~~4~~6) "Organic law" means the statutes, if any, other than this chapter, governing the internal affairs of an entity.

(25~~7~~) "Organic rules" means the public organic document and private organic rules of an entity.

(26~~8~~) "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~~9~~) "Plan" means a plan of merger, interest exchange, conversion~~,~~ or domestication.

(~~28~~30) "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~~31) "Protected agreement" means:

(a) A ~~debt-security,-note,-or-similar-evidence-of~~ record evidencing indebtedness ~~for--money--borrowed,--whether--secured--or--unsecured, issued--or-signed-by-an-entity-which-is-unpaid,-in-whole-or-in-part,~~ and any related agreement in effect 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~~2~~) "Public organic document" means the public record the filing of which creates an entity, and any amendment to or restatement of that record.

(31~~3~~) "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~~4~~) "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~~5~~) "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~~6~~) "Surviving entity" means the entity that continues in existence after or is created by a merger.

(35~~7~~) "Transferable interest" means the right under an entity's organic law to receive distributions from the entity.

(36~~8~~) "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.

SECTION 3. That Section 30-18-104, Idaho Code, be, and the same is hereby amended to read as follows:

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 merger transaction of a type covered by this chapter shall give the notice~~,~~ or obtain the approval~~,~~ in order to be a party to ~~a transaction under this chapter~~ an interest exchange, conversion or domestication.

(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~~ of this state concerning cy pres or other law dealing with nondiversion of charitable assets, the entity obtains an appropriate order of the attorney general specifying the disposition of the property.

SECTION 4. That Section 30-18-109, Idaho Code, be, and the same is hereby amended to read as follows:

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~~ (1) An interest holder of a domestic merging, acquired, converting or domesticating entity is entitled to appraisal rights in connection with the transaction if the interest holder would have been entitled to appraisal rights under the entity's organic law in connection with a merger in which the interest of the interest holder was changed, converted or exchanged unless:

(a) The organic law permits the organic rules to limit the availability of appraisal rights; and

(b) The organic rules provide such a limit.

(2) An interest holder of a domestic merging, acquired, converting or domesticating entity is entitled to contractual appraisal rights in connection with a transaction under this chapter to the extent provided:

(a) In the entity's organic rules;

(b) In the plan; or

(c) In the case of a business corporation, by action of its governors.

(3) If an interest holder is entitled to contractual appraisal rights under subsection (2) of this section and the entity's organic law does not provide procedures for the conduct of an appraisal rights proceeding, part 13, chapter 1, title 30, Idaho Code, applies to the extent practicable or as otherwise provided in the entity's organic rules or the plan.

SECTION 5. That Section 30-18-203, Idaho Code, be, and the same is hereby amended to read as follows:

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:

1. In the case of an entity that is not a business corporation, a merger; or

2. In the case of a business corporation, a merger requiring approval by a vote of the interest holders or the business corporation; or

(ii) If neither its organic law nor organic rules provide for approval of a merger described in subparagraph (i)2. of this paragraph, 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, unless, in the case of an entity that is not a business corporation or nonprofit corporation:

(i) The organic rules of the entity provide in a record for the approval of a merger in which some or all of its interest holders become subject to interest holder liability by the vote or consent of fewer than all of the interest holders; and

(ii) The interest holder voted for or consented in a record to that provision of the organic rules or became an interest holder after the adoption of that provision.

(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.

SECTION 6. That Section 30-18-205, Idaho Code, be, and the same is hereby amended to read as follows:

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; and

(h) If the surviving entity is a foreign entity that is not a qual-

ified foreign entity, a mailing address to which the secretary of state may send any process served on the secretary of state pursuant to section 30-18-206(5), Idaho Code.

(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.

SECTION 7. That Section 30-18-206, Idaho Code, be, and the same is hereby amended to read as follows:

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~~ is 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~~ are binding on and enforceable by:

1. ~~I~~its interest holders; and
2. In the case of a surviving entity that is not a business corporation or a nonprofit corporation, any other person that is a party to an agreement that is part of the surviving entity's private organic rules;

(i) If the surviving entity is created by the merger~~,~~:
(i) ~~I~~its public organic document, if any, is effective and is binding on its interest holders; and
(ii) ~~I~~its private organic rules are effective and are binding ~~upon the~~ on and enforceable by:
1. Its interest holders; ~~of the surviving entity;~~ and
2. In the case of a surviving entity that is not a business corporation or a nonprofit corporation, any other person that was a party to an agreement that was part of the organic rules of a merging entity if that person has agreed to be a party to an agreement that is part of the surviving entity's private organic rules; 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, and the merging entity's organic law.

(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.

SECTION 8. That Section 30-18-303, Idaho Code, be, and the same is hereby amended to read as follows:

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 law and 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:

1. In the case of an entity that is not a business corporation, a merger, as if the interest exchange were a merger; or

2. In the case of a business corporation, a merger requiring approval by a vote of the interest holders of the business corporation, as if the interest exchange were that type of merger; or

(iii) If neither its organic law nor organic rules provide for approval of an interest exchange or a merger described in subparagraph (ii)2. of this paragraph, 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, unless, in the case of an entity that is not a business corporation or nonprofit corporation:

(i) The organic rules of the entity provide in a record for the approval of an interest exchange or a merger in which some or all of its interest holders become subject to interest holder liability by the vote or consent of fewer than all of the interest holders; and

(ii) The interest holder voted for or consented in a record to that provision of the organic rules or became an interest holder after the adoption of that provision.

(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.

SECTION 9. That Section 30-18-306, Idaho Code, be, and the same is hereby amended to read as follows:

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, and the acquired entity's organic law;

(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~~ is 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~~ are binding on and enforceable by:

(i) ~~Its~~ interest holders; and

(ii) In the case of an acquired entity that is not a business corporation or nonprofit corporation, any other person that is a party to an agreement that is part of the acquired entity's private organic rules.

(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.

SECTION 10. That Section 30-18-403, Idaho Code, be, and the same is hereby amended to read as follows:

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:
1. In the case of an entity that is not a business corporation, a merger, as if the conversion were a merger; or
2. In the case of a business corporation, a merger requiring approval by a vote of the interest holders of the business corporation, as if the conversion were that type of a merger; or
(iii) If neither its organic law nor organic rules provide for approval of a conversion or a merger described in subparagraph (ii)2. of this paragraph, 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, unless, in the case of an entity that is not a business or nonprofit corporation:
(i) The organic rules of the entity provide in a record for the approval of a conversion or a merger in which some or all of its interest holders become subject to interest holder liability by the vote or consent of fewer than all of the interest holders; and
(ii) The interest holder voted for or consented in a record to that provision of the organic rules or became an interest holder after the adoption of that provision.
(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.

SECTION 11. That Section 30-18-405, Idaho Code, be, and the same is hereby amended to read as follows:

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; and

(g) If the converted entity is a foreign entity that is not a qualified foreign entity, a mailing address to which the secretary of state may send any process served on the secretary of state pursuant to section 30-18-406(5), Idaho Code.

(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.

SECTION 12. That Section 30-18-406, Idaho Code, be, and the same is hereby amended to read as follows:

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 converted entity without transfer, conveyance, assignment, reversion~~,~~ or impairment;

(c) All liabilities of the converting entity continue as liabilities of the converted 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~~g) If the converted entity is a limited liability partnership, its statement of qualification is effective simultaneously;

(~~i~~h) 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 and enforceable by:

(i) ~~I~~its interest holders; and

(ii) In the case of a converted entity that is not a business corporation or nonprofit corporation, any other person that is a party to an agreement that is part of the entity's private organic rules; and

(~~j~~i) 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, and the converting entity's organic law.

(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.

(7) A conversion does not require the entity to wind up its affairs and does not constitute or cause the dissolution of the entity.

SECTION 13. That Section 30-18-503, Idaho Code, be, and the same is hereby amended to read as follows:

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:

1. In the case of an entity that is not a business corporation, a merger, as if the domestication were a merger; or

2. In the case of a business corporation, a merger requiring approval by a vote of the interest holders of the business corporation, as if the domestication were that type of merger; or

(iii) If neither its organic law nor organic rules provide for approval of a domestication or a merger described in subparagraph (ii)2. of this paragraph, 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, unless, in the case of an entity that is not a business corporation or nonprofit corporation:

(i) The organic rules of the entity in a record provide for the approval of a domestication or merger in which some or all of its interest holders become subject to interest holder liability by the vote or consent of fewer than all of the interest holders; and

(ii) The interest holder voted for or consented in a record to

that provision of the organic rules or became an interest holder after the adoption of that provision.

(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.

SECTION 14. That Section 30-18-505, Idaho Code, be, and the same is hereby amended to read as follows:

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; and

(g) If the domesticated entity is a foreign entity that is not a qualified foreign entity, a mailing address to which the secretary of state may send any process served on the secretary of state pursuant to section 30-18-506(5), Idaho Code.

(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.

SECTION 15. That Section 30-18-506, Idaho Code, be, and the same is hereby amended to read as follows:

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~~g) If the domesticated entity is a limited liability partnership, its statement of qualification is effective simultaneously;

(~~i~~h) 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 and enforceable by:

(i) ~~Its~~ interest holders; and

(ii) In the case of a domesticated entity that is not a business corporation or nonprofit corporation, any other person that is a party to an agreement that is part of the domesticated entity's private organic rules; and

(~~j~~i) 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, and the domesticating entity's organic law.

(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.

(7) A domestication does not require the entity to wind up its affairs and does not constitute or cause the dissolution of the entity.

SECTION 16. That Section 30-18-702, Idaho Code, be, and the same is hereby amended to read as follows:

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)).

Approved February 26, 2008.

CHAPTER 37
(S.B. No. 1337)

AN ACT

RELATING TO COUNTIES; AMENDING SECTION 31-819, IDAHO CODE, TO PROVIDE FOR THE PUBLICATION OF BALANCE SHEETS AND SUMMARIES OF STATEMENTS OF REVENUES AND EXPENDITURES BY BOARDS OF COUNTY COMMISSIONERS; AND AMENDING SECTION 31-2307, IDAHO CODE, TO DELETE PUBLICATION PROVISIONS RELATING TO COUNTY ANNUAL AUDITS.

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

SECTION 1. That Section 31-819, Idaho Code, be, and the same is hereby amended to read as follows:

31-819. PUBLICATION OF PROCEEDINGS. To cause to be published monthly such statement as will clearly give notice to the public of all its acts and proceedings, and, shall include a brief financial summary indicating the total amount spent from each county fund during the month. A more detailed report of expenditures may be published if deemed necessary by the board. Annually, a full financial report shall be prepared and available for public inspection which shows for each fund the sources of income, expenditures during the year, current fund balances, and other financial information as determined by the board. ~~The--board shall-cause-to-be-published-annually-not-less-than-the-consolidated-balance--sheet--of-said-annual-report~~ Within thirty (30) days of the annual audit's preparation as provided in section 31-1701, Idaho Code, the board shall cause to be published a summary of the balance sheet and a summary of the statement of revenues and expenditures. Such statements as well as all other public notices of proceedings of, or to be had before the board, not otherwise specially provided for, must be published in ~~one--(1)-issue-of-such-newspaper-published-in-the-county-and which-newspaper-also-has-the-largest-average--paid--circulation--in--the county--for--the--last--six-(6)-months-of-the-prior-calendar-year-of-the year-in-which-such-statements-and-other-public--notices--of--proceedings are--required-to-be-made-by-this-act~~ accordance with the requirements of chapter 1, title 60, Idaho Code.

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 February 26, 2008.

CHAPTER 38
(S.B. No. 1288)

AN ACT

RELATING TO THE MAGISTRATE DIVISION OF THE DISTRICT COURT; AMENDING SECTION 1-2203, IDAHO CODE, TO REVISE MAGISTRATE JUDGE MEMBERSHIP AND TERMS ON DISTRICT MAGISTRATES COMMISSIONS, TO PROVIDE CORRECT TERMI-

NOLOGY, TO REVISE WHEN A COMMISSION VACANCY IS CAUSED AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 1-2204, IDAHO CODE, TO REVISE THE OFFICE OF SECRETARY FOR DISTRICT MAGISTRATES COMMISSIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 1-2205, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY, TO PROVIDE A CODE REFERENCE, TO DELETE PROVISIONS RELATING TO SALARIES AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING CHAPTER 8, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-879, IDAHO CODE, TO PROVIDE FOR WAIVER OF RIGHT TO MAGISTRATE JUDGE.

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

SECTION 1. That Section 1-2203, Idaho Code, be, and the same is hereby amended to read as follows:

1-2203. DISTRICT MAGISTRATES COMMISSION -- MEMBERS. (1) There is hereby established in each judicial district of the state of Idaho a district magistrates commission to be known as the "district magistrates commission of the .... judicial district," the members of which shall consist of the chairman of the board of county commissioners of each county in the district or member of such board designated by the chairman, the mayors of three (3) municipalities, one (1) of whom shall be from a city of over ten thousand (10,000) population, in the district to be appointed by the governor, two (2) qualified electors residing within the district to be appointed by the governor, the administrative judge of the district or district judge of the district designated by him, two (2) attorneys nominated by the district bar associations in each district and appointed by the Idaho state bar, and a magistrate judge in the district, ~~who shall be a nonvoting member,~~ to be appointed by ~~and serve at the pleasure of~~ the administrative district judge. Temporary attorney members may be nominated in such number as the bar association in each district deems appropriate at any time by the respective district bar association and appointed by the Idaho state bar to fill any temporary attorney member vacancy on the district magistrates commissions. Each of the members shall be over the age of majority and shall be and remain a citizen of the United States, a bona fide resident of the state and district and of good moral character.

(2) Forthwith after making any appointments to such commissions the respective appointing authorities shall duly certify in writing to the administrative director of the courts and to the secretary of state the following facts with respect to each appointee:

(a) Full name~~,~~;

(b) Age~~,~~;

(c) Residence address~~,~~;

(d) If employed, the nature of ~~his~~ the appointee's occupation and business address~~,~~;

(e) The name of the district magistrate commission to which appointed~~,~~;

(f) The date of expiration of term for which appointed~~,~~;

(g) Except for the initial appointees under this act, the name of the person ~~he~~ the appointee succeeds on the commission~~,~~; and~~,~~

(h) If a ~~voting~~ member other than a mayor, magistrate judge or district judge, ~~his~~ the appointee's political party.

(3) No ~~voting~~ member, other than the persons appointed while serv-

ing as mayor, ~~or~~ county commissioner, ~~and~~ magistrate judge or district judge shall hold any city, county or state elective office or be employed by the state or any city or county while ~~he is~~ a member of the commission.

(4) The two (2) attorney members shall serve for a term of two (2) years and may succeed themselves for two (2) additional terms. The qualified elector members shall serve terms of six (6) years each and may succeed themselves. The mayors shall serve terms of six (6) years and may succeed themselves, provided that their terms will end when they cease to hold the office which entitles them to membership on the commission. The magistrate judge shall serve a two (2) year term which may be renewed up to a total of six (6) years. Appointments to fill vacancies shall be made by the initial appointing authority for the unexpired term.

(5) A vacancy on the commission shall be caused by a voting member dying, resigning, moving his or her residence outside the district, moving his or her residence to another county and, in the case of a mayor, magistrate judge, district judge or county commissioner member, losing his or her status as such official for any reason; provided, however, that except in the case of death or resignation of a ~~voting~~ member, ~~he~~ the member shall continue to serve until ~~his~~ a successor is duly appointed and qualified. A vacancy on the commission shall be caused by an attorney member dying, resigning, moving his or her residence to without the district or being suspended or disbarred from the practice of law. A temporary vacancy on the commission shall be caused by an attorney member ~~having been engaged in the practice of law as a partner of an applicant or~~ currently practicing law in the same firm as an applicant seeking a magistrate judge's position in the commission's judicial district, ~~of the attorney member~~ or by an attorney member or a magistrate judge member having been engaged in the practice of law as a partner of such applicant within the last five (5) years. It shall be the duty of any member who has become disqualified for any reason promptly to report that fact in writing to the chairman and secretary of the commission. It shall be the duty of the chairman or secretary promptly to report in writing to the appropriate appointing authority, the existence of any vacancy on the commission.

SECTION 2. That Section 1-2204, Idaho Code, be, and the same is hereby amended to read as follows:

1-2204. DISTRICT MAGISTRATES COMMISSION -- MEETINGS -- QUORUM -- OFFICERS -- RULES. The district magistrates commission of each judicial district shall meet initially to organize and transact any necessary business on the second Monday of September, 1977, unless earlier convened, and at such other times as shall be necessary in the discharge of its official duties. The commission shall meet at the times and places determined by the commission or by the chairman after reasonable notice. In addition a meeting may be called by any three (3) of the voting members after reasonable notice. A majority of the voting members of the commission shall constitute a quorum. The commission shall act by affirmative vote of a majority of the voting members present. The commission shall elect a vice-chairman ~~and secretary~~ to serve until the 30th day of June of the next succeeding year or until ~~their~~ a successors ~~be~~ is elected. The trial court administrator shall ordinarily serve as secre-

tary of the commission but a member of the commission may be appointed to do so at the discretion of the administrative district judge, or district judge designee. The commission may adopt rules for the administration of its duties not inconsistent with applicable provisions of law. The ~~chairman and~~ secretary shall maintain the ~~duplicate~~ official minutes of all meetings of actions taken by the commission.

SECTION 3. That Section 1-2205, Idaho Code, be, and the same is hereby amended to read as follows:

1-2205. DISTRICT MAGISTRATES COMMISSION -- POWERS AND DUTIES. The district magistrates commission shall have the following powers and duties:

(a) To determine the number and location of magistrates judges to be appointed within the judicial district, subject to appropriations by the legislature, pursuant to section 1-2215, Idaho Code; provided, that there shall be at least one (1) resident magistrate judge appointed in each county, except for those counties in which the board of county commissioners, at any time, has adopted by majority vote, without subsequent rescission, a resolution waiving the right to a resident magistrate judge, pursuant to section 31-879, Idaho Code;

(b) To appoint the magistrates judges within the district on a nonpartisan merit basis, except as provided in section 1-2220, Idaho Code;

~~(c) To recommend to the legislature the salaries to be paid to the magistrates within the district;~~

~~(d)~~ To conduct studies for the improvement of the administration of justice within the district and to make recommendations for improvements therein to the legislature, the ~~S~~supreme ~~C~~court, the district court and such other governmental agencies as may be interested in or affected by such recommendations.

The actions of the commission pursuant to subsections (a)~~,~~ and (b) ~~and (c) hereof~~ of this section shall be subject to disapproval by a majority of the district judges in the district within thirty (30) days after written notice to the district judges of the commission's actions, unless such time be extended for good cause by order of the ~~S~~supreme ~~C~~court.

SECTION 4. That Chapter 8, Title 31, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 31-879, Idaho Code, and to read as follows:

31-879. WAIVER OF RIGHT TO MAGISTRATE JUDGE. The board of county commissioners shall have the authority to adopt by majority vote a resolution waiving the right to a resident magistrate judge to which the county would otherwise be entitled pursuant to section 1-2205, Idaho Code. When a board of county commissioners has adopted such a resolution, and has not subsequently rescinded such resolution, the district magistrates commission for the judicial district in which the county is located is not required to appoint a resident magistrate judge for that county.

Approved February 26, 2008.

CHAPTER 39
(S.B. No. 1274)

AN ACT

RELATING TO SEARCH AND RESCUE; AMENDING SECTION 46-1009, IDAHO CODE, TO DELETE LANGUAGE REGARDING SEARCH AND RESCUE OPERATIONS; AMENDING CHAPTER 22, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-2229, IDAHO CODE, TO DEFINE TERMS AND TO PROVIDE POWERS TO SHERIFFS, THE DIVISION OF AERONAUTICS AND THE BUREAU OF HOMELAND SECURITY REGARDING SEARCH AND RESCUE OPERATIONS AND TO PROVIDE EXCEPTIONS WITHIN A CITY, FIRE DISTRICT OR TO AN EMS AGENCY LICENSED BY THE STATE OF IDAHO UNDER CERTAIN CIRCUMSTANCES.

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

SECTION 1. That Section 46-1009, Idaho Code, be, and the same is hereby amended to read as follows:

46-1009. LOCAL AND INTERGOVERNMENTAL DISASTER AGENCIES AND SERVICES. (1) Each county within this state shall be within the jurisdiction of and served by the bureau and by a county or intergovernmental agency responsible for disaster preparedness and coordination of response.

(2) Each county shall maintain a disaster agency or participate in an intergovernmental disaster agency which, except as otherwise provided under this act, has jurisdiction over and serves the entire county, or shall have a liaison officer appointed by the county commissioners designated to facilitate the cooperation and protection of that subdivision in the work of disaster prevention, preparedness, response and recovery.

(3) The chairman of the board of county commissioners of each county in the state shall notify the bureau of the manner in which the county is providing or securing disaster planning and emergency services. The chairman shall identify the person who heads the agency or acts in the capacity of liaison from which the service is obtained, and furnish additional information relating thereto as the bureau requires.

(4) Each county and/or intergovernmental agency shall prepare and keep current a local or intergovernmental disaster emergency plan for its area.

(5) The county or intergovernmental disaster agency, as the case may be, shall prepare and distribute to all appropriate officials in written form a clear and complete statement of the emergency responsibilities of all local agencies and officials and of the disaster chain of command.

~~(6)--Except-as-provided-in-subsections-(7),-(8),--(9)--and--(10)--of this-section,-the-sheriff-of-each-county-shall:~~

~~(a)--be--the-official-responsible-for-command-of-all-search-and-rescue-operations-within-his-jurisdiction;~~

~~(b)--prepare-and-keep-current-a-plan-to-command-the-search-and--rescue-capability-and-resources-available-within-the-county.~~

~~(7)--Pursuant--to-chapter-1,-title-21,-Idaho-Code,-subsection-(6)-of this-section-shall-not-apply-to--all--aerial--activity--related--to--the search--for--lost--aircraft--and--airmen.-Search-and-rescue-coordination shall-be-under-the-direction-and-supervision-of-the-chief-of-the--bureau~~

~~of--homeland--security--within-the-military-division;-with-aerial-search operations-coordinated-by-the-Idaho-transportation-department;--division of-aeronautics.~~

~~(8)--Nothing-in-subsection-(6)-of-this-section-shall-apply-to-search and-rescue-operations-within-the-incorporated-limits-of-any-city.~~

~~(9)--Nothing--in--subsection--(6)-of-this-section-shall-apply-to-the rescue-of-entrapped-or-injured-persons-where-their-location-is-known--to be--within--a--fire-district,-where-the-fire-district-performs-such-service.~~

~~(10)-Nothing-contained-in-subsection-(6)-of-this-section-shall-apply to-the-removal-of-entrapped-or-injured-persons-where-the-person's--location-is-known-to-a-local-EMS-agency-licensed-by-the-state-of-Idaho.~~

SECTION 2. That Chapter 22, Title 31, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 31-2229, Idaho Code, and to read as follows:

31-2229. SEARCH AND RESCUE. (1) For the purpose of this section:

(a) "Aerial search" means a response by the bureau of homeland security and the Idaho transportation department's division of aeronautics to a missing or overdue aircraft or airman.

(b) "Rescue" means a response by the sheriff to recover lost, missing, injured, impaired or incapacitated persons in imminent danger of injury or death.

(c) "Search" means a response by the sheriff to locate an overdue, missing or lost person.

(2) The sheriff of each county shall:

(a) Be the official responsible for command of all search and rescue operations within the county;

(b) Prepare and keep current a plan to command the search and rescue capabilities and resources available within the county.

(3) All aerial search assets shall be under the coordination of the Idaho transportation department's division of aeronautics. The ground aspects of the search and rescue of lost aircraft and airmen shall be under the supervision of the county sheriff, in coordination with the chief of the bureau of homeland security and the administrator of the division of aeronautics.

(4) Nothing in subsection (2) of this section shall apply to search and rescue operations within the incorporated limits of any city when the city performs such service.

(5) Nothing in subsection (2) of this section shall apply to the rescue of entrapped or injured persons where their location is known to be within a fire district where the fire district performs such service.

(6) Nothing contained in subsection (2) of this section shall apply to the removal of entrapped or injured persons where the person's location is known to a local EMS agency licensed by the state of Idaho.

Approved February 27, 2008.

CHAPTER 40
(S.B. No. 1282)

AN ACT

RELATING TO THE STATE LOTTERY; AMENDING SECTION 67-7410, IDAHO CODE, TO REVISE THE AUTHORITY OF THE LOTTERY'S SECURITY DIRECTOR TO REQUIRE FINGERPRINT-BASED CRIMINAL HISTORY CHECKS USING THE STATE CENTRAL DATABASE AND THE FEDERAL BUREAU OF INVESTIGATION'S CRIMINAL HISTORY DATABASE ON PROSPECTIVE EMPLOYEES, VENDORS, CONTRACTORS, LOTTERY RETAILERS AND BINGO AND RAFFLE OPERATORS.

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

SECTION 1. That Section 67-7410, Idaho Code, be, and the same is hereby amended to read as follows:

67-7410. DIRECTOR OF LOTTERY SECURITY. The director shall hire a security director who shall manage the lottery's security division. The security division shall be responsible for the performance of background investigations of employees, lottery retailers, bingo and raffle operators, vendors and major procurement contractors and for the enforcement of the criminal provisions of this chapter. In addition, the security division shall develop a security plan to be implemented by the lottery. The lottery's security division is herein designated as an Idaho law enforcement agency. The director of security has the authority to:

(1) Issue administrative subpoenas during the conduct of investigations in accordance with commission rules and this chapter;

(2) Require fingerprint-based ~~and--background--checks--of~~ criminal history check of the Idaho central database and the federal bureau of investigation's criminal history database on prospective employees, ~~and~~ vendors, contractors, lottery retailers and bingo and raffle operators; and

(3) Access criminal offender record information from the Idaho state police for the purpose of background or other investigations performed in accordance with this chapter.

Such information obtained and kept by the security director shall be subject to disclosure according to chapter 3, title 9, Idaho Code. Nothing herein shall prohibit the lottery from disclosing information obtained by it to law enforcement agencies or other lottery organizations for security or enforcement purposes.

Approved February 27, 2008.

CHAPTER 41
(S.B. No. 1287)

AN ACT

RELATING TO JUVENILES; AMENDING SECTION 20-520, IDAHO CODE, TO REVISE SENTENCING PROVISIONS.

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

SECTION 1. That Section 20-520, Idaho Code, be, and the same is hereby amended to read as follows:

20-520. SENTENCING. (1) Upon the entry of an order finding the juvenile is within the purview of the act, the court shall then hold a sentencing hearing in the manner prescribed by the Idaho juvenile rules to determine the sentence that will promote accountability, competency development and community protection. Prior to the entry of an order disposing of the case, other than an order of discharge or dismissal, the court may request and, if requested, shall receive a report containing the results of an inquiry into the home environment, past history, competency development, prevention or out of home placement services provided, and the social, physical and mental condition of the juvenile. The court shall not consider or review the report prior to the entry of an order of adjudication. Upon presentation and consideration of the report by the court, the court may proceed to sentence the juvenile as follows:

(a) Place the juvenile on formal probation for a period not to exceed three (3) years from the date of the order, except the court may place a juvenile on formal probation for a period not to exceed the juvenile's twenty-first birthday if the court finds that the juvenile has committed a crime of a sexual nature;

(b) Sentence the juvenile to detention pursuant to this act for a period not to exceed thirty (30) days for each act, omission or status which is prohibited by the federal, state, local or municipal law or ordinance by reason of minority only. The sentence shall not be executed unless the act, omission or status is in violation of section 922(x) of title 18, United States Code, or the court finds that the juvenile has violated the court's decree imposing the sentence as provided below.

If the court, after notice and hearing, finds that a juvenile has violated the court's decree imposing the sentence under circumstances that bring the violation under the valid court order exception of the federal juvenile justice and delinquency prevention act of 1974, as amended, the court may commit the juvenile to detention for the period of detention previously imposed at sentencing;

(c) Commit the juvenile to a period of detention, pursuant to this act, for a period of time not to exceed ninety (90) days for each unlawful or criminal act the juvenile is found to have committed, if the unlawful or criminal act would be a misdemeanor if committed by an adult, or where the juvenile has been adjudicated as an habitual status offender;

(d) If the juvenile has committed an unlawful or criminal act which would be a felony if committed by an adult, the court may commit the juvenile to detention for a period not to exceed one hundred eighty (180) days for each unlawful or criminal act;

(e) Whenever a court commits a juvenile to a period of detention it shall notify the school district where the detention facility is located. No juvenile who is found to come within the purview of the act for the commission of a status offense shall be sentenced to detention in a jail facility unless an adjudication has been made that the juvenile is an habitual status offender;

(f) Commit the juvenile to detention and suspend the sentence on specific probationary conditions;

(g) The court may suspend or restrict the juvenile's driving privileges for such periods of time as the court deems necessary, and the court may take possession of the juvenile's driver's license. The juvenile may request restricted driving privileges during a period of suspension, which the court may allow if the juvenile shows by a preponderance of evidence that driving privileges are necessary for his employment or for family health needs;

(h) The court may order that the juvenile be examined or treated by a physician, surgeon, psychiatrist or psychologist, or that he receive other special care, or that he submit to an alcohol or drug evaluation, if needed, and for such purposes may place the juvenile in a hospital or other suitable facility;

(i) The court may order that the department of health and welfare conduct a comprehensive substance abuse assessment of the juvenile. After receiving the comprehensive substance abuse assessment, and upon a finding by the court that treatment will provide a cost-effective means of achieving the sentencing goals of accountability, competency development and community protection, the court may order that the juvenile receive immediate treatment for substance abuse in keeping with a plan of treatment approved by the court. The initial cost of the assessment and treatment shall be borne by the department of health and welfare. The director of the department of health and welfare may promulgate rules consistent with this paragraph (i) to establish a schedule of fees to be charged to parents by the department of health and welfare for such services based upon the cost of the services and the ability of parents to pay;

(j) In support of an order under the provisions of this section, the court may make an additional order setting forth reasonable conditions to be complied with by the parents, the juvenile, his legal guardian or custodian, or any other person who has been made a party to the proceedings, including, but not limited to, restrictions on visitation by the parents or one (1) parent, restrictions on the juvenile's associates, occupation and other activities, and requirements to be observed by the parents, guardian or custodian;

(k) The court may make any other reasonable order which is in the best interest of the juvenile or is required for the protection of the public, except that no person under the age of eighteen (18) years may be committed to jail, prison or a secure facility which does not meet the standards set forth in section 20-518, Idaho Code, unless jurisdiction over the individual is in the process of being waived or has been waived pursuant to section 20-508 or 20-509, Idaho Code. The court may combine several of the above-listed modes of disposition where they are compatible;

(l) An order under the provisions of this section for probation or placement of a juvenile with an individual or an agency may provide a schedule for review of the case by the court;

(m) Order the proceeding expanded or altered to include consideration of the cause pursuant to chapter 16, title 16, Idaho Code;

(n) Order the case and all documents and records connected therewith transferred to the magistrate division of the district court for the county where the juvenile and/or parents reside if different than the county where the juvenile was charged and found to have committed the unlawful or criminal act, for the entry of a dispositional order;

(o) Order such other terms, conditions, care or treatment as appears to the court will best serve the interests of the juvenile and the community;

(p) The court shall assess a twenty dollar ($20.00) detention/probation training academy fee against the juvenile for every petition filed where there has been an adjudication that the juvenile is within the purview of this chapter. All moneys raised pursuant to this paragraph shall be transmitted by the court for deposit in the juvenile corrections fund which is created in section 20-542, Idaho Code;

(q) Additionally, the court shall assess a fee of sixty cents (60¢) per hour of community service against the juvenile for every petition filed where there has been an adjudication that the juvenile is within the purview of this chapter and the court is ordering community service. Such fee is to be remitted by the court to the state insurance fund for purposes of providing worker's compensation insurance for persons performing community service pursuant to this chapter;

(r) Commit the juvenile to the legal custody of the department of juvenile corrections for an indeterminate period of time not to exceed the juvenile's nineteenth birthday, unless~~, in the opinion of~~ the custody review board~~,~~ determines that extended time in custody is necessary to address competency development, accountability, and community protection; provided however, that no juvenile shall remain in the custody of the department beyond the juvenile's twenty-first birthday. The department shall adopt rules implementing the custody review board and operations and procedures of such board;

(s) Notwithstanding any other provision of this section, a court may not commit a juvenile offender under the age of ten (10) years to a period of detention or to the custody of the department of juvenile corrections for placement in secure confinement.

(2) When an order is entered pursuant to this section, the juvenile shall be transported to the facility or program so designated by the court or the department, as applicable, by the sheriff of the county where the juvenile resides or is committed, or by an appointed agent. When committing a juvenile to the department, or another entity, the court shall at once forward to the department or entity a certified copy of the order of commitment.

(3) Unless the court determines that an order of restitution would be inappropriate or undesirable, it shall order the juvenile or his parents or both to pay restitution to or make whole any victim who suffers an economic loss as a result of the juvenile's conduct in accordance with the standards and requirements of sections 19-5304 and 19-5305, Idaho Code. The amount of restitution which may be ordered by the court shall not be subject to the limitations of section 6-210, Idaho Code. Court-ordered restitution shall be paid prior to any other court-ordered payments unless the court specifically orders otherwise.

(4) The court may order the juvenile's parents, legal guardian or custodian to pay the charges imposed by community programs ordered by the court for the juvenile, or the juvenile's parents, legal guardian or custodian.

(5) Any parent, legal guardian or custodian violating any order of the court entered against the person under the provisions of this chapter shall be subject to contempt proceedings under the provisions of chapter 6, title 7, Idaho Code.

Approved February 27, 2008.

CHAPTER 42
(S.B. No. 1317)

AN ACT

RELATING TO PAROLE; AMENDING CHAPTER 2, TITLE 20, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 20-239A, IDAHO CODE, TO PROVIDE FOR RELEASE DATES OF PAROLEES WITH PAROLE ELIGIBILITY DATES THAT FALL ON A SATURDAY, SUNDAY OR LEGAL HOLIDAY.

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

SECTION 1. That Chapter 2, Title 20, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 20-239A, Idaho Code, and to read as follows:

20-239A. RELEASE UPON GRANT OF PAROLE. Any convicted person undergoing sentence in the penitentiary who has a parole eligibility date which falls on a Saturday, Sunday or legal holiday may be granted a parole release date by the Idaho commission for pardons and parole which falls on the last weekday immediately preceding such Saturday, Sunday or legal holiday.

Approved February 27, 2008.

CHAPTER 43
(S.B. No. 1322)

AN ACT

RELATING TO CHARITABLE BINGO AND RAFFLE OPERATIONS; AMENDING SECTION 67-7702, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 67-7709, IDAHO CODE, TO REVISE PROCEDURES FOR ACCOUNTING AND USE OF BINGO PROCEEDS; AND AMENDING SECTION 67-7711, IDAHO CODE, TO REVISE LICENSING PROCEDURES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 67-7702, Idaho Code, be, and the same is hereby amended to read as follows:

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

(1) "Bingo" means the traditional game of chance played for a prize determined prior to the start of the game.

(a) Upon approval by the bingo-raffle advisory board a licensee may

offer bingo games in which players are allowed to select their own numbers if the cards used to conduct the games have controls that provide an audit trail adequate to determine all winning number combinations.

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

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

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

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

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

(5) "Duck race" means a charitable raffle played by releasing numbered, inanimate toys (ducks) into a body of moving water. A person who has been assigned the same number as the first duck to cross a predetermined point in the water (the finish line) is the winner. Other prizes may be awarded on the basis of the order in which the ducks cross the finish line. With the exception of determining "net proceeds," all restrictions and requirements applicable to the conduct of charitable raffles in this chapter shall also apply to the conduct of duck races.

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

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

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

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

(iii) Compares the numbers entered by the bingo player to the numbers contained on bingo cards previously stored in the electronic database of the device;

(iv) Identifies winning bingo patterns; and

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

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

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

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

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

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

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

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

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

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

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

(17) "Special permit" means a permit that can be obtained by a char-

itable organization that is not licensed but qualifies to operate an exempt bingo operation. This permit allows a qualifying organization to operate bingo games at a county fair for the duration of the fair.

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

SECTION 2. That Section 67-7709, Idaho Code, be, and the same is hereby amended to read as follows:

67-7709. ACCOUNTING AND USE OF BINGO PROCEEDS.

(1) (a) All funds received in connection with a bingo game required to be licensed pursuant to this chapter and the rules of the state lottery commission shall be placed in a separate bank account. No funds may be disbursed from this account except the charitable or nonprofit organization may expend proceeds for prizes, advertising, utilities, rental of electronic bingo devices, and the purchase of supplies and equipment in playing bingo, taxes and license fees related to bingo, the payment of compensation, and for the purposes set forth below for the remaining proceeds.

(b) Funds from bingo accounts must be withdrawn by preprinted, consecutively numbered checks or withdrawal slips, signed by an authorized representative of the licensed authorized organization and made payable to a person. A check or withdrawal slip shall not be made payable to "cash," "bearer" or a fictitious payee. The nature of the payment made shall be noted on the face of the check or withdrawal slip. Checks for the bingo account shall be imprinted with the words "bingo account" and shall contain the organization's bingo license name on the face of each check. A licensed authorized organization shall keep and account for all checks and withdrawal slips, including voided checks and withdrawal slips.

(c) Any proceeds available in a bingo account after payment of the expenses set forth in paragraph (1)(a) of this subsection shall inure to the charitable or nonprofit organization to be used for religious, charitable, civic, scientific testing, public safety, literary or educational purposes or for purchasing, constructing, maintaining, operating or using equipment or land, or a building or improvements thereto, owned, leased or rented by and for the charitable or nonprofit organization and used for civic purposes or made available by the charitable or nonprofit organization for use by the general public from time to time, or to foster amateur sports competition, or for the prevention of cruelty to children or animals, provided that no proceeds shall be used or expended directly or indirectly to compensate officers or directors. The licensed bingo operation must maintain records for three (3) years on forms prescribed by the commission or pursuant to rules prescribed by the commission showing the charitable activities to which the proceeds described in this paragraph are applied. No employees of the charitable organization may be compensated from bingo proceeds except as provided in this subsection.

(d) (i) All gross revenues received from bingo games by a charitable or nonprofit organization must be disbursed in the following manner, unless otherwise provided in section 67-7708,

Idaho Code: not more than sixty-five percent (65%) of the gross revenues shall be ~~utilized~~ used for prizes in the charitable bingo game, not less than twenty percent (20%) of gross revenues shall be used for charitable purposes enumerated in this subsection, and not more than fifteen percent (15%) of the gross revenues shall be used for administrative expenses associated with the charitable bingo game. If agreed upon by its board of directors, a charitable organization may decrease gross revenues spent on administrative expenses associated with bingo games and allocate those revenues to prizes so long as no more than seventy percent (70%) of the gross revenues is ~~utilized~~ used for prizes on the bingo game. An organization requesting an exemption from the disbursement percentages provided in this paragraph for administrative costs may request an exemption from the state lottery commission.

(ii) Two hundred fifty dollars ($250) or one-tenth of one percent (.1%) of annual gross revenues, as per the previous year's annual bingo report whichever is greater may be paid as wages for the conduct of any one (1) bingo session. Such ~~pay~~ wages shall be paid on an hourly basis, ~~and~~ shall be directly related to the preparation, conduct of and cleaning following a bingo session, and shall be paid out of the organization's separate bank account unless the director of lottery security has given prior written permission to pay wages out of another account. Such wages shall be part of the fifteen percent (15%) gross revenues used for administrative expenses. ~~An organization requesting an exemption from the disbursement percentages--provided--in--this subsection for administrative costs may request an exemption from the state lottery commission.~~

(2) Any charitable or nonprofit organization conducting bingo games pursuant to this chapter shall prepare a statement at the close of its license year and shall file such statement with the state lottery. The statement shall be prepared on a form prescribed by the lottery commission and shall include, at a minimum, the following information:

(a) The number of bingo sessions conducted or sponsored by the licensed organization;

(b) The location and date at which each bingo session was conducted;

(c) The gross revenues of each bingo session;

(d) The fair market value of any prize given at each bingo session;

(e) The number of individual players participating in each session;

(f) The number of cards played in each session;

(g) The amount paid in prizes at each session;

(h) The amount paid to the charitable organization;

(i) All disbursements from bingo revenue and the purpose of those disbursements must be documented on a general ledger and submitted with the annual bingo report to the Idaho lottery commission; and

(j) An accounting of all gross revenues and the disbursements required by statute and rule of the state lottery commission must be retained in permanent records with the organization, including the date of each transaction and the name and address of each payee for all prize payments in excess of one hundred dollars ($100) and the

disbursements of funds to charitable activities, including the identity of the charity and/or purpose and use of the disbursements by the charity.

(3) Any organization required to be licensed to conduct bingo operations under the provisions of this chapter shall use only nonreusable colored bingo paper or electronic bingo paper so that all sales may be tracked. The nonreusable colored paper must have a series and serial number on each card. At the conclusion of each session, all organizations using nonreusable bingo paper must track their bingo sales per session by recording the series and serial numbers of all paper sold, damaged, donated or used for promotion in that session. Each such organization shall keep a ledger of the numbers of all such papers used during each session. All paper must be tracked as either sold, damaged, donated, used for promotion, or omitted from the original distributor or manufacturer. Paper tracking ledgers and invoices from the distributor or manufacturer for nonrefundable colored bingo paper must be kept with the permanent records for that bingo operation.

(4) Any person who shall willfully or knowingly furnish, supply or otherwise give false information in any statement filed pursuant to this section shall be guilty of a misdemeanor.

(5) All financial books, papers, records and documents of an organization shall be kept as determined by rule of the state lottery and shall be open to inspection by the county sheriff of the county, or the chief of police of the city, or the prosecuting attorney of the county where the bingo game was held, or the attorney general or the state lottery at reasonable times and during reasonable hours.

(6) Every charitable or nonprofit organization whose annual gross revenues exceed two hundred thousand dollars ($200,000) from the operation of bingo games shall provide the state lottery with a copy of an annual audit of the bingo operation. The audit shall be performed by an independent public accountant and submitted within ninety (90) days after the end of the license year.

SECTION 3. That Section 67-7711, Idaho Code, be, and the same is hereby amended to read as follows:

67-7711. LICENSING PROCEDURE. (1) Any charitable or nonprofit organization not exempt pursuant to section 67-7713, Idaho Code, desiring to operate bingo sessions or games or charitable raffles shall make application for a license to the state lottery. The state lottery shall review the license application and shall approve or deny the issuing of a license within fifteen (15) calendar days of receipt of the license application. The state lottery may deny the application if it determines that the applicant has not met requirements for an application imposed in this ~~act~~ chapter and rules promulgated pursuant to this ~~act~~ chapter or upon any ground for which an application for renewal of a license could be denied or for which an existing licensee's license could be revoked or suspended. Whenever an application is denied, it shall be returned to the applicant by the state lottery with specific reasons for the denial. When a license application is approved by the state lottery, the state lottery shall issue a license to the applicant. No person or charitable or nonprofit organization, except those exempt pursuant to section 67-7713, Idaho Code, shall operate or conduct a bingo session or game or charitable raffle until it has received a license from the state

lottery. The license shall expire one (1) year after the date it was issued. A copy of the license shall be furnished to the county sheriff of the county or the chief of police of the city in which the licensee intends to operate a bingo session or game or sell charitable raffle tickets before a bingo session or game or a charitable raffle is conducted by the licensee.

(2) Each application and renewal application shall contain the following information:

(a) The name, address, date of birth, driver's license number and social security number of the applicant and if the applicant is a corporation, association or other similar legal entity, the name, home address, date of birth, driver's license number and social security number of each of the officers of the organization as well as the name and address of the directors, or other persons similarly situated, of the organization;

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

(c) (i) In the case of charitable organizations, a copy of the application for recognition of exemptions and a determination letter from the internal revenue service ~~and the state tax commission~~ that indicates that the organization is a charitable organization and stating the section under which that exemption is granted, except that if the organization is a state or local branch, lodge, post or chapter of a national organization, a copy of the determination letter of the national organization shall satisfy this requirement; <u>and</u>

(ii) In the case of incorporated nonprofit organizations, a copy of a certificate of existence issued by the secretary of state pursuant to chapter 3, title 30, Idaho Code, establishing the organization's good standing in the state~~; and~~

~~(iii) In the case of unincorporated nonprofit associations operating pursuant to chapter 7, title 53, Idaho Code, a statement meeting the requirements of section 53-710, Idaho Code, for appointing an agent for service of process.~~

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

(3) The operation of bingo sessions or games or charitable raffles shall be the direct responsibility of, and controlled by, a special committee selected by the governing body of the organization. If the governing body has not appointed a special committee, the members of the governing body shall be held responsible for the conduct of the bingo sessions or games or raffles. No directors or officers of an organization or persons related to them either by marriage or blood within the second degree shall receive any compensation derived from the proceeds of a bingo session or raffle regulated under the provisions of this chapter. An organization shall not contract with any person ~~not employed by, or a volunteer for, the organization~~ for the purpose of conducting a bingo session or <u>providing bingo services or conducting a</u> raffle on the organization's <u>behalf, provided that this prohibition does not prevent a bingo organization from hiring employees and paying wages as provided in section 67-7709(1)(d)(ii), Idaho Code.</u> However, if the state lottery commission has entered into an agreement or contract with another state for the operation or promotion of joint bingo sessions, the charitable

or nonprofit organization may participate in that contract or agreement.

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

(5) The organization may apply for the license to coincide with the organization's fiscal year.

Approved February 27, 2008.

CHAPTER 44
(S.B. No. 1250)

AN ACT

RELATING TO THE EMPLOYMENT SECURITY LAW; AMENDING SECTION 72-1315, IDAHO CODE, TO REVISE THE DEFINITION OF "COVERED EMPLOYER" AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 72-1316, IDAHO CODE, TO REVISE A DEFINITION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 72-1351, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS, TO REMOVE CERTAIN PROVISIONS PROVIDING FOR WHEN THE TRANSFER OF THE PREDECESSOR'S EXPERIENCE RATING ACCOUNT IS MANDATORY AND TO REMOVE A PROVISION PROVIDING WHEN TRANSFERS MUST BE BASED ON ESTIMATES OF THE ALLOCABLE PAYROLLS; AMENDING SECTION 72-1351A, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS, TO REMOVE A PROVISION PROVIDING FOR THE TRANSFER OF THE EXPERIENCE RATING WHEN A COVERED EMPLOYER MAKES CERTAIN TRANSFERS TO ANOTHER COVERED EMPLOYER, TO PROVIDE FOR THE TRANSFER OF THE EXPERIENCE RATING WHEN A COVERED EMPLOYER MAKES CERTAIN TRANSFERS TO ANOTHER EMPLOYER, WHETHER OR NOT THE EMPLOYER IS A COVERED EMPLOYER PURSUANT TO IDAHO CODE, TO PROVIDE AN ALTERNATIVE METHOD FOR RECALCULATING THE EXPERIENCE RATING OF BOTH EMPLOYERS, TO PROVIDE A METHOD FOR ESTIMATING THE ALLOCABLE PAYROLL UNDER SPECIFIED CONDITIONS AND TO PROVIDE FACTORS TO BE CONSIDERED BY THE DEPARTMENT OF LABOR TO DETERMINE WHETHER A TRANSFER OF ALL OR A PORTION OF A TRADE OR BUSINESS HAS OCCURRED; AMENDING SECTION 72-1372, IDAHO CODE, TO PROVIDE FOR THE ASSESSMENT OF CERTAIN CIVIL PENALTIES BY THE DEPARTMENT'S DIRECTOR IF A FINDING IS MADE THAT AN EMPLOYER HAS COLLUDED WITH AN EMPLOYEE OR FORMER EMPLOYEE TO FILE A FALSE OR FRAUDULENT CLAIM FOR BENEFITS.

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

SECTION 1. That Section 72-1315, Idaho Code, be, and the same is hereby amended to read as follows:

72-1315. COVERED EMPLOYER. "Covered employer" means:

(1) Any person who, in any calendar quarter in either the current or preceding calendar year paid for services in covered employment wages of one thousand five hundred dollars ($1,500) or more, or for some portion of a day in each of twenty (20) different calendar weeks, whether or not consecutive, in either the current or preceding calendar year employed at least one (1) individual, ~~(irrespective of whether the same individual was in employment in each such day)~~. For purposes of this

subsection there shall not be taken into account any wages paid to, or in employment of, an employee performing domestic services referred to in subsection (8) of this section.

(2) All individuals performing services within this state for an employer who maintains two (2) or more separate establishments within this state shall be deemed to be performing services for a single employer.

(3) Each individual engaged to perform or assist in performing the work of any person in the service of an employer shall be deemed to be employed by such employer for all the purposes of this chapter, whether such individual was engaged or paid directly by such employer or by such person, provided the employer had actual or constructive knowledge of the work.

(4) Any employer, ~~(whether or not an employer at the time of acquisition)~~, who acquires the organization, trade, or business or substantially all the assets thereof, of another who at the time of such acquisition was a covered employer.

(5) In the case of agricultural labor, any person who:

(a) During any calendar quarter in the calendar year or the preceding calendar year paid wages in cash of twenty thousand dollars ($20,000) or more for agricultural labor; or

(b) On each of some twenty (20) days during the calendar year or during the preceding calendar year, each day being in a different calendar week, employed at least ten (10) individuals in employment in agricultural labor for some portion of the day.

(c) Such labor is not agricultural labor when it is performed by an individual who is an alien admitted to the United States to perform agricultural labor pursuant to sections 214(c) and 101(a)(15)(H) of the immigration and nationality act, unless the individual is required to be covered by the federal unemployment tax act.

(6) A ~~crew--leader~~ licensed farm labor contractor, as provided in chapter 16, title 44, Idaho Code, who furnishes ~~members-of--a--crew~~ any individual to perform agricultural labor for another person. ~~if:~~

~~(a)--The-crew-leader-holds-a-valid-certificate-of-registration-under the-migrant-and-seasonal-agricultural-worker-protection-act;-or~~

~~(b)--Substantially--all-the-members-of-such-crew-operate-or-maintain tractors,-mechanized-harvesting-or-crop-dusting--equipment,--or--any other--mechanized--equipment,--which-is-provided-by-the-crew-leader; and~~

~~(c)--The-crew-leader-is-not-an-employee-of-such-other-person:~~

(7) ~~In-the-case-of~~ An unlicensed, nonexempt farm labor contractor, as provided in chapter 16, title 44, Idaho Code, who furnishes any individual ~~who--is-furnished-by-a-crew-leader~~ to perform agricultural labor for another person~~,~~ not treated as a covered employer under subsection (5) of this section. If an unlicensed, nonexempt farm labor contractor furnishes any individual to perform agricultural labor for another person who is treated as a covered employer under subsection (5) of this section, both such other person and ~~not~~ the ~~crew-leader~~ unlicensed, nonexempt farm labor contractor shall be ~~treated-as--the--employer--of--the individual-if-the-crew-leader-is-not,-under-the-provisions-of-subsection (6)-of-this-section,-considered-to-be-the-employer-and-such-other-person shall--be--treated-as-having-paid-cash-remuneration-to-the-individual-in an-amount-equal-to-the-amount-of-cash-remuneration-paid-to-the--individual--by-the-crew-leader-(either-on-his-behalf-or-on-behalf-of-such-other

~~person)-for-the-agricultural--labor--performed--for--such--other--person~~ jointly and severally liable for any moneys due under the provisions of this chapter.

(8) In the case of domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, any person who during any calendar quarter in the calendar year or the preceding calendar year paid wages in cash of one thousand dollars ($1,000) or more for such service.

A person treated as a covered employer under this subsection (8) shall not be treated as a covered employer with respect to wages paid for any service other than domestic service referred to in this subsection (8) unless such person is treated as a covered employer under subsection (1) or (5) of this section, with respect to such other service.

(9) Any governmental entity as defined in section 72-1322C, Idaho Code.

(10) A nonprofit organization as defined in section 72-1322D, Idaho Code.

(11) An employer who has elected coverage pursuant to the provisions of subsection (3) of section 72-1352, Idaho Code.

SECTION 2. That Section 72-1316, Idaho Code, be, and the same is hereby amended to read as follows:

72-1316. COVERED EMPLOYMENT. (1) "Covered employment" means an individual's entire service performed by him for wages or under any contract of hire, written or oral, express or implied, for a covered employer or covered employers.

(2) Notwithstanding any other provision of state law, services shall be deemed to be in covered employment if a tax is required to be paid or was required to be paid the previous year on such services under the federal unemployment tax act or if the director determines that as a condition for full tax credit against the tax imposed by the federal unemployment tax act such services are required to be covered under this chapter.

(3) Services covered by an election pursuant to section 72-1352, Idaho Code, and services covered by an election approved by the director pursuant to section 72-1344, Idaho Code, shall be deemed to be covered employment during the effective period of such election.

(4) Services performed by an individual for remuneration shall, for the purposes of the employment security law, be covered employment unless it is shown:

(a) That the worker has been and will continue to be free from control or direction in the performance of his work, both under his contract of service and in fact; and

(b) That the worker is engaged in an independently established trade, occupation, profession, or business.

(5) "Covered employment" shall include an individual's entire service, performed within or both within and without this state:

(a) If the service is localized in this state; or

(b) If the service is not localized in any state but some of the service is performed in this state, and:

(i) The individual's base of operations or the place from which such service is directed or controlled is in this state; or

(ii) The individual's base of operations or place from which such 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.

(c) Service shall be deemed to be localized within a state if:

(i) The service is performed entirely within such state; or

(ii) The service is performed both within and without such state, but the service performed without such state is incidental, temporary or transitory in nature or consists of isolated transactions, as compared to the individual's service within the state.

(d) "Covered employment" shall include an individual's service, wherever performed within the United States, or Canada, if:

(i) Such service is not covered under the unemployment compensation law of any other state, the Virgin Islands, or Canada; and

(ii) The place from which the service is directed or controlled is in this state.

(6) "Covered employment" shall include the services of an individual who is a citizen of the United States, performed outside the United States, ~~(~~except in Canada~~)~~, in the employ of an American employer, ~~(~~other than service which is deemed "covered employment" under the provisions of subsection (5) of this section or the parallel provisions of another state's law~~)~~, if:

(a) The employer's principal place of business in the United States is located in this state; or

(b) The employer has no place of business in the United States; but

(i) Is an individual who is a resident of this state; or

(ii) Is a corporation which is organized under the laws of this state; or

(iii) Is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any other state; or

(c) None of the criteria of provision (a) or (b) of this subsection is met but the employer has elected coverage in this state, or the employer having failed to elect coverage in any state, the individual has filed a claim for benefits based on such service, under the law of this state;

(d) An "American employer" for purposes of this subparagraph means a person who is:

(i) An individual who is a resident of the United States; or

(ii) A partnership if two-thirds (2/3) or more of the partners are residents of the United States; or

(iii) A trust if all of the trustees are residents of the United States; or

(iv) A corporation organized under the laws of the United States or of any state.

(e) For purposes of this subsection, "United States" means the states, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

SECTION 3. That Section 72-1351, Idaho Code, be, and the same is hereby amended to read as follows:

72-1351. EXPERIENCE RATING AND VOLUNTARY TRANSFERS OF EXPERIENCE RATING ACCOUNTS. (1) Subject to the other provisions of this chapter, each eligible and deficit employer's, {except cost reimbursement employers}, taxable wage rate shall be determined in the manner set forth below for each calendar year:

(a) (i) Each eligible employer shall be given an "experience factor" which shall be the ratio of excess of contributions over benefits paid on the employer's account since December 31, 1939, to his average annual taxable payroll rounded to the next lower dollar amount for the four (4) fiscal years immediately preceding the computation date, except that when an employer first becomes eligible, his "experience factor" will be computed on his average annual taxable payroll for the two (2) fiscal years or more, but not to exceed four (4) fiscal years, immediately preceding the computation date. The computation of such "experience factor" shall be to six (6) decimal places.

(ii) Each deficit employer shall be given a "deficit experience factor" which shall be the ratio of excess of benefits paid on the employer's account over contributions since December 31, 1939, to his average annual taxable payroll rounded to the next lower dollar amount for one (1) or more fiscal years, but not to exceed four (4) fiscal years, for which he had covered employment ending on the computation date; provided, however, that any employer who on any computation date has a "deficit experience factor" for the period immediately preceding such computation date but who has filed all reports, paid all contributions and penalties due on or before the cut-off date, and has during the last four (4) fiscal years paid contributions at a rate of not less than the standard rate applicable for each such year and in excess of benefits charged to his experience rating account during such years, shall have any balance of benefits charged to his account which on the computation date immediately preceding such four (4) fiscal years were in excess of contributions paid, deleted from his account, and the excess benefits so deleted shall not be considered in the computation of his taxable wage rate for the rate years following such four (4) fiscal years. For the rate year following such computation date, he shall be given the standard rate for that year.

(iii) In the event an employer's coverage has been terminated because he has ceased to do business or because he has not had covered employment for a period of four (4) years, and if said employer thereafter becomes a covered employer, he will be considered as though he were a new employer, and he shall not be credited with his previous experience under this chapter for the purpose of computing any future "experience factor."

(b) Schedules shall be prepared listing all eligible employers in inverse numerical order of their experience factors, and all deficit employers in numerical order of their deficit experience factors. There shall be listed on such schedules for each such employer in addition to the experience factor: (i) the amount of his taxable payroll for the fiscal year ending on the computation date, and (ii) a cumulative total consisting of the sum of such employer's taxable payroll for the fiscal year ending on the computation date and the

corresponding taxable payrolls for all other employers preceding him on such schedules.

(c) The cumulative taxable payroll amounts listed on the schedules provided for in paragraph (b) of this subsection shall be segregated into groups whose limits shall be those set out in the table provided in section 72-1350(7), Idaho Code. Each of such groups shall be identified by the rate class number listed in the table which represents the percentage limits of each group. Each employer on the schedules shall be assigned a taxable wage rate in accordance with section 72-1350, Idaho Code.

(d) (i) If the grouping of rate classes requires the inclusion of exactly one-half (1/2) of an employer's taxable payroll, the employer shall be assigned the lower of the two (2) rates designated for the two (2) classes in which the halves of his taxable payroll are so required.

(ii) If the group of rate classes requires the inclusion of a portion other than exactly one-half (1/2) of an employer's taxable payroll, the employer shall be assigned the rate designated for the class in which the greater part of his taxable payroll is so required.

(iii) If one (1) or more employers on the schedules have experience factors identical to that of the last employer included in a particular rate class, all such employers shall be included in and assigned the taxable wage rate specified for such class, notwithstanding the provisions of paragraph (c) of this subsection.

(e) If the taxable payroll amount or the experience factor or both such taxable payroll amount and experience factor of any eligible or deficit employer listed on the schedules is changed, the employer shall be placed in that position on the schedules which he would have occupied had his taxable payroll amount and/or experience factor as changed been used in determining his position in the first instance, but such change shall not affect the position or rate classification of any other employer listed on the schedules and shall not affect the rate determination for previous years.

(2) For experience rating purposes, all previously accumulated benefit charges to covered employers' accounts, except cost reimbursement employers, shall not be changed except as provided by in this chapter. Benefits paid prior to June 30 shall, as of June 30 of each year preceding the calendar year for which a covered employer's taxable wage rate is effective, be charged to the account of the covered employer, except cost reimbursement employers, who paid the largest individual amount of base period wages as shown on the determination used as the basis for the payment of such benefits, except that no charge shall be made to the account of such covered employer with respect to benefits paid under the following situations:

(a) If paid to a worker who terminated his services voluntarily without good cause attributable to such covered employer, or who had been discharged for misconduct in connection with such services;

(b) If paid in accordance with the provisions of section 72-1368(10), Idaho Code, and the decision to pay benefits is subsequently reversed;

(c) For that portion of benefits paid to multistate claimants pursuant to section 72-1344, Idaho Code, which exceeds the amount of

benefits that would have been charged had only Idaho wages been used in paying the claim;

(d) If paid in accordance with the extended benefit program triggered by either national or state indicators;

(e) If paid to a worker who continues to perform services for such covered employer without a reduction in his customary work schedule, and who is eligible to receive benefits due to layoff or a reduction in earnings from another employer.

(3) A covered employer whose experience rating account is chargeable, as prescribed by this section, is an interested party as defined in section 72-1323, Idaho Code. A determination of chargeability shall become final unless, within fourteen (14) days after notice as provided in section 72-1368(5), Idaho Code, an appeal is filed by an interested party with the department in accordance with the department's rules.

(4) An experience rating record shall be maintained for each covered employer. The record shall be credited with all contributions which the covered employer has paid for covered employment prior to the cut-off date, pursuant to the provisions of this and preceding acts, and which covered employment occurred prior to the computation date. The record shall also be charged with the amount of benefits paid which are chargeable to the covered employer's account as provided by the appropriate provisions of the employment security law and regulations thereunder in effect at the time such benefits were paid. Nothing in this section shall be construed to grant any covered employer or individual in his service a priority with respect to any claim or right because of amounts paid by such covered employer into the employment security fund.

(5) (a) Whenever any individual or type of organization, ~~(~~whether or not a covered employer within the meaning of section 72-1315, Idaho Code~~)~~, in any manner succeeds to, or acquires all or substantially all, of the business of an employer who at the time of acquisition was a covered employer, and in respect to whom the director finds that the business of the predecessor is continued solely by the successor, the separate experience rating account of the predecessor shall, upon the joint application of the predecessor and the successor within the one hundred eighty (180) days after such acquisition and approval by the director, be transferred to the successor employer for the purpose of determining such successor's liability and taxable wage rate and any successor who was not an employer on the date of acquisition shall as of such date become a covered employer as defined in this chapter. Such one hundred eighty (180) day period may be extended at the discretion of the director. ~~The transfer--of--the--predecessor's-experience-rating-account-as-of-the last-computation-date-to-the-successor-shall--be--mandatory--if--the management-or-ownership-or-control-is-substantially-the-same-for-the successor--as-for-the-predecessor-and-there-is-a-continuity-of-business-activity-by-the-successor.~~

(b) Whenever any individual or type of organization, whether or not a covered employer within the meaning of section 72-1315, Idaho Code, in any manner succeeds to, or acquires, part of the business of an employer who at the time of acquisition was a covered employer, and such portion of the business is continued by the successor, so much of the separate experience rating account of the predecessor as is attributable to the portion of the business transferred, as determined on a pro rata basis in the same ratio that the

wages of covered employees properly allocable to the transferred portion of the business bears to the payroll of the predecessor in the last four (4) completed calendar quarters immediately preceding the date of transfer, shall, upon the joint application of the predecessor and the successor within one hundred eighty (180) days after such acquisition and approval by the director, be transferred to the successor employer for the purpose of determining such successor's liability and taxable wage rate and any successor who was not an employer on the date of acquisition shall as of such date become a covered employer as defined in this chapter. Such one hundred eighty (180) day period may be extended at the discretion of the director. ~~The--transfer-of-the-predecessor's-experience-rating account-as-of-the-last-computation-date-to-the--successor--shall--be mandatory-if-the-management-or-ownership-or-control-is-substantially the--same--for--the--successor-as-for-the-predecessor-and-there-is-a continuity-of-business-activity-by-the-successor.-Whenever-such-mandatory-transfer-involves-only-a-portion--of--the--experience--rating record,--and--the-predecessor-or-successor-employers-fail-within-ten (10)-days-after-notice-to-supply-the-required--payroll--information, the-transfer-shall-be-based-on-estimates-of-the-allocable-payrolls.~~

(c) (i) If the successor was a covered employer prior to the date of the acquisition of all or a part of the predecessor's business his taxable wage rate, effective the first day of the calendar quarter immediately following the date of acquisition, shall be a newly computed rate based on the combined experience of the predecessor and successor, the resulting rate remaining in effect the balance of the rate year.

(ii) If the successor was not a covered employer prior to the date of the acquisition of all or a part of the predecessor's business, his rate shall be the rate applicable to the predecessor with respect to the period immediately preceding the date of acquisition, but if there were more than one (1) predecessor the successor's rate shall be a newly computed rate based on the combined experience of the predecessors, becoming effective immediately after the date of acquisition, and shall remain in effect the balance of the rate year.

(d) For purposes of this section, an employer's experience rating account shall consist of the actual contribution, benefit and taxable payroll experience of the employer and any amounts due from the employer under this chapter. When a transferred experience rating account includes amounts due from the employer under this chapter, both the predecessor employer and the successor employer shall be jointly and severally liable for those amounts.

SECTION 4. That Section 72-1351A, Idaho Code, be, and the same is hereby amended to read as follows:

72-1351A. MANDATORY TRANSFERS OF EXPERIENCE RATING ACCOUNTS AND FEDERAL CONFORMITY PROVISIONS REGARDING TRANSFERS OF EXPERIENCE AND ASSIGNMENT OF RATES. Notwithstanding any other provision of this chapter, the following shall apply regarding transfers of experience and assignment of rates:

(1) (a) If a covered employer transfers its trade or business, or a portion thereof, to another covered employer, whether or not a cov-

ered employer within the meaning of section 72-1315, Idaho Code, and, at the time of the transfer, there is substantially common ownership, management or control of the two (2) employers, then the experience rating account attributable to the transferred trade or business shall be transferred to the employer to whom such business is so transferred. The rates of both employers shall be recalculated using the methods provided in section 72-1351(5)(b) and either (c)(i) or (c)(ii), Idaho Code. Whenever such mandatory transfer involves only a portion of the experience rating record, and the predecessor or successor employers fail within ten (10) days after notice to supply the required payroll information, the transfer may be based on estimates of the allocable payrolls.

(b) If, following a transfer of experience under paragraph (a) of this subsection (1), the director determines that a substantial purpose of the transfer of the trade or business was to obtain a reduced liability for contributions, then the experience rating accounts of the employers involved shall be combined into a single account and a single rate shall be assigned to such account.

(2) Whenever a person who is not a covered employer under this chapter at the time such person acquires the trade or business of a covered employer, the experience rating account of the acquired business shall not be transferred to such person if the director finds that such person acquired the business primarily for the purpose of obtaining a lower rate of contributions. Instead, such person shall be assigned the standard rate for new employers under section 72-1350, Idaho Code. In determining whether the trade or business was acquired primarily for the purpose of obtaining a lower rate of contributions, the director shall use objective factors which may include, but are not limited to, the cost of acquiring the business, whether the person continued the business enterprise of the acquired business, how long such business enterprise was continued, or whether a substantial number of new employees were hired for performance of duties unrelated to the business activity conducted prior to acquisition.

(3) (a) It shall be a violation of this section if a person:

(i) Makes any false statement to the department when the maker knows the statement to be false or acts with deliberate ignorance of or reckless disregard for the truth of the matter or willfully fails to disclose a material fact to the department in connection with the transfer of a trade or business;

(ii) Prepares any false or antedated report, form, book, paper, record, written instrument, or other matter or thing in connection with the transfer of a trade or business with the intent to submit it or allow it to be submitted to the department as genuine or true;

(iii) Knowingly violates or attempts to violate subsection (1) or (2) of this section or any other provision of this chapter related to determining the assignment of a contribution rate or an experience rate; or

(iv) Knowingly advises another person in a way that results in a violation or an attempted violation of subsection (1) or (2) of this section or any other provision of this chapter related to determining the assignment of a contribution rate or an experience rate.

(b) If a person commits any of the acts described in paragraph (a)

of this subsection (3), the person shall be subject to the following penalties:

(i) If the person is a covered employer, a civil money penalty of ten percent (10%) of such person's taxable wages for the four (4) completed consecutive quarters preceding the violation shall be imposed for such year and said penalty shall be deposited in the state employment security administrative and reimbursement fund as established by section 72-1348, Idaho Code.

(ii) If the person is not a covered employer, such person shall be subject to a civil money penalty of not more than five thousand dollars ($5,000) for each violation. Any such penalty shall be deposited in the state employment security administrative and reimbursement fund as established by section 72-1348, Idaho Code.

(4) Every person who knowingly makes any false statement to the department or knowingly fails to disclose a material fact to the department in connection with the transfer of a trade or business, or knowingly prepares any false or antedated report, form, book, paper, record, written instrument, or other matter or thing in connection with the transfer of a trade or business with the intent to submit it or allow it to be submitted to the department as genuine or true, or knowingly violates or attempts to violate subsection (1) or (2) of this section or any other provision of this chapter related to determining the assignment of a contribution rate or an experience rate, or knowingly advises another person to act in a way that results in a violation or an attempted violation of subsection (1) or (2) of this section or any other provision of this chapter related to determining the assignment of a contribution rate or an experience rate, shall be guilty of a felony punishable as provided in section 18-112, Idaho Code.

(5) For purposes of this section:

(a) An employer's experience rating account shall consist of the actual contribution, benefit and taxable payroll experience of the employer and any amounts due from the employer under this chapter. When a transferred experience rating account includes amounts due from the employer under this chapter, both the predecessor employer and the successor employer shall be jointly and severally liable for those amounts.

(b) "Knowingly" means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibition involved.

(c) "Person" has the meaning given such term by section 7701(a)(1) of the Internal Revenue Code of 1986 (26 U.S.C. 7701(a)(1)).

(d) A "transfer of a trade or business" occurs whenever a person in any manner acquires or succeeds to all or a portion of a trade or business. Factors the department may consider when determining whether a transfer of a trade or business has occurred include, but are not limited to, the following:

(i) Whether the successor continued the business enterprise of the acquired business;

(ii) Whether the successor purchased, leased or assumed machinery and manufacturing equipment, office equipment, business premises, the business or corporate name, inventories, a covenant not to compete or a list of customers;

(iii) Continuity of business relationships with third parties such as vendors, suppliers and subcontractors;
(iv) A transfer of good will;
(v) A transfer of accounts receivable;
(vi) Possession and use of the predecessor's sales correspondence; and
(vii) Whether the employees remained the same.

(e) "Trade or business" includes, but is not limited to, the employer's workforce. The transfer of some or all of an employer's workforce to another employer shall be considered a transfer of a trade or business when, as the result of such transfer, the transferring employer no longer performs trade or business with respect to the transferred workforce, and such trade or business is performed by the employer to whom the workforce is transferred.

(f) "Violates or attempts to violate" includes, but is not limited to, intent to evade, misrepresentation or willful nondisclosure.

(6) The director shall establish procedures to identify the transfer or acquisition of a business for purposes of this section.

(7) This section shall be interpreted and applied in such a manner as to meet the minimum requirements contained in any guidance or regulations issued by the United States department of labor.

SECTION 5. 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 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 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 made a false statement or representation or willfully 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.

(d) If a determination is made finding that an employer has induced, solicited, or coerced or colluded with 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.

(e) If a determination is made finding that an employer 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.

(f) For purposes of paragraphs (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 accordance 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.

Approved February 27, 2008.

CHAPTER 45
(S.B. No. 1307)

AN ACT

RELATING TO DRIVER'S LICENSES; AMENDING SECTION 49-326A, IDAHO CODE, TO CLARIFY PROVISIONS RELATING TO CERTAIN JUDICIAL SUSPENSIONS OF DRIVER'S LICENSES.

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

SECTION 1. That Section 49-326A, Idaho Code, be, and the same is hereby amended to read as follows:

49-326A. ADMINISTRATION BY DEPARTMENT OF JUDICIAL SUSPENSIONS OF DRIVER'S[1] LICENSES OR PRIVILEGES TO BECOME EFFECTIVE AFTER RELEASE FROM CONFINEMENT. ~~(1)~~ When a court's judgment or order provides that the suspension of an individual's driver's license or driving privileges shall begin after the individual is released from confinement or imprisonment, the department, for purposes of administering the ordered suspension, shall consider the driver's license or driving privileges as suspended effective as of the end of the last day of the fixed portion of the ordered sentence, as shown by the judgment or sentencing order of the court.

(~~2~~1) Unless otherwise ordered by the court, the suspension shall remain in effect until the individual applies for reinstatement of his or her driver's license or driving privileges and can provide verifiable documentation to establish the date of release from confinement or imprisonment and show that the court-ordered suspension period has expired since the individual's release. Upon such a showing, the department will reinstate the individual's driver's license or driving privileges as provided by law.

(~~3~~2) Where the department is notified of the release of the individual, either by the court or the agency having custody over the individual during the period of confinement or imprisonment, the department shall amend its records to reflect the actual court-ordered period of suspension.

(~~4~~3) No time credit against the court-ordered period of suspension will be given while the individual is incarcerated or if the individual is reincarcerated. The entire period of the court-ordered suspension must run after the individual is released from confinement or imprisonment.

Approved February 27, 2008.

CHAPTER 46
(S.B. No. 1342)

AN ACT

RELATING TO MARRIAGE; AMENDING SECTION 32-303, IDAHO CODE, TO REVISE WHO MAY SOLEMNIZE MARRIAGE, TO DESIGNATE ADDITIONAL INDIVIDUALS AUTHORIZED TO SOLEMNIZE MARRIAGE AND TO PROVIDE THAT CERTAIN RETIRED JUDGES MUST BE RECEIVING A BENEFIT FROM DESIGNATED RETIREMENT SYSTEMS FOR SERVICE IN THE IDAHO JUDICIARY.

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

SECTION 1. That Section 32-303, Idaho Code, be, and the same is hereby amended to read as follows:

32-303. BY WHOM SOLEMNIZED. Marriage may be solemnized by ~~either~~ any of the following Idaho officials: a current or retired justice of the supreme court, a current or retired court of appeals judge, a current or retired district judge, ~~any federal judge,~~ the current or a former governor, the current lieutenant governor, a current or retired magistrate of the district court, a current mayor~~,~~ or by any of the following: a current federal judge, a current tribal judge of an Idaho Indian tribe or other tribal official approved by an official act of an Idaho Indian tribe or priest or minister of the gospel of any denomination. To be a retired justice of the supreme court, court of appeals judge, district judge or magistrate judge of the district court, for the purpose of solemnizing marriages, a person shall have served in one (1) of those offices and shall be receiving a retirement benefit from either the judges retirement system or the public employee retirement system for service in the Idaho judiciary.

Approved February 27, 2008.

CHAPTER 47
(S.B. No. 1273)

AN ACT

RELATING TO CRUELTY TO ANIMALS; AMENDING SECTION 25-3504, IDAHO CODE, TO REVISE THE CRIME OF COMMITTING CRUELTY TO ANIMALS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 25-3504, Idaho Code, be, and the same is hereby amended to read as follows:

25-3504. COMMITTING CRUELTY TO ANIMALS. Every person who is cruel to any animal, or who causes or procures any animal to be cruelly treated~~; and whoever~~, or who, having the charge or custody of any animal~~,~~ either as owner or otherwise, subjects any animal to cruelty, is, for every such offense, guilty of a misdemeanor and shall, upon conviction, be punished in accordance with section 25-3520A, Idaho Code. Any law enforcement officer or animal care and control officer, subject to the restrictions of section 25-3501A, Idaho Code, may take possession of the animal cruelly treated, and provide care for the same, until final disposition of such animal is determined in accordance with section 25-3520A or 25-3520B, Idaho Code.

SECTION 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 27, 2008.

CHAPTER 48
(H.B. No. 352)

AN ACT

RELATING TO THE IDAHO STATE POLICE; AMENDING SECTION 67-3010, IDAHO CODE, TO CLARIFY THE AUTHORITY OF THE DEPARTMENT TO ESTABLISH AND COLLECT FEES FOR PROCESSING REQUESTS FOR CRIMINAL RECORDS REVIEW OF STATE AND FEDERAL FILES.

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

SECTION 1. That Section 67-3010, Idaho Code, be, and the same is hereby amended to read as follows:

67-3010. FEES AUTHORIZED. The department, by rule, shall establish and collect fees for taking fingerprints and for processing a request for criminal record review of state and federal files when the purpose is other than the administration of criminal justice. The department may also collect and account for fees charged by the federal bureau of investigation for processing fingerprints forwarded to the federal bureau of investigation by the department.

Approved March 3, 2008.

CHAPTER 49
(H.B. No. 360)

AN ACT

RELATING TO SALES AND USE TAXES; AMENDING SECTION 63-3611, IDAHO CODE, TO REVISE THE DEFINITION OF A "RETAILER ENGAGED IN BUSINESS IN THIS STATE"; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3615A, IDAHO CODE, TO PROVIDE CONDITIONS WHEN A RETAILER HAS SUBSTANTIAL NEXUS WITH THE STATE OF IDAHO, WITH EXCEPTIONS, AND TO PROVIDE APPLICATION OF THE DEFINITION OF "INTERNAL REVENUE CODE."

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

SECTION 1. That Section 63-3611, Idaho Code, be, and the same is hereby amended to read as follows:

63-3611. RETAILER ENGAGED IN BUSINESS IN THIS STATE. "Retailer engaged in business in this state" as used in this chapter means any retailer who:

(1) Engages in recurring solicitation of purchases from residents of this state or otherwise purposefully directs its business activities at residents of this state; and

(2) Has sufficient contact with this state, in accordance with the constitution of the United States, to allow the state to require the seller to collect and remit use tax on sales of tangible personal property or services made to customers in this state.

(3) The term includes any of the following:

(a) Any retailer maintaining, occupying or using, permanently or temporarily, directly or indirectly, or through a subsidiary or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business or maintaining a stock of goods.

(b) Any retailer having any representative, agent, salesman, canvasser or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, installing or the taking of orders for any tangible personal property.

(c) Any retailer, with respect to a lease or rental, deriving rentals from a lease or rental of tangible personal property situated in this state.

(d) Any retailer engaging in any activity in connection with servicing or installing tangible personal property in this state.

(e) Any retailer ~~owned or controlled by the same interests which own or control any retailer engaged in business in the same or a similar line of business in this state~~ with substantial nexus in this state within the meaning of section 63-3615A, Idaho Code.

(f) Any retailer having a franchisee or licensee operating under its trade name if the franchisee or licensee is required to collect the tax under the provisions of this section.

SECTION 2. 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 63-3615A, Idaho Code, and to read as follows:

63-3615A. SUBSTANTIAL NEXUS. (1) Subject to the limitation in subsection (2) of section 63-3611, Idaho Code, a retailer has substantial nexus with this state if both of the following apply:

(a) The retailer and an in-state business maintaining one (1) or more locations within this state are related parties; and

(b) The retailer and the in-state business use an identical or substantially similar name, trade name, trademark or goodwill to develop, promote or maintain sales, or the in-state business provides services to, or that inure to the benefit of, the out-of-state business related to developing, promoting or maintaining the in-state market.

(2) Two (2) entities are related parties under this section if they meet any one (1) of the following tests:

(a) Both entities are component members of the same controlled group of corporations under section 1563 of the Internal Revenue Code;

(b) One (1) entity is a related taxpayer to the other entity under the provisions of section 267 of the Internal Revenue Code;

(c) One (1) entity is a corporation and the other entity and any party, for which section 318 of the Internal Revenue Code requires an attribution of ownership of stock from that party to the entity, own directly, indirectly, beneficially, or constructively at least fifty percent (50%) of the value of the outstanding stock of the corporation; or

(d) One (1) or both entities is a limited liability company, partnership, estate or trust, none of which is treated as a corporation

for federal income tax purposes, and such limited liability company, partnership, estate or trust and its members, partners or beneficiaries own in the aggregate directly, indirectly, beneficially, or constructively at least fifty percent (50%) of the profits, capital, stock or value of the other entity or both entities.

(3) The provisions of this section shall not apply to a retailer that had sales in this state in the previous year in an amount of less than one hundred thousand dollars ($100,000).

(4) The definition of "Internal Revenue Code" in section 63-3004, Idaho Code, shall apply to this section.

Approved March 3, 2008.

CHAPTER 50
(H.B. No. 387)

AN ACT

RELATING TO PROPERTY EXEMPT FROM TAXATION; AMENDING SECTION 63-602B, IDAHO CODE, TO CLARIFY THAT PROPERTY OF A RELIGIOUS LIMITED LIABILITY COMPANY IS EXEMPT FROM TAXATION; AMENDING SECTION 63-602C, IDAHO CODE, TO CLARIFY THAT PROPERTY OF A FRATERNAL, BENEVOLENT OR CHARITABLE LIMITED LIABILITY COMPANY IS EXEMPT FROM TAXATION; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

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

63-602B. PROPERTY EXEMPT FROM TAXATION -- RELIGIOUS LIMITED LIABILITY COMPANIES, CORPORATIONS OR SOCIETIES. (1) The following property is exempt from taxation: property belonging to any religious limited liability company, corporation or society of this state, used exclusively for and in connection with any combination of religious, educational, or recreational purposes or activities of such religious limited liability company, 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 limited liability company, corporation or society is leased by such owner, or if such religious limited liability company, 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 limited liability company, 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 com-

mercial 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 limited liability company, 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 limited liability company, 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.

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

63-602C. PROPERTY EXEMPT FROM TAXATION -- FRATERNAL, BENEVOLENT, OR CHARITABLE LIMITED LIABILITY COMPANIES, CORPORATIONS OR SOCIETIES. The following property is exempt from taxation: property belonging to any fraternal, benevolent, or charitable limited liability company, corporation or society, the World War veteran organization buildings and memorials of this state, used exclusively for the purposes for which such limited liability company, corporation or society is organized; provided, that if any building or property belonging to any such limited liability company, corporation or society is leased by such owner or if such limited liability company, corporation or society uses such property for business purposes from which a revenue is derived which, in the case of a charitable organization, is not directly related to the charitable purposes for which such charitable organization exists, then the same shall be assessed and taxed as any other property, and if any such property is leased in part or used in part by such limited liability company, corporation or society for such purposes the assessor shall determine the value of the entire building and the value of the part used or leased for commercial purposes. If the value of the part used for commercial purposes is determined to be three percent (3%) or less than the value of the entirety, the whole of said property shall remain exempt. If the value of the part used for 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 building including the value of the real estate as is so leased or used for such purposes, and shall assess the trade fixtures used in connection with the sale of all merchandise; provided however, that the lease or use of any property by any such limited liability company, corporation or society for athletic or recreational facilities, residence halls or dormitories, meeting rooms or halls, auditoriums or club rooms within the purposes for which such limited liability company, 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.

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, 2008.

Approved March 3, 2008.

CHAPTER 51
(H.B. No. 390)

AN ACT
RELATING TO PHARMACISTS; AMENDING SECTION 54-1705, IDAHO CODE, TO REVISE THE DEFINITION OF "PRACTITIONER" AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 54-1705, Idaho Code, be, and the same is hereby amended to read as follows:

54-1705. DEFINITIONS. In this chapter:

(1) "Board of pharmacy" or "board" means the Idaho state board of pharmacy.

(2) "Counseling" or "counsel" means the effective communication by the pharmacist of information as set out in this chapter, to the patient or caregiver, in order to improve therapeutic outcomes by maximizing proper use of prescription medications and devices. Specific areas of counseling shall include, but are not limited to:

(a) Name and strength and description of the medication;

(b) Route of administration, dosage, dosage form, continuity of therapy and refill information;

(c) Special directions and precautions for preparation, administration, storage and use by the patient as deemed necessary by the pharmacist;

(d) Side effects or adverse effects and interactions and therapeutic contraindications that may be encountered, including their avoidance, which may interfere with the proper use of the medication or device as was intended by the prescriber, and the action required if they occur;

(e) Techniques for self-monitoring drug therapy; and

(f) Action to be taken in the event of a missed dose.

(3) "Deliver" or "delivery" means the actual, constructive or attempted transfer of a drug or device from one (1) person to another, whether or not for a consideration.

(4) "Device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent or other similar related article including any component part or accessory which is:

(a) Recognized in the official United States Pharmacopoeia or official National Formulary, other drug compendia or any supplement to them;

(b) Intended for use in the diagnosis of disease or other conditions, or the cure, mitigation, treatment or prevention of disease in man or other animal;

(c) Intended to ~~effect~~ affect the structure or any function of the body of man or other animal, and which does not achieve any of its principal intended purposes through chemical action within or on the body of man or other animal, and which is not dependent upon being metabolized for the achievement of any of its principal intended purposes.

(5) "Dispense" or "dispensing" means the preparation and delivery of a prescription drug pursuant to a lawful order of a practitioner in a suitable container appropriately labeled for subsequent administration to or use by a patient or other individual entitled to receive the prescription drug.

(6) "Distribute" means the delivery of a drug other than by administering or dispensing.

(7) "Drug" means:

(a) Articles recognized as drugs in the official United States Pharmacopoeia, official National Formulary, official Homeopathic Pharmacopoeia, other drug compendia or any supplement to any of them;

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animal;

(c) Articles, other than food, intended to affect the structure or any function of the body of man or other animals; and

(d) Articles intended for use as a component of any articles specified in paragraph (a), (b) or (c) of this subsection.

(8) "Drug order" means a written order, in a hospital or other health care institution, for an ultimate user of any drug or device issued and signed by a practitioner, or an order transmitted by other means of communication from a practitioner, which is immediately reduced to writing by a pharmacist, registered nurse or other licensed health care practitioner authorized by the hospital or institution. The order shall contain the name and bed number of the patient, the name and strength or size of the drug or device, unless specified by individual institution policy or guideline, the amount to be dispensed, either in quantity or days, adequate directions for the proper use of the drug or device when it is administered to the patient, and the name of the prescriber.

(9) "Drug outlet" means all pharmacies, nursing homes, residential or assisted living facilities, convalescent homes, extended care facilities, drug abuse treatment centers, penal institutions, hospitals, family planning clinics, retail stores, wholesalers, manufacturers and mail order vendors with facilities located in this state which are engaged in dispensing, delivery or distribution of drugs and drug manufacturers and wholesalers with facilities located outside the state, but doing business within this state.

(10) "Extern" means a bona fide student enrolled in an approved college of pharmacy who has not received his first professional degree in pharmacy.

(11) "Externship" means a structured practical experience program in pharmacy, approved by the board and administered by a college of pharmacy.

(12) "Health care facility" means a health care facility as defined in section 54-1601, Idaho Code.

(13) "Intern" means any person who has completed a course of study at an approved college of pharmacy, received the first professional

degree in pharmacy and is registered with the board as an intern. Interns must register with the board prior to commencement of an internship program.

(14) "Internship" means a postgraduate practical experience program under the supervision of a preceptor at a preceptor site.

(15) "Investigational or new drug" means any drug which is limited by state or federal law to use under professional supervision of a practitioner authorized by law to prescribe or administer such drug.

(16) "Labeling" means the process of preparing and affixing of a label to any drug container, exclusive however, of the labeling by a manufacturer, packer or distributor of a nonprescription drug or commercially packaged legend drug or device. Any such label shall include all information required by federal and state law or regulation.

(17) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a device or a drug, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a drug by an individual for his own use or the preparation, compounding, packaging or labeling of a drug:

(a) By a pharmacist or practitioner as an incident to his administering or dispensing of a drug in the course of his professional practice; or

(b) By a practitioner or by his authorization under his supervision for the purpose of or as an incident to research, teaching or chemical analysis and not for sale.

(18) "Manufacturer" means a person who by compounding, cultivating, harvesting, mixing or other process, produces or prepares legend drugs, and includes persons who prepare such drugs in dosage forms by mixing, compounding, encapsulating, entableting, or other process, or who packages or repackages such drugs, but does not include pharmacists or practitioners in the practice of their profession.

(19) "Nonprescription drugs" means medicines or drugs which may be sold without a prescription and which are prepackaged for use by the consumer and labeled in accordance with the requirements of the statutes and regulations of this state and the federal government.

(20) "Person" means an individual, corporation, partnership, association or any other legal entity.

(21) "Pharmaceutical care" means drug therapy and other pharmaceutical patient care services intended to achieve outcomes related to the cure or prevention of a disease, elimination or reduction of a patient's symptoms, or arresting or slowing of a disease process as defined in the rules of the board.

(22) "Pharmacist" means an individual licensed by this state to engage in the practice of pharmacy.

(23) "Pharmacy" means any facility, department or other place where prescriptions are filled or compounded and are sold, dispensed, offered or displayed for sale, which has, as its principal purpose, the dispensing of drug and health supplies intended for the general health, welfare and safety of the public.

(24) "Practitioner" shall mean a physician, dentist, veterinarian, scientific investigator or other person ~~(other--than--a-pharmacist)~~

licensed in this state and permitted by such license to dispense, conduct research with respect to or administer drugs in the course of professional practice or research in this state.

(25) "Precursor" means a substance, other than a legend drug which is an immediate chemical intermediate that can be processed or synthesized into a legend drug, and is used or produced primarily for use in the manufacture of a legend drug by persons other than persons licensed to manufacture such legend drugs by the Idaho board of pharmacy, registered by the state board of health and welfare, or licensed to practice pharmacy by the Idaho board of pharmacy.

(26) "Preceptor" means a pharmacist licensed in the state and in good standing, who supervises the internship training of a registered intern. The preceptor shall be actively engaged in the practice of pharmacy on a full-time employment basis at a registered preceptor site.

(27) "Preceptor site" means any training site for pharmacy interns and externs registered with the board pursuant to board rule.

(28) "Prescription drug or legend drug" means a drug which, under federal law is required, prior to being dispensed or delivered, to be labeled with one (1) of the following statements:

(a) "Caution: Federal law prohibits dispensing without a prescription"; or

(b) "Rx Only"; or

(c) "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian";

or a drug which is required by any applicable federal or state law or regulation to be dispensed on prescription only or is restricted to use by practitioners only.

(29) "Prescription drug order" means a lawful written or verbal order of a practitioner for a drug or device for an ultimate user of the drug or device, issued and signed by a practitioner, or an order transmitted verbally from a practitioner or the practitioner's agent to a pharmacist in a pharmacy, or transmitted verbally from a practitioner and immediately reduced to writing by a licensed practical nurse or licensed professional nurse in a health care facility for a patient or resident of such facility.

(30) "Prospective drug review" includes, but is not limited to, the following activities:

(a) Evaluation of the prescription or medication order for:

(i) Known allergies;

(ii) Rational therapy contraindications;

(iii) Reasonable dose and route of administration; and

(iv) Reasonable directions for use.

(b) Evaluation of the prescription or medication order for duplication of therapy.

(c) Evaluation of the prescription or medication order for interactions:

(i) Drug-drug;

(ii) Drug-food; and

(iii) Drug-disease.

(d) Evaluation of the prescription or medication order for proper utilization:

(i) Over or under utilization; and

(ii) Abuse/misuse.

(31) "Record" means all papers, letters, memoranda, notes, prescrip-

tions, drug orders, invoices, statements, patient medication charts or files, computerized records or other written indicia, documents or objects which are used in any way in connection with the purchase, sale or handling of any drug or device.

(32) "Sale" means every sale and includes:

(a) Manufacturing, processing, transporting, handling, packaging or any other production, preparation or repackaging;

(b) Exposure, offer, or any other proffer;

(c) Holding, storing or any other possession;

(d) Dispensing, giving, delivering or any other supplying; and

(e) Applying, administering or any other usage.

(33) "Warehouseman" means a person who stores legend drugs for others and who has no control over the disposition of such drugs except for the purpose of such storage.

(34) "Wholesaler" means a person engaged in the business of distributing legend drugs that he himself has not produced or prepared, to persons included in any of the classes named in subsection (2)(a) through (f) of section 54-1734, Idaho Code.

Approved March 3, 2008.

CHAPTER 52
(H.B. No. 419)

AN ACT

RELATING TO THE STATE TAX COMMISSION; AMENDING SECTION 63-105A, IDAHO CODE, TO PROVIDE FOR A CADASTRAL CERTIFICATION PROGRAM AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 63-105A, Idaho Code, be, and the same is hereby amended to read as follows:

63-105A. POWERS AND DUTIES -- PROPERTY TAX. The state tax commission shall be the state board of equalization. In addition to other powers and duties vested in it, the state tax commission shall have the power and duty:

(1) To supervise and coordinate the work of the several county boards of equalization.

(2) To secure, tabulate and keep records of valuations of all classes of property throughout the state, and for that purpose, to have access to all records and files of state offices and departments and county and municipal offices, and to require all public officers and employees whose duties make it possible to ascertain valuations, including valuations of public utilities for rate-making purposes, to file reports with the state tax commission, giving such information as to valuation and the source thereof. The nature and kind of the tabulations, records of valuations and requirements from public officers as stated herein, shall be in such form and cover such valuations as the state tax commission may prescribe.

(3) To coordinate and direct a system of property taxation throughout the state.

(4) To require all assessments of property in this state to be made according to law; and for that purpose to correct, when it finds the same to be erroneous, any assessments made in any county, and require correction of the county assessment records accordingly.

(5) To prescribe forms and to specify and require information with relation to any duty or power of the state tax commission except as provided in section 63-219, Idaho Code.

(6) To instruct, guide, direct and assist the county assessors and county boards of equalization as to the methods best calculated to secure uniformity in the assessment and equalization of property taxes, to the end that all property shall be assessed and taxed as required by law.

(7) To reconvene, whenever the state tax commission may deem necessary, any county board of equalization, notwithstanding the limitations of chapter 5, title 63, Idaho Code, for equalization purposes and for correction of errors. The county board of equalization, when so reconvened, shall have no power to transact any business except that for which it is specially reconvened, or such as may be brought before it by the state tax commission.

(8) To require prosecuting attorneys to institute and prosecute actions and proceedings in respect to penalties, forfeitures, removals and punishments for violations of law in connection with the assessment and taxation of property. It shall be the duty of such officers to comply promptly with the requirements of the state tax commission in that relation.

(9) To require individuals, partnerships, companies, associations and corporations to furnish such information as the state tax commission may require concerning their capital, funded or other debt, current assets and liabilities, value of property, earnings, operating and other expenses, taxes and all other facts which may be needed to enable the state tax commission to ascertain the value and the relative tax burden borne by all kinds of property in the state, and to require from all state and local officers such information as may be necessary to the proper discharge of the duties of the state tax commission.

(10) To visit, as a state tax commission or by individual members or agents thereof, whenever the state tax commission shall deem it necessary, each county of the state, for the investigation and direction of the work and methods of assessment and equalization, and to ascertain whether or not the provisions of law requiring the assessment of all property, not exempt from taxation, and just equalization of the same have been or are being properly administered and enforced.

(11) To carefully examine all cases where evasion or violation of the laws of assessment and taxation of property is alleged, complained of, or discovered, and to ascertain wherein existing laws are defective or are improperly or negligently administered.

(12) To correct its own errors in property assessment at any time before the first Monday in November, and report such correction to the county auditor and county tax collector, who shall thereupon enter the correction upon the operating property roll.

(13) To apportion annually to the state and the respective counties any moneys received by the state from the United States or any agency thereof, as payments in lieu of property taxes; provided, that said moneys shall be apportioned in the same amounts, and to the same governmental divisions as the property taxes, in lieu of which payments are

made, would be apportioned, if they were levied. The state treasurer and the state controller shall be bound, in making distribution of moneys so received, by the apportionment ordered by the state tax commission.

(14) To make administrative construction of property tax law whenever necessary or requested by any officer acting under such laws and until judicially overruled, such administrative construction shall be binding upon the inquiring officer and all others acting under such laws.

(15) To require the attendance of any assessor in the state at such time and place as may be designated by the commission, and the actual and necessary expenses of any assessor in attending any such meeting shall be a legal claim against his county.

(16) To analyze the work of county assessors at any time and to have and possess all rights and powers of such assessors for the examination of persons and property, and for the discovery of property subject to taxation; and if it shall ascertain that any taxable property is omitted from the property rolls or is not assessed or valued according to law, it shall bring the same to the attention of the assessor of the proper county in writing, and if such assessor shall neglect or refuse to comply with the request of the state tax commission to place such property on the property rolls, or correct such incorrect assessment or valuation, the tax commission shall have the power to prepare a supplemental roll, which supplemental roll shall include all property required by the tax commission to be placed on the property roll and all corrections to be made. Such supplement shall be filed with the assessor's property roll, and shall thereafter constitute an integral part thereof to the exclusion of all portions of the original property rolls inconsistent therewith, and shall be submitted therewith to the county board of equalization.

(17) To provide a program of education and an annual appraisal school for its employees, for county commissioners and for the assessors of the various counties of this state. Additionally, the state tax commission shall provide for the establishment of a property tax appraiser and cadastral certification program. Such program shall include, as a minimum, a written examination prepared, administered and graded under the supervision and control of an examination committee; such committee is to be composed as the state tax commission may provide by rule. The state tax commission's rules shall include, but need not be limited to, the following:

(a) The composition of the examination committee, provided however, that the committee shall include a representative of the counties, an agent of the state tax commission and a representative of a professional appraisal association within this state. The representative of the counties together with the representatives of such professional appraisal association shall constitute a majority of the committee.

(b) The frequency with which the examination shall be given.

(c) A reasonable review procedure by which examinees having complaints may seek review of the examination committee.

(d) The establishment of a reasonable period of time within which a county appraiser must meet the certification requirements as a condition to continued employment by the county as a certified property tax appraiser.

(18) To report at least quarterly to the revenue and taxation committee of the house of representatives and to the joint senate finance-house appropriations committee on its program to assist the counties with the property tax assessments.

(19) To transmit to the governor and to the legislature, an annual report, with the state tax commission's recommendations as to such legislation as will correct or eliminate defects in the operations of the property tax laws and will equalize taxation within the state. Said annual report shall include a comprehensive study of the property tax laws and detailed statistical information concerning the operation of the property tax laws of this state. Said report shall be submitted prior to the meeting of any regular session of the legislature.

(20) To maintain a forest land and forest product tax section to perform the functions and duties of the state tax commission under the provisions of chapter 17, title 63, Idaho Code.

Approved March 3, 2008.

CHAPTER 53
(H.B. No. 420)

AN ACT

RELATING TO THE PAYMENT OF PROPERTY TAXES; AMENDING SECTION 63-201, IDAHO CODE, TO DEFINE ADDITIONAL TERMS; AMENDING SECTION 63-901, IDAHO CODE, TO PROVIDE THAT COUNTIES MAY ALLOW FOR PAYMENT OF TAXES BY USE OF DEBIT CARDS, CREDIT CARDS AND ELECTRONIC FUNDS TRANSFERS; AMENDING SECTION 63-510, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AND AMENDING SECTION 63-1703, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 63-201, Idaho Code, be, and the same is hereby amended to read as follows:

63-201. DEFINITIONS. As used for property tax purposes in title 63, chapters 1 through 23, Idaho Code, the terms defined in this section shall have the following meanings, unless the context clearly indicates another meaning:

(1) "Appraisal" means an estimate of property value for property tax purposes.

(a) For the purpose of estimated property value to place the value on any assessment roll, the value estimation must be made by the assessor or a certified property tax appraiser.

(b) For the purpose of estimating property value to present for an appeal filed pursuant to sections 63-501A, 63-407 and 63-409, Idaho Code, the value estimation may be made by the assessor, a certified property tax appraiser, a licensed appraiser, or a certified appraiser or any party as specified by law.

(2) "Bargeline" means those water transportation tugs, boats, barges, lighters and other equipment and property used in conjunction with waterways for bulk transportation of freight or ship assist.

(3) "Cogenerators" means facilities which produce electric energy, and steam or forms of useful energy which are used for industrial, commercial, heating or cooling purposes.

(4) "Collection costs" are amounts authorized by law to be added after the date of delinquency and collected in the same manner as property tax.

(5) "Credit card" means a card or device, whether known as a credit card or by any other name, issued under an arrangement pursuant to which a card issuer gives to a cardholder the privilege of obtaining credit from the card issuer or other person in purchasing or leasing property or services, obtaining loans, or otherwise.

(6) "Debit card" means any instrument or device, whether known as a debit card or by any other name, issued with or without a fee by an issuer for the use of the cardholder in depositing, obtaining or transferring funds.

(7) "Delinquency" means any property tax, special assessment, fee, collection cost, or charge collected in the same manner as property tax, that has not been paid in the manner and within the time limits provided by law.

(8) "Electronic funds transfer" means any transfer of funds that is initiated by electronic means, such as an electronic terminal, telephone, computer, ATM or magnetic tape.

(6~~9~~) "Improvements" means all buildings, structures, fixtures and fences erected upon or affixed to the land, and all fruit, nut-bearing and ornamental trees or vines not of natural growth, growing upon the land, except nursery stock.

(~~7~~10) "Late charge" means a charge of two percent (2%) of the delinquency.

(~~8~~11) "Lawful money of the United States" means currency and coin of the United States at par value and checks and drafts which are payable in dollars of the United States at par value, payable upon demand or presentment.

(12) "Legal tender" means lawful money as defined in subsection (11) of this section.

(~~9~~13) "Manufactured home" means a structure defined as a manufactured home in section 39-4105, Idaho Code.

(1~~0~~4) "Market value" means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

(1~~4~~5) "Operating property" means all rights-of-way accompanied by title; roadbeds; tracks; pipelines; bargelines; equipment and docks; terminals; rolling stock; equipment; power stations; power sites; lands; reservoirs, generating plants, transmission lines, distribution lines and substations; and all immovable or movable property operated in connection with any public utility, railroad or private railcar fleet, wholly or partly within this state, and necessary to the maintenance and operation of such road or line, or in conducting its business, and shall include all title and interest in such property, as owner, lessee or otherwise. The term includes electrical generation plants under construction, whether or not owned by or operated in connection with any public utility. The term does not include personal property exempt from taxation pursuant to section 63-602L, Idaho Code.

(~~12~~6) "Party in interest" means a person who holds a properly recorded mortgage, deed of trust or security interest.

(~~13~~7) "Person" means any entity, individual, corporation, partnership, firm, association, limited liability company, limited liability partnership or other such entities as recognized by the state of Idaho.

(~~14~~8) "Personal property" includes all goods, chattels, stocks and bonds, equities in state lands, easements, reservations, leasehold real properties and all other property which the law defines, or the courts may interpret, declare and hold to be personal property under the letter, spirit, intent and meaning of the law, for the purposes of property taxation. For the purposes of payment and collection of property taxes pursuant to chapter 9, title 63, Idaho Code, collection of delinquency pursuant to chapter 10, title 63, Idaho Code, and seizure and sale of personal property for taxes pursuant to chapter 11, title 63, Idaho Code, personal property includes manufactured homes not declared as real property pursuant to section 63-304, Idaho Code.

(~~15~~9) "Private railcar fleet" means railroad cars or locomotives owned by, leased to, occupied by or franchised to any person other than a railroad company operating a line of railroad in Idaho or any company classified as a railroad by the interstate commerce commission and entitled to possess such railroad cars and locomotives except those possessed solely for the purpose of repair, rehabilitation or remanufacturing of such locomotives or railroad cars.

(~~16~~20) "Public utility" means electrical companies, pipeline companies, natural gas distribution companies, or power producers included within federal law, bargelines, and water companies which are under the jurisdiction of the Idaho public utilities commission. The term also includes telephone corporations, as that term is defined in section 62-603, Idaho Code, except as hereinafter provided, whether or not such telephone corporation has been issued a certificate of convenience and necessity by the Idaho public utilities commission.

This term does not include cogenerators, mobile telephone service or companies, nor does it include pager service or companies, except when such services are an integral part of services provided by a certificated utility company nor does the term "public utility" include companies or persons engaged in the business of providing solely on a resale basis, any telephone or telecommunication service which is purchased from a telephone corporation or company.

(~~17~~21) "Railroad" means every kind of railway, whether its line of rails or tracks be at, above or below the surface of the earth, and without regard to the kind of power used in moving its rolling stock, and shall be considered to include every kind of street railway, suburban railway or interurban railway excepting facilities established solely for maintenance and rebuilding of railroad cars or locomotives.

(~~18~~22) "Real property" means land, and all standing timber thereon, including standing timber owned separately from the ownership of the land upon which the same may stand, except as modified in chapter 17, title 63, Idaho Code, and all buildings, structures and improvements, or other fixtures of whatsoever kind on land, including water ditches constructed for mining, manufacturing or irrigation purposes, water and gas mains, wagon and turnpike toll roads, and toll bridges, and all rights and privileges thereto belonging, or any way appertaining, all quarries and fossils in and under the land, and all other property which the law defines, or the courts may interpret, declare and hold to be real prop-

erty under the letter, spirit, intent and meaning of the law, for the purposes of property taxation. Manufactured homes constitute real property when located on taxable land, and after a statement of intent to declare as real property has been recorded, provided said statement has not been revoked. Timber, forest, forest land, and forest products shall be defined as provided in chapter 17, title 63, Idaho Code.

(~~19~~23) "Record owner" means the person or persons in whose name or names the property stands upon the records of the county recorder's office. Where the record owners are husband and wife at the time of notice of pending issue of tax deed, notice to one (1) shall be deemed and imputed as notice to the other spouse.

(20~~4~~) "Special assessment" means a charge imposed upon property for a specific purpose, collected and enforced in the same manner as property taxes.

(21~~5~~) "System value" means the market value for assessment purposes of the operating property when considered as a unit.

(22~~6~~) "Tax code area" means a geographical area made up of one (1) or more taxing districts with one (1) total levy within the geographic area, except as otherwise provided by law.

(23~~7~~) "Taxing district" means any entity or unit with the statutory authority to levy a property tax.

(24~~8~~) "Taxable value" means market value for assessment purposes, less applicable exemptions or other statutory provisions.

(25~~9~~) "Transient personal property" is personal property, specifically such construction, logging or mining machinery and equipment which is kept, moved, transported, shipped, hauled into or remaining for periods of not less than thirty (30) days, in more than one (1) county in the state during the same year.

(26~~30~~) "Warrant of distraint" means a warrant ordering the seizure of personal property to enforce payment of property tax, special assessment, expense, fee, collection cost or charge collected in the same manner as personal property tax.

SECTION 2. That Section 63-901, Idaho Code, be, and the same is hereby amended to read as follows:

63-901. PROPERTY TAXES PAYABLE ONLY IN LEGAL TENDER. All property taxes must be paid in lawful money of the United States. Notwithstanding the provisions of this section, a county may allow for payment of taxes by use of a debit card, credit card or electronic funds transfer.

SECTION 3. That Section 63-510, Idaho Code, be, and the same is hereby amended to read as follows:

63-510. NOTIFICATION OF VALUATION DUE TO STATE TAX COMMISSION. (1) Prior to the first Monday of August the auditor of each county in the state shall notify the state tax commission of the net taxable value of all property situated within each taxing unit or district in the county from the property roll for the current year and shall provide an estimate of the net taxable value for each taxing unit or district from the current year's estimated subsequent and missed property rolls. Such notification shall also include an estimate of the net taxable value within any area annexed during the immediate prior year to any taxing unit or district.

(2) Prior to the first Monday of March the auditor of each county in the state shall notify the state tax commission of the net taxable value of all property situated within each taxing unit or district in the county from the subsequent and missed property rolls. Such notification shall also include an estimate of the net taxable value within any area annexed during the immediate prior year, and listed on the subsequent or missed property roll, to any taxing unit or district.

(3) The notification required in subsections (1) and (2) of this section shall be on forms prescribed and provided by the state tax commission and shall list separately the value exempt from property taxation in accordance with section 63-602G, Idaho Code, and the value in excess of the equalized assessment valuation as shown on the base assessment roll in any revenue allocation area, pursuant to chapters 20 and 29, title 50, Idaho Code.

(4) For the purposes of this section, "taxing district," as defined in section 63-201(2~~2~~7), Idaho Code, shall include each incorporated city in each county, regardless of whether said city certifies a property tax budget.

SECTION 4. That Section 63-1703, Idaho Code, be, and the same is hereby amended to read as follows:

63-1703. CERTAIN FOREST LANDS TO BE DESIGNATED FOR TAXATION BY OWNER -- LIMITATIONS. For the purposes of appraisal, assessment and taxation under the provisions of this chapter, all forest lands in parcels of five (5) or more acres but less than five thousand (5,000), whether contiguous or not, as long as such parcels are held in common ownership, must be designated by the forest landowner to be subject to the provisions of either subsection (a) or (b) of this section. A forest landowner cannot have parcels designated under the provisions of both subsections (a) and (b) of this section at one (1) time. If the forest landowner fails to make a designation, his forest lands shall be subject to appraisal, assessment and taxation under the provisions of section 63-1702, Idaho Code. Once a designation is made by the forest landowner, such designation must remain in effect until the designation period expires, unless the forest lands are transferred to another owner using a different taxing category; in such case, the taxing category of the transferred forest lands shall be the same as that maintained by the new owner.

A forest landowner may change the designation of all forest lands in common ownership at the end of any designation period, subject to the recapture of any deferred taxes due as a result of such change. After January 1 and by December 31 of the tenth year of each designation period the forest landowner must notify the county assessor of any change in forest land designation. Failure to notify the county assessor will result in the continuation of the landowner's present designation until the end of the next designation period.

Any substantial change in the use of forest lands not conforming with the definition of forest land in section 63-1701, Idaho Code, during such ten (10) year period under the designations made in subsection (a) or (b) of this section shall be reported by the landowner to the county assessor within thirty (30) days of the change in use. Upon notification of the change in use, the assessor shall appraise, assess and tax those acres as provided by applicable laws and rules. Failure to

notify the assessor of the change in use when forest lands have been designated as subject to the provisions of subsection (a) or (b) of this section shall cause forfeiture of such designation, and cause that property to be appraised, assessed and taxed as provided in section 63-1702, Idaho Code.

Forest lands designated for assessment pursuant to the provisions of section 63-1706, Idaho Code, shall be subject to the recapture of deferred taxes upon removal of such designation, a substantial change in use, or ownership transfer, except that there shall be no recapture initiated upon ownership transfer of forest lands designated as subject to the provisions of section 63-1706, Idaho Code, to a landowner with forest lands already designated as subject to the provisions of section 63-1706, Idaho Code, prior to the transfer, or who so designates his lands to be subject to the provisions of section 63-1706, Idaho Code. In the event payment is offered or made, it shall be accepted by the county treasurer and applied in the manner of payment of other property tax.

The dollar amount of deferred taxes subject to recapture shall be determined by the county assessor by applying current tax levies against the current values that would have been in effect if the lands were subject to appraisal and assessment during the current year under the provisions of section 63-1705, Idaho Code, if there has been a change in ownership or a removal of designation, or section 63-1702, Idaho Code, if there has been a change in use with no change in ownership, which amount shall be multiplied by the number of years that the lands have been subject to the designation under section 63-1706, Idaho Code. The amount of the deferred tax shall accrue through designation periods, up to a maximum of ten (10) years, and shall apply to the most recent ten (10) years in which the parcel has been designated under the provisions of section 63-1706, Idaho Code. A credit shall be allowed for taxes actually paid under the provisions of section 63-1706, Idaho Code, for an identical ten (10) year period, up to the total amount of the deferred taxes. All deferred amounts shall be a lien against the land. Deferred tax amounts shall be calculated by the county assessor on forms prescribed by the state tax commission. Deferred tax amounts shall be supplied by the county assessor to the county treasurer by May 15 of the year following conveyance or within thirty (30) days of removal of designation, or of learning of a change in use. All deferred tax amounts shall be due and payable to the county treasurer on demand and shall become delinquent if not paid by the demand due date specified by the county treasurer on the forms prescribed by the state tax commission. If the deferred tax is not paid as provided above, the payment becomes delinquent and subject to late charges, and interest in the amounts provided in sections 63-201(~~7~~10) and 63-1001, Idaho Code, and subject to collection in the manner as set forth in chapter 10, title 63, Idaho Code. Estimated deferred tax amounts may be held by the county treasurer in a tax anticipation account from the date of conveyance until June 1 of the year following conveyance.

The county treasurer shall cause the deferred taxes and any penalty and interest paid pursuant to the provisions of this section to be apportioned to the various taxing authorities within which the property subject to the tax is located in the same manner as property taxes.

(a) A forest landowner may choose to have his forest land assessed, appraised and taxed under the provisions of section 63-1705, Idaho Code, by filing such choice with the county assessor on a form prescribed by

the state tax commission. Designation filed pursuant to section 63-1705, Idaho Code, shall become effective the first day of January following the year of designation.

(b) A forest landowner may choose to have his forest land assessed, appraised and taxed under the provisions of section 63-1706, Idaho Code, by filing such choice with the county assessor on a form prescribed by the state tax commission. Designation filed pursuant to section 63-1706, Idaho Code, shall become effective the first day of January following the year of designation.

(c) All forest products or timber harvested from investment lands not designated as subject to the provisions of section 63-1702, 63-1705 or 63-1706, Idaho Code, and delivered to a point of utilization as logs or semiprocessed forest products, ~~(~~except those forest products harvested for the domestic use of the landowner under the provisions of section 63-1708, Idaho Code,~~)~~ shall be subject to the yield tax at the time of harvest in the same manner provided for in section 63-1706, Idaho Code.

Approved March 3, 2008.

CHAPTER 54
(H.B. No. 445)

AN ACT

RELATING TO CAPITOL BUILDING PROJECTS; AMENDING CHAPTER 57, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5711F, IDAHO CODE, TO PROVIDE THAT CHAPTER 10, TITLE 44, IDAHO CODE, SHALL NOT APPLY TO CAPITOL BUILDING PROJECTS; DECLARING AN EMERGENCY, PROVIDING FOR RETROACTIVE APPLICATION, PROVIDING A SUNSET DATE AND BARRING PROSECUTION OR PUNISHMENT.

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

SECTION 1. That Chapter 57, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-5711F, Idaho Code, and to read as follows:

67-5711F. CAPITOL BUILDING PROJECTS -- CHAPTER 10, TITLE 44, IDAHO CODE, INAPPLICABLE. Notwithstanding any other provision of law to the contrary, the provisions of chapter 10, title 44, Idaho Code, shall not apply to any contract to be entered into for any capitol building project or projects, and any part thereof.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to July 1, 2007, and shall be null, void and of no force and effect on and after June 30, 2010; and any act or omission occurring between January 1, 2007, through June 30, 2007, that could constitute or be prosecuted or punished as a misdemeanor pursuant to Section 44-1004, Idaho Code, shall not be subject to prosecution or punishment and shall not be prosecuted or punished.

Approved March 3, 2008.

CHAPTER 55
(S.B. No. 1306)

AN ACT

RELATING TO THE IDAHO TRANSPORTATION DEPARTMENT; AMENDING SECTION 49-202, IDAHO CODE, TO PROVIDE FOR THE RETENTION AND DEPOSIT OF CERTAIN FEES BY COUNTIES.

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 officer 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 collected under subsection (2)(o) of this section for filing release of liability statements shall be retained by the county assessor of the county collecting such fee, and shall be deposited with the county treasurer and credited to the county current expense fund.

(d) 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~~e) 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 success-

fully 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 March 3, 2008.

CHAPTER 56
(S.B. No. 1349)

AN ACT

RELATING TO MISUSE OF PUBLIC FUNDS; AMENDING SECTION 18-5701, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO THE MISUSE OF PUBLIC MONEYS BY PUBLIC OFFICERS AND PUBLIC EMPLOYEES; AMENDING SECTION 18-5702, IDAHO CODE, TO PROVIDE GRADING AND PUNISHMENT FOR MISUSE OF FUNDS AND TO DELETE THE CRIME OF FAILURE TO KEEP AND PAY OVER MONEY; AMENDING SECTION 18-5703, IDAHO CODE, TO REVISE DEFINITIONS; REPEALING SECTION 18-5704, IDAHO CODE, RELATING TO FAILURE OF AN OFFICER TO ACCOUNT FOR FINES AND COSTS; AMENDING SECTION 19-403, IDAHO CODE, TO PROVIDE A STATUTE OF LIMITATIONS FOR MISUSE OF FUNDS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 18-5701, Idaho Code, be, and the same is hereby amended to read as follows:

18-5701. MISUSE OF PUBLIC MONEYS BY PUBLIC OFFICERS AND PUBLIC EMPLOYEES. ~~Each~~ No public officer ~~of this state, or of any county, city, town or district of this state, and every other person charged with the receipt, safekeeping, transfer or disbursement of public moneys, who~~ or public employee shall:

(1) Without authority of law, appropriates ~~the same~~ public moneys or any portion thereof to his own use, or to the use of another; or

(2) Loans ~~the same~~ public moneys or any portion thereof; or, having the possession or control of any public moneys, makes a profit, directly or indirectly out of public moneys, or uses ~~the same~~ public moneys for any purpose not authorized by law; or

(3) Fails to keep ~~the same~~ public moneys in his possession until disbursed or paid out by authority of law when legally required to do so; or

(4) Deposits ~~the same~~ public moneys or any portion thereof in any bank, or with any banker or other person, otherwise than on special deposit, or as otherwise authorized by law; or

(5) Changes or converts public moneys or any portion thereof from coin into currency, or from currency into coin or other currency, without authority of law; or

(6) Knowingly keeps any false account, or makes any false entry or erasure in any account of or relating to ~~the same~~ public moneys; or

~~(7) F~~fraudulently alters, ~~falsifies~~ falsify, conceals, destroys or obliterates any such account; or

(~~8~~7) Willfully refuses or omits to pay over, on demand, any public moneys in his hands, upon the presentation of a draft, order or warrant

drawn upon such public moneys by competent authority; or

(9~~8~~) Willfully omits to transfer ~~the same~~ public moneys when such transfer is required by law; or

(~~10~~9) Willfully omits or refuses to pay over to any public officer, employee or person authorized by law to receive the same, any public moneys received by him under any duty imposed by law so to pay over the same; or

(1~~1~~0) Knowingly uses any public moneys, or financial transaction card, financial transaction card account number or credit account ~~that is~~ issued to or for the benefit of any ~~public~~ governmental entity~~, office or agency~~ to make any purchase, loan, guarantee or advance of moneys for any personal purpose or for any purpose other than for the use or benefit of the ~~public~~ governmental entity~~, office or agency, is punishable by imprisonment in the state prison for not less than one (1) year nor more than ten (10) years, and is disqualified from holding any office in this state.~~

SECTION 2. That Section 18-5702, Idaho Code, be, and the same is hereby amended to read as follows:

18-5702. ~~FAILURE--TO KEEP AND PAY OVER MONEY~~ GRADING AND PUNISHMENT FOR MISUSE OF FUNDS. ~~Every officer charged with the receipt, safe--keeping--or--disbursement of public moneys who neglects or fails to keep and pay over the same in the manner prescribed by law, is guilty--of--felony~~ (1) Any public employee who is not charged with the receipt, safekeeping or disbursement of public moneys and who misuses public moneys in violation of section 18-5701, Idaho Code, is guilty of a misdemeanor punishable by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail not exceeding one (1) year, or by both, if the amount of public moneys misused is less than three hundred dollars ($300).

(2) Any public officer or public employee charged with the receipt, safekeeping or disbursement of public moneys, who misuses public moneys in violation of section 18-5701, Idaho Code, is guilty of a felony punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison for not more than five (5) years, or by both, if the amount of public moneys misused is less than three hundred dollars ($300).

(3) Except as otherwise provided in subsections (1) and (2) of this section, any public officer or public employee who misuses public moneys in violation of section 18-5701, Idaho Code, is guilty of a felony punishable by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the state prison for not less than one (1) year nor more than fourteen (14) years, or by both.

(4) (a) When any series of violations of section 18-5701, Idaho Code, comprised of separate incidents of misuse of public moneys in amounts less than three hundred dollars ($300) are part of a common scheme or plan, the incidents may be aggregated in one (1) count and the sum of the value of all of the incidents shall be the value considered in determining whether the amount exceeds three hundred dollars ($300).

(b) Any public officer or public employee who pleads guilty to or is found guilty of a violation of section 18-5701, Idaho Code, more than one (1) time, irrespective of the form of the judgment(s) or

withheld judgment(s), and who would otherwise be subject to a lesser punishment under subsection (1) or (2) of this section is guilty of a felony punishable as provided in subsection (3) of this section.

(5) In addition to any penalty imposed in this section, any public officer or public employee who pleads guilty to or is found guilty of a violation of section 18-5701, Idaho Code, irrespective of the form of the judgment(s) or withheld judgment(s) shall:

(a) Be terminated for cause from the public office or employment subject to any procedures applicable to such termination; and

(b) Make restitution of any public moneys misused, and any profits made therefrom, as ordered by the court; and

(c) Notwithstanding section 18-310, Idaho Code, and except as otherwise provided by law, be disqualified from holding any position as a public officer or public employee if such position is charged with the receipt, safekeeping or disbursement of public moneys.

SECTION 3. That Section 18-5703, Idaho Code, be, and the same is hereby amended to read as follows:

18-5703. DEFINITIONS. As used in this chapter:

(1) "Financial transaction card" means:

(a) Any instrument or device known as a credit card, credit plate, bank services card, banking card, check guarantee card, debit card, telephone credit card or by any other name issued by the issuer for the use of the cardholder in obtaining money, goods, services or anything else of value on credit, or in certifying or guaranteeing to a person or business the availability to the cardholder of the funds on deposit that are equal to or greater than the amount necessary to honor a draft or check payable to the order of such a person or business; or

(b) Any instrument or device used in providing the cardholder access to a demand deposit account or a time deposit account for the purpose of making deposits of money or checks therein, or withdrawing funds in the form of money, money orders, or traveler's checks or other representative of value therefrom or transferring funds from any demand account or time deposit account to any credit card account in full or partial satisfaction of any outstanding balance existing therein.

(2) "Financial transaction card account number" means the account number assigned by an issuer to a financial transaction card to identify and account for transactions involving that financial transaction card.

(3) ~~"Officer--of--this-state,-or-any-county,-city,-town-or-district of-this-state"--includes--any--public--servant--as--defined--in--section 18-1351,-Idaho-Code~~ "Governmental entity" means:

(a) The state of Idaho, including all branches, departments, divisions, agencies, boards, commissions and other governmental bodies of the state; and

(b) Counties, cities, districts and all other political subdivisions of the state of Idaho.

(4) "Public employee" means any person who is not a public officer and is employed by a governmental entity.

(5) "Public moneys" includes all bonds and evidences of indebtedness, fees, fines, forfeitures, and all other moneys belonging to ~~the state-or-any-city,-county,-town-or-district-therein,~~ or in the charge of

a governmental entity or held by a public officer or public employee in his official capacity, and all financial transaction cards, financial transaction card account numbers and credit accounts issued to or for the benefit of the ~~state or any city, county, town or district--therein, and--all moneys, bonds and evidences of indebtedness received or held by state, county, district, city or town officers in their official--capacity~~ governmental entity.

(6) "Public officer" means any person holding public office of a governmental entity:

(a) As an elected official, by virtue of an election process, including persons appointed to a vacant elected office; or

(b) As an appointed official by virtue of a formal appointment as required by law.

SECTION 4. That Section 18-5704, Idaho Code, be, and the same is hereby repealed.

SECTION 5. 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 subsections (2) and (3) of this section, 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.

(3) A prosecution for misuse of funds as provided for in section 18-5702(1), Idaho Code, must be commenced by the filing of the complaint or the finding of an indictment within five (5) years after its commission.

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 3, 2008.

CHAPTER 57
(S.B. No. 1355)

AN ACT

RELATING TO EXEMPTIONS FROM ATTACHMENT OR LEVY; AMENDING SECTION 11-605, IDAHO CODE, TO INCREASE THE MAXIMUM VALUE OF A MOTOR VEHICLE THAT SHALL BE EXEMPT FROM ATTACHMENT OR LEVY.

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

SECTION 1. That Section 11-605, Idaho Code, be, and the same is hereby amended to read as follows:

11-605. EXEMPTIONS OF PERSONAL PROPERTY SUBJECT TO VALUE LIMITATIONS. (1) An individual is entitled to exemption of the following property to the extent of a value not exceeding five hundred dollars ($500) on any one (1) item of property and not to exceed a total value of five thousand dollars ($5,000) for all items exempted under this subsection:

(a) Household furnishings, household goods, and appliances held primarily for the personal, family, or household use of the individual or a dependent of the individual;

(b) If reasonably held for the personal use of the individual or a dependent, wearing apparel, animals, books, and musical instruments; and

(c) Family portraits and heirlooms of particular sentimental value to the individual.

(2) An individual is entitled to exemption of jewelry, not exceeding one thousand dollars ($1,000) in aggregate value, if held for the personal use of the individual.

(3) An individual is entitled to exemption, not exceeding one thousand five hundred dollars ($1,500) in aggregate value, of implements, professional books, and tools of the trade; and to an exemption of one (1) motor vehicle to the extent of a value not exceeding ~~three~~ five thousand dollars ($~~3~~5,000).

(4) All courthouses, jails, public offices and buildings, schoolhouses, lots, grounds and personal property appertaining thereto, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this state, or for the use of schools, and all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by such town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this state. No article or species of property mentioned in this section is exempt from execution issued upon a judgment recovered for its price or upon a mortgage thereon.

(5) All arms, uniforms and accouterments required for the use of an individual as a peace officer, a member of the national guard or military service.

(6) A water right not to exceed one hundred sixty (160) inches of water used for the irrigation of lands actually cultivated by the individual, and the crop or crops growing or grown on fifty (50) acres of land, leased, owned or possessed by an individual cultivating the same, provided, that the amount of the crops so exempted shall not exceed the value of one thousand dollars ($1,000).

(7) An individual is entitled to exemption of one (1) firearm valued at less than five hundred dollars ($500).

(8) Any unmatured life insurance contract owned by an individual, other than a credit life insurance contract.

(9) An individual's aggregate interest, not to exceed five thousand dollars ($5,000) in any accrued dividend or interest under, or loan value of, any unmatured life insurance contract owned by the individual under which the insured is the individual or a person of whom the individual is a dependent.

(10) An individual's aggregate interest in any tangible personal property, not to exceed the value of eight hundred dollars ($800).

Approved March 3, 2008.

CHAPTER 58
(S.B. No. 1265)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-409A, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY RELATING TO DISABLED ARCHERY PROVISIONS.

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

SECTION 1. That Section 36-409A, Idaho Code, be, and the same is hereby amended to read as follows:

36-409A. ~~HANDICAPPED~~ DISABLED ARCHERY PROVISIONS. When the commission has established a special archery only season, any individual who is otherwise qualified to participate, shall be allowed to do so with the use of a crossbow if he has a permanent disability whereby he does not have use of one (1) or both of his arms or hands.

The commission shall promulgate rules to establish a process for verifying the existence of the disability and for issuance of a free permit to qualifying individuals.

Approved March 5, 2008.

CHAPTER 59
(S.B. No. 1267)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-407, IDAHO CODE, TO PROVIDE FOR NONRESIDENT SMALL GAME HUNTING LICENSES AND TO REVISE PROVISIONS RELATING TO THOSE ANIMAL SPECIES SUBJECT TO BEING HUNTED PURSUANT TO NONRESIDENT SMALL GAME HUNTING LICENSES.

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

SECTION 1. That Section 36-407, Idaho Code, be, and the same is hereby amended to read as follows:

36-407. NONRESIDENT COMBINATION, FISHING, HUNTING, AND TRAPPING LICENSES -- FEES -- RIGHTS UNDER. Licenses of the sixth class shall be issued to nonresidents in the several kinds and for fees as follows:

(a) Nonresident Hunting License. A license issued only to a person twelve (12) years of age or older entitling said person to pursue, hunt, or kill game birds, small game animals, unprotected birds and animals and predatory birds and animals and to purchase game tags as provided in section 36-409(b), Idaho Code. Provided, that a license may be issued to

qualified persons who are eleven (11) years of age to allow the application for a controlled hunt permit; however, said persons shall not hunt until they are twelve (12) years of age. A license of this kind may be had upon payment of a fee as specified in section 36-416, Idaho Code.

(b) Nonresident Season Fishing License. A license entitling a person to fish in the public waters of the state. A license of this kind may be had upon payment of a fee as specified in section 36-416, Idaho Code.

(c) Nonresident Trapping License. A license entitling a person to trap fur-bearing, unprotected, and predatory animals. A license of this kind may be had upon payment of a fee as specified in section 36-416, Idaho Code, providing the state of residence of said person grants similar trapping license privileges to residents of Idaho.

(d) Nonresident Nongame License. A license entitling a person to carry a shotgun or rifle for the protection of livestock, or to pursue, hunt and kill unprotected birds and animals and predatory birds and animals of this state. A license of this kind may be had by a nonresident person who is twelve (12) years of age or older upon payment of a fee as specified in section 36-416, Idaho Code. This license shall be valid only during the period of January 1 to August 31 of the calendar year in which issued, unless verified by the director that the licensee requires such a license to authorize him to carry a shotgun or rifle for the protection of livestock, in which case said license shall be valid until December 31 of the year in which issued.

(e) Nonresident ~~Two--Day~~ Small Game Hunting License. A license issued only to a person twelve (12) years of age or older, entitling the person to hunt upland game birds (to include turkeys), migratory game birds, cottontail rabbits, ~~and pygmy rabbits~~ huntable furbearers, and unprotected and predatory birds and animals of this state. A person holding this license shall purchase the appropriate required tags and permits, and may not hunt pheasants in an area during the first five (5) days of the pheasant season in that area. A license of this type may be had upon payment of a fee as specified in section 36-416, Idaho Code.

(f) Falconry Meet Permit. The director may issue a special permit for a regulated meet scheduled for a specific number of days upon payment of a fee as specified in section 36-416, Idaho Code. Only trained raptors may be used under the special permit issued under the provisions of this subsection.

(g) Daily Fishing License -- Resident May Purchase. A license entitling a person to fish in the waters of the state on a day-to-day basis. A license of this kind may be had by a resident or nonresident person (the provisions of section 36-405, Idaho Code, notwithstanding), upon payment of a fee as specified in section 36-416, Idaho Code, for the first effective day and a fee as specified in section 36-416, Idaho Code, for each consecutive day thereafter.

(h) Nonresident Three Day Fishing License with Steelhead or Salmon Permit. A license entitling a nonresident to fish in the waters of the state for a period of three (3) consecutive days for any fish, including steelhead trout or anadromous salmon during an open season for those fish may be had upon payment of a fee as specified in section 36-416, Idaho Code. The three (3) day license holder may fish for any species of fish, steelhead trout and anadromous salmon subject to the limitations prescribed in rules promulgated by the commission. A nonresident may purchase as many of the licenses provided in this subsection as he

desires provided that the nonresident is otherwise eligible to do so.

(i) Nonresident Junior Fishing License. A license entitling a nonresident who is less than eighteen (18) years of age to fish in the waters of this state may be had upon payment of a fee as specified in section 36-416, Idaho Code.

(j) Nonresident Combination Licenses. A license entitling the person to hunt and fish for game animals, game birds, fish and unprotected and predatory animals of the state may be had by a person twelve (12) years of age or older upon payment of a fee as specified in section 36-416, Idaho Code. A license may be issued to a qualified person who is eleven (11) years of age to allow the application for a controlled hunt permit; however, the person shall not hunt until he is twelve (12) years of age.

(k) Nonresident Junior Mentored Hunting License. A license entitling a nonresident between twelve (12) and seventeen (17) years of age, inclusive, to hunt game animals, upland game birds (including turkeys), migratory game birds, cottontail rabbits, pygmy rabbits, and unprotected and predatory birds and animals of this state only when accompanied in the field by the holder of an adult Idaho hunting license. A person holding this license shall purchase the appropriate required tags as provided in section 36-409(b), Idaho Code, and permits. Provided, that a license may be issued to qualified persons who are eleven (11) years of age to allow the application for a controlled hunt permit; however, said persons shall not hunt until they are twelve (12) years of age. A license of this kind may be had upon payment of a fee as specified in section 36-416, Idaho Code.

(l) Nonresident Youth Small Game Licenses -- Hunting. A license entitling a nonresident of ten (10) or eleven (11) years of age to hunt upland game birds (including turkeys), migratory game birds, cottontail rabbits, pygmy rabbits, and unprotected and predatory birds and animals of this state only while accompanied in the field by the holder of an adult Idaho hunting license may be had upon payment of a fee as specified in section 36-416, Idaho Code.

(m) Youth Hunter Education Graduate Licenses -- Hunting -- Resident May Purchase. A license entitling a person between ten (10) and seventeen (17) years of age, inclusive, to hunt upland game birds (except turkeys), migratory game birds, cottontail rabbits, pygmy rabbits, and unprotected and predatory birds and animals of this state only when accompanied in the field by the holder of an adult Idaho hunting license. A person holding this license shall purchase the appropriate required permits. A license of this kind may be issued to a resident or nonresident person, notwithstanding the provisions of section 36-405, Idaho Code, upon payment of a fee as specified in section 36-416, Idaho Code.

Approved March 5, 2008.

CHAPTER 60
(S.B. No. 1319)

AN ACT

RELATING TO LAW ENFORCEMENT; AMENDING SECTION 18-101A, IDAHO CODE, TO REVISE AND ADD DEFINITIONS; AND AMENDING SECTION 18-6110, IDAHO CODE, TO PROHIBIT EMPLOYEES OF THE DEPARTMENT OF JUVENILE CORREC-

TIONS FROM SEXUAL CONTACT WITH JUVENILE OFFENDERS, TO PROHIBIT CERTAIN SUPERVISING OFFICERS FROM SEXUAL CONTACT WITH CERTAIN PAROLEES OR PROBATIONERS AND TO PROVIDE PUNISHMENT FOR SEXUAL CONTACT WITH A JUVENILE OFFENDER.

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

SECTION 1. That Section 18-101A, Idaho Code, be, and the same is hereby amended to read as follows:

18-101A. DEFINITIONS. As used in titles 18, 19 and 20, Idaho Code, and elsewhere in the Idaho Code, unless otherwise specifically provided or unless the context clearly indicates or requires otherwise, the following terms shall be defined as follows:

(1) "Correctional facility" means a facility for the confinement of prisoners or juvenile offenders. The term shall be construed to include references to terms including, but not limited to, "prison," "state prison," "state penitentiary," "governmental detention facility," "penal institution (facility)," "correctional institution," "juvenile correctional center," "Idaho security medical program," "detention institution (facility)," "juvenile detention center (facility)," "county jail," "jail," "private prison (facility)," or "private correctional facility~~.~~," or those facilities that detain juvenile offenders pursuant to a contract with the Idaho department of juvenile corrections.

(2) "In-state prisoner" means ~~a~~ any person who has been charged with or convicted of a crime in the state of Idaho or who is being detained pursuant to a court order, and

(a) Who is ~~either incarcerated or on parole or probation for that crime or in custody for trial and sentencing, and who is~~ being housed in any state, local or private correctional facility, or

(b) ~~W~~who is being transported in any manner within or through the state of Idaho.

(3) "Local correctional facility" means a facility for the confinement of prisoners operated by or under the control of a county or city. The term shall include references to "county jail," or "jail." The term shall also include a private correctional facility housing prisoners under the custody of the state board of correction, the county sheriff or other local law enforcement agency.

(4) "Out-of-state prisoner" or "out-of-state inmate" means ~~a~~ any person who is convicted of and sentenced for a crime in a state other than the state of Idaho, or under the laws of the United States or other foreign jurisdiction, and

(a) ~~W~~who is ~~on parole or probation in Idaho or~~ being housed in any state, local or private correctional facility in the state of Idaho, or

(b) ~~W~~who is being transported in any manner within or through the state of Idaho.

(5) "Parolee" means a person who has been convicted of a felony and who has been placed on parole by the Idaho commission for pardons and parole or similar body of another state, the United States, or a foreign jurisdiction, and who is not incarcerated in any state, local or private correctional facility, and who is being supervised by employees of the Idaho department of correction.

(6) "Prisoner" means a person who has been convicted of a crime in

the state of Idaho ~~and is either incarcerated or on parole or probation for that crime or in custody for trial and sentencing~~ or who is being detained pursuant to a court order, or who is convicted of and sentenced for a crime in a state other than the state of Idaho, or under the laws of the United States or other foreign jurisdiction, and

(a) ~~W~~who is being housed in any state, local or private correctional facility, or

(b) ~~W~~who is being transported in any manner within or through the state of Idaho.

The term shall be construed to include references to terms including, but not limited to, "inmate," "convict," "detainee," and other similar terms, and shall include "out-of-state prisoner" and "out-of-state inmate."

(6~~7~~) "Private correctional facility" or "private prison (facility)" means a correctional facility constructed or operated in the state of Idaho by a private prison contractor.

(~~7~~8) "Private prison contractor" means any person, organization, partnership, joint venture, corporation or other business entity engaged in the site selection, design, design/building, acquisition, construction, construction/management, financing, maintenance, leasing, leasing/purchasing, management or operation of private correctional facilities or any combination of these services.

(9) "Probationer" means a person who has been placed on felony probation by an Idaho court, or a court of another state, the United States, or a foreign jurisdiction, and who is not incarcerated in any state, local or private correctional facility, and who is being supervised by employees of the Idaho department of correction.

(~~8~~10) "State correctional facility" means a facility for the confinement of prisoners, owned or operated by or under the control of the state of Idaho. The term shall include references to "state prison," "state penitentiary" or "state penal institution (facility)." The term shall also include a private correctional facility housing prisoners under the custody of the board of correction.

(11) "Supervising officer" means an employee of the Idaho department of correction who is charged with or whose duties include supervision of felony parolees or felony probationers.

(12) "Juvenile offender" means a person younger than eighteen (18) years of age or who was younger than eighteen (18) years of age at the time of any act, omission, or status for which the person is being detained in a correctional facility pursuant to court order.

SECTION 2. That Section 18-6110, Idaho Code, be, and the same is hereby amended to read as follows:

18-6110. SEXUAL CONTACT WITH A PRISONER. (1) It is a felony for any employee of the Idaho department of correction, Idaho department of juvenile corrections or any officer, employee or agent of a state, local or private correctional facility, as those terms are defined in section 18-101A, Idaho Code, to have sexual contact with a prisoner or juvenile offender, not their spouse, whether an in-state or out-of-state prisoner or juvenile offender, as those terms are defined in section 18-101A, Idaho Code.

(2) It is a felony for any supervising officer, as that term is defined in section 18-101A, Idaho Code, to knowingly have sexual contact

with any parolee or probationer, as those terms are defined in section 18-101A, Idaho Code, who is not the person's spouse.

(3) For the purposes of this section "sexual contact" means sexual intercourse, genital-genital, manual-anal, ~~manual~~-genital, oral-genital, anal-genital or oral-anal, between persons of the same or opposite sex.

(4) Any person found guilty of sexual contact with a prisoner or juvenile offender is punishable by imprisonment in the state prison for a term not to exceed life.

Approved March 5, 2008.

CHAPTER 61
(S.B. No. 1320)

AN ACT

RELATING TO MEDICAL COSTS OF STATE PRISONERS HOUSED IN CORRECTIONAL FACILITIES; AMENDING SECTION 20-237B, IDAHO CODE, TO PROVIDE THAT THE BOARD OF CORRECTION SHALL PAY FOR MEDICAL SERVICES FOR PRISONERS COMMITTED TO THE CUSTODY OF THE DEPARTMENT OF CORRECTION.

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

SECTION 1. That Section 20-237B, Idaho Code, be, and the same is hereby amended to read as follows:

20-237B. MEDICAL COSTS OF STATE PRISONERS HOUSED IN CORRECTIONAL FACILITIES. (1) The state board of correction shall pay to a provider of a medical service for any and all prisoners, committed to the custody of the department of correction, confined in a correctional facility, as defined in section 18-101A(1), Idaho Code, an amount no greater than the reimbursement rate applicable based on the Idaho medicaid reimbursement rate. This limitation applies to all medical care services provided outside the facility, including hospitalizations, professional services, durable and nondurable goods, prescription drugs and medications provided to any and all prisoners confined in a correctional facility, as defined in section 18-101A(1), Idaho Code. For required services that are not included in the Idaho medicaid reimbursement schedule, the state board of correction shall pay the reasonable value of such service.

(2) For the purposes of subsection (1) of this section, the term "provider of a medical service" shall include only companies, professional associations and other health care service entities whose services are billed directly to the department of correction. The term "provider of a medical service" shall exclude:

(a) Privatized correctional medical providers under contract with the department of correction to provide health care to prison inmates;

(b) Private prison companies;

(c) Out-of-state correctional facilities contracting with the department of correction to house prisoners;

(d) County jails; and

(e) Companies, professional associations and other health care service entities whose services are provided within the terms of agree-

ments with privatized correctional medical providers under contract with the department of correction, private prison companies and county jails.

Approved March 5, 2008.

CHAPTER 62
(H.B. No. 351)

AN ACT

RELATING TO THE ELECTION CAMPAIGN FUND; AMENDING SECTION 34-2503, IDAHO CODE, TO PROVIDE FOR DISTRIBUTION OF FUNDS FROM THE ELECTION CAMPAIGN FUND TO QUALIFYING POLITICAL PARTIES ANNUALLY INSTEAD OF IN EVEN-NUMBERED YEARS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 34-2503, Idaho Code, be, and the same is hereby amended to read as follows:

34-2503. ELECTION CAMPAIGN FUND -- DISTRIBUTION. Each political party, through its central committee, shall be eligible for payments from the fund in the following manner:

(a) Each party shall receive the amount of the fund which has been designated by the contributing individuals and credited to the separate account in the fund maintained for the party.

(b) Ninety ~~per-cent~~ <u>percent</u> (90%) of the fund which has not been designated, but is credited to the general election campaign fund, shall be distributed to the central committees in proportion to the share of the votes cast for the candidate of the party for the office of governor in the last election for governor, provided that no party shall receive more than fifty ~~per-cent~~ <u>percent</u> (50%) of the fund so distributed. Any portion of the fund not distributed shall revert to the fund and, together with the ten ~~per-cent~~ <u>percent</u> (10%) reserved, be distributed in equal portions to all major, minor and new political parties which have qualified candidates for elective state office for the ballot in the next general election.

(c) The distribution provided by this section shall take place on the Tuesday succeeding the first Monday of August in each ~~even--numbered~~ year.

Approved March 5, 2008.

CHAPTER 63
(H.B. No. 366)

AN ACT

RELATING TO TRANSPORTATION; AMENDING SECTION 49-303, IDAHO CODE, TO PROHIBIT THE ISSUANCE OF DRIVER'S LICENSES, INSTRUCTION PERMITS, PRIVILEGES OR RIGHTS TO DRIVE TO PERSONS NOT LAWFULLY PRESENT IN THE

UNITED STATES; AMENDING SECTION 49-306, IDAHO CODE, TO REQUIRE VERIFICATION OF SOCIAL SECURITY NUMBERS BY THE SOCIAL SECURITY ADMINISTRATION FOR APPLICANTS FOR DRIVER'S LICENSES, INSTRUCTION PERMITS AND RESTRICTED SCHOOL ATTENDANCE DRIVING PERMITS; AMENDING SECTION 49-319, IDAHO CODE, TO PROVIDE FOR THE EXPIRATION DATES AND FEES FOR DRIVER'S LICENSES ISSUED TO PERSONS WHO ARE NOT CITIZENS OR PERMANENT LEGAL RESIDENTS OF THE UNITED STATES AND TO PROVIDE REFERENCE TO SPECIFIED EXPIRATION DATE PROVISIONS; AMENDING SECTION 49-2443, IDAHO CODE, TO REQUIRE VERIFICATION OF SOCIAL SECURITY NUMBERS BY THE SOCIAL SECURITY ADMINISTRATION FOR APPLICANTS FOR IDENTIFICATION CARDS; AND AMENDING SECTION 49-2444, IDAHO CODE, TO PROVIDE REFERENCE TO SPECIFIC EXPIRATION DATE PROVISIONS AND TO PROVIDE FOR THE EXPIRATION DATES OF IDENTIFICATION CARDS ISSUED TO PERSONS WHO ARE NOT CITIZENS OR PERMANENT LEGAL RESIDENTS OF THE UNITED STATES.

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) Has been adjudged by a court of competent jurisdiction to be an habitual drunkard or addicted to the use of narcotic drugs, and such order has been received by the department.

(7) Has been adjudged by a licensed physician or by a court of competent jurisdiction to be afflicted with or suffering from any mental 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.

(14) Is not lawfully present in the United States.

SECTION 2. That Section 49-306, Idaho Code, be, and the same is hereby amended to read as follows:

49-306. APPLICATION FOR DRIVER'S LICENSE, INSTRUCTION PERMIT, OR RESTRICTED SCHOOL ATTENDANCE DRIVING PERMIT. (1) Every application for any instruction permit, restricted school attendance driving permit, or for a driver's license shall be made upon a form furnished by the department and shall be verified by the applicant before a person authorized to administer oaths. Officers and employees of the department and sheriffs and their deputies are authorized to administer the oaths without charge. Every application for a permit, extension or driver's license shall be accompanied by the following fee, none of which is refundable:

(a) Class A, B, C (4-year) license with endorsements - age 21 years and older $28.50

(b) Class A, B, C (3-year) license with endorsements - age 18 to 21 years $20.50
(c) Class A, B, C (1-year) license with endorsements - age 20 years $12.25
(d) Class D (3-year) license - under age 18 years $20.50
(e) Class D (3-year) license - age 18 to 21 years $20.50
(f) Class D (1-year) license - age 17 years or age 20 years $12.25
(g) Four-year Class D license - age 21 years and older $24.50
(h) Eight-year Class D license - age 21 to 63 years $45.00
(i) Class A, B, C instruction permit $19.50
(j) Class D instruction permit or supervised instruction permit $11.50
(k) Duplicate driver's license or permit issued under section 49-318, Idaho Code $11.50
(l) Driver's license extension issued under section 49-319, Idaho Code ..... $ 6.50
(m) License classification change (upgrade) $15.50
(n) Endorsement addition $11.50
(o) Class A, B, C skills tests ..... not more than $55.00
(p) Class D skills test $15.00
(q) Motorcycle endorsement skills test ..... $ 5.00
(r) Knowledge test ..... $ 3.00
(s) Seasonal driver's license $27.50
(t) One time motorcycle "M" endorsement $11.50
(u) Motorcycle endorsement instruction permit $11.50
(v) Restricted driving permit or restricted school attendance driving permit $35.00

(2) Every application shall state the true and full name, date of birth, sex, declaration of Idaho residency, Idaho residence address and mailing address, if different, of the applicant, height, weight, hair color, and eye color, and the applicant's social security number as verified by the ~~applicant's social security card or by the~~ social security administration.

(a) The requirement that an applicant provide a social security number as verified by ~~his social security card or by~~ the social security administration shall apply only to applicants who have been assigned a social security number.

(b) An applicant who has not been assigned a social security number shall:

(i) Present written verification from the social security administration that the applicant has not been assigned a social security number; and

(ii) Submit a birth certificate, passport or other documentary evidence issued by an entity other than a state or the United States; and

(iii) Submit such proof as the department may require that the applicant is lawfully present in the United States.

A driver's license or any instruction permit issued on and after January 1, 1993, shall not contain an applicant's social security number. Applications on file shall be exempt from disclosure except as provided in sections 49-202, 49-203, 49-203A and 49-204, Idaho Code.

Every application for a class A, B or C license shall state where the applicant has been licensed for the preceding ten (10) years and all applications shall also state whether the applicant has previously been licensed as a driver, and if so, when and by what state or country, and whether a driver's license or privileges have ever been suspended, revoked, denied, disqualified, canceled or whether an application has ever been refused, and if so, the date of and reason for the suspension, revocation, denial, disqualification, cancellation or refusal and the applicant's oath that all information is correct as signified by the applicant's signature.

The applicant may be required to submit proof of identity acceptable to the examiner or the department and date of birth as set forth in a certified copy of his birth certificate when obtainable, or another document which provides satisfactory evidence of a person's date of birth acceptable to the examiner or the department.

(c) Individuals required to register in compliance with section 3 of the federal military selective service act, 50 U.S.C. App. 451 et seq., as amended, shall be provided an opportunity to fulfill such registration requirements in conjunction with an application for a driver's license or instruction permit. Any registration information so supplied shall be transmitted by the department to the selective service system.

(3) Whenever an application is received from a person previously licensed in another jurisdiction, the department shall request a copy of the driver's record from the other jurisdiction and shall contact the national driver register. When received, the driver's record from the previous jurisdiction shall become a part of the driver's record in this state with the same force and effect as though entered on the driver's record in this state in the original instance.

(4) Whenever the department receives a request for a driver's record from another licensing jurisdiction, the record shall be forwarded without charge.

(5) The department shall contact and notify the commercial driver license information system of the proposed application for a class A, B or C driver's license to ensure identification of the person and to obtain clearance to issue the license.

(6) When the fees required under this section are collected by a county officer, they shall be paid over to the county treasurer not less often than monthly, who shall immediately:

(a) Deposit an amount equal to five dollars ($5.00) from each driver's license except an eight-year class D license, or any class D instruction permit application fees, application for a duplicate driver's license or permit, classification change, seasonal driver's license and additional endorsement, and ten dollars ($10.00) from each eight-year class D driver's license, in the current expense fund; and

(b) Deposit two dollars and fifty cents ($2.50) from each motorcycle endorsement and motorcycle endorsement instruction permit fee in the current expense fund; and

(c) Deposit an amount equal to three dollars ($3.00) from each fee for a knowledge test in the current expense fund; and

(d) Deposit an amount equal to five dollars ($5.00) from each fee for a motorcycle endorsement skills test in the current expense fund; provided however, if a contractor administers the skills test

he shall be entitled to the five dollar ($5.00) fee; and

(e) Remit the remainder to the state treasurer; and

(f) Deposit eleven dollars and fifty cents ($11.50) from each fee for a class D skills test into the county current expense fund, unless the test is administered by a department-approved contractor, in which case the contractor shall be entitled to eleven dollars and fifty cents ($11.50) of each fee.

(7) When the fees required under this section are collected by a state officer or agency, they shall be paid over to the state treasurer.

(8) The state treasurer shall distribute the moneys received from fees imposed by the provisions of this section, whether collected by a county officer or by a state officer or agency as follows:

(a) Two dollars ($2.00) of each fee for a four-year driver's license or seasonal driver's license, and four dollars ($4.00) of each fee for an eight-year class D driver's license, and one dollar and fifty cents ($1.50) of each fee charged for driver's licenses pursuant to subsections (1)(b), (d) and (e) of this section, and fifty cents (50¢) of each fee charged for driver's licenses pursuant to subsections (1)(c) and (f) of this section, shall be deposited in the emergency medical services fund II created in section 56-1018A, Idaho Code, and four dollars ($4.00) of each fee charged pursuant to subsections (1)(a), (g) and (s) of this section and eight dollars ($8.00) of each fee charged pursuant to subsection (1)(h) of this section and three dollars ($3.00) of each fee for driver's licenses pursuant to subsections (1)(b), (d) and (e) of this section, and one dollar ($1.00) of each fee charged for driver's licenses pursuant to subsections (1)(c) and (f) of this section shall be deposited in the emergency medical services fund III created in section 56-1018B, Idaho Code; and

(b) Sixteen dollars and fifty cents ($16.50) of each fee for a seasonal or class A, B or C driver's license, and ten dollars ($10.00) of each fee charged for a license pursuant to subsection (1)(b) of this section, and five dollars and forty-one cents ($5.41) of each fee charged for a license pursuant to subsection (1)(c) of this section shall be deposited in the state highway fund; and

(c) Ten dollars and fifty cents ($10.50) of each fee for a class A, B or C instruction permit or driver's license classification change shall be deposited in the state highway fund; and

(d) Four dollars ($4.00) of each fee for a class A, B or C instruction permit shall be deposited in the emergency medical services fund III created in section 56-1018B, Idaho Code; and

(e) Six dollars and fifty cents ($6.50) of each fee for a duplicate seasonal or class A, B or C driver's license, class A, B or C driver's license extension, or additional endorsement shall be deposited in the state highway fund; and

(f) Four dollars ($4.00) of each fee for a motorcycle endorsement and motorcycle endorsement instruction permit shall be deposited in the state highway fund; and

(g) Five dollars and thirty cents ($5.30) of each fee for a four-year class D driver's license, and ten dollars and sixty cents ($10.60) of each fee for an eight-year class D driver's license, and four dollars ($4.00) of each fee charged for a license pursuant to subsections (1)(d) and (e) of this section, and one dollar and thirty-three cents ($1.33) of each fee charged for a license pursuant to

subsection (1)(f) of this section shall be deposited in the driver training fund; and

(h) Seven dollars and twenty cents ($7.20) of each fee for a four-year class D driver's license, and ten dollars and forty cents ($10.40) of each fee for an eight-year class D driver's license, and six dollars ($6.00) of each fee charged for a license pursuant to subsections (1)(d) and (e) of this section, and four dollars and eight cents ($4.08) of each fee charged for a license pursuant to subsection (1)(f) of this section shall be deposited in the highway distribution fund; and

(i) Two dollars and sixty cents ($2.60) of each fee for a class D instruction permit, duplicate class D license or permit, and class D license extension shall be deposited in the driver training fund; and

(j) Three dollars and ninety cents ($3.90) of each fee for a class D instruction permit, duplicate class D license or permit, and class D license extension shall be deposited in the highway distribution fund; and

(k) Five dollars ($5.00) of each fee for a class A, B or C skills test shall be deposited in the state highway fund; and

(l) One dollar ($1.00) of each fee for a class A, B, C or four-year D driver's license, and two dollars ($2.00) of each fee for an eight-year class D driver's license, and one dollar ($1.00) of each fee charged for a license pursuant to subsections (1)(b), (d) and (e) of this section, and thirty-four cents (34¢) of each fee charged for a license pursuant to subsections (1)(c) and (f) of this section shall be deposited in the motorcycle safety program fund established in section 33-4904, Idaho Code; and

(m) Three dollars and fifty cents ($3.50) of each fee for a class D skills test shall be deposited into the state highway fund.

(9) The contractor administering a class A, B or C skills test shall be entitled to not more than fifty dollars ($50.00) of the skills test fee. A contractor administering a class A, B or C skills test may collect an additional fee for the use of the contractor's vehicle for the skills test.

(10) Thirty-five dollars ($35.00) of each restricted driving permit and each restricted school attendance driving permit shall be deposited in the state highway fund.

(11) The department may issue seasonal class B or C driver's licenses to drivers who are employees of agri-chemical businesses, custom harvesters, farm retail outlets and suppliers, and livestock feeders that:

(a) Will only be valid for driving commercial vehicles that normally require class B or C commercial driver's licenses;

(b) Will be valid for seasonal periods that begin on the date of issuance and that are not to exceed one hundred eighty (180) days in a twelve (12) month period;

(c) May only be obtained twice in a driver's lifetime;

(d) Are valid only within a one hundred fifty (150) mile radius of the place of business or farm being serviced; and

(e) Will be valid only in conjunction with valid Idaho class D driver's licenses.

(12) The department may issue seasonal class B or C driver's licenses to drivers who:

(a) Have not violated the single license provisions of applicable federal regulations;
(b) Have not had any license suspensions, revocations or cancellations;
(c) Have not had any convictions in any vehicle for any offense listed in section 49-335(1) or (2), Idaho Code, or any one (1) serious traffic offense;
(d) Have at least one (1) year of driving experience with a class D or equivalent license in any type motor vehicle; and
(e) Are at least sixteen (16) years old.

SECTION 3. That Section 49-319, Idaho Code, be, and the same is hereby amended to read as follows:

49-319. EXPIRATION AND RENEWAL OF DRIVER'S LICENSE. (1) Every non-commercial Idaho driver's license issued to a driver shall expire and be renewable as follows:
(a) Twenty-one (21) years of age or older shall expire on the licensee's birthday in the fourth year following the issuance of the driver's license.
(b) At the option of the applicant, for drivers twenty-one (21) years of age through sixty-two (62) years of age, the driver's license shall expire either on the licensee's birthday in the fourth year or the eighth year following the issuance of the driver's license.
(c) Every driver's license issued to a driver under eighteen (18) years of age shall expire five (5) days after the licensee's eighteenth birthday.
(d) Every driver's license issued to a driver eighteen (18) years of age but under twenty-one (21) years of age shall expire five (5) days after the licensee's twenty-first birthday.
(e) Except licenses issued to drivers under twenty-one (21) years of age, every driver's license that is not, as provided by law, suspended, revoked or disqualified in this state or any other jurisdiction shall be renewable on or before its expiration, but not more than twelve (12) months before, upon application, payment of the required fee, and satisfactory completion of the required eyesight examination.

(2) Every commercial driver's license issued to a person twenty-one (21) years of age or older shall expire on the licensee's birthday in the fourth year following issuance of the license, and any class A, B or C license issued to a person eighteen (18), nineteen (19) or twenty (20) years of age shall expire five (5) days after the licensee's twenty-first birthday. There shall be no option for an eight-year class A, B or C license.

(3) Every driver's license issued to a person who is not a citizen or permanent legal resident of the United States shall have an expiration date that is the same date as the end of lawful stay in the United States as indicated on documents issued and verified by the department of homeland security, provided however, that the expiration date shall not extend beyond the expiration date for the same category of license issued to citizens. Persons whose department of homeland security documents do not state an expiration date shall be issued a driver's license with an expiration date of one (1) year from the date of issuance. Fees

shall be in accordance with the expiration periods and classes listed in section 49-306(1), Idaho Code.

(4) An applicant who is issued a driver's license in another jurisdiction after an Idaho driver's license has been issued is not eligible for renewal or a duplicate of the Idaho driver's license. The applicant may apply for a new Idaho driver's license as provided in section 49-306, Idaho Code.

(~~4~~5) No knowledge test shall be required for renewal of a driver's license, except for renewal of a hazardous material endorsement. Appropriate knowledge and skill tests shall be required for an upgrade in a driver's license class or an endorsement addition. In the case of a name change, the applicant shall provide legal documentation to verify the change in accordance with department rules.

(~~5~~6) Applicants for a hazardous material endorsement shall provide either proof of United States citizenship or proof of lawful, permanent United States residence and a valid federal bureau of citizenship and immigration services alien registration number. A security background records check and federal transportation security administration clearance shall be required for issuance, renewal or transfer of a hazardous material endorsement in accordance with 49 CFR part 383, subject to procedures established by the federal transportation security administration.

(~~6~~7) Except for drivers under twenty-one (21) years of age, when a driver's license has been expired for fewer than twelve (12) months, the renewal of the driver's license shall start from the original date of expiration regardless of the year in which the application for renewal is made. If the driver's license is expired for twelve (12) months or more, the applicant shall be required to take the knowledge, skills for the class of license or endorsement being applied for, and vision tests and the application shall expire on the licensee's birthday in the fourth year following issuance of the driver's license for drivers twenty-one (21) years of age or older, except as otherwise provided in subsection (3) of this section. At the option of the applicant, for drivers twenty-one (21) years of age through sixty-two (62) years of age, the renewed license shall expire either on the licensee's birthday in the fourth year or the eighth year following issuance, except as otherwise provided in subsection (3) of this section.

(~~7~~8) (a) If a driver's license has expired or will expire and the licensee is tem~~porarily~~ out-of-state except on active military duty, and the driver's license has not, as provided by law, been suspended, revoked, canceled, denied, refused or disqualified, the licensee may request in writing on a form prescribed by the department an extension of the driver's license. The request shall be accompanied by the fee fixed in section 49-306, Idaho Code, and the extension shall be less than a twelve (12) month period. If the department determines that an extension of the driver's license is necessary, it may issue a certificate of extension showing the date to which the expired driver's license is extended, and this certificate shall be attached to the expired driver's license. Certificates of extension are limited to two (2) per licensee.

(b) Upon returning to the state of Idaho, the licensee shall within ten (10) days, apply for a renewal of the expired driver's license and surrender the certificate of extension and the expired driver's license.

(c) A hazardous material endorsement cannot be extended.

(~~8~~9) An Idaho driver's license issued to any person prior to serving on active duty in the armed forces of the United States, or a member of the immediate family accompanying such a person, if valid and in full force and effect upon entering active duty, shall remain in full force and effect and shall, upon application, be extended for a period of four (4) years so long as active duty continues, or shall be renewed upon application in person without the requirement to take a knowledge or skills test if their Idaho driver's license expired while on active duty, if the driver's license is not suspended, denied, disqualified, canceled or revoked, as provided by law, during the active duty, and the driver's license shall remain in full force and effect sixty (60) days following the date the holder is released from active duty.

(~~9~~10) The department may use a mail renewal process for four-year class D licenses based on criteria established by rule.

(~~10~~1) A seasonal driver's license is only valid for a one hundred eighty (180) day period from the date of issuance. Only one (1) seasonal driver's license may be obtained in any twelve (12) month period, and may only be obtained twice in a driver's lifetime.

(~~11~~2) A person who applies for renewal of a license may request that the notation "permanently disabled" be imprinted on the license and the department shall imprint "permanently disabled" on the license if:

(a) The person has a permanent disability; and

(b) The person presents written certification from a licensed physician, licensed physician assistant, or licensed advanced practice professional nurse verifying that the person's stated impairment qualifies as a permanent disability as provided in section 49-117, Idaho Code; and

(c) The department determines that the person meets the requirements for issuance of a license as specified in section 49-313, Idaho Code.

SECTION 4. That Section 49-2443, Idaho Code, be, and the same is hereby amended to read as follows:

49-2443. APPLICATION. Application for an identification card must be made in person before an examiner authorized by the department to issue driver's licenses. The examiner shall obtain the following from the applicant:

(1) The true and full name and Idaho residence address and mailing address, if different, of the applicant;

(2) The identity and date of birth of the applicant as set forth in a certified copy of his birth certificate and, subject to subsection (6) of this section, other satisfactory evidence of identity acceptable to the examiner or the department;

(3) The height and weight of the applicant;

(4) The color of eyes and hair of the applicant;

(5) Applicant's signature; and

(6) The applicant's social security number as verified by the ~~applicant's--social--security-card-or-by-the~~ social security administration.

(a) The requirement that an applicant provide a social security number as verified by ~~his--social-security-card-or-by~~ the social security administration shall apply only to applicants who have been

assigned a social security number.

(b) An applicant who has not been assigned a social security number shall:

(i) Present written verification from the social security administration that the applicant has not been assigned a social security number; and

(ii) Submit a birth certificate, passport or other documentary evidence issued by an entity other than a state or the United States; and

(iii) Submit such proof as the department may require that the applicant is lawfully present in the United States.

SECTION 5. That Section 49-2444, Idaho Code, be, and the same is hereby amended to read as follows:

49-2444. IDENTIFICATION CARD ISSUED -- FOUR-YEAR OR EIGHT-YEAR. (1) The department shall issue a distinguishing identification card which shall set forth the information contained in the application, in a form as prescribed by the department. All identification cards issued on or after January 1, 1993, shall not contain the applicant's social security number. An applicant's social security number shall be exempt from disclosure except for inquiries from agencies or institutions authorized to obtain such information by federal law or regulation, from peace officers or from jury commissioners. Each card shall have printed on it the applicant's full name, date of birth, Idaho residence address, sex, weight, height, eye color, hair color, and shall be issued a distinguishing number assigned to the applicant. Each card shall also have printed on it the name of this state, the date of issuance, and the date of expiration. An identification card shall not be valid until it has been signed on the signature line by the applicant. Each card shall bear upon it a color photograph of the applicant which shall be taken by the examiner at the time of application. The photograph shall be taken without headgear or other clothing or device that disguises or otherwise conceals the face or head of the applicant. A waiver may be granted by the department allowing the applicant to wear headgear or other head covering for medical, religious or safety purposes so long as the face is not disguised or otherwise concealed. At the request of the applicant, an identification card may contain a statement or indication of the medical condition of the applicant.

No person shall receive an identification card unless and until he surrenders to the department all identification cards in his possession issued to him by Idaho or any other jurisdiction, or any driver's license issued by any other jurisdiction within the United States, or until he executes an affidavit that he does not possess an identification card or any driver's license.

Identification cards issued to persons under eighteen (18) years of age shall include a notation "under 18 until (month, day, year)," and identification cards issued to persons eighteen (18) years of age to twenty-one (21) years of age shall include a notation "under 21 until (month, day, year)." The nonrefundable fee for a four-year identification card issued to persons twenty-one (21) years of age or older shall be seven dollars and fifty cents ($7.50) of which five dollars ($5.00) shall be retained by the county and credited to the current expense fund, and two dollars and fifty cents ($2.50) shall be deposited in the

state treasury to the credit of the highway distribution account. The nonrefundable fee for identification cards issued to persons under twenty-one (21) years of age shall be six dollars and fifty cents ($6.50), of which five dollars ($5.00) shall be retained by the county and credited to the current expense fund, and one dollar and fifty cents ($1.50) shall be deposited in the state treasury to the credit of the highway distribution account. The nonrefundable fee for an eight-year identification card shall be fifteen dollars ($15.00) of which ten dollars ($10.00) shall be retained by the county and credited to the current expense fund, and five dollars ($5.00) shall be deposited in the state treasury to the credit of the highway distribution account. At the option of the applicant, the identification card issued to a person twenty-one (21) years of age or older shall expire either on the cardholder's birthday in the fourth year or the eighth year following issuance of the card, except as otherwise provided in subsection (3) of this section. Every identification card issued to a person under eighteen (18) years of age shall expire five (5) days after the person's eighteenth birthday, except as otherwise provided in subsection (3) of this section. Every identification card issued to a person eighteen (18) years of age but under twenty-one (21) years of age shall expire five (5) days after the person's twenty-first birthday, except as otherwise provided in subsection (3) of this section.

Individuals required to register in compliance with section 3 of the federal military selective service act, 50 U.S.C. App. 451 et seq., as amended, shall be provided an opportunity to fulfill such registration requirements in conjunction with an application for an identification card. Any registration information so supplied shall be transmitted by the department to the selective service system.

(2) Every identification card, except those issued to persons under twenty-one (21) years of age, shall be renewable on or before its expiration, but not more than twelve (12) months before, and upon application and payment of the required fee.

(3) Every identification card issued to a person who is not a citizen or permanent legal resident of the United States shall have an expiration date that is the same date as the end of lawful stay in the United States as indicated on documents issued and verified by the department of homeland security, provided however, that the expiration date shall not extend beyond the expiration date for the same category of identification card issued to citizens. Persons whose department of homeland security documents do not state an expiration date shall be issued an identification card with an expiration date of one (1) year from the date of issuance.

(4) When an identification card has been expired for less than twelve (12) months, the renewal of the identification card shall start from the original date of expiration regardless of the year in which the application for renewal is made. If the identification card is expired for more than twelve (12) months, the application shall expire, at the option of the applicant, on the applicant's birthday in the fourth year or the eighth year following reissuance of the identification card, except as otherwise provided in subsection (3) of this section.

(~~4~~5) A person possessing an identification card who desires to donate any or all organs or tissue in the event of death, and who has completed a document of gift pursuant to the provisions for donation of anatomical gifts as set forth in chapter 34, title 39, Idaho Code, may,

at the option of the donor, indicate this desire on the identification card by the imprinting of the word "donor" on the identification card. The provisions of this subsection shall apply to persons possessing an identification card who are sixteen (16) years of age or older but less than eighteen (18) years of age if the requirements provided in chapter 34, title 39, Idaho Code, have been complied with.

(~~5~~6) A person possessing an identification card or an applicant for an identification card who is a person with a permanent disability may request that the notation "permanently disabled" be imprinted on the identification card, provided the person presents written certification from a licensed physician verifying that the person's stated impairment qualifies as a permanent disability according to the provisions of section 49-117, Idaho Code.

(~~6~~7) In the case of a name change, the applicant shall provide legal documentation to verify the change in accordance with department rules.

(~~7~~8) Whenever any person, after applying for or receiving an identification card, shall move from the address shown on the application or on the identification card issued, that person shall, within thirty (30) days, notify the transportation department in writing of the old and new addresses.

(~~8~~9) The department shall cancel any identification card upon determining that the person was not entitled to the issuance of the identification card, or that the person failed to give the required and correct information in his application or committed fraud in making the application. Upon cancellation, the person shall surrender the canceled identification card to the department.

(~~9~~10) If any person shall fail to return to the department the identification card as required, the department may direct any peace officer to secure its possession and return the identification card to the department.

(~~10~~1) The department may issue a no-fee identification card to an individual whose driver's license has been canceled and voluntarily surrendered as provided in section 49-322(4), Idaho Code. The identification card may be renewed at no cost to the applicant as long as the driver's license remains canceled.

(~~11~~2) It is an infraction for any person to fail to notify the department of a change of address as required by the provisions of subsection (~~7~~8) of this section.

Approved March 5, 2008.

CHAPTER 64
(H.B. No. 378)

AN ACT

RELATING TO THE SPEECH AND HEARING SERVICES LICENSURE BOARD; AMENDING SECTION 54-2908, IDAHO CODE, TO REVISE PROVISIONS FOR MEMBERSHIP ON THE SPEECH AND HEARING SERVICES LICENSURE BOARD AND TO DELETE PROVISIONS FOR REMOVAL OF BOARD MEMBERS.

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

SECTION 1. That Section 54-2908, Idaho Code, be, and the same is hereby amended to read as follows:

54-2908. SPEECH AND HEARING SERVICES LICENSURE BOARD. (1) There is hereby established in the department of self-governing agencies a speech and hearing services licensure board. The board shall consist of seven (7) members appointed by the governor. The governor may consider recommendations for appointment to the board from the Idaho speech-language hearing association, any Idaho association of hearing aid dealers and fitters, and any individual residing in this state. Three (3) members of the board shall be speech-language pathologists, two (2) members shall be audiologists, one (1) member shall be a hearing aid dealer and fitter, and one (1) member shall be appointed from the public at-large. Each nonpublic member shall:

(a) Have been a resident of the state of Idaho for no less than one (1) year immediately preceding his or her appointment;

(b) Have been engaged in rendering services to the public, teaching, or performing research in the field of audiology, speech-language pathology, or hearing aid dealing and fitting for a period of not less than five (5) years preceding his or her appointment;

(c) Be a currently practicing audiologist, speech-language pathologist or hearing aid dealer and fitter; and

(d) At all times during such appointment to the board, maintain a valid license in audiology, speech-language pathology or hearing aid dealing and fitting, except for the first appointees who shall meet the eligibility requirements for licensure as specified in this chapter at all times after initial appointment.

(2) The public member appointed as provided herein shall have been a resident of the state of Idaho for not less than one (1) year immediately preceding his appointment. Further, such public member shall not be associated with or financially interested in the practice or business of audiology, speech-language pathology or hearing aid dealing and fitting, nor shall such public member be engaged in an allied or related profession or occupation.

(3) ~~Each--member-shall-serve-a-term-of-three-(3)-years,-which-shall be-staggered-as-follows:-The-initial-licensure-board-shall-have-two--(2) members--whose--terms--expire--July-1,-2006;-two-(2)-members-whose-terms expire-on-July-1,-2007;-and-three-(3)-members-whose-terms-expire-on-July 1,-2008.-Terms-shall-begin-on-the-first-day-of-the-calendar-year-and-end on-the-last-day-of-the-calendar-year-or-until-successors-are--appointed, except--for-the-first-appointed-members-who-shall-serve-through-the-last calendar-day-of-the-year-in-which-they-are-appointed,-before--commencing the-terms-prescribed-in-this-section.-A-member-may-be-appointed-to-serve for--one--(1)--additional-three-(3)-year-term.-In-the-event-of-a-vacancy other-than-by-expiration-of-a-term,-the-board-shall-appoint-a--qualified person--to--fill-the-vacancy-for~~ Members shall serve a term of three (3) years at the pleasure of the governor and shall be staggered as follows: two (2) members whose terms expire July 1, 2008; two (2) members whose terms expire July 1, 2009; and three (3) members whose terms expire July 1, 2010. The governor shall appoint members and their terms shall begin July 1, 2008. In the event of a vacancy other than expiration of a term, the governor shall appoint a replacement to fill the vacancy for the remainder of the unexpired term.

(4) Members shall disqualify themselves and, upon the motion of any

interested party may, upon proper showing, be disqualified in any proceeding concerning which they have an actual conflict of interest or bias that interferes with their fair and impartial service.

~~(5) The governor may remove any member of the board from the membership of the board who is guilty of malfeasance, misfeasance or nonfeasance.~~

Approved March 5, 2008.

CHAPTER 65
(H.B. No. 381)

AN ACT

RELATING TO PROBATION AND PAROLE SUPERVISION; AMENDING SECTION 20-219, IDAHO CODE, TO REQUIRE ELECTRONIC MONITORING OF VIOLENT SEXUAL PREDATORS PLACED ON PROBATION OR PAROLE AND TO PROVIDE A PENALTY FOR UNLAWFUL INTERFERENCE WITH ANY ELECTRONIC MONITORING EQUIPMENT.

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

SECTION 1. That Section 20-219, Idaho Code, be, and the same is hereby amended to read as follows:

20-219. PROBATION AND PAROLE SUPERVISION. (1) The state board of correction shall be charged with the duty of supervising all persons convicted of a felony placed on probation or released from the state penitentiary on parole, and all persons convicted of a felony released on parole or probation from other states and residing in the state of Idaho; of making such investigations as may be necessary; of reporting alleged violations of parole or probation in specific cases to the commission or the courts to aid in determining whether the parole or probation should be continued or revoked and of preparing a case history record of the prisoners to assist the commission or the courts in determining if they should be paroled or should be released on probation.

(2) Any person placed on probation or parole and who has been designated as a violent sexual predator pursuant to chapter 83, title 18, Idaho Code, shall be monitored with electronic monitoring technology for the duration of the person's probation or parole period. Any person who, without authority, intentionally alters, tampers with, damages, or destroys any electronic monitoring equipment shall be guilty of a felony.

Approved March 5, 2008.

CHAPTER 66
(H.B. No. 385, As Amended)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-2110B, IDAHO CODE, TO REVISE THE DEFINITION OF "RESIDENT STUDENT" AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 33-3717B, IDAHO CODE, TO REVISE THE DEFINITION OF "RESIDENT STUDENT" AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 33-2110B, Idaho Code, be, and the same is hereby amended to read as follows:

33-2110B. RESIDENCY -- RULES -- APPEAL -- STANDARDS FOR NONRESIDENTS. (1) For purposes of this chapter, a "resident student" is:

(a) Any student whose parents or court-appointed guardians are domiciled in the ~~junior~~ community college district and provide more than fifty percent (50%) of his support. Domicile means an individual's true, fixed ~~and~~ permanent home and place of habitation. It is the place where he intends to remain, and to which he expects to return when he leaves without intending to establish a new domicile elsewhere. To qualify under this section the parents or guardian must have resided continuously in the ~~junior~~ community college district for twelve (12) months next preceding the opening day of the term for which the student matriculates.

(b) Any student who receives less than fifty percent (50%) of his support from parents or legal guardians who are not residents of the ~~junior~~ community college district for voting purposes and who has continuously resided in the ~~junior~~ community college district for twelve (12) months next preceding the opening day of the period of instruction during which he proposes to attend the ~~junior~~ community college.

(c) The spouse of a person who is classified, or is eligible for classification, as a resident of the ~~junior~~ community college district for the purposes of attending that ~~junior~~ community college.

(d) A member of the armed forces of the United States, stationed in the ~~junior~~ community college district on military orders.

(e) An officer or an enlisted member of the Idaho national guard.

(f) A student whose parents or guardians are members of the armed forces and stationed in the ~~junior~~ community college district on military orders and who receives fifty percent (50%) or more of support from parents or legal guardians. The student, while in continuous attendance, shall not lose his residence when his parents or guardians are transferred on military orders.

(~~f~~g) A person separated, under honorable conditions, from the United States armed forces after at least two (2) years of active service, who at the time of separation designates the ~~junior~~ community college district as his intended domicile or who has the district as the home of record in service and enters the ~~junior~~ community college within one (1) year of the date of separation.

(~~g~~h) Any individual who has been domiciled in the ~~junior~~ community college district, has qualified and would otherwise be qualified under the provisions of this statute, and who is away from the district for a period of less than one (1) calendar year and has not established legal residence elsewhere provided a twelve (12) month period of continuous residence has been established immediately prior to departure.

(2) A ~~junior~~ community college board of trustees shall adopt rules and regulations applicable to their college now or hereafter established to determine residence status of any student and to establish procedures for review of that status.

(3) Appeal from a final determination denying resident status may

be initiated by the filing of an action in the district court of the county in which the affected ~~junior~~ community college is located. An appeal from the district court shall lie as in all civil actions.

(4) Nothing contained herein shall prevent a ~~junior~~ community college board of trustees from waiving tuition to be paid by nonresident students.

(5) Nothing contained herein shall prevent a ~~junior~~ community college board of trustees from establishing quotas, standards for admission, standards for readmission, or other terms and requirements governing persons who are not residents for purposes of the first two (2) years of postsecondary education.

SECTION 2. That Section 33-3717B, Idaho Code, be, and the same is hereby amended to read as follows:

33-3717B. RESIDENCY REQUIREMENTS. (1) For any public institution of higher education in Idaho, a "resident student" is:

(a) Any student who has one (1) or more parent or parents or court-appointed guardians who are domiciled in the state of Idaho. Domicile, in the case of a parent or guardian, means that individual's true, fixed and permanent home and place of habitation. It is the place where that individual intends to remain, and to which that individual expects to return when that individual leaves without intending to establish a new domicile elsewhere. To qualify under this section, the parent, parents or guardians must have maintained a bona fide domicile in the state of Idaho for at least one (1) year prior to the opening day of the term for which the student matriculates.

(b) Any student, who receives less than fifty percent (50%) of the student's support from a parent, parents or legal guardians who are not residents of this state for voting purposes, but which student has continuously resided in the state of Idaho for twelve (12) months next preceding the opening day of the term during which the student proposes to attend the college or university and who has in fact established a bona fide domicile in this state primarily for purposes other than educational.

(c) Subject to subsection (2) of this section, any student who is a graduate of an accredited secondary school in the state of Idaho, and who matriculates at a college or university in the state of Idaho during the term immediately following such graduation regardless of the residence of the student's parent or guardian.

(d) The spouse of a person who is classified, or is eligible for classification, as a resident of the state of Idaho for the purposes of attending a college or university.

(e) A member of the armed forces of the United States, stationed in the state of Idaho on military orders.

(f) An officer or an enlisted member of the Idaho national guard.

(g) A student whose parent or guardian is a member of the armed forces and stationed in the state of Idaho on military orders and who receives fifty percent (50%) or more of support from parents or legal guardians. The student, while in continuous attendance, shall not lose that residence when the student's parent or guardian is transferred on military orders.

(gh) A person separated, under honorable conditions, from the

United States armed forces after at least two (2) years of service, who at the time of separation designates the state of Idaho as his intended domicile or who has Idaho as the home of record in service and enters a college or university in the state of Idaho within one (1) year of the date of separation.

(h~~i~~) Any individual who has been domiciled in the state of Idaho, has qualified and would otherwise be qualified under the provisions of this statute and who is away from the state for a period of less than one (1) calendar year and has not established legal residence elsewhere provided a twelve (12) month period of continuous residence has been established immediately prior to departure.

(~~j~~i) A student who is a member of any of the following Idaho Native American Indian tribes, regardless of current domicile, shall be considered an Idaho state resident for purposes of fees or tuition at institutions of higher education: members of the following Idaho Native American Indian tribes, whose traditional and customary tribal boundaries included portions of the state of Idaho, or whose Indian tribe was granted reserved lands within the state of Idaho: (i) Coeur d'Alene tribe; (ii) Shoshone-Paiute tribes; (iii) Nez Perce tribe; (iv) Shoshone-Bannock tribes; (v) Kootenai tribe.

(2) A "nonresident student" shall mean any student who does not qualify as a "resident student" under the provisions of subsection (1) of this section, and shall include:

(a) A student attending an institution in this state with the aid of financial assistance provided by another state or governmental unit or agency thereof, such nonresidency continuing for one (1) year after the completion of the semester for which such assistance is last provided.

(b) A person who is not a citizen of the United States of America, who does not have permanent or temporary resident status or does not hold "refugee-parolee" or "conditional entrant" status with the United States immigration and naturalization service or is not otherwise permanently residing in the United States under color of the law and who does not also meet and comply with all applicable requirements of this section.

(3) The establishment of a new domicile in Idaho by a person formerly domiciled in another state has occurred if such person is physically present in Idaho primarily for purposes other than educational and can show satisfactory proof that such person is without a present intention to return to such other state or to acquire a domicile at some other place outside of Idaho. Institutions determining whether a student is domiciled in the state of Idaho primarily for purposes other than educational shall consider, but shall not be limited to, the following factors:

(a) Registration and payment of Idaho taxes or fees on a motor vehicle, mobile home, travel trailer, or other item of personal property for which state registration and the payment of a state tax or fee is required;

(b) Filing of Idaho state income tax returns;

(c) Permanent full-time employment or the hourly equivalent thereof in the state of Idaho;

(d) Registration to vote for state elected officials in Idaho at a general election.

(4) The state board of education and the board of regents of the

university of Idaho shall adopt uniform and standard rules applicable to all state colleges and universities now or hereafter established to determine resident status of any student and to establish procedures for review of that status.

(5) Appeal from a final determination denying resident status may be initiated by the filing of an action in the district court of the county in which the affected college or university is located; an appeal from the district court shall lie as in all civil actions.

(6) Nothing contained herein shall prevent the state board of education and the board of regents of the university of Idaho from establishing quotas, standards for admission, standards for readmission, or other terms and requirements governing persons who are not residents for purposes of higher education.

(7) For students who apply for special graduate and professional programs including, but not limited to, the WWAMI (Washington, Wyoming, Alaska, Montana, Idaho) regional medical program, the WICHE student exchange programs, Creighton university school of dental science, the university of Utah college of medicine, and the Washington, Oregon, Idaho (WOI) regional program in veterinary medical education, no applicant shall be certified or otherwise designated as a beneficiary of such special program who has not been a resident of the state of Idaho for at least one (1) calendar year previous to the application date.

Approved March 5, 2008.

CHAPTER 67
(H.B. No. 388)

AN ACT

RELATING TO LICENSING OF NURSES; AMENDING SECTION 54-1401, IDAHO CODE, TO PROVIDE A CORRECT CODE CITATION; AND AMENDING SECTION 54-1413, IDAHO CODE, TO REVISE AND ADD TO GROUNDS FOR DISCIPLINE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 54-1401, Idaho Code, be, and the same is hereby amended to read as follows:

54-1401. PURPOSE -- LICENSE REQUIRED -- REPRESENTATION TO THE PUBLIC. In order to safeguard the public health, safety and welfare, it is in the public interest to regulate and control nursing in the state of Idaho, to promote quality health care services, to prohibit unqualified and dishonest persons from practicing nursing, and to protect against acts or conduct which may endanger the health and safety of the public.

(1) License required. It shall be unlawful for any person to practice nursing or offer to practice nursing unless that person is duly licensed pursuant to this act.

(2) Representation to the public. Only a person who holds a valid and current license to practice professional nursing in this state or a party state pursuant to sections 54-14098 and 54-1418, Idaho Code, may use the title "nurse," "registered nurse," "graduate nurse" or

"professional nurse" or the abbreviation "R.N." or any other designations, titles or abbreviations to indicate that the person is practicing nursing in this state. Only a person who holds a valid and current license to practice practical nursing in this state or a party state pursuant to sections 54-1407 and 54-1418, Idaho Code, may use the title "nurse," "licensed practical nurse," or the abbreviation "L.P.N." or any other designations, titles or abbreviations to indicate that the person is practicing nursing in this state.

(3) On and after July 1, 2005, all applicants for original licensure and for license reinstatement 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 and for license reinstatement 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.

SECTION 2. That Section 54-1413, Idaho Code, be, and the same is hereby amended to read as follows:

54-1413. DISCIPLINARY ACTION. (1) Grounds for discipline. The board shall have the power to refuse to issue, renew or reinstate a license issued pursuant to this chapter, and may revoke, suspend, place on probation, reprimand, limit, restrict, condition or take other disciplinary action against the licensee as it deems proper, including assessment of the costs of investigation and discipline against the licensee, upon a determination by the board that the licensee engaged in conduct constituting any one (1) of the following grounds:

(a) Made, or caused to be made, a false, fraudulent or forged statement or representation in procuring or attempting to procure a license to practice nursing; or

(b) Practiced nursing under a false or assumed name; or

(c) Is convicted of a felony or of any offense involving moral turpitude; or

(d) Is or has been grossly negligent or reckless in performing nursing functions; or

(e) Habitually uses alcoholic beverages or ~~narcotic,--hypnotic--or hallucinogenic~~ drugs as defined by rule; or

(f) Is physically or mentally unfit to practice nursing; or

(g) Violates the provisions of this chapter or rules and standards of conduct and practice as may be adopted by the board; or

(h) Otherwise engages in conduct of a character likely to deceive, defraud or endanger patients or the public, which includes, but is not limited to, failing or refusing to report criminal conduct or other conduct by a licensee that endangers patients; or

(i) Has had a license to practice nursing suspended or revoked in any jurisdiction. A certified copy of the order of suspension or revocation shall be prima facie evidence of such suspension or revocation; or

(j) Failure to comply with the terms of any board order, negotiated settlement or probationary agreement of the board, or to pay fines or costs assessed in a prior disciplinary proceeding.

(2) Separate offense. Each day an individual violates any of the provisions of this chapter or rules and standards of conduct and practice as may be adopted by the board shall constitute a separate offense.

(3) Proceedings.

(a) The executive director shall conduct such investigations and initiate such proceedings as necessary to ~~insure~~ ensure compliance with this section. The board may accept the voluntary surrender of a license from any nurse under investigation and accordingly enter an order revoking or suspending such license and/or imposing such conditions, limitations, or restrictions on the practice of any such nurse as may be appropriate in the discretion of the board. Otherwise, every person subject to disciplinary proceedings shall be afforded an opportunity for hearing after reasonable notice. All proceedings hereunder shall be in accordance with chapter 52, title 67, Idaho Code.

(b) Hearings shall be conducted by the board or by persons appointed by the board to conduct hearings and receive evidence. The board and any person duly appointed by the board to conduct hearings shall have all powers as are necessary and incident to orderly and effective receipt of evidence including, but not limited to, the power to administer oaths, and to compel by subpoena attendance of witnesses and production of books, records and things at the hearing or at a deposition taken by a party in accordance with the Idaho rules of civil procedure. Any party shall be entitled to the use of subpoena upon application therefor.

(c) In the event any person fails to comply with a subpoena personally served upon him or refuses to testify to any matter regarding which he may be lawfully interrogated, the board shall petition the district court in the county where such failure or refusal occurred or where such person resides, to enforce such subpoena or compel such testimony. Proceedings before the district court shall be for contempt in the same nature as contempt of court for failure or refusal to comply with an order of the court and the court shall have the same powers to secure compliance with subpoena and testimony or to impose penalties as in contempt of court proceedings.

(4) Probation/Subsequent review. Any order of the board entered under this section may be withheld or suspended for a probationary period to be fixed by the board upon such terms and conditions as may be appropriate in order to regulate, monitor and/or supervise the practice of nursing by the licensee subject to such order for the prescribed probationary period. Any order of the board entered under this section may be withdrawn, reversed, modified or amended upon a showing by the person subject to the order that the grounds for discipline no longer exist or that he is rehabilitated, qualified and competent to practice nursing and that he is not likely to violate this chapter or rules adopted hereunder in the future. The board may, as a condition to withdrawal, reversal, modification or amendment of the order, require the person to pay all or part of the costs incurred by the board in proceedings upon which the order was entered.

(5) Reporting investigative information. Nothing in section 9-340C(8) and (9), Idaho Code, shall be construed as limiting the authority of the board to report current significant investigative

information to the coordinated licensure information system for transmission to states that are parties to any multistate agreements or compacts regarding nurse licensure.

Approved March 5, 2008.

CHAPTER 68
(H.B. No. 409)

AN ACT

RELATING TO THE IDAHO SHORTHAND REPORTERS ACT; AMENDING SECTION 54-3101, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION AND TO PROVIDE INTENT; AMENDING SECTION 54-3102, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-3103, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS AND TO PROVIDE THAT A CERTIFICATE TO PRACTICE SHORTHAND REPORTING SHALL NOT BE TRANSFERABLE; AMENDING SECTION 54-3104, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 54-3105, IDAHO CODE, TO PROVIDE THAT NOMINEES TO THE BOARD MUST POSSESS A CURRENT CERTIFIED SHORTHAND REPORTER LICENSE, TO DELETE PROVISIONS RELATING TO APPOINTMENTS TO THE INITIAL STATE CERTIFIED SHORTHAND REPORTERS BOARD, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-3106, IDAHO CODE, TO REVISE TITLES OF BOARD OFFICERS, TO REVISE PROVISIONS RELATING TO BOARD OFFICER ELECTIONS, TO REVISE PROVISIONS RELATING TO RECORDKEEPING OF BOARD PROCEEDINGS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-3107, IDAHO CODE, TO AUTHORIZE THE BOARD TO DETERMINE QUALIFICATIONS OF APPLICANTS FOR CERTIFICATE RENEWAL AND TO ISSUE TEMPORARY PERMITS, TO MAKE TECHNICAL CHANGES, TO AUTHORIZE THE BOARD TO REFUSE TO ISSUE, TO REFUSE TO RENEW OR OTHERWISE DISCIPLINE ANY CERTIFICATE OR PERMIT AND TO PROVIDE THAT THE BOARD MAY AUTHORIZE THE BUREAU OF OCCUPATIONAL LICENSES TO ACT AS ITS AGENT; AMENDING SECTION 54-3108, IDAHO CODE, TO REVISE A PROVISION RELATING TO AN APPLICANT'S RESIDENCY, TO MAKE TECHNICAL CORRECTIONS, TO DELETE A STATUTORY REFERENCE AND TO PROVIDE FOR RENEWAL AND REINSTATEMENT OF CERTIFICATES; AMENDING SECTION 54-3109, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY, TO PROVIDE REFERENCE TO REQUIRED FEES AND TO DELETE A STATUTORY REFERENCE; AMENDING SECTION 54-3110, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY, TO REVISE PROVISIONS RELATING TO CONSEQUENCES OF FAILURE TO RENEW CERTIFICATE ANNUALLY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-3111, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-3112, IDAHO CODE, TO PROVIDE THAT THE BOARD MAY REFUSE TO ISSUE, REFUSE TO RENEW, SUSPEND, REVOKE, OR OTHERWISE SANCTION A TEMPORARY PERMIT OR A CERTIFICATE, TO PROVIDE AN ADDITIONAL REASON FOR THE BOARD TO REFUSE TO ISSUE, REFUSE TO RENEW, SUSPEND, REVOKE OR OTHERWISE SANCTION A TEMPORARY PERMIT OR CERTIFICATE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-3113, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-3114, IDAHO CODE, TO REVISE JUDICIAL REVIEW OF BOARD ACTION; AMENDING SECTION 54-3115, IDAHO CODE, TO PROVIDE FOR REINSTATEMENT OF A TEMPORARY PERMIT, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 54-3116, IDAHO CODE, RELATING TO THE FIVE YEAR CERTIFICATE RENEWAL

PERIOD; AMENDING SECTION 54-3117, IDAHO CODE, TO DELETE PROVISIONS RELATING TO THE STATE CERTIFIED SHORTHAND REPORTERS FUND, TO PROVIDE THAT FEES BE PAID TO THE BUREAU OF OCCUPATIONAL LICENSES, BE DEPOSITED IN THE STATE TREASURY TO THE CREDIT OF THE OCCUPATIONAL LICENSES FUND AND THAT ALL COSTS INCURRED BE CHARGED AGAINST THE FUND; AND AMENDING SECTION 54-3118, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 54-3101, Idaho Code, be, and the same is hereby amended to read as follows:

54-3101. SHORT TITLE -- INTENT. (1) This ~~act~~ chapter shall be known as the "Idaho Certified Shorthand Reporters Act."

(2) In order to safeguard life, health and property, and to promote the public welfare, the practice of shorthand reporting in this state is hereby declared to be subject to regulation in the public interest.

SECTION 2. That Section 54-3102, Idaho Code, be, and the same is hereby amended to read as follows:

54-3102. DEFINITIONS. Unless otherwise expressly stated, when used in this ~~act~~ chapter the following words and phrases shall have the following meanings:

(~~a~~1) "Shorthand reporting" means the making of written symbols or abbreviations in shorthand or machine shorthand writing of a verbatim record of any oral court proceedings, deposition, or proceedings before any grand jury, referee, or court commissioner, contemporaneous with the event.

(~~b~~2) "Certified shorthand reporter" or its abbreviation "C.S.R." means any person holding a valid regular or temporary certificate as a shorthand reporter as provided in this ~~act~~ chapter.

(~~c~~3) "Board" means the state certified shorthand reporters board.

(~~d~~4) "Official court reporter" means the official court reporter of a federal district court in the state or the district court reporter of any state district court, but does not include any reporter of the magistrates division of any state district court.

(~~e~~5) "Freelance reporter" means any shorthand reporter engaged in the practice of shorthand reporting as defined in this ~~act~~ chapter who is not an official court reporter.

(~~f~~6) "Available" means physically present at the time and place indicated or that the person could be physically present at the time and place indicated if a specific request was made.

SECTION 3. That Section 54-3103, Idaho Code, be, and the same is hereby amended to read as follows:

54-3103. CERTIFICATION REQUIRED. ~~(a)~~ Except as expressly provided in ~~the act~~ this chapter, no person shall engage in the practice of shorthand reporting or be appointed to the position of district court reporter in any state district court, or before any master or referee, or as reporter for any board or commission of the state requiring shorthand reporting for any hearing, proceeding or trial unless such person

is a certified shorthand reporter as defined in this ~~act~~ chapter; provided that any district court reporter, or any reporter before a master or referee shall also possess such additional qualifications as the ~~S~~supreme ~~C~~court may prescribe by rule.

~~(b)~~ No person shall use the title of certified shorthand reporter or its abbreviations C.S.R. or CSR, or any similar words or letters in conjunction with ~~his~~ such person's name to indicate ~~that he is qualified~~ the possession of qualifications to practice in this state as a certified shorthand reporter without having a valid temporary or regular certificate issued pursuant to this ~~act~~ chapter and not revoked or suspended. A certificate to practice shorthand reporting shall not be transferable.

SECTION 4. 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 chapter shall not apply to and shall not be construed to prohibit:

(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 supreme 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 chapter within thirty (30) days of such appointment. If the reporter fails to obtain regular certification as a certified shorthand 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~~ successfully obtaining a regular certificate as a certified shorthand reporter under this chapter.

(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.

(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~~ such party's attorney certifies at the commencement of the deposition that no certified shorthand reporter was available for reporting the deposition.

(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.

SECTION 5. That Section 54-3105, Idaho Code, be, and the same is hereby amended to read as follows:

54-3105. CERTIFIED SHORTHAND REPORTERS BOARD -- MEMBERS -- TERM -- APPOINTMENT. (~~a~~1) There is hereby created a state certified shorthand reporters board of the state of Idaho which shall consist of five (5) members. Three (3) members of the board shall be persons who have been nominated by the Idaho ~~S~~shorthand ~~R~~reporters ~~A~~association. ~~who must~~ Nominees must possess a current license as a certified shorthand reporter and have had at least five (5) years continuous experience immediately

prior to their nomination as a freelance shorthand reporter or official court reporter. One (1) other member of the board shall be an Idaho district judge nominated by the Idaho ~~S~~supreme ~~C~~court. The other member of the board shall be a member of the Idaho state bar and nominated by the Idaho ~~S~~state ~~B~~bar ~~A~~association. At least two (2) nominees for each position must be nominated by the nominating body.

(~~b~~2) The members of the board shall hold office for terms of three (3) years each. ~~Provided,-of-the-initial-board-the-three-(3)-members--to be--appointed-from-nominees-of-the-Idaho-shorthand-reporters-association shall-serve-for-terms-of-one-(1)-year,-two--(2)--years,--and--three--(3) years,--respectively,--as--designated--in--their-appointment;-the-member appointed-from-the-nominees-of-the-Idaho--state--bar--association--shall serve-for-a-term-of-two-(2)-years-and-the-member-appointed-from-the-nominees--of--the--Idaho--Supreme-Court-shall-serve-for-a-term-of-three-(3) years.-Thereafter,-members-shall-be-appointed-to-the-board-for-terms--of three--(3)--years-each-except-that-a~~Appointments to fill vacancies shall be for the unexpired term of such vacancies.

(~~c~~3) Appointments to the board shall be made by the governor from the nominees set forth in this section and each member of the board shall hold office for ~~his~~ the specified term and until ~~his~~ a successor is duly appointed by the governor.

SECTION 6. That Section 54-3106, Idaho Code, be, and the same is hereby amended to read as follows:

54-3106. ORGANIZATION OF BOARD -- MEETINGS -- QUORUM -- COMPENSATION. (~~a~~1) The board shall organize by the election of one (1) of its members as ~~president,~~ chairman and one (1) of its members as ~~secretary and--one--(1)--of-its-members-as-treasurer;-provided-that-the-offices-of secretary-and-treasurer-may-be-held-by-one--(1)--person~~ vice chairman. Officers of the board shall be elected annually for terms of one (1) year at ~~the-annual~~ a regular meeting of the board, but the same person may not hold the office of ~~president~~ chairman more than three (3) years in succession.

(~~b~~2) The board shall meet at least annually to conduct its business and perform its duties, and shall meet at such other times as designated by the ~~president~~ chairman or by request of two (2) or more members of the board.

(~~c~~3) A majority of the board shall constitute a quorum for all purposes and the majority vote of the members voting shall constitute the action of the board.

(~~d~~4) ~~The-secretary-of-the-board-shall-keep-a~~ A complete record of all ~~of-its~~ board proceedings shall be maintained.

(~~e~~5) Members of the board shall be compensated as provided ~~by~~ in section 59-509(b), Idaho Code.

SECTION 7. That Section 54-3107, Idaho Code, be, and the same is hereby amended to read as follows:

54-3107. POWERS AND DUTIES. The state certified shorthand reporters board shall have the following powers and duties:

(~~a~~1) To determine the qualifications of persons applying for certificates and the renewal of a certificate under this chapter.

(~~b~~2) To prescribe, administer, and determine a passing grade for

the examination of applicants applying for certificates under this chapter.

(~~c~~3) To collect the fees and charges prescribed by this chapter.

(~~d~~4) To execute and issue temporary permits and ~~regular~~ certified shorthand reporters certificates under the conditions prescribed in this ~~act~~ chapter.

(~~e~~5) To refuse to issue, refuse to renew, revoke or suspend ~~regular or temporary certified shorthand reporters certificates~~ or otherwise discipline any certificate or permit upon the grounds and in the manner prescribed by this ~~act~~ chapter.

(~~f~~6) To make rules ~~and regulations~~ to carry out the intent and purposes of this ~~act~~ chapter.

(7) The board may, by written agreement, authorize the bureau of occupational licenses as its agent to act in its interest.

SECTION 8. That Section 54-3108, Idaho Code, be, and the same is hereby amended to read as follows:

54-3108. QUALIFICATIONS -- REQUIRED EXAMINATION -- RENEWAL OF CERTIFICATES. (1) Applicants for certification must take and pass the Idaho certified shorthand reporter examination. Alternatively, applicants for certification must provide proof, satisfactory to the board, of having passed one (1) of the following examinations within the two (2) years prior to the date of the application:

(a) The registered professional reporter (RPR) examination;

(b) The registered merit reporter (RMR) examination;

(c) The registered diplomate reporter (RDR) examination; or

(d) The certified realtime reporter (CRR) examination.

(2) Any applicant who is a ~~citizen~~ lawful resident of the United States of good moral character, having graduated from an accredited high school or having had an equivalent education, shall be entitled to receive a certificate as a certified shorthand reporter upon payment of the fees required by this ~~act~~ chapter. All applications shall be in such form as prescribed by the board and filed with the board at least thirty (30) days prior to the announced date of the reporters' examination. The board in its discretion may make such additional investigation and inquiry, or require additional information from the applicant, as it shall deem necessary in determining the qualifications of the applicant. The board shall thereupon notify the applicant as to whether ~~his~~ their application to take the reporters' examination is accepted.

(3) All ~~regular~~ certified shorthand reporter certificates shall be issued for a period of one (1) year and shall be renewable upon payment of ~~the~~ a renewal fee. ~~prescribed in section 54-3110, Idaho Code, for an additional period of one (1) year.~~ The renewal and reinstatement of all certificates issued under the provisions of this chapter shall be in accordance with section 67-2614, Idaho Code.

SECTION 9. That Section 54-3109, Idaho Code, be, and the same is hereby amended to read as follows:

54-3109. QUALIFICATIONS FOR TEMPORARY ~~CERTIFICATION~~ PERMIT -- RENEWAL. (1) A temporary certified shorthand reporter ~~certificate~~ permit may be issued to an applicant who pays the required fees ~~required by the provisions of this chapter~~ and who:

(a) Is of good moral character; and

(b) Has graduated from an accredited high school or has an equivalent education; and

(i) Is currently licensed in good standing in another state as a certified shorthand reporter, or its equivalent, or has otherwise demonstrated ~~his~~ proficiency by a certificate from an agency of another state; or

(ii) Has graduated from a national court reporters association (NCRA) approved school.

(2) The application shall be upon such forms as are prescribed by the board and the board may in its discretion make additional investigation and inquiry, or require further information from the applicant, as it shall deem necessary in order to make a determination of the qualifications of the applicant.

(3) All temporary certified shorthand reporter ~~certificates~~ permits shall be issued for a period of one (1) year and may be renewable for a single additional period of one (1) year upon the payment of ~~the~~ required fees ~~prescribed in section 54-3110, Idaho Code,~~ and upon a showing of just cause.

SECTION 10. That Section 54-3110, Idaho Code, be, and the same is hereby amended to read as follows:

54-3110. FEES. The board shall be entitled to charge and collect the following fees:

(~~a~~1) The sum of fifty dollars ($50.00) as an application fee for any certificate or temporary ~~or regular certificate~~ permit.

(~~b~~2) The sum of fifty dollars ($50.00) as an examination fee for the administration of the reporters' examination to any applicant.

(~~c~~3) A sum not to exceed seventy-five dollars ($75.00) as a renewal fee for any ~~regular~~ certificate or temporary ~~certificate~~ permit.

(~~d~~4) A sum not to exceed one hundred dollars ($100) as a reinstatement fee for any application for reinstatement of a temporary permit or ~~regular~~ certificate which has been revoked or suspended.

(~~e~~5) The failure to renew a certificate annually, ~~as provided in this section and sections 54-3108 and 54-3109, Idaho Code~~ prior to expiration, shall not deprive such person of the right of renewal~~, but the fee to be paid for the renewal of a certificate after the due date shall be increased twenty percent (20%) for each month or fraction of a month that payment of renewal is delayed; provided, however, that the maximum fee for delayed renewal shall not exceed twice the renewal fee for each year delinquent~~ or reinstatement in accordance with section 67-2614, Idaho Code.

(~~f~~6) A sum not to exceed twenty dollars ($20.00) as a fee for examination preparation materials.

SECTION 11. That Section 54-3111, Idaho Code, be, and the same is hereby amended to read as follows:

54-3111. EXAMINATIONS. The board shall conduct the Idaho certified shorthand reporter examination at least once every year and may conduct additional examinations. The ~~secretary~~ board shall give public notice of the time and place of each examination at least one hundred twenty (120) days in advance of the date set for the examination and any person

desiring to take the reporters' examination must file his application with the board at least thirty (30) days prior to the date of the examination.

SECTION 12. That Section 54-3112, Idaho Code, be, and the same is hereby amended to read as follows:

54-3112. SUSPENSION AND REVOCATION OF ~~CERTIFICATION~~ TEMPORARY PERMIT OR CERTIFICATE. ~~A~~ The board may refuse to issue, refuse to renew, suspend, revoke, or otherwise sanction a temporary permit or ~~regular~~ certified shorthand reporter certificate ~~may be suspended or revoked~~ for any of the following reasons:

(~~a~~1) Conviction of a felony or a misdemeanor involving moral turpitude. The record of conviction, or a certified copy thereof, shall be prima facie evidence of conviction in such cases.

(~~b~~2) Fraud or misrepresentation resorted to in obtaining a certificate thereunder.

(~~c~~3) Fraud, dishonesty, corruption, ~~wilful~~ willful violation of duty, gross ~~incompetency~~ incompetence in practice or unprofessional conduct in performing services as a certified shorthand reporter.

(~~d~~4) Persistent failure to perform duties.

(~~e~~5) Any physical or mental disability materially interfering with the performance of duties.

(6) The violation of the provisions of this chapter or rules, or any ethical codes as may be adopted by the board.

SECTION 13. That Section 54-3113, Idaho Code, be, and the same is hereby amended to read as follows:

54-3113. INVESTIGATION OF VIOLATIONS -- HEARING. The board shall, upon a verified complaint in writing by any member of the board or by a certified shorthand reporter or any person claiming to have been injured or defrauded, investigate the actions of any certified shorthand reporter alleged to have committed a violation of this ~~act~~ chapter or any of the grounds for revocation or suspension of a certificate. For the purpose of such investigations and hearings, each member of the board is empowered to administer oaths and affirmations, subpoena witnesses, and hear and receive evidence anywhere in the state. Upon conclusion of the hearings, the board shall determine by majority vote whether the certificate of the certified shorthand reporter should be revoked or suspended for a stated period of time, or whether such disciplinary action short of suspension or revocation should be imposed, ~~(~~including, but not limited to, conditional probationary periods and the imposition of fines and costs~~)~~, or whether the complaint should be dismissed. The proceedings and hearings ~~under this paragraph~~ pursuant to this section shall be governed by chapter 52, title 67, Idaho Code.

SECTION 14. That Section 54-3114, Idaho Code, be, and the same is hereby amended to read as follows:

54-3114. JUDICIAL REVIEW OF BOARD ACTION. Any person who shall be aggrieved by any action of the board in denying, refusing to renew, suspending, ~~or~~ revoking or otherwise disciplining a certified shorthand reporter certificate may seek judicial review thereof as provided in

chapter 52, title 67, Idaho Code. A copy of the petition for judicial review shall be served upon the ~~president or secretary of the~~ board and upon the ~~attorney general of the state of Idaho~~ board's administrative legal counsel who shall represent the board in such appeal.

SECTION 15. That Section 54-3115, Idaho Code, be, and the same is hereby amended to read as follows:

54-3115. REINSTATEMENT OF CERTIFICATION. A temporary permit or ~~regular~~ certified shorthand reporter certificate which has been revoked or suspended, may be reinstated at the discretion of the board upon a finding that the grounds for suspension or revocation no longer exist or that the reporter has made adequate restitution for any damages caused by ~~his actions~~ any misconduct and ~~that he~~ has demonstrated good moral character sufficient to indicate that the misconduct will not recur. An application for reinstatement shall be in such form as prescribed by the board by rule, and shall be accompanied by an application fee and a reinstatement fee. In the event the certificate was originally suspended or revoked for ~~incompetency~~ incompetence, the applicant for reinstatement shall also be required to take and pass the reporters' examination and pay an examination fee.

SECTION 16. That Section 54-3116, Idaho Code, be, and the same is hereby repealed.

SECTION 17. That Section 54-3117, Idaho Code, be, and the same is hereby amended to read as follows:

54-3117. ~~CERTIFIED SHORTHAND REPORTERS FUND~~ FINANCES. All fees ~~collected~~ received under the provisions of this ~~act~~ chapter shall be deposited ~~at least monthly with the state treasurer and shall constitute a special fund known as the state certified shorthand reporters fund. All moneys received by said special fund are hereby appropriated for the purpose of the administration of this act, and no moneys received in said special fund shall be disbursed by the state treasurer unless the voucher for such disbursement contains the certificate of the treasurer of the state certified shorthand reporters board that such voucher is for an expense incurred in the administration of this act~~ paid to the bureau of occupational licenses and deposited in the state treasury to the credit of the occupational licenses fund and all costs and expenses incurred under the provisions of this chapter shall be a charge against and paid from said fund.

SECTION 18. That Section 54-3118, Idaho Code, be, and the same is hereby amended to read as follows:

54-3118. VIOLATION A MISDEMEANOR -- PENALTY. Any person violating any of the provisions of this ~~act~~ chapter shall be guilty of a misdemeanor and upon conviction shall be punishable by a fine of not less than fifty dollars ($50.00) and not exceeding two hundred dollars ($200) for each offense, or imprisonment in the county jail for a term of not more than ninety (90) days, or by both such fine and imprisonment.

Approved March 5, 2008.

CHAPTER 69
(H.B. No. 429)

AN ACT

RELATING TO MOTORIST INSURANCE; AMENDING SECTION 41-2502, IDAHO CODE, TO REMOVE REFERENCE TO CERTAIN LIABILITIES ARISING OUT OF THE OWNERSHIP, MAINTENANCE OR USE OF A MOTOR VEHICLE, TO PROVIDE AN IDAHO CODE REFERENCE TO CERTAIN MANDATORY REQUIREMENTS FOR AN OWNER'S POLICY OF LIABILITY INSURANCE, TO PROVIDE COVERAGE FOR UNDERINSURED MOTOR VEHICLES IN AN OWNER'S OR OPERATOR'S POLICY, TO PROVIDE FOR REJECTION OF UNDERINSURED MOTORIST COVERAGE, TO PROVIDE FOR REJECTION OF UNINSURED AND UNDERINSURED MOTORIST COVERAGE IN AN ELECTRONIC RECORD, IN A REPLACEMENT POLICY AND IN A POLICY ISSUED BY AN AFFILIATE INSURER AND TO REQUIRE THAT AFTER A TIME CERTAIN, A NAMED INSURED BE PROVIDED WITH AN APPROVED STATEMENT CONTAINING CERTAIN EXPLANATIONS; AMENDING SECTION 41-2503, IDAHO CODE, TO DEFINE A TERM AND TO PROVIDE FOR APPLICATION; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 41-2502, Idaho Code, be, and the same is hereby amended to read as follows:

41-2502. UNINSURED MOTORIST AND UNDERINSURED MOTORIST COVERAGE FOR AUTOMOBILE INSURANCE. (1) Except as otherwise provided in subsection (2) of this section, ~~n~~No owner's or operator's policy ~~insuring against loss resulting from liability imposed by law for bodily injury or death suffered by any natural person arising out of the ownership, maintenance or use of a motor vehicle~~ of motor vehicle liability insurance that is subject to the requirements of section 49-1212(1) or (2), Idaho Code, shall be delivered or issued for delivery in this state with respect to any motor vehicle registered or principally garaged in this state unless coverage is provided therein or supplemental thereto, in limits for bodily injury or death as set forth in section 49-117, Idaho Code, as amended from time to time, under provisions approved by the director of the department of insurance, for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured and underinsured motor vehicles because of bodily injury, sickness or disease, including death, resulting therefrom.

(2) ~~The~~ A named insured shall have the right to reject ~~such~~ either or both uninsured motorist coverage or underinsured motorist coverage, which rejection must be in writing or in an electronic record as authorized by the uniform electronic transactions act, chapter 50, title 28, Idaho Code, and such rejection shall be effective as to all other insureds and named insureds; and ~~provided further;~~ after which such rejected coverage need not be provided in or supplemental to a renewal or replacement policy ~~where the named insured had rejected the coverage in connection with a policy previously~~ issued ~~to him~~ by the same insurer or an affiliate of that insurer.

(3) Prior to the issuance of any new policy or the first renewal or replacement of any existing policy of motor vehicle liability insurance with an effective date on or after January 1, 2009, a named insured shall be provided a standard statement approved by the director of the

department of insurance, explaining in summary form, both uninsured and underinsured motorist coverage, and the different forms of underinsured motorist coverage that might be available from insurers in Idaho.

SECTION 2. That Section 41-2503, Idaho Code, be, and the same is hereby amended to read as follows:

41-2503. ~~"UNINSURED MOTOR VEHICLE" DEFINED~~ DEFINITIONS AND APPLICATION. (1) For the purposes of ~~this~~ uninsured motorist coverage, the term "uninsured motor vehicle" shall, subject to the terms and conditions of ~~such cover~~age, be deemed to include an insured motor vehicle where the liability insurer thereof is unable to make payment with respect to the legal liability of its insured within the limits specified therein because of insolvency.

(2) For purposes of underinsured motorist coverage, subject to the further definitions, terms and conditions of such coverage, the term "underinsured motor vehicle" means a motor vehicle that is a self-insured motor vehicle, or a motor vehicle that is covered by a policy of motor vehicle liability insurance or an indemnity bond, with limits for bodily injury or death at least equal to those limits set forth in section 49-117, Idaho Code.

(3) Except as provided in subsections (1) and (2) of this section, the terms and conditions of any policy of motor vehicle liability insurance providing uninsured motorist coverage or underinsured motorist coverage are not altered or amended.

SECTION 3. This act shall be in full force and effect on and after January 1, 2009.

Approved March 5, 2008.

CHAPTER 70
(H.B. No. 457)

AN ACT

RELATING TO THE BOND LEVY EQUALIZATION PROGRAM; AMENDING SECTION 33-906, IDAHO CODE, TO CLARIFY THAT THE BOND LEVY EQUALIZATION SUPPORT PROGRAM APPLIES TO ACTUAL PROJECTS THAT WERE PREVIOUSLY ELIGIBLE.

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

SECTION 1. 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 assistance 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, unless the existing debt being refinanced is a bond passed on or after September 15, 2002; 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 <u>project</u> eligible for participation in the bond levy equalization support program shall be deemed ineligible for participation due to that school district~~'s~~ <u>project's</u> 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 <u>for the project</u> under the bond levy equalization support pro-

gram 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.

Approved March 5, 2008.

CHAPTER 71
(H.B. No. 557)

AN ACT

RELATING TO CROP BURNING; AMENDING CHAPTER 1, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-114, IDAHO CODE, TO PROVIDE FOR THE OPEN BURNING OF CROP RESIDUE; AMENDING SECTION 9-340D, IDAHO CODE, TO PROVIDE THAT CERTAIN INFORMATION RELATING TO OPEN BURNING OF CROP RESIDUE SHALL NOT BE EXEMPT FROM DISCLOSURE AND TO MAKE TECHNICAL CORRECTIONS; TO PROVIDE THAT THE DEPARTMENT OF AGRICULTURE SHALL TRANSFER CERTAIN MONEYS TO THE STATE TREASURER; REPEALING CHAPTER 48, TITLE 22, IDAHO CODE, RELATING TO SMOKE MANAGEMENT AND CROP RESIDUE DISPOSAL; AMENDING SECTION 39-6717, IDAHO CODE, TO REVISE A CODE REFERENCE; AND DECLARING AN EMERGENCY.

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 39-114, Idaho Code, and to read as follows:

39-114. OPEN BURNING OF CROP RESIDUE. (1) The open burning of crop residue to develop physiological conditions conducive to increase crop yields, or to control diseases, insects, pests or weed infestations shall be an allowable form of open burning, such that it is expressly authorized as referenced in section 52-108, Idaho Code, so long as the open burning is conducted in accordance with the provisions of this section and the rules promulgated pursuant to this chapter.

(2) Crop residue means any vegetative material remaining in the field after harvest or vegetative material produced on designated conservation reserve program (CRP) lands.

(3) The open burning of crop residue shall be conducted in the field where it was generated. A burn may not take place without preapproval from the department. The department shall not approve a burn if it determines that ambient air quality levels:

(a) Are exceeding, or are expected to exceed, seventy-five percent (75%) of the level of any national ambient air quality standard on any day, and these levels are projected to continue or recur over at least the next twenty-four (24) hours; or

(b) Have reached, or are forecasted to reach and persist at, eighty percent (80%) of the one (1) hour action criteria for particulate matter pursuant to section 556 of IDAPA 58.01.01, rules for the control of air pollution in Idaho.

The department shall make available to the public, prior to the burn, information regarding the date of the burn, location, acreage and crop type to be burned. If the agricultural community desires to burn more than twenty thousand (20,000) acres annually of bluegrass within the state, that does not include Indian or tribal lands within the reservation boundaries as recognized by the federal clean air act, then, prior to approving the burning of the additional acres, the department shall complete an air quality review analysis to determine that the ambient air quality levels in this section will be met.

(4) A fee in an amount of two dollars ($2.00) per acre to be burned shall be paid to the department prior to burning. The department shall remit all fees quarterly to the state treasurer, who shall deposit the moneys in the general fund.

SECTION 2. 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, nor shall this exemption apply to information regarding specific property locations subject to an open burning of crop residue pursuant to section 39-114, Idaho Code, names of persons responsible for the open burn, acreage and crop type to be burned, and time frames for burning.

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

(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.

(25~~6~~) 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.

(2~~5~~7) 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.

SECTION 3. Any moneys in the state Agricultural Smoke Management Account referenced in Section 22-4804, Idaho Code, which are unexpended or unencumbered on June 30, 2008, shall be paid over to the State Treasurer by the Department of Agriculture and deposited in the General Fund.

SECTION 4. That Chapter 48, Title 22, Idaho Code, be, and the same is hereby repealed.

SECTION 5. That Section 39-6717, Idaho Code, be, and the same is hereby amended to read as follows:

39-6717. SAVINGS CLAUSE. Nothing in this chapter shall alter or affect the provisions of ~~chapter--48,-title-22~~ section 39-114, Idaho Code, on ~~smoke-management-and~~ the open burning of crop residue. ~~disposal.~~

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 7, 2008.

CHAPTER 72
(S.B. No. 1268)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-123, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE APPOINTMENT OF WINTER FEEDING ADVISORY COMMITTEES.

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

SECTION 1. That Section 36-123, Idaho Code, be, and the same is hereby amended to read as follows:

36-123. WINTER FEEDING ADVISORY COMMITTEES. (1) A winter feeding advisory committee shall be established for each district where winter feeding of antelope, elk, and deer normally occurs. Each committee shall consist of five (5) members. The members shall be appointed and removed for cause by unanimous vote of the Idaho fish and game commission. ~~The regional-wildlife-councils-will-provide-a--list--of--appointees.~~ It is intended that the committees reflect the cross section of the major

interest groups associated with each district. Each committee shall meet at such times as appropriate, but not less frequently than annually, on or before December 1, before the winter feeding season arrives, whichever is earlier.

(2) The term of office of a member shall be two (2) years, except a portion of the initial appointments may be for a term of one (1) year to provide staggered terms. Appointments to fill vacancies shall be for the balance of the unexpired term. The committees shall serve without compensation.

(3) Each winter feeding advisory committee established pursuant to subsection (1) of this section shall appoint a chairman. The chairmen of the committees shall meet at least annually to coordinate activities and promote consensus on issues of common interest among the winter feeding advisory committees. The chairmen may elect a leader from among the chairmen to call meetings and conduct and coordinate activities of the group.

(4) The department of fish and game shall provide staff assistance and support for the committees.

(5) The committees shall have the authority to:

(a) Act as an independent resource in each district to give advice and recommendations on the administration of winter feeding programs;

(b) Act as a liaison between the commission, the department, interest groups, and the public on winter feeding issues.

Approved March 11, 2008.

CHAPTER 73
(S.B. No. 1326)

AN ACT

RELATING TO FOREIGN GUARDIANSHIPS AND CONSERVATORSHIPS; AMENDING SECTIONS 15-9-101, 15-9-201, 15-10-101, 15-10-201 AND 15-11-101, IDAHO CODE, TO PROVIDE FOR JURISDICTION FOR A DEVELOPMENTALLY DISABLED PERSON; AND AMENDING CHAPTER 4, TITLE 66, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 66-415, 66-416 AND 66-417, IDAHO CODE, TO PROVIDE FOR RECEIPT AND ACCEPTANCE OF FOREIGN GUARDIANSHIP OR CONSERVATORSHIP, TO PROVIDE FOR TRANSFER OF GUARDIANSHIP OR CONSERVATORSHIP TO A FOREIGN JURISDICTION AND TO PROVIDE FOR TEMPORARY RECOGNITION OF FOREIGN GUARDIANSHIP OR CONSERVATORSHIP OF DEVELOPMENTALLY DISABLED PERSON.

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

SECTION 1. That Section 15-9-101, Idaho Code, be, and the same is hereby amended to read as follows:

15-9-101. JURISDICTION. A guardian who is appointed by a foreign court of competent jurisdiction for an incapacitated <u>or developmentally disabled</u> person (hereinafter "ward") residing or domiciled in this state may petition to have the guardianship transferred and accepted in this state.

SECTION 2. That Section 15-9-201, Idaho Code, be, and the same is hereby amended to read as follows:

15-9-201. JURISDICTION. A conservator who is appointed by a foreign court of competent jurisdiction for an incapacitated or developmentally disabled person (hereinafter "protected person") residing in or domiciled in this state, may petition to have the conservatorship transferred to and accepted in this state.

SECTION 3. That Section 15-10-101, Idaho Code, be, and the same is hereby amended to read as follows:

15-10-101. JURISDICTION. (1) A guardian may petition the court to transfer a guardianship to a foreign court of competent jurisdiction if the ward or developmentally disabled person has moved permanently to the foreign jurisdiction.

(2) The ward or developmentally disabled person may be presumed to have moved permanently to a foreign jurisdiction if:

(a) He or she has resided in the foreign jurisdiction for more than twelve (12) consecutive months;

(b) The guardian notifies the court that the ward or developmentally disabled person intends to move or has moved permanently to the foreign jurisdiction; or

(c) A foreign court of competent jurisdiction notifies the court of the filing of a petition for guardianship of the ward or developmentally disabled person in the foreign jurisdiction.

(3) To facilitate the transfer, the court may order the guardian to file a petition for receipt and acceptance of the guardianship by the foreign jurisdiction.

(4) If the foreign jurisdiction does not have a procedure for receiving and accepting a foreign guardianship, the court may order the guardian to file a petition for guardianship in the foreign jurisdiction.

SECTION 4. That Section 15-10-201, Idaho Code, be, and the same is hereby amended to read as follows:

15-10-201. JURISDICTION. (1) A conservator may petition the court to transfer a conservatorship to a foreign court of competent jurisdiction if the protected or developmentally disabled person has moved permanently to the foreign jurisdiction.

(2) The protected or developmentally disabled person may be presumed to have moved permanently to a foreign jurisdiction if:

(a) He or she has resided in the foreign jurisdiction for more than twelve (12) consecutive months;

(b) The conservator notifies the court that the protected or developmentally disabled person intends to move or has moved permanently to the foreign jurisdiction; or

(c) A foreign court of competent jurisdiction notifies the court of the filing of a petition for conservatorship of the protected or developmentally disabled person in the foreign jurisdiction.

(3) To facilitate the transfer, the court may order the conservator to file a petition for receipt and acceptance of the conservatorship by the foreign jurisdiction.

(4) If the foreign jurisdiction does not have a procedure for receiving and accepting a foreign conservatorship, the court may order the conservator to file a petition for conservatorship in the foreign jurisdiction.

SECTION 5. That Section 15-11-101, Idaho Code, be, and the same is hereby amended to read as follows:

15-11-101. JURISDICTION. A guardian who is appointed by a foreign court of competent jurisdiction for an incapacitated or developmentally disabled person (hereinafter "ward") temporarily located in this state or whose property is located in this state, may petition to have the guardianship recognized in this state. For purposes of this part, "temporary" means a period of time not to exceed twelve (12) consecutive months.

SECTION 6. That Chapter 4, Title 66, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 66-415, 66-416 and 66-417, Idaho Code, and to read as follows:

66-415. RECEIPT AND ACCEPTANCE OF FOREIGN GUARDIANSHIP OR CONSERVATORSHIP. The receipt and acceptance of a foreign guardianship or conservatorship of a developmentally disabled person shall be regulated as set forth under chapter 9, title 15, Idaho Code.

66-416. TRANSFER OF GUARDIANSHIP OR CONSERVATORSHIP TO A FOREIGN JURISDICTION. The transfer of a guardianship or conservatorship of a developmentally disabled person to a foreign jurisdiction shall be regulated as set forth under chapter 10, title 15, Idaho Code.

66-417. TEMPORARY RECOGNITION OF FOREIGN GUARDIANSHIP OR CONSERVATORSHIP OF DEVELOPMENTALLY DISABLED PERSON. The temporary recognition of a foreign guardianship or conservatorship of a developmentally disabled person shall be regulated as set forth under chapter 11, title 15, Idaho Code.

Approved March 11, 2008.

CHAPTER 74
(S.B. No. 1327)

AN ACT

RELATING TO PROTECTION OF PERSONS UNDER DISABILITY; AMENDING SECTION 15-5-308, IDAHO CODE, TO REVISE THE INFORMATION TO BE INCLUDED IN THE VISITOR'S REPORT AND TO PROVIDE THE VISITOR WITH CERTAIN DISCRETIONARY AUTHORITY; AMENDING SECTION 15-5-311, IDAHO CODE, TO REVISE THE PRIORITY FOR APPOINTMENT AS GUARDIAN FOR PERSONS WHO ARE NOT DISQUALIFIED, TO PROVIDE FOR RESTRICTIONS AGAINST CERTAIN PERSONS BEING APPOINTED AS GUARDIAN AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 15-5-312, IDAHO CODE, TO REVISE GUARDIAN POWERS AND

DUTIES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 15-5-316, IDAHO CODE, TO PROVIDE THE GUARDIAN AD LITEM CERTAIN DISCRETIONARY AUTHORITY; AND AMENDING SECTION 66-405, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE.

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

SECTION 1. That Section 15-5-308, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-308. VISITOR IN GUARDIANSHIP PROCEEDING. (1) A visitor is, with respect to guardianship proceedings, a person who is trained in law, nursing, psychology, social work, or counseling or has other qualifications that make him suitable to perform the function and is an officer, employee or special appointee of the court with no personal interest in the proceedings. The visitor's report is to include the following information: a description of the nature, cause and degree of incapacity, and the basis upon which this judgment is made; a description of the needs of the person alleged to be incapacitated for care and treatment and the probable residential requirements; a statement as to whether a convicted felon resides in or frequents the incapacitated person's proposed residence; an evaluation of the appropriateness of the guardian or conservator whose appointment is sought and a description of the steps the proposed guardian or conservator has taken or intends to take to meet the needs of the incapacitated person; a description of the abilities of the alleged incapacitated person and a recommendation as to whether a full or limited guardianship or conservatorship should be ordered and, if limited, the visitor's recommendation of the specific areas of authority the limited guardianship or conservator should have and the limitations to be placed on the incapacitated person; any expression of approval or disapproval made by the alleged incapacitated person concerning the proposed guardianship or conservatorship; an analysis of the financial status and assets of the alleged incapacitated person; identification of people with significant interest in the welfare of the alleged incapacitated person who should be informed of the proceedings; a description of the qualifications and relationship of the proposed guardian or conservator; an explanation of how the alleged incapacitated person responded to the advice of the proceedings and the right to be present at the hearing on the petition; in the case of conservatorship, a recommendation for or against a bond requirement for the proposed conservator, taking into account the financial statement of the person whose appointment is sought.

(2) Any person appointed as a visitor shall be personally immune from any liability for acts, omissions or errors in the same manner as if such person were a volunteer or director under the provisions of section 6-1605, Idaho Code.

(3) The visitor may not also be appointed as guardian ad litem for the person alleged to be incapacitated nor may the guardian ad litem for the person alleged to be incapacitated be appointed as visitor, nor may the visitor and the guardian ad litem for the person alleged to be incapacitated be members or employees of the same entity including, but not limited to, being members or employees of the same law firm.

(4) The visitor shall have the discretionary authority to conduct a criminal background check on a proposed guardian, conservator or a per-

son who resides in or frequents the incapacitated person's proposed residence.

SECTION 2. That Section 15-5-311, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-311. WHO MAY BE GUARDIAN -- PRIORITIES. (~~a~~1) Any competent person, except as set forth hereafter, or a suitable institution may be appointed guardian of an incapacitated person.

(~~b~~2) The person preferred by the incapacitated person shall be appointed guardian unless good cause be shown why appointment of such person is contrary to the best interests of the incapacitated person. If the incapacitated person is unable to express a preference, any previous expression, including a durable power of attorney for health care, may be considered by the court.

(~~c~~3) Persons who are not disqualified have priority for appointment as guardian in the following order:

(~~1~~a) The person preferred by the incapacitated person. The court shall always consider the wishes expressed by an incapacitated person as to who shall be appointed guardian;

(b) The person(s) nominated as health care agent in a durable power of attorney for health care by the incapacitated person, in the order of priority set forth in such power;

(~~2~~c) The spouse of the incapacitated person;

(~~3~~d) An adult child of the incapacitated person;

(~~4~~e) A parent of the incapacitated person, including a person nominated by will or other writing signed by a deceased parent;

(~~5~~f) Any relative of the incapacitated person with whom he has resided for more than six (6) months prior to the filing of the petition;

(~~6~~g) A person nominated by the person who is caring for him or paying benefits to him.

(~~d~~4) No convicted felon, or person whose residence is the incapacitated person's proposed residence or will be frequented by the incapacitated person and is frequented by a convicted felon, shall be appointed as a guardian of an incapacitated person unless the court finds by clear and convincing evidence that such appointment is in the best interests of the incapacitated person.

SECTION 3. That Section 15-5-312, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-312. GENERAL POWERS AND DUTIES OF GUARDIAN. (~~a~~1) A guardian of an incapacitated person has the powers and responsibilities of a parent who has not been deprived of custody of his unemancipated minor child except that a guardian is not legally obligated to provide from his own funds for the ward and is not liable to third persons for acts of the ward, and except as hereinafter limited. In particular, and without qualifying the foregoing, a guardian has the following powers and duties, except as modified by order of the court when the guardianship is limited:

(~~1~~a) To the extent that it is consistent with the terms of any order by a court of competent jurisdiction relating to detention or commitment of the ward, he is entitled to custody of the person of

his ward and may establish the ward's place of abode within or without this state. The guardian shall take reasonable measures to ensure that a convicted felon does not reside with, care for or visit the ward without court approval.

(~~2~~b) If entitled to custody of his ward he shall make provision for the care, comfort and maintenance of his ward, and, whenever appropriate, arrange for his training and education. Without regard to custodial rights of the ward's person, he shall take reasonable care of his ward's clothing, furniture, vehicles and other personal effects and commence protective proceedings if other property of his ward is in need of protection.

(~~3~~c) A guardian may give any consents or approvals that may be necessary to enable the ward to receive medical or other professional care, counsel, treatment or service. A guardian shall be automatically entitled 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, and the appointment of such guardian shall be deemed to grant such release authority.

(~~4~~d) If no conservator for the estate of the ward has been appointed, the guardian may institute proceedings to appoint a conservator. In no circumstances shall the guardian exercise any of the powers of a conservator.

(~~5~~e) A guardian shall be required to report as provided in section 15-5-419, Idaho Code.

(~~6~~f) If a conservator has been appointed, all of the ward's estate received by the guardian in excess of those funds expended to meet current expenses for support, care, and education of the ward must be paid to the conservator for management as provided in this code, and the guardian must account to the conservator for funds expended.

(~~b~~2) Any guardian of one for whom a conservator also has been appointed shall control the custody and care of the ward, and is entitled to receive reasonable sums for his services and for room and board furnished to the ward as agreed upon between him and the conservator, provided the amounts agreed upon are reasonable under the circumstances. The guardian may request the conservator to expend the ward's estate by payment to third persons or institutions for the ward's care and maintenance.

(~~c~~3) A guardian may delegate certain of his responsibilities for decisions affecting the ward's well-being to the ward when reasonable under all of the circumstances.

SECTION 4. That Section 15-5-316, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-316. GUARDIAN AD LITEM -- RIGHTS AND POWERS. (1) The guardian ad litem has the rights and powers set forth in this section, which shall continue until the resignation of the guardian ad litem or until the court removes the guardian ad litem or no longer has jurisdiction, whichever occurs first.

(2) The guardian ad litem shall have the right and power to file pleadings, motions, memoranda and briefs on behalf of the ward, and to have all of the rights of the ward, whether conferred by statute, rule of court, or otherwise.

(3) All parties to any proceeding under this chapter shall promptly

notify the guardian ad litem, and the guardian's attorney, if any, of all hearings, staff hearings or meetings, investigations, depositions, and significant changes of circumstances of the ward.

(4) Except to the extent prohibited or regulated by federal law, upon presentation of a copy of the order appointing the guardian ad litem, any person or agency including, without limitation, any hospital, school organization, department of health and welfare, doctor, nurse or other health care provider, psychologist, psychiatrist, police department, or mental health clinic, shall permit the guardian ad litem to inspect and copy pertinent records relating to the ward necessary for the proceeding for which the guardian ad litem has been appointed.

(5) The guardian ad litem shall have the discretionary authority to conduct a criminal background check on a proposed guardian, conservator or person who resides in or frequents the ward's proposed residence.

SECTION 5. 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 disabled 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)(~~1~~a) through (4d), 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 39-4504(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 11, 2008.

CHAPTER 75
(S.B. No. 1328)

AN ACT

RELATING TO FORMAL TESTACY PROCEEDINGS; AMENDING SECTION 15-3-403, IDAHO CODE, TO REMOVE A NOTICE BY PUBLICATION REQUIREMENT AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 15-3-412, IDAHO CODE, TO CORRECT A CODE REFERENCE AND TO MAKE TECHNICAL CHANGES.

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

SECTION 1. That Section 15-3-403, Idaho Code, be, and the same is hereby amended to read as follows:

15-3-403. FORMAL TESTACY PROCEEDING -- NOTICE OF HEARING ON PETITION. (a1) Upon commencement of a formal testacy proceeding, the court shall fix a time and place of hearing. Notice shall be given in the manner prescribed by section 15-1-401 of this code by the petitioner to the persons herein enumerated and to any additional person who has filed a demand for notice under section 15-3-204 of this code.

Notice shall be given to the following persons: the surviving spouse, children, and other heirs of the decedent, the devisees and executors named in any will that is being, or has been, probated, or offered for informal or formal probate in the county, or that is known by the petitioner to have been probated, or offered for informal or formal probate elsewhere, and any personal representative of the decedent

whose appointment has not been terminated. Notice may be given to other persons. ~~In addition, the petitioner shall give notice by publication to all unknown persons and to all known persons whose addresses are unknown who have any interest in the matters being litigated.~~

(~~b~~2) If it appears by the petition or otherwise that the fact of the death of the alleged decedent may be in doubt, or on the written demand of any interested person, a copy of the notice of the hearing on said petition shall be sent by registered mail to the alleged decedent at his last known address. The court shall direct the petitioner to report the results of, or make and report back concerning, a reasonably diligent search for the alleged decedent in any manner that may seem advisable, including any or all of the following methods:

(~~1~~a) ~~b~~By inserting in one (1) or more suitable periodicals a notice requesting information from any person having knowledge of the whereabouts of the alleged decedent;

(~~2~~b) ~~b~~By notifying law enforcement officials and public welfare agencies in appropriate locations of the disappearance of the alleged decedent;

(~~3~~c) ~~b~~By engaging the services of an investigator. The costs of any search so directed shall be paid by the petitioner if there is no administration or by the estate of the decedent in case there is administration.

SECTION 2. That Section 15-3-412, Idaho Code, be, and the same is hereby amended to read as follows:

15-3-412. FORMAL TESTACY PROCEEDINGS -- EFFECT OF ORDER -- VACATION. Subject to appeal and subject to vacation as provided herein and in section 15-3-413 of this ~~P~~part, a formal testacy order under sections 15-3-409 through 15-3-411 of this ~~P~~part, including an order that the decedent left no valid will and determining heirs, is final as to all persons with respect to all issues concerning the decedent's estate that the court considered or might have considered incident to its rendition relevant to the question of whether the decedent left a valid will, and to the determination of heirs, except that:

(~~a~~1) The court shall entertain a petition for modification or vacation of its order and probate of another will of the decedent if it is shown that the proponents of the later-offered will were unaware of its existence at the time of the earlier proceeding or were unaware of the earlier proceeding and were given no notice thereof, except by publication.

(~~b~~2) If intestacy of all or part of the estate has been ordered, the determination of heirs of the decedent may be reconsidered if it is shown that one (1) or more persons were omitted from the determination and it is also shown that the persons were unaware of their relationship to the decedent, were unaware of his death or were given no notice of any proceeding concerning his estate, except by publication.

(~~c~~3) A petition for vacation under either subsection (~~a~~1) or (~~b~~2) of this section must be filed prior to the earlier of the following time limits:

(~~1~~a) ~~i~~If a personal representative has been appointed for the estate, the time of entry of any order approving final distribution of the estate, or, if the estate is closed by statement, six (6) months after the filing of the closing statement.

(~~2~~b) ~~w~~Whether or not a personal representative has been appointed for the estate of the decedent, the time prescribed by section 15-3-108 of this code when it is no longer possible to initiate an original proceeding to probate a will of the decedent.

(~~3~~c) ~~t~~Twelve (12) months after the entry of the order sought to be vacated.

(~~d~~4) The order originally rendered in the testacy proceeding may be modified or vacated, if appropriate under the circumstances, by the order of probate of the later-offered will or the order redetermining heirs.

(~~e~~5) The finding of the fact of death is conclusive as to the alleged decedent only if notice of the hearing on the petition in the formal testacy proceeding was sent by registered or certified mail addressed to the alleged decedent at his last known address and the court finds that a search under subsection (~~b~~2) of section 15-3-403 of this ~~P~~part was made.

If the alleged decedent is not dead, even if notice was sent and search was made, he may recover estate assets in the hands of the personal representative. In addition to any remedies available to the alleged decedent by reason of any fraud or intentional wrongdoing, the alleged decedent may recover any estate or its proceeds from distributees that is in their hands, or the value of distributions received by them, to the extent that any recovery from distributees is equitable in view of all of the circumstances.

Approved March 11, 2008.

CHAPTER 76
(S.B. No. 1333)

AN ACT

RELATING TO WILLS; AMENDING SECTION 15-2-502, IDAHO CODE, TO PROVIDE CERTAIN EXCEPTIONS TO THE EXECUTION OF WILLS AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 15-2-504, IDAHO CODE, TO PROVIDE FOR THE EXECUTION, MAKING AND ATTESTING OF SELF-PROVED WILLS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 15-2-502, Idaho Code, be, and the same is hereby amended to read as follows:

15-2-502. EXECUTION. Except as provided for holographic wills, writings within section 15-2-513 of this ~~P~~part, and wills within section 15-2-506 of this ~~P~~part, or except as provided in sections 51-109, 55-712A or 55-712B, Idaho Code, every will shall be in writing signed by the testator or in the testator's name by some other person in the testator's presence and by his direction, and shall be signed by at least two (2) persons each of whom witnessed either the signing or the testator's acknowledgment of the signature or of the will.

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~~1) 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 ....., ..., 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~~2) 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 wit-

nesses, 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)

(3) A will may be executed, and made self-proved, in compliance with sections 51-109, 55-712A or 55-712B, Idaho Code, and attested as set forth in subsections (1) and (2) of this section.

Approved March 11, 2008.

CHAPTER 77
(S.B. No. 1334)

AN ACT

RELATING TO REAL AND PERSONAL PROPERTY; AMENDING SECTION 55-111, IDAHO CODE, TO REMOVE PROVISIONS DEALING WITH THE POWER OF ALIENATION OF REAL PROPERTY AND ANY RULE PROHIBITING THE PLACING OF RESTRAINTS ON THE ALIENATION OF PERSONAL PROPERTY AND TO REVISE DESCRIPTIVE LANGUAGE; AND AMENDING CHAPTER 1, TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 55-111A, IDAHO CODE, TO PROVIDE FOR SUSPENSION OF POWER OF ALIENATION AND TO PROVIDE FOR FUTURE INTEREST BY POWER OF APPOINTMENT.

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

SECTION 1. That Section 55-111, Idaho Code, be, and the same is hereby amended to read as follows:

55-111. ~~SUSPENSION--OF-POWER-OF-ALIENATION~~ NO RULE AGAINST PERPETUITIES. ~~The-absolute-power-of-alienation-of-real-property-cannot-be--suspended-by-any-limitation-or-condition-whatever,-for-a-longer-period-than during--the-continuance-of-the-lives-of-the-persons-in-being-at-the-creation-of-the-limitation-or-condition,-and-25--years--thereafter;--t~~There shall be no rule against perpetuities applicable to real or personal property~~,-nor-any-rule-prohibiting-the--placing--of--restraints--on--the alienation--of--personal-property;-no-trust-heretofore-or-hereafter-created,-either-testamentary-or-inter-vivos,-shall-be--declared--void,--but shall--be--so-construed-as-to-eliminate-parts-violating-the-above-provisions,-and-in-such-a-way-that-the-testators-or-trustors-wishes-are--car-~~

~~ried--out-to-the-greatest-extent-permitted-by-this-act;-that-there-shall be-no-presumption-that-a-person-is-capable-of--having--children--at--any stage-of-adult-life.~~

SECTION 2. That Chapter 1, Title 55, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 55-111A, Idaho Code, and to read as follows:

55-111A. SUSPENSION OF POWER OF ALIENATION -- FUTURE INTEREST BY POWER OF APPOINTMENT. (1) The absolute power of alienation of property cannot be suspended by any limitation or condition whatever, for a longer permissible period than during the continuance of the lives of the persons in being at the creation of the limitation or condition, and twenty-five (25) years thereafter. No trust heretofore or hereafter created, either testamentary or inter vivos, shall be declared void, but shall be so construed as to eliminate parts violating the above provisions, and in such a way that the testators or trustors wishes are carried out to the greatest extent permitted by this section; and there shall be no presumption that a person is capable of having children at any stage of adult life.

(2) If a future interest or trust is created by exercise of a power of appointment, the permissible period is computed from the time the power is exercised if the power is a general power including a testamentary general power or from the time the power is created if the power is not a general power.

(3) Notwithstanding the provisions of subsection (1) of this section, there is no suspension of the power of alienation of property by a trust or by equitable interests under a trust if the trustee has power to sell, either express or implied, or if there is an unlimited power to terminate in one (1) or more persons in being.

(4) Furthermore, the provisions of subsection (1) of this section shall not limit transfers, outright or in trust, for charitable purposes or transfers to charitable entities.

Approved March 11, 2008.

CHAPTER 78
(S.B. No. 1357)

AN ACT

RELATING TO FALSE PRETENSES AND MISREPRESENTATIONS; AMENDING SECTION 18-3126, IDAHO CODE, TO REVISE THE PROHIBITION AGAINST MISAPPROPRIATION OF PERSONAL IDENTIFYING INFORMATION.

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

SECTION 1. That Section 18-3126, Idaho Code, be, and the same is hereby amended to read as follows:

18-3126. MISAPPROPRIATION OF PERSONAL IDENTIFYING INFORMATION. It is unlawful for any person to obtain or record personal identifying information of another person without the authorization of that person,

with the intent that the information be used to obtain, or attempt to obtain, credit, money, goods or services ~~in the name of the other person~~ without the consent of that person.

Approved March 11, 2008.

CHAPTER 79
(H.B. No. 537)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF CORRECTION FOR VARIOUS PROGRAMS FOR FISCAL YEAR 2008; REDUCING THE APPROPRIATION TO THE DEPARTMENT OF CORRECTION FOR OFFENDER PROGRAMS FOR FISCAL YEAR 2008; AMENDING SECTION 8, CHAPTER 217, LAWS OF 2007, TO REVISE REAPPROPRIATION PROVISIONS; 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 217, Laws of 2007, there is hereby appropriated to the Department of Correction 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:

I. OPERATIONS DIVISION:

A. OPERATIONS ADMINISTRATION:

FOR:	
Personnel Costs	$ 227,700
Operating Expenditures	819,100
TOTAL	$1,046,800
FROM:	
General Fund	$1,046,800

B. SOUTH IDAHO CORRECTIONAL INSTITUTION - BOISE:

FOR:	
Personnel Costs	$ 132,600
Operating Expenditures	59,100
Capital Outlay	23,100
TOTAL	$ 214,800
FROM:	
General Fund	$ 193,500
Miscellaneous Revenue Fund	21,300
TOTAL	$ 214,800
GRAND TOTAL	$1,261,600

SECTION 2. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made in Section 1, Chapter 217, Laws of 2007, to the Department of Correction for Offender Programs is hereby reduced by the following amount according to the designated expense classes from the listed fund for the period July 1, 2007, through June 30, 2008:

FOR:	
Personnel Costs	$ 356,400
Operating Expenditures	3,587,400
TOTAL	$3,943,800
FROM:	
General Fund	$3,943,800

SECTION 3. That Section 8, Chapter 217, Laws of 2007, be, and the same is hereby amended to read as follows:

SECTION 8. There is hereby reappropriated to the Idaho Department of Correction, subject to the provisions of Section 9 of this act, the unexpended and unencumbered balance of General Fund moneys that were appropriated to the department for fiscal year 2007, to be used for non-recurring expenditures, for the period July 1, 2007, through June 30, 2008. For accounting purposes, this reappropriation shall be considered exempt from the provisions of Section 67-3511, Idaho Code, relating to the transfer of moneys between programs and expenditure classes. The reappropriation shall be used for the replacement of federal funding lost through the Maintaining Dignity in Idaho Jails grant; conducting a criminal justice study; ~~and for other~~ one-time expenses related to moving offenders that are diagnosed with acute mental health disorders from the maximum security prison to Unit 16 at the Idaho State Correctional Institution~~;--in--addition,--the--department--is--directed-to-provide-a detailed-written-report-on-the-expenditure-and-use-of-these-funds-to-the next-regular-session-of-the-Idaho-Legislature~~ any legal fees and cost claims that have been awarded or may be awarded in Gomez v. Vernon in the Ninth Circuit Court of Appeals and/or the U.S. District Court of Idaho; increased adjustments that may arise in the Department of Correction's medical services contract; and other costs related to housing inmates in county jails or in out-of-state facilities. Any unexpended balances of the reappropriation at the end of June 30, 2008, shall revert 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 11, 2008.

CHAPTER 80
(S.B. No. 1318, As Amended)

AN ACT

RELATING TO HONORARIUMS AND EXPENSES; AMENDING SECTION 20-208, IDAHO CODE, TO REVISE COMPENSATION PROVISIONS REGARDING THE STATE BOARD OF CORRECTION; AND AMENDING SECTION 59-509, IDAHO CODE, TO PROVIDE FOR SPECIFIED COMPENSATION AND FOR ACTUAL AND NECESSARY EXPENSES OF MEMBERS OF PART-TIME BOARDS, COMMISSIONS OR COUNCILS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 20-208, Idaho Code, be, and the same is hereby amended to read as follows:

20-208. SALARIES AND EXPENSES OF BOARD MEMBERS. Each member of the state board of correction shall be compensated as provided by section 59-509(hq), Idaho Code.

SECTION 2. That Section 59-509, Idaho Code, be, and the same is hereby amended to read as follows:

59-509. HONORARIUMS OR COMPENSATION FOR MEMBERS OF BOARDS, COMMISSIONS AND COUNCILS. The members of part-time boards, commissions or councils shall receive for each day spent in the actual performance of duties, an honorarium, compensation, or expenses, as provided in the following schedule:

(a) Members shall serve without honorarium, compensation, or expense reimbursement of any kind.

(b) Members shall serve without honorarium or compensation of any kind, but shall be reimbursed for actual and necessary expenses, subject to the limits provided in section 67-2008, Idaho Code.

(c) Members shall serve without honorarium or compensation of any kind, but shall be reimbursed for actual and necessary expenses, without being subject to the limits provided in section 67-2008, Idaho Code.

(d) Members shall receive the sum of fifteen dollars ($15.00) per day, and shall be reimbursed for actual and necessary expenses, subject to the limits provided in section 67-2008, Idaho Code.

(e) Members shall receive the sum of twenty dollars ($20.00) per day, and shall be reimbursed for actual and necessary expenses, subject to the limits provided in section 67-2008, Idaho Code.

(f) Members shall receive the sum of twenty-five dollars ($25.00) per day, and shall be reimbursed for actual and necessary expenses, subject to the limits provided in section 67-2008, Idaho Code.

(g) Members shall receive the sum of thirty-five dollars ($35.00) per day, and shall be reimbursed for actual and necessary expenses, subject to the limits provided in section 67-2008, Idaho Code.

(h) Members shall receive the sum of fifty dollars ($50.00) per day, and shall be reimbursed for actual and necessary expenses, subject to the limits provided in section 67-2008, Idaho Code.

(i) Members shall receive the sum of seventy-five dollars ($75.00) per day, and shall be reimbursed for actual and necessary expenses, subject to the limits provided in section 67-2008, Idaho Code.

(j) Members shall receive an honorarium in the sum of fifteen dollars ($15.00) per day, and shall be reimbursed for actual and necessary expenses, subject to the limits provided in section 67-2008, Idaho Code, unless otherwise provided by statute. Payment of an honorarium as provided in this subsection shall not be considered salary as defined in section 59-1302(31), Idaho Code.

(k) Members shall receive an honorarium in the sum of twenty dollars ($20.00) per day, and shall be reimbursed for actual and necessary expenses, subject to the limits provided in section 67-2008, Idaho Code. Payment of an honorarium as provided in this subsection shall not be considered salary as defined in section 59-1302(31), Idaho Code.

(l) Members shall receive an honorarium in the sum of twenty-five dollars ($25.00) per day, and shall be reimbursed for actual and neces-

sary expenses, subject to the limits provided in section 67-2008, Idaho Code. Payment of an honorarium as provided in this subsection shall not be considered salary as defined in section 59-1302(31), Idaho Code.

(m) Members shall receive an honorarium in the sum of thirty-five dollars ($35.00) per day, and shall be reimbursed for actual and necessary expenses, subject to the limits provided in section 67-2008, Idaho Code. Payment of an honorarium as provided in this subsection shall not be considered salary as defined in section 59-1302(31), Idaho Code.

(n) Members shall receive an honorarium in the sum of fifty dollars ($50.00) per day, and shall be reimbursed for actual and necessary expenses, subject to the limits provided in section 67-2008, Idaho Code. Payment of an honorarium as provided in this subsection shall not be considered salary as defined in section 59-1302(31), Idaho Code.

(o) Members shall receive an honorarium in the sum of seventy-five dollars ($75.00) per day, and shall be reimbursed for actual and necessary expenses, subject to the limits provided in section 67-2008, Idaho Code. Payment of an honorarium as provided in this subsection shall not be considered salary as defined in section 59-1302(31), Idaho Code.

(p) Members shall receive an honorarium in the sum of one hundred dollars ($100) per day, and shall be reimbursed for actual and necessary expenses, subject to the limits provided in section 67-2008, Idaho Code. Payment of an honorarium as provided in this subsection shall not be considered salary as defined in section 59-1302(31), Idaho Code.

(q) Members shall receive the sum of one hundred dollars ($100) per day, and shall be reimbursed for actual and necessary expenses, subject to the limits provided in section 67-2008, Idaho Code.

Approved March 13, 2008.

CHAPTER 81
(S.B. No. 1321, As Amended)

AN ACT

RELATING TO THE COMMISSION FOR LIBRARIES; AMENDING SECTION 33-2505, IDAHO CODE, TO ESTABLISH A DIGITAL REPOSITORY FOR STATE PUBLICATIONS; AMENDING CHAPTER 25, TITLE 33, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 33-2505A, 33-2505B AND 33-2505C, IDAHO CODE, TO DEFINE TERMS, TO SET FORTH REQUIREMENTS FOR SUBMISSION OF STATE PUBLICATIONS TO THE DIGITAL REPOSITORY AND TO PROVIDE EXEMPTIONS, RULES AND POLICIES.

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

SECTION 1. That Section 33-2505, Idaho Code, be, and the same is hereby amended to read as follows:

33-2505. ~~STATE LIBRARIAN----DEPOSITORY~~ DIGITAL REPOSITORY FOR ~~PUBLIC--DOCUMENTS-----DISTRIBUTION~~ STATE PUBLICATIONS. ~~It shall be the duty of the head of every agency, board, bureau, commission or department--of the state of Idaho, including all state-supported institutions of higher education--in--Idaho, to deposit with the librarian of the Idaho commission for libraries twenty (20) copies of all--documents,--reports,--sur-

~~veys,--monographs,--serial-publications,-compilations,-pamphlets,-bulletins,-leaflets,-circulars,-maps,-charts-or-broadsides-of-a-public-nature which-it-produces-for-public-distribution.-The--deposit--of--information with-the-state-librarian-is-intended-to-allow-the-information-to-be-used and--distributed-to-academic,-regional,-public,-and-special-libraries-in Idaho,-the-Library-of-Congress,-and-to-others-within-the--discretion--of the--state-librarian~~ Recognizing that an informed citizenry is a cornerstone for an effective democracy, and in order to provide free and continuous access to state publications, it shall be the duty of the state librarian to establish and maintain a publicly accessible digital repository of state publications prepared by state agencies. The digital repository is intended to collect state publications and make them readily available to all Idaho citizens.

SECTION 2. That Chapter 25, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 33-2505A, 33-2505B and 33-2505C, Idaho Code, and to read as follows:

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

(1) "Digital repository" means electronic publications stored and accessible to the public online in a secure digital environment with redundant backup.

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

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

(4) "State publication" means any information, regardless of format, published by a state agency and intended for distribution to the public. State publication does not include correspondence, internal confidential publications, office memoranda, university press publications, items detailed by sections 9-340A through 9-340H, Idaho Code, or other information excluded or exempted by rule promulgated by the board of library commissioners.

33-2505B. SUBMISSION BY STATE AGENCIES. (1) The head of every state agency or their designee shall promptly submit to the commission for libraries copies of published information that are state publications.

(a) For state publications available only in print format, each state agency shall submit two (2) copies of each printed publication to the commission for libraries.

(b) For state publications available only in electronic format, each state agency shall submit one (1) digital copy of each electronic publication to the commission for libraries.

(c) For state publications available in both print and electronic format, each state agency shall submit two (2) print copies and one (1) digital copy of the publication to the commission for libraries.

(d) Of the two (2) print copies of state publications, one (1) copy shall be sent to the Idaho state historical society and one (1) copy shall be sent to the university of Idaho library for archival purposes.

(2) The commission for libraries shall promulgate such rules as are necessary and appropriate to accomplish the purpose of a digital repository for state publications.

33-2505C. EXEMPTIONS. In the interest of economy and efficiency, the board of library commissioners may exempt a given state publication or class of publications from the requirements of sections 33-2505, 33-2505A and 33-2505B, Idaho Code, in full or in part, and shall promulgate rules in compliance with chapter 52, title 67, Idaho Code, and make policies to implement this section.

Approved March 13, 2008.

CHAPTER 82
(S.B. No. 1453)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE; AMENDING SECTION 1, CHAPTER 301, LAWS OF 2007, TO REVISE THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR PSYCHIATRIC HOSPITALIZATION IN THE COMMUNITY HOSPITALIZATION PROGRAM; AMENDING SECTION 3, CHAPTER 301, LAWS OF 2007, TO REVISE THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR PSYCHIATRIC HOSPITALIZATION IN THE STATE HOSPITAL NORTH PROGRAM; AMENDING SECTION 5, CHAPTER 301, LAWS OF 2007, TO REVISE THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR PSYCHIATRIC HOSPITALIZATION IN THE STATE HOSPITAL SOUTH PROGRAM; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 1, Chapter 301, Laws of 2007, 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 psychiatric hospitalization in the Community Hospitalization Program the following amount to be expended according to the designated expense class from the listed fund for the period July 1, 2007, through June 30, 2008:

COMMUNITY HOSPITALIZATION:

FROM:	
General Fund	~~$2,160,400~~ 3,660,400
FOR:	
Trustee and Benefit Payments	~~$2,160,400~~ 3,660,400

SECTION 2. That Section 3, Chapter 301, Laws of 2007, be, and the same is hereby amended to read as follows:

SECTION 3. There is hereby appropriated to the Department of Health and Welfare for psychiatric hospitalization in the State Hospital North Program 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	~~$5,996,300~~	~~$ 970,000~~	$124,300	~~$17,000~~	~~$7,107,600~~
	6,302,200	1,010,500		19,100	7,456,100
State Hospital North Endowment Income Fund	186,500	515,700	115,700	44,500	862,400
Cooperative Welfare Fund (Dedicated)	143,100				143,100
TOTAL	~~$6,325,900~~	~~$1,485,700~~	$240,000	~~$61,500~~	~~$8,113,100~~
	6,631,800	1,526,200		63,600	8,461,600

SECTION 3. That Section 5, Chapter 301, Laws of 2007, be, and the same is hereby amended to read as follows:

SECTION 5. There is hereby appropriated to the Department of Health and Welfare for psychiatric hospitalization in the State Hospital South Program 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	$ ~~9,824,400~~	~~$1,415,800~~	$ 64,500	$260,200	~~$11,564,900~~
	10,327,400	2,615,800			13,267,900
Mental Hospital Endowment Income Fund	1,029,600	177,500	49,000		1,256,100
Cooperative Welfare Fund (Federal)	2,794,700	1,385,900		13,000	4,193,600
Cooperative Welfare Fund (Dedicated)	~~2,407,000~~	656,100		800	~~3,063,900~~
	1,904,000				2,560,900
TOTAL	$16,055,700	~~$3,635,300~~	$113,500	$274,000	~~$20,078,500~~
		4,835,300			21,278,500

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 14, 2008.

CHAPTER 83
(H.B. No. 353)

AN ACT

RELATING TO LIMITATION ON CERTAIN TORT DAMAGES AND LIABILITIES; AMENDING SECTION 6-1601, IDAHO CODE, TO REVISE THE DEFINITIONS OF "CHARITABLE CORPORATION OR ORGANIZATION" AND "NONPROFIT CORPORATION OR ORGANIZATION" TO INCLUDE CHARITABLE TRUSTS AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 6-1605, IDAHO CODE, TO EXTEND IMMUNITY FROM LIABILITY TO TRUSTEES OF A CHARITABLE TRUST.

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

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

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

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

(2) "Claimant" means any party to a civil action making a claim for relief, legal or equitable, compensatory or noncompensatory.

(3) "Economic damages" means objectively verifiable monetary loss, including, but not limited to, out-of-pocket expenses, loss of earnings, loss of use of property, cost of replacement or repair, cost of obtaining substitute domestic services, loss of employment, medical expenses, or loss of business or employment opportunities.

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

(5) "Noneconomic damages" means subjective, nonmonetary losses including, but not limited to, pain, suffering, inconvenience, mental anguish, disability or disfigurement incurred by the injured party; emotional distress; loss of society and companionship; loss of consortium; or destruction or impairment of the parent-child relationship.

(6) "Nonprofit corporation or organization" means a charitable corporation or organization or charitable trust; any other corporation organized or existing under chapter 3, title 30, Idaho Code, or an equivalent provision of the law of another state; or an unincorporated association; which corporation, organization, charitable trust or unincorporated association is organized and existing exclusively for nonprofit purposes, and which:

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

(b) Nno part of the net income of which is distributable to its members, directors or officers.

(7) "Personal injury" means a physical injury, sickness or death suffered by an individual.

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

(9) "Punitive damages" means damages awarded to a claimant, over and above what will compensate the claimant for actual personal injury and property damage, to serve the public policies of punishing a defendant for outrageous conduct and of deterring future like conduct.

SECTION 2. That Section 6-1605, Idaho Code, be, and the same is hereby amended to read as follows:

6-1605. LIMITATION ON LIABILITY OF VOLUNTEERS, OFFICERS AND DIRECTORS OF NONPROFIT CORPORATIONS AND ORGANIZATIONS AND TRUSTEES OF CHARITABLE TRUSTS. (1) In any nonprofit corporation or organization or charitable trust as defined in section 6-1601(6), Idaho Code, officers, directors, and volunteers who serve the nonprofit corporation or organization without compensation and trustees of the charitable trust who serve without compensation shall be personally immune from civil liability arising out of their conduct as an officer, director, trustee or volunteer, if such conduct is within the course and scope of the duties and functions of the individual officer, director, trustee or volunteer and at the direction of the corporation or organization or charitable trust. The provisions of this section shall not eliminate or limit, and no immunity is hereby granted for the liability of an officer, director, trustee or volunteer:

(a) For conduct which is willful, wanton, or which involves fraud or knowing violation of the law;

(b) To the extent of coverage for such conduct under a policy of liability insurance, whether the policy is purchased by the corporation or organization or charitable trust, the individual officer, director, trustee, volunteer or some third party;

(c) For any intentional breach of a fiduciary duty or duty of loyalty owed by the officer, director or volunteer to the corporation, organization or the members thereof, or owed by the trustee to the charitable trust or the members thereof;

(d) For acts or omissions not in good faith or which involve intentional misconduct, fraud or a knowing violation of law;

(e) For any transaction from which the officer, director, trustee or volunteer derived an improper personal benefit;

(f) For any violation of the provisions of section 30-3-82, Idaho Code; or

(g) For damages which result from the operation of a motor vehicle.

(2) Reimbursement of an officer, director or volunteer of a nonprofit corporation or organization or of a trustee of a charitable trust for costs and expenses actually incurred shall not be considered compensation.

(3) Nothing in this section shall be construed to supersede, abrogate, or limit any immunities or limitation of liability otherwise provided by law.

Approved March 14, 2008.

CHAPTER 84
(H.B. No. 364)

AN ACT

RELATING TO TRANSPORTATION; AMENDING SECTION 49-123, IDAHO CODE, TO REVISE DEFINITIONS AND TO DEFINE A TERM; AMENDING SECTION 49-524, IDAHO CODE, TO PROVIDE FOR ELECTRONIC FILES IN REGARD TO SALVAGE CERTIFICATES OF OWNERSHIP, TO REVISE PROVISIONS RELATING TO SALVAGE CERTIFICATES OF OWNERSHIP, TO REVISE FEE PROVISIONS RELATING TO SALVAGE CERTIFICATES, TO REVISE PROVISIONS RELATING TO THE SURRENDER OF CERTIFICATES OF TITLE FOR SALVAGE VEHICLES, TO PROVIDE FOR NOTATIONS OF THEFT RECOVERY ON TITLE RECORDS FOR CERTAIN VEHICLES, TO DELETE A NONAPPLICABILITY TO VESSELS PROVISION AND TO REVISE DESCRIPTIVE LANGUAGE; AND AMENDING SECTION 49-525, IDAHO CODE, TO PROVIDE FOR BRANDED CERTIFICATES OF TITLE FOR CERTAIN VEHICLES, TO DELETE INSPECTION PROVISIONS, TO DELETE PROVISIONS RELATING TO BRANDED CERTIFICATES OF TITLE FOR RECONSTRUCTED VEHICLES AND REPAIRED VEHICLES, TO DELETE PROVISIONS RELATING TO BRANDED DECALS, TO PROVIDE FOR BRANDED CERTIFICATES OF TITLE RELATING TO REBUILT SALVAGE VEHICLES AND TO PROVIDE FOR SALVAGE VEHICLE STATEMENTS.

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

SECTION 1. That Section 49-123, Idaho Code, be, and the same is hereby amended to read as follows:

49-123. DEFINITIONS -- V. (1) "Variable load suspension axle" means an axle or axles designed to support a part of the vehicle and load and which can be regulated to vary the amount of load supported by such an axle or axles and which can be deployed or lifted by the operator of the vehicle. See also section 49-117, Idaho Code.

(a) "Fully raised" means that the variable load suspension axle is in an elevated position preventing the tires on such axle from having any contact with the roadway.

(b) "Fully deployed" means that the variable load suspension axle is supporting a portion of the weight of the loaded vehicle as controlled by the preset pressure regulator valve.

(2) "Vehicle" means:

(a) General. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

(b) Authorized emergency vehicle. Vehicles operated by any fire department or law enforcement agency of the state of Idaho or any political subdivision of the state, ambulances, vehicles belonging to personnel of voluntary fire departments while in performance of official duties only, vehicles belonging to, or operated by EMS personnel certified or otherwise recognized by the EMS bureau of the Idaho department of health and welfare while in the performance of emergency medical services, sheriff's search and rescue vehicles which are under the immediate supervision of the county sheriff, wreckers which are engaged in motor vehicle recovery operations and are blocking part or all of one (1) or more lanes of traffic, other emergency vehicles designated by the director of the Idaho state

police or vehicles authorized by the Idaho transportation board and used in the enforcement of laws specified in section 40-510, Idaho Code, pertaining to vehicles of ten thousand (10,000) pounds or greater.

(c) Commercial vehicle or commercial motor vehicle. For the purposes of chapter 3 of this title, (driver's licenses), a motor vehicle or combination of motor vehicles designed or used to transport passengers or property if the motor vehicle:

1. Has a manufacturer's gross combination weight rating (GCWR) in excess of twenty-six thousand (26,000) pounds inclusive of a towed unit with a manufacturer's gross vehicle weight rating (GVWR) of more than ten thousand (10,000) pounds; or

2. Has a manufacturer's gross vehicle weight rating (GVWR) in excess of twenty-six thousand (26,000) pounds; or

3. Is designed to transport sixteen (16) or more people, including the driver; or

4. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the hazardous material transportation act and which require the motor vehicle to be placarded under the hazardous materials regulations (49 CFR part 172, subpart F).

For the purposes of chapter 4, title 49, Idaho Code, (motor vehicle registration), a vehicle or combination of vehicles of a type used or maintained for the transportation of persons for hire, compensation or profit, or the transportation of property for the owner of the vehicle, or for hire, compensation, or profit, and shall include fixed load specially constructed vehicles exceeding the limits imposed by chapter 10, title 49, Idaho Code, and including drilling rigs, construction, drilling and wrecker cranes, log jammers, log loaders, and similar vehicles which are normally operated in an overweight or oversize condition or both, but shall not include those vehicles registered pursuant to sections 49-402 and 49-402A, Idaho Code, or exempted by section 49-426, Idaho Code. A motor vehicle used in a ridesharing arrangement that has a seating capacity for not more than fifteen (15) persons, including the driver, shall not be a "commercial vehicle" under the provisions of this title relating to equipment requirements, rules of the road, or registration.

(d) Farm vehicle. A vehicle or combination of vehicles owned by a farmer or rancher, which are operated over public highways, and used exclusively to transport unprocessed agricultural, dairy or livestock products raised, owned and grown by the owner of the vehicle to market or place of storage; and shall include the transportation by the farmer or rancher of any equipment, supplies or products purchased by that farmer or rancher for his own use, and used in the farming or ranching operation or used by a farmer partly in transporting agricultural products or livestock from the farm of another farmer that were originally grown or raised on the farm, or when used partly in transporting agricultural supplies, equipment, materials or livestock to the farm of another farmer for use or consumption on the farm but not transported for hire, and shall not include vehicles of husbandry or vehicles registered pursuant to sections 49-402 and 49-402A, Idaho Code.

(e) Foreign vehicle. Every vehicle of a type required to be regis-

tered under the provisions of this title brought into this state from another state, territory or country other than in the ordinary course of business by or through a manufacturer or dealer and not registered in this state.

(f) Glider kit vehicle. Every large truck manufactured from a kit manufactured by a manufacturer of large trucks which consists of a frame, cab complete with wiring, instruments, fenders and hood and front axles and wheels. The "glider kit" is made into a complete assembly by the addition of the engine, transmission, rear axles, wheels and tires.

(g) Motor vehicle. Every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails, except vehicles moved solely by human power, electric personal assistive mobility devices and motorized wheelchairs.

(h) Multipurpose passenger vehicle (MPV). For the purposes of section 49-966, Idaho Code, a motor vehicle designed to carry ten (10) or fewer persons which is constructed either on a truck chassis or with special features for occasional off-road operation.

(i) Neighborhood electric vehicle (NEV). A self-propelled, electrically-powered, four-wheeled motor vehicle which is emission free and conforms to the definition and requirements for low-speed vehicles as adopted in the federal motor vehicle safety standards for low-speed vehicles under federal regulations at 49 CFR part 571. An NEV shall be titled, registered and insured according to law as provided respectively in chapters 4, 5 and 12, title 49, Idaho Code, and shall only be operated by a licensed driver. Operation of an NEV on a highway shall be allowed as provided in section 49-663, Idaho Code.

(j) Noncommercial vehicle. For the purposes of chapter 4, title 49, Idaho Code, (motor vehicle registration), a noncommercial vehicle shall not include those vehicles required to be registered under sections 49-402 and 49-402A, Idaho Code, and means all other vehicles or combinations of vehicles which are not commercial vehicles or farm vehicles, but shall include motor homes. A noncommercial vehicle shall include those vehicles having a combined gross weight not in excess of sixty thousand (60,000) pounds and not held out for hire, used for purposes related to private use and not used in the furtherance of a business or occupation for compensation or profit or for transporting goods for other than the owner.

(k) Passenger car. For the purposes of section 49-966, Idaho Code, a motor vehicle, except a multipurpose passenger vehicle, motorcycle or trailer, designed to carry ten (10) or fewer persons.

(l) ~~Reconstructed--or-repaired~~ Rebuilt salvage vehicle. Every vehicle that has been rebuilt or repaired using like make and model parts and visually appears as a vehicle that was originally constructed under a distinctive manufacturer. This includes a salvage vehicle which is damaged to the extent that a ~~"reconstructed-vehicle"-or-"repaired-vehicle"~~ "rebuilt salvage" brand is required~~,--and other~~ to be added to the title.

(m) Reconstructed vehicles. ~~V~~vehicles which have been reconstructed by the use of a kit designed to be used to construct an exact replica of a vehicle which was previously constructed under a distinctive name, make, model or type by a generally recognized manufac-

turer of vehicles. A glider kit vehicle is not a reconstructed vehicle.

(mn) Salvage vehicle. Any vehicle for which a salvage certificate, salvage bill of sale or other documentation showing evidence that the vehicle has been declared salvage or which has been damaged to the extent that the owner, or an insurer, or other person acting on behalf of the owner, determines that the cost of parts and labor minus the salvage value makes it uneconomical to repair or rebuild. When an insurance company has paid money or has made other monetary settlement as compensation for a total loss of any motor vehicle, such motor vehicle shall be considered to be a salvage vehicle.

(no) Specially constructed vehicle. Every vehicle of a type required to be registered not originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction and cannot be visually identified as a vehicle produced by a particular manufacturer. This includes:

1. A vehicle that has been structurally modified so that it does not have the same appearance as a similar vehicle from the same manufacturer; or

2. A vehicle that has been constructed entirely from homemade parts and materials not obtained from other vehicles; or

3. A vehicle that has been constructed by using major component parts from one (1) or more manufactured vehicles and cannot be identified as a specific make or model; or

4. A vehicle constructed by the use of a custom kit that cannot be visually identified as a specific make or model.

(op) Total loss vehicle. Every vehicle that is deemed to be uneconomical to repair. ~~due to scrapping, dismantling or destruction.~~ A total loss shall occur when an insurance company or any other person pays or makes other monetary settlement to the owner when it is deemed to be uneconomical to repair the damaged vehicle. The compensation for total loss as defined herein shall not include payments by an insurer or other person for medical care, bodily injury, vehicle rental or for anything other than the amount paid for the actual damage to the vehicle.

(3) "Vehicle identification number." (See "Identifying number," section 49-110, Idaho Code)

(4) "Vehicle salesman" means any person who, for a salary, commission or compensation of any kind, is employed either directly or indirectly, or regularly or occasionally by any dealer to sell, purchase or exchange, or to negotiate for the sale, purchase or exchange of vehicles. (See also "full-time salesman," section 49-107, Idaho Code, and "part-time salesman," section 49-117, Idaho Code)

(5) "Vessel." (See section 67-7003, Idaho Code)

(6) "Veteran." (See section 65-502, Idaho Code)

(7) "Violation" means a conviction of a misdemeanor charge involving a moving traffic violation, or an admission or judicial determination of the commission of an infraction involving a moving traffic infraction, except bicycle infractions.

SECTION 2. That Section 49-524, Idaho Code, be, and the same is hereby amended to read as follows:

49-524. SALVAGE CERTIFICATE OF OWNERSHIP OR ELECTRONIC FILE TO REPLACE CERTIFICATE OF TITLE OR CERTIFICATE OF ORIGIN ON ~~CERTAIN~~ VEHICLES. ~~----VESSELS--NOT--INCLUDED.~~ (1) Every person acquiring a vehicle which has been determined to be a salvage vehicle, shall obtain a salvage certificate of ownership on that vehicle.

(2) The salvage certificate shall replace the certificate of origin, certificate of title or other comparable ownership document and shall indicate ownership only; it shall not be valid for registration purposes.

(3) A salvage certificate of ownership shall be issued by the department~~;--the--insurer;--or-a-salvage-pool;~~ or under the direction of the department and shall be on a form or electronic file as prescribed by the department. The form or electronic file shall provide for assignments of the salvage certificate.

(4) The fee for a salvage certificate or electronic filing of a salvage certificate shall be ~~the-same-as-for--issuance--of--any--regular idaho--certificate--of--title~~ fifteen dollars ($15.00). The fee shall be deposited in the state highway account.

(5) Every insurer making payment for a vehicle which has been determined to be a salvage vehicle, shall within thirty (30) days from receipt of the properly released certificate of origin or certificate of title, issue a salvage certificate to the purchaser and surrender to the department the ownership documents, a copy of the salvage certificate, the salvage certificate fee and other documents as required by the department for processing. The department shall mark its records appropriately.

(6) If a salvage pool receives a certificate of title for a vehicle which has been determined to be a salvage vehicle, he shall within thirty (30) days and upon receipt of the properly released certificate of origin or certificate of title, issue a salvage certificate to the purchaser and surrender to the department the ownership documents, a copy of the salvage certificate, the salvage certificate fee and other documents as required by the department for processing. The department shall mark its records appropriately.

(7) It is a misdemeanor, punishable by up to six (6) months in jail, a fine of one thousand dollars ($1,000) or both, if the owner of a retained salvage vehicle fails to surrender the title and be issued a salvage certificate, or to sell the vehicle and not tell the buyer that the vehicle is totaled.

(8) If an insurer has allowed the owner to retain ownership of the salvage vehicle, the owner must surrender the certificate of title for such vehicle to the department or the insurance company not later than ~~fifteen~~ thirty (~~15~~30) days from the date that the claim was satisfied. The insurer must notify the department of a total loss payoff. The insurer or department shall issue a salvage certificate to the owner prior to any sale or disposition of the salvage vehicle.

(9) If an insurer acquires the certificate of title of a vehicle in a settlement of a theft claim, the insurer shall immediately, upon receipt of the properly released certificate of origin or certificate of title, issue a salvage certificate in the name of the insurer and surrender to the department the ownership documents, a copy of the salvage certificate, the salvage certificate fee and other documents as required by the department for processing.

(10) If an insurer has acquired a vehicle in a settlement of a theft

claim, has made application to and has been issued a new salvage certificate in the name of the insurer and the vehicle is subsequently recovered and is not a salvage vehicle, the insurer may complete an affidavit indemnifying the department stating the facts of acquisition and disposition of the vehicle in a form prescribed by the department and deliver the salvage certificate of ownership, affidavit and any other documents required by the department to the transferee at the time of delivery of the vehicle. A notation of "theft recovery" shall be made on the title record.

(11) Any person acquiring ownership of a salvage vehicle purchased in a state or jurisdiction which does not require surrender of the certificate of title or comparable ownership document shall, within thirty (30) days following delivery of the certificate of title or ownership document, surrender such title or document to the department and apply for a salvage certificate.

(12) An owner of a salvage vehicle who sells or transfers said vehicle shall provide a properly executed assignment of the salvage certificate of ownership to the transferee.

(13) A purchaser of a salvage vehicle shall not possess or retain a salvage vehicle without a salvage certificate. The salvage vehicle purchaser shall display the salvage certificate upon the request of any peace officer or agent of the department.

~~(14) The provisions of this section shall not apply to vessels.~~

SECTION 3. That Section 49-525, Idaho Code, be, and the same is hereby amended to read as follows:

49-525. SALVAGE-CERTIFIED VEHICLE ~~-- INSPECTIONS-----BRANDING---~~ BRANDED CERTIFICATE OF TITLE. (1) The department shall issue a branded certificate of title on any motor vehicle for which a salvage certificate, salvage bill of sale or other documentation showing evidence that the vehicle has been declared salvage has been issued by this or any other state, provided, if documentation of salvage certification has been received from another state, the requirements specified in section 49-524, Idaho Code, shall be applied to that vehicle.

(2) ~~An initial vehicle identification number inspection--and--major component--parts--inspection shall be conducted by an authorized department employee and shall include examination of the vehicle and its parts to determine that the identification numbers of the vehicle or its parts have not been removed, falsified, altered, defaced or destroyed and that there are no indications that the--vehicle--or--any--of--its--parts--are stolen.--Such--certification--shall--not attest to the roadworthiness or safety condition of the vehicle. The fee for initial inspection shall be twenty five dollars ($25.00) and shall be deposited in the state highway account. The department may contract with private or public entities--to conduct the inspections.~~

~~(a)--If--the--inspector determines that one (1) major component part has damage requiring repair or replacement, the vehicle statement of facts shall indicate that the vehicle shall not be--eligible--for--a certificate--of--title--until--it--has--been--repaired--and has been reinspected as a "repaired vehicle." The vehicle statement of--facts shall--indicate--that--the vehicle will require a "repaired vehicle" decal before issuance of a branded certificate of title.--The--owner may--then--submit--an application with all required supporting docu-~~

ments to the department for issuance of a certificate of title.

(b) If the inspector determines that two (2) or more major component parts have damage requiring repair or replacement, or that the vehicle has sustained flood damage, the vehicle shall not be eligible for a certificate of title until it has been restored or reconstructed and has been reinspected as a reconstructed vehicle. The vehicle statement of facts shall indicate that the vehicle will require a "reconstructed vehicle" decal before issuance of a branded certificate of title.

The provisions of this subsection (2) shall not apply to a vehicle which is more than five (5) years old and which has a known market value of six thousand dollars ($6,000) or less which has been determined to be a salvage vehicle.

(3) Every owner of a salvage vehicle which has been restored or repaired in this state to its operating condition, in compliance with chapter 9, title 49, Idaho Code, shall, if the inspector issued a vehicle statement of facts as required in subsection (2) of this section, present the vehicle to the department for inspection as a reconstructed vehicle or as a repaired vehicle.

(a) If the inspector determines that the receipts for major component parts are valid, including the vehicle identification numbers of the vehicles from which the major component parts were removed, a "reconstructed vehicle" decal or a "repaired vehicle" decal shall be affixed to the vehicle and the statement of facts shall indicate that the vehicle has been branded and that the certificate of title shall be branded accordingly.

(b) The fee for issuance of a "reconstructed vehicle" decal or a "repaired vehicle" decal shall be ten dollars ($10.00) and shall be deposited in the state highway account.

(c) The owner may then submit an application for branded certificate of title to the department which application shall be accompanied by the salvage bill of sale, salvage certificate or other documentation showing evidence that the vehicle has been declared salvage, vehicle statement of facts, indemnifying affidavit, bills of sale or invoices for major component parts and written affirmation which states:

1. That the owner personally rebuilt or repaired the vehicle or personally supervised its rebuilding or repairing and includes a description of work done to restore the vehicle to the operating condition that existed prior to the event which caused the salvage certificate to be issued;

2. That the identification numbers of the restored vehicle and its parts have not, to the knowledge of the owner, been removed, destroyed, falsified, altered or defaced;

3. That the salvage certificate document or out of state title certificate attached to the application has not to the knowledge of the owner been forged, falsified or altered; and

4. That all information contained on the application and its attachments is true and correct.

(4) Upon presentation of the documents required by the department, the department shall issue a branded certificate of title which shall contain the word "reconstructed vehicle" or "repaired vehicle."

(5) If an otherwise correct application is made for a certificate of title on any salvage certified vehicle which was not inspected as

~~required-by-the-provisions--of--subsection--(2)--of--this--section,--the department--shall-brand-the-vehicle-with-a-"reconstructed-vehicle"-decal and-shall-issue-a-branded-certificate-of-title.~~

~~(6)~~ If an otherwise correct application is made for a certificate of title on any salvage~~-certified~~ vehicle, ~~which-is-not-required-to-be inspected-pursuant-to-the-provisions-of-subsection-(2)-of-this--section,~~ the department shall issue a branded certificate of title as a "recon~~structed~~rebuilt salvage vehicle" if the application for a certificate of title is supported by a ~~written-affirmation-of~~ salvage vehicle statement completed by the owner which states:

(a) That the owner personally rebuilt or repaired the vehicle or personally supervised its rebuilding or repairing and includes a description of work done to restore the vehicle to the operating condition that existed prior to the event which caused the salvage certificate to be issued;

(b) That the identification numbers of the restored vehicle and its parts have not, to the knowledge of the owner, been removed, destroyed, falsified, altered or defaced;

(c) That the salvage certificate document or out-of-state title certificate attached to the application has not to the knowledge of the owner been forged, falsified or altered; and

(d) That all information contained on the application and its attachments is true and correct.

(~~7~~3) Each branded certificate of title received from another jurisdiction shall have its brand carried forward to all subsequent certificates of title issued in this state.

(~~8~~4) The department may promulgate rules as necessary to implement the provisions of sections 49-524 and 49-525, Idaho Code.

Approved March 14, 2008.

CHAPTER 85
(H.B. No. 370)

AN ACT

RELATING TO LAW ENFORCEMENT AND SECURITY AT THE CAPITOL BUILDING AND THE SUPREME COURT BUILDING; AMENDING SECTION 67-1605, IDAHO CODE, TO PROVIDE FOR LAW ENFORCEMENT AND SECURITY AT THE SUPREME COURT BUILDING; AND AMENDING SECTION 67-2901, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR OF THE IDAHO STATE POLICE PROVIDE SECURITY FOR THE SUPREME COURT AND COURT OF APPEALS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 67-1605, Idaho Code, be, and the same is hereby amended to read as follows:

67-1605. LAW ENFORCEMENT AND SECURITY. Responsibility for law enforcement at the capitol building and the supreme court building is vested in the director of the Idaho state police. In coordination with the director of the Idaho state police, Ada County and Boise City are granted jurisdiction to enforce the laws of the state of Idaho and the

ordinances of Ada County and Boise City for the capitol building and the supreme court building. The director of the department of administration, or his designee, shall be responsible for security in the capitol building and the supreme court building and has the authority to contract with private contractors to provide security for persons and property in the capitol building and the supreme court building.

SECTION 2. That Section 67-2901, Idaho Code, be, and the same is hereby amended to read as follows:

67-2901. IDAHO STATE POLICE CREATED -- DIRECTOR -- DIVISIONS -- POWERS AND DUTIES -- FAILURE OF PEACE OFFICERS TO OBEY ORDERS, MISDEMEANOR -- DEPUTIES -- COMPENSATION AND POWERS. (1) There is hereby created the Idaho state police. The Idaho state police 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 governor, with the advice and consent of the senate, shall appoint a director of the Idaho state police who shall serve at the pleasure of the governor. The director shall receive such salary as fixed by the governor.

(3) The Idaho state police shall be composed of such divisions as may be established by law and other administrative units as may be established by the director for the proper and efficient administration of the powers and duties assigned to the director or the state police. The director shall appoint, subject to the approval of the governor, an administrator for each division within the state police.

(4) The director shall exercise all of the powers and duties necessary to carry out the proper administration of the state police, and may delegate duties to employees and officers of the state police.

(5) The Idaho state police shall have power to:

(a) Enforce all of the penal and regulatory laws of the state, to preserve order, and exercise any and all powers, duties and authority of any sheriff or other peace officer anywhere in the state of Idaho, in the same manner and with like authority as the sheriffs of the counties; said department may employ from time to time, to carry out any of the provisions of this ~~subdivision~~ subsection, such deputies or special deputies as may be deemed, by the governor of the state of Idaho, necessary to carry out these duties and powers, and deputies shall have power to deputize other persons as deputies when necessary; said department may call into the police service of the state any and all peace officers of the state, of any city, or of any county, and may deputize private citizens, when deemed necessary by the governor of the state, to preserve order and enforce law in any extraordinary emergency when the governor shall have declared, by order in writing, the existence of such extraordinary emergency; the governor shall designate by order such peace officers or private persons as are to be called into the service of the state, and when such peace officers or deputized citizens are so called into the police service of the state such officers shall act under the direction of the director of the state police in such manner as may be directed and ordered by the governor; failure on the part of any such peace officer of the state, or person so deputized, to so act and obey such orders shall constitute a misdemeanor; the governor shall fix the compensation of such deputies~~.~~;

(b) Prevent and detect crime and apprehend criminals and maintain order;
(c) Require all persons using the highways in the state to do so carefully, safely, and with the exercise of care for the persons, property and safety of others;
(d) Safeguard and protect the surface and other physical portions of the state highways and enforce any laws for highway safety;
(e) Enforce federal statutes and regulations relating to motor carrier safety and hazardous materials for interstate carriers;
(f) Enforce Idaho statutes and rules of the Idaho state police applicable to motor carriers;
(g) Enforce all of the laws of the state enacted for the identification, inspection and transportation of livestock and all laws of the state designed to prevent the theft of livestock;
(h) Regulate traffic on all highways and roads in the state;
(i) Perform all of the duties and exercise all of the powers of peace officers vested in the director of the Idaho state police;
(j) Execute and serve any warrant of arrest or search warrant issued by proper authority of the state, according to the tenor thereof, in any part of the state;
(k) Arrest without warrant, any person committing or attempting to commit in their presence or view a breach of the peace or any other violation of any of the laws of the state;
(l) Members of the Idaho state police shall be subject to the call of the governor and are empowered to cooperate with any other department or authority of the state, with counties and municipalities, or any locality in detecting crime, apprehending criminals and preserving law and order throughout the state; but the Idaho state police shall not be used as a posse in any municipality, except when ordered by the governor to do so; provided nothing herein contained shall be construed to vest direction or control over any sheriff, policeman, marshal or constable in the Idaho state police or any employer or officer thereof;
(m) Each member of the Idaho state police shall take and subscribe to an oath of office to support the constitution and laws of the United States and the state of Idaho, and to honestly and faithfully perform the duties imposed upon him under the provisions of the laws of Idaho as a member of the Idaho state police. The oath shall be filed with the director.

(6) The director shall operate and supervise a forensic laboratory which will provide to state and local agencies having responsibility for enforcement of the penal laws of this state assistance in the collection, preservation and analysis of evidence in criminal cases.

(7) The director shall provide security and protection for the governor and the governor's immediate family to the extent and in the manner the governor and the director deem adequate and appropriate.

(8) The director shall provide security and protection for both houses of the legislature while in session as in the opinion of the speaker of the house and the president of the senate and the director deem necessary.

(9) The director shall provide security and protection for the supreme court and the court of appeals while they are in session, and at their places of work, as the chief justice and the director deem necessary.

(10) The director may award to an officer, upon retirement, that officer's badge, duty weapon and handcuffs, providing that a committee of three (3) of the officer's peers certifies to the director that the retiring officer has served meritoriously for a minimum of fifteen (15) years and should therefore be so honored.

(~~10~~11) The director, within the limits of any appropriation made available for such purposes, shall for such Idaho state police:

(a) Establish such ranks, grades and positions as shall appear advisable and designate the authority and responsibility in each such rank, grade and position;

(b) Appoint such personnel to such rank, grade and position as are deemed by him to be necessary for the efficient operation and administration of the Idaho state police, and only those applicants shall be appointed or promoted who best meet the prescribed standards and prerequisites; provided however, that all employees shall be selected in the manner provided for in chapter 53, title 67, Idaho Code, and shall be probationers and on probation for a period of one (1) year from the date of appointment;

(c) Formulate and place in effect such rules for the Idaho state police as from time to time appear to him advisable;

(d) Prescribe by official order the uniform and equipment of the employees in the Idaho state police;

(e) Station employees in such localities as he shall deem advisable for the enforcement of the laws of the state;

(f) Have purchased, or otherwise acquired, by the purchasing agent of the state, motor vehicle equipment and all other equipment and commodities deemed by him essential for the efficient performance of the duties of the Idaho state police and purchase and install approved mechanical devices and equipment for the rapid transmission and broadcasting of information relative to crime, apprehension of criminals and the administration of the business of the Idaho state police.

(~~11~~12) (a) The director shall issue to every eligible police officer member of the Idaho state police, as defined in section 59-1303(3), Idaho Code, and pursuant to the contract provided for by the personnel group insurance administrator in the department of administration, a term group life insurance certificate in the face amount of fifty thousand dollars ($50,000) on the life of such members. Said insurance certificate shall set forth the name or names of such beneficiary or beneficiaries as the insured may name or designate.

(b) Any eligible person entering the employ of the Idaho state police as an active police officer after the effective date of this act shall be insured as other members of the state police immediately upon taking the oath of office.

(c) Every member of the Idaho state police, upon termination of active duty or permanent release, may surrender said certificate to the head of the state police, or, at the person's option, may convert the insurance in accordance with the provisions of the contract, and no further premiums shall be paid on said policy by the state of Idaho.

(d) The director is hereby directed to hereafter include in the budget of the Idaho state police an amount sufficient to pay the annual costs accruing with respect to policies of insurance purchased under the provisions of this chapter.

(e) The premiums on the insurance herein provided for are to be paid one-half (1/2) by the employee and one-half (1/2) by the state. The director is hereby authorized to make a monthly deduction on the payroll of the amount due from each employee under this chapter.

(1~~2~~3) Nothing in this section shall affect the duties of the sheriff as described in section 31-2202, Idaho Code, or the primary duty, described in section 31-2227, Idaho Code, of the sheriff and prosecuting attorney of each of the several counties to enforce all the penal provisions of any and all statutes of this state.

Approved March 14, 2008.

CHAPTER 86
(H.B. No. 375)

AN ACT

RELATING TO COSMETICIANS; AMENDING SECTION 54-802, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 54-805, IDAHO CODE, TO REVISE PROVISIONS RELATING TO LICENSE EXAMINATIONS AND TO DELETE PROVISIONS FOR STUDENT LICENSURE; AMENDING SECTION 54-808, IDAHO CODE, TO DELETE PROVISIONS REQUIRING SCHOOLS OF COSMETOLOGY TO REGISTER STUDENTS WITH THE BOARD, TO REGISTER HOURS OF INSTRUCTION AND TO PERMIT STUDENTS TO TRANSFER CREDITS EARNED AT ONE SCHOOL TO ANOTHER SCHOOL WITH PERMISSION OF THE BOARD; AMENDING SECTION 54-809, IDAHO CODE, TO ADD A PROVISION THAT APPLICANTS PROVIDE CERTAIN DOCUMENTATION AND INFORMATION RELATED TO LICENSURE REQUIREMENTS; AMENDING SECTION 54-810, IDAHO CODE, TO DELETE EXAMINATION PROVISIONS RELATING TO TIMES AND PLACES OF EXAMINATIONS, ADDITIONAL TRAINING REQUIREMENTS AND CONSEQUENCES OF FAILING TO APPEAR FOR EXAMINATION; AMENDING SECTION 54-815, IDAHO CODE, TO DELETE REFERENCE TO CERTIFICATE OF REGISTRATION AND CERTIFICATE; AMENDING SECTION 54-816, IDAHO CODE, TO DELETE REFERENCE TO REGISTRATION; AMENDING SECTION 54-817, IDAHO CODE, TO DELETE REFERENCE TO REGISTRATION AND TO REVISE TERMINOLOGY; AMENDING SECTION 54-818, IDAHO CODE, TO REVISE PROVISIONS RELATING TO FEES; AMENDING SECTION 54-822, IDAHO CODE, TO REVISE PROVISIONS RELATING TO RECORDKEEPING BY THE DEPARTMENT OF SELF-GOVERNING AGENCIES; AMENDING SECTION 54-831, IDAHO CODE, TO DELETE LANGUAGE DIRECTING THE BOARD TO APPOINT EXAMINING ASSISTANTS; AMENDING SECTION 54-832, IDAHO CODE, TO DELETE REFERENCE TO EXAMINING ASSISTANTS; AMENDING SECTION 54-834, IDAHO CODE, TO ADD A PROVISION REQUIRING THE BOARD TO KEEP A REGISTER OF ALL APPLICATIONS FOR LICENSURE AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 54-835, IDAHO CODE, TO DELETE REFERENCE TO CERTIFICATE OF REGISTRATION.

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) Noninvasive care of the skin of the face and body by application of cosmetic preparations, antiseptics, tonics, lotions, creams 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~~ engaged 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 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" means noninvasive care of the skin of the face and body by application of cosmetic preparations, antiseptics, tonics, lotions, creams 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.

SECTION 2. That Section 54-805, Idaho Code, be, and the same is hereby amended to read as follows:

54-805. REQUIREMENTS FOR LICENSE. Except as herein otherwise provided, the following shall be considered minimum requirements for license in the respective categories, and all applicants shall be of good moral character and temperate habits:

(1) As a registered cosmetologist:

(a) Be sixteen and one-half (16 1/2) years of age.

(b) Completion of two (2) years' high school education or its equivalent.

(c) Graduation from and completion of a two thousand (2,000) hour course of instruction in a school of cosmetology, or a four thousand (4,000) hour course of instruction as an apprentice covering all phases of the practice of cosmetology.

(d) Successful passage of ~~the~~ an examination for cosmetologist ~~given under the direction of~~ conducted by or acceptable to the board.

(2) As an instructor of cosmetology, nail technology, esthetics or electrology: twelve (12) semester college credit hours or equivalent as approved by the board or successful completion of the examination required by board rules, and

(a) Hold a current license as a cosmetologist, nail technologist, esthetician or electrologist and satisfactory completion of a six (6) month teacher's course of instruction in a school of cosmetology, or

(b) Two (2) years' experience as a licensed cosmetologist, nail technologist, esthetician or electrologist in a registered cosmetological establishment and a three (3) month teacher's course of instruction in a school of cosmetology, or

(c) Five (5) years' experience as a licensed cosmetologist, nail technologist, esthetician or electrologist immediately preceding the application for license.

(3) ~~As a student:~~

~~(a) Be sixteen and one-half (16 1/2) years of age;~~

~~(b) Have completed at least two (2) years of high school education or its equivalent;~~

~~(4)~~ As an apprentice:

(a) Be sixteen and one-half (16 1/2) years of age.

(b) Have completed at least two (2) years of high school education or its equivalent.

(~~5~~4) As a nail technician:

(a) Be sixteen and one-half (16 1/2) years of age.

(b) Have completed at least two (2) years of high school education or its equivalent.

(c) Have completed and graduated from at least a four hundred (400) hour course of instruction and graduated from such training in a board approved school, or an eight hundred (800) hour course of instruction as an apprentice in a specified cosmetological establishment under the direct personal supervision of a licensed cosmetology instructor, who shall have at least one (1) licensed nail technician on-site in the specified cosmetological establishment for each student being trained.

(d) Successful passage of ~~the~~ an examination for nail technician ~~given under the direction of~~ conducted by or acceptable to the board.

(~~6~~5) As an electrologist:

(a) Be sixteen and one-half (16 1/2) years of age.

(b) Have completed at least two (2) years of high school education or its equivalent.

(c) Have completed and graduated from at least an eight hundred

(800) hour course of instruction and graduated from such training in a school approved by the board to teach electrology, or a one thousand six hundred (1,600) hour course of instruction as an apprentice in a specified cosmetological establishment under the direct personal supervision of a licensed electrologist instructor, who shall have at least one (1) licensed electrologist on-site in the specified cosmetological establishment as established by board rules.

(d) Successfully passed ~~the~~ an examination for electrologist ~~given under the direction of~~ conducted by or acceptable to the board.

(~~7~~6) As an esthetician:

(a) Be sixteen and one-half (16 1/2) years of age.

(b) Have completed at least two (2) years of high school education or its equivalent.

(c) Have completed and graduated from at least a six hundred (600) hour course of instruction for such in a school approved by the board to teach esthetics or a one thousand two hundred (1,200) hour course of instruction as an apprentice in a specified cosmetological establishment under the direct personal supervision of a licensed cosmetology instructor, who shall have at least one (1) licensed esthetician on-site in the specified cosmetological establishment for each student being trained.

(d) Successfully passed ~~the~~ an examination for esthetician ~~given under the direction of~~ conducted by or acceptable to the board.

(~~8~~7) As a haircutter:

(a) Be sixteen and one-half (16 1/2) years of age.

(b) Have completed at least two (2) years of high school education or its equivalent.

(c) Have completed and graduated from at least a nine hundred (900) hour course of instruction for such in a school approved by the board to teach haircutting.

(d) Successfully passed ~~the~~ an examination for haircutter ~~given under the direction of~~ conducted by or acceptable to the board.

SECTION 3. That Section 54-808, Idaho Code, be, and the same is hereby amended to read as follows:

54-808. REGULATIONS FOR SCHOOLS. Every domestic school of cosmetology must be licensed under the provisions of this chapter and shall meet the following standards and provisions:

(1) Employ and maintain at least one (1) licensed instructor for every twenty (20) students or fraction thereof with a student instructor not counting as a student for purposes of the student-instructor ratio;

(2) Possess sufficient apparatus and equipment for the proper and full teaching of all subjects of its curriculum;

(3) Keep a daily attendance record for each student;

(4) Maintain regular class and instruction hours, establish grades, and hold monthly examinations;

(5) Prescribe a school term for training in all phases of the practice of cosmetology;

(6) Provide applicable curriculums embracing subjects covering the scientific fundamentals for cosmetology, nail technology, esthetics, electrology, instructors and haircutting as follows:

(a) The curriculum for cosmetology shall include hygiene, bacteriology, histology of the hair, skin, muscles, nails and nerves,

structure of the head, face and neck, elementary chemistry relating to sterilization and antiseptics, diseases of the skin, hair, glands and nails, massaging and manipulating the muscles of the body, permanent waving, haircutting and arranging, dressing, coloring, bleaching and tinting of the hair, a study of electricity as applied to cosmetology, and the Idaho laws and rules governing the practice of cosmetology;

(b) The curriculum for nail technology shall include hygiene, bacteriology, histology of the hands and feet, skin, muscles, nails and nerves, structure of the hands and feet, elementary chemistry relating to sterilization and antiseptics, diseases of the skin, glands and nails, massaging and manipulating the muscles of the hands and feet, a study of electricity as applied to nail technology, and the Idaho laws and rules governing the practice of nail technology;

(c) The curriculum for esthetics shall include hygiene, bacteriology, histology of the skin, muscles and nerves, structure of the head, face and neck, elementary chemistry relating to sterilization and antiseptics, diseases of the skin, glands and nails, massaging and manipulating the muscles of the body, a study of electricity as applied to cosmetology, and the Idaho laws and rules governing the practice of esthetics;

(d) The curriculum for electrology shall include hygiene, bacteriology, histology of the hair, skin, muscles, nails and nerves, structure of the body, elementary chemistry relating to sterilization and antiseptics, diseases of the skin, hair, glands and nails, hypertrichosis, permanent removal of unwanted hair, a study of electricity as applied to electrology including the use and study of galvanic current, and the use and study of both automatic and manual high frequency current, and the Idaho laws and rules governing the practice of electrology;

(e) The curriculum for instructors shall include fundamentals of adult education, communication, preparation of lesson plans, practical and theoretical presentation and demonstration, use of teaching aids, measurement and evaluation, and the Idaho laws and rules governing cosmetology and electrology, in addition to teaching the acts prescribed in section 54-802, Idaho Code;

(f) The curriculum for haircutting shall include hygiene, bacteriology, histology of the hair, skin, muscles and nerves, structure of the head and neck, elementary chemistry relating to sterilization and antiseptics, diseases of the skin, hair and glands, massaging and manipulating of the muscles of the head and neck, haircutting and arranging, the study of electricity as applied to haircutting and Idaho laws and rules governing the practice of haircutting;

(7) Denote with clarity that the establishment is a school and that work is done by students. Such fact shall be made clear to the patron by signs conspicuously posted in the school and the adjoining shop, if any;

(8) All instructors must be licensed instructors in this state;

(9) Such school shall not permit any student or apprentice to receive instruction unless licensed under the provisions of this chapter;

(10) Every instructor shall devote his entire time during school or class hours to that of instructing the students and shall not apply his time to that of private or public practice;

(11) School hours for the purpose of instruction shall be offered on

not less than a five (5) day week;

(12) Training received in an establishment not meeting the requirements for schools as herein set forth shall receive credit for said training as an apprentice rather than as a student, provided said training meets the requirements for apprentice training;

(13) ~~All students, including those enrolled for instructor's training, shall be registered by the school with the board, listing the name, age, and qualifications of the student required for such training. Forms for such enrollment may be provided by the board and a register of such enrollments shall be maintained by the board. Hours of instruction shall be registered with the board as established by board rules, and a student may be permitted to transfer the credits earned at one (1) school to another school with permission of the board;~~

~~(14)~~ Training received in electrology in a school shall not be recognized unless the school has been approved for such training by the board and the school meets and maintains the requirements to train electrologists as established by board rules;

(15~~4~~) Training received in esthetics shall not be recognized unless the school has been approved for such training by the board, and the school meets and maintains the requirements to train estheticians as established by board rules;

(16~~5~~) Training received in nail technology shall not be recognized unless the school has been approved for such training by the board, and the school meets and maintains the requirements to train nail technicians as established by board rules;

(17~~6~~) Every school approved by the board shall deliver to the board, a bond to the state of Idaho in a form approved by the board, and renew the same annually, in the sum of twenty-five thousand dollars ($25,000) executed by a corporate surety company duly authorized to do business in this state, conditioned that such school shall continue to give its courses of instruction, in accordance with the provisions of this chapter, until it has completed all such courses for which students have enrolled, and conditioned that such school shall fully comply with all promises or representations made to enrolled students as an inducement to such students to enroll. Any student so enrolled who may be damaged by reason of the failure of such school to comply with such conditions, shall have a right of action in his or her own name, on such bonds, for such damage;

(18~~7~~) Training received in haircutting shall not be recognized unless the school has been approved for such training by the board and the school meets and maintains the requirements to train haircutters as established by board rules.

SECTION 4. That Section 54-809, Idaho Code, be, and the same is hereby amended to read as follows:

54-809. APPLICATIONS. Each applicant for a license shall:

(1) Make application to the board on forms authorized by the board and furnished thereby, such application to contain proof under oath by the applicant of the particular qualifications of the applicant and contain the names and addresses of three (3) character references.

(2) Furnish to said board a passport photograph of the applicant taken within the year preceding the filing of the application, together with a description of the applicant.

(3) Pay to the board the required fee.

(4) Provide such documentation and information to establish that the applicant meets the requirements for the license sought.

SECTION 5. That Section 54-810, Idaho Code, be, and the same is hereby amended to read as follows:

54-810. EXAMINATIONS. ~~Examinations shall be held at such times and places as the board shall determine.~~ The scope of the examinations and the methods of procedure shall be prescribed by the board with special reference to the applicant's general knowledge in the particular practices for which license is sought, and the applicant's ability to perform the particular work satisfactorily. Examinations shall include both a practical demonstration and written test. ~~Applicants who fail to pass an examination as prescribed by this chapter must supply written evidence of additional training before they shall be eligible to take another examination. The amount of such additional training and the nature of the proof required shall be prescribed by rules of the board. Failure to appear for an examination, unless excused by the board, shall cause an immediate forfeiture of the application fee, and terminate the application.~~

SECTION 6. That Section 54-815, Idaho Code, be, and the same is hereby amended to read as follows:

54-815. RENEWAL AND REINSTATEMENT OF LICENSES. Every license ~~or certificate of registration~~ required by this chapter must be renewed annually, at the prescribed annual fee, in accordance with section 67-2614, Idaho Code. An expired license ~~or certificate~~ may be reinstated. All licenses issued under the provisions of this chapter shall be subject to annual renewal and shall expire unless renewed in the manner prescribed by the board regarding applications for renewal, continuing education, and fees. License renewal and reinstatement shall be in accordance with section 67-2614, Idaho Code. The reinstatement fee shall be the sum of the accumulated annual renewal fees for the lapsed period, plus the current renewal fee and a twenty-five dollar ($25.00) penalty.

SECTION 7. That Section 54-816, Idaho Code, be, and the same is hereby amended to read as follows:

54-816. REFUSAL, REVOCATION OR SUSPENSION OF ~~REGISTRATION OR~~ LICENSE. The board may either refuse to issue or renew, or may suspend or revoke, any ~~registration or~~ license for any one (1) of the following causes:

(1) Conviction of a felony evidenced by a certified copy of the record of the court of conviction;

(2) Malpractice or incompetency;

(3) Continued practice by a person knowingly having an infectious or contagious disease;

(4) Advertising by means of knowingly false or deceptive statements;

(5) Habitual intoxication or addiction to the use of morphine, cocaine, or other habit-forming drugs;

(6) Immoral or unprofessional conduct;

(7) Where the application is fraudulently made or the ~~registration or~~ license fraudulently obtained;

(8) The violation of any of the provisions of this chapter, or rules adopted pursuant thereto.

SECTION 8. That Section 54-817, Idaho Code, be, and the same is hereby amended to read as follows:

54-817. HEARINGS. No refusal to renew, or the suspension or revocation of, a ~~registration,~~ permit or license shall be made until the person affected has been given an opportunity to be heard on charges preferred in accordance with the provisions of chapter 52, title 67, Idaho Code. Such charges shall be in writing, and shall be sworn to by the person making them, and shall be filed with the board.

All charges, unless dismissed as unfounded or trivial, shall be heard within four (4) months after the date on which they are received by the board.

All charges shall be heard by the board at such time and place as it shall fix, and a copy of the charges, together with a notice of the time and place of hearing, shall be personally served on, or sent by registered mail to the last known address of such ~~registrant~~ licensee or permittee at least twenty (20) days before the date set for the hearing. At any hearing the accused ~~registrant~~ licensee or permittee shall have the right to appear personally or by counsel and to call witnesses in his own defense.

The board may subpoena witnesses and compel their attendance, and also may require the production of books, papers, documents, etc., in a case involving the revocation or suspension of a license, permit ~~or registration~~ or the practicing or offering to practice without a license, or permit. ~~or registration.~~ If any person shall refuse to obey any subpoena so issued, or shall refuse to testify or produce any books, papers, or documents, the board may present its petition to the district judge of the district in which the witness may be found, setting forth the proceedings theretofore taken and briefly stating the subject matter upon which the testimony of the witness is required; thereupon such district judge may cause an order to be issued requiring such witness to appear before the board to testify and to produce such books, papers, and other documents as directed in the subpoena. Any person failing or refusing to obey such order shall be punished as for contempt of court.

SECTION 9. That Section 54-818, Idaho Code, be, and the same is hereby amended to read as follows:

54-818. FEES. The various fees to be paid by applicants for original ~~registrations, original~~ licenses, permits, annual renewals, and fees for endorsement and examinations as required under this chapter shall be fixed by administrative rules of the board in amounts not to exceed the following:

(1) Original applications, permits, licenses, and annual renewals thereof:

cosmetological establishment, original license .....$ 50.00
cosmetological establishment, annual renewals 50.00
retail cosmetics dealer, original license 50.00
retail cosmetics dealer, annual renewals 50.00

makeover or glamour photography business, original license 50.00
makeover or glamour photography business, annual renewals 50.00
domestic school of cosmetology, original license 500.00
domestic school of cosmetology, annual renewals 150.00
registered cosmetologist, original license/annual renewals 50.00
nail technician, original license/annual renewals 50.00
apprentice, original permit (no renewal fees required) 20.00
~~student registration (no renewal fees required) ..... 20.00~~
instructor, original license/annual renewals 50.00
~~student instructor permit ..... 25.00~~
electrologist, original license/annual renewals 50.00
esthetician, original license/annual renewals 50.00
haircutter, original license/annual renewals 50.00
endorsement fee 100.00
temporary permit to demonstrate and teach 10.00

(2) Examination fees:

~~as a registered cosmetologist ..... $100.00~~
~~as a nail technician ..... 100.00~~
~~as an instructor ..... 100.00~~
~~as an electrologist ..... 100.00~~
~~as an esthetician ..... 100.00~~
~~as a haircutter ..... 100.00~~

The fee for examination, when required, shall be equal to that charged by the national examining entity. Fees shall not be prorated or returnable.

SECTION 10. That Section 54-822, Idaho Code, be, and the same is hereby amended to read as follows:

54-822. PUBLIC RECORDS FOR LICENSES. The department shall keep ~~in a book--appropriate--for--that purpose~~ a public record of all applications for licenses, the action of the department 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 11. That Section 54-831, Idaho Code, be, and the same is hereby amended to read as follows:

54-831. BOARD -- ORGANIZATION AND MEETINGS. The board shall hold a meeting within thirty (30) days after its members are first appointed, and thereafter board meetings shall be held at such times and places as may be decided upon.

The board shall adopt such bylaws as it deems necessary and proper for the conduct of its business~~, and shall appoint persons licensed under the provisions of this chapter to serve--as--examining--assistants for--terms of three (3) years who shall assist the board in the administration of licensure examinations~~. The board shall annually elect a chairman, vice-chairman, and secretary from among its members. A majority of the members of the board shall constitute a quorum.

SECTION 12. That Section 54-832, Idaho Code, be, and the same is hereby amended to read as follows:

54-832. COMPENSATION AND EXPENSES OF BOARD MEMBERS. Each member of the board ~~and each examining assistant~~ shall be compensated as provided by section 59-509(n), Idaho Code.

SECTION 13. That Section 54-834, Idaho Code, be, and the same is hereby amended to read as follows:

54-834. RECORDS AND REPORTS. The board shall keep a permanent record of its proceedings and a register of all applications for registration or licensure, which register shall show~~:~~:

(a) the name, age, and residence of applicant;
(b) the date of the application;
(c) the location of applicant's place of occupation or business;
(d) the applicant's educational and other qualifications;
(e) whether registration or licensure was granted or denied;
(f) the dates of action by the board; and
(g) such other information as may be deemed necessary by the board.

The records of the board shall be kept in the bureau of occupational licenses offices, and the records of the board shall be prima facie evidence of the proceedings of the board set forth therein. A transcript of the board records, duly certified by the secretary of the board or the bureau chief, shall be admissible in evidence in place of, and with the same force and effect as, the original records.

SECTION 14. That Section 54-835, Idaho Code, be, and the same is hereby amended to read as follows:

54-835. JUDICIAL REVIEW. Any person who shall feel aggrieved by any action of the board in denying, suspending, or revoking his license ~~or certificate of registration~~ may seek judicial review of such action in accordance with the provisions of chapter 52, title 67, Idaho Code.

Approved March 14, 2008.

CHAPTER 87
(H.B. No. 376, As Amended)

AN ACT

RELATING TO COUNSELORS AND THERAPISTS; AMENDING SECTION 54-3401, IDAHO CODE, TO ADD TO AND REVISE DEFINITIONS; AMENDING SECTION 54-3402, IDAHO CODE, TO MAKE IT UNLAWFUL TO REPRESENT ONESELF AS A LICENSED ASSOCIATE MARRIAGE AND FAMILY THERAPIST WITHOUT FIRST OBTAINING A LICENSE; AMENDING CHAPTER 34, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-3405B, IDAHO CODE, TO PROVIDE FOR QUALIFICATIONS OF LICENSURE FOR ASSOCIATE MARRIAGE AND FAMILY THERAPISTS; AMENDING SECTION 54-3408, IDAHO CODE, TO MAKE IT UNLAWFUL AND PUNISHABLE AS A MISDEMEANOR TO REPRESENT ONESELF AS A LICENSED ASSOCIATE MARRIAGE AND FAMILY THERAPIST OR LICENSED MARRIAGE AND FAMILY THERAPIST WITHOUT HAVING FIRST COMPLIED WITH THE PROVISIONS OF THIS CHAPTER; AND AMENDING SECTION 54-3414, IDAHO CODE, TO REVISE POWERS AND DUTIES OF THE BUREAU OF OCCUPATIONAL LICENSES RELATING TO LICENSED ASSOCIATE MARRIAGE AND FAMILY THERAPISTS.

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

SECTION 1. That Section 54-3401, Idaho Code, be, and the same is hereby amended to read as follows:

54-3401. DEFINITIONS. As used in this chapter:

(1) "Board" means the Idaho state licensing board of professional counselors and marriage and family therapists.

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

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

(4) "Licensed associate marriage and family therapist" means any person licensed under this chapter as an associate marriage and family therapist to practice marriage and family therapy under supervision as set forth in this chapter.

(5) "Licensed marriage and family therapist" means any person licensed under this chapter to practice marriage and family therapy as defined in this chapter.

(5~~6~~) "Licensed professional counselor" means any person licensed under this chapter to practice professional counseling as defined in this chapter.

(6~~7~~) "Marriage and family therapy" means the evaluation and treatment of mental and emotional disorders, whether cognitive, affective or behavioral, within the context of marriage and family systems. Marriage and family therapy includes the professional application of psychotherapeutic and family systems theories and techniques in the delivery of services to individuals, couples and families for the purpose of treating nervous and mental disorders.

(7~~8~~) "Practice of marriage and family therapy" means the rendering of professional marriage and family therapy services to individuals, couples and families, singly or in groups, whether such services are offered directly to the general public or through organizations, either public or private. A licensed associate marriage and family therapist shall only practice marriage and family therapy under supervision as established in this chapter and rules of the board.

(8~~9~~) "Practice of professional counseling" means the application of mental health, psychological, and human development principles in order to facilitate human development and adjustment throughout the life span; prevent, assess, and treat mental, emotional or behavioral disorders and associated distresses which interfere with mental health; conduct assessments for the purpose of establishing treatment goals and objectives; and plan, implement and evaluate treatment plans using counseling treatment interventions. "Counseling treatment interventions" means the application of cognitive, affective, behavioral, and systemic counseling strategies, which include principles of development, wellness and pathology that reflect a pluralistic society. Such interventions are specifically implemented in the context of a professional counseling relationship.

The practice of professional counseling includes, but is not limited to:

(a) Individual, group, marriage and family counseling and therapy;

(b) Assessment;

(c) Crisis intervention;

(d) Treatment of persons with mental and emotional disorders;
(e) Guidance and consulting to facilitate normal growth and development, including educational and career development;
(f) Utilization of functional assessment and counseling for persons requesting assistance in adjustment to a disability or handicapping condition;
(g) Consulting;
(h) Research; and
(i) Referral.

The use of specific methods, techniques, or modalities within the practice of professional counseling is restricted to professional counselors appropriately trained in the use of such methods, techniques or modalities.

SECTION 2. That Section 54-3402, Idaho Code, be, and the same is hereby amended to read as follows:

54-3402. LICENSE REQUIRED -- EXEMPTIONS. It shall be unlawful for any person to engage in any of the following acts:

(1) To practice professional counseling or marriage and family therapy for compensation without first having complied with the provisions of this chapter and without a valid license as required by this chapter.

(2) To represent himself/herself to be a licensed professional counselor or licensed counselor or licensed marriage and family therapist <u>or licensed associate marriage and family therapist</u> unless he/she shall first obtain a license pursuant to this chapter.

(3) To make use of any title, words, letters or abbreviations which may reasonably be confused with a designation provided by this chapter.

(4) To materially refuse to furnish the board information or records required or requested pursuant to this chapter or pursuant to an investigation commenced pursuant to this chapter.

Nothing in this chapter shall be construed to apply to the activities and services of licensed or credentialed members of other professions, such as physicians, psychologists, registered nurses, social workers, drug and alcohol counselors, or attorneys performing duties consistent with the laws of this state, their training, and any code of ethics of their professions, provided they do not represent themselves by any title or practice description in the manner prescribed in section 54-3401, Idaho Code.

Nothing in this chapter shall be construed to apply to the activities, services and use of an official title on the part of a person certified by the state to render counseling or marriage and family therapy or counseling-related services, provided such persons are performing these activities within the scope of their employment, including school and vocational counselors.

Nothing in this chapter shall be construed to apply to the activities and services of a student or trainee pursuing a course of study in counseling or in marriage and family therapy in a regionally accredited institution of higher education or training institution, if these activities are performed under supervision and constitute a part of the supervised course of study, or of an intern in counseling acting under the direct supervision of a licensed professional counselor in private practice as established and limited by rules of the board, provided,

that such person be designated, for example, a "counselor intern" or "marriage and family therapy intern."

Nothing in this chapter shall be construed to apply to the activities and services of a person obtaining their postgraduate marriage and family therapy clinical experience, provided these activities are provided under supervision, and provided they have registered according to procedures to be established by the board.

Nothing in this chapter shall be construed to apply to a nonresident whose counseling or marriage and family therapy activities and services are rendered not more than ten (10) days during any calendar year, provided that such a person is duly authorized to perform such activities and services under the laws of the state or country of that person's residence.

Nothing in this chapter shall be construed to apply to the activities and services of any religious denomination or sect or faith-based counseling of any kind.

Nothing in this chapter shall be construed to apply to the activities and descriptions of persons offering volunteer or professional services for public and private nonprofit organizations or agencies for which the services are rendered.

SECTION 3. That Chapter 34, 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 54-3405B, Idaho Code, and to read as follows:

54-3405B. QUALIFICATIONS FOR LICENSURE. Licensure as a "licensed associate marriage and family therapist" shall be restricted to persons who have successfully completed each of the following requirements:

(1) A graduate degree which consists of at least sixty (60) semester hours or ninety (90) quarter credits in marriage and family therapy from a program accredited by the commission on accreditation for marriage and family therapy education, or a marriage and family counseling or therapy program which is accredited by the council for accreditation of counseling and related educational programs, or a graduate degree from a regionally accredited educational institution and an equivalent course of study as approved by the board. The course of study for any graduate degree shall include a minimum of thirty-nine (39) semester credits in the following areas:

(a) Marriage and family studies -- Nine (9) semester credit minimum. Studies in this area shall include:

(i) Theoretical foundations, history, philosophy, etiology and contemporary conceptual directions of marriage and family therapy or marriage and family counseling;

(ii) Family systems theories and other relevant theories and their application in working with a wide variety of family structures, including families in transition, nontraditional families and blended families, and a diverse range of presenting issues; and

(iii) Preventive approaches, including premarital counseling, parent skill training and relationship enhancement, for working with couples, families, individuals, subsystems and other systems.

(b) Marriage and family therapy -- Nine (9) semester credit minimum. Studies in this area shall include:

(i) The practice of marriage and family therapy related to theory, and a comprehensive survey and substantive understanding of the major models of marriage and family therapy or marriage and family counseling; and

(ii) Interviewing and assessment skills for working with couples, families, individuals, subsystems and other systems, and skills in the appropriate implementation of systematic interventions across a variety of presenting clinical issues including, but not limited to, socioeconomic disadvantage, abuse and addiction.

(c) Human development -- Nine (9) semester credit minimum. Studies in this area shall include:

(i) Individual development and transitions across the life span;

(ii) Family, marital and couple life cycle development and family relationships, family of origin and intergenerational influences, cultural influences, ethnicity, race, socioeconomic status, religious beliefs, gender, sexual orientation, social and equity issues and disability;

(iii) Human sexual development, function and dysfunction, impacts on individuals, couples and families, and strategies for intervention and resolution; and

(iv) Issues of violence, abuse and substance use in a relational context, and strategies for intervention and resolution.

(d) Psychological and mental health competency -- Six (6) semester credit minimum. Studies in this area shall include:

(i) Psychopathology, including etiology, assessment, evaluation and treatment of mental disorders, use of the current diagnostic and statistical manual of mental disorders, differential diagnosis and multiaxial diagnosis;

(ii) Standard mental health diagnostic assessment methods and instruments, including standardized tests; and

(iii) Psychotropic medications and the role of referral to and cooperation with other mental health practitioners in treatment planning, and case management skills for working with individuals, couples and families.

(e) Professional ethics and identity -- Three (3) semester credit minimum. Studies in this area shall include:

(i) Professional identity, including professional socialization, professional organizations, training standards, credentialing bodies, licensure, certification, practice settings and collaboration with other disciplines;

(ii) Ethical and legal issues related to the practice of marriage and family therapy, legal responsibilities of marriage and family therapy and marriage and family counseling practice and research, business aspects, reimbursement, recordkeeping, family law, confidentiality issues and the relevant codes of ethics, including the code of ethics specified by the board; and

(iii) The interface between therapist responsibility and the professional, social and political context of treatment.

(f) Research -- Three (3) semester credit minimum. Studies in this area shall include:

(i) Research in marriage and family therapy or marriage and family counseling and its application to working with couples and families; and

(ii) Research methodology, quantitative and qualitative methods, statistics, data analysis, ethics and legal considerations of conducting research, and evaluation of research.

(2) Completion of a one (1) year practicum of supervised marriage and family therapy experience, consisting of a minimum of three hundred (300) direct client contact hours, of which one hundred fifty (150) hours shall be with couples or families, as part of the graduate program.

(3) Successful completion of a written examination as approved by the board and defined by rule.

(4) A license will not be allowed an individual whose license, certification or registration has been revoked or suspended in this or any other state and in this or any other related field. Such an individual may not be licensed under this chapter unless the period of revocation or suspension has been completed and the board has conducted a competency review and determined that an acceptable degree of rehabilitation has been accomplished.

SECTION 4. That Section 54-3408, Idaho Code, be, and the same is hereby amended to read as follows:

54-3408. CERTAIN ACTS PROHIBITED. The following acts shall be unlawful and punishable as a misdemeanor:

(1) The violation of any of the provisions of this chapter and any rules promulgated pursuant thereto;

(2) A person representing himself to be a licensed counselor or licensed professional counselor or licensed associate marriage and family therapist or licensed marriage and family therapist without having first complied with the provisions of this chapter;

(3) A person who shall practice or attempt to offer to practice professional counseling or marriage and family therapy, as defined in this chapter, without having at the time of so doing, a valid, unexpired, unrevoked and unsuspended license issued under this chapter or the laws of Idaho or any other state governing mental health professionals.

SECTION 5. That Section 54-3414, Idaho Code, be, and the same is hereby amended to read as follows:

54-3414. POWERS AND DUTIES OF BUREAU OF OCCUPATIONAL LICENSES. The bureau of occupational licenses shall have the following powers and duties:

(1) To accept applications for and issue licenses to counselors, associate marriage and family therapists, and marriage and family therapists pursuant to requirements of this chapter.

(2) To maintain in a registry appropriate for that purpose a public record of all applications for licenses, the action of the department thereon, of all licenses issued and of all licenses revoked or forfeited with the reasons for such revocation or forfeiture and of all renewals.

(3) To forward complaints against a licensed professional counselor, a licensed associate marriage and family therapist or a

licensed marriage and family therapist to the state licensing board for review and investigation.

(4) To assist in the investigation and prosecution of complaints filed against a licensed counselor or a licensed marriage and family therapist or a licensed associate marriage and family therapist under section 54-3408, Idaho Code.

(5) At the discretion of the chief of the bureau and upon apparent failure or refusal of the state licensing board to investigate or prosecute a complaint against a licensed counselor or a licensed marriage and family therapist or a licensed associate marriage and family therapist, to investigate the complaint and forward the report of investigation to the state licensing board and upon apparent failure or refusal of the state licensing board to take further action, to file an action in the district court under section 54-3408, Idaho Code, against a licensed counselor or a licensed marriage and family therapist or a licensed associate marriage and family therapist violating the terms of this chapter.

Approved March 14, 2008.

CHAPTER 88
(H.B. No. 408, As Amended)

AN ACT

RELATING TO LAW ENFORCEMENT; AMENDING SECTION 18-915, IDAHO CODE, TO PROHIBIT ASSAULT OR BATTERY UPON A MISDEMEANOR PROBATION OFFICER; AMENDING CHAPTER 39, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-3947, IDAHO CODE, TO PROVIDE FOR COUNTY MISDEMEANOR PROBATION OFFICE SERVICES; AMENDING SECTION 19-5101, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 19-5109, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO AUTHORIZE THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL TO ESTABLISH STANDARDS FOR MISDEMEANOR PROBATION OFFICERS; AMENDING CHAPTER 8, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-878, IDAHO CODE, TO PROVIDE FOR MISDEMEANOR PROBATION SERVICES; AND AMENDING SECTION 31-3201D, IDAHO CODE, TO REVISE A FEE AND TO REVISE FEE DISTRIBUTION.

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

SECTION 1. That Section 18-915, Idaho Code, be, and the same is hereby amended to read as follows:

18-915. ASSAULT OR BATTERY UPON CERTAIN PERSONNEL -- PUNISHMENT. Any person who commits a crime provided for in this chapter against or upon a justice, judge, magistrate, prosecuting attorney, public defender, peace officer, bailiff, marshal, sheriff, police officer, correctional officer, employee of the department of correction, employee of a private prison contractor while employed at a private correctional facility in the state of Idaho, employees of the department of water resources authorized to enforce the provisions of chapter 38, title 42, Idaho Code, jailer, parole officer, misdemeanor probation officer, officer of the Idaho state police, fireman, social caseworkers or social

work specialists of the department of health and welfare, employee of a state secure confinement facility for juveniles, employee of a juvenile detention facility, a teacher at a detention facility or a juvenile probation officer, emergency medical technician certified by the department of health and welfare, emergency medical technician-ambulance certified by the department of health and welfare, advanced emergency medical technician and EMT-paramedic certified by the state board of medicine, a member, employee or agent of the state tax commission, United States marshal, or federally commissioned law enforcement officer or their deputies or agents and the perpetrator knows or has reason to know of the victim's status, the punishment shall be as follows:

(a) For committing battery with intent to commit a serious felony the punishment shall be imprisonment in the state prison not to exceed twenty-five (25) years.

(b) For committing any other crime in this chapter the punishment shall be doubled that provided in the respective section, except as provided in subsections (c) and (d) of this section.

(c) For committing a violation of the provisions of section 18-901 or 18-903, Idaho Code, against the person of a justice, judge or magistrate, jailer or correctional officer or other staff of the department of correction, or a county jail, or of a private correctional facility, or of an employee of a state secure confinement facility for juveniles, an employee of a juvenile detention facility, a teacher at a detention facility, misdemeanor probation officer or a juvenile probation officer and the person committing the offense knows or reasonably should know that such victim is a justice, judge or magistrate, jailer or correctional officer or other staff of the department of correction, or of a private correctional facility, an employee of a state secure confinement facility for juveniles, an employee of a juvenile detention facility, a teacher at a detention facility, misdemeanor probation officer or a juvenile probation officer because of the victim's former or present official status, and the victim is engaged in the performance of his duties, the offense shall be a felony punishable by imprisonment in a correctional facility for a period of not more than five (5) years, and said sentence shall be served consecutively to any sentence being currently served.

(d) For committing a violation of the provisions of section 18-903, Idaho Code, except unlawful touching as described in section 18-903(b), Idaho Code, against the person of a peace officer, sheriff or police officer because of the victim's former or present official status, the offense shall be a felony punishable by imprisonment in a correctional facility for a period of not more than five (5) years, and said sentence shall be served consecutively to any sentence being currently served.

SECTION 2. That Chapter 39, Title 19, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 19-3947, Idaho Code, and to read as follows:

19-3947. COUNTY MISDEMEANOR PROBATION OFFICE SERVICES. Misdemeanor probation office services shall be as provided in section 31-878, Idaho Code.

SECTION 3. That Section 19-5101, Idaho Code, be, and the same is hereby amended to read as follows:

19-5101. DEFINITIONS. As used in this act:

(a) "Council" means the Idaho peace officer standards and training council.

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

(c) "Law enforcement" means any and all activities pertaining to crime prevention or reduction and law enforcement, including police, courts, prosecution, corrections, probation, rehabilitation, and juvenile delinquency.

(d) "Peace officer" means any employee of a police or law enforcement agency which is a part of or administered by the state or any political subdivision thereof and whose duties include and primarily consist of the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision. "Peace officer" also means an employee of a police or law enforcement agency of a federally recognized Indian tribe who has satisfactorily completed the peace officer standards and training academy and has been deputized by a sheriff of a county or a chief of police of a city of the state of Idaho.

(e) "Political subdivision" means any city or county.

SECTION 4. That Section 19-5109, Idaho Code, be, and the same is hereby amended to read as follows:

19-5109. POWERS OF THE COUNCIL -- STANDARDS OF TRAINING, EDUCATION AND EMPLOYMENT OF PEACE OFFICERS — CERTIFICATION -- PENALTIES. (1) It shall be the duty of and the council shall have the power:

(a) To establish the requirements of minimum basic training which peace officers shall complete in order to be eligible for permanent employment as peace officers, and the time within which such basic training must be completed. One (1) component of minimum basic training shall be a course in the investigation of and collection of evidence in cases involving an allegation of sexual assault or battery.

(b) To establish the requirements of minimum education and training standards for employment as a peace officer in probationary, temporary, part-time, and/or emergency positions.

(c) To establish the length of time a peace officer may serve in a probationary, temporary, and/or emergency position.

(d) To approve, deny approval or revoke the approval of any institution or school established by the state or any political subdivision or any other party for the training of peace officers.

(e) To establish the minimum requirements of courses of study, attendance, equipment, facilities of all approved schools, and the scholastic requirement, experience and training of instructors at all approved schools.

(f) To establish such other requirements for employment, retention and promotion of peace officers, including minimum age, physical and mental standards, citizenship, moral character, experience and such other matters as relate to the competence and reliability of peace officers.

(g) To certify peace officers as having completed all requirements established by the council in order to be eligible for permanent employment as peace officers in this state.

(h) To receive and file for record copies of merit regulations or local ordinances passed by any political subdivision.

(i) To maintain permanent files and transcripts for all peace officers certified by the council to include any additional courses or advance courses of instruction successfully completed by such peace officers while employed in this state.

(j) To allow a peace officer of a federally recognized Indian tribe within the boundaries of this state to attend the peace officer standards and training academy if said peace officer meets minimum physical and educational requirements of the academy. The Indian tribal law enforcement agency shall reimburse the peace officer standards and training academy for the officer's training. Upon satisfactory completion of the peace officer standards and training academy, the tribal peace officer shall receive a certificate of satisfactorily completing the academy.

(2) After January 1, 1974, any peace officer as defined in section 19-5101(d), Idaho Code, employed after January 1, 1974, except any elected official or deputy serving civil process, the deputy director of the Idaho state police, or any person serving under a temporary commission with any law enforcement agency in times of natural or man-caused disaster declared to be an emergency by the board of county commissioners or by the governor of the state of Idaho, or those peace officers whose primary duties involve motor vehicle parking and animal control pursuant to city or county ordinance, or any peace officer acting under a special deputy commission from the Idaho state police, shall be certified by the council within one (1) year of employment; provided, however, that the council may establish criteria different than that required of other peace officers for certification of city police chiefs or administrators within state agencies having law enforcement powers, who, because of the number of full-time peace officers they supervise, have duties which are primarily administrative. Any such chief of police or state agency administrator employed in such capacity prior to July 1, 1987, shall be exempt from certification.

(3) No peace officer shall have or exercise any power granted by any statute of this state to peace officers unless such person shall have been certified by the council within one (1) year of the date upon which such person commenced employment as a peace officer, except in cases where the council, for good cause and in writing, has granted additional time to complete such training. The council shall decertify any officer who is convicted of any felony or offense which would be a felony if committed in this state. The council may decertify any officer who:

(a) Is convicted of any misdemeanor;

(b) Willfully or otherwise falsifies or omits any information to obtain any certified status; or

(c) Violates any of the standards of conduct as established by the council's code of ethics, as adopted and amended by the council.

All proceedings taken by the council shall be conducted in accordance with chapter 52, title 67, Idaho Code.

(4) Any law enforcement agency as defined in section 19-5101(c), Idaho Code, in which any peace officer shall resign as a result of any

disciplinary action or in which a peace officer's employment is terminated as a result of any disciplinary action, shall, within fifteen (15) days of such action, make a report to the council.

(5) The council shall, pursuant to the requirements of this section, establish minimum basic training and certification standards for county detention officers that can be completed within one (1) year of employment as a county detention officer.

(6) The council may, upon recommendation of the juvenile training council and pursuant to the requirements of this section, implement minimum basic training and certification standards for juvenile detention officers, juvenile probation officers, and employees of the Idaho department of juvenile corrections who are engaged in the direct care and management of juveniles.

(7) The council may, upon recommendation of the correction standards and training ~~counsel~~ council, and pursuant to the requirements of this section, establish minimum basic training and certification standards for state correction officers and for adult probation and parole officers.

(8) The council may, upon recommendation of a probation training advisory committee and pursuant to the requirements of this section, establish minimum basic training and certification standards for misdemeanor probation officers.

(9) The council may reject any applicant for certification who has been convicted of a misdemeanor, and the council shall reject an applicant for certification who has been convicted of a felony, the punishment for which could have been imprisonment in a federal or state penal institution.

(910) As used in this section, "convicted" means a plea or finding of guilt, notwithstanding the form of judgment or withheld judgment, regardless of whether the sentence is imposed, suspended, deferred or withheld, and regardless of whether the plea or conviction is set aside or withdrawn or the case is dismissed or reduced under section 19-2604, Idaho Code, or any other comparable statute or procedure where the setting aside of the plea or conviction, or dismissal or reduction of the case or charge, is based upon lenity or the furtherance of rehabilitation rather than upon any defect in the legality or factual basis of the plea, finding of guilt or conviction.

SECTION 5. That Chapter 8, Title 31, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 31-878, Idaho Code, and to read as follows:

31-878. MISDEMEANOR PROBATION SERVICES. The county commissioners shall provide for misdemeanor probation services to supervise misdemeanor offenders, in those cases where such probation supervision has been ordered by the sentencing court, and perform such functions as prescribed by the administrative district judge in each judicial district. Counties shall not be obligated to provide misdemeanor probation services beyond the funds generated by the fees collected pursuant to the provisions of section 31-3201D, Idaho Code, and any additional funds that may be annually appropriated by the board of county commissioners.

SECTION 6. That Section 31-3201D, Idaho Code, be, and the same is hereby amended to read as follows:

31-3201D. COUNTY MISDEMEANOR PROBATION SUPERVISION FEE. (1) Any person under a supervised probation program for a misdemeanor offense shall be required to pay an amount not more than ~~thirty-five--dollars ($35.00)~~ the maximum monthly felony probation or parole supervision fee set forth in section 20-225, Idaho Code, per month, or such lesser sum as determined by the administrative judge of the judicial district, as a misdemeanor probation supervision fee. Any failure to pay such fee shall constitute grounds for the revocation of probation by the court, but this shall not be the exclusive remedy for its collection. The court for good cause may exempt a person from the payment of all or any part of the foregoing fee.

(2) ~~The--fee--imposed~~ Any fee paid under this section on or after July 1, 2008, and regardless of whether the underlying judgment of conviction, withheld judgment or order imposing probation was entered before or after that date, shall be paid to the clerk of the district court, ~~for--deposit~~ who shall pay the first one dollar ($1.00) of each monthly payment to the state treasurer for deposit in the peace officers standards and training fund authorized in section 19-5116, Idaho Code, to help offset the costs to counties for the basic training and continuing education of misdemeanor probation officers; the clerk of the district court shall deposit the remainder of each monthly payment into the county misdemeanor probation fund which is hereby created in each county, or at the option of the board of county commissioners, deposited in the county justice fund to be used for the purposes described in this section. Moneys from this fee may be accumulated from year to year and shall be expended exclusively for county misdemeanor probation services and related purposes.

Approved March 14, 2008.

CHAPTER 89
(H.B. No. 414)

AN ACT

RELATING TO STATE EMPLOYEES; AMENDING SECTION 67-5303, IDAHO CODE, TO PROVIDE THAT CERTAIN EMPLOYEES AND THEIR SUPERVISORS HIRED TO CONDUCT ACTIVITIES UNDER THE IDAHO PLANT PEST ACT SHALL BE CONSIDERED NONCLASSIFIED EMPLOYEES AND TO DELETE OBSOLETE LANGUAGE.

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

SECTION 1. That Section 67-5303, Idaho Code, be, and the same is hereby amended to read as follows:

67-5303. APPLICATION TO STATE EMPLOYEES. All departments of the state of Idaho and all employees in such departments, except those employees specifically defined as nonclassified, shall be classified employees, who are subject to this chapter and to the system of personnel administration which it prescribes. Nonclassified employees shall be:

(a) Members of the state legislature and all other officers of the state of Idaho elected by popular vote, and persons appointed to fill

vacancies in elective offices, and employees of the state legislature.

(b) Members of statutory boards and commissions and heads of departments appointed by and serving at the pleasure of the governor, deputy directors appointed by the director and members of advisory boards and councils appointed by the departments.

(c) All employees and officers in the office, and at the residence, of the governor; and all employees and officers in the offices of the lieutenant governor, secretary of state, attorney general, state treasurer, state controller, and state superintendent of public instruction who are appointed on and after the effective date of this chapter.

(d) Except as otherwise provided by law, not more than one (1) declared position for each board or commission and/or head of a participating department in addition to those declared to be nonclassified by other provisions of law.

(e) Part-time professional consultants who are paid on a fee basis for any form of legal, medical or other professional service, and who are not engaged in the performance of administrative duties for the state.

(f) Judges, temporary referees, receivers and jurors.

(g) All employees of the Idaho supreme court, Idaho court of appeals and district courts.

(h) All employees of the Idaho state bar.

(i) Assistant attorneys general attached to the office of the attorney general.

(j) Officers, members of the teaching staffs of state educational institutions, the professional staff of the Idaho department of education administered by the board of regents and the board of education, and the professional staffs of the Idaho division of professional-technical education and vocational rehabilitation administered by the state board for professional-technical education. "Teaching staff" includes teachers, coaches, resident directors, librarians and those principally engaged in academic research. The word "officer" means presidents, vice presidents, deans, directors, or employees in positions designated by the state board who receive an annual salary of not less than step "A" of the pay grade equivalent to three hundred fifty-five (355) Hay points in the state compensation schedule. A nonclassified employee who is designated as an "officer" on July 5, 1991, but does not meet the requirements of this subsection, may make a one (1) time irrevocable election to remain nonclassified. Such an election must be made not later than August 2, 1991. When such positions become vacant, these positions will be reviewed and designated as either classified or nonclassified in accordance with this subsection.

(k) Employees of the military division.

(l) Patients, inmates or students employed in a state institution.

(m) Persons employed in positions established under federal grants, which, by law, restrict employment eligibility to specific individuals or groups on the basis of nonmerit selection requirements. Such employees shall be termed "project exempt" and the tenure of their employment shall be limited to the length of the project grant, or twenty-four (24) months, or four thousand one hundred sixty (4,160) hours of credited state service, whichever is of the shortest duration. No person hired on a project-exempt appointment shall be employed in any position allocated to the classified service.

(n) Temporary employees.

(o) All employees and officers of the following named commodity commissions, and all employees and officers of any commodity commission created hereafter: the Idaho potato commission, as provided in chapter 12, title 22, Idaho Code; the Idaho honey advertising commission, as provided in chapter 28, title 22, Idaho Code; the Idaho bean commission, as provided in chapter 29, title 22, Idaho Code; ~~the Idaho prune commission, as provided in chapter 30, title 22, Idaho Code;~~ the Idaho hop grower's commission, as provided in chapter 31, title 22, Idaho Code; the Idaho wheat commission, as provided in chapter 33, title 22, Idaho Code; the Idaho pea and lentil commission, as provided in chapter 35, title 22, Idaho Code; the Idaho apple commission, as provided in chapter 36, title 22, Idaho Code; the Idaho cherry commission, as provided in chapter 37, title 22, Idaho Code; the Idaho mint grower's commission, as provided in chapter 38, title 22, Idaho Code; the state board of sheep commissioners, as provided in chapter 1, title 25, Idaho Code; the state brand inspector, and all district supervisors, as provided in chapter 11, title 25, Idaho Code; the Idaho beef council, as provided in chapter 29, title 25, Idaho Code; and the Idaho dairy products commission, as provided in chapter 31, title 25, Idaho Code.

(p) All inspectors of the fresh fruit and vegetable inspection service of the Idaho department of agriculture, except those positions involved in the management of the program.

(q) All employees of correctional industries within the department of correction.

(r) All deputy administrators and wardens employed by the department of correction. Deputy administrators are defined as only the six (6) deputy administrators working directly for the two (2) nonclassified division administrators under the director of the department of correction.

(s) All public information positions with the exception of secretarial positions, in any department.

(t) Any division administrator.

(u) Any regional administrator or division administrator in the department of environmental quality.

(v) All employees of the division of financial management.

(w) All employees of the Idaho food quality assurance institute.

(x) The state appellate public defender, deputy state appellate public defenders and all other employees of the office of the state appellate public defender.

(y) All quality assurance specialists or medical investigators of the Idaho board of medicine.

(z) All pest survey and detection employees and their supervisors hired specifically to carry out activities under the Idaho plant pest act, chapter 20, title 22, Idaho Code, including but not limited to pest survey, detection and eradication, except those positions involved in the management of the program.

Approved March 14, 2008.

CHAPTER 90
(H.B. No. 431)

AN ACT
RELATING TO THE SMALL EMPLOYER INCENTIVE ACT OF 2005; AMENDING SECTION 63-4402, IDAHO CODE, TO REVISE THE DEFINITION OF "TAX INCENTIVE CRITERIA."

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

SECTION 1. That Section 63-4402, Idaho Code, be, and the same is hereby amended to read as follows:

63-4402. DEFINITIONS. (1) The definitions contained in the Idaho income tax act, shall apply to this chapter unless modified in this chapter or unless the context clearly requires another definition.

(2) As used in this chapter:

(a) "Commission" means the Idaho state tax commission.

(b) "New plant and building facilities" means facility or facilities, including related parking facilities, where employees are physically employed.

(c) "Idaho income tax act" means chapter 30, title 63, Idaho Code.

(d) "Investment in new plant" means investment in new plant and building facilities that are:

(i) Qualified investments; or

(ii) Buildings or structural components of buildings.

(e) "New employee":

(i) Means an individual, employed primarily within the project site by the taxpayer, subject to Idaho income tax withholding whether or not any amounts are required to be withheld, covered for unemployment insurance purposes under chapter 13, title 72, Idaho Code, and who was eligible to receive employer provided coverage under a health benefit plan as described in section 41-4703, Idaho Code, during the taxable year. A person shall be deemed to be so employed if such person performs duties on a regular full-time basis.

(ii) The number of employees employed primarily within the project site by the taxpayer, during any taxable year for a taxpayer shall be the mathematical average of the number of such employees reported to the Idaho department of labor for employment security purposes during the twelve (12) months of the taxable year which qualified under paragraph (e)(i) of this subsection (2). In the event the business is in operation for less than the entire taxable year, the number of employees of the taxpayer for the year shall be the average number actually employed during the months of operation, provided that the qualifications of paragraph (e)(i) of this subsection (2) are met.

(iii) Existing employees of the taxpayer who obtain new qualifying positions within the project site and employees transferred from a related taxpayer or acquired as part of the acquisition of a trade or business from another taxpayer within the prior twelve (12) months are not included in this defini-

tion unless the new position or transfer creates a net new job in Idaho.

(f) "Project period" means the period of time beginning at the earlier of a physical change to the project site or the first employment of new employees located in Idaho who are related to the activities at the project site, but no earlier than January 1, 2006, and ending when the facilities constituting the project are placed in service, but no later than December 31, 2010.

(g) "Project site" means an area or areas at which new plant and building facilities are located and at which the tax incentive criteria have been or will be met and which are either:

(i) A single geographic area located in this state at which the new plant and building facilities owned or leased by the taxpayer are located; or

(ii) One (1) or more geographic areas located in this state if eighty percent (80%) or more of the investment required by subsection (2)(j)(i) of this section is made at one (1) of the areas.

(iii) The project site must be identified and described to the commission by a taxpayer subject to tax under the Idaho income tax act, in the form and manner prescribed by the commission.

(h) "Qualified investment" shall be defined as in section 63-3029B, Idaho Code.

(i) "Recapture period" means:

(i) In the case of credits described in sections 63-4403 and 63-4404, Idaho Code, the same period for which a recapture of investment tax credit under section 63-3029B, Idaho Code, is required; or

(ii) In the case of credits described in section 63-4405, Idaho Code, five (5) years from the date the project period ends.

(j) "Tax incentive criteria" means a taxpayer meeting at a project site the requirements of subparagraphs (i) and (ii) of this paragraph (j).

(i) During the project period, making capital investments in new plant of at least five hundred thousand dollars ($500,000) at the project site.

(ii) During a period of time beginning on January 1, 2006, and ending at the conclusion of the project period:

1. Increasing employment at the project site by at least ten (10) new employees each of whom must earn at least nineteen dollars and twenty-three cents ($19.23) per hour worked during the taxpayer's taxable year.

2. Employment increases above the ten (10) new employees described in subparagraph (ii)1. of this paragraph (j) at the project site shall on average earn at least fifteen dollars and fifty cents ($15.50) per hour worked during the taxpayer's taxable year. Calculation of the group average earnings shall not include amounts paid to any employee earning more than forty-eight dollars and eight cents ($48.08) per hour. ~~or--less--than-twelve-dollars ($12.00)-per-hour-worked--during--the--taxpayer's--taxable year.--The--denominator--of--this-calculation-shall-be-the number-of-new-job-positions-filled-that-pay-less-than-for-~~

~~ty-eight-dollars-and-eight-cents-($48.08)-per-hour--worked during-the-taxpayer's-taxable-year.~~

3. Earnings calculated pursuant to subparagraph (ii) of this paragraph (j) shall include income upon which Idaho income tax withholding is required under section 63-3035, Idaho Code, but shall not include income such as stock options or restricted stock grants.

4. For purposes of determining whether the increased employment threshold has been met, employment at the project site shall be determined by calculating the increase of such new employees reported to the Idaho department of labor for employment security purposes over the employees so reported as of the beginning of the project period or no earlier than January 1, 2006, whichever is larger; and

5. Maintaining net increased employment in Idaho required by subparagraph (ii) of this paragraph (j) during the remainder of the project period.

(k) "Taxpayer," for purposes of paragraphs (j) and (e) of this subsection (2), means either:

(i) A single taxpayer; or

(ii) In the context of a unitary group filing a combined report under section 63-3027(t), Idaho Code, all members of a unitary group includable in a combined report for the tax years in which the credit provided for by this chapter may be claimed. For all other purposes, the terms of section 63-3009, Idaho Code, and section 63-3027(t)(1), Idaho Code, apply to the meaning of "taxpayer."

Approved March 14, 2008.

CHAPTER 91
(H.B. No. 443)

AN ACT

RELATING TO THE IDAHO HOSPITAL ASSESSMENT ACT; AMENDING TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 14, TITLE 56, IDAHO CODE, TO PROVIDE A SHORT TITLE AND TO SET FORTH LEGISLATIVE INTENT, TO DEFINE TERMS, TO ESTABLISH THE HOSPITAL ASSESSMENT FUND, TO PROVIDE FOR ASSESSMENTS, TO PROVIDE FOR A REVIEW OF THE ANNUAL ASSESSMENT AMOUNT, TO PROVIDE FOR INPATIENT AND OUTPATIENT ADJUSTMENT PAYMENTS, TO PROVIDE FOR TIMING OF PAYMENTS AND ASSESSMENTS, TO PROVIDE FOR EXEMPTIONS, TO PROVIDE FOR MULTIHOSPITAL LOCATIONS, HOSPITAL CLOSURES AND NEW HOSPITALS AND TO PROVIDE APPLICABILITY; AND PROVIDING A SUNSET DATE.

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

SECTION 1. That Title 56, 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 56, Idaho Code, and to read as follows:

CHAPTER 14
IDAHO HOSPITAL ASSESSMENT ACT

56-1401. SHORT TITLE -- LEGISLATIVE INTENT. (1) This chapter shall be known and may be cited as the "Idaho Hospital Assessment Act."

(2) It is the intent of the legislature to encourage the maximization of financial resources eligible and available for medicaid services by establishing a fund within the Idaho department of health and welfare to receive private hospital assessments to use in securing federal matching funds under federally prescribed upper payment limit programs available through the state medicaid plan.

56-1402. DEFINITIONS. As used in this chapter:

(1) "Governmental entity" means and includes the state and its political subdivisions.

(2) "Hospital" is as defined in section 39-1301(a), Idaho Code.

(3) "Political subdivision" means a county, city, municipal corporation or hospital taxing district and, as used in this chapter, shall include state licensed hospitals established by counties pursuant to chapter 36, title 31, Idaho Code, or jointly by cities and counties pursuant to chapter 37, title 31, Idaho Code.

(4) "Private hospital" means a hospital that is not owned by a governmental entity.

(5) "Upper payment limit" means a limitation established by federal regulations, 42 CFR 447.272 and 42 CFR 447.321, that disallows federal matching funds when state medicaid agencies pay certain classes of hospitals an aggregate amount for inpatient and outpatient hospital services that would exceed the amount that would be paid for the same services furnished by that class of hospitals under medicare payment principles.

56-1403. HOSPITAL ASSESSMENT FUND ESTABLISHED. (1) There is hereby created in the office of the state treasurer a dedicated fund to be known as the hospital assessment fund, hereinafter "fund," to be administered by the department of health and welfare, hereinafter "department." The state treasurer shall invest idle moneys in the fund and any interest received on those investments shall be returned to the fund.

(2) Moneys in the fund shall consist of:

(a) All moneys collected or received by the department from hospital assessments required by this chapter;

(b) All federal matching funds received by the department as a result of expenditures made by the department that are attributable to moneys deposited in the fund;

(c) Any interest or penalties levied in conjunction with the administration of this chapter; and

(d) Any appropriations, federal funds, donations, gifts or moneys from any other sources.

(3) The fund is created for the purpose of receiving moneys in accordance with this section and section 56-1404, Idaho Code. The fund shall not be used to replace any moneys appropriated to the Idaho medical assistance program by the legislature. Moneys in the fund shall be distributed by the department subject to appropriation for the following purposes only:

(a) Payments to hospitals as required under Idaho's medical assistance program as set forth in sections 56-209b through 56-209d, Idaho Code;
(b) Reimbursement of moneys collected by the department from hospitals through error or mistake in performing the activities authorized under Idaho's medical assistance program;
(c) Payments of administrative expenses incurred by the department or its agent in performing the activities authorized by this chapter;
(d) Payments made to the federal government to repay excess payments made to hospitals from the fund if the assessment plan is deemed out of compliance and after the state has appealed the findings. Hospitals shall refund the payments in question to the assessment fund. The state in turn shall return funds to both the federal government and hospital providers in the same proportion as the original financing. Individual hospitals shall be reimbursed based on the proportion of the individual hospital's assessment to the total assessment paid by all hospitals. If a hospital is unable to refund payments, the state shall develop a payment plan and deduct moneys from future medicaid payments;
(e) Transfers to any other fund in the state treasury, provided such transfers shall not exceed the amount transferred previously from that other fund into the hospital assessment fund; and
(f) Making refunds to hospitals pursuant to section 56-1410, Idaho Code.

56-1404. ASSESSMENTS. (1) All hospitals, except those exempted under section 56-1408, Idaho Code, shall make payments to the fund in accordance with this chapter. Subject to section 56-1410, Idaho Code, an annual assessment on both inpatient and outpatient services is determined for each qualifying hospital for state fiscal years 2009, 2010 and 2011, in an amount calculated by multiplying the rate, as set forth in subsection (3) of this section, by the assessment base, as set forth in subsection (4) of this section.

(2) The department shall calculate the private hospital upper payment limit gap for both inpatient and outpatient services. The upper payment limit gap is the difference between the maximum allowable payments eligible for federal match, less medicaid payments not financed using hospital assessment funds. The upper payment limit gap shall be calculated separately for hospital inpatient and outpatient services. Medicaid disproportionate share payments shall be excluded from the calculation.

(3) The department shall calculate the assessment rate for state fiscal years 2009, 2010 and 2011 to be the percentage that, when multiplied by the assessment base as defined in subsection (4) of this section, equals the upper payment limit gap determined in subsection (2) of this section, but is not greater than one and one-half percent (1.5%).

(4) The assessment base shall be the hospital's net patient revenue for the applicable period. "Net patient revenue" for state fiscal year 2009 shall be determined using the most recent data available from each hospital's fiscal year 2004 medicare cost report on file with the department on June 30, 2008, without regard to any subsequent adjustments or changes to such data. Net patient revenue for state fiscal year 2010 shall be determined using the most recent data available for each

hospital's fiscal year 2005 medicare cost report on file with the department on June 30, 2009, without regard to any subsequent adjustments or changes to such data. Net patient revenue for state fiscal year 2011 shall be determined using the most recent data available from each hospital's fiscal year 2006 medicare cost report on file with the department on June 30, 2010, without regard to any subsequent adjustments or changes to such data.

56-1405. REVIEW OF ANNUAL ASSESSMENT AMOUNT. Each state fiscal year, hospitals shall have at least thirty (30) days prior to implementation to review and verify the assessment base, rate, and the estimated assessment amount.

56-1406. INPATIENT AND OUTPATIENT ADJUSTMENT PAYMENTS. All hospitals, except those exempted under section 56-1408, Idaho Code, shall be eligible for inpatient and outpatient adjustments as follows:

(1) For state fiscal year 2009, the inpatient upper payment limit gap for private hospitals shall be divided by medicaid inpatient days for the same hospitals from calendar year 2007 to establish an average per diem adjustment rate. Each hospital shall receive an annual payment that is equal to the average per diem adjustment rate multiplied by the hospital's calendar year 2007 medicaid inpatient days. For purposes of this section, "hospital medicaid inpatient days" are days of inpatient hospitalization paid for by the Idaho medical assistance program for the applicable calendar year. For fiscal year 2010, calendar year 2008 inpatient hospital medicaid days shall be utilized to determine the hospital inpatient adjustment payment. For state fiscal year 2011, calendar year 2009 hospital medicaid inpatient days shall be utilized to determine the hospital inpatient adjustment payment. In the event that either the inpatient upper payment limit gap for private hospitals or the available hospital assessment funding is lower than anticipated, the department shall apply an across-the-board factor such that the inpatient payment adjustments are maximized, financed entirely from hospital assessment funding, and do not exceed the Idaho inpatient upper payment limit for private hospitals. Payments shall be made no later than seven (7) days after the due date for the hospital assessment required in section 56-1404, Idaho Code.

(2) For state fiscal year 2009, the outpatient upper payment limit gap for private hospitals shall be divided by medicaid outpatient hospital reimbursement for the same hospitals from calendar year 2007 to establish an average percentage adjustment rate. Each hospital, except those exempt under section 56-1408, Idaho Code, shall receive an annual payment that is equal to the average percentage adjustment rate multiplied by the hospital's calendar year 2007 hospital medicaid outpatient reimbursement. For purposes of this section, "hospital outpatient reimbursement" is reimbursement for hospital outpatient services paid for by the Idaho medical assistance program for the applicable calendar year. For state fiscal year 2010, calendar year 2008 hospital medicaid outpatient reimbursement shall be utilized to determine the outpatient hospital adjustment payment. For state fiscal year 2011, calendar year 2009 hospital medicaid outpatient reimbursement shall be utilized to determine the outpatient hospital adjustment payment. In the event that either the outpatient upper payment limit gap for private hospitals or the available hospital assessment funding is lower than anticipated, the

department shall apply an across-the-board factor, such that outpatient adjustment payments are maximized, financed entirely from hospital assessment funding, and do not exceed the Idaho outpatient upper payment limit for private hospitals. Payments shall be made no later than seven (7) days after the due date for the hospital assessments required in section 54-1404, Idaho Code.

56-1407. TIMING OF PAYMENTS AND ASSESSMENTS. (1) The department shall establish an annual assessment schedule for all payments created under this chapter.

(2) If a hospital fails to pay the full amount of an installment when due, including any extensions granted, there shall be added to the assessment imposed by section 56-1404, Idaho Code, unless waived by the department for reasonable cause, a penalty equal to the lesser of:

(a) An amount equal to five percent (5%) of the assessment installment amount not paid on or before the due date, plus five percent (5%) of the portion thereof remaining unpaid on the last day of each month thereafter; or

(b) An amount equal to one hundred percent (100%) of the assessment installment amount not paid on or before the due date.

(3) For purposes of subsection (2) of this section, payments shall be credited first to unpaid installment amounts rather than to penalty or interest amounts, beginning with the most delinquent installment.

56-1408. EXEMPTIONS. (1) A hospital that is a governmental entity, including a state agency, is exempt from the assessment required by section 56-1404, Idaho Code, unless the exemption is adjudged to be unconstitutional or otherwise invalid, in which case the hospital shall pay such assessment.

(2) A private hospital that does not provide emergency services through an emergency department and is not categorized as "rehabilitation" or "psychiatric" as provided in section II.C. of the "application for hospital licenses and annual report -- 2007" by the bureau of facility standards of the department of health and welfare, is exempt from the assessment required by section 56-1404, Idaho Code.

56-1409. MULTIHOSPITAL LOCATIONS, HOSPITAL CLOSURE AND NEW HOSPITALS. (1) If a hospital conducts, operates or maintains more than one (1) hospital licensed by the department, the hospital shall pay the assessment for each hospital separately.

(2) A hospital, subject to assessments under this chapter, that ceases to conduct hospital operations or maintain its state license or did not conduct hospital operations throughout a calendar or fiscal year, shall have its required assessment adjusted by multiplying the assessment computed under section 56-1404, Idaho Code, by a fraction, the numerator of which is the number of days in the year during which the hospital conducts hospital business, operates a hospital and maintains licensure, and the denominator of which is three hundred sixty-five (365). The hospital shall pay the required assessment computed under section 56-1404, Idaho Code, on the date and in pro rata installments as required by the department for that portion of the state fiscal year during which the hospital operated and maintained state licensure, to the extent not previously paid.

(3) A hospital, subject to assessments under this chapter, that has

not been previously licensed as a hospital by the department and that commences hospital operations during a fiscal year, shall pay the required assessment computed under section 56-1404, Idaho Code, and shall be eligible for payment adjustments under section 56-1406, Idaho Code, only after two (2) complete state fiscal years have elapsed and two (2) full fiscal year medicare cost reports are filed with the center for medicare and medicaid services (CMS) after the commencement of operations and on the date as required by the department beginning on the first day of the next state fiscal year.

56-1410. APPLICABILITY. (1) The assessment required by section 56-1404, Idaho Code, shall not take effect or shall cease to be imposed, and any moneys remaining in the fund shall be refunded to hospitals in proportion to the amounts paid by such hospitals if:

(a) The appropriation for each state fiscal year 2009, 2010 and 2011 from the general fund for hospital payments under the Idaho medical assistance program is less than that for fiscal year 2008;

(b) The department makes changes in its rules that reduce the hospital inpatient or outpatient payment rates, including adjustment payment rates, in effect on January 1, 2008; or

(c) The payments to hospitals required under section 56-1403(3), Idaho Code, are changed or are not eligible for federal matching funds under the Idaho medical assistance program.

(2) The assessment required by section 56-1404, Idaho Code, shall not take effect or shall cease to be required if the assessment is not approved or is determined to be impermissible under title XIX of the social security act. Moneys in the fund derived from assessments required prior thereto shall be distributed in accordance with section 56-1403(3), Idaho Code, to the extent federal matching funds are not reduced due to the impermissibility of the assessments, and any remaining moneys shall be refunded to hospitals in proportion to the amounts paid by such hospitals.

SECTION 2. The provisions of this act shall be null, void and of no force and effect on and after July 1, 2011.

Approved March 14, 2008.

CHAPTER 92
(H.B. No. 469)

AN ACT

RELATING TO SALES AND USE TAX EXEMPTIONS; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3622UU, IDAHO CODE, TO PROVIDE THAT THE SALES AND USE TAX DOES NOT APPLY TO CHARGES FOR PERSONAL PROPERTY TAX ADDED TO THE RENT FOR LEASES OF TANGIBLE PERSONAL PROPERTY IF CERTAIN CIRCUMSTANCES OCCUR.

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 63-3622UU, Idaho Code, and to read as follows:

63-3622UU. PERSONAL PROPERTY TAX ON RENTALS. The taxes imposed by this chapter do not apply to charges for personal property tax added to the rent paid for leases of tangible personal property. This exemption applies if:

(1) The lessor separately states the charge for property tax to the lessee; and

(2) The amount charged to the lessee is not more than the property tax actually paid by the lessor; and

(3) The lease agreement is for an initial period of one (1) year or longer.

Approved March 14, 2008.

CHAPTER 93
(H.B. No. 492)

AN ACT

RELATING TO THE IDAHO RESIDENTIAL CARE ADMINISTRATORS ACT; AMENDING SECTION 54-4207, IDAHO CODE, TO REVISE PROVISIONS FOR EXAMINATIONS FOR APPLICANTS FOR LICENSURE.

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

SECTION 1. That Section 54-4207, Idaho Code, be, and the same is hereby amended to read as follows:

54-4207. SUBJECT MATTER OF EXAMINATION -- FREQUENCY. (1) The board shall determine the subjects of examinations for applicants for licensure and the scope, content, and format of such examinations. ~~which--in any--examination--shall-be-the-same-for-all-candidates;-except-that-such examination-shall-include-examination-of-the-applicant-to~~ The board may approve more than one (1) examination to qualify an applicant for licensure. The examination, or examinations, of an applicant for licensure shall demonstrate ~~his~~ an applicant's proficiency in the practice of, and knowledge of, applicable rules of health and safety within the state.

(2) Examinations shall be held at least semiannually at such times and places as the board shall designate.

Approved March 14, 2008.

CHAPTER 94
(H.B. No. 508)

AN ACT

RELATING TO SUBSTANCE ABUSE; AMENDING SECTION 39-302, IDAHO CODE, TO FURTHER DEFINE TERMS AND TO ALPHABETIZE DEFINITIONS; AMENDING SECTION 39-304, IDAHO CODE, TO REVISE ELEMENTS FOR THE COMPREHENSIVE PROGRAM FOR TREATMENT; AMENDING SECTION 39-306, IDAHO CODE, TO REVISE ELEMENTS FOR BOARD OF HEALTH AND WELFARE RULES FOR TREATMENT PROGRAMS; AND AMENDING SECTION 39-307, IDAHO CODE, TO REVISE ELEMENTS OF VOLUNTARY TREATMENT PROGRAMS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 39-302, Idaho Code, be, and the same is hereby amended to read as follows:

39-302. DEFINITIONS. As used in this chapter, the terms defined in this section shall have the following meanings, unless the context clearly indicates another meaning:

(1) "Addiction" or "alcoholism" means a primary, chronic, neurobiological disease with genetic, psychosocial and environmental factors influencing its development and manifestations. It is characterized by behaviors that include one (1) or more of the following: impaired control over drug or alcohol use, compulsive use, continued use despite harm, and craving.

(2) "Alcoholic" means a person who has the disease of alcoholism, which is characterized by behaviors that include one (1) or more of the following: impaired control over alcohol use, compulsive use, continued use despite harm, and craving.

(3) "Approved private treatment facility" means a private agency meeting the standards prescribed in section 39-305(1), Idaho Code, and approved under the provisions of section 39-305(3), Idaho Code, and rules promulgated by the board of health and welfare pursuant to this chapter.

(4) "Approved public treatment facility" means a treatment agency operating under the provisions of this chapter through a contract with the department of health and welfare pursuant to section 39-304(7), Idaho Code, and meeting the standards prescribed in section 39-305(1), Idaho Code, and approved pursuant to section 39-305(3), Idaho Code, and rules promulgated by the board of health and welfare pursuant to this chapter.

(5) "Department" means the Idaho department of health and welfare.

(6) "Director" means the director of the Idaho department of health and welfare.

~~(2) "Department" means the Idaho department of health and welfare.~~

(~~3~~7) "Drug addict" means a person who ~~habitually lacks self-control with respect to the use of addictive drugs, or uses addictive drugs to the extent that his health is substantially impaired or endangered, or his social or economic functions are substantially disrupted~~ has the disease of addiction, which is characterized by behaviors that include one (1) or more of the following: impaired control over drug use, compulsive use, continued use despite harm, and craving.

(8) "Incapacitated by alcohol or drugs" means that a person, as a result of the use of alcohol or drugs, is unconscious or has his judgment otherwise so impaired that he is incapable of realizing and making a rational decision with respect to his need for treatment.

(9) "Incompetent person" means a person who has been adjudged incompetent by an appropriate court within this state.

~~(4) "Alcoholic" means a person who habitually lacks self-control with respect to the use of alcoholic beverages, or uses alcoholic beverages to the extent that his health is substantially impaired or endangered, or his social or economic functions are substantially disrupted.~~

(~~5~~10) "Interagency committee" means the interagency committee on substance abuse prevention and treatment as provided for in section 39-303, Idaho Code.

(~~6~~11) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of drugs or alcohol.

~~(7)--"Approved--public--treatment-facility"-means-a-treatment-agency operating-under-this-chapter-through-a-contract-with-the--department--of health--and-welfare-pursuant-to-section-39-304(6),-Idaho-Code,-and-meeting-the-standards-prescribed--in--section--39-305(1),--Idaho--Code,--and approved--pursuant--to--section-39-305(3),-Idaho-Code,-and-rules-promulgated-by-the-board-of-health-and-welfare-pursuant-to-this-chapter;~~

~~(8)--"Approved-private-treatment-facility"-means--a--private--agency meeting--the--standards-prescribed-in-section-39-305(1),-Idaho-Code,-and approved-under-the-provisions-of--section--39-305(3),--Idaho--Code,--and rules--promulgated--by--the-board-of-health-and-welfare-pursuant-to-this chapter;~~

~~(9)--"Incapacitated-by-alcohol-or-drugs"-means-that-a-person,--as--a result--of--the-use-of-alcohol-or-drugs,-is-unconscious-or-has-his-judgment-otherwise-so-impaired-that-he-is-incapable-of-realizing-and--making a-rational-decision-with-respect-to-his-need-for-treatment;~~

~~(10)-"Incompetent--person"--means--a--person--who--has-been-adjudged incompetent-by-an-appropriate-court-within-this-state;~~

(12) "Recovery support services" means those ancillary, nonclinical services needed for a client to maintain substance abuse or addiction recovery. These services may include transportation, childcare, drug testing, safe and sober housing and care management.

(~~11~~3) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or substances.

(~~12~~4) "Treatment" means the broad range of emergency, outpatient, ~~intermediate~~ intensive outpatient, and inpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological, and social service care, vocational rehabilitation and career counseling, which may be extended to alcoholics and intoxicated persons and/or drug addicts.

SECTION 2. 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 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~~ Intensive outpatient treatment;

(d) Outpatient ~~and follow-up~~ treatment; and

(e) Community detoxification provided by an approved facility; and

(f) Recovery support services.

(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 3. That Section 39-306, Idaho Code, be, and the same is hereby amended to read as follows:

39-306. ACCEPTANCE FOR TREATMENT -- RULES. The board of health and welfare shall adopt rules for the acceptance of persons into the treatment program, considering available treatment resources and facilities, for the purpose of early and effective treatment of alcoholics, intoxicated persons and drug addicts. In establishing the rules the board shall be guided by the following standards:

(1) If possible a patient shall be treated on a voluntary rather than an involuntary basis.

(2) A patient shall be initially assigned or transferred to outpatient or ~~intermediate~~ intensive outpatient treatment, unless he is found to require inpatient treatment.

(3) A person shall not be denied treatment solely because he has withdrawn from treatment against medical advice on a prior occasion or because he has relapsed after earlier treatment.

(4) An individualized treatment plan shall be prepared and maintained on a current basis for each patient.

(5) Provision shall be made for a continuum of coordinated treatment services, so that a person who leaves a facility or a form of treatment will have available and utilize other appropriate treatment.

SECTION 4. That Section 39-307, Idaho Code, be, and the same is hereby amended to read as follows:

39-307. VOLUNTARY TREATMENT OF ALCOHOLICS AND DRUG ADDICTS. (1) An alcoholic or an drug addict may apply for voluntary treatment directly to any approved public treatment facility. If the proposed patient is a minor or an incompetent person, he, a parent, legal guardian, or other legal representative shall make the application.

(2) Subject to rules adopted by the board of health and welfare, the director or his designee may determine who shall be admitted to an approved public treatment facility.

(3) If a patient receiving inpatient care leaves an approved public treatment facility, he shall be encouraged to consent to appropriate outpatient or ~~intermediate~~ intensive outpatient treatment, and the

department shall assist in obtaining supportive services and residential facilities.

(4) If a patient leaves an approved public treatment facility, upon the recommendation of departmental staff, the department shall make reasonable provisions for his transportation to another facility or to his home. If he has no home, he shall be assisted in obtaining shelter. If the patient is a minor or an incompetent person, the request for discharge from an inpatient facility shall be made by a parent, legal guardian, or other legal representative or by the minor or incompetent if he were was the original applicant.

Approved March 14, 2008.

CHAPTER 95
(H.B. No. 538)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE STATE TAX COMMISSION FOR FISCAL YEAR 2008; 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 231, Laws of 2007, there is hereby appropriated to the State Tax Commission in the Department of Revenue and Taxation the following amount to be expended for the specified program according to the designated expense class from the listed funds for the period July 1, 2007, through June 30, 2008:

REVENUE OPERATIONS:	
FOR:	
Capital Outlay	$108,000
FROM:	
General Fund	$ 97,200
Administration Services for Transportation Fund	10,800
TOTAL	$108,000

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, 2008.

CHAPTER 96
(H.B. No. 539)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF PARKS AND RECREATION FOR FISCAL YEAR 2008; 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 274, Laws of 2007, there is hereby appropriated to the Department of Parks and Recreation 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 OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MANAGEMENT SERVICES DIVISION:			
FROM:			
Parks and Recreation Registration Fund		$ 985,600	$ 985,600
Federal Grant Fund		386,500	386,500
TOTAL		$1,372,100	$1,372,100
II. PARK OPERATIONS:			
FROM:			
Federal Grant Fund	$25,000	$ 75,000	$ 100,000
GRAND TOTAL	$25,000	$1,447,100	$1,472,100

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 March 14, 2008.

CHAPTER 97
(S.B. No. 1256, As Amended)

AN ACT

RELATING TO THE DEPARTMENT OF LABOR; AMENDING SECTION 72-1333, IDAHO CODE, TO PROVIDE AN EXCEPTION FROM THE MERIT SYSTEM FOR EMPLOYEES OF THE IDAHO CAREER INFORMATION SYSTEM; AND AMENDING CHAPTER 13, TITLE 72, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 72-1345A, IDAHO CODE, TO PROVIDE FOR THE IDAHO CAREER INFORMATION SYSTEM WITHIN THE DEPARTMENT OF LABOR AND TO PROVIDE FOR THE IDAHO CAREER INFORMATION SYSTEM ACCOUNT.

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

SECTION 1. That Section 72-1333, Idaho Code, be, and the same is hereby amended to read as follows:

72-1333. DEPARTMENT OF LABOR -- AUTHORITY AND DUTIES OF THE DIRECTOR. (1) The director shall administer the employment security law, chapter 13, title 72, Idaho Code, the minimum wage law, chapter 15, title 44, Idaho Code, the provisions of chapter 6, title 45, Idaho Code, relating to claims for wages, the provisions of section 44-1812, Idaho Code, relating to minimum medical and health standards for paid firefighters, the disability determinations service established pursuant to 42 U.S.C. 421, and shall perform such other duties relating to labor and

workforce development as may be imposed upon him by law. The director shall be the successor in law to the office enumerated in section 1, article XIII, of the constitution of the state of Idaho. The director shall have the authority to employ individuals, make expenditures, require reports, make investigations, perform travel and take other actions deemed necessary. The director shall organize the department of labor which is hereby created, and 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 director shall have an official seal which shall be judicially noticed.

(2) The director shall have the authority pursuant to chapter 52, title 67, Idaho Code, to adopt, amend, or rescind rules as he deems necessary for the proper performance of all duties imposed upon him by law.

(3) Subject to the provisions of chapter 53, title 67, Idaho Code, the director is authorized and directed to provide for a merit system for the department covering all persons, except the director, the division administrators, employees of the Idaho career information system, and two (2) exempt positions to serve at the pleasure of the director.

(4) The director shall make recommendations for amendments to the employment security law and other laws he is charged to implement as he deems proper.

(5) The director shall have all the powers and duties as may have been or could have been exercised by his predecessors in law, except those powers and duties granted and reserved to the director of the department of commerce in titles 39, 49 and 67, Idaho Code, and he shall be the successor in law to all contractual obligations entered into by his predecessors in law, except for those contracts of the department of commerce, or contracts pertaining to any power or duty granted and reserved to the director of the department of commerce, in titles 39, 49 and 67, Idaho Code.

SECTION 2. That Chapter 13, Title 72, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 72-1345A, Idaho Code, and to read as follows:

72-1345A. IDAHO CAREER INFORMATION SYSTEM. The Idaho career information system is hereby established within the department to provide current and accurate occupational, educational and related career information to help Idaho citizens understand the link between educational preparation and work, explore education and career alternatives, and successfully seek work. The Idaho career information system shall be responsible for carrying out the duties required by section 118 of the Carl D. Perkins career and technical education act of 2006 (20 U.S.C. 2328(c)), as amended. All moneys received by the Idaho career information system for its products and services shall be deposited in the career information system account, which is hereby established in the state treasury, subject to appropriation. Employees of the Idaho career information system shall be nonclassified employees exempt from the provisions of chapter 53, title 67, Idaho Code. The workforce development council established pursuant to section 72-1336, Idaho Code, shall serve as an advisory body to the department on matters related to the Idaho career information system.

Approved March 14, 2008.

CHAPTER 98
(S.B. No. 1269)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-404, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THOSE ANIMAL SPECIES SUBJECT TO BEING HUNTED PURSUANT TO YOUTH SMALL GAME LICENSES AND TO CORRECT A CODIFIER'S ERROR; AMENDING SECTION 36-406, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THOSE ANIMAL SPECIES SUBJECT TO BEING HUNTED PURSUANT TO CERTAIN YOUTH HUNTING LICENSES; AND AMENDING SECTION 36-407, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THOSE ANIMAL SPECIES SUBJECT TO BEING HUNTED PURSUANT TO CERTAIN JUNIOR AND YOUTH HUNTING LICENSES.

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

SECTION 1. That Section 36-404, Idaho Code, be, and the same is hereby amended to read as follows:

36-404. CLASSES OF LICENSES. The licenses required by the provisions of this title shall be of eight (8) classes. Classes one (1) through five (5) and eight (8) in this section may be purchased or obtained only by persons who meet residency requirements under the provisions of section 36-202(s) and (t), Idaho Code, or who are valid holders of a lifetime license certificate.

Class 1: Adult Combination -- Hunting -- Fishing -- Trapping Licenses. Licenses to be issued only to persons who are residents of the state of Idaho.

Class 2: Junior Hunting -- Trapping -- Youth Small Game Licenses.

(a) Junior hunting license. Licenses to be issued only to persons who are residents of the state of Idaho and are between twelve (12) and seventeen (17) years of age, inclusive. Provided, that a license may be issued to qualified persons who are eleven (11) years of age to allow the application for a controlled hunt permit; however, said persons shall not hunt until they are twelve (12) years of age.

(b) Junior trapping licenses. Licenses to be issued only to persons who are residents of the state of Idaho and are seventeen (17) years of age or younger.

(c) Youth small game licenses. Licenses to be issued only to qualified persons who are residents of the state of Idaho and are ten (10) or eleven (11) years of age to hunt upland game birds (including turkeys), migratory game birds, cottontail rabbits, ~~pygmy--rabbits~~ huntable furbearers, and unprotected and predatory birds and animals of this state while accompanied in the field by an adult licensed to hunt in the state of Idaho.

Class 3: Junior Combination -- Fishing Licenses. Licenses to be issued only to persons who are residents of the state of Idaho between fourteen (14) and seventeen (17) years of age, inclusive.

Class 4: Senior Resident Combination License. Licenses to be issued only to persons over sixty-five (65) years of age who have been bona fide residents of the state of Idaho for a continuous period of not less than five (5) years last preceding application.

Class 5: Resident Lifetime Combination -- Hunting -- Fishing

License. Licenses to be issued only to persons who are valid holders of a lifetime license certificate.

Class 6: Nonresident Combination -- Hunting -- Fishing -- Trapping -- Junior Mentored Hunting -- Youth Small Game -- Youth Hunter Education ~~Gradute~~ Graduate -- Licenses. Licenses required of persons who are nonresidents.

Class 7: Duplicate License -- Tag. A license or tag to be issued as a replacement for an original license or tag lost or mutilated. Said license or tag shall be issued in the same class and type as the original and upon issuance of such duplicate license or tag the original license or tag shall become null and void.

Class 8: Resident Hunting and Fishing License with Tags, Permits and Stamps. Licenses to be issued only to persons who meet residency requirements under the provisions of section 36-202(s) and (t), Idaho Code.

SECTION 2. That Section 36-406, Idaho Code, be, and the same is hereby amended to read as follows:

36-406. RESIDENT FISHING, HUNTING AND TRAPPING LICENSES -- FEES. (a) Adult Licenses -- Combination -- Fishing -- Hunting -- Trapping. A license of the first class may be had by a person possessing the qualifications therein described on payment of a fee as specified in section 36-416, Idaho Code, for a combined fishing and hunting license entitling the purchaser to hunt and fish for game animals, game birds, unprotected and predatory animals and fish of the state, a fee as specified in section 36-416, Idaho Code, for a fishing license entitling the purchaser to fish in the public waters of the state, a fee as specified in section 36-416, Idaho Code, for a hunting license entitling the purchaser to hunt game animals, game birds, unprotected and predatory animals of the state, and a fee as specified in section 36-416, Idaho Code, for a trapping license entitling the purchaser to trap furbearers, unprotected and predatory animals of the state.

(b) Junior Licenses -- Hunting -- Trapping. A license of the second class may be had by a person possessing the qualifications therein described on payment of a fee as specified in section 36-416, Idaho Code, for a hunting license, and a fee as specified in section 36-416, Idaho Code, for a trapping license entitling the purchaser to the same privileges as the corresponding license of the first class provides.

(c) Junior Combination — Fishing Licenses. A license of the third class may be purchased by a person possessing the qualifications therein described on payment of a fee as specified in section 36-416, Idaho Code, for a combined fishing and hunting license, and a fee as specified in section 36-416, Idaho Code, for a fishing license entitling the purchaser to the same privileges as the corresponding license of the first class provides.

(d) Senior Resident Combination. A license of the fourth class may be had by a person possessing the qualifications therein described on payment of a fee as specified in section 36-416, Idaho Code, for a combined fishing and hunting license entitling the purchaser to the same privileges as the corresponding license of the first class provides.

(e) Lifetime Licenses -- Combination -- Hunting — Fishing. A license of the fifth class may be obtained at no additional charge by a person possessing the qualifications therein described for a combined

hunting and fishing license, for a hunting license, or for a fishing license, entitling the person to the same privileges as the corresponding license of the first class provides. Lifetime licensees must be certified under the provisions of section 36-413, Idaho Code, before being issued a license to hunt.

(f) A license of the eighth class may be had by a person possessing the qualifications therein described on payment of a fee as specified in section 36-416, Idaho Code, entitling the purchaser to hunt and fish for game animals, game birds, fish, and unprotected and predatory animals of the state. With payment of the required fee, a person shall receive with this license a deer tag, an elk tag, a bear tag, a turkey tag, a mountain lion tag, an archery hunt permit, a muzzleloader permit, a steelhead trout permit and an anadromous salmon permit. The director shall promptly transmit to the state treasurer all moneys received pursuant to this subsection for deposit as follows:

(i) Four dollars ($4.00) in the set-aside account for the purposes of section 36-111(1)(a), Idaho Code;

(ii) Two dollars ($2.00) in the set-aside account for the purposes of section 36-111(1)(b), Idaho Code;

(iii) One dollar and fifty cents ($1.50) in the set-aside account for the purposes of section 36-111(1)(c), Idaho Code; and

(iv) The balance in the fish and game account.

All persons purchasing a license pursuant to this subsection shall observe and shall be subject to all rules of the commission regarding the fish and wildlife of the state.

If the purchaser of this license does not meet the archery education requirements of section 36-411(b), Idaho Code, then, notwithstanding the provisions of section 36-304, Idaho Code, the archery hunt permit portion of this license is invalid. The fee for this license will not change and the license must be issued without the archery permit validation.

(g) Disabled Persons Licenses -- Combination -- Fishing. A license of the first class may be had by any resident disabled person on payment of a fee as specified in section 36-416, Idaho Code, for a combined fishing and hunting license, and a fee as specified in section 36-416, Idaho Code, for a fishing license, entitling the purchaser to the same privileges as the corresponding license of the first class provides. A disabled person means a person who is deemed disabled by one (1) or more, but not necessarily all, of the following: the railroad retirement board pursuant to title 45 of the United States Code, or certified as eligible for federal supplemental security income (SSI); or social security disability income (SSDI); or a nonservice-connected veterans pension; or a service-connected veterans disability benefit with forty percent (40%) or more disability; or certified as permanently disabled by a physician. Once determination of permanent disability has been made with the department, the determination shall remain on file within the electronic filing system and the license holder shall not be required to present a physician's determination each year or prove their disability each year.

(h) Military Furlough Licenses -- Combination -- Fishing. A license of the first class may be had by a resident person engaged in the military service of the United States, while on temporary furlough or leave, possessing the qualifications therein described on payment of a fee as specified in section 36-416, Idaho Code, for a combined fishing and

hunting license, and as specified in section 36-416, Idaho Code, for a fishing license.

(i) Youth Small Game Licenses -- Hunting. A license of the second class may be had by a resident of ten (10) or eleven (11) years of age on payment of a fee as specified in section 36-416, Idaho Code, provided that the license shall be valid only for hunting upland game birds (including turkeys), migratory game birds, cottontail rabbits, ~~pygmy rabbits~~ huntable furbearers, and unprotected and predatory birds and animals of this state while accompanied in the field by the holder of an adult Idaho hunting license.

SECTION 3. That Section 36-407, Idaho Code, be, and the same is hereby amended to read as follows:

36-407. NONRESIDENT COMBINATION, FISHING, HUNTING, AND TRAPPING LICENSES -- FEES -- RIGHTS UNDER. Licenses of the sixth class shall be issued to nonresidents in the several kinds and for fees as follows:

(a) Nonresident Hunting License. A license issued only to a person twelve (12) years of age or older entitling said person to pursue, hunt, or kill game birds, small game animals, unprotected birds and animals and predatory birds and animals and to purchase game tags as provided in section 36-409(b), Idaho Code. Provided, that a license may be issued to qualified persons who are eleven (11) years of age to allow the application for a controlled hunt permit; however, said persons shall not hunt until they are twelve (12) years of age. A license of this kind may be had upon payment of a fee as specified in section 36-416, Idaho Code.

(b) Nonresident Season Fishing License. A license entitling a person to fish in the public waters of the state. A license of this kind may be had upon payment of a fee as specified in section 36-416, Idaho Code.

(c) Nonresident Trapping License. A license entitling a person to trap fur-bearing, unprotected, and predatory animals. A license of this kind may be had upon payment of a fee as specified in section 36-416, Idaho Code, providing the state of residence of said person grants similar trapping license privileges to residents of Idaho.

(d) Nonresident Nongame License. A license entitling a person to carry a shotgun or rifle for the protection of livestock, or to pursue, hunt and kill unprotected birds and animals and predatory birds and animals of this state. A license of this kind may be had by a nonresident person who is twelve (12) years of age or older upon payment of a fee as specified in section 36-416, Idaho Code. This license shall be valid only during the period of January 1 to August 31 of the calendar year in which issued, unless verified by the director that the licensee requires such a license to authorize him to carry a shotgun or rifle for the protection of livestock, in which case said license shall be valid until December 31 of the year in which issued.

(e) Nonresident Two Day Small Game Hunting License. A license issued only to a person twelve (12) years of age or older, entitling the person to hunt upland game birds (to include turkeys), migratory game birds, cottontail rabbits, and pygmy rabbits. A person holding this license shall purchase the appropriate required tags and permits, and may not hunt pheasants in an area during the first five (5) days of the pheasant season in that area. A license of this type may be had upon payment of a fee as specified in section 36-416, Idaho Code.

(f) Falconry Meet Permit. The director may issue a special permit for a regulated meet scheduled for a specific number of days upon payment of a fee as specified in section 36-416, Idaho Code. Only trained raptors may be used under the special permit issued under the provisions of this subsection.

(g) Daily Fishing License -- Resident May Purchase. A license entitling a person to fish in the waters of the state on a day-to-day basis. A license of this kind may be had by a resident or nonresident person (the provisions of section 36-405, Idaho Code, notwithstanding), upon payment of a fee as specified in section 36-416, Idaho Code, for the first effective day and a fee as specified in section 36-416, Idaho Code, for each consecutive day thereafter.

(h) Nonresident Three Day Fishing License with Steelhead or Salmon Permit. A license entitling a nonresident to fish in the waters of the state for a period of three (3) consecutive days for any fish, including steelhead trout or anadromous salmon during an open season for those fish may be had upon payment of a fee as specified in section 36-416, Idaho Code. The three (3) day license holder may fish for any species of fish, steelhead trout and anadromous salmon subject to the limitations prescribed in rules promulgated by the commission. A nonresident may purchase as many of the licenses provided in this subsection as he desires provided that the nonresident is otherwise eligible to do so.

(i) Nonresident Junior Fishing License. A license entitling a nonresident who is less than eighteen (18) years of age to fish in the waters of this state may be had upon payment of a fee as specified in section 36-416, Idaho Code.

(j) Nonresident Combination Licenses. A license entitling the person to hunt and fish for game animals, game birds, fish and unprotected and predatory animals of the state may be had by a person twelve (12) years of age or older upon payment of a fee as specified in section 36-416, Idaho Code. A license may be issued to a qualified person who is eleven (11) years of age to allow the application for a controlled hunt permit; however, the person shall not hunt until he is twelve (12) years of age.

(k) Nonresident Junior Mentored Hunting License. A license entitling a nonresident between twelve (12) and seventeen (17) years of age, inclusive, to hunt game animals, upland game birds (including turkeys), migratory game birds, cottontail rabbits, ~~pygmy rabbits,~~ and unprotected and predatory birds and animals of this state only when accompanied in the field by the holder of an adult Idaho hunting license. A person holding this license shall purchase the appropriate required tags as provided in section 36-409(b), Idaho Code, and permits. Provided, that a license may be issued to qualified persons who are eleven (11) years of age to allow the application for a controlled hunt permit; however, said persons shall not hunt until they are twelve (12) years of age. A license of this kind may be had upon payment of a fee as specified in section 36-416, Idaho Code.

(l) Nonresident Youth Small Game Licenses -- Hunting. A license entitling a nonresident of ten (10) or eleven (11) years of age to hunt upland game birds (including turkeys), migratory game birds, cottontail rabbits, ~~pygmy rabbits~~ huntable furbearers, and unprotected and predatory birds and animals of this state only while accompanied in the field by the holder of an adult Idaho hunting license may be had upon payment of a fee as specified in section 36-416, Idaho Code.

(m) Youth Hunter Education Graduate Licenses — Hunting — Resident May Purchase. A license entitling a person between ten (10) and seventeen (17) years of age, inclusive, to hunt upland game birds (except turkeys), migratory game birds, cottontail rabbits, ~~pygmy--rabbits~~ huntable furbearers, and unprotected and predatory birds and animals of this state only when accompanied in the field by the holder of an adult Idaho hunting license. A person holding this license shall purchase the appropriate required permits. A license of this kind may be issued to a resident or nonresident person, notwithstanding the provisions of section 36-405, Idaho Code, upon payment of a fee as specified in section 36-416, Idaho Code.

Approved March 14, 2008.

CHAPTER 99
(S.B. No. 1311)

AN ACT

RELATING TO THE EMPLOYMENT SECURITY LAW; AMENDING SECTION 72-1342, IDAHO CODE, TO PROVIDE THAT SPECIFIED EMPLOYMENT SECURITY INFORMATION SHALL BE EXEMPT FROM DISCLOSURE, TO PROVIDE EXCEPTIONS AND TO AUTHORIZE THE DIRECTOR OF THE DEPARTMENT OF LABOR TO PROMULGATE RULES RELATING TO DISCLOSURE; AMENDING SECTION 72-1366, IDAHO CODE, TO REVISE AND TO PROVIDE FOR ADDITIONAL PERSONAL ELIGIBILITY CONDITIONS FOR BENEFIT CLAIMANTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 72-1372, IDAHO CODE, TO PROVIDE A CIVIL PENALTY RELATING TO UNAUTHORIZED DISCLOSURE OF EMPLOYMENT SECURITY INFORMATION AND TO REFERENCE SPECIFIC PENALTIES; AMENDING SECTION 72-1374, IDAHO CODE, TO PROVIDE THAT EACH ACT OF CERTAIN UNAUTHORIZED DISCLOSURE OF EMPLOYMENT SECURITY INFORMATION BY SPECIFIED PERSONS SHALL CONSTITUTE A MISDEMEANOR; AND AMENDING SECTION 9-340C, IDAHO CODE, TO PROVIDE THAT CERTAIN EMPLOYMENT SECURITY INFORMATION MAY BE DISCLOSED TO THIRD PARTIES PROVIDED THERE IS WRITTEN, INFORMED CONSENT, TO PROVIDE FOR APPLICABILITY OF A TERM AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 72-1342, Idaho Code, be, and the same is hereby amended to read as follows:

72-1342. DISCLOSURE OF INFORMATION. Employment security i~~I~~nformation, ~~obtained from any employer or individual pursuant to the administration of this chapter, and determinations of the benefit rights of any individual~~ as defined in section 9-340C(7), Idaho Code, shall be ~~subject to~~ exempt from disclosure as provided in chapter 3, title 9, Idaho Code, except that such information may be disclosed as is necessary for the proper administration of programs under this chapter or may be made available to public ~~employees~~ officials for use in the performance of ~~their public~~ official duties subject to such restrictions and fees as the director may by rule prescribe. The director may by rule prescribe the form of written, informed consent by a person that is ade-

quate for disclosure of employment security information pertaining to that person to a third party, as provided in section 9-340C(7), Idaho Code, and the security requirements and cost provisions that apply to such disclosures.

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

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

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

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

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

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

(~~a~~i) Able to work, available for suitable work, and seeking work; provided, however, that no claimant shall be considered ineligible for failure to comply with the provisions of this subsection if:

(~~i~~)1. Such failure is due to the claimant's illness or disability which occurs after he has filed a claim and during such illness or disability, the claimant does not refuse or miss suitable work that would have provided wages greater than one-half (1/2) of the claimant's weekly benefit amount; or

(~~ii~~)2. Such failure is due to compelling personal circumstances, provided that such failure does not exceed a minor portion of the claimant's workweek and during which time the claimant does not refuse or miss suitable work that would have provided wages greater than one-half (1/2) of the claimant's weekly benefit amount; and

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

(b) If a claimant who is enrolled in an approved job training course pursuant to subsection (8) of this section fails to attend or otherwise participate in the job training course during any week with respect to which he claims benefits or credit to his waiting period, the claimant shall be ineligible for that week if he was not able to work nor available for suitable work, to be determined as follows: The claimant shall be ineligible unless he is making satisfactory progress in the training and his failure to attend or otherwise participate was due to:

(i) The claimant's illness or disability which occurred after he had filed a claim and the claimant missed fewer than one-half (1/2) of the classes available to him that week; or

(ii) Compelling personal circumstances, provided that the claimant missed fewer than one-half (1/2) of the classes available to him that week.

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

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

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

(a) If the vacancy of the position offered is due directly to a strike, lockout, or other labor dispute;

(b) If the wages, hours, or other conditions of the work offered are below those prevailing for similar work in the locality of the work offered;

(c) If, as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

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

(a) The claimant is a participant in a program sponsored by title I of the workforce investment act and attends a job training course under that program; or

(b) The claimant attends a job training course authorized pursuant to the provisions of section 236(a)(1) of the trade act of 1974 or the North American free trade agreement implementation act.

(c) The claimant lacks skills to compete in the labor market and attends a job training course with the approval of the director. The director may approve job training courses that meet the following criteria:

(i) The purpose of the job training is to teach the claimant skills that will enhance the claimant's opportunities for employment; and

(ii) The job training can be completed within one (1) year, except that this requirement may be waived pursuant to rules that the director may prescribe.

This subsection shall apply only if the claimant submits with each claim report a written certification from the training facility that the claimant is attending and satisfactorily completing the job training course~~;--or-demonstrates-good-cause-for-failure-to-attend-the-job-training~~. If the claimant fails to attend or otherwise participate in the job training course, it must be determined whether the claimant is able to work and available for suitable work as provided in subsection (4)(b) of this section.

(9) No claimant who is otherwise eligible shall be denied benefits

under subsection (5) of this section for leaving employment to attend job training pursuant to subsection (8) of this section, provided that the claimant obtained the employment after enrollment in or during scheduled breaks in the job training course, or that the employment was not suitable. For purposes of this subsection, the term "suitable employment" means work of a substantially equal or higher skill level than the individual's past employment, and wages for such work are not less than eighty percent (80%) of the average weekly wage in the individual's past employment.

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

(a) The claimant is not participating, financing, aiding, abetting, or directly interested in the labor dispute; and

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

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

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

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

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

(15) Benefits based on service in employment defined in sections 72-1349A and 72-1352(3), Idaho Code, shall be payable in the same amount, on the same terms and subject to the same conditions as benefits payable on the basis of other service subject to this act.

(a) If the services performed during one-half (1/2) or more of any contract period by an individual for an educational institution as defined in section 72-1322B, Idaho Code, are in an instructional, research, or principal administrative capacity, all the services shall be deemed to be in such capacity.

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

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

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

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

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

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

(d) With respect to any services described in paragraphs (a) and (b) of this subsection (17), benefits shall not be payable on the

basis of services in any capacities specified in paragraphs (a), (b) and (c) of this subsection (17) to any individual who performed such services in an educational institution while in the employ of an educational service agency. For purposes of this paragraph the term "educational service agency" means a governmental entity which is established and operated exclusively for the purpose of providing such services to one (1) or more educational institutions.

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

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

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

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

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

(a) The individual has completed such services; or

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

(21) (a) A claimant:

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

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

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

~~(A)~~1. Contacts the staffing service and refuses a suitable work assignment that is offered to him at that time, he will be considered to have voluntarily quit that employment; or

~~(B)~~2. Contacts the staffing service and the service does not have a suitable work assignment for him, he will be considered unemployed due to a lack of work; or

~~(C)~~3. Accepts new employment without first contacting the

staffing service for additional work, he will be considered to have voluntarily quit employment with the staffing service.

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

SECTION 3. That Section 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 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 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 made a false statement or representation or willfully 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.

(d) If a determination is made finding that an employer has induced, solicited or 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.

(e) If a determination is made finding that an employer 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.

(f) For purposes of paragraphs (c) and (d) of this subsection (1), the term "weekly benefit amount" means the amount calculated pursuant to section 72-1367(2), Idaho Code.

(g) If a determination is made finding that a person has made any unauthorized disclosure of employment security information in violation of the provisions of chapter 3, title 9, Idaho Code, or section 72-1342, Idaho Code, or rules promulgated thereunder, a penalty of five hundred dollars ($500) for each act of unauthorized disclosure shall be assessed against the person.

(2) At the discretion of the director, the department may waive all or any part of the penalties imposed pursuant to subsections (1)(a) through (1)(f) of 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 accordance 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 4. That Section 72-1374, Idaho Code, be, and the same is hereby amended to read as follows:

72-1374. UNAUTHORIZED DISCLOSURE OF INFORMATION. If any ~~employee or member--of--the-commission-or-any-employee-of-the-department~~ of the following persons, in violation of the provisions of chapter 3, title 9, Idaho Code, or section 72-1342, Idaho Code, or rules promulgated thereunder, makes any unauthorized disclosure of employment security information, ~~obtained-from-any-employer-or-individual-in-the-administration--of this--chapter;~~ each act of unauthorized disclosure shall constitute a separate misdemeanor:

(1) Any employee of the department;

(2) Any employee or member of the commission;

(3) Any third party or employee thereof who has obtained employment security information pertaining to a person with the written, informed consent of that person;

(4) Any public official who has obtained employment security information for use in the performance of official duties; or

(5) Any person who has obtained employment security information through means that violate the provisions of chapter 3, title 9, Idaho Code, or this chapter, or rules promulgated thereunder.

SECTION 5. That Section 9-340C, Idaho Code, be, and the same is hereby amended to read as follows:

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

(1) Except as provided in this subsection, all personnel records of a current or former public official other than the public official's public service or employment history, classification, pay grade and step, longevity, gross salary and salary history, status, workplace and employing agency. All other personnel information relating to a public employee or applicant including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. Names of applicants to classified or merit system positions shall not be disclosed to the public without the applicant's written consent. Disclosure of names as part of a background check is permitted. Names of the five (5) final applicants to all other positions shall be available to the public. If such group is less than five (5) finalists, then the entire list of applicants shall be available to the public. A public official or authorized representative may inspect and copy his personnel records, except for material used to screen and test for employment.

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

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

(4) Records of a personal nature as follows:

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

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

(c) Records of ownership of financial obligations and instruments of a public agency or independent public body corporate and politic, such as bonds, compiled by the public agency or independent public body corporate and politic pursuant to law;

(d) Records, with regard to the ownership of, or security interests in, registered public obligations;

(e) Vital statistics records; and

(f) Military records as described in and pursuant to section 65-301, Idaho Code.

(5) Information in an income or other tax return measured by items of income or sales, which is gathered by a public agency for the purpose of administering the tax, except such information to the extent disclosed in a written decision of the tax commission pursuant to a taxpayer protest of a deficiency determination by the tax commission, under the provisions of section 63-3045B, Idaho Code.

(6) Records of a personal nature related directly or indirectly to the application for and provision of statutory services rendered to persons applying for public care for the elderly, indigent, or mentally or physically handicapped, or participation in an environmental or a public health study, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(7) Employment security information, ~~and--unemployment-insurance benefit-information,~~ except that ~~all-interested--parties~~ a person may agree, through written, informed consent, to waive the exemption so that a third party may obtain information pertaining to the person, unless access to the information by the ~~parties~~ person is restricted by subsection (3)(a), (3)(b) or (3)(d) of section 9-342, Idaho Code. Notwithstanding the provisions of section 9-342, Idaho Code, a person may not review identifying information concerning an informant who reported to the department of labor a suspected violation by the person of the employment security law, chapter 13, title 72, Idaho Code, under an assurance of confidentiality. As used in this section and in chapter 13, title 72, Idaho Code, "employment security information" means any information descriptive of an identifiable person or persons that is received by, recorded by, prepared by, furnished to or collected by the department of labor or the industrial commission in the administration of the employment security law.

(8) Any personal records, other than names, business addresses and business phone numbers, such as parentage, race, religion, sex, height, weight, tax identification and social security numbers, financial worth or medical condition submitted to any public agency or independent public body corporate and politic pursuant to a statutory requirement for licensing, certification, permit or bonding.

(9) Unless otherwise provided by agency rule, information obtained as part of an inquiry into a person's fitness to be granted or retain a license, certificate, permit, privilege, commission or position, private

association peer review committee records authorized in title 54, Idaho Code. Any agency which has records exempt from disclosure under the provisions of this subsection shall annually make available a statistical summary of the number and types of matters considered and their disposition.

(10) The records, findings, determinations and decisions of any prelitigation screening panel formed under chapters 10 and 23, title 6, Idaho Code.

(11) Complaints received by the board of medicine and investigations and informal proceedings, including informal proceedings of any committee of the board of medicine, pursuant to chapter 18, title 54, Idaho Code, and rules adopted thereunder.

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

(13) Records of hospital care, medical records, including prescriptions, drug orders, records or any other prescription information that specifically identifies an individual patient, prescription records maintained by the board of pharmacy under sections 37-2726 and 37-2730A, Idaho Code, records of psychiatric care or treatment and professional counseling records relating to an individual's condition, diagnosis, care or treatment, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

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

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

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

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

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

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

(20) Records of the Idaho housing and finance association (IHFA) relating to the following:

(a) Records containing personal financial, family, health or similar personal information submitted to or otherwise obtained by the IHFA;

(b) Records submitted to or otherwise obtained by the IHFA with regard to obtaining and servicing mortgage loans and all records relating to the review, approval or rejection by the IHFA of said loans;

(c) Mortgage portfolio loan documents;

(d) Records of a current or former employee other than the employee's duration of employment with the association, position held and location of employment. This exemption from disclosure does not include the contracts of employment or any remuneration, including reimbursement of expenses, of the executive director, executive officers or commissioners of the association. All other personnel information relating to an association employee or applicant including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence, retirement plan information and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. An employee or authorized representative may inspect and copy that employee's personnel records, except for material used to screen and test for employment or material not subject to disclosure elsewhere in the Idaho public records act.

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

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

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

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

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

(26) File numbers, passwords and information in the files of the health care directive registry maintained by the secretary of state under section 39-4515, Idaho Code, are confidential and shall not be disclosed to any person other than to the person who executed the health

care directive or the revocation thereof and that person's legal representatives, to the person who registered the health care directive or revocation thereof, and to physicians, hospitals, medical personnel, nursing homes, and other persons who have been granted file number and password access to the documents within that specific file.

Approved March 14, 2008.

CHAPTER 100
(S.B. No. 1372, As Amended in the House)

AN ACT

RELATING TO SCRAP DEALERS; AMENDING SECTION 54-2702, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS AND TO REVISE REQUIREMENTS RELATING TO CERTAIN PURCHASES OR TRANSPORTS OF SCRAP; AND AMENDING SECTION 54-2703, IDAHO CODE, TO REVISE APPLICATION OF PENALTIES.

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

SECTION 1. That Section 54-2702, Idaho Code, be, and the same is hereby amended to read as follows:

54-2702. RECORDS OF PURCHASES OF SCRAP REQUIRED -- CONTENTS. (1) Every scrap dealer shall keep a legible record describing scrap purchased by him from individuals together with the date and place of such purchase. In addition, he shall obtain from such individual from whom such purchase is made his name and address and shall make a legible record of the same. The records shall include the number of the driver's license of the individual from whom such scrap is purchased together with the license plate number of the vehicle in which he is transporting his scrap as well as information from any receipts that are applicable. Such record and entries therein shall at all times be open to inspection and shall be produced upon request of the state police, by the sheriff of the county or any of his deputies, by any member of the police force in a city or town and any constable in the county in which the scrap dealer does business.

(2) Every person who purchases or transports scrap obtained from another in an amount over one hundred (100) pounds shall be required to possess a receipt from the person from whom the scrap is obtained or possess a bill of lading for the scrap. A copy of this receipt or bill of lading shall be held by the transporter or purchaser, who shall make it available for inspection by state police, the county sheriff or his deputies, or any member of a city police department that has proper jurisdiction.

SECTION 2. That Section 54-2703, Idaho Code, be, and the same is hereby amended to read as follows:

54-2703. PENALTIES FOR VIOLATIONS OF ACT. (1) Any scrap dealer or person who shall be found guilty of, enter a plea of guilty for, or be convicted of an intentional violation of any of the provisions of this act shall be guilty of a misdemeanor upon the first violation within a

five (5) year period, and shall be fined not less than two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000) or imprisoned for a period not in excess of six (6) months, or both, in the discretion of the court. Any scrap dealer or person who shall be found guilty, enter a plea of guilty for, or be convicted of an intentional violation of any of the provisions of this act for the second time within five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s), shall be guilty of a felony. Provided, that this act shall not be construed to in anywise impair the power of counties, cities or incorporated municipalities in this state to license, tax and regulate any scrap dealer.

(2) In addition to the criminal penalties provided in this section, every person convicted of a violation of the provisions of this chapter shall pay restitution in accordance with chapter 53, title 19, Idaho Code.

Approved March 14, 2008.

CHAPTER 101
(S.B. No. 1373)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-1109, IDAHO CODE, TO PROVIDE FOR THE CONTROL OF PROPERTY LOSS AND DAMAGE BY GRIZZLY BEARS, TO PROVIDE FOR CONSULTATION WITH CERTAIN AGENCIES AND LANDUSERS PRIOR TO TRANSPLANTING OR RELOCATING ANY GRIZZLY BEAR, TO PROVIDE A PROCEDURE FOR THE REPORTING AND HANDLING OF CLAIMS RELATING TO CERTAIN DAMAGE OR DESTRUCTION CAUSED BY GRIZZLY BEARS AND TO DEFINE A TERM; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 36-1109, Idaho Code, be, and the same is hereby amended to read as follows:

36-1109. CONTROL OF DAMAGE BY BLACK BEARS, GRIZZLY BEARS OR MOUNTAIN LIONS -- COMPENSATION FOR DAMAGE. (a) Prevention of depredation shall be a priority management objective of the department, and it is the obligation of landowners to take all reasonable steps to prevent property loss from black bears, grizzly bears or mountain lions or to mitigate damage by such. The director, or his representative, will consult with appropriate land management agencies and landusers before transplanting or relocating any black bear, grizzly bear or mountain lion.

(b) When any black bear, grizzly bear or mountain lion has done damage to or is destroying livestock on public, state, or private land, whether owned or leased, or when any black bear or grizzly bear has done damage to or is destroying berries or honey on private land, the owner or his representative of such livestock shall, for the purposes of filing a claim, report such loss to a representative of the U.S. department of agriculture animal plant and health inspection services/animal damage control (APHIS/ADC) who shall, within seventy-two (72) hours, investi-

gate the conditions complained of. For purposes of this section, livestock shall be defined as domestic cattle, sheep, and goats. For purposes of this section, grizzly bear shall be defined as any grizzly bear not protected by the federal endangered species act. If it appears that the complaint is well founded and livestock, berries or honey of the complainant has been damaged or destroyed by such black bear, grizzly bear or mountain lion, APHIS/ADC shall so inform the owner or his representative of the extent of physical damage or destruction in question. The owner shall provide the director or the department's regional office with the APHIS/ADC determination of damages or destruction. The physical damages, without establishing a monetary value thereon, as determined by the APHIS/ADC representative shall be final, and shall be binding upon the owner or his representative and on the department.

(c) Any claim for damages must be in written form, shall be in the form of a claim for damages substantially the same as required in section 6-907, Idaho Code, shall be attested to by the claimant under oath, and the claim shall be for an amount of at least one thousand dollars ($1,000) in damages per occurrence. The department shall prepare and make available suitable forms for claims for damages. Claims may be submitted only for the fiscal year (July 1 through June 30) in which they occurred. Any person submitting a fraudulent claim shall be prosecuted for a felony as provided in section 18-2706, Idaho Code.

1. Upon receipt by the department, the department shall review the claim, and if approved, pay it as provided in section 36-115, Idaho Code. Failure on the part of the owner or representative to allow on-site access shall negate the claim for damages.

2. If the department accepts the claim for damages as submitted by the owner or his representative, the department may approve the claim for payment, or may make a counter offer. If the owner or his representative rejects the department's counter offer, this rejection or refusal must be in writing and submitted within five (5) business days. The value of the damage or destruction will then be determined pursuant to the provisions of subsection (b)3. of section 36-1108, Idaho Code, and, in circumstances so provided for by the provisions of subsection (b)3. of section 36-1108, Idaho Code, pursuant to the provisions of subsection (b)4. of section 36-1108, Idaho Code. Any claim received by the department under the provisions of this section must be processed by the department within sixty (60) calendar days of receipt. If the claim is approved for payment, the claim must be immediately forwarded to the department of administration for payment. Any damage claim determination by an independent insurance adjuster, accepted by the parties, must be paid by the department within forty-five (45) days of the determination. If the claim is arbitrated, the arbitration must be completed within one hundred eighty (180) days of filing the claim for such damages.

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, 2008.

CHAPTER 102
(H.B. No. 354)

AN ACT

RELATING TO THE INDUSTRIAL SPECIAL INDEMNITY FUND; AMENDING SECTION 2, CHAPTER 303, LAWS OF 1997, AS AMENDED BY SECTION 1, CHAPTER 197, LAWS OF 1999, AS AMENDED BY SECTION 1, CHAPTER 100, LAWS OF 2004, TO REPEAL THE SUNSET CLAUSE.

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

SECTION 1. That Section 2, Chapter 303, Laws of 1997, as amended by Section 1, Chapter 197, Laws of 1999, as amended by Section 1, Chapter 100, Laws of 2004, be, and the same is hereby amended to read as follows:

SECTION 2. Section 1 of this act shall be in full force and effect on and after July 1, 1997~~,-and-shall-be-null,-void,-and-of-no-force-and effect-on-and-after-June-30,-2008~~.

Approved March 14, 2008.

CHAPTER 103
(H.B. No. 406, As Amended)

AN ACT

RELATING TO STATE ENDOWMENT LANDS; AMENDING SECTION 58-307, IDAHO CODE, TO PROVIDE FOR THE LEASE OF STATE ENDOWMENT LANDS FOR RESIDENTIAL PURPOSES.

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 thirty-five (35) years for residential purposes as determined by the state board of land commissioners including, but not limited to, single family, recreational cottage site and homesite leases.

(4) 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~~5) 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~~6) 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~~7) 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~~8) 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~~9) 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~~10) 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~~11) 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 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 14, 2008.

CHAPTER 104
(H.B. No. 418, As Amended)

AN ACT

RELATING TO COOPERATIVE SERVICE AGENCIES; AMENDING SECTION 33-317, IDAHO CODE, TO PROVIDE FOR CONSTRUCTION OF A FACILITY UPON THE APPROVAL OF AT LEAST ONE MEMBER DISTRICT AT AN ELECTION HELD FOR THAT PURPOSE AND TO ALLOW ANY MEMBER DISTRICT THAT INITIALLY FAILED TO APPROVE THE LEVY TO AUTHORIZE THE LEVY AT A SUBSEQUENT ELECTION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 33-317, Idaho Code, be, and the same is hereby amended to read as follows:

33-317. COOPERATIVE SERVICE AGENCY -- POWERS -- DUTIES -- LIMITATIONS. (1) Two (2) or more school districts may join together for educational purposes to form a service agency to purchase materials and/or provide services for use individually or in combination. The cooperative service agency thus formed shall be empowered to adopt bylaws, and act as a body corporate and politic with such powers as are assigned through its bylaws but limited to the powers and duties of local school districts. In its corporate capacity, this agency may sue and be sued and may acquire, hold and convey real and personal property necessary to its existence. The employees of the service agency shall be extended the same general rights, privileges and responsibilities as comparable employees of a school district.

(2) A properly constituted cooperative service agency may request from its member school districts funding to be furnished by a tax levy not to exceed one-tenth of one percent (.1%) for a period not to exceed ten (10) years by such member school districts. Such levy must be authorized by an election held in each of the school districts pursuant to chapter 4, title 33, Idaho Code, and approved by a majority of the district electors voting in such election. Moneys received by the member school districts from this source shall be transferred to the coopera-

tive service agency upon receipt of billing from the agency. Excess revenue over billing must be kept in a designated account by the district, with accrued interest, and may only be spent as budgeted by the agency.

(3) For the purpose of constructing and maintaining facilities of a cooperative service agency, in addition to the levy authorized in subsection (2) of this section, a properly constituted cooperative service agency may request from its member school districts additional funding to be furnished by a tax levy not to exceed one-tenth of one percent (.1%) for a period not to exceed ten (10) years. Such levy must be authorized by an election held in each of the school districts pursuant to chapter 4, title 33, Idaho Code, and approved by sixty-six and two-thirds percent (66 2/3%) of the district electors voting in such election. If one (1) or more of the member districts fails to approve the tax levy in such election, the cooperative service agency may construct the facility through the support of the member districts approving the levy, but in no event shall the levy limits authorized in this subsection (3) be exceeded. Nothing shall prevent a member district that initially failed to approve the levy from conducting a subsequent election, held pursuant to chapter 4, title 33, Idaho Code, to authorize that district's participation in construction of the facility. Electors of the districts may approve continuation of such levy for an additional ten (10) years at an election held for that purpose. There is no limit on the number of elections which may be held for the purpose of continuing the levy authorized under this subsection (3) for an additional ten (10) years. The administration and accounting of moneys received by imposition of the levy shall be the same as provided in subsection (2) of this section.

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

Approved March 14, 2008.

CHAPTER 105
(H.B. No. 423)

AN ACT

RELATING TO VIRTUAL SCHOOLS; AMENDING SECTION 33-5202A, IDAHO CODE, TO REMOVE A DEFINITION AND TO DEFINE A TERM; AND AMENDING SECTION 33-5205, IDAHO CODE, TO PROVIDE FOR ADDITIONAL STATEMENTS REQUIRED IN A PETITION TO ESTABLISH A PUBLIC VIRTUAL SCHOOL.

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

SECTION 1. That Section 33-5202A, Idaho Code, be, and the same is hereby amended to read as follows:

33-5202A. DEFINITIONS. As used in this chapter, unless the context requires otherwise:

(1) "Authorized chartering entity" means either the local board of trustees of a school district in this state, or the public charter school commission pursuant to the provisions of this chapter.

(2) "Charter" means the grant of authority approved by the authorized chartering entity to the board of directors of the public charter school.

(3) "Founder" means a person, including employees or staff of a public charter school, who makes a material contribution toward the establishment of a public charter school in accordance with criteria determined by the board of directors of the public charter school, and who is designated as such at the time the board of directors acknowledges and accepts such contribution. The criteria for determining when a person is a founder shall not discriminate against any person on any basis prohibited by the federal or state constitutions or any federal, state or local law. The designation of a person as a founder, and the admission preferences available to the children of a founder, shall not constitute pecuniary benefits.

(4) "Petition" means the document submitted by a person or persons to the authorized chartering entity to request the creation of a public charter school.

(5) "Professional-technical regional public charter school" means a public charter secondary school authorized under this chapter to provide programs in professional-technical education which meet the standards and qualifications established by the division of professional-technical education. A professional-technical regional public charter school may be approved by an authorized chartering entity and by the terms of its charter, shall operate in association with at least two (2) school districts. Notwithstanding the provisions of section 33-5206(1), Idaho Code, participating school districts need not be contiguous.

(6) "Public charter school" means a school that is authorized under this chapter to deliver public education in Idaho.

~~(7) "Public virtual school" means a public charter school that may serve students in more than one (1) school district and through which the primary method for the delivery of instruction to all of its pupils is through virtual distance learning or online technologies.~~

~~(8)~~ "Traditional public school" means any school existing or to be built that is operated and controlled by a school district in this state.

(8) "Virtual school" means a school that delivers a full-time, sequential program of synchronous and/or asynchronous instruction primarily through the use of technology via the internet in a distributed environment. Schools classified as virtual must have an online component to their school with online lessons and tools for student and data management.

SECTION 2. That Section 33-5205, Idaho Code, be, and the same is hereby amended to read as follows:

33-5205. PETITION TO ESTABLISH PUBLIC CHARTER SCHOOL. (1) Any group of persons may petition to establish a new public charter school, or to convert an existing traditional public school to a public charter school.

(a) A petition to establish a new public charter school, including a public virtual charter school, shall be signed by not fewer than thirty (30) qualified electors of the attendance area designated in the petition. Proof of elector qualifications shall be provided with the petition.

(b) A petition to establish a new public virtual school must be submitted directly to the public charter school commission. A petition to establish a new public charter school, other than a new public virtual school, shall first be submitted to the local board of trustees in which the public charter school will be located. A petition shall be considered to be received by an authorized chartering entity as of the next scheduled meeting of the authorized chartering entity after submission of the petition.

(c) The board of trustees may either: (i) consider the petition and approve the charter; or (ii) consider the petition and deny the charter; or (iii) refer the petition to the public charter school commission. If the petitioners and the local board of trustees have not reached mutual agreement on the provisions of the charter, after a reasonable and good faith effort, within sixty (60) days from the date the charter petition is received, the petitioners may withdraw their petition from the local board of trustees and may submit their charter petition to the public charter school commission, provided it is signed by thirty (30) qualified electors as required by subsection (1)(a) of this section. Documentation of the reasonable and good faith effort between the petitioners and the local board of trustees must be submitted with the petition to the public charter school commission.

(d) The public charter school commission may either: (i) consider the petition and approve the charter; or (ii) consider the petition and deny the charter.

(e) A petition to convert an existing traditional public school shall be submitted to the board of trustees of the district in which the school is located for review and approval. The petition shall be signed by not fewer than sixty percent (60%) of the teachers currently employed by the school district at the school to be converted, and by one (1) or more parents or guardians of not fewer than sixty percent (60%) of the students currently attending the school to be converted. Each petition submitted to convert an existing school or to establish a new charter school shall contain a copy of the articles of incorporation and the bylaws of the nonprofit corporation, which shall be deemed incorporated into the petition.

(2) Not later than sixty (60) days after receiving a petition signed by thirty (30) qualified electors as required by subsection (1)(a) of this section, the authorized chartering entity shall hold a public hearing for the purpose of discussing the provisions of the charter, at which time the authorized chartering entity shall consider the merits of the petition and the level of employee and parental support for the petition. In the case of a petition submitted to the public charter school commission, such public hearing must be not later than sixty (60) days after receipt of the petition, which may be extended to ninety (90) days if both parties agree to an extension, and the public hearing shall also include any oral or written comments that an authorized representative of the school district in which the proposed public charter school would be physically located may provide regarding the merits of the petition and any potential impacts on the school district. Following review of the petition and the public hearing, the authorized chartering entity shall either approve or deny the charter within sixty (60) days after the date of the public hearing, provided however, that the date may be extended by an additional sixty (60) days if the peti-

tion fails to contain all of the information required in this section, or if both parties agree to the extension. This public hearing shall be an opportunity for public participation and oral presentation by the public. This hearing is not a contested case hearing as described in chapter 52, title 67, Idaho Code.

(3) An authorized chartering entity may approve a charter under the provisions of this chapter only if it determines that the petition contains the requisite signatures, the information required by subsection (4) of this section, and additional statements describing all of the following:

(a) The proposed educational program of the public charter school, designed among other things, to identify what it means to be an "educated person" in the twenty-first century, and how learning best occurs. The goals identified in the program shall include how all educational thoroughness standards as defined in section 33-1612, Idaho Code, shall be fulfilled.

(b) The measurable student educational standards identified for use by the public charter school. "Student educational standards" for the purpose of this chapter means the extent to which all students of the public charter school demonstrate they have attained the skills and knowledge specified as goals in the school's educational program.

(c) The method by which student progress in meeting those student educational standards is to be measured.

(d) A provision by which students of the public charter school will be tested with the same standardized tests as other Idaho public school students.

(e) A provision which ensures that the public charter school shall be state accredited as provided by rule of the state board of education.

(f) The governance structure of the public charter school including, but not limited to, the person or entity who shall be legally accountable for the operation of the public charter school, and the process to be followed by the public charter school to ensure parental involvement.

(g) The qualifications to be met by individuals employed by the public charter school. Instructional staff shall be certified teachers as provided by rule of the state board of education.

(h) The procedures that the public charter school will follow to ensure the health and safety of students and staff.

(i) A plan for the requirements of section 33-205, Idaho Code, for the denial of school attendance to any student who is an habitual truant, as defined in section 33-206, Idaho Code, or who is incorrigible, or whose conduct, in the judgment of the board of directors of the public charter school, is such as to be continuously disruptive of school discipline, or of the instructional effectiveness of the school, or whose presence in a public charter school is detrimental to the health and safety of other pupils, or who has been expelled from another school district in this state or any other state.

(j) Admission procedures, including provision for overenrollment. Such admission procedures shall provide that the initial admission procedures for a new public charter school, including provision for overenrollment, will be determined by lottery or other random

method, except as otherwise provided herein. If initial capacity is insufficient to enroll all pupils who submit a timely application, then the admission procedures may provide that preference shall be given in the following order: first, to children of founders, provided that this admission preference shall be limited to not more than ten percent (10%) of the capacity of the public charter school; second, to siblings of pupils already selected by the lottery or other random method; and third, an equitable selection process such as by lottery or other random method. If capacity is insufficient to enroll all pupils for subsequent school terms, who submit a timely application, then the admission procedures may provide that preference shall be given in the following order: first, to pupils returning to the public charter school in the second or any subsequent year of its operation; second, to children of founders, provided that this admission preference shall be limited to not more than ten percent (10%) of the capacity of the public charter school; third, to siblings of pupils already enrolled in the public charter school; and fourth, an equitable selection process such as by lottery or other random method. There shall be no carryover from year to year of the list maintained to fill vacancies. A new lottery shall be conducted each year to fill vacancies which become available.

(k) The manner in which an annual audit of the financial and programmatic operations of the public charter school is to be conducted.

(l) The disciplinary procedures that the public charter school will utilize, including the procedure by which students may be suspended, expelled and reenrolled, and the procedures required by section 33-210, Idaho Code.

(m) A provision which ensures that all staff members of the public charter school will be covered by the public employee retirement system, federal social security, unemployment insurance, worker's compensation insurance, and health insurance.

(n) The public school attendance alternative for students residing within the school district who choose not to attend the public charter school.

(o) A description of the transfer rights of any employee choosing to work in a public charter school that is approved by the board of trustees of a school district, and the rights of such employees to return to any noncharter school in the same school district after employment at such charter school.

(p) A provision which ensures that the staff of the public charter school shall be considered a separate unit for purposes of collective bargaining.

(q) The manner by which special education services will be provided to students with disabilities who are eligible pursuant to the federal individuals with disabilities education act, including disciplinary procedures for these students.

(r) A plan for working with parents who have students who are dually enrolled pursuant to section 33-203, Idaho Code.

(s) The process by which the citizens in the area of attendance shall be made aware of the enrollment opportunities of the public charter school.

(t) A proposal for transportation services as required by section 33-5208(4), Idaho Code.

(u) A plan for termination of the charter by the board of directors, to include:

(i) Identification of who is responsible for dissolution of the charter school;

(ii) A description of how payment to creditors will be handled;

(iii) A procedure for transferring all records of students with notice to parents of how to request a transfer of student records to a specific school; and

(iv) A plan for the disposal of the public charter school's assets.

(4) The petitioner shall provide information regarding the proposed operation and potential effects of the public charter school including, but not limited to, the facilities to be utilized by the public charter school, the manner in which administrative services of the public charter school are to be provided and the potential civil liability effects upon the public charter school and upon the authorized chartering entity.

(5) The public charter school commission may approve a charter for a public virtual school under the provisions of this chapter only if it determines that the petition contains the requirements of subsections (3) and (4) of this section and the additional statements describing the following:

(a) The learning management system by which courses will be delivered;

(b) The role of the online teacher, including the consistent availability of the teacher to provide guidance around course material, methods of individualized learning in the online course and the means by which student work will be assessed;

(c) A plan for the provision of professional development specific to the public virtual school environment;

(d) The means by which public virtual school students will receive appropriate teacher-to-student interaction, including timely, frequent feedback about student progress;

(e) The means by which the public virtual school will verify student attendance and award course credit. Attendance at public virtual schools shall focus primarily on coursework and activities that are correlated to the Idaho state thoroughness standards;

(f) A plan for the provision of technical support relevant to the delivery of online courses;

(g) The means by which the public virtual school will provide opportunity for student-to-student interaction; and

(h) A plan for ensuring equal access to all students, including the provision of necessary hardware, software and internet connectivity required for participation in online coursework.

Approved March 14, 2008.

CHAPTER 106
(H.B. No. 440, As Amended in the Senate)

AN ACT

RELATING TO TRUCK CAMPERS; AMENDING SECTION 49-105, IDAHO CODE, TO REVISE THE DEFINITION OF "DEALER"; AMENDING SECTION 49-121, IDAHO CODE, TO REVISE THE DEFINITION OF "TRUCK CAMPER"; AMENDING SECTION 49-501, IDAHO CODE, TO REQUIRE CERTAIN TRUCK CAMPERS TO BE TITLED, TO PROVIDE FOR OPTIONAL TITLING OF TRUCK CAMPERS ACQUIRED BEFORE JANUARY 1, 2009, AND TO PROVIDE FOR LIENS AND ENCUMBRANCES FILED PRIOR TO JANUARY 1, 2009; AMENDING SECTION 49-1606, IDAHO CODE, TO REVISE DEALER LICENSING PROVISIONS; AMENDING SECTION 49-1608, IDAHO CODE, TO REVISE DEALER LICENSE BOND PROVISIONS; AMENDING SECTION 63-3622HH, IDAHO CODE, TO REVISE THE DEFINITION OF "TRUCK CAMPER" AND TO MAKE TECHNICAL CORRECTIONS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 49-105, Idaho Code, be, and the same is hereby amended to read as follows:

49-105. DEFINITIONS -- D. (1) "Dealer" means every person in the business of buying, selling or exchanging five (5) or more new or used vehicles, new or used neighborhood electric vehicles, new or used motorcycles, snow machines or motor scooters, travel trailers, truck campers, all-terrain vehicles, utility type vehicles or motor homes in any calendar year, either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise, or who has an established place of business for the sale, lease, trade, or display of these vehicles. No insurance company, bank, finance company, public utilities company, or other person coming into possession of any vehicle, as an incident to its regular business, who shall sell that vehicle under any contractual rights it may have, shall be considered a dealer. See also "salvage pool," section 49-120, Idaho Code.

(2) "Dealer's selling agreement." (See "Franchise," section 49-107, Idaho Code)

(3) "Department" means the Idaho transportation department acting directly or through its duly authorized officers and agents, except in chapters 6 and 9, title 49, Idaho Code, where the term means the Idaho state police, except as otherwise specifically provided.

(4) "Designated family member" means the spouse, child, grandchild, parent, brother or sister of the owner of a vehicle dealership who, in the event of the owner's death, is entitled to inherit the ownership interest in the dealership under the same terms of the owner's will, or who has been nominated in any other written instrument, or who, in the case of an incapacitated owner of a dealership, has been appointed by a court as the legal representative of the dealer's property.

(5) "Director" means the director of the Idaho transportation department, except in chapters 6, 9 and 22, title 49, Idaho Code, where the term means the director of the Idaho state police.

(6) "Disclose" means to engage in any practice or conduct to make available and make known personal information contained in records of the department about a person to any other person, organization or entity, by any means of communication.

(7) "Disqualification" as defined in 49 CFR part 383, means withdrawal by the department of commercial vehicle driving privileges.

(8) "Distributor" means any person, firm, association, corporation or trust, resident or nonresident, who has a franchise from a manufacturer of vehicles to distribute vehicles in this state, and who in whole or in part sells or distributes new vehicles to dealers or who maintains distributor representatives.

(9) "Distributor branch" means a branch office similarly maintained by a distributor for the same purposes a factory branch is maintained.

(10) "Distributor representative" means any person, firm, association, corporation or trust, and each officer and employee thereof engaged as a representative of a distributor or distributor branch of vehicles for the purpose of making or promoting the sale of vehicles, or for supervising or contacting dealers or prospective dealers.

(11) "District" means:

(a) Business district. The territory contiguous to and including a highway when within any six hundred (600) feet along the highway there are buildings in use for business or industrial purposes, including hotels, banks or office buildings, railroad stations and public buildings which occupy at least three hundred (300) feet of frontage on one side or three hundred (300) feet collectively on both sides of the highway.

(b) Residential district. The territory contiguous to and including a highway not comprising a business district when the property on the highway for a distance of three hundred (300) feet or more is in the main improved with residences, or residences and buildings in use for business.

(c) Urban district. The territory contiguous to and including any highway which is built up with structures devoted to business, industry or dwelling houses. For purposes of establishing speed limits in accordance with the provisions of section 49-654, Idaho Code, no state highway or any portion thereof lying within the boundaries of an urban district is subject to the limitations which otherwise apply to nonstate highways within an urban district. Provided, this subsection shall not limit the authority of the duly elected officials of an incorporated city acting as a local authority to decrease speed limits on state highways passing through any district within the incorporated city.

(12) "Documented vessel" means a vessel having a valid marine document as a vessel of the United States.

(13) "Drag race" means the operation of two (2) or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of one (1) or more vehicles over a common selected course, from the same point to the same point, for the purpose of comparing the relative speeds or power of acceleration of the vehicles within a certain distance or time limit.

(14) "Driver" means every person who drives or is in actual physical control of a vehicle.

(15) "Driver's license" means a license or permit issued by the department or by any other jurisdiction to an individual which authorizes the individual to operate a motor vehicle or commercial motor vehicle on the highways in accordance with the requirements of title 49, Idaho Code.

(16) "Driver's license -- Classes of" are issued for the operation

of a vehicle based on the size of the vehicle or the type of load and mean:

(a) Class A. This license shall be issued and valid for the operation of any combination of motor vehicles with a manufacturer's gross combination weight rating (GCWR) in excess of twenty-six thousand (26,000) pounds, provided the manufacturer's gross vehicle weight rating (GVWR) of the vehicle(s) being towed is in excess of ten thousand (10,000) pounds. Persons holding a valid class A license may also operate vehicles requiring a class B, C or D license.

(b) Class B. This license shall be issued and valid for the operation of any single vehicle with a manufacturer's gross vehicle weight rating (GVWR) in excess of twenty-six thousand (26,000) pounds, or any such vehicle towing a vehicle not in excess of ten thousand (10,000) pounds manufacturer's gross vehicle weight rating (GVWR). Persons holding a valid class B license may also operate vehicles requiring a class C license or a class D license.

(c) Class C. This license shall be issued and valid for the operation of any single vehicle or combination of vehicles that does not meet the definition of class A or class B, as defined in this section, but that either is designed to transport sixteen (16) or more people including the driver, or is of any size which does not meet the definition of class A or class B and is used in the transportation of materials found to be hazardous according to the hazardous material transportation act and which requires the motor vehicle to be placarded under the federal hazardous materials regulations 49 CFR part 172, subpart F. Persons holding a valid class C license may also operate vehicles requiring a class D license.

(d) Class D. This license shall be issued and valid for the operation of a motor vehicle that is not a commercial vehicle as defined in section 49-123, Idaho Code.

(e) "Seasonal driver's license" means a special restricted class B or C driver's license to operate certain commercial vehicles in farm-related industries under restrictions imposed by the department. As used in this definition, "farm-related industry" shall mean custom harvesters, farm retail outlets and suppliers, agri-chemical businesses and livestock feeders. Seasonal driver's licenses are not valid for driving vehicles carrying any quantities of hazardous material requiring placarding, except for diesel fuel in quantities of one thousand (1,000) gallons or less, liquid fertilizers, i.e., plant nutrients, in vehicles or implements of husbandry with total capacities of three thousand (3,000) gallons or less, and solid fertilizers, i.e., solid plant nutrients, that are not mixed with any organic substance.

(17) "Driver record" means any record that pertains to an individual's driver's license, driving permit, driving privileges, driving history, identification documents or other similar credentials issued by the department.

(18) "Driver's license endorsements" means special authorizations that are required to be displayed on a driver's license which permit the driver to operate certain types of commercial vehicles or commercial vehicles hauling certain types of cargo, or to operate a motorcycle or a school bus.

(a) "Endorsement T -- Double/Triple trailer" means this endorsement

is required on a class A, B or C license to permit the licensee to operate a vehicle authorized to tow more than one (1) trailer.

(b) "Endorsement H -- Hazardous material" means this endorsement is required on a class A, B or C license if the driver is operating a vehicle used in the transportation of materials found to be hazardous according to the hazardous material transportation act and which requires the motor vehicle to be placarded under the federal hazardous materials regulations 49 CFR part 172, subpart F.

(c) "Endorsement P -- Passenger" means this endorsement is required on a class A, B or C license to permit the licensee to operate a vehicle designed to transport sixteen (16) or more people including the driver.

(d) "Endorsement N -- Tank vehicle" means this endorsement is required on a class A, B or C license to permit the licensee to operate a vehicle which is designed to transport any liquid or gaseous materials within a tank that is either permanently or temporarily attached to the vehicle. Such vehicles include, but are not limited to, cargo tanks and portable tanks, as defined in federal regulations 49 CFR part 171. This definition does not include portable tanks having a rated capacity under one thousand (1,000) gallons.

(e) "Endorsement M -- Motorcycle" means this endorsement is required on a driver's license to permit the driver to operate a motorcycle.

(f) "Endorsement S -- School bus" means this endorsement is required on a class A, B or C license to permit the licensee to operate a school bus in accordance with 49 CFR part 383, to transport preprimary, primary or secondary school students from home to school, from school to home, or to and from school-sponsored events. School bus does not include a bus used as a common carrier.

(19) "Driveway" means a private road giving access from a public way to a building on abutting grounds.

(20) "Dromedary tractor" means every motor vehicle designed and used primarily for drawing a semitrailer and so constructed as to carry manifested cargo in addition to a part of the weight of the semitrailer.

SECTION 2. 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 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 thirty (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, and containing at least one (1) of the following facilities: stove; refrigerator or icebox; self-contained toilet; heater or air conditioner; potable water supply including a faucet and sink; separate 110-125 volt electrical power supply; or LP-gas supply. Truck campers originally constructed with

an overall length of six (6) feet or longer shall be titled as provided in chapter 5 of this title 49. A truck camper does not include pickup hoods, shells or canopies.

(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 3. That Section 49-501, Idaho Code, be, and the same is hereby amended to read as follows:

49-501. TITLING REQUIREMENTS -- EXEMPTIONS. (1) The provisions of this chapter shall apply to every vehicle required to be registered with the department in chapter 4, title 49, Idaho Code.

(2) In addition, the titling requirements of this chapter shall apply to the following vehicles which are not required to be registered under the provisions of chapter 4, title 49, Idaho Code:

(a) All-terrain vehicles, motorbikes, snowmobiles and utility type vehicles as defined in section 67-7101, Idaho Code; ~~and~~

(b) Manufactured homes as defined in section 39-4105, Idaho Code; and

(c) Truck campers as defined in section 49-121, Idaho Code, that were originally constructed with an overall length of six (6) feet or longer. Titling is optional for truck campers acquired before January 1, 2009. Liens and encumbrances on truck campers that were filed with the office of the secretary of state in compliance with chapter 9, title 28, Idaho Code, prior to January 1, 2009, shall be in full force and effect until said lien or encumbrance is satisfied and released by the lienholder who perfected the original lien or encumbrance.

(3) Certain vehicles which are required to be registered under the provisions of chapter 4, title 49, Idaho Code, shall be exempt from the titling requirements of this chapter as follows:

(a) Utility trailers whose unladen weight is less than two thousand (2,000) pounds; and

(b) The board may, by rule, exempt vehicles and motor vehicles registered under the provisions of sections 49-434 and 49-435, Idaho Code, from the titling requirements of this chapter.

(4) Vehicles exempt from registration under the provisions of section 49-426, Idaho Code, are exempt from the titling requirements of this chapter, unless otherwise specifically required by the provisions of subsection (2) of this section.

SECTION 4. That Section 49-1606, Idaho Code, be, and the same is hereby amended to read as follows:

49-1606. CLASSES OF LICENSES -- NONRESIDENT DEALERS. Licenses issued under the provisions of this chapter shall be as follows:

(1) A dealer's license shall permit the licensee to engage in the business of selling or exchanging new and used vehicles, new and used motorcycles and motor scooters, new and used all-terrain vehicles, snow machines and travel trailers, truck campers, and new and used motor homes. This form of license shall permit licensees who are owners or

part owners of the business of the licensee to act as vehicle salesmen.

(2) A vehicle salesman's license shall permit the licensee to engage in the activities of a vehicle salesman.

(3) A wholesale dealer's license shall permit the licensee to engage in the business of wholesaling used vehicles to Idaho vehicle dealers. The holder of this license must meet all the requirements for a principal place of business, except for the requirement of display area and adequate room to repair vehicles.

(4) A vehicle manufacturer's license shall permit the licensee to engage in the business of constructing or assembling vehicles, of the type subject to registration under this title at an established place of business within Idaho.

(5) A distributor, factory branch, or distributor branch license shall permit the licensee to engage in the business of selling and distributing vehicles, parts, and accessories to their franchised dealers.

(6) A representative (factory branch or distributor, etc.) license shall permit the licensee to engage in the business of contacting his respective authorized dealers, for the purpose of making or promoting the sale of his, its, or their vehicles, parts, and accessories.

(7) Pending the satisfaction of the department that the applicant has met the requirements for licensure, it may issue a temporary permit to any applicant for a license. A temporary permit shall not exceed a period of ninety (90) days while the department is completing its investigation and determination of facts relative to the qualifications of the applicant for a license. A temporary permit shall terminate when the applicant's license has been issued or refused.

(8) The department may issue a probationary vehicle salesman's license, subject to conditions to be observed in the exercise of the privilege granted either upon application for issuance of a license or upon application for renewal of a license. The conditions to be attached to the exercise of the privilege shall not appear on the face of the license but shall, in the judgment of the department, be in the public interest and suitable to the qualifications of the applicant as disclosed by the application and investigation by the department.

(9) A nonresident dealer who is currently authorized to do business as, and has an established place of business as a vehicle dealer in another state, is not subject to licensure under the provisions of this chapter as long as the sales are limited to the exportation of vehicles for sale to, and the importation of vehicles purchased from, licensed Idaho vehicle dealers.

SECTION 5. That Section 49-1608, Idaho Code, be, and the same is hereby amended to read as follows:

49-1608. LICENSE BOND. (1) Before any dealer's license shall be issued by the department to any applicant, the applicant shall procure and file with the department good and sufficient bond in the amount shown, conditioned that the applicant shall not practice any fraud, make any fraudulent representation or violate any of the provisions of this chapter, rules of the department, or the provisions of chapter 5, title 49, section 49-1418, or chapter 6, title 48, Idaho Code, or federal motor vehicle safety standards, or odometer fraud in the conduct of the business for which he is licensed.

(a) All dealers, including wholesale, but excluding a dealer exclu-

sively in the business of motorcycles and motor scooters, all-terrain vehicles, utility type vehicles, truck campers and snow machine sales, twenty thousand dollars ($20,000).

(b) A dealer exclusively in the business of motorcycle and motor scooter sales, all-terrain vehicles, utility type vehicles, truck campers and snow machine sales, ten thousand dollars ($10,000).

(2) The bond required in this section may be continuous in form and the total aggregate liability on the bond shall be limited to the payment of the amounts set forth in this section. The bond shall be in the following form:

(a) A corporate surety bond, by a surety licensed to do business in this state; or

(b) A certificate of deposit, in a form prescribed by the director; or

(c) A cash deposit with the director.

(3) If a bond is canceled or otherwise becomes invalid, upon receiving notice of the cancellation or invalidity, the department shall immediately suspend the dealer's license and take possession of the license itself, all vehicle plates used in the business and all unused title applications of the licensee. The licensee is entitled to a hearing which shall be held within twenty (20) days of the suspension. Upon receiving notice that a valid bond is in force, the department shall immediately reinstate the license.

(4) The bond requirements of this section shall be satisfied if the applicant is a duly licensed manufactured home dealer in accordance with chapter 21, title 44, Idaho Code, and the bond required by section 44-2103, Idaho Code, otherwise meets the requirements of this section. The amount of the bond shall be in the amount as required in this section or that required in section 44-2103, Idaho Code, whichever is greater. The applicant shall furnish a certified copy of the bond as required in section 44-2103, Idaho Code, to the department.

SECTION 6. That Section 63-3622HH, Idaho Code, be, and the same is hereby amended to read as follows:

63-3622HH. PRODUCTION EXEMPTION SHALL NOT APPLY TO SALES REGARDING RECREATION-RELATED VEHICLES. (1) Notwithstanding any other provision of law to the contrary, the production exemption provided in section 63-3622D, Idaho Code, shall not apply to sales of or repairs to snowmobiles, off-highway motorbikes, recreational vehicles, or motorcycles and all sales of snowmobiles, off-highway motorbikes, recreational vehicles or motorcycles are subject to the sales and use taxes imposed by this chapter. All repairs to snowmobiles, off-highway motorbikes, recreational vehicles or motorcycles are subject to the sales and use taxes imposed by this chapter.

(2) As used in this section, the term "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.

(3) As used in this section, the term "off-highway motorbike" means any self-propelled two (2), three (3), four (4) or five (5) 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, trail bikes, motorcross bikes or dual purpose motorcycles.

(4) As used in this section, the term "recreational vehicle" means a motor home, travel trailer, truck camper or camping trailer, with or without motive power, designed for human habitation for recreational or emergency occupancy. The term recreational vehicle shall not include pickup hoods, shells, or canopies designed, created or modified for occupational usage. School buses or van type vehicles which are converted to recreational use, are defined as recreational vehicles. Specific classes of recreational vehicles are defined as follows:

(a) The term "motor home" shall mean a vehicular unit designed to provide temporary living quarters, built into an integral part of or permanently attached to a self-propelled motor vehicle chassis. The vehicle must contain permanently installed independent life support systems which meet the ~~a~~American national standards institute (ANSI) A119.7 standard for recreational vehicles, and provide at least four (4) of the following facilities: cooking, refrigeration or ~~ice-box~~ icebox, self-contained toilet, heating and/or air conditioning, a portable water supply system, including a faucet and sink, separate 110-125 volt electrical power supply and/or LP-gas supply.

(b) The term "travel trailer" shall mean 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.

(c) The term "fifth wheel trailer" shall mean 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.

(d) The term "park trailer" shall mean 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) The term "fold down camping trailer" shall mean 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.

(f) The term "truck camper" shall mean 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, and containing at least one (1) of the following facilities: stove; refrigerator or icebox; self-contained toilet; heater or air conditioner; potable water supply including a faucet and sink; separate 110-125 volt electrical power supply; or LP-gas supply.

(5) As used in this section, the term "motorcycle" means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the

ground, but excluding a tractor. A motorcycle also is every motor scooter or motorized bicycle having an engine with less than one hundred fifty (150) cubic centimeters displacement or with five (5) brake horsepower or less.

(6) As used in this section, the term "repairs" shall include only the costs of parts, but not labor, utilized on the snowmobile, off-highway motorbike, recreational vehicle or motorcycle.

SECTION 7. This act shall be in full force and effect on and after January 1, 2009.

Approved March 14, 2008.

CHAPTER 107
(H.B. No. 452)

AN ACT
RELATING TO THE IDAHO CONTRACTORS BOARD; AMENDING SECTION 54-5206, IDAHO CODE, TO REVISE COMPENSATION FOR BOARD MEMBERS.

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

SECTION 1. That Section 54-5206, Idaho Code, be, and the same is hereby amended to read as follows:

54-5206. IDAHO CONTRACTORS BOARD. (1) The Idaho contractors board is hereby created and made a part of the bureau of occupational licenses. It shall be the responsibility and duty of the bureau chief to administer this chapter, and the bureau chief shall exercise such powers and duties as are reasonably necessary to enforce the provisions of this chapter. The board may promulgate such rules as may be necessary to carry out the provisions of this chapter in order to effectuate the purposes herein and for the orderly and efficient administration thereof, except as may be limited or prohibited by law and the provisions of this chapter.

(2) The board shall consist of four (4) members who are contractors, and one (1) member of the public at large, all of whom shall be appointed by the governor as follows: one (1) contractor from the northern district consisting of Idaho, Lewis, Nez Perce, Clearwater, Latah, Benewah, Boundary, Shoshone, Kootenai and Bonner counties; one (1) contractor from the southeastern district consisting of Lemhi, Butte, Clark, Fremont, Jefferson, Madison, Teton, Bonneville, Bingham, Caribou, Bear Lake, Franklin, Oneida, Power and Bannock counties; one (1) contractor from the southwestern district consisting of Owyhee, Elmore, Ada, Canyon, Boise, Gem, Payette, Washington, Adams and Valley counties; one (1) contractor from the south central district consisting of Blaine, Camas, Cassia, Custer, Gooding, Jerome, Lincoln, Minidoka and Twin Falls counties; and one (1) member of the public at large who resides in the state of Idaho and is a person of integrity and good reputation who has lived in this state for at least five (5) years immediately preceding appointment, who has never been registered as a contractor in this or another state, and who has never had a substantial personal, business,

professional or pecuniary connection with a contractor except as a purchaser or owner of real property.

(3) Each member of the board who is a contractor shall serve a term of four (4) years and such terms shall be staggered. The initial board shall have one (1) member whose term expires July 1, 2007; one (1) member whose term expires July 1, 2008; one (1) member whose term expires July 1, 2009; and one (1) member whose term shall expire July 1, 2010. The member of the board who is a member of the public at large shall serve a four (4) year term, which initial term shall expire on July 1, 2008. No member of the board may be appointed to more than two (2) consecutive terms.

(4) The board shall meet within thirty (30) days after the appointment of all its members and thereafter at such other times as may be expedient and necessary for the proper performance of its duties, but not less than once during each calendar quarter. At the board's first meeting, the members shall elect one (1) of their number to be chairman. The chairman may serve in such capacity for a one (1) year term and may not serve in such capacity for more than two (2) consecutive terms. A majority of the board shall constitute a quorum for the transaction of business.

(5) The board may delegate to the bureau chief:

(a) The power to perform ministerial functions, investigate and discipline, hold hearings, appoint hearing officers, summon witnesses to appear, administer oaths and take affirmations of witnesses at any formal proceeding or before a duly appointed hearing officer;

(b) The power to appoint competent persons to issue subpoenas, administer oaths and take testimony; and

(c) The power to enforce orders of the board.

(6) Each member of the board shall be compensated as provided by section 59-509(~~b~~n), Idaho Code.

(7) On and after January 1, 2006, each member of the board who is a contractor shall be registered in accordance with this chapter and shall be in good standing.

Approved March 14, 2008.

CHAPTER 108
(H.B. No. 453)

AN ACT

RELATING TO REAL ESTATE APPRAISERS; AMENDING SECTION 54-4107, IDAHO CODE, TO REVISE DISCIPLINARY PROCEEDING PROVISIONS RELATING TO LICENSED AND CERTIFIED REAL ESTATE APPRAISERS AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 54-4113, IDAHO CODE, TO REVISE FEE PROVISIONS RELATING TO EXAMINATIONS AND REEXAMINATIONS FOR LICENSES AND CERTIFICATES.

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

SECTION 1. That Section 54-4107, Idaho Code, be, and the same is hereby amended to read as follows:

54-4107. DISCIPLINARY PROCEEDINGS. (1) The board ~~shall upon a written sworn complaint or may upon its own motion investigate the actions of any state licensed or certified real estate appraiser and~~ may refuse to issue, refuse to renew or may suspend, or revoke or otherwise sanction any license or certificate issued under this chapter for any of the following:

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

(b) Being convicted of a felony;

(c) Making any substantial misrepresentation, false promises or false or fraudulent representation;

(d) Violating the provisions of this chapter or any rules of the board;

(e) Being negligent or incompetent, as defined in the uniform standards of professional appraisal practices, in developing an appraisal, in preparing an appraisal report or in communicating an appraisal;

(f) Accepting an appraisal assignment when the employment is contingent upon the licensed or certified appraiser reporting a predetermined estimate, analysis or opinion, or where the fee to be paid is contingent upon the opinion, conclusion, or valuation reached, or upon the consequences resulting from the appraisal assignment;

(g) Violating the confidential nature of governmental records to which he gained access through employment as a licensed or certified appraiser by a governmental agency;

(h) Entering into an agreement to perform specialized services for a contingent fee, and failing to clearly state this fact in each written and oral report; ~~or~~

(i) Failing as a state licensed or certified real estate appraiser to actively and personally supervise any person not licensed or certified under the provisions of this chapter, who assists said state licensed or certified appraiser in performing real estate appraisals; or

(j) Having had a license or certificate to practice revoked, suspended or otherwise sanctioned by any other state.

(2) The board, or its duly appointed hearing officer, shall have the power in any disciplinary proceeding under this chapter, to administer oaths, take depositions of witnesses within or without the state in the manner provided by law in civil cases, and may apply to any district court of this state for a subpoena to require the attendance of such witnesses and the production of such books, records and papers as it deems necessary. The fees and mileage of the witnesses shall be the same as that allowed in the district courts in civil cases, which fees and mileage shall be paid in the same manner as other expenses of the board are paid. In any case of disobedience to, or neglect of, any subpoena or subpoena duces tecum served upon any person, or the refusal of any witness to testify to any matter regarding which he may lawfully be interrogated, it shall be the duty of any district court in this state on application by the board to compel compliance with the subpoena by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court or for refusal to testify

therein. The state licensed or certified person accused in such proceedings shall have the same right of subpoena.

(3) Except as otherwise provided in this chapter, all proceedings under this chapter shall be in accordance with the administrative procedures act, chapter 52, title 67, Idaho Code.

SECTION 2. That Section 54-4113, Idaho Code, be, and the same is hereby amended to read as follows:

54-4113. FEES -- ISSUANCE OF LICENSES OR CERTIFICATES. Every person applying for examination ~~for a license or certificate~~ or reexamination under this chapter shall pay a fee ~~of not to exceed three hundred fifty dollars ($350) to the bureau of occupational licenses. In case the applicant fails to qualify, said fee shall be retained by the bureau to cover the necessary expenses of said examination~~ equal to that charged by the national examining entity. If the result of the examination of any applicant shall be satisfactory to the board, under its rules, it shall issue to such applicant a license or certificate setting forth the fact that he is a state licensed or certified real estate appraiser and authorized to practice his profession in this state. ~~The fee for reexamination shall not exceed two hundred dollars ($200).~~ The fee for obtaining a license or certificate under the provisions of this chapter shall be an amount not to exceed five hundred dollars ($500). The annual fee for renewal or reinstatement of a license or certificate shall be an amount not to exceed five hundred dollars ($500), which shall be paid to the bureau. The board shall adopt all fees by rule.

In addition to those fees described above, the board may collect from applicants for licensure or certification and holders of state licenses or certificates of appraisal and remit to the appropriate agency or instrumentality of the federal government, any additional fees as may be required to render Idaho state licensed residential, certified residential and general real estate appraisers eligible to perform appraisals in connection with federally-related transactions.

Approved March 14, 2008.

CHAPTER 109
(H.B. No. 454)

AN ACT

RELATING TO THE BOARD OF MORTICIANS; AMENDING SECTION 54-1109, IDAHO CODE, TO REVISE REQUIREMENTS FOR A MORTICIAN'S LICENSE.

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

SECTION 1. That Section 54-1109, Idaho Code, be, and the same is hereby amended to read as follows:

54-1109. REQUIREMENTS FOR MORTICIAN LICENSE -- REQUIREMENTS FOR FUNERAL DIRECTOR LICENSE -- LICENSE BY ENDORSEMENT. (1) The board shall issue to any person a mortician's license to practice as a mortician and perform mortician services within the state of Idaho who has complied with and fulfilled all of the following requirements:

(a) Has attained the age of twenty-one (21) years.

(b) Is of good moral character.

(c) Has completed and received credit for at least sixty (60) semester hours' or ninety (90) quarter-hours' instruction in a duly accredited college or university and has obtained at least a C grade average for all courses of instruction; provided, however, at least three-fourths (3/4) of all of such credits must be for courses in the fields of liberal arts, business or science as defined and specified by the board of morticians.

(d) Has successfully completed a course in an embalming school accredited by the American board of funeral service education, inc., or such other embalming school as approved by the board of morticians.

(e) Has practiced as a licensed resident trainee in the state of Idaho under the personal supervision of a licensed resident mortician for not less than twelve (12) months, and has assisted in embalming at least twenty-five (25) dead human bodies and assisted in making at least twenty-five (25) funeral arrangements and in conducting at least twenty-five (25) funerals; provided, however, such practice as a licensed resident trainee of the state of Idaho may be filled and performed either before or after the required post-high school education.

(f) Has filed an application with the board as required by this chapter and paid the required filing fee therefor.

(g) Has passed the required examination prepared and conducted by the board of morticians. Provided further, that the board shall determine compliance with all of the above qualifications, except this paragraph relating to examinations, at the time the applicant files his application as hereinafter provided and before the examination is conducted by the board of morticians.

(2) The board shall issue to any person a funeral director license to practice as a funeral director and perform funeral director services within the state of Idaho who has complied with and fulfilled all of the following requirements:

(a) Has attained the age of twenty-one (21) years.

(b) Is of good moral character.

(c) Has completed and received at least sixty (60) semester hours' or ninety (90) quarter-hours' instruction from a duly accredited college or university and has obtained at least a C grade average for all courses of instruction; provided, however, at least three-fourths (3/4) of all such credits must be for courses in the fields of liberal arts, business or science as defined and specified by the board.

(d) Has successfully completed at least fifteen (15) semester credit hours or the equivalent from a mortuary college accredited by the American board of funeral service education, inc., or such credits as are otherwise approved by the board, with course of study to include business law, psychology, sociology, funeral service counseling, funeral service management and other classes that relate to conducting funeral business.

(e) Has practiced as a licensed trainee in the state of Idaho under the personal supervision of a licensed mortician for not less than twelve (12) months, and has assisted in making at least twenty-five (25) funeral arrangements and in conducting at least twenty-five (25) funerals.

(f) Has successfully passed the required examination as established by the rules of the board. An applicant shall not be qualified to take the examination until all other requirements have been met.

(g) Has filed an application with the board as required by this chapter and paid the required fees.

(3) Any person holding a current, valid license in another state or territory having substantially similar requirements to those existing in this state, may be granted a license without examination, provided:

(a) The applicant files with the board a certified statement from the examining board of the state or territory in which the applicant holds his license, verifying the license and showing the basis upon which the license was granted; and

(b) The applicant pays the license fee; and

(c) The applicant satisfies the board that he understands the laws and rules of this state as to funeral service.

(4) A person holding a current, valid license in another state or territory with requirements significantly lower than those of this state who has at least five (5) consecutive years of experience as a licensee in the other state or territory prior to application, may apply for a license to practice in this state without meeting the full requirements of subsection (1) or (2) of this section. Upon payment of the license fee and passing such test of proficiency as the board shall require including, but not limited to, a knowledge of the laws and administrative rules of this state as to funeral service, the board shall grant a license.

Approved March 14, 2008.

CHAPTER 110
(H.B. No. 455)

AN ACT

RELATING TO THE BOARD OF BARBER EXAMINERS; AMENDING SECTION 54-506, IDAHO CODE, TO REVISE PROVISIONS RELATING TO LICENSE EXAMINATIONS; AMENDING SECTION 54-510, IDAHO CODE, TO DELETE THE PROVISION THAT THE BOARD CONDUCT LICENSE EXAMINATIONS AND TO DELETE PROVISIONS RELATING TO FAILING A LICENSE EXAMINATION; AMENDING SECTION 54-518, IDAHO CODE, TO REVISE PROVISIONS RELATING TO EXAMINATION AND REEXAMINATION FEES; AND AMENDING SECTION 54-521, IDAHO CODE, TO REVISE DUTIES OF THE BOARD BY PROVIDING AUTHORITY TO APPROVE LICENSE EXAMINATIONS, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 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~~ approved by the board.

(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~~ approved by the board.

(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 college 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~~ approved by the board.

(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 2. That Section 54-510, Idaho Code, be, and the same is hereby amended to read as follows:

54-510. EXAMINATIONS. ~~The board of barber examiners shall conduct examinations of applicants for licensure to practice as barbers and barber stylists at such times and places as said board may determine.~~

The examination of applicants for licensure as barbers and barber-stylists shall include both a practical demonstration and a written and oral test, and shall embrace the subjects usually taught in schools of barbering approved by the board.

~~An examination is failed when an applicant obtains a score of below seventy-five percent (75%). Any applicant failing below seventy-five percent (75%) on any portion of the examination on the first attempt will not be required to complete any additional training. An applicant failing below seventy-five percent (75%) on a second attempt and all subsequent attempts will be required to complete additional training equal to twenty percent (20%) of the original course of instruction.~~

SECTION 3. 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

barber instructor, original license/annual renewals.....60.00

student registration (no renewal fees required).....60.00

endorsement.....80.00

(2) Examination/Reexamination conducted by a board approved examination administrator shall be that amount charged by the administrator and paid directly to the administrator.

Examination/Reexamination conducted by the board:

barber and barber-stylist.....$ 75.00

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 4. 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 the board's interest. In addition to the powers otherwise conferred by this chapter, it shall be the duty of the board:

(1) To conduct or approve 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 54-5131, 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~~ the 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~~ the 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 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.

Approved March 14, 2008.

CHAPTER 111
(H.B. No. 460)

AN ACT

RELATING TO COUNTIES; AMENDING SECTION 31-3205, IDAHO CODE, TO REVISE RECORDER'S FEES FOR FILING SURVEYS AND TO DELETE A RECORDER'S FEE FOR MAKING AND CERTIFYING CERTAIN REPORTS RELATING TO LIENS ON PERSONAL PROPERTY.

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

SECTION 1. That Section 31-3205, Idaho Code, be, and the same is hereby amended to read as follows:

31-3205. RECORDER'S FEES. (1) The county recorder is allowed, and may receive for his services, the following fees, to be paid him by the party procuring his services:

(a) For recording every instrument, paper or notice, for each page ..... $ 3.00

(b) For copies of any record or paper, for each page ..... $ 1.00

(c) For each certificate under seal, when required ..... $ 1.00

(d) For release or assignment where more than one (1) document is released or assigned in the same instrument, for each additional release or assignment ..... $ 1.00

(e) For recording every town plat or map, for first one hundred (100) lots or less $11.00

And for each additional lot ..... $ .05

(f) For taking acknowledgments, including seal ..... $ 1.00

(g) For recording the location notice or amended location notice, of a mining claim, or for recording and indexing each notice, for each page ..... $ 3.00

(h) For recording affidavit of labor of mining claims for one (1) mining claim ..... $ 4.00

Plus an additional charge for each claim in excess of one (1) ..... $ .50

(i) For filing a survey, for each page ..... $ 5.00

(j) For making a copy of a survey or highway right-of-way plat ..... $ 4.00

(k) For issuing marriage license, filing, recording and indexing the certificate of marriage and taking and filing affidavits required in issuance of the license $11.00

(l) For administering an oath, including jurat ..... $ 1.00

And certifying the same when required an additional sum of .. $ 1.00

(m) For comparing and certifying a prepared copy of a file or record in his office, for each page ..... $ .50

(n) ~~For making and certifying a report of search for lien upon personal property, excluding Uniform Commercial Code, for each name searched ..... $5.00~~

~~(o)~~ For each certificate under seal there shall be an additional fee of ..... $ 1.00

(2) For duplication of recorded documents in excess of one hundred (100) pages or continuous copy requests for duplication of records using compact disc, zip disc, floppy disc or other electronic means, the fee shall be negotiated between the county recorder and the purchaser of records. The fee shall not exceed the costs to the county recorder for the retrieval and duplication of the record. These negotiated fees shall be recommended by the county recorder and approved by the board of county commissioners. Any existing agreements for duplication of records are hereby ratified and approved. Any negotiated fees shall remain in effect until such time as either party requests a review of the fee.

(3) All instruments delivered to the county recorder for record shall be recorded rather than filed with the exception of plats, surveys, cornerstone markers and instruments under the Uniform Commercial Code.

(4) For all other services as recorder, not enumerated herein, the fee fixed in the statute requiring the service or the same fee as allowed the clerk of the district court for like service.

(5) A page shall not exceed fourteen (14) inches in length nor eight and one-half (8 1/2) inches in width. Each page shall be typewritten or be in legible writing. The recording fee to be charged for maps, sketches, drawings or other instruments except plats larger than the size permitted above for a page shall be two cents (2¢) per square inch.

Approved March 14, 2008.

CHAPTER 112
(H.B. No. 473)

AN ACT

RELATING TO OUTFITTERS AND GUIDES; AMENDING SECTION 36-2104, IDAHO CODE, TO PROVIDE THAT KNOWINGLY PROVIDING CONSIDERATION OR COMPENSATION TO PERSONS NOT DULY LICENSED FOR SERVICES REQUIRING AN OUTFITTING OR GUIDING LICENSE SHALL CONSTITUTE A MISDEMEANOR AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 36-2107, IDAHO CODE, TO REVISE PROVISIONS RELATING TO SUBPOENAS AND SUBPOENAS DUCES TECUM AND TO PROVIDE FOR THE PAYMENT OF CERTAIN FEES AND MILEAGE; AND AMENDING SECTION 36-2117, IDAHO CODE, TO REVISE AND PROVIDE FOR PENALTY PROVISIONS, TO PROVIDE FOR REIMBURSEMENT OF CERTAIN COSTS, TO PROVIDE FOR SUSPENSION OF LICENSES TO HUNT AND FISH AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 36-2104, Idaho Code, be, and the same is hereby amended to read as follows:

36-2104. LICENSE A PREREQUISITE FOR OUTFITTING AND GUIDING. (~~a~~1) It is a misdemeanor for any person to engage in the business of or act in the capacity of an outfitter or outfitting, or in the occupation of guiding, unless such person has first secured an outfitter's or guide's license in accordance with the provisions of this ~~act~~ chapter, or for any person to knowingly and willingly conspire to violate the provisions of this chapter.

(~~b~~2) It is a misdemeanor for any person to provide consideration or compensation for services requiring an outfitting or guiding license to another person, when such person providing consideration or compensation knows the person providing such services is not duly licensed as an outfitter or guide in accordance with the provisions of this chapter.

(3) Any person who shall violate the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof, such person shall be punished as provided in section 36-2117, Idaho Code.

SECTION 2. That Section 36-2107, Idaho Code, be, and the same is hereby amended to read as follows:

36-2107. POWERS AND DUTIES OF BOARD. The board which may by written agreement authorize the bureau of occupational licenses as agent to act in its interest, shall have the following duties and powers:

(a) To conduct examinations to ascertain the qualifications of

applicants for outfitter's or guide's licenses, and to issue such licenses to qualified applicants, with such restrictions and limitations thereon as the board may find reasonable.

(b) To prescribe and establish rules of procedure to carry into effect the provisions of this chapter including, but not limited to, rules prescribing all requisite qualifications of training, experience, knowledge of rules of governmental bodies, condition and type of gear and equipment, examinations to be given applicants, whether oral, written or demonstrative, or a combination thereof.

(c) To conduct hearings and proceedings to suspend, revoke or restrict the licenses of outfitters or guides, and to suspend, revoke or restrict said licenses for due cause in the manner hereinafter provided.

(d) The board is expressly vested with the power and the authority to enforce the provisions of this chapter including obtaining injunctive relief and to make and enforce any and all reasonable rules which shall by it be deemed necessary and which are not in conflict with the provisions of this chapter, for the express purpose of safeguarding the health, safety, welfare and freedom from injury or danger of those persons utilizing the services of outfitters and guides, and for the conservation of wildlife and range resources.

(e) The board shall have the power to cooperate with the federal and state government through its appropriate agency or instrumentality in matters of mutual concern regarding the business of outfitting and guiding in Idaho.

(f) The board shall have the power throughout the state of Idaho to request the attendance of witnesses and the production of such books, records and papers as may be required at any hearing before it~~;-and-for that-purpose-the-board-may-request-a-district-court-to-issue-a--subpoena for--any--witness--or-a-subpoena-duces-tecum-to-compel-the-production-of any-books;-records-or-papers.-Subpoenas-shall-be-directed-to-the-sheriff of-any-county-in-the-state-of-Idaho-where-such-witness-resides-or-may-be found.-Subpoenas-shall-be-served-and-returned-in-the-same-manner-as-subpoenas-in-a-criminal-case.-The-fees-and-mileage-of-the-sheriff-and--witnesses--shall--be--the--same--as-that-allowed-in-district-court-criminal cases;-which-fees-and-mileage-shall-be-paid-from-any-funds-in-the--state treasury--available-therefor-in-the-same-manner-as-other-expenses-of-the board-are-paid.-Disobedience-of-any--subpoena--issued--by--the--district court-or-the-refusal-by-any-witness-in-failing-to-testify-concerning-any matter--regarding--which-he-may-lawfully-be-interrogated;-or-the-failure to-produce-any-books;-records-or-papers-shall-constitute-a--contempt--of the--district--court--of--any--county-where-such-disobedience-or-refusal occurs;-and-said-court;-or-any-judge-thereof;-by--proceedings--for--contempt-in-said-court;-may;-if-such-contempt-be-found;-punish-said-witness as--in--any--other--case--of-disobedience-of-a-subpoena-issued-from-such court-or-refusal-to-testify-therein.~~ The board or its hearing officer may issue and serve subpoenas or subpoenas duces tecum in a manner consistent with chapter 52, title 67, Idaho Code, the rules of the office of the attorney general, and rules 45(e)(2) and 45(g) of the Idaho rules of civil procedure. Payment of fees or mileage for service of subpoenas or attendance of witnesses shall be paid by the board consistent with the provisions of chapter 52, title 67, Idaho Code, the rules of the office of the attorney general, and rule 45(e)(1) of the Idaho rules of civil procedure. Disobedience of a subpoena or subpoena duces tecum may be enforced by making application to the district court. Disobedience by

a licensee of a subpoena or subpoena duces tecum issued by the board shall be deemed a violation of a board order.

(g) The board shall have the power to appoint an executive director to serve at the pleasure of the board. The executive director shall carry out such administrative duties as delegated to the director by the board. The board may, in its discretion, refuse, sustain or reverse, by majority vote, any action or decision of the executive director. The executive director shall be exempt from the provisions of chapter 53, title 67, Idaho Code, and shall receive a salary that is fixed by the board.

(h) The board shall have the power to hire enforcement agents in order to conduct investigations and enforce the provisions of this chapter. All enforcement agents appointed by the board who are certified by the Idaho peace officer standards and training advisory council, shall have the power of peace officers limited to:

1. Enforcement of the provisions of this chapter.
2. Responding to express requests from other law enforcement agencies for aid and assistance in enforcing other laws. For purposes of this section, such a request from a law enforcement agency shall mean only a request as to a particular and singular violation or suspicion of violation of law, and shall not constitute a continuous request for assistance outside the purview of enforcement of the provisions of this chapter.

(i) By August 1 of each year, the board shall provide to the director of the department of fish and game, in a manner and form prescribed by the director, the number of each species of big game taken in each management unit by clients of licensed outfitters between July 1 of the immediately preceding calendar year and June 30 of the current calendar year.

(j) The board shall by rule designate the number of deer or elk tags allocated pursuant to section 36-408(4), Idaho Code, among the authorized operating areas within the game management area, unit or zone.

SECTION 3. That Section 36-2117, Idaho Code, be, and the same is hereby amended to read as follows:

36-2117. PENALTY FOR VIOLATIONS -- PROSECUTING ATTORNEY TO PROSECUTE. (~~a~~1) It shall be the duty of the prosecuting attorney of each county in the state to prosecute, in the county where the violation occurs, any person charged with violating the provisions of section 36-2104 or 36-2116, Idaho Code.

(~~b~~2) Any person ~~convicted~~ who pleads guilty or is found guilty of a first offense for violating the provisions of ~~this--chapter~~ section 36-2104, Idaho Code, shall be punished by a fine of not less than one ~~hundred~~ thousand dollars ($1,000) nor more than five thousand dollars ($5,000), or by imprisonment in the county jail for a term not to exceed ~~ninety--(90)--days~~ one (1) year, if other than a corporation, or by both such fine and imprisonment in the discretion of the court.

(3) Any person who pleads guilty or is found guilty of a second offense for violating the provisions of section 36-2104, Idaho Code, shall be punished by a fine of not less than two thousand five hundred dollars ($2,500) nor more than five thousand dollars ($5,000), or by imprisonment in the county jail for a term not to exceed one (1) year,

if other than a corporation, or by both such fine and imprisonment in the discretion of the court.

(4) Any person who pleads guilty or is found guilty of a third or subsequent offense for violating the provisions of section 36-2104, Idaho Code, shall be punished by a fine of five thousand dollars ($5,000), or by imprisonment in the county jail for a term not to exceed one (1) year, if other than a corporation, or by both such fine and imprisonment in the discretion of the court.

(5) Any person who pleads guilty or is found guilty of a violation of section 36-2116, Idaho Code, shall be guilty of a misdemeanor.

(6) All fines and penalties collected for violation of this section, under sentence or judgment of any court, shall be paid over by such court in the same manner as provided for in section 36-2116, Idaho Code. Such court shall also send to the Idaho outfitters and guides board a statement setting forth the title of the court and of the cause for which such moneys were collected, the name and residence of the defendant or defendants, the nature of the offense or offenses and the fine and the sentence or judgment imposed and such moneys so received by the board shall be deposited with the state treasurer and the state treasurer shall credit the same to the Idaho outfitters and guides board account in the dedicated fund. The court shall require any person violating the provisions of section 36-2104, Idaho Code, to reimburse the Idaho outfitters and guides licensing board or other city, county, state or federal agency for the employee costs and other costs incurred by the board or agency in the investigation and criminal prosecution of acts for violations of section 36-2104, Idaho Code.

(7) Any person who pleads guilty or is found guilty of violating the provisions of section 36-2104, Idaho Code, may, in the discretion of the court, have their license to hunt or take big game, or to fish, suspended for a period of time as determined by the court.

Approved March 14, 2008.

CHAPTER 113
(H.B. No. 490)

AN ACT

RELATING TO THE STATE ATHLETIC COMMISSION; AMENDING SECTION 54-411, IDAHO CODE, TO PROVIDE FOR THE USE OF CERTAIN MONEYS TO PROMOTE AND SUPPORT AMATEUR BOXING.

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

SECTION 1. 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 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. 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 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 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 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) Of the moneys collected by the commission pursuant to the tax authorized in subsection (1) of this section, up to five percent (5%) may be used by the commission for the promotion and support of amateur boxing in this state.

(9) 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.

Approved March 14, 2008.

CHAPTER 114
(H.B. No. 498)

AN ACT

RELATING TO THE SALE OF TIMBER; AMENDING SECTION 58-411, IDAHO CODE, TO AUTHORIZE THE DIRECTOR OF THE DEPARTMENT OF LANDS TO APPLY ALL OR A PORTION OF SPECIFIED DEPOSITS AS FINAL PAYMENT OR PAYMENTS FOR FOREST PRODUCTS REMOVED OR TO SATISFY OTHER CONTRACTUAL OBLIGATIONS.

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

SECTION 1. That Section 58-411, Idaho Code, be, and the same is hereby amended to read as follows:

58-411. SALE OF TIMBER. Timber belonging to the state of Idaho may be sold at public auction by the state board of land commissioners, at their option, as follows: ten percent (10%) of the estimated value of the timber, after deducting the development credits attendant to the sale of the timber, shall be presented as a bid deposit, in a form acceptable to the state, on the day of sale. Ten percent (10%) of the purchase price of the timber, after deducting the development credits attendant to the sale of the timber, shall be due and payable within ten (10) days of the date of sale. This sum shall be retained by the director of the department of lands as a cash reserve for the duration of the sale <u>or the director may, at his discretion, apply all or a portion of the sum as final payment or payments for forest products removed or to satisfy other contractual obligations.</u> The balance of such purchase price shall be paid at such time as the timber is scaled and billed with interest computed from the date of sale to the date of billing at the rate per annum set by the state board of land commissioners. Lump sum sales may be sold for cash at the time of sale or upon such terms and conditions as the state board of land commissioners may prescribe.

Approved March 14, 2008.

CHAPTER 115
(H.B. No. 500)

AN ACT

RELATING TO LEASE OF STATE LANDS; AMENDING SECTION 58-307, IDAHO CODE, TO FURTHER DEFINE THE TERM "COMMERCIAL PURPOSES" AND TO DELETE REFERENCE TO GEOTHERMAL LEASES.

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 fuel cells, low impact hydro, wind, ~~or~~ geothermal ~~energy--projects,~~ resources, biomass, cogeneration, sun or landfill gas as the principal source of power with a facility capable of generating not less than twenty-five (25) kilowatts of electricity, 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. The terms fuel cells, low impact hydro, wind, geothermal resources, biomass, cogeneration, sun or landfill gas shall have the same definitions as provided in section 63-3622QQ, Idaho Code.

(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 preferen-

tial 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 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 14, 2008.

CHAPTER 116
(H.B. No. 515)

AN ACT

RELATING TO SHOOTING RANGES; AMENDING TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 91, TITLE 67, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE FOR THE ESTABLISHMENT OF CRITERIA FOR THE OPERATION AND USE OF STATE OUTDOOR SPORT SHOOTING RANGES, TO PROVIDE NOISE STANDARDS, TO PROVIDE FOR SOUND PRESSURE MEASUREMENTS, TO PROHIBIT CERTAIN PUBLIC OR PRIVATE NUISANCE ACTIONS, TO REQUIRE NOISE BUFFERING OR ATTENUATION FOR CERTAIN NEW USE, TO PROHIBIT CERTAIN PUBLIC OR PRIVATE NUISANCE ACTIONS RELATING TO NEW USE AND TO PROVIDE FOR THE PREEMPTION OF CERTAIN LOCAL GOVERNMENTAL LAW.

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

SECTION 1. That Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 91, Title 67, Idaho Code, and to read as follows:

CHAPTER 91
IDAHO OUTDOOR SPORT SHOOTING RANGE ACT

67-9101. DEFINITIONS. As used in this chapter:

(1) "Local government" means a county, city or town.

(2) "Person" means an individual, corporation, partnership, firm, association, joint venture, proprietorship, club or any other legal entity.

(3) "State outdoor sport shooting range" or "range" means an area owned by the state of Idaho or a state agency for the public use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, archery or any other similar sport shooting. "State outdoor sport shooting range" does not include:

(a) Any totally enclosed facility that is designed to offer a totally controlled shooting environment that includes impenetrable walls, floors and ceilings, adequate ventilation, lighting systems and acoustical treatment for sound attenuation; and

(b) Any law enforcement or military shooting range.

67-9102. STATE OUTDOOR SPORT SHOOTING RANGES -- OPERATION AND USE -- NOISE STANDARDS -- MEASUREMENT. (1) The state agencies responsible for managing state outdoor sport shooting ranges shall establish criteria for the operation and use for each range. The provisions of chapter 26, title 55, Idaho Code, shall not apply to state outdoor sport shooting ranges.

(2) The legislature finds that state outdoor sport shooting ranges should be subject to uniform noise standards as specified in this section.

(3) The noise emitted from a state outdoor sport shooting range shall not exceed an Leq(h) of sixty-four (64) dBA.

(4) Sound pressure measurements shall be made twenty (20) feet from the nearest existing occupied residence, school, hotel, motel, hospital or church and in a location directly between the range and the nearest existing occupied residence, school, hotel, motel, hospital or church. If there are natural or artificial obstructions that prevent an accurate noise measurement, the measurement may be taken within an additional twenty (20) feet radius from the initial measurement location. If access to such location is not available, then sound pressure measurements shall be made at the range property line in a location directly between the range and the nearest existing occupied residence, school, hotel, motel, hospital or church.

(5) Sound pressure measurements shall be made on the A-weighted fast response mode scale. Measurements shall be taken during the noisiest hour of peak use during the operation of the range. Measurements shall be taken using a type 1 sound meter meeting the requirements of ANSI S1.4-1983.

(6) For the purposes of this section:

(a) "A-weighted" means a frequency weighting network used to account for changes in sensitivity as a function of frequency;

(b) "dBA" means A-weighted decibels, taking into account human response to sound energy in different frequency bands;

(c) "Decibel" means the unit of measure for sound pressure denoting the ratio between two quantities that are proportional to power. The

number of decibels is ten (10) times the base ten logarithm of this ratio; and

(d) "Leq(h)" means the equivalent energy level that is the steady state level that contains the same amount of sound energy as a time varying sound level for a sixty (60) minute time period.

67-9103. NUISANCE ACTION. Notwithstanding any other provision of law to the contrary, a person may not maintain a public or private nuisance action for noise against a state outdoor sport shooting range that is in compliance with this chapter.

67-9104. NOISE BUFFERING OR ATTENUATION FOR NEW USE. Any new residential use or other new use within one (1) mile of an existing state outdoor sport shooting range shall provide for noise buffers or attenuation devices necessary to satisfy the noise standard prescribed by this chapter. New use as provided by this section shall not give rise to any right of a person to maintain a public or private nuisance action for noise against an existing state outdoor sport shooting range.

67-9105. PREEMPTION OF LOCAL AUTHORITY. Local governmental law is herein preempted and local governments shall not have authority to regulate the operation and use of state outdoor sport shooting ranges nor shall they have authority to establish noise standards for state outdoor sport shooting ranges.

Approved March 14, 2008.

CHAPTER 117
(H.B. No. 530)

AN ACT

RELATING TO CIRCUIT BREAKER PROPERTY TAX RELIEF; AMENDING SECTION 63-701, IDAHO CODE, TO PROVIDE FOR HOW INCOME IS DETERMINED FOR CERTAIN MARRIED INDIVIDUALS LIVING APART.

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

SECTION 1. That Section 63-701, Idaho Code, be, and the same is hereby amended to read as follows:

63-701. DEFINITIONS. As used in this chapter:

(1) "Claimant" means a person who has filed an application under section 63-602G, Idaho Code, and has filed a claim under the provisions of sections 63-701 through 63-710, Idaho Code. Except as provided in section 63-702(2), Idaho Code, on January 1, or before April 15, of the year in which the claimant first filed a claim on the homestead in question, a claimant must be an owner of the homestead and on January 1 of said year a claimant must be:

(a) Not less than sixty-five (65) years old; or

(b) A child under the age of eighteen (18) years who is fatherless or motherless or who has been abandoned by any surviving parent or parents; or

(c) A widow or widower; or

(d) A disabled person who is recognized as disabled by the social security administration pursuant to title 42 of the United States Code, or by the railroad retirement board pursuant to title 45 of the United States Code, or by the office of management and budget pursuant to title 5 of the United States Code; or

(e) A disabled veteran of any war engaged in by the United States, whose disability is recognized as a service-connected disability of a degree of ten percent (10%) or more, or who has a pension for nonservice-connected disabilities, in accordance with laws and regulations administered by the United States department of veterans affairs; or

(f) A person, as specified in 42 U.S.C. 1701, who was or is entitled to receive benefits because he is known to have been taken by a hostile force as a prisoner, hostage or otherwise; or

(g) Blind.

(2) "Homestead" means the dwelling, owner-occupied by the claimant as described in this chapter and used as the primary dwelling place of the claimant and may be occupied by any members of the household as their home, and so much of the land surrounding it, not exceeding one (1) acre, as is reasonably necessary for the use of the dwelling as a home. It may consist of a part of a multidwelling or multipurpose building and part of the land upon which it is built. "Homestead" does not include personal property such as furniture, furnishings or appliances, but a manufactured home may be a homestead.

(3) "Household" means the claimant and the claimant's spouse. The term does not include bona fide lessees, tenants, or roomers and boarders on contract. "Household" includes persons described in subsection (8)(b) of this section.

(4) "Household income" means all income received by the claimant and, if married, all income received by the claimant's spouse, in a calendar year.

(5) "Income" means the sum of federal adjusted gross income as defined in the Internal Revenue Code, as defined in section 63-3004, Idaho Code, and to the extent not already included in federal adjusted gross income:

(a) Alimony;

(b) Support money;

(c) Nontaxable strike benefits;

(d) The nontaxable amount of any individual retirement account, pension or annuity, (including railroad retirement benefits, all payments received under the federal social security act except the social security death benefit as specified in this subsection, state unemployment insurance laws, and veterans disability pensions and compensation, excluding any return of principal paid by the recipient of an annuity and excluding rollovers as provided in section 402 or 403 of the Internal Revenue Code);

(e) Nontaxable interest received from the federal government or any of its instrumentalities or a state government or any of its instrumentalities;

(f) Worker's compensation; and

(g) The gross amount of loss of earnings insurance.

It does not include gifts from nongovernmental sources or inheritances. To the extent not reimbursed, the cost of medical care as defined in

section 213(d) of the Internal Revenue Code, incurred or paid by the claimant and, if married, the claimant's spouse, may be deducted from income. To the extent not reimbursed, personal funeral expenses, including prepaid funeral expenses and premiums on funeral insurance, of the claimant and claimant's spouse only, may be deducted from income up to an annual maximum of five thousand dollars ($5,000) per claim. "Income" does not include veterans disability pensions received by a person described in subsection (1)(e) who is a claimant or a claimant's spouse if the disability pension is received pursuant to a service-connected disability of a degree of forty percent (40%) or more. "Income" does not include dependency and indemnity compensation or death benefits paid to a person described in subsection (1) of this section by the United States department of veterans affairs and arising from a service-connected death or disability. "Income" does not include lump sum death benefits made by the social security administration pursuant to 42 U.S.C. section 402(i). Documentation of medical expenses may be required by the county assessor, board of equalization and state tax commission in such form as the county assessor, board of equalization or state tax commission shall determine. "Income" shall be that received in the calendar year immediately preceding the year in which a claim is filed. Where a claimant and/or the claimant's spouse does not file a federal tax return, the claimant's and/or the claimant's spouse's federal adjusted gross income, for purposes of this section, shall be an income equivalent to federal adjusted gross income had the claimant and/or the claimant's spouse filed a federal tax return, as determined by the county assessor. The county assessor, board of equalization or state tax commission may require documentation of income in such form as each shall determine, including, but not limited to: copies of federal or state tax returns and any attachments thereto; and income reporting forms such as the W-2 and 1099.

For determining income for certain married individuals living apart, the provisions of sections 2(c) and 7703(b) of the Internal Revenue Code shall apply.

(6) "Occupied" means actual use and possession.

(7) "Owner" means a person holding title in fee simple or holding a certificate of motor vehicle title (either of which may be subject to mortgage, deed of trust or other lien) or who has retained or been granted a life estate or who is a person entitled to file a claim under section 63-702, Idaho Code. "Owner" shall also include any person who:

(a) Is the beneficiary of a revocable or irrevocable trust which is the owner of such homestead and under which the claimant or the claimant's spouse has the primary right of occupancy of the homestead; or

(b) Is a partner of a limited partnership, member of a limited liability company or shareholder of a corporation if such entity holds title in fee simple or holds a certificate of motor vehicle title and if the person holds at least a five percent (5%) ownership in such entity, as determined by the county assessor; or

(c) Has retained or been granted a life estate.

"Owner" includes a vendee in possession under a land sale contract. Any partial ownership shall be considered as ownership for determining initial qualification for property tax reduction benefits; however, the amount of property tax reduction under section 63-704, Idaho Code, and rules promulgated pursuant to section 63-705, Idaho Code, shall be com-

puted on the value of the claimant's partial ownership. "Partial ownership," for the purposes of this section, means any one (1) person's ownership when property is owned by more than one (1) person or where the homestead is held by an entity, as set forth in this subsection, but more than one (1) person has the right of occupancy of such homestead. A person holding either partial title in fee simple or holding a certificate of motor vehicle title together with another person but who does not occupy the dwelling as his primary dwelling place, shall not be considered an owner for purposes of this section, if such person is a cosignatory of a note secured by the dwelling in question and at least one (1) of the other cosignatories of the note occupies the dwelling as his primary dwelling place. The combined community property interests of both spouses shall not be considered partial ownership so long as the combined community property interests constitute the entire ownership of the homestead, including where the spouses are occupying a homestead owned by an entity, as set forth in this subsection, and the spouses have the primary right of occupancy of the homestead. The proportional reduction required under this subsection shall not apply to community property interests. Where title to property was held by a person who has died without timely filing a claim for property tax reduction, the estate of the deceased person shall be the "owner," provided that the time periods during which the deceased person held such title shall be attributed to the estate for the computation of any time periods under subsection (8)(a) or (8)(b) of this section.

(8) (a) "Primary dwelling place" means the claimant's dwelling place on January 1 or before April 15 of the year for which the claim is made. The primary dwelling place is the single place where a claimant has his true, fixed and permanent home and principal establishment, and to which whenever the individual is absent he has the intention of returning. A claimant must establish the dwelling to which the claim relates to be his primary dwelling place by clear and convincing evidence or by establishing that the dwelling is where the claimant resided on January 1 or before April 15 and:

(i) At least six (6) months during the prior year; or

(ii) The majority of the time the claimant owned the dwelling if owned by the claimant less than one (1) year; or

(iii) The majority of the time after the claimant first occupied the dwelling if occupied by the claimant for less than one (1) year. The county assessor may require written or other proof of the foregoing in such form as the county assessor may determine.

(b) Notwithstanding the provisions of paragraph (a) of this subsection, the property upon which the claimant makes application shall be deemed to be the claimant's primary dwelling place if the claimant is otherwise qualified and resides in a care facility and does not allow the property upon which the claimant has made application to be occupied by persons paying a consideration to occupy the dwelling. Payment of utilities shall not be payment of a consideration to occupy the dwelling. A claimant's spouse who resides in a care facility shall be deemed to reside at the claimant's primary dwelling place and to be a part of the claimant's household. A care facility is a hospital, nursing facility or intermediate care facility for the mentally retarded as defined in section 39-1301, Idaho Code, or a facility as defined in section 39-3302(14), Idaho Code,

or a dwelling other than the one upon which the applicant makes application where a claimant who is unable to reside in the dwelling upon which the application is made lives and receives help in daily living, protection and security.

Approved March 14, 2008.

CHAPTER 118
(H.B. No. 545)

AN ACT

RELATING TO ANNEXATION; AMENDING SECTION 50-222, IDAHO CODE, TO REVISE ANNEXATION CATEGORIES, TO REVISE THE EVIDENCE OF CONSENT TO ANNEXATION, TO REVISE PROCEDURES FOR EVIDENCE OF CONSENT FOR CATEGORY C ANNEXATIONS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 50-222, Idaho Code, be, and the same is hereby amended to read as follows:

50-222. ANNEXATION BY CITIES. (1) Legislative intent. The legislature hereby declares and determines that it is the policy of the state of Idaho that cities of the state should be able to annex lands which are reasonably necessary to assure the orderly development of Idaho's cities in order to allow efficient and economically viable provision of tax-supported and fee-supported municipal services, to enable the orderly development of private lands which benefit from the cost-effective availability of municipal services in urbanizing areas and to equitably allocate the costs of public services in management of development on the urban fringe.

(2) General authority. Cities have the authority to annex land into a city upon compliance with the procedures required in this section. In any annexation proceeding, all portions of highways lying wholly or partially within an area to be annexed shall be included within the area annexed unless expressly agreed between the annexing city and the governing board of the highway agency providing road maintenance at the time of annexation. Provided further, that said city council shall not have the power to declare such land, lots or blocks a part of said city if they will be connected to such city only by a shoestring or strip of land which comprises a railroad or highway right-of-way.

(3) Annexation classifications. Annexations shall be classified and processed according to the standards for each respective category set forth herein. The three (3) categories of annexation are:

(a) Category A: Annexations wherein:

(i) ~~A~~all private landowners ~~raise no objection~~ have consented to annexation~~; or annexations of~~. Annexation where all landowners have consented may extend beyond the city area of impact provided that the land is contiguous to the city and that the comprehensive plan includes the area of annexation;

(ii) ~~A~~any residential enclaved lands of less ~~that~~ than one hundred (100) privately-owned parcels, irrespective of surface

area, which are surrounded on all sides by land within a city or which are bounded on all sides by lands within a city and by the boundary of the city's area of impact; or

(iii) The lands are those for which owner approval must be given pursuant to subsection (5)(b)(v) of this section~~;-or which-are-bounded-on-all-sides-by-lands-within-a--city--and--by the-boundary-of-the-city's-area-of-city-impact~~.

(b) Category B: Annexations wherein:

(i) The subject lands contain less than one hundred (100) separate private ownerships and platted lots of record and where not all such landowners have consented to annexation; or

(ii) The subject lands contain more than one hundred (100) separate private ownerships and platted lots of record and where landowners owning more than fifty percent (50%) of the area of the subject private lands have ~~evidenced---their~~ consented to annexation ~~at-the-outset~~ prior to the commencement of the annexation process; or

(iii) The lands are the subject of a development moratorium or a water or sewer connection restriction imposed by state or local health or environmental agencies; provided such lands shall not be counted for purposes of determining the number of separate private ownerships and platted lots of record aggregated to determine the appropriate category.

(c) Category C: Annexations wherein the subject lands contain more than one hundred (100) separate private ownerships and platted lots of record and where landowners owning more than fifty percent (50%) of the area of the subject private lands have not ~~evidenced-their~~ consented to annexation ~~at-the-outset~~ prior to commencement of the annexation process.

(4) Evidence of consent to annexation. For purposes of this section, ~~prior~~ consent to annex shall be ~~deemed-given~~ valid only when evidenced by written ~~authorization-or-approval~~ instrument executed by the owner or the owner's authorized agent. Consent shall be implied for the area of all lands connected to a water or wastewater collection system operated by the city ~~and-for-lands-subject-to-a-written-consent-to-annex recorded-in-the-county-recorder's-office~~ only if the connection was requested or completed prior to July 1, 2008. Written consent to annex lands~~;-if~~ must be recorded in the county recorder's office~~;-shall~~ to be binding upon subsequent purchasers, heirs, or assigns of lands addressed in the consent. Lands need not be contiguous or adjacent to the city limits at the time the landowner consents to annexation for the property to be subject to a valid consent to annex; provided however, no annexation of lands shall occur, irrespective of consent, until such land becomes contiguous or adjacent to such city.

(5) Annexation procedures. Annexation of lands into a city shall follow the procedures applicable to the category of lands as established by this section. The implementation of any annexation proposal wherein the city council determines that annexation is appropriate shall be concluded with the passage of an ordinance of annexation.

(a) Procedures for category A annexations: Lands lying contiguous or adjacent to any city in the state of Idaho may be annexed by the city if the proposed annexation meets the requirements of category A. Upon determining that a proposed annexation meets such requirements, a city may initiate the planning and zoning procedures set

forth in chapter 65, title 67, Idaho Code, to establish the comprehensive planning policies, where necessary, and zoning classification of the lands to be annexed.

(b) Procedures for category B annexations: A city may annex lands that would qualify under the requirements of category B annexation if the following requirements are met:

(i) The lands are contiguous or adjacent to the city and lie within the city's area of city impact;

(ii) The land is laid off into lots or blocks containing not more than five (5) acres of land each, whether the same shall have been or shall be laid off, subdivided or platted in accordance with any statute of this state or otherwise, or whenever the owner or proprietor or any person by or with his authority has sold or begun to sell off such contiguous or adjacent lands by metes and bounds in tracts not exceeding five (5) acres, or whenever the land is surrounded by the city. Splits of ownership which occurred prior to January 1, 1975, and which were the result of placement of public utilities, public roads or highways, or railroad lines through the property shall not be considered as evidence of an intent to develop such land and shall not be sufficient evidence that the land has been laid off or subdivided in lots or blocks. A single sale after January 1, 1975, of five (5) acres or less to a family member of the owner for the purpose of constructing a residence shall not constitute a sale within the meaning of this section. For purposes of this section, "family member" means a natural person or the spouse of a natural person who is related to the owner by blood, adoption or marriage within the first degree of consanguinity;

(iii) Preparation and publication of a written annexation plan, appropriate to the scale of the annexation contemplated, which includes, at a minimum, the following elements:

(A) The manner of providing tax-supported municipal services to the lands proposed to be annexed;

(B) The changes in taxation and other costs, using examples, which would result if the subject lands were to be annexed;

(C) The means of providing fee-supported municipal services, if any, to the lands proposed to be annexed;

(D) A brief analysis of the potential effects of annexation upon other units of local government which currently provide tax-supported or fee-supported services to the lands proposed to be annexed; and

(E) The proposed future land use plan and zoning designation or designations, subject to public hearing, for the lands proposed to be annexed;

(iv) Compliance with the notice and hearing procedures governing a zoning district boundary change as set forth in section 67-6511, Idaho Code, on the question of whether the property should be annexed and, if annexed, the zoning designation to be applied thereto; provided however, the initial notice of public hearing concerning the question of annexation and zoning shall be published in the official newspaper of the city and mailed by first class mail to every property owner with lands included

in such annexation proposal not less than twenty-eight (28) days prior to the initial public hearing. All public hearing notices shall establish a time and procedure by which comments concerning the proposed annexation may be received in writing and heard and, additionally, public hearing notices delivered by mail shall include a one (1) page summary of the contents of the city's proposed annexation plan and shall provide information regarding where the annexation plan may be obtained without charge by any property owner whose property would be subject to the annexation proposal.

(v) In addition to the standards set forth elsewhere in this section, annexation of the following lands must meet the following requirements:

(A) Property, owned by a county or any entity within the county, that is used as a fairgrounds area under the provisions of chapter 8, title 31, Idaho Code, or chapter 2, title 22, Idaho Code, must have the consent of a majority of the board of county commissioners of the county in which the property lies; and

(B) Property, owned by a nongovernmental entity, that is used to provide outdoor recreational activities to the public and that has been designated as a planned unit development of fifty (50) acres or more and does not require or utilize any city services must have the express written permission of the nongovernmental entity owner.

(vi) After considering the written and oral comments of property owners whose land would be annexed and other affected persons, the city council may proceed with the enactment of an ordinance of annexation and zoning. In the course of the consideration of any such ordinance, the city must make express findings, to be set forth in the minutes of the city council meeting at which the annexation is approved, as follows:

(A) The land to be annexed meets the applicable requirements of this section and does not fall within the exceptions or conditional exceptions contained in this section;

(B) The annexation would be consistent with the public purposes addressed in the annexation plan prepared by the city;

(C) The annexation is reasonably necessary for the orderly development of the city;

(vii) Notwithstanding any other provision of this section, railroad right-of-way property may be annexed pursuant to this section only when property within the city adjoins or will adjoin both sides of the right-of-way.

(c) Procedures for category C annexations: A city may annex lands that would qualify under the requirements of category C annexation if the following requirements are met:

(i) Compliance with the procedures governing category B annexations; and

(ii) Evidence of consent to annexation based upon the following procedures:

(A) Following completion of all procedures required for consideration of a category B annexation, but prior to enactment of an annexation ordinance and upon an affirma-

tive action by the city council, the city shall mail notice to all private landowners owning lands within the area to be annexed, exclusive of the owners of lands ~~that receive water or sewer service and owners of lands~~ that are subject to a ~~recorded~~ consent to annex which complies with subsection (4) of this section defining consent. Such notice shall invite property owners to ~~either~~ give written consent ~~or express written opposition~~ to the annexation, include a description of how that consent ~~or opposition~~ can be made and where it can be filed, and inform the landowners where the entire record of the subject annexation may be examined. Such mailed notice shall also include a legal description of the lands proposed for annexation and a simple map depicting the location of the subject lands.

(B) Each landowner desiring to consent to ~~or oppose~~ the proposed annexation must submit the consent ~~or opposition,~~ in writing~~,~~ to the city clerk by a date specified in the notice, which date shall not be ~~sooner~~ later than ~~twenty-one (21)~~ forty-five (45) days after the date of the mailing of such notice.

(C) After the date specified in the notice for receipt of written consent, ~~or opposition,~~ the city clerk shall compile and present to the city council a report setting forth: (i) the total physical area sought to be annexed, and (ii) the total physical area of the lands, as expressed in acres or square feet, whose owners have newly consented in writing to the annexation, plus ~~the area of all lands receiving water or sewer service from the city~~ and the area of all lands subject to a ~~recorded~~ prior consent to annex~~. Objections received after the conclusion of the twenty-one (21) day period shall not be considered unless the late objection is due to the city's failure to follow the procedures provided herein. Objections received from owners of lands subject to a recorded consent to annex, or from owners receiving water or sewer service from the city, shall not be considered objections for purposes of this section~~ which complies with subsection (4) of this section defining consent. The clerk shall immediately report the results to the city council.

(D) Upon receiving such report, the city council shall review the results and may thereafter confirm whether consent was received from the owners of a majority of the land. ~~areas and those providing written consent, in addition to all lands subject to the implied consent provisions set forth herein and those subject to consent of record in the office of the county recorder.~~ The results of the report shall be reflected in the minutes of the city council. If the report as accepted by the city council confirms that owners of ~~more~~ a majority of the land area have consented to annexation, ~~than oppose such annexation,~~ the city council may enact an ordinance of annexation, which thereafter shall be published and become effective according to the terms of the ordinance. If the

report confirms that owners of ~~more~~ a majority of the land area ~~oppose~~ have not consented to the annexation, ~~than consent--to--such--annexation;~~ the category C annexation shall not be authorized.

(6) The decision of a city council to annex and zone lands as a category B or category C annexation shall be subject to judicial review in accordance with the procedures provided in chapter 52, title 67, Idaho Code, and pursuant to the standards set forth in section 67-5279, Idaho Code. Any such appeal shall be filed by an affected person in the appropriate district court no later than twenty-eight (28) days after the date of publication of the annexation ordinance. All cases in which there may arise a question of the validity of any annexation under this section shall be advanced as a matter of immediate public interest and concern, and shall be heard by the district court at the earliest practicable time.

(7) Annexation of noncontiguous municipal airfield. A city may annex land that is not contiguous to the city and is occupied by a municipally owned or operated airport or landing field. However, a city may not annex any other land adjacent to such noncontiguous facilities which is not otherwise annexable pursuant to this section.

Approved March 14, 2008.

CHAPTER 119
(H.B. No. 552)

AN ACT

RELATING TO THE IDAHO DIGITAL LEARNING ACADEMY; AMENDING SECTION 33-5502, IDAHO CODE, TO REVISE LEGISLATIVE FINDINGS AND GOAL; AMENDING SECTION 33-5503, IDAHO CODE, TO PROVIDE THAT THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION IS A VOTING MEMBER OF THE BOARD OF DIRECTORS OF THE IDAHO DIGITAL LEARNING ACADEMY; AMENDING SECTION 33-5504, IDAHO CODE, TO REVISE DUTIES OF THE ACADEMY BOARD OF DIRECTORS; AMENDING CHAPTER 55, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-5504A, IDAHO CODE, TO PROVIDE THAT THE IDAHO DIGITAL LEARNING ACADEMY SHALL BE A GOVERNMENTAL ENTITY, TO PROVIDE FOR LIABILITY, TO PROVIDE FOR INSURANCE, TO PROVIDE FOR UNLAWFUL ACTS AND TO PROVIDE FOR RELATIVES OF DIRECTORS BEING CONSIDERED FOR EMPLOYMENT; AMENDING CHAPTER 55, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-5504B, IDAHO CODE, TO CREATE THE IDAHO DIGITAL LEARNING ACADEMY FUND AND TO PROVIDE FOR EXPENDITURES AND A BUDGET; AMENDING SECTION 33-5505, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 33-5506, IDAHO CODE, TO REVISE PROVISIONS REGARDING COURSES, CREDIT EARNED IN COURSES AND ACCREDITATION; AMENDING SECTION 33-5507, IDAHO CODE, TO DELETE REFERENCE TO SECONDARY SCHOOL; AND AMENDING SECTION 59-1374, IDAHO CODE, TO PROVIDE THAT THE IDAHO DIGITAL LEARNING ACADEMY IS AN EMPLOYER FOR PUBLIC EMPLOYEE RETIREMENT SYSTEM PURPOSES.

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

SECTION 1. That Section 33-5502, Idaho Code, be, and the same is hereby amended to read as follows:

33-5502. CREATION -- LEGISLATIVE FINDINGS -- GOAL. (1) There is hereby created ~~within the state department of education~~ the Idaho digital learning academy, a public school-choice learning environment which joins the best technology with the best instructional practices. The Idaho digital learning academy as provided for in this chapter, is not a single department of state government unto itself, nor is it a part of any of the twenty (20) departments of state government authorized by section 20, article IV, of the constitution of the state of Idaho, or of the departments prescribed in section 67-2402, Idaho Code. It is legislative intent that the Idaho digital learning academy operate and be recognized not as a state agency or department, but as a governmental entity whose creation has been authorized by the state, much in the manner as other single purpose districts.

(2) The legislature finds that it is in the best public interest to create the Idaho digital learning academy based on findings that indicate:

(a) Technology continues to impact all facets of life, including the education of students of school age and adult learners;

(b) Systems for delivery of education are as diverse as the learners;

(c) Public school systems are seeking high quality educational choices within the public system, and are aligning curriculum and assessment with state achievement standards; and

(d) The development of a comprehensive digital learning environment is cost prohibitive for individual school districts.

(3) The goal of the digital learning academy is to provide choice, accessibility, flexibility, quality and equity in curricular offerings for ~~secondary~~ students in this state.

SECTION 2. That Section 33-5503, Idaho Code, be, and the same is hereby amended to read as follows:

33-5503. ACADEMY BOARD OF DIRECTORS. (1) There is hereby created an academy board of directors which shall be responsible for the development and oversight of the Idaho digital learning academy.

(2) The academy board of directors shall be comprised of ~~seven~~ eight (~~7~~8) voting members and ~~two~~ one (~~2~~1) nonvoting members as follows:

(a) Three (3) members shall be superintendents, each elected to a three (3) year term and each representing two (2) educational classification regions as established by the state board of education. One (1) superintendent shall be elected from among the superintendents in regions one and two on a rotating term basis between the two (2) regions; one (1) superintendent shall be elected from among the superintendents in regions three and four on a rotating term basis between the two (2) regions; and one (1) superintendent shall be elected from among the superintendents in regions five and six on a rotating term basis between the two (2) regions;

(b) Two (2) members shall be high school principals, each elected to a three (3) year term by the governing body of the Idaho association of secondary school administrators;

(c) Two (2) members shall be citizens at-large who are not professional educators, appointed by the members of the academy board, each to a term of three (3) years; and

(d) The state superintendent of public instruction shall be a voting member and shall serve concurrently with the term of office to which the state superintendent is elected;

(e) ~~Two~~ One (~~2~~1) members shall be an ex officio, nonvoting members~~:~~ ~~(i) the state superintendent of public instruction who shall serve concurrently with the term of office to which the state superintendent is elected, and (ii) a member~~ appointed by the academy board of directors to serve as secretary to the academy board.

(3) For purposes of establishing staggered terms of office, the initial term of office for the superintendent position representing educational classification regions one and two shall be one (1) year, and thereafter shall be three (3) years. The initial term of office for the superintendent position representing educational classification regions three and four shall be two (2) years, and thereafter shall be three (3) years. The superintendent position representing educational classification regions five and six shall be three (3) years. The initial term of office for one (1) high school principal position shall be one (1) year and thereafter shall be three (3) years, and the initial term of office for the other high school principal position shall be two (2) years and thereafter shall be three (3) years. The initial term of office for one (1) member at-large shall be one (1) year and thereafter shall be three (3) years, and the term of office for the other member at-large shall be three (3) years.

(4) No voting member shall serve for more than two (2) consecutive full terms. Members of the board who are appointed to fill vacancies which occur prior to the expiration of a former member's full term shall serve the unexpired portion of such term.

(5) The board shall meet in person at least three (3) times annually; none of these three (3) meetings shall be conducted by telephone or video conferencing.

SECTION 3. That Section 33-5504, Idaho Code, be, and the same is hereby amended to read as follows:

33-5504. DUTIES OF THE ACADEMY BOARD OF DIRECTORS. The board shall be responsible for ensuring that academy procedures and courses are in compliance with the rules of the state board of education and applicable statutes of the state of Idaho. In addition, the board shall:

(1) Recommend policies to be established by rule of the state board for effecting the purposes of this chapter.

(2) Employ or contract with staff as ~~follows:~~ necessary and purchase such supplies and equipment as are necessary to implement the provisions of this chapter, which purchases shall be exempt from the purchasing laws in chapter 57, title 67, Idaho Code.

~~(a) A director who shall be responsible for staff development, staff evaluation, program development and oversight, and quality assurance;~~

~~(b) A curriculum and instruction coordinator who shall be responsible for training faculty in online course design, development and delivery, and shall assist the director in quality assurance;~~

~~(c) Clerical staff as necessary to manage student information, maintain student records, manage academy correspondence, and oversee basic financial accounting as directed;~~

~~(d)--Appropriate-technology--staff--who--shall--support--faculty--in understanding--and--applying--the-technical-aspects-of-online-course development-and-delivery;~~

(e3) To enter into contracts with any other governmental or public agency whereby the board agrees to render services to or for such agency in exchange for a charge reasonably calculated to cover the costs of rendering such service.

(4) To accept, receive and utilize any gifts, grants or funds and personal and real property that may be donated to it for the fulfillment of the purposes outlined in this chapter.

(5) Employ or contract with necessary ~~f~~Faculty and teaching staff who are fully certificated Idaho teachers or administrators, to design and deliver planned curriculum content. ~~Such-staff-shall-be-provided appropriate-and-sufficient-training-as-necessary~~ The academy shall be exempt from the provisions of sections 33-513, 33-514, 33-514A, 33-515 and 33-515A, Idaho Code, and shall be exempt from chapter 53, title 67, Idaho Code. All teaching and educational staff of the academy shall be exempt, at will employees. The number of such staff shall largely be dictated by the number of courses under development, the number of courses offered, and the number of students participating in academy programs.

(~~3~~6) Obtain housing where actual operations of the academy are conducted by academy staff.

(~~4~~7) Contract with a service provider for delivery of academy courses online which shall be accessible twenty-four (24) hours a day, seven (7) days a week.

(~~5~~8) Ensure that the academy is accredited ~~by-the--state--of--Idaho and--the--northwest--accreditation-association~~ as established by rule of the state board of education.

(~~6~~9) Develop policy for earning credit in courses based on mastery of the subject, demonstrated competency, and meeting the standards set for each course.

(~~7~~10) Provide for articulating the content of certain high school courses with college and university courses in order to award both high school and undergraduate college credit.

(~~8~~11) Develop policies and practices which provide strict application of time limits for completion of courses.

(~~9~~12) Develop policies and practices on accountability, both by the student and the teacher, and in accordance with the provisions of section 33-5507, Idaho Code.

(1~~0~~3) Manage the moneys disbursed to the academy board from the superintendent.

(1~~1~~4) Set fees charged to school districts for student participation; fees charged for summer school; and fees charged to students and adults for professional development offerings.

(15) Contract with a certified public accounting firm to conduct an annual audit of the Idaho digital learning academy.

SECTION 4. That Chapter 55, 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 33-5504A, Idaho Code, and to read as follows:

33-5504A. GOVERNMENTAL ENTITY -- LIABILITY -- INSURANCE. (1) The Idaho digital learning academy shall be a governmental entity as pro-

vided in section 33-5502, Idaho Code. For the purposes of section 59-1302(15), Idaho Code, the Idaho digital learning academy created pursuant to this chapter shall be deemed a governmental entity. Pursuant to the provisions of section 63-36220, Idaho Code, sales to or purchases by the Idaho digital learning academy are exempt from payment of the sales and use tax. The Idaho digital learning academy and its board of directors are subject to the following provisions in the same manner as a traditional public school and the board of trustees of a school district:

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

(b) Chapter 2, title 59, Idaho Code, on prohibitions against contracts with officers;

(c) Chapter 7, title 59, Idaho Code, on ethics in government;

(d) Chapter 23, title 67, Idaho Code, on open public meetings; and

(e) Chapter 3, title 9, Idaho Code, on disclosure of public records.

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

(3) The Idaho digital learning academy shall secure insurance for liability and property loss.

(4) It shall be unlawful for:

(a) Any director to have pecuniary interest directly or indirectly in any contract or other transaction pertaining to the maintenance or conduct of the Idaho digital learning academy, or to accept any reward or compensation for services rendered as a director except as may be otherwise provided in this subsection (4). The board of directors of the Idaho digital learning academy may accept and award contracts involving the Idaho digital learning academy to businesses in which the director or a person related to him by blood or marriage within the second degree of consanguinity has a direct or indirect interest, provided that the procedures set forth in section 18-1361 or 18-1361A, Idaho Code, are followed. The receiving, soliciting or acceptance of moneys of the Idaho digital learning academy for deposit in any bank or trust company, or the lending of moneys by any bank or trust company to the Idaho digital learning academy, shall not be deemed to be a contract pertaining to the maintenance or conduct of the Idaho digital learning academy within the meaning of this section; nor shall the payment of compensation by the Idaho digital learning academy board of directors to any bank or trust company for services rendered in the transaction of any banking business with the Idaho digital learning academy board of directors be deemed the payment of any reward or compensation to any officer or director of any such bank or trust company within the meaning of this section.

(b) The board of directors of the Idaho digital learning academy to enter into or execute any contract with the spouse of any member of such board, the terms of which said contract require, or will require, the payment or delivery of any Idaho digital learning acad-

emy funds, moneys or property to such spouse, except as provided in section 18-1361 or 18-1361A, Idaho Code.

(5) When any relative of any director, or relative of the spouse of a director related by affinity or consanguinity within the second degree, is to be considered for employment in the Idaho digital learning academy, such director shall abstain from voting in the election of such relative, and shall be absent from the meeting while such employment is being considered and determined.

SECTION 5. That Chapter 55, 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 33-5504B, Idaho Code, and to read as follows:

33-5504B. EXPENDITURES -- BUDGET. (1) There is hereby created in the state treasury the Idaho digital learning academy fund. The fund shall consist of appropriations, fees, grants, gifts or moneys from any other source. The state treasurer shall invest all idle moneys in the fund and interest earned on such investments shall be retained by the fund.

(2) On or before the first Monday in July, there will be held at the time and place determined by the Idaho digital learning academy board, a budget meeting and public hearing upon the proposed budget of the Idaho digital learning academy. Notice of the budget meeting and public hearing shall be posted at least ten (10) full days prior to the date of the meeting in at least one (1) conspicuous place to be determined by the Idaho digital learning academy board of directors. The place, hour and day of the hearing shall be specified in the notice, as well as the place where such budget may be examined prior to the hearing. On or before the first Monday in July a budget for the Idaho digital learning academy shall be agreed upon and approved by the majority of the Idaho digital learning academy board of directors.

SECTION 6. That Section 33-5505, Idaho Code, be, and the same is hereby amended to read as follows:

33-5505. DEFINITIONS. As used in this chapter:

(1) "Academy board," also referred to in this chapter as "the board" means the board of directors of the Idaho digital learning academy as such board is created in section 33-5503, Idaho Code.

(2) "Host district" means an Idaho school district where the fiscal operations of the Idaho digital learning academy are housed until January 1, 2009.

(3) "Idaho digital learning academy" means an online educational program organized as a fully accredited ~~secondary~~ school with statewide capabilities for delivering accredited courses to Idaho resident students ~~in grades seven (7) through twelve (12)~~ at no cost to the student unless the student enrolls in additional courses beyond full-time enrollment. Participation in the academy by public school students shall be in compliance with academy and local school district policies. Adult learners and out-of-state students shall pay tuition commensurate with rates established by the state board with the advice of the superintendent, and such funds shall be included in the budget and audit of the academy's fiscal records.

(4) "State board" means the Idaho state board of education. The

board is authorized and directed, with the advice and recommendation of the academy board of directors, to promulgate rules to implement the provisions of this chapter.

(5) "Superintendent" means the Idaho state superintendent of public instruction.

SECTION 7. That Section 33-5506, Idaho Code, be, and the same is hereby amended to read as follows:

33-5506. COURSES -- DEVELOPMENT -- BROKERED -- CREDIT -- ACCREDITATION. Online courses shall reflect state of the art in multimedia-based digital learning. Courses offered shall be of high quality in appearance and presentation, and shall be designed to meet the needs of all students regardless of the student's level of learning.

(1) All courses developed under the auspices of the academy are the property of the academy. Courses may be developed by qualified Idaho teachers who possess the necessary technical background and instructional expertise. Such persons may also be hired to deliver the course online. Nothing shall prevent the board from providing additional training to teachers in the development and online delivery of courses.

(2) At the discretion of the board with consideration for necessity, convenience and cost effectiveness, brokered courses developed by outside sources may be obtained for use by the academy; however, such courses shall be taught online by Idaho teachers unless special circumstances ~~determined by the director~~ require a waiver of this requirement.

(3) ~~Credit--earned~~ Grade percentages in courses shall be based on such criteria as mastery of the subject, demonstrated competency, and meeting the standards set for each course~~, in contrast to credit earned in a traditional classroom based on time spent in the classroom~~.

(4) All courses shall meet criteria established by the state of Idaho ~~and--the--northwest--accreditation--association~~ as necessary for accreditation of the academy.

SECTION 8. That Section 33-5507, Idaho Code, be, and the same is hereby amended to read as follows:

33-5507. REGISTRATION -- ACCOUNTABILITY. (1) A student may register with the academy upon recommendation from a traditional school counselor or administrator, or may register directly with the academy if there is no current public school affiliation. However, in order for coursework completed through the academy to be recorded on the student's transcript, the student shall indicate which ~~secondary~~ school is to receive and record credits earned.

(2) Students who register for courses shall provide the name of a responsible adult who shall be the contact person for the academy in situations which require consultation regarding the student's conduct and performance. A designated responsible adult for students with a school affiliation may be a teacher, a counselor or a distance learning coordinator. For home schooled students, a parent or guardian may be designated.

(3) Policies of accountability as established by rule of the state board shall address the special conditions which exist in an environment where there is reduced face-to-face contact between student and teacher; where students access courses at any time of day, from any location and

at the student's own pace; where online etiquette and ethics should be clearly understood and required of all participants; and where all students' participation is monitored by online teachers and academy personnel.

(4) Policies shall be established by rule of the state board for student-related issues including taking exams, proctored or unproctored; ensuring that the work is being done by the student; and ensuring that ethical conduct and proper etiquette are always observed by all participants.

SECTION 9. That Section 59-1374, Idaho Code, be, and the same is hereby amended to read as follows:

59-1374. EMPLOYERS -- MEMBERS -- EXCEPTIONS. All school districts, public community college districts and Boise State University shall become employers pursuant to the provisions of chapter 13, title 59, Idaho Code, on July 1, 1967, except as herein otherwise provided. School employees shall become members pursuant to the provisions of chapter 13, title 59, Idaho Code, on July 1, 1967, except as herein otherwise provided. Provided, however, that teacher members employed by the agricultural extension service of the college of agriculture of the University of Idaho shall be deemed to be employees of the state of Idaho notwithstanding the provisions of section 59-1302(14)(B)(e), Idaho Code, and may elect to participate or be excluded as members of the system in accordance with rules of the board. All public charter schools created pursuant to chapter 52, title 33, Idaho Code, shall be employers pursuant to the provisions of chapter 13, title 59, Idaho Code. The Idaho digital learning academy created pursuant to chapter 55, title 33, Idaho Code, shall be an employer pursuant to the provisions of this chapter 13, title 59, Idaho Code.

Approved March 14, 2008.

CHAPTER 120
(H.B. No. 560)

AN ACT
APPROPRIATING MONEYS TO THE DEPARTMENT OF FINANCE FOR FISCAL YEAR 2009; 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 Department of Finance the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2008, through June 30, 2009:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
State Regulatory Fund	$3,806,200	$1,467,200	$202,600	$5,476,000
Securities Investor Education and Training Fund	50,000			50,000
TOTAL	$3,856,200	$1,467,200	$202,600	$5,526,000

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, 2008, through June 30, 2009, 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.

Approved March 14, 2008.

CHAPTER 121
(H.B. No. 570)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO STATE HISTORICAL SOCIETY FOR FISCAL YEAR 2009; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; 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, 2008, through June 30, 2009:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Fund	$1,781,500	$ 935,100	$549,000	$ 81,600	$3,347,200
Federal Grant Fund	798,800	116,600		80,000	995,400
Permanent Building Fund	273,300	280,800			554,100
Miscellaneous Revenue Fund	324,600	468,200			792,800
TOTAL	$3,178,200	$1,800,700	$549,000	$161,600	$5,689,500

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, 2008, through June 30, 2009, 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 Idaho State Historical Society, the unexpended and unencumbered balance of the Permanent Building Fund appropriated by Section 1, Chapter 145, Laws of 2007, to be used for the period July 1, 2008, through June 30, 2009.

Approved March 14, 2008.

CHAPTER 122
(H.B. No. 571)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO COMMISSION FOR LIBRARIES FOR FISCAL YEAR 2009; 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 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, 2008, through June 30, 2009:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Fund	$2,146,400	$1,623,100	$147,800	$150,000	$4,067,300
Federal Grant Fund	254,800	634,500	25,000	607,000	1,521,300
Miscellaneous Revenue Fund		24,300	25,000	26,000	75,300
TOTAL	$2,401,200	$2,281,900	$197,800	$783,000	$5,663,900

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Idaho Commission for Libraries is authorized no more than forty-two and five-tenths (42.5) full-time equivalent positions at any point during the period July 1, 2008, through June 30, 2009, 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.

Approved March 14, 2008.

CHAPTER 123
(H.B. No. 465)

AN ACT

RELATING TO LOCAL LAND USE PLANNING AND GROUP RESIDENCES; AMENDING SECTION 67-6531, IDAHO CODE, TO REVISE TERMS AND TO CLARIFY SUPERVISION REQUIREMENTS; AMENDING SECTION 67-6532, IDAHO CODE, TO ELIMINATE RESTRICTIONS ON LOCAL GOVERNMENTS TO REGULATE GROUP RESIDENCES WHICH ARE ZONED AS "SINGLE FAMILY DWELLINGS" WHEN TENANCY IN SUCH HOMES IS BY PERSONS UNDER SUPERVISION OF THE STATE BOARD OF CORRECTION PURSUANT TO LAW, BY PERSONS REQUIRED TO REGISTER PURSUANT TO LAW, OR BY OTHER PERSONS POSING A DIRECT THREAT OF HARM; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-6531, Idaho Code, be, and the same is hereby amended to read as follows:

67-6531. SINGLE FAMILY DWELLING. (a) For the purpose of any zoning law, ordinance or code, the classification "single family dwelling" shall include any ~~home~~ group residence in which eight (8) or fewer unrelated mentally and/or physically handicapped or elderly persons reside~~;~~ and ~~which is~~ who are supervised at the group residence in connection with their handicap or age related infirmity.

(b) Resident staff, if employed, need not be related to each other or to any of the mentally and/or physically handicapped or elderly persons residing in the ~~home~~ group residence.

(c) No more than two (2) of such staff shall reside in the dwelling at any one time.

SECTION 2. That Section 67-6532, Idaho Code, be, and the same is hereby amended to read as follows:

67-6532. LICENSURE, STANDARDS AND RESTRICTIONS. (a) The department of health and welfare may require ~~such~~ group residences, as defined in section 67-6531, Idaho Code, to be licensed and set minimum standards for providing services or operation. Such licensure may be under the residential or assisted living facility rules, or under the intermediate care facilities for mentally retarded or related conditions rules, or under rules specifically written for such group residences.

(b) No conditional use permit, zoning variance, or other zoning clearance shall be required of a ~~residential facility which serves eight (8) or fewer mentally and/or physically handicapped or elderly persons and is supervised as required~~ group residence, as defined in section 67-6531, Idaho Code, which is not required of a single family dwelling in the same zone.

(c) No local ordinances or local restrictions shall be applied to or required for a ~~residential facility which serves eight (8) or fewer mentally and/or physically handicapped or elderly persons and is supervised as required~~ group residence, as defined in section 67-6531, Idaho Code, which is not applied to or required for a single family dwelling in the same zone.

(d) The limitations provided for in subsections (b) and (c) of this section shall not apply to tenancy or planned tenancy in a group residence, as defined in section 67-6531, Idaho Code, by persons who are under the supervision of the state board of correction pursuant to section 20-219, Idaho Code, or who are required to register pursuant to chapter 83 or 84, title 18, Idaho Code, or whose tenancy would otherwise constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

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 17, 2008.

CHAPTER 124
(H.B. No. 417, As Amended)

AN ACT

RELATING TO ADULT CRIMINAL SEX OFFENDERS; AMENDING CHAPTER 83, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-8331, IDAHO CODE, TO RESTRICT PERSONS CURRENTLY REGISTERED OR REQUIRED TO REGISTER UNDER THE IDAHO SEX OFFENDER REGISTRATION ACT FROM LIVING TOGETHER IN GROUPS EXCEEDING TWO REGISTERED OFFENDERS, TO PROVIDE DEFINITIONS, TO PROVIDE FOR EXCEPTIONS, TO PROVIDE FOR STANDARDS RELATING TO RESIDENTIAL HOUSES FOR REGISTERED SEX OFFENDERS, TO PROVIDE FOR NOTICE TO THE DEPARTMENT OF CORRECTION, TO PROHIBIT VIOLATIONS OF THIS SECTION AND TO PROVIDE FOR INJUNCTIVE RELIEF FOR CITIES AND COUNTIES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 83, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-8331, Idaho Code, and to read as follows:

18-8331. ADULT CRIMINAL SEX OFFENDERS -- PROHIBITED GROUP DWELLING -- EXCEPTIONS. (1) Except as otherwise provided in this section, when a person is required to register pursuant to this chapter, that person may not reside in any residential dwelling unit with more than one (1) other person who is also required to register pursuant to this chapter. If, on the effective date of this section, any person required to register pursuant to this chapter, is legally residing in a residential dwelling unit with more than one (1) other person required to so register, the person may continue to reside in that residential dwelling unit without violating the provisions of this section, provided that no additional persons so required to register shall move into that residential dwelling unit if the person moving in would be in violation of this section.

(2) For purposes of this section:

(a) "Reside" and "residing" mean occupying the residential dwelling unit as a fixed place of abode or habitation for any period and to

which place the person has the intention of returning after a departure or absence therefrom regardless of the duration of absence.

(b) "Residential dwelling unit" includes, but is not limited to, single family dwellings and units in multifamily dwellings including units in duplexes, apartment dwellings, mobile homes, condominiums and townhouses in areas zoned as residential. For the purposes of this section a state or federally licensed health care or convalescent facility is not a residential dwelling unit.

(3) (a) A judge of the district court may, upon petition and after an appropriate hearing, authorize a person required to register pursuant to this chapter, to reside in a residential dwelling unit with more than one (1) other person who is also required to register pursuant to this chapter, if the judge determines that:

(i) Upon clear and convincing evidence that not doing so would deprive the petitioner of a constitutionally guaranteed right; and

(ii) That such right is more compelling under the facts of the case than is the interest of the state and local government in protecting neighboring citizens, including minors, from risk of physical or psychological harm. Such risk of harm shall be presumed absent clear and convincing evidence to the contrary given the applicant's status as a person required to register pursuant to this chapter;

(b) Any exception allowed under this section shall be limited to alleviate only a deprivation of constitutional right which is more compelling than the interest of the state and local government in minimizing the risk of harm to the neighboring citizens;

(c) Any order of exception under this section shall be made a part of the registry maintained pursuant to this chapter.

(4) Any city or county may establish standards for the establishment and operation of residential houses for registered sex offenders which exceed the number of registered sex offenders allowed to reside in a residential dwelling unit under subsection (1) of this section. Applicable standards shall include establishing procedures to allow comment of neighboring residents within a specified distance, and may include, but are not limited to:

(a) Designating permissible zones in which such houses may be located;

(b) Designating permissible distances between such houses;

(c) Designating the maximum number of registered sex offenders allowed to reside in such houses;

(d) Designating qualifications and standards for supervision and care of such houses and the residents;

(e) Designating requirements and procedures to qualify as the operator of such houses, including any requirement that the residents be engaged in treatment or support programs for sex offenders and related addiction treatment or support programs; and

(f) Designating any health and safety requirements which are different than those applicable to other residential dwelling units in the zone.

(5) No person or entity shall operate a residence house for registered sex offenders in violation of the limitations of subsection (1) of this section except as otherwise provided under subsection (4) of this section. If, on the effective date of this section, any individual or

entity is operating an existing residence house for persons required to register pursuant to this chapter, and when such individual or entity also requires such persons to be participants in a sex offender treatment or support program such individual or entity shall not be precluded from continuing to operate such residence house, provided that:

(a) The residence house shall not operate at a capacity exceeding eight (8) residents in the dwelling unit and two (2) residents per bedroom, or the existing number of residents, whichever is less;

(b) Once the governing city or county enacts an ordinance pursuant to subsection (4) of this section establishing standards for the operation of a residence house for sex offenders, the operator of the residence house shall, no later than one (1) year after enactment of the ordinance, comply with all standards of the ordinance, except any requirement that is less than the maximum capacity provided for under subsection (5)(a) of this section or which requires a relocation of the residence;

(c) The burden of proving that an existing residence house qualifies for continuing operation under this subsection shall be upon the operator of the residence house;

(d) Any change in the use of an existing residence house shall void the exception for the continuing operation of the house under the provisions of this section.

(6) If any person required to register pursuant to this chapter, is on parole or probation under the supervision of the Idaho department of correction, the department shall be notified by the person or the person's agent of any intent to reside with another person required to register under this chapter. The department must approve the living arrangement in advance as consistent with the terms of the parole or probation, and consistent with the objective of reducing the risk of recidivism. The department shall establish rules governing the application of this subsection.

(7) Any person who knowingly and with intent violates the provisions of this section is guilty of a misdemeanor.

(8) Any city or county is entitled to injunctive relief against any person or entity operating a residence house within its jurisdiction in violation of this section.

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

Approved March 17, 2008.

CHAPTER 125
(H.B. No. 338)

AN ACT

RELATING TO THE MILITARY DIVISION; AMENDING CHAPTER 8, TITLE 46, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 46-804, IDAHO CODE, TO PROVIDE THAT THE MILITARY DIVISION IS AUTHORIZED TO PROMULGATE RULES.

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

SECTION 1. That Chapter 8, Title 46, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 46-804, Idaho Code, and to read as follows:

46-804. MILITARY DIVISION RULES. The military division shall be authorized to promulgate, implement and enforce rules for the administration of the military division and to implement the requirements of this title. The adjutant general shall be responsible for the enforcement of all rules adopted by the military division. All rulemaking proceedings and hearings of the military division shall be governed by the provisions of chapter 52, title 67, Idaho Code.

Approved March 17, 2008.

CHAPTER 126
(H.B. No. 339)

AN ACT

RELATING TO THE MILITIA; AMENDING SECTION 46-102, IDAHO CODE, TO PROVIDE THAT THE MEMBERSHIP REQUIREMENTS FOR THE STATE MILITIA SHALL BE GENDER NEUTRAL AND TO MAKE A TECHNICAL CORRECTION; REPEALING SECTION 46-105, IDAHO CODE, RELATING TO APPOINTMENT AND ENLISTMENT OF FEMALE CITIZENS, SECTION 46-114, IDAHO CODE, RELATING TO STAFF OFFICERS AND AIDES-DE-CAMP, SECTION 46-208, IDAHO CODE, RELATING TO ARREST OF OFFICERS AND ENLISTED PERSONNEL, SECTION 46-209, RELATING TO PUNISHMENT FOR ORDERS VIOLATIONS, SECTION 46-302, IDAHO CODE, RELATING TO EQUIPMENT FOR ENLISTED PERSONNEL AND PUNISHMENT FOR UNLAWFUL USE, SECTION 46-303, IDAHO CODE, RELATING TO PERSONAL RESPONSIBILITY FOR MONEY AND PROPERTY, SECTION 46-304, IDAHO CODE, RELATING TO DISPOSAL OF EQUIPMENT, SECTION 46-305, IDAHO CODE, RELATING TO LOST OR DAMAGED EQUIPMENT, SECTION 46-306, IDAHO CODE, RELATING TO LOSS OR DAMAGE TO PROPERTY, SECTION 46-307, IDAHO CODE, RELATING TO UNIFORMS PRESCRIBED, SECTION 46-309, IDAHO CODE, RELATING TO ALLOWANCE FOR MILITARY EXPENSES, SECTION 46-310, IDAHO CODE, RELATING TO OFFICERS' ANNUAL ALLOWANCE, SECTION 46-603, IDAHO CODE, RELATING TO ACTIVE DUTY AND THE IDAHO CODE OF MILITARY JUSTICE IN FORCE, AND SECTION 46-610, IDAHO CODE, RELATING TO MILITARY MANEUVERS AND CAMPS AND COMPENSATION; AND AMENDING SECTION 46-216, IDAHO CODE, TO PROVIDE THAT ALL OFFICERS AND EMPLOYEES OF THE STATE OF IDAHO WHO SHALL BE MEMBERS OF THE NATIONAL GUARD OR WHO SHALL BE RESERVISTS IN THE ARMED FORCES OF THE UNITED STATES, SHALL BE ENTITLED EACH CALENDAR YEAR TO ONE HUNDRED TWENTY HOURS OF MILITARY LEAVE OF ABSENCE FROM THEIR RESPECTIVE DUTIES WITHOUT LOSS OF PAY, TIME, OR EFFICIENCY RATING.

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

SECTION 1. That Section 46-102, Idaho Code, be, and the same is hereby amended to read as follows:

46-102. STATE MILITIA -- MEMBERSHIP -- EXEMPTIONS. The militia of the state of Idaho shall consist of all able-bodied ~~male~~ citizens of the state, and all other able-bodied ~~males~~ persons who have or shall have

declared their intentions to become citizens of the United States and are residents of the state of Idaho; who shall be more than eighteen (18) years of age, and except as hereinafter provided, not more than forty-five (45) years of age, subject to the following exemptions:

1. Persons exempted from service in the militia by the constitution of the state of Idaho and by the laws of the United States from enlistment or draft into the regular army. Provided, however, that voluntary enlistments, with the written consent of the parent or guardian of any able-bodied ~~male~~ citizens over the age of sixteen (16) years may be accepted and such enlistees inducted into the organized militia of the state of Idaho in time of war, and as classified in section 46-103, Idaho Code, except that the provision for the enlistment of able-bodied ~~male~~ citizens under the age of eighteen (18) years will terminate six (6) months following the declaration of peace.

SECTION 2. That Sections 46-105, 46-114, 46-208, 46-209, 46-302, 46-303, 46-304, 46-305, 46-306, 46-307, 46-309, 46-310, 46-603 and 46-610, Idaho Code, be, and the same are hereby repealed.

SECTION 3. That Section 46-216, Idaho Code, be, and the same is hereby amended to read as follows:

46-216. LEAVE OF ABSENCE FROM REGULAR DUTIES FOR MILITARY DUTY. All officers and employees of the state of Idaho who shall be members of the national guard or who shall be reservists in the armed forces of the United States, shall be entitled each calendar year to ~~fifteen (15) days~~ one hundred twenty (120) hours of military leave of absence from their respective duties without loss of pay, time, or efficiency rating during which they shall be engaged in military duty ordered or authorized under the provisions of law.

Approved March 17, 2008.

CHAPTER 127
(H.B. No. 371)

AN ACT

RELATING TO THE MILITARY DIVISION; AMENDING SECTION 46-1202, IDAHO CODE, TO TRANSFER THE IDAHO STATEWIDE INTEROPERABILITY EXECUTIVE COUNCIL TO THE MILITARY DIVISION FROM THE IDAHO BUREAU OF HOMELAND SECURITY; AMENDING SECTION 46-1203, IDAHO CODE, TO REVISE THE PURPOSE; AMENDING SECTION 46-1204, IDAHO CODE, TO REVISE COUNCIL RESPONSIBILITIES; AMENDING SECTION 46-1206, IDAHO CODE, TO PROVIDE DUTIES OF THE MILITARY DIVISION; AND AMENDING SECTION 46-1207, IDAHO CODE, TO PROVIDE DUTIES OF THE ADJUTANT GENERAL.

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

SECTION 1. That Section 46-1202, Idaho Code, be, and the same is hereby amended to read as follows:

46-1202. IDAHO STATEWIDE INTEROPERABILITY EXECUTIVE COUNCIL. There is hereby created in the ~~Idaho bureau of homeland security~~ military division the Idaho statewide interoperability executive council to provide policy level direction and promote efficient and effective use of resources for matters related to public safety wireless radio interoperability.

SECTION 2. That Section 46-1203, Idaho Code, be, and the same is hereby amended to read as follows:

46-1203. PURPOSE. The council will serve as the governing body in affairs of public safety wireless radio interoperable communications for local and private entities. ~~and coordinate with the military division.~~ The council will promote interagency cooperation and provide support statewide for efficient and effective use of local and private resources to achieve public safety wireless radio interoperable communications for local and private public safety agencies.

SECTION 3. That Section 46-1204, Idaho Code, be, and the same is hereby amended to read as follows:

46-1204. COUNCIL RESPONSIBILITIES. The responsibilities of the council are to:

(1) Develop a statewide plan for local and private public safety wireless radio interoperable communications; ~~in coordination and cooperation with the military division;~~

(2) Develop and adopt standards for local and private public safety wireless radio interoperable communications; ~~in coordination and cooperation with the military division;~~

(3) Recommend guidelines and standards for operation for local and private public safety wireless radio interoperable communications systems in Idaho; ~~in coordination and cooperation with the military division;~~

(4) Promote coordination and cooperation among local, state, federal and tribal public safety agencies in addressing statewide public safety wireless radio interoperable communications needs in Idaho;

(5) Review priorities for statewide public safety wireless radio interoperable communications needs and assist users of the statewide system in the development of projects, plans, policies, standards, priorities and guidelines for public safety wireless radio interoperable communications; ~~in coordination and cooperation with the military division;~~

(6) Develop funding recommendations for short-term and long-term system maintenance;

(7) Research best practices of other states;

(8) Prepare and present a report to the information technology resource management council by December 30 of each year describing the council's acts and achievements of the previous year;

(9) Provide recommendations to the governor and the legislature of the state of Idaho, when appropriate, concerning issues related to local and private statewide public safety wireless radio interoperable communications in Idaho and in accordance with homeland security presidential directives;

(10) Report annually to the legislature of the state of Idaho on the

planned expenditures for the next fiscal year, the collected revenues and moneys disbursed from the Idaho statewide interoperability communications fund and programs or projects in progress, completed or anticipated;

(11) Serve as a conduit for the future allocation of federal grant funds to support the delivery of public safety wireless radio interoperable communications systems directed towards local government and private entities;

(12) Enter into contracts with experts and/or consultants as may be necessary to carry out the purposes of this chapter and to sue and be sued; and

(13) Work in coordination and cooperation with the Idaho emergency communications commission established by section 31-4815, Idaho Code, and the information technology resource management council, established by section 67-5745B, Idaho Code.

SECTION 4. That Section 46-1206, Idaho Code, be, and the same is hereby amended to read as follows:

46-1206. IDAHO STATEWIDE INTEROPERABILITY EXECUTIVE COUNCIL COMMUNICATIONS FUND -- ESTABLISHMENT AND ADMINISTRATION. (1) There is hereby created within the treasury of the state of Idaho a separate fund known as the Idaho statewide interoperability communications fund, which shall consist of moneys received from the state, counties, cities, public safety communications operations, grants, donations, gifts and revenues from any other source to support the delivery of public safety wireless radio interoperable communications systems throughout the state.

(2) Moneys in the fund are hereby continuously appropriated and shall be utilized exclusively for the purposes set forth in this chapter as determined by the council.

(3) The council, through the ~~Idaho bureau of homeland security~~ military division, shall authorize disbursement of moneys in the fund to eligible entities and for the support of this council.

SECTION 5. That Section 46-1207, Idaho Code, be, and the same is hereby amended to read as follows:

46-1207. ADMINISTRATIVE SUPPORT. The council may, with concurrence of the governor of the state of Idaho, create the position of a project manager and the position of an administrative assistant, which positions shall be exempt from the requirements of the merit system, chapter 53, title 67, Idaho Code. In accordance with the laws of the state, the ~~Idaho bureau of homeland security's director~~ adjutant general may hire, fix the compensation and prescribe the powers and duties of such other individuals, including consultants, as may be necessary to carry out the provisions of this chapter.

Approved March 17, 2008.

CHAPTER 128
(H.B. No. 379)

AN ACT

RELATING TO THE PRACTICE OF PUBLIC ACCOUNTING; AMENDING SECTION 54-204, IDAHO CODE, TO CORRECT A CODE REFERENCE; AMENDING SECTION 54-206, IDAHO CODE, TO REVISE DEFINITIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-208, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE EXAMINATION TO BECOME A CERTIFIED PUBLIC ACCOUNTANT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-209, IDAHO CODE, TO REQUIRE EXPERIENCE FOR LICENSURE TO BE VERIFIED BY AN ACTIVE LICENSEE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-210, IDAHO CODE, TO REVISE QUALIFICATIONS FOR A RECIPROCAL LICENSE; AMENDING SECTION 54-211, IDAHO CODE, TO REVISE A RETIREMENT AGE; AMENDING SECTION 54-212, IDAHO CODE, TO DELETE THE FEE FOR NOTIFICATION THAT A PUBLIC ACCOUNTANT LICENSED IN ANOTHER STATE INTENDS TO PROVIDE ACCOUNTING SERVICES IN IDAHO; AMENDING SECTION 54-213, IDAHO CODE, TO REVISE THE GRANDFATHER CLAUSE; AMENDING SECTION 54-214, IDAHO CODE, TO REVISE CONFIDENTIALITY OF CLIENT RECORDS; AND AMENDING SECTION 54-227, IDAHO CODE, TO DELETE CERTAIN NOTIFICATIONS AND A FEE AND TO REVISE PROVISIONS LIMITING THE PROVISION OF PUBLIC ACCOUNTING SERVICES BY PUBLIC ACCOUNTANTS LICENSED IN OTHER STATES.

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

SECTION 1. That Section 54-204, Idaho Code, be, and the same is hereby amended to read as follows:

54-204. POWERS AND DUTIES. The Idaho state board of accountancy, in addition to the other powers and duties set forth in this chapter, shall have the following powers and duties:

(1) To adopt and amend rules in accordance with the provisions of the administrative procedure act, chapter 52, title 67, Idaho Code, governing its administration and the enforcement of this chapter and the conduct of licensees including, but not limited to:

(a) Rules governing the board's meetings and the conduct of its business;

(b) Rules of procedure governing the conduct of investigations and hearings by the board;

(c) Rules specifying the education, examination and experience qualifications required for the issuance of certificates, and the continuing professional education required for renewal of licenses;

(d) Rules of professional conduct directed to controlling the quality and probity of professional services by licensees, and dealing among other things with independence, integrity and objectivity; competence and technical standards; responsibilities to the public; and responsibilities to clients;

(e) Rules governing the professional standards applicable to licensees;

(f) Rules governing the manner and circumstances of use of the titles "certified public accountant" and "licensed public accountant";

(g) Rules regarding peer reviews that may be required to be performed under the provisions of this chapter;

(h) Rules on substantial equivalency to implement section 54-227, Idaho Code;

(i) Rules adopting statements on standards as specified in section 54-206~~(3)~~, Idaho Code, which, if the board may deem appropriate, shall be those standards developed for general application by recognized accountancy organizations such as the AICPA, as such statements are established from time to time; and

(j) Such other rules as the board may deem necessary or appropriate to implement or administer the provisions and purposes of this chapter.

(2) To issue original certificates of qualification and licenses to practice as certified public accountants to such applicants as may be qualified by reciprocity, transfer of examination grades or by examination.

(3) To charge and collect from all applicants, certificate holders, and licensees such fees as are provided by this chapter and prescribed by rules of the board.

(4) To initiate or receive complaints, cause the same to be investigated, initiate proceedings, and conduct hearings or proceedings pursuant to chapter 2, title 54, Idaho Code. The board may designate a member, or any other person of appropriate competence, to serve as investigating officer to conduct an investigation. Upon completion of an investigation, the investigating officer shall file a report with the board. Unless dismissed by the board as unfounded or trivial, the board may proceed with disciplinary proceedings or may return the report to the investigating officer for further investigation.

(a) In order to protect the interests of a complainant, witness, third party or defendant, the board may upon application and for good cause shown, issue a protective order, consistent with chapter 3, title 9, Idaho Code, prohibiting the disclosure of specific information otherwise not privileged and confidential and direct that the proceedings be conducted so as to implement the order.

(b) In carrying into effect the provisions of this chapter, the board may subpoena witnesses and compel their attendance, and also may require the submission of books, papers, documents or other pertinent data; may administer oaths; may take testimony; may cooperate with the appropriate authorities in other states in investigation and enforcement concerning violations of this chapter and comparable acts of other states; and may receive evidence in any disciplinary matters or in any case wherever a violation of the provisions of this chapter is alleged. Upon failure or refusal to comply with any such order of the board, or upon failure to honor its subpoena, the board may apply to the court in the district where the witness resides to enforce compliance.

(5) To authorize by written agreement the bureau of occupational licenses as agent to act in its interest.

(6) Any action, claim or demand to recover money damages from the board or its employees which any person is legally entitled to recover as compensation for the negligent or otherwise wrongful act or omission of the board or its employees, when acting within the course and scope of their employment, shall be governed by the Idaho tort claims act, chapter 9, title 6, Idaho Code. For purposes of this subsection, the

term "employees" shall include special assignment members of the board and other independent contractors while acting within the course and scope of their board related work.

(7) All hearings, investigations or proceedings conducted by the board shall be conducted in conformity with chapter 52, title 67, Idaho Code, and rules of the board adopted pursuant thereto, and, unless otherwise requested by the concerned party, be subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 2. That Section 54-206, Idaho Code, be, and the same is hereby amended to read as follows:

54-206. DEFINITIONS. As used in this ~~section~~ chapter:

(1) "AICPA" means the American institute of certified public accountants.

(2) "Applicant" means any person having the requisite qualifications who makes application to the board for examination, or for initial issuance or renewal or reinstatement of a license under the provisions of this chapter.

(3) "Attest" means providing the following financial statement services:

(a) Any audit or other engagement to be performed in accordance with the statements on auditing standards;

(b) Any review of a financial statement to be performed in accordance with the statements on standards for accounting and review services; and

(c) Any examination of prospective financial information to be performed in accordance with the statements on standards for attestation engagements.

(4) "Board" means the Idaho state board of accountancy.

(5) "Certificate" means that document issued by the board upon original approval of licensure. The original certificate does not constitute licensure and a person cannot represent himself or herself as a licensee unless a current and valid annual license has been issued by the board.

(6) "Certified public accountant" or "CPA" means any person who holds a valid, unrevoked and unsuspended license under the provisions of chapter 2, title 54, Idaho Code, or an equivalent provision of the laws of another state designating said person as a certified public accountant.

(7) "Client" means the person or entity that agrees with a licensee or licensee's employer to receive any professional services with or without compensation and shall include all affiliates and related entities in the financial statements of an attest or compilation engagement.

(8) "Compilation" means a service performed in accordance with statements on standards for accounting and review services which presents, in the form of historical or prospective financial statements, information that is the representation of management or owners without undertaking to express any assurance on the statements. The term "compilation" does not include financial statements accompanied by the language set forth in section 54-226(3), Idaho Code, ~~(~~whether used by a licensee or by a person not licensed under this chapter~~)~~, so long as the financial statements are not accompanied by any other language of assurance or disclaimer.

(9) "Financial statements" means a presentation of historical or prospective financial data, which may include accompanying notes, intended to communicate an entity's economic resources or obligations at a point in time, or the changes therein for a period of time, in accordance with a comprehensive basis of accounting.

(10) "Firm" means a proprietorship, partnership, professional corporation, professional limited liability company, or any other form of professional organization permitted by Idaho law, registered under the requirements of section 54-214, Idaho Code.

(11) "Good moral character" means lack of a history of dishonest dealings or a felonious act.

(12) "License" means that authorization issued by the board upon original approval and on an annual basis permitting a qualified person to practice as a certified public accountant or licensed public accountant in the state of Idaho.

(13) "Licensed public accountant" or "LPA" means any person who holds a valid, unrevoked and unsuspended license under the provisions of chapter 2, title 54, Idaho Code, designating said person as a licensed public accountant.

(14) "Licensee" means the holder of a current valid license.

(15) "Member" means a person who has been admitted to membership in a firm which is organized as a limited liability company.

(16) "Peer review" means a board approved study, appraisal or review of one (1) or more aspects of the professional work of a licensee or firm that performs attest services or issues compilation reports, by a person or persons licensed under this chapter or by another state and who are independent of the licensee or firm being reviewed.

(17) "Permit" means a permit to practice as a firm issued under corresponding provisions of the laws of other states.

(18) "Person" means any natural living person.

(19) "Professional services" means services arising out of or related to the specialized knowledge or skills associated with certified public accountants or licensed public accountants.

(20) "Report," when used with reference to financial statements, means an opinion or other form of language that states or implies assurance as to the reliability of any financial statements and that also includes or is accompanied by any statement or implication that the person or firm issuing it has special knowledge or competence in accounting or auditing. Such a statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the person or firm is an accountant or auditor, or from the language of the report itself. The term "report" includes any form of language which disclaims an opinion when such form of language is conventionally understood to imply any positive assurance as to the reliability of the financial statements referred to or special competence on the part of the person or firm issuing such language; and it includes any other form of language that is conventionally understood to imply such assurance or special knowledge or competence.

(21) "State" means any state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Commonwealth of the Northern Mariana Islands and Guam; except that "this state" means the state of Idaho.

(22) "Substantial equivalency" or "substantially equivalent" means a determination by the board that the education, examination and experi-

ence requirements contained in the statutes and administrative rules of another jurisdiction are comparable to or exceed the education, examination and experience requirements for CPAs contained in this chapter or that an individual licensee's education, examination and experience qualifications are comparable to or exceed the education, examination and experience requirements for CPAs contained in this chapter.

SECTION 3. That Section 54-208, Idaho Code, be, and the same is hereby amended to read as follows:

54-208. EXAMINATION -- EDUCATION -- QUALIFICATIONS. (1) An applicant for admission to examination as a certified public accountant shall:

(a) Be eighteen (18) years of age or older~~,~~;

(b) Be of good moral character~~,~~;

(c) Be a resident, have been a resident, or intend to immediately become a resident of the state of Idaho~~,~~;

(d) Be approved by the board for admission to the examination~~,~~; and

(e) Provide satisfactory evidence in the form of an official transcript received directly from the school registrar indicating successful completion of a baccalaureate degree or its equivalent, the required credits and courses to be prescribed by the rules of the board. ~~Applicants who will complete the educational requirements within ninety (90) days of the examination may be allowed to sit for the examination provided that prior to the release of examination grades satisfactory evidence is submitted verifying that the required education was completed within ninety (90) days of the examination.~~

(2) The examination required to be passed as a condition to granting a certificate ~~shall be held at least twice each year, and~~ shall test the applicant's knowledge of the subjects of accounting and auditing, and such other related subjects as the board may specify by rule, including, but not limited to, business law and taxation. The time for holding such examination shall be determined by the board and may be changed from time to time. The board shall prescribe by rule the methods of applying for and conducting the examination, including methods for grading and determining a passing grade required of an applicant for a certificate; provided however, that the board shall endeavor to assure that the examination itself, grading of the examination, and the passing grades, are uniform with those of other states. The board may make use of all or any part of the uniform certified public accountant examination and advisory grading service of the AICPA and may contract with third parties to perform such administrative services with respect to the examination as it deems appropriate to assist it in performing its duties hereunder.

(3) The board may charge, or provide for a third party administering the examination to charge, each applicant a fee, in an amount prescribed by the board by rule.

(4) None of the education requirements specified in this section shall apply to an applicant who is a licensed public accountant pursuant to this chapter.

SECTION 4. That Section 54-209, Idaho Code, be, and the same is hereby amended to read as follows:

54-209. EXPERIENCE. An applicant of good moral character who successfully passes the examination, with standards no less than those prescribed by the board's rules for examination of candidates in Idaho, and who fulfills the requirements of section 54-207, Idaho Code, shall receive a license as a certified public accountant if the applicant has completed one (1) year of experience. This experience shall include providing any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax or consulting skills, -- all of which have been verified by an active licensee, meeting requirements prescribed by the board by rule. This experience may be gained through employment in government, industry, academia or public practice.

SECTION 5. That Section 54-210, Idaho Code, be, and the same is hereby amended to read as follows:

54-210. RECIPROCITY -- TRANSFER OF EXAMINATION GRADES -- FOREIGN RECIPROCITY -- QUALIFICATIONS. (1) A person whose certificate and license have been granted by another state, whose principal place of business is located in this state, shall obtain a license by reciprocity from the board before providing professional services in this state.

(2) (a) An applicant for certificate and license by reciprocity to practice as a certified public accountant in Idaho must:

(i) Be eighteen (18) years of age or older;

(ii) Be of good moral character;

(iii) Have obtained the education and passed the uniform CPA examination with standards no less than those required in Idaho; and

(iv) Have completed the necessary experience, continuing professional education, and board approved ethics examination required for issuance of a license in Idaho and hold a current license in good standing in another licensing jurisdiction.

(b) The requirements of subsection (2)(a) of this section relating to education, Idaho standards relating to passage of the uniform CPA examination, experience, continuing professional education and ethics examination shall be waived if the applicant has been licensed for no less than four (4) years~~1 experience as determined by the board; provided that the experience or its equivalent was obtained after original licensure~~ as a certified public accountant and within the ten (10) years immediately preceding the reciprocity application.

(3) (a) A person holding an inactive or retired certificate and license granted by another state, whose principal place of business is located in this state, may apply for an equivalent license by reciprocity from the board, provided the applicant must:

(i) Meet the requirements for an inactive license as set forth in section 54-211(1)(c), Idaho Code, or the requirements for a retired license as set forth in section 54-211(1)(d), Idaho Code;

(ii) Be of good moral character;

(iii) Have obtained the education and passed the uniform CPA examination with standards no less than those required in Idaho; and

(iv) Have completed the necessary experience and board

approved ethics examination required for issuance of a license in Idaho.

(b) The requirements of subsection (3)(a) of this section relating to education, Idaho standards relating to passage of the uniform CPA examination, experience and ethics examination shall be waived if the applicant has been licensed for no less than four (4) years[1] ~~experience as determined by the board, provided that the experience or its equivalent was obtained after original licensure~~ as a certified public accountant ~~and~~ within the ten (10) years immediately preceding the reciprocity application.

(4) An applicant for certificate and license to practice as a certified public accountant in Idaho by transfer of examination grades from another licensing jurisdiction must:

(a) Be eighteen (18) years of age or older;

(b) Be of good moral character;

(c) Have obtained the necessary education and have passed the uniform CPA examination with standards no less than those prescribed by the board's rules for examination candidates in Idaho; and

(d) Possess experience qualifications as required under section 54-209, Idaho Code, and complete a board approved ethics examination required for issuance of a license in Idaho.

(5) The board shall issue a certificate and license to a holder of a substantially equivalent designation issued by a foreign country, provided that:

(a) The foreign authority which granted the designation makes similar provision to allow a person who holds a valid certificate and license issued by this state to obtain such foreign authority's comparable designation; and

(b) The designation:

(i) Was duly issued by an authority of a foreign country which regulates the practice of public accountancy and has not expired or been revoked or suspended;

(ii) Entitles the holder to issue reports upon financial statements; and

(iii) Was issued upon the basis of substantially equivalent educational, examination and experience requirements established by the foreign authority or by law; and

(c) The applicant:

(i) Received the designation, based on educational and examination standards substantially equivalent to those in effect in this state, at the time the foreign designation was granted;

(ii) Completed an experience requirement, substantially equivalent to the requirements set out in this chapter, in the jurisdiction which granted the foreign designation or has completed four (4) years of professional experience in this state; or meets equivalent requirements prescribed by the board by rule, within the ten (10) years immediately preceding the application;

(iii) Passed a uniform qualifying examination in national standards acceptable to the board; and

(iv) Is of good moral character.

SECTION 6. That Section 54-211, Idaho Code, be, and the same is hereby amended to read as follows:

54-211. LICENSES -- LICENSING PERIOD -- NONRENEWAL -- REINSTATEMENT -- INACTIVE LICENSES -- RETIREMENT -- FEES. (1) The board shall issue initial certificates and licenses, and renewal and reinstatement licenses to practice as a certified public accountant, and renewal and reinstatement licenses to practice as a licensed public accountant to persons who have qualified therefor in accordance with the provisions of this chapter and the rules of the board. A certificate and license, once issued, shall continue in effect so long as the holder thereof complies with the provisions of this chapter and the rules and orders of the board.

(a) Initial. The board shall collect an initial license fee upon board approval of an initial license to practice as a certified public accountant in the state of Idaho as set forth in section 54-212, Idaho Code, and as prescribed by the rules of the board. Those individuals meeting the requirements for initial licensure in Idaho, pursuant to the provisions of this chapter and the rules of the board, shall be issued a license effective for no more than twelve (12) months. The license shall then be subject to annual renewal.

(b) Renewal. The board shall collect an annual license fee from all licensees each year as set forth in section 54-212, Idaho Code, and as prescribed by the rules of the board. Those persons meeting the requirements of this subsection for license renewal shall be issued a license effective for a period of one (1) year after its issuance. Requirements include:

(i) Good moral character;

(ii) Completion of continuing professional education as specified by the board's rules;

(iii) Identification, in the renewal application, of the firm with which the licensee is affiliated; and

(iv) Where applicable, verification of satisfactory completion of a peer review program by the firm with which the licensee is affiliated, pursuant to section 54-214, Idaho Code, and the rules prescribed by the board. Any licensee who issues compilation reports for the public other than through a firm must undergo no more frequently than once every three (3) years, a peer review conducted in accordance with rules prescribed by the board, and such review shall include verification that such licensee has met the competency requirements set out in professional standards for such service.

(c) Inactive status. Any licensee in current compliance with the provisions of this chapter who chooses not to perform or offer to perform for the public one (1) or more kinds of attest or compilation services may apply to place his or her license in inactive status. The annual renewal fee for inactive status shall be as set forth in section 54-212, Idaho Code, and as prescribed by the rules of the board. Licensees with inactive status must place the word "inactive" adjacent to their CPA or LPA title on any business card, letterhead or any other document or device when using the title, with the exception of their certificate on which their title appears.

(d) Retired. After a person reaches the age of ~~sixty (60)~~ fifty-five (55) years, or in the event of a disability preventing continued practice, the certificate of a certified public accountant or licensed public accountant, upon application to the board by the holder, may be placed by the board in retired status. Retired status shall allow the holder to retain the wall certificate and remain on the board's mailing list. The annual renewal fee for retired status shall be as set forth in section 54-212, Idaho Code, and as prescribed by the rules of the board. Licensees with retired status must place the word "retired" adjacent to their CPA or LPA title on any business card, letterhead or any other document or device when using the title, with the exception of their certificate on which their title appears. An individual who performs or offers to perform for the public attest or compilation services shall not qualify for retired status.

(e) Nonrenewal. A licensee may place the license into lapsed status as prescribed by the rules of the board rather than renew the license. Any license not renewed or placed into lapsed status within thirty (30) days after the expiration of the previous license shall be automatically placed into lapsed status.

(f) Reinstatement. Any certificate and license placed in lapsed status may be reinstated upon completion of an application supplied by the board along with payment of a reinstatement fee as set forth in section 54-212, Idaho Code, and as prescribed by the rules of the board. In addition, the board shall require the applicant to meet the qualifications of subsection (b) of this section. Reinstatement following involuntary suspension shall be governed by the terms of the board's order of involuntary suspension.

(g) Reentry. A license in inactive or retired status may reenter active status upon completion of an application supplied by the board along with payment of a reentry fee as prescribed by the rules of the board. In addition, the board shall require the applicant to meet the qualifications set forth in subsection (1)(b) of this section.

(2) Applicants for initial issuance or reinstatement of licenses under this section shall in their application list all states in which they have applied for or hold a license and list any past disciplinary action against or denial, revocation or suspension of a certificate, license or permit.

(3) Applicants and licensees shall notify the board in writing, within thirty (30) days after its occurrence of:

(a) Any charges or convictions of, or guilty pleas to, a felony; or

(b) Any disciplinary action against or the denial, restriction, revocation or suspension of a certificate, license or permit by another state or by any federal agency.

SECTION 7. That Section 54-212, Idaho Code, be, and the same is hereby amended to read as follows:

54-212. GENERAL FEES. The board, as prescribed by its rules, may charge an amount not to exceed:

(1) One thousand dollars ($1,000) for examination.

(2) Three hundred dollars ($300) for licensure application or license renewal.

(3) Twenty-five dollars ($25.00) for any certificate, original or replacement, to be issued as herein provided.

(4) Fifty dollars ($50.00) for administrative services, including, but not limited to, mailing lists and release of information to other boards for purposes of licensure.

(5) One hundred dollars ($100) for retired or inactive status licenses.

(6) Five hundred dollars ($500) for license reinstatement.

(7) Three hundred dollars ($300) for late fees, including late filing of the annual license renewal.

(8) Three hundred dollars ($300) for late fees, including late filing of the continuing professional education report.

(9) Two hundred dollars ($200) for firm registration.

~~(10) Fifty dollars ($50.00) for notification of intent to enter the state pursuant to section 54-227, Idaho Code.~~

SECTION 8. That Section 54-213, Idaho Code, be, and the same is hereby amended to read as follows:

54-213. GRANDFATHER CLAUSE. Individuals who, on July 1, 200~~2~~8, hold certified public accountant and licensed public accountant licenses heretofore issued under the laws of this state, shall, for all purposes, be considered licensees under this chapter and subject to the provisions thereof.

SECTION 9. That Section 54-214, Idaho Code, be, and the same is hereby amended to read as follows:

54-214. FIRM REGISTRATION -- PEER REVIEW. (1) The board shall register firms that make application and demonstrate their qualifications therefor in accordance with the following subsections of this section or to firms originally licensed in another state that establish an office in this state. A firm must be registered with the board in order to provide attest services or compilation reports or in order to use the titles "CPAs," "CPA firm," "LPAs" or "LPA firm." Firms must register with the board annually on such form and between such dates as the board may specify by rule. The board may charge a fee for each registration for initial issuance or renewal of a registration under this section as set forth in section 54-212, Idaho Code, and as prescribed by the rules of the board.

(2) An applicant for initial registration or renewal of a registration to practice under this section shall demonstrate that:

(a) Notwithstanding any other provision of law, a simple majority of the beneficial ownership of the firm belongs to holders of a certificate who are licensed in some state, and such partners, officers, shareholders, members or managers, whose principal place of business is in this state, and who perform professional services in this state, hold a valid certificate and license issued by this state. Although a firm may include nonlicensee owners the firm and its ownership must comply with rules promulgated by the board.

(b) Any firm may include nonlicensee owners provided that:

(i) The firm designates a licensee of this state, who is responsible for the proper registration of the firm and identifies that individual to the board.

(ii) All nonlicensees are active individual participants in the firm or affiliated entities.

(iii) The firm complies with such other requirements as the board may impose by rule.

(c) Any licensee who is responsible for supervising attest services or compilation reports or who signs or authorizes someone to sign a report on financial statements on behalf of the firm, shall meet the competency requirements of the professional standards for such services.

(3) Firms registered to practice under this section shall be required to register each office of the firm within this state with the board and to show that all attest and compilation reports rendered in this state are under the charge of a person holding a valid certificate and license issued by this state or some other state.

(4) A firm registering under this section shall list all states in which it has applied for or holds permits as a firm and list any past denial, revocation or suspension of a permit by any other state. Each firm registered under this section shall notify the board in writing, within thirty (30) days following any change in the identities of partners, officers, shareholders or members whose principal place of business is in this state, any change in the number or location of offices within this state, any change in the identity of the persons in charge of such offices, and any issuance, denial, revocation or suspension of a permit by any other state.

(5) Firms which fall out of compliance with the provisions of this section due to changes in firm ownership or personnel, after registration, shall take corrective action to bring the firm back into compliance as quickly as possible. The board may grant a reasonable period of time for a firm to take such corrective action. Failure to bring the firm back into compliance within a reasonable period as defined by the board may result in penalties as prescribed by board rule.

(6) As a condition of registration renewal under this section, the board, by rule, shall require firms to comply with peer review requirements as specified by rule. Such review shall include a verification that individuals in the firm who are responsible for supervising attest and compilation reports and who sign or authorize someone to sign a report on financial statements on the behalf of the firm meet the competency requirements set out in the professional standards for such services. The rules concerning peer review shall require:

(a) Peer reviews to be subject to oversight by an oversight body established by board rule which will periodically report to the board on the effectiveness of the review program under its charge, and provide to the board a listing of firms that have participated in a peer review program that is satisfactory to the board; and

(b) The ~~peer-review-processes-to-be-operated--and--documents--maintained--in--a--manner-designed-to-preserve-confidentiality,-and-that neither-the-board-nor-any-third--party,--other--than--the--oversight body,--shall--have-access-to-documents-furnished-or-generated-in-the course-of-the-review~~ confidentiality of client records involved in the peer review process shall be preserved in accordance with the accountancy rules.

~~(7)--Information-discovered-solely-as-a--result--of--a--firm's--peer review-shall-not-be-grounds-for-suspension-or-revocation-of-a-license.~~

SECTION 10. That Section 54-227, Idaho Code, be, and the same is hereby amended to read as follows:

54-227. SUBSTANTIAL EQUIVALENCY. (1) A person whose principal place of business is not in this state and who has an active certificate and license as a certified public accountant from any state which the board has determined to be substantially equivalent to this chapter shall be presumed to have qualifications substantially equivalent to this state's requirements and shall have all the privileges of licensees of this state without the need to obtain a license. ~~However, such persons shall notify the board of their intent to enter the state under this provision. The board may charge a fee for such notification as set forth in section 54-212, Idaho Code, and as prescribed by rules of the board.~~

(2) A person whose principal place of business is not in this state and who has an active certificate and license as a certified public accountant from any state which the board has not determined to be substantially equivalent to this chapter shall be presumed to have qualifications substantially equivalent to this state's requirements and shall have all the privileges of licensees of this state without the need to obtain a license only if such person demonstrates that his or her qualifications are substantially equivalent to the licensure requirements of this chapter. The requirement to demonstrate substantially equivalent qualifications shall be waived if the applicant has been licensed for no less than four (4) years~~1 experience as determined by the board, provided that the experience or its equivalent was obtained after original licensure~~ as a certified public accountant ~~and~~ within the previous ten (10) years. ~~immediately preceding the practice privilege application. Such persons shall notify the board of their intent to enter the state under this provision in the manner provided by rules of the board. The board may charge a fee for such notification as set forth in section 54-212, Idaho Code, and as prescribed by rules of the board.~~

(3) Licensees of other states exercising the privilege afforded under this section hereby consent, as a condition of the grant of this privilege:

(a) To the personal and subject matter jurisdiction and disciplinary authority of the board;

(b) To comply with this chapter and the board's rules; and

(c) To the appointment of the state boards which issued their licenses as their agents upon whom process may be served in any action or proceeding by this state's board against such licensees.

(4) A licensee of this state offering or rendering services or using the CPA title in another state shall be subject to disciplinary action in this state for an act committed in another state for which the licensee would be subject to discipline for an act committed in another state. Notwithstanding the board's enforcement authority granted by this chapter, the board shall investigate any complaint made by the board of accountancy of another state.

Approved March 17, 2008.

CHAPTER 129
(H.B. No. 389, As Amended)

AN ACT

RELATING TO CONTROLLED SUBSTANCES PRESCRIPTIONS DATABASE; AMENDING SECTION 37-2726, IDAHO CODE, TO REVISE THOSE PERSONS TO WHOM DATABASE INFORMATION IS AVAILABLE, TO PROVIDE CRIMINAL PENALTIES WHICH ARE IN ADDITION TO ANY OTHER CIVIL OR ADMINISTRATIVE PENALTY OR SANCTION AUTHORIZED BY LAW AND TO PROVIDE EXCEPTIONS.

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

SECTION 1. That Section 37-2726, Idaho Code, be, and the same is hereby amended to read as follows:

37-2726. FILING PRESCRIPTIONS -- DATABASE. (1) All controlled substances prescriptions shall be filed with the board electronically in a format established by the board or by other method as required by board rule. The board may require the filing of other prescriptions by board rule. The board shall establish by rule the information to be submitted pursuant to the purposes of this section and the purposes set forth in section 37-2730A, Idaho Code.

(2) The board shall create, operate and maintain a controlled substances prescriptions database containing the information submitted pursuant to subsection (1) of this section, to be used for the purposes and subject to the terms, conditions and immunities described in section 37-2730A, Idaho Code. The database information must be made available only to the following:

(a) Authorized individuals employed by the boards responsible for conducting investigations related to the licensing and discipline of practitioners;

(b) Peace officers employed by federal, state and local law enforcement agencies engaged as a specified duty of their employment in enforcing law regulating controlled substances;

(c) Authorized individuals under the direction of the department of health and welfare for the purpose of monitoring and enforcing that department's responsibilities under the public health, medicare and medicaid laws;

(d) A licensed practitioner having authority to prescribe controlled substances, to the extent the information relates specifically to a current patient of the practitioner, to whom the practitioner is prescribing or considering prescribing any controlled substance;

(e) A licensed pharmacist having authority to dispense controlled substances to the extent the information relates specifically to a current patient to whom that pharmacist is dispensing or considering dispensing any controlled substance;

(f) An individual who is the recipient of a controlled substance prescription entered into the database or that individual's attorney, upon providing evidence satisfactory to the board that the individual requesting the information is in fact the person about whom the data entry was made or the attorney for that person; and

(g) Upon the lawful order of a court of competent jurisdiction; and

(h) Prosecuting attorneys, deputy prosecuting attorneys and special prosecutors of a county or city and special assistant attorneys general from the office of the attorney general engaged in enforcing law regulating controlled substances.

(3) The board must maintain records on the information disclosed from the database, including:

(a) The identification of each individual who requests or receives information from the database and who that individual represents;

(b) The information provided to each such individual; and

(c) The date and time the information is requested or provided.

(4) The board shall promulgate rules to ensure that only authorized individuals have access to the database.

(5) Any person who knowingly misrepresents to the board that he is a person entitled under subsection (2) of this section to receive information from the controlled substances prescriptions database under the conditions therein provided, and who receives information from the controlled substances prescriptions database resulting from that misrepresentation shall be guilty of a misdemeanor, punishable by imprisonment in a county jail not to exceed six (6) months, or by a fine not to exceed two thousand dollars ($2,000), or both. The foregoing criminal penalty is in addition to, and not in lieu of, any other civil or administrative penalty or sanction authorized by law.

(6) Any person in possession, whether lawfully or unlawfully, of information from the controlled substances prescriptions database which identifies an individual patient and who knowingly discloses such information to a person not authorized to receive or use such information under any state or federal law, rule or regulation; the lawful order of a court of competent jurisdiction; or written authorization of the individual patient shall be guilty of a misdemeanor, punishable by imprisonment in a county jail not to exceed six (6) months, or by a fine not to exceed two thousand dollars ($2,000), or both. The foregoing criminal penalty is in addition to, and not in lieu of, any other civil or administrative penalty or sanction authorized by law. The provisions of this subsection shall not apply to disclosure of individual patient information by the patient himself. The provisions of this subsection shall not apply to disclosure of information by a prosecuting attorney, deputy prosecuting attorney or special prosecutor of a county or city or by a special assistant attorney general from the office of the attorney general in the course of a criminal proceeding, whether preconviction or postconviction.

(7) All costs associated with recording and submitting data as required in this section are assumed by the dispensing practitioner recording and submitting the data.

(68) The definitions set forth in section 37-2701, Idaho Code, shall apply to this section.

Approved March 17, 2008.

CHAPTER 130
(H.B. No. 392)

AN ACT
RELATING TO NURSERY LICENSES; AMENDING SECTION 22-2305, IDAHO CODE, TO INCREASE CERTAIN LICENSE FEES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 22-2305, Idaho Code, be, and the same is hereby amended to read as follows:

22-2305. LICENSE REQUIRED -- SCHEDULE OF FEES. (1) It shall be unlawful for any person to engage in, conduct, or carry on the business of propagating, growing, selling, dealing in, or importing into this state, for sale or distribution, any nursery or florist stock, or to engage in landscape designing, or to act as agent, salesman, or solicitor for any nurseryman, florist, landscape contractor, or dealer in nursery or florist stock without first obtaining a license to do so from the Idaho department of agriculture, and it shall be unlawful for any person to falsely represent that he is the agent, salesman, solicitor, or representative of any nurseryman, florist, landscape contractor, or dealer in nursery or florist stock.

(2) The provisions of this chapter shall not apply to the sale of plants, shrubs, scions, or florist stock by any person not regularly engaged in that business when said sales are only incident to the seller's farming or gardening operations and the total amount of gross annual sales by such seller does not exceed five hundred dollars ($500). The department shall have the authority to inspect any nursery or florist stock in the possession of any person exempted by this subsection, when it has reason to believe that there may be a pest concern or quarantine violation.

(3) Every nurseryman or florist, landscape contractor, dealer, or importer of nursery or florist stock, or collector of native plants for sale shall make application for a license ~~therefor~~ to the Idaho department of agriculture upon a form to be prescribed and furnished by said department, pay to said department the license fee as provided in subsection (4) of this section. No license shall be issued until the applicant ~~therefor~~ shall have paid the fee hereinafter provided.

(4) Nurseries required to be licensed shall consist of nurserymen, florists, dealers, landscape contractors, and importers of nursery or florist stock, and collectors of native plants for sale, and they shall pay a license fee of ~~seventy-five~~ one hundred dollars (~~$75.~~100) for their principal place of business. Nurseries with more than one (1) retail outlet shall identify the number and location of such additional outlets on the license application and pay an additional ~~seventy-five~~ one hundred dollars (~~$75.~~100) for each such additional outlet. The license number shall be prominently displayed in each outlet. Should the holder of a nursery license add one (1) or more outlets during the license year, the department must be notified and the ~~seventy-five~~ one hundred dollar (~~$75.~~100) surcharge for each such outlet paid immediately.

(5) Dealers shall keep accurate records of their sales and transac-

tions involving nursery or florist stock and shall produce the same at any time when so required by the Idaho department of agriculture. At any hearing in which the amount of license fee to be paid by any person is involved or any questions as to such person's claim for exemption from the provisions of this chapter, such person shall have the burden of proof to establish his claim.

(6) A license fee for an agent as defined in section 22-2302, Idaho Code, is twenty-five dollars ($25.00) per annum for each principal that the agent represents. Agents soliciting sales only from persons licensed under this chapter shall be exempt from licensing fees.

(7) The fees for nursery or florist stock inspection and special services performed for persons not required to be licensed shall be as provided in rules promulgated by the director.

Approved March 17, 2008.

CHAPTER 131
(H.B. No. 393)

AN ACT

RELATING TO COMMERCIAL FERTILIZERS; AMENDING SECTION 22-603, IDAHO CODE, TO REVISE DEFINITIONS AND TO DEFINE TERMS; AMENDING SECTION 22-605, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE REGISTRATION OF CERTAIN FERTILIZER PRODUCTS AND TO PROVIDE FOR THE REGISTRATION OF STORAGE FACILITIES BY FERTILIZER DISTRIBUTORS; AMENDING SECTION 22-607, IDAHO CODE, TO REVISE REQUIRED FERTILIZER LABEL INFORMATION, TO REVISE REQUIREMENTS RELATING TO RECORDS REGARDING CUSTOMER-FORMULA FERTILIZERS AND TO REVISE INFORMATION REQUIREMENTS FOR CUSTOMER-FORMULA FERTILIZERS; AMENDING SECTION 22-608, IDAHO CODE, TO REVISE PROVISIONS RELATING TO INSPECTION FEES; AMENDING SECTION 22-609, IDAHO CODE, TO PROVIDE FOR TONNAGE REPORTS BY TONNAGE-ONLY DISTRIBUTORS; AMENDING SECTION 22-610, IDAHO CODE, TO PROVIDE THAT THE IDAHO DEPARTMENT OF AGRICULTURE MAY UPON PROPER IDENTIFICATION ENTER PREMISES OF DISTRIBUTORS, INCLUDING VEHICLES OF TRANSPORT, IN ORDER TO HAVE ACCESS TO FERTILIZERS FOR SAMPLING, AND EXAMINATION AND COPYING OF CERTAIN RECORDS; AND AMENDING SECTION 22-620, IDAHO CODE, TO DELETE A REFERENCE TO FERTILIZER BRANDS.

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

SECTION 1. That Section 22-603, Idaho Code, be, and the same is hereby amended to read as follows:

22-603. DEFINITIONS. When used in this chapter:

(1) "Biosolid(s)" means a primary organic solid material produced by wastewater treatment processes that can be beneficially recycled for its plant nutrient content and soil amending characteristics, as regulated under the code of federal regulations, 40 CFR 503, as amended.

(2) "Brand" means a term, design, or trademark used in connection with one (1) or several grades of fertilizer.

(3) "Calcium carbonate equivalent" means the acid-neutralizing capacity of an agricultural liming material expressed as a weight percentage of calcium carbonate.

(4) "Compost" means a biologically stable material derived from the composting process.

(5) "Composting" means the biological decomposition of organic matter. It is accomplished by mixing and piling in such a way to promote aerobic and/or anaerobic decay. The process inhibits pathogens, viable weed seeds and odors.

(6) "Coproduct" means a chemical substance produced for a commercial purpose during the manufacture, processing, use or disposal of another chemical substance or mixture.

(7) "Deficiency" means the amount of nutrient found by analysis to be less than that guaranteed, which may result from a lack of nutrient ingredients or from lack of uniformity.

(8) "Department" means the Idaho state department of agriculture or its authorized representative.

(9) "Distribute" means to import, consign, manufacture, produce, compound, mix, or blend fertilizer, or to offer for sale, sell, barter or otherwise distribute or supply fertilizer in this state.

(10) "Distributor" means any person who distributes.

(11) "Fertilizer" means any substance containing one (1) or more recognized plant nutrient which is used for its plant nutrient content and which is designed for use or claimed to have value in promoting plant growth, and includes limes and gypsum. It does not include unmanipulated animal manure and vegetable organic waste-derived material, or biosolids regulated under the code of federal regulations, 40 CFR 503, as amended.

(a) "Bulk fertilizer" means a fertilizer distributed in a nonpackaged form.

(b) "Customer formula fertilizer" means a mixture of fertilizer or materials of which each batch is mixed according to the specific instructions of the final purchaser.

(c) "Fertilizer material" means a fertilizer which either:

(i) Contains important quantities of no more than one (1) of the primary plant nutrients: nitrogen (N), phosphate (P_2O_5) and potash (K_2O), or

(ii) Has eighty-five percent (85%) or more of its plant nutrient content present in the form of a single chemical compound, or

(iii) Is derived from a plant or animal residue or byproduct or natural material deposit which has been processed in such a way that its content of plant nutrients has not been materially changed except by purification and concentration.

(d) "Micronutrient fertilizer" means a fertilizer that contains valuable concentrations of micronutrients, but does not contain valuable concentrations of total nitrogen (N), available phosphate (P_2O_5), soluble potash (K_2O), calcium (Ca), magnesium (Mg), or sulfur (S).

(e) "Mixed fertilizer" means a fertilizer containing any combination or mixture of fertilizer materials.

(f) "Packaged fertilizer" means fertilizers, either agricultural or specialty, distributed in nonbulk form.

(g) "Specialty fertilizer" means a fertilizer distributed for ~~nonfarm~~ nonagricultural use.

(h) "Waste-derived fertilizer" includes any commercial fertilizer derived from an industrial byproduct, coproduct or other material

that would otherwise be disposed of if a market for reuse were not an option, but does not include fertilizers derived from biosolids or biosolid products regulated under the code of federal regulations, 40 CFR 503, as amended.

(12) "Grade" means the percentage of total nitrogen, available phosphate, and soluble potash stated in whole numbers in the same terms, order, and percentages as in the guaranteed analysis. Provided however, that specialty fertilizers may be guaranteed in fractional units of less than one percent (1%) of total nitrogen, available phosphate, and soluble potash: provided further, that fertilizer materials, bone meal, and similar materials may be guaranteed in fractional units.

(13) "Guaranteed analysis" means the minimum percentage of plant nutrients claimed, for a total nitrogen, available phosphate, or soluble potash fertilizer, consistent with the grade and in the following order and form:

(a) Total nitrogen ..... %
Available phosphate ..... %
Soluble potash ..... %

(b) ~~Any~~ Unless approved by the department, all fertilizer intended for agricultural use with a total nitrogen, available phosphate, or soluble potash guarantee shall contain five percent (5%) or more of available nitrogen, phosphate, or potash, singly, collectively, or in combination.

(c) For unacidulated mineral phosphatic materials and basic slag, the guaranteed analysis shall contain both total and available phosphate and the degree of fineness. For bone, tankage, and other organic phosphatic materials, the guaranteed analysis shall contain total and available phosphate.

(d) The guaranteed analysis for limes shall include the percentage of calcium or magnesium expressed as their carbonate; the calcium carbonate equivalent as determined by methods prescribed by the association of official analytical chemists, international (AOAC); and the minimum percentage of material that will pass respectively a one hundred (100) mesh, sixty (60) mesh, and ten (10) mesh sieve.

(e) The guarantees for nutrients other than total nitrogen, available phosphate and soluble potash shall be expressed in the form of the element. The source (oxides, salts, chelates, etc.) of such other nutrients may be required to be stated on the application for registration and shall be included on the label. Other beneficial substances or compounds, determinable by laboratory methods, also may be guaranteed by permission of the department. Other guarantees shall not be included with the guarantee for nutrients, but shall be listed separately as "nonnutrient substances." When any plant nutrients or other substances or compounds are guaranteed they shall be subject to inspection and analysis in accordance with the methods and rules prescribed by the department.

(f) In a fertilizer with the principal constituent of calcium sulfate (gypsum), the percentage of calcium sulfate ($CaSO_4 2H_2O$) shall be given along with the percentage of total sulfur (S).

(14) "Investigational allowance" means an allowance for variations inherent in the taking, preparation and analysis of an official sample of fertilizer.

(15) "Label" means the display of all written, printed, or graphic matter, upon the immediate container, or a statement accompanying a fertilizer.

(16) "Labeling" means all written, printed, or graphic matter, upon or accompanying any fertilizer, or advertisements, brochures, posters, and television and radio announcements used in promoting the sale of such fertilizer.

(17) "Lime" means a substance or a mixture of substances, the principal constituent of which is calcium carbonate ($CaCO_3$), calcium hydroxide ($Ca(OH)_2$), calcium oxide (CaO), magnesium carbonate ($MgCO_3$), magnesium hydroxide ($Mg(OH)_2$) or magnesium oxide (MgO), singly or combined, and capable of neutralizing soil acidity.

(18) "Manipulation" means actively processed or treated in any manner.

(19) "Manufacture" means to compound, produce, granulate, mix, blend, repackage, or otherwise alter the composition of fertilizer materials.

(20) "Micronutrient" means boron (B), chlorine (Cl), cobalt (Co), copper (Cu), iron (Fe), manganese (Mn), molybdenum (Mo), nickel (Ni), sodium (Na), and zinc (Zn).

(21) "Official sample" means any sample of fertilizer taken by the director or his authorized agent and designated as "official" by the department.

(22) "Organic waste-derived material" means grass clippings, leaves, weeds, bark, plantings, prunings and other vegetative wastes, wood wastes from logging and milling operations, and food wastes. "Organic waste-derived material" does not include products that contain biosolids as defined in this section.

(23) "Packaged fertilizer" means fertilizers, either agricultural or specialty, distributed in nonbulk form.

(24) "Percent" or "percentage" means the percentage by weight.

(25) "Person" means an individual, partnership, association, firm or corporation.

(26) "Primary nutrient" means total nitrogen, available phosphate, and soluble potash.

(27) "Production" means to compound or fabricate a fertilizer through a physical or chemical process. Production does not include mixing, blending, or repackaging fertilizer products.

(28) "Registrant" means the person who registers fertilizer under the provisions of this act.

(29) "Storage container" means a container, including a railcar, nurse tank or other container that is used or intended for the storage of bulk liquid or dry fertilizer. It does not include a mobile container at a storage facility for less than fifteen (15) days if this storage is incidental to the loading or unloading of a storage container at the bulk fertilizer storage facility. Storage container does not include underground storage containers or surface impoundments such as lined ponds or pits.

(30) "Storage facility" means a location at which undivided quantities of liquid bulk fertilizer in excess of five hundred (500) U.S. gallons or undivided quantities of dry bulk fertilizer in excess of fifty thousand (50,000) pounds are held in a storage container. Temporary field storage of less than thirty (30) days is not considered a storage facility.

(31) "Ton" means a net weight of two thousand (2,000) pounds avoirdupois.

(32) "Tonnage-only distributor" means any person who assumes the responsibility for inspection fees and reports as provided for in sections 22-608(1) and 22-609, Idaho Code. A tonnage-only distributor must register with the department on forms provided by the director. A tonnage-only distributor is subject to section 22-608, Idaho Code.

When not specifically stated in this section or otherwise designated by the department in rule, the department will be guided by the definitions of general terms, fertilizer materials and soil and plant amendment materials as set forth in the Official Publication of the Association of American Plant Food Control Officials (AAPFCO) or the Merck Index, published by Merck Co., Inc.

SECTION 2. That Section 22-605, Idaho Code, be, and the same is hereby amended to read as follows:

22-605. REGISTRATION OF PRODUCTS AND STORAGE FACILITIES. (1) Registration of products.

(a) Each ~~brand-and~~ separately identifiable fertilizer product ~~under each-brand~~ except individual customer-formula mixes shall be registered by the person who manufactures or distributes fertilizer into or within the state of Idaho before being offered for sale, sold, or otherwise distributed ~~in~~ into or within this state. Companies planning to mix customer-formula fertilizers shall include the statement "customer-formula ~~grade~~ mixes" ~~under-the-column-headed-"grades"~~ or "CFM" on the ~~brand~~ registration application form. The application for registration shall be submitted to the department on forms furnished by the department, and shall be accompanied by a nonrefundable fee of twenty-five dollars ($25.00) per ~~brand-and-a-nonrefundable-fee-of-twenty-five-dollars-($25.00)-per~~ separately identifiable fertilizer product~~,-under-each-brand,-if-sold-in-packages-of-twenty-five-(25)-pounds-or-less~~. Upon approval by the department, a certificate of registration shall be furnished to the applicant. All registrations expire on December 31 of each year. The application shall include the following information:

(~~a~~i) The brand, grade and product name for each product;

~~(b)--Declaration--of--guaranteed-analysis-of-formulations-to-be sold;~~

(~~c~~ii) The name and address of the registrant; and

~~(d)--The-sources-from-which-the-guaranteed-plant-nutrients--are derived;-and~~

(~~e~~iii) A current label ~~or-labels~~ meeting the requirements of section 22-607, Idaho Code, for each product.

(~~2~~b) A distributor is not required to register any ~~brand-of~~ fertilizer that is already registered under this chapter, as long as the label remains unchanged.

~~(3)--A--distributor--is--not-required-to-register-a-customer-formula fertilizer;-provided,-that-each-shall-be-distributed-under-a--registered brand.~~

(~~4~~c) If an application for renewal of the ~~brand~~ product registration provided for in this section is not ~~filed-before~~ postmarked by January 31 of any one (1) year, a penalty of ten dollars ($10.00) per product shall be assessed ~~after-February--1--of--that--year~~ and

added to the original fee and shall be paid by the applicant before the renewal ~~brand~~ registration certificate is issued~~;provided, that the penalty shall not apply if the applicant furnished an affidavit that he has not distributed this brand subsequent to the expiration of his prior registration.~~

(~~5~~d) The department shall examine the fertilizer product registration application form and labels for conformance with the requirements of this chapter. If the application, information and appropriate labels are in proper form and contain all the required information, the fertilizer products shall be registered by the department and a certificate of registration shall be issued to the applicant. The department may refuse to register or, cancel the registration, of any fertilizer product which would be in violation of any provision of this chapter.

(~~6~~e) In reviewing the fertilizer product registration application, the department may consider experimental data, manufacturers' evaluations, data from agricultural experiment stations' product review evaluations, and other authoritative sources to substantiate labeling claims. The data shall be from statistically designed and analyzed trials representative of the soil, crops, and climatic conditions found in the northwestern area of the United States.

(~~7~~f) In determining whether approval of a label statement or guarantee of an ingredient is appropriate, the department may require the submission of a written statement describing the methodology of laboratory analysis utilized, the source of the ingredient material, and any reference material relied upon to support the label statement or guarantee of ingredient.

(~~8~~g) Any waste-derived fertilizer distributed as a single ingredient product or blended with other fertilizer ingredients must be identified as "waste-derived fertilizer" by the registrant in the application for registration.

(~~9~~h) The registrant of a waste-derived fertilizer shall state in the application for registration the levels of nonnutritive metals including, but not limited to, arsenic (As), cadmium (Cd), mercury (Hg), lead (Pb) and selenium (Se). The registrant shall provide a laboratory report or other documentation verifying the levels of the nonnutritive metals in the waste-derived fertilizer. The registrant shall provide a new laboratory report upon a change of any nutrient source containing waste-derived material.

(i) Any person distributing commercial fertilizer into or within Idaho to an Idaho registrant or a tonnage-only distributor must be a registrant or a tonnage-only distributor.

(j) If a product is found being offered for sale, sold, or otherwise distributed into or within Idaho prior to registration, the department is authorized to assess a penalty of twenty-five dollars ($25.00) on each product in addition to the annual registration fee as provided in this section.

(2) Registration of storage facilities.

(a) Distributors shall register each of their in-state storage facilities with the department. The application for registration shall be submitted to the department on forms furnished by the department and shall be accompanied by a nonrefundable fee of one hundred dollars ($100) per distributor. Upon approval by the department, a certificate of registration shall be furnished to the appli-

cant. All registrations expire on December 31 of each year. The application shall include the following information:

(i) The name and address of the registrant and location of storage facility;

(ii) Listing of storage containers by volume, per storage facility.

(b) If an application for renewal of the storage facility registration provided for in this section is not postmarked by January 31 of any one (1) year, a penalty of ten dollars ($10.00) per storage facility shall be assessed and added to the original fee and shall be paid by the applicant before the renewal registration certificate is issued.

(c) The department shall be notified of the installation of any additional storage container or containers to a storage facility within thirty (30) days of installation.

(d) If the department is not notified within thirty (30) days of the installation of any additional storage container or containers, a penalty of fifty dollars ($50.00) shall be assessed.

SECTION 3. That Section 22-607, Idaho Code, be, and the same is hereby amended to read as follows:

22-607. LABELS -- INFORMATION REQUIRED. (1) Any fertilizer distributed in this state in containers shall have placed on or affixed to the container a label setting forth in a clearly legible and conspicuous form the following information:

(a) The net weight;

(b) The brand and grade, provided that the grade shall not be required when no primary nutrients are claimed;

(c) Product name;

(d) Guaranteed analysis;

(e) The name and address of the registrant, or manufacturer, or both; ~~and~~

(d~~f~~) The sources from which the guaranteed plant nutrients are derived; and

(g) Directions for use of specialty fertilizers distributed to the end user.

(2) In the case of bulk shipments, this information in written or printed form, shall accompany delivery and be supplied to the purchaser.

(3) Each delivery of a customer-formula fertilizer shall contain those ingredients specified by the purchaser. The ingredients shall be shown on the statement or invoice with the amount contained therein, and a record of all invoices of customer-formula grade mixes shall be kept by the registrant for a period of thirty-six (36) months and shall be available to the department upon request; provided, that each delivery shall be accompanied by either a statement, invoice, delivery slip, or label if bagged, containing the following information:

(a) The net weight;

(b) ~~The brand;~~

~~(c)~~ The guaranteed analysis or evidence of grade which may be stated to the nearest tenth of a percent or to the next lower whole number, or weight and grade of each ingredient;

(~~d~~c) The name and address of the registrant or manufacturer, or both; and

(~~e~~d) The name and address of the purchaser~~;--and~~

~~(f)--The--sources--from--which--the--guaranteed--plant-nutrients-are derived.~~

SECTION 4. That Section 22-608, Idaho Code, be, and the same is hereby amended to read as follows:

22-608. INSPECTION FEES. (1) There shall be paid to the department for all fertilizers sold or distributed in this state in quantities of more than twenty-five (25) pounds an inspection fee at the rate of ~~fifteen~~ thirty-five cents (~~1~~35¢) per ton by the product registrant. Another registrant or a tonnage-only distributor may assume responsibility for the inspection fee. Except that:

(a) No fee shall be paid on commercial fertilizer if the payment has been made by a previous distributor.

(b) No fee shall be paid on a customer-formula fertilizer if the inspection fee is paid on the commercial fertilizers that are used as ingredients therein.

(c) No fee shall be paid on commercial fertilizers that are used as ingredients for the manufacture of commercial fertilizers.

(d) If the fee has already been paid, credit shall be given for such payment.

(2) Every registrant who distributes fertilizer ~~in~~ into or within the state shall file with the department a semiannual statement for the reporting period setting forth the number of net tons of each fertilizer so distributed ~~in~~ into or within this state during such period. The statement is due on or before thirty (30) days following the close of the filing period. Upon filing the statement, the registrant shall pay the inspection fee at the rate provided in this section. If the tonnage report is not filed and the inspection fee is not paid within thirty (30) days after the end of the specified filing period, a collection fee of ten percent (10%) of the amount due, or twenty-five dollars ($25.00), whichever is greater, shall be assessed against the registrant and added to the amount due.

(3) When more than one (1) person is involved in the distribution of a fertilizer, the last person who has the fertilizer registered or who has distributed the fertilizer to a nonregistrant, dealer, or consumer is responsible for reporting the tonnage and paying the inspection fee, unless the report and payment is made by a prior distributor of the fertilizer. The registrant has the ultimate responsibility for the payment of inspection fees.

(4) Records of the number of net tons of each fertilizer so distributed in this state shall be maintained for a period of five (5) years. The director shall have the right to examine such records to verify the reported tonnage of fertilizer distributed in this state.

(5) A minimum inspection fee shall be ~~five~~ fifteen dollars ($15.00) per reporting period.

(6) On individual packages of fertilizer containing twenty-five (25) pounds or less there shall be paid, in lieu of the inspection fee, an annual registration fee of twenty-five dollars ($25.00) for each separately identifiable product ~~of each brand~~ sold or distributed. Where a person distributes fertilizer in packages of twenty-five (25) pounds

or less and in packages of over twenty-five (25) pounds, the annual fee shall apply only to that portion distributed in packages of twenty-five (25) pounds or less.

(7) Fees so collected shall be used for the payment of the costs of inspection, sampling and analysis, and other expenses necessary for the administration of this chapter.

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

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

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

SECTION 6. That Section 22-610, Idaho Code, be, and the same is hereby amended to read as follows:

22-610. INSPECTION -- SAMPLING. (1) The department shall inspect, sample, analyze, and test fertilizers distributed within this state, at a time and place and to the extent the department deems necessary, to determine whether the fertilizers comply with this chapter. The department may stop any commercial vehicle transporting fertilizers on the public highways and direct it to the nearest scales approved by the department to check weights of fertilizers being delivered. The department may also, upon presentation of proper identification, enter any distributor's premises, including any vehicle of transport, at all reasonable times in order to have access to fertilizers for sampling and to examine and make copies of records relating to their distribution.

(2) The methods of sampling and analysis shall be those adopted by the department from officially recognized sources including, but not limited to, the association of American plant food control officials (AAPFCO) and the association of official analytical chemists, international (AOAC).

(3) The department, in determining for administrative purposes whether a fertilizer is deficient in any component or total nutrients, shall be guided solely by the official sample as defined in section 22-603(21), Idaho Code, and obtained and analyzed as provided for in this section.

(4) When the inspection and analysis of an official sample has been made, the department shall forward the results of the analysis to the distributor and manufacturer, and to the purchaser upon request. Upon written request and within thirty (30) days of the results of analysis, the department shall furnish to the distributor and/or manufacturer a portion of the sample concerned.

(5) If analyses of samples made by the department indicate deficiencies in the fertilizer examined, below guaranteed analysis, and in excess of the tolerances specified by rules promulgated under this chapter, the department shall immediately notify the manufacturer and/or distributor of the fertilizer of the results of the analyses. The manufacturer or seller of the fertilizer may, upon written request, obtain from the department a portion of the sample(s) in question. If he fails to agree with the analyses of the department, he may request an umpire who shall be one (1) of a list of not less than three (3) public analysts of recognized ability in fertilizer analyses, who shall be named by the department. The umpire analyses shall be made at the expense of the manufacturer or seller requesting the same. If the umpire agrees more closely with the department, the figures of the department shall be considered correct. If the umpire agrees more closely with the figures of the manufacturer or distributor, then the figures of the manufacturer or distributor shall be considered correct.

(6) Analysis of an official sample by the department shall be accepted as prima facie evidence by any court of competent jurisdiction.

SECTION 7. That Section 22-620, Idaho Code, be, and the same is hereby amended to read as follows:

22-620. USE OF FUNDS RECEIVED. All moneys received by the director from the registration of various ~~brands of~~ fertilizers and from the payment to him of moneys derived from the registration and inspection fees charged on such fertilizers, and moneys collected for a violation(s) of this chapter or rules promulgated thereunder, shall be paid into the state treasury and placed in a fund to be known as the "commercial feed and fertilizer fund." Moneys in the commercial feed and fertilizer fund are continuously appropriated for the purposes of carrying out the provisions of this chapter.

Approved March 17, 2008.

CHAPTER 132
(H.B. No. 394)

AN ACT

RELATING TO SOIL AND PLANT AMENDMENTS; AMENDING SECTION 22-2208, IDAHO CODE, TO INCREASE THE MINIMUM TONNAGE FEE FOR SOIL AND PLANT AMENDMENTS.

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

SECTION 1. That Section 22-2208, Idaho Code, be, and the same is hereby amended to read as follows:

22-2208. TONNAGE FEE. (1) The registrant of soil amendments or plant amendments distributed for sale or other remuneration in this state shall pay to the department a tonnage fee of fifteen cents (15¢) per ton, on a dry weight basis. For liquid formulations or ingredients, the tonnage fee shall be based on weight per gallon basis.

(2) Semiannual tonnage fee reporting periods shall be January 1 to June 30 and July 1 to December 31 of each year.

(3) Every registrant who distributes soil amendments or plant amendments in the state shall file with the department a semiannual statement for the reporting period setting forth the number of net tons of each soil amendment or plant amendment distributed in this state during the reporting period. The statement is due on or before thirty (30) days following the close of the filing period and upon filing the statement the registrant shall pay the tonnage fee at the rate stated in this section. If the tonnage report is not filed and the tonnage fees are not paid within thirty (30) days after the end of the specified filing period, a collection fee of ten percent (10%) of the amount due, or twenty-five dollars ($25.00), whichever is greater, shall be assessed against the registrant and added to the amount due.

(4) The registrant is ultimately responsible for paying tonnage fees. When more than one (1) person is involved in the distribution of a soil amendment or plant amendment, the last person who has the soil amendment or plant amendment registered or who has distributed a soil amendment or plant amendment to a nonregistrant, dealer or consumer is responsible for reporting the tonnage and paying the tonnage fee, unless the report and payment are made by a prior distributor of the soil amendment or plant amendment.

(5) A minimum tonnage fee shall be ~~five~~ fifteen dollars ($15.00) per reporting period.

(6) Records of the number of net tons of each soil amendment or plant amendment distributed in this state shall be maintained for a period of five (5) years. The director may examine the records to verify the reported tonnage of plant amendments and soil amendments distributed in this state.

(7) Collected tonnage fees shall be used to pay the costs of inspection, sampling and analysis, and other expenses necessary for the administration of this chapter.

Approved March 17, 2008.

CHAPTER 133
(H.B. No. 399)

AN ACT

RELATING TO COMMUNITY COLLEGE TUITION; AMENDING SECTION 33-2110, IDAHO CODE, TO REVISE THE MAXIMUM TUITION FULL-TIME STUDENTS OF A COMMUNITY COLLEGE ARE REQUIRED TO PAY AND TO REMOVE A PROVISION REGARDING THE TUITION TO BE PAID BY ALL OTHER STUDENTS TAKING SUCH COURSES.

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

SECTION 1. That Section 33-2110, Idaho Code, be, and the same is hereby amended to read as follows:

33-2110. TUITION. (1) All students of a community college shall pay tuition that shall be fixed annually by the board of trustees not later than the 1st day of August of each year. The tuition for full-time students taking normal academic courses provided by the college, who are

residents of the district, shall be fixed at not less than three hundred fifty dollars ($350) per annum, and may be increased by increments of not more than ten percent (10%) per annum to a maximum tuition of one two thousand ~~two~~ five hundred ~~fifty~~ dollars (~~$1,250~~2,500) per annum. ~~For all--other students taking such courses t~~The tuition shall be, as nearly as is practicable, the annual costs of all elements of providing the courses of instruction, including interest on general obligation bonds, teaching, administration, maintenance, operation and depreciation of equipment and buildings, supplies and fuel, and other ordinary and necessary expenses of operation incurred in providing courses by the community college, provided that the tuition of students residing outside the district but within the county or counties wherein the district is located shall be fixed after taking into account moneys received by the community college district from any funds allocated to the community college from the educational funds of the state of Idaho, other than allocations for professional-technical education; and provided that the tuition of students residing outside the district and the county but within the state of Idaho shall be fixed after taking into account moneys received from educational funds other than professional-technical moneys, as referred to in this chapter, from the state of Idaho. Receipt of moneys, as hereinbefore provided in this section, shall be based upon the receipts from the sources referred to during the fiscal year preceding the fixing of the tuition. A student in a community college shall not be deemed a resident of the district or of the county or of the state of Idaho, unless that student is deemed a resident as defined by section 33-2110B, Idaho Code, for the district, county or state prior to the date of his first enrollment in the community college, and no student who was not a resident of the district, county or state shall gain residence while attending and enrolled in the community college. The residence of a minor shall be deemed to be the residence of his parents or parent or guardian. Tuition shall be payable in advance, but the board may, in its discretion, permit tuition to be paid in installments.

(2) The board of trustees shall also fix fees for laboratory and other special services provided by the community college and for special courses, including, but not limited to, night school, off-campus courses, summer school, professional-technical courses, as otherwise provided in this chapter, and other special instruction provided by the community college and nothing in this chapter shall be deemed to control the amount of tuition for special courses or fees for special services, as herein provided, but the same shall be, as nearly as reasonable, sufficient to cover the cost of all elements of providing courses as above defined.

(3) In this chapter, unless the context requires otherwise, the following definitions shall be uniformly applied. The application of these definitions shall be retroactive and prospective.

(a) "Fees" shall include all charges imposed by the governing body, to students, as a whole or individually, in excess of tuition. Student fees may be imposed for special courses, instruction, and service:

(i) "Special course or instruction fee" means those fees charged for any class or educational endeavor which shall have unique costs beyond a traditional college lecture class; for example, foreign language audio or visual instruction, specialized musical instruction, computer class, art class involving

supplies or audiovisual equipment, professional-technical instruction, laboratory class, remedial instruction, team teaching, satellite transmissions, outside instructor, professionally assisted instruction, etc.

(ii) "Special service fee" means those fees charged for activity, benefit, or assistance offered to students which is beyond traditional classroom instruction; for example, student government support, providing of student health staff or facilities, student union support, intramural and intercollegiate athletics, recreational opportunities, financial aid services, graduation expense, automobile parking, student yearbook/publication, insurance, registration, noncapital library user fee, etc.

Fees shall not be imposed for any capital improvements except as specifically authorized in chapter 21, title 33, Idaho Code.

(b) "Tuition" shall mean a sum charged students for cost of college instruction and shall include costs associated with maintenance and operation of physical plant, student services and institutional support.

Approved March 17, 2008.

CHAPTER 134
(H.B. No. 428)

AN ACT

RELATING TO WATER; REPEALING SECTION 42-620, IDAHO CODE, RELATING TO CERTAIN WATER DISTRICT EXPENSES; AND AMENDING CHAPTER 17, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-1779, IDAHO CODE, TO PROVIDE FOR A STATEWIDE COMPREHENSIVE AQUIFER PLANNING AND MANAGEMENT EFFORT.

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 repealed.

SECTION 2. That Chapter 17, 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 42-1779, Idaho Code, and to read as follows:

42-1779. STATEWIDE COMPREHENSIVE AQUIFER PLANNING AND MANAGEMENT EFFORT. Pursuant to the provisions of Idaho law and legislative funding approval, the Idaho water resource board and the Idaho department of water resources shall conduct a statewide comprehensive aquifer planning and management effort over a ten (10) year period of time beginning in fiscal year 2009. Funding for the statewide comprehensive aquifer planning and management effort shall be used for technical studies, facilitation services, hydrologic monitoring, measurement and comprehensive plan development as well as for personnel costs, operating expenses and capital outlay associated with the statewide comprehensive aquifer planning and management effort.

Approved March 17, 2008.

CHAPTER 135
(H.B. No. 446, As Amended)

AN ACT

RELATING TO VETERINARIANS; AMENDING SECTION 54-2104, IDAHO CODE, TO PROVIDE AN EXCEPTION RELATING TO THE OPERATION OF VETERINARY MEDICAL PRACTICES OF DECEASED LICENSED VETERINARIANS BY PERSONAL REPRESENTATIVES, EXECUTORS OR SOLE SURVIVING HEIRS; AND AMENDING SECTION 54-2105, IDAHO CODE, TO CLARIFY APPLICATION OF THE OPEN MEETING LAW TO MEETINGS OF THE IDAHO BOARD OF VETERINARY MEDICINE.

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

SECTION 1. That Section 54-2104, Idaho Code, be, and the same is hereby amended to read as follows:

54-2104. LICENSE A PREREQUISITE TO PRACTICE -- EXCEPTIONS. (1) No person may practice veterinary medicine in the state who is not an actively licensed veterinarian or the holder of a valid temporary permit issued by the board.

(2) This chapter shall not be construed to prohibit:

(a) A veterinarian employed by the federal, state or local government from performing his official duties specifically required under any lawful act or statute, except that this exemption shall not apply to such persons not actively engaged in performing or fulfilling their official duties and responsibilities.

(b) A person who is a regular student currently enrolled and in good standing in an accredited or approved school of veterinary medicine, veterinary science department or an educational institution accredited by a national or regional accrediting agency recognized by the Idaho state board of education or the United States department of education from performing duties or actions assigned by his instructors, or from working under the direct supervision of an actively licensed veterinarian during a school vacation period. The unsupervised or unauthorized practice of veterinary medicine by a student, even though on the premises of an accredited or approved school of veterinary medicine, veterinary science department, an educational institution accredited by a national or regional accrediting agency recognized by the Idaho state board of education or the United States department of education or at a veterinary medical facility, is prohibited.

(c) A person who is a regular student currently enrolled and in good standing in a nonaccredited or nonapproved educational institution, that holds a valid certificate of registration issued by the Idaho state board of education, from performing duties or actions assigned by his instructors. This exemption does not include surgery or the administration of controlled substances or legend/prescription drugs, unless specifically allowed by state or federal law, rule or regulation. The unsupervised or unauthorized personal practice of veterinary medicine by a student on the premises of a nonaccredited or nonapproved educational institution is prohibited.

(d) Idaho extension personnel from performing their official duties.

(e) A veterinarian holding a current, active license, in good standing, in another state, from consulting with a licensed veterinarian in this state.
(f) Any merchant or manufacturer from selling nonprescription and noncontrolled medicines, biologics, feed, medicated feed, appliances or other products for the prevention or treatment of animal and poultry diseases. Such merchants or manufacturers shall not, either directly or indirectly, attempt to diagnose a symptom or disease in order to advise treatment, use of drugs, medicines, appliances or products.
(g) A farmer, rancher or feedlot operator, including custom ranch or feedlot operators, and their regular employees, from caring for and treating animals within their possession or control, when such animals have been consigned by their legal owner and except where the ownership or possession of the animal was transferred or the employment changed to circumvent this chapter.
(h) The owner of an animal or his regular employees from caring for and treating the animals belonging to such owner, or livestock owners or regular employees pregnancy testing their own or employer's cattle or the exchange of services for which no monetary compensation is paid between owners or their regular employees, except where the ownership or possession of the animal was transferred or the employment changed to circumvent this chapter, and provided that only an actively licensed veterinarian may immunize or treat an animal for diseases which require the use of a vaccine that is restricted by state or federal law, rules or regulations, or as otherwise provided by board rule. Notwithstanding the provisions of this paragraph, a veterinarian/client/patient relationship, as defined by rules, must exist when controlled substances or legend/prescription drugs are administered, distributed, dispensed or prescribed.
(i) A member of a faculty of an accredited or approved school of veterinary medicine, a veterinary science department, or an educational institution accredited by a national or regional accrediting agency recognized by the Idaho state board of education or the United States department of education, from performing his regular functions. The unsupervised or unauthorized personal practice of veterinary medicine, by a faculty member on the premises of any of the above institutions, is prohibited.
(j) Any person from selling or applying any pesticide, insecticide, or herbicide.
(k) A person lecturing or giving instructions or demonstrations at an accredited or approved school of veterinary medicine, veterinary science department or an educational institution accredited or approved by a national or regional accrediting agency recognized by the Idaho state board of education or the United States department of education, or in connection with an approved continuing education course or seminar.
(l) A member of a faculty of a nonaccredited or nonapproved educational institution, who holds a valid certificate of registration issued by the Idaho state board of education, from performing his regular functions. This exemption does not include surgery or the administration of controlled substances or legend/prescription drugs, unless specifically allowed by state or federal law, rule or

regulation. The unsupervised or unauthorized personal practice of veterinary medicine by a faculty member on the premises of a nonaccredited or nonapproved educational institution is prohibited.

(m) Individuals employed as instructors or researchers by, or enrolled as students in, any bona fide medical research institution from conducting experiments and scientific research on animals:

(i) In the development of pharmaceuticals, biologicals, serums for treating human or animal ailments; or

(ii) In the development of methods of treatment or techniques for the diagnosis or treatment of human or animal ailments; or

(iii) When engaged in the study and development of methods and techniques directly or indirectly applicable to the practice of veterinary medicine, so long as such research is conducted in compliance with applicable state and federal laws, rules and regulations.

(n) Any person from performing artificial insemination of domestic animals as governed by chapter 8, title 25, Idaho Code.

(o) Any person from horseshoeing or hoof trimming bovine, equine and farm animals.

(p) An allied health professional actively licensed and in good standing in any state from participating in a medical procedure involving an animal, provided that such participation is in his licensed field of medicine and under the indirect supervision of an actively licensed veterinarian.

(q) Any person from the gratuitous treatment of animals in an emergency as a neighborly act.

(r) Any state or federal livestock inspector from performing his official duties specifically required under any lawful act or statute, and provided that this exemption shall not apply to such persons not actively engaged in performing or fulfilling their official duties and responsibilities.

(s) A certified euthanasia agency from operating as a CEA as defined by law and rules.

(t) A certified euthanasia technician from performing those duties as defined by law and rules.

(u) Any person from utilizing cotton swabs, gauze, dental floss, dentifrice or toothbrushes to clean an animal's teeth.

(v) A certified veterinary technician employed by an actively licensed veterinarian from practicing veterinary technology under appropriate supervision, as defined by the rules of the board.

(w) An assistant or veterinary technician employed by an actively licensed veterinarian from performing acts pertaining to the practice of veterinary medicine under appropriate supervision, as defined by the rules of the board, and provided that the employing veterinarian compensates the assistants for the performance of such acts.

(x) The personal representative, executor or sole surviving heir of a licensed veterinarian from continuing to operate the veterinary medical ~~facility~~ practice of the deceased for a period of not more than ~~twelve~~ three (~~12~~3) ~~months~~ years following death~~;--and--providing that--an-actively-licensed-veterinarian-makes-all-the-decisions-pertaining-to-the-diagnosis;-care-and-treatment-of-the--patients.~~ This exception only applies where during such three (3) year period:

(i) Good faith efforts are being made to sell the veterinary medical practice; and

(ii) All the decisions pertaining to the diagnosis, care and treatment of the patients are made by an actively licensed veterinarian.

(3) Nothing in this section shall be construed as limiting the board's authority to provide other exemptions or exceptions to the requirements for licensing, under its rulemaking authority, as the board may find necessary or appropriate.

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, each of the five (5) veterinary members shall be a resident of this state, and 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~~ as otherwise provided by the open meeting law, chapter 23, title 67, Idaho Code.

(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 negoti-

ated 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. 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, 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 promulgated hereunder or any order, negotiated settlement or probationary agreement of the board and issue administrative citations to alleged violators.

Approved March 17, 2008.

CHAPTER 136
(H.B. No. 456)

AN ACT

RELATING TO FUGITIVES FROM JUSTICE; AMENDING SECTION 19-4501, IDAHO CODE, TO REVISE DEFINITIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 19-4502, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE DUTY OF THE GOVERNOR IN REGARD TO CERTAIN FUGITIVES FROM JUSTICE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 19-4503, IDAHO CODE, TO REVISE PROVISIONS RELATING TO DEMANDS FOR EXTRADITION AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 19-4505, IDAHO CODE, RELATING TO DOCUMENT REQUIREMENTS FOR WARRANTS OF EXTRADITION; AMENDING SECTION 19-4506, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 19-4507, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTAIN GOVERNOR'S WARRANTS OF ARREST AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION

19-4508, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE EXECUTION OF WARRANTS, TO PROVIDE FOR FACSIMILE AND ELECTRONIC SERVICE OF WARRANTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 19-4509, IDAHO CODE, TO PROVIDE FOR THE AUTHORITY OF PEACE OFFICERS EMPOWERED TO MAKE ARRESTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 19-4510, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE RIGHTS OF ACCUSED PERSONS AND APPLICATIONS FOR WRITS OF HABEAS CORPUS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 19-4511, IDAHO CODE, TO REVISE PROVISIONS RELATING TO PENALTIES FOR NONCOMPLIANCE OF SPECIFIED REQUIREMENTS BY OFFICERS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 19-4512, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE CONFINEMENT OF PRISONERS SUBJECT TO EXTRADITION AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 19-4513, IDAHO CODE, RELATING TO ARRESTS PRIOR TO REQUISITION; AMENDING CHAPTER 45, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-4513, IDAHO CODE, TO PROVIDE FOR ARRESTS PRIOR TO REQUISITION; AMENDING SECTION 19-4514, IDAHO CODE, TO REVISE PROVISIONS RELATING TO ARRESTS WITHOUT WARRANTS AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 19-4515, IDAHO CODE, RELATING TO COMMITMENTS TO AWAIT REQUISITION AND BAIL; AMENDING CHAPTER 45, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-4515, IDAHO CODE, TO PROVIDE FOR COMMITMENTS TO AWAIT REQUISITION AND BAIL; AMENDING SECTION 19-4516, IDAHO CODE, TO REVISE PROVISIONS RELATING TO BAIL AND CONDITIONS OF BOND AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 19-4517, IDAHO CODE, TO REVISE PROVISIONS RELATING TO EXTENSIONS OF TIME OF COMMITMENT IN CERTAIN CASES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 19-4518, IDAHO CODE, TO REVISE PROVISIONS RELATING TO FORFEITURE OF BAIL AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 19-4519, IDAHO CODE, TO REVISE PROVISIONS RELATING TO PERSONS UNDER CRIMINAL PROSECUTION IN IDAHO AT THE TIME OF REQUISITION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 19-4520, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTAIN INQUIRY INTO THE GUILT OR INNOCENCE OF THE ACCUSED AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 19-4521, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 19-4522, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE DUTY OF THE GOVERNOR IN REGARD TO FUGITIVES FROM IDAHO AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 19-4523, IDAHO CODE, TO REVISE PROVISIONS RELATING TO APPLICATIONS FOR ISSUANCE OF REQUISITION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 19-4524, IDAHO CODE, TO REVISE PROVISIONS RELATING TO IMMUNITY FROM SERVICE OF PROCESS IN CERTAIN CIVIL ACTIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 19-4525, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE LACK OF IMMUNITY FROM OTHER CRIMINAL PROSECUTIONS IN REGARD TO PERSONS EXTRADITED TO IDAHO; AMENDING SECTION 19-4526, IDAHO CODE, TO REVISE PROVISIONS RELATING TO INTERPRETATION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 19-4527, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 19-4528, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTAIN COSTS AND EXPENSES AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 19-4529, IDAHO CODE, RELATING TO THE PROHIBITION OF CERTAIN REWARDS, SECTION 19-4530, IDAHO CODE, RELATING TO RENDITIONS OF ACCUSED PERSONS, SECTION 19-4531, IDAHO CODE, RELATING TO CERTAIN PROCEDURES FOLLOWING ARREST, SECTION 19-4532, IDAHO CODE, RELATING TO CERTAIN HEARINGS AND ORDERS OF THE COURT, SECTION 19-4533, IDAHO CODE,

RELATING TO CONSTRUCTION OF PROVISIONS AND SECTION 19-4534, IDAHO CODE, RELATING TO A SHORT TITLE; AMENDING CHAPTER 45, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-4529, IDAHO CODE, TO PROVIDE FOR THE EXTRADITION OF PERSONS IMPRISONED OR CHARGED IN ANOTHER STATE OR WHO HAVE LEFT THE DEMANDING STATE INVOLUNTARILY AND TO PROVIDE CRITERIA RELATING TO THE AUTHORIZED SIGNATURE OF THE GOVERNOR; AND AMENDING CHAPTER 45, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-4530, IDAHO CODE, TO PROVIDE FOR WRITTEN WAIVERS OF EXTRADITION PROCEEDINGS, TO PROVIDE FOR DELIVERY OF PERSONS WITHOUT GOVERNOR'S WARRANTS IF CERTAIN CONDITIONS EXIST, TO PROVIDE THAT CERTAIN CONDUCT DOES NOT CONSTITUTE A WAIVER BY THE STATE RELATING TO REGAINING CUSTODY AND TO PROVIDE METHODS FOR THE RETURN OF CERTAIN PERSONS TO THE STATE.

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

SECTION 1. That Section 19-4501, Idaho Code, be, and the same is hereby amended to read as follows:

19-4501. DEFINITIONS. Where appearing in this ~~act,--the--term "governor"-includes-any-person-performing-the-functions-of--governor--by authority-of-the-law-of-this-state,~~ chapter:

(1) The term "executive authority" includes the governor, and any person performing the functions of governor in a state other than this state~~,--And-the;~~

(2) The term "governor" includes any person performing the functions of governor by authority of the law of this state; and

(3) The term "state" ~~referring~~ refers to a state other than this state, ~~refers-to~~ and includes any other state or territory, organized or unorganized, of the United States ~~of America.~~

SECTION 2. That Section 19-4502, Idaho Code, be, and the same is hereby amended to read as follows:

19-4502. ~~CRIMINALS-TO-BE-DELIVERED-UPON-REQUISITION~~ FUGITIVES FROM JUSTICE -- DUTY OF GOVERNOR. Subject to the ~~qualifications~~ provisions of this ~~act~~ chapter, and the provisions of the Constitution of the United States controlling, and any and all acts of congress enacted in pursuance thereof, it is the duty of the governor of this state to have arrested and delivered up to the executive authority of any other state of the United States any person charged in that state with treason, felony~~,~~ or other crime, who has fled from justice and is found in this state.

SECTION 3. That Section 19-4503, Idaho Code, be, and the same is hereby amended to read as follows:

19-4503. FORM OF DEMAND. No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless in writing, ~~and-accompanied-by-a-copy-of-an-indictment-found-or by-an-information-supported-by-affidavit~~ alleging, except in cases arising under section 19-4506, Idaho Code, that the accused was present in the demanding state ~~having-jurisdiction~~ at the time of the commission of the alleged crime, or and that thereafter he fled from the state. Such

demand must be accompanied by a copy of an indictment or by information supported by affidavit of probable cause, judicial finding of probable cause, or plea of guilty, as reflected in any document from the court in the demanding state, or by affidavit made before a judge or magistrate, ~~there;~~ together with a copy of any warrant which was issued ~~thereon~~ thereupon, or by a copy of a judgment of conviction or sentence imposed in execution thereof, together with a statement by the executive authority of the demanding state that the person claimed has fled the state after being charged with a crime, escaped from confinement, or has broken the terms of his bail, probation or parole. The indictment, information, or affidavit made before the judge or magistrate must substantially charge the person demanded with having committed a crime under the law of that state~~;~~, and the copy of the indictment, information, affidavit, or judgment of conviction or sentence must be authenticated by the executive authority making the demand~~;-which-shall-be-prima-facie evidence-of-its-truth~~.

SECTION 4. That Section 19-4505, Idaho Code, be, and the same is hereby repealed.

SECTION 5. That Section 19-4506, Idaho Code, be, and the same is hereby amended to read as follows:

19-4506. EXTRADITION OF PERSONS NOT PRESENT IN DEMANDING STATE AT TIME OF COMMISSION OF CRIME. The governor of this state may also surrender, on demand of the executive authority of any other state, any person in this state charged in such other state in the manner provided in section 19-4505~~3~~, Idaho Code, with committing an act in this state, or in a third state, intentionally resulting in a crime in the state whose executive authority is making the demand~~;~~, and t~~T~~he provisions of this ~~act~~ chapter not otherwise inconsistent shall apply to such cases, ~~notwithstanding-that~~ even though the accused was not in that state at the time of the commission of the crime, and has not fled therefrom.

SECTION 6. That Section 19-4507, Idaho Code, be, and the same is hereby amended to read as follows:

19-4507. ISSUE OF GOVERNOR'S WARRANT OF ARREST -- ~~ISSUANCE--AND~~ RECITALS. If the governor ~~shall~~ decides that the demand should be complied with, he shall sign a warrant of arrest, which shall be sealed with the state seal, and be directed to ~~a-sheriff,-marshal,-coroner,~~ any peace officer or other person whom he may think fit to entrust~~,~~ with the execution thereof~~;-and~~. T~~t~~he warrant must substantially recite the facts necessary to the validity of its ~~issue~~ issuance.

SECTION 7. That Section 19-4508, Idaho Code, be, and the same is hereby amended to read as follows:

19-4508. ~~EXECUTION-OF-WARRANT---~~ MANNER AND PLACE OF EXECUTION -- FACSIMILE AND ELECTRONIC SERVICE. (1) Such warrant shall authorize the peace officer or other person to whom directed to arrest the accused at any time and any place where ~~he may be found~~ within the state and to command the aid of all ~~sheriffs-and-other~~ peace officers or other persons in the execution of the warrant, and to deliver the accused, sub-

ject to the provisions of this ~~act~~ chapter, to the duly authorized agent of the demanding state.

(2) A certified copy of the warrant, signed by the governor, may be sent via facsimile or in electronic format, to be executed pursuant to subsection (1) of this section.

SECTION 8. That Section 19-4509, Idaho Code, be, and the same is hereby amended to read as follows:

19-4509. AUTHORITY OF ARRESTING OFFICER. Every such peace officer or other person empowered to make the arrest, shall have the same authority, in arresting the accused, to command assistance therein, as ~~sheriffs--and--other~~ peace officers have by law in the execution of any criminal process directed to them, with the like penalties against those who refuse their assistance.

SECTION 9. That Section 19-4510, Idaho Code, be, and the same is hereby amended to read as follows:

19-4510. RIGHTS OF ACCUSED ~~---RIGHT-TO-APPLY~~ PERSON -- APPLICATION FOR WRIT OF HABEAS CORPUS. No person arrested upon such warrant shall be delivered over to the appointed agent ~~whom~~ for the executive authority demanding him unless he shall ~~have-appointed-to-receive~~ first be taken forthwith before a judge or magistrate of a court of record in this state, who shall inform him ~~unless-he-has-been-informed~~ of the demand made for his surrender and of the crime with which he is charged, and that he has the right to demand and procure legal counsel; and if the prisoner~~,~~ or his ~~friends,-or~~ counsel shall state that he or they desire to test the legality of ~~the~~ his arrest, the ~~prisoner-shall-be-taken forthwith-before-a-judge-of-a-court-of-record-in-this-state,--who--shall~~ judge or magistrate of such court of record shall fix a reasonable time to be allowed him within which to apply for a writ of habeas corpus. ~~And~~ ~~w~~When such writ is applied for, notice thereof, and of the time and place of hearing thereon, shall be given to the ~~public~~ prosecuting officer of the county in which the arrest is made and in which the accused is in custody, and to the said agent of the demanding state.

SECTION 10. That Section 19-4511, Idaho Code, be, and the same is hereby amended to read as follows:

19-4511. PENALTY FOR NONCOMPLIANCE WITH ~~PRECEDING~~ SECTION 19-4510, IDAHO CODE. Any officers who shall deliver to the agent ~~for--extradition~~ of the demanding state a person in his custody for extradition under the governor's warrant, in willful disobedience to ~~the-last~~ section 19-4510, Idaho Code, shall be guilty of a misdemeanor~~;~~ and, upon conviction, shall be fined not more than one thousand dollars ($1,000), or be imprisoned ~~in-the-county-jail~~ not more than six (6) months, or both.

SECTION 11. That Section 19-4512, Idaho Code, be, and the same is hereby amended to read as follows:

19-4512. CONFINEMENT IN JAIL WHEN NECESSARY. The officer or person executing the governor's warrant of arrest, or the agent of the demanding state to whom the prisoner may have been delivered, may when neces-

sary, confine the prisoner in the jail of any county or city through which he may pass~~;~~, and the keeper of such jail must receive and safely keep the prisoner until the officer or person having charge of him is ready to proceed on his route, such officer or person being chargeable with the expense of keeping; provided however, that such officer or agent shall produce and show to the keeper of such jail, satisfactory written evidence of the fact that he is actually transporting such prisoner to the demanding state after a requisition by the executive authority of such demanding state. Such prisoner shall not be entitled to demand a new requisition while in this state.

SECTION 12. That Section 19-4513, Idaho Code, be, and the same is hereby repealed.

SECTION 13. That Chapter 45, Title 19, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 19-4513, Idaho Code, and to read as follows:

19-4513. ARREST PRIOR TO REQUISITION. (1) Except in cases arising under section 19-4506, Idaho Code, a judge or magistrate shall issue a warrant directed to any peace officer commanding him to apprehend the person named therein, wherever he may be found in this state, and to bring him before the same or any other judge or magistrate which may be available in or of convenient access to the place where the arrest may be made, to answer to the charge or complaint and affidavit:

(a) Whenever any person within this state is charged on the oath of any credible person before any judge or magistrate of this state with the commission of any crime in any other state and has fled from justice, or has been convicted of a crime in that state and has escaped from confinement, or has broken the terms of his bail, probation or parole; or

(b) Whenever complaint is made before any judge or magistrate in this state setting forth on the affidavit of any credible person in another state that a crime has been committed in such other state and that the accused has been charged in such state with the commission of the crime and has fled from justice, or has been convicted of a crime in that state and has escaped from confinement, or has broken the terms of his bail, probation or parole and is believed to be in this state.

(2) A certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

SECTION 14. That Section 19-4514, Idaho Code, be, and the same is hereby amended to read as follows:

19-4514. ARREST WITHOUT A WARRANT. ~~(1)~~ The arrest of a person may be lawfully made by ~~a~~ any peace officer or a private person, without a warrant upon reasonable information that the accused stands charged ~~with a--felony by~~ in the courts of ~~another~~ a state with a crime punishable by death or imprisonment for a term exceeding one (1) year. ~~;-but-w~~When so arrested~~,~~ the accused must be taken ~~forthwith~~ before a judge or magistrate ~~where-he-shall-be-advised-of~~ with all practicable speed, and complaint must be made against him under oath setting forth the ~~reason-for his~~ grounds for the arrest~~,-his-right-to-bond,-his-right-of-counsel,-and~~

~~his right against self-incrimination.~~

~~(2) Within ten (10) days if the accused is incarcerated, and within twenty (20) days if the accused is out on bond, the court must hold a hearing to determine whether a warrant and complaint shall issue upon the basis set forth~~ as provided in section 19-4513, Idaho Code, and thereafter his answer shall be heard as if he had been arrested on a warrant.

SECTION 15. That Section 19-4515, Idaho Code, be, and the same is hereby repealed.

SECTION 16. That Chapter 45, Title 19, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 19-4515, Idaho Code, and to read as follows:

19-4515. COMMITMENT TO AWAIT REQUISITION -- BAIL. If from the examination before the judge or magistrate it appears that the person held is the person charged with having committed the crime alleged and, except in cases arising under section 19-4506, Idaho Code, that he has fled from justice, the judge or magistrate must, by a warrant reciting the accusation, commit him to the county jail for such a time not exceeding thirty (30) days and specified in the warrant, as will enable the arrest of the accused to be made under a warrant of the governor on a requisition of the executive authority of the state having jurisdiction of the offense, unless the accused gives bail as provided in section 19-4516, Idaho Code, or until he shall be legally discharged.

SECTION 17. That Section 19-4516, Idaho Code, be, and the same is hereby amended to read as follows:

19-4516. BAIL ~~EXCEPT~~ -- IN ~~CAPITAL AND LIFE IMPRISONMENT~~ WHAT CASES -- CONDITIONS ~~AND REQUISITES~~ OF BOND. Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, ~~and except as provided in section 20-209F(3), Idaho Code, the~~ a judge or magistrate ~~must~~ in this state may admit the person arrested to bail by bond ~~or undertaking,~~ with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond, ~~or undertaking,~~ and for his surrender, to be arrested upon the warrant of the governor of this state.

SECTION 18. That Section 19-4517, Idaho Code, be, and the same is hereby amended to read as follows:

19-4517. ~~PROCEDURE IF NO ARREST MADE~~ EXTENSION OF TIME OF COMMITMENT. If the accused is not arrested under warrant of the governor by the expiration of the time specified in the warrant, or bond, ~~or undertaking, the~~ as provided in section 19-4515, Idaho Code, a judge or magistrate may discharge him or may recommit him to for a further ~~day~~ period not to exceed sixty (60) days, or a judge or magistrate may again take bail for his appearance and surrender, as provided in section 19-4516~~; and at the expiration of the second period of commitment, or if he has been bailed and appeared according to the terms of his bond or undertaking, the judge or magistrate may either discharge him, or may~~

~~require--him-to-enter-into-a-new-bond-or-undertaking,-to-appear-and-surrender-himself-at-another-day,~~ Idaho Code, but within a period not to exceed sixty (60) days after the date of such new bond.

SECTION 19. That Section 19-4518, Idaho Code, be, and the same is hereby amended to read as follows:

19-4518. FORFEITURE OF BAIL. If the prisoner is admitted to bail, and fails to appear and surrender himself according to the conditions of his bond, the ~~court~~ judge or magistrate, by proper order, shall declare the bond forfeited~~;~~ and recovery order his immediate arrest without warrant if he is within the state. Recovery may be had thereon on such bond in the name of the this state, as in the case of other bonds ~~or--undertaking~~ given by the accused in criminal proceedings within this state.

SECTION 20. That Section 19-4519, Idaho Code, be, and the same is hereby amended to read as follows:

19-4519. ~~PROCEDURE-IF-PROSECUTION-ALREADY-INSTITUTED~~ PERSONS UNDER CRIMINAL PROSECUTION IN THIS STATE AT TIME OF REQUISITION. If a criminal prosecution has been instituted against such person under the laws of this state and is still pending, the governor ~~at~~ in his discretion, either may surrender ~~him~~ such person on the demand of the executive authority of another state~~;~~ or ~~may~~ hold him until he has been tried and discharged, or convicted and punished in this state.

SECTION 21. That Section 19-4520, Idaho Code, be, and the same is hereby amended to read as follows:

19-4520. GUILT OR INNOCENCE OF ACCUSED~~;~~ -- WHEN INQUIRED INTO. The guilt or innocence of the accused as to the crime of which he is charged may not be inquired into by the governor or in any proceeding after the demand for extradition ~~accompanied-by-a-charge-of-crime-in-legal-form-as above-provided-shall-have-been~~ is presented to the governor, except as it may be involved in identifying the person held as the person charged with the crime.

SECTION 22. That Section 19-4521, Idaho Code, be, and the same is hereby amended to read as follows:

19-4521. GOVERNOR MAY RECALL WARRANT OR ISSUE ALIAS. The governor may recall his warrant of arrest~~;~~ or may issue another warrant whenever he deems proper.

SECTION 23. That Section 19-4522, Idaho Code, be, and the same is hereby amended to read as follows:

19-4522. FUGITIVES FROM THIS STATE -- DUTY OF GOVERNOR. Whenever the governor of this state shall demand a person charged with crime, ~~or with~~ escaping from confinement, or breaking the terms of his bail, probation or parole in this state, from the ~~chief~~ executive authority of any other state, or from the chief justice or an associate justice of the ~~S~~supreme ~~C~~court of the District of Columbia, or other official authorized to receive such demand under the laws of the United States,

he shall issue a warrant under the seal of this state, to some agent, commanding him to receive the person so charged ~~if delivered to him~~ and convey him to the proper officer of the county in this state in which the offense was committed.

SECTION 24. That Section 19-4523, Idaho Code, be, and the same is hereby amended to read as follows:

19-4523. ~~MANNER OF APPLYING~~ APPLICATION FOR ISSUANCE OF REQUISITION -- BY WHOM MADE -- CONTENTS. (~~b~~1) When the return to this state of a person charged with crime in this state is required, the prosecuting attorney ~~of the county in which the offense is committed~~ shall present to the governor his written application for a requisition for the return of the person charged, in which application shall be stated the name of the person so charged, the crime charged against him, and the approximate time, place and circumstances of its ~~committal~~ commission, the state in which he is believed to be, including the location of the accused therein at the time the application is made, and certifying that, in the opinion of the said prosecuting attorney, the ends of justice require the arrest and return of the accused to this state for trial, and that the proceeding is not instituted to enforce a private claim.

(~~b~~2) When the return to this state is required of a person who has been convicted of a crime in this state and has escaped from confinement or broken the terms of his bail, probation or parole, ~~or who has an unsatisfied term~~ the prosecuting attorney of the county in which the offense was committed, the director of ~~imprisonment or other supervision remaining pursuant to his conviction~~ the commission of ~~a crime and who is absent from this state for any reason, the prosecuting attorney of the county in which the offense was committed, the commission of~~ pardons and parole, or the director of the department of correction or his designee, or the head of any ~~facility or~~ institution or facility operated by or under contract with the department of correction, or sheriff of the county from which escape was made, shall present to the governor a written application for a requisition for the return of such person, in which application shall be stated the name of the person, the crime of which he was convicted, the circumstances of his escape from confinement or of the breach of the terms of his bail, probation or parole, ~~or other circumstances of his absence from this state,~~ and the state in which he is believed to be, including the location of the person therein at the time application is made.

(~~c~~3) The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two (2) certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the judge or magistrate, stating the offense with which the accused is charged, or of the judgment of conviction or ~~of the~~ sentence. The prosecuting officer, ~~commission of pardons and parole,~~ director of the department of correction or his designee, ~~correctional~~ or head of any institution or facility ~~head, or sheriff~~ operated by or under contract with the department of correction, may also attach such further affidavits and other documents in duplicate as he shall deem proper to be submitted with such application. One (1) copy of the application, with the action of the governor indicated by ~~indorsement~~ endorsement thereon, and one (1) of the certified copies of the indict-

ment, ~~or~~ complaint, ~~or~~ information and affidavits, or of the judgment of conviction ~~and~~ or sentence~~, and affidavit,~~ shall be filed in the office of the secretary of state to remain of record in that office. The other copies of all papers shall be forwarded with the governor's requisition.

SECTION 25. That Section 19-4524, Idaho Code, be, and the same is hereby amended to read as follows:

19-4524. ~~EXEMPTION~~ IMMUNITY FROM ~~CIVIL~~ SERVICE OF PROCESS IN CERTAIN CIVIL ACTIONS. A person brought into this state ~~on~~ by or after waiver of extradition based on a criminal charge, shall not be subject to service of personal process in civil actions arising out of the same facts as the criminal proceedings ~~to answer~~ for which he is being or has been returned, until he has been convicted in the criminal proceeding, or if acquitted, until he has had ~~ample~~ reasonable opportunity to return to the state from which he was extradited.

SECTION 26. That Section 19-4525, Idaho Code, be, and the same is hereby amended to read as follows:

19-4525. NO RIGHT OF ASYLUM — NO IMMUNITY FROM OTHER CRIMINAL PROSECUTION WHILE IN THIS STATE. After a person has been brought back to this state ~~upon~~ by or after waiver of extradition proceedings, he may be tried in this state for other crimes which he may be charged with having committed here, as well as that specified in the requisition for his extradition.

SECTION 27. That Section 19-4526, Idaho Code, be, and the same is hereby amended to read as follows:

19-4526. INTERPRETATION. ~~This act~~ The provisions of this chapter shall be so interpreted and construed as to effectuate ~~its~~ the general purposes to make uniform the law of those states which enact it.

SECTION 28. That Section 19-4527, Idaho Code, be, and the same is hereby amended to read as follows:

19-45~~27~~31. SHORT TITLE. This ~~act~~ chapter may be cited as the "Uniform Criminal Extradition Act."

SECTION 29. That Section 19-4528, Idaho Code, be, and the same is hereby amended to read as follows:

19-4528. ~~CLAIMS — FOR — SERVICES — OF — EXECUTIVE — AGENTS~~ COSTS AND EXPENSES. When the governor of this state, in the exercise of the authority conferred by section 2 of article 4 of the Constitution of the United States, or by the laws of this state, demands from the executive authority of any state or territory of the United States, or of any foreign government, the surrender to the authorities of this state of a fugitive from justice, who has been found and arrested in such state, territory, or foreign government, the accounts of the person employed by him to bring back such fugitive must be audited by the board of examiners and paid out of the state treasury, provided that in any case where a person against whom criminal proceedings are pending in any court of

this state is to be brought into this state for such proceedings, whether with or without any demand or proceedings by the governor of this state and there is no appropriation of state funds available for the purpose at the time, reasonable compensation for the services of any person employed to bring the defendant in such criminal proceedings to this state and his expenses and the expenses on the account of the said defendant may be allowed and paid at the discretion of the board of county commissioners of the county where such criminal proceedings are pending from the general fund of said county, but no compensation for services as distinguished from expenses other than the regular salary shall be allowed any sheriff or deputy sheriff from either state or county funds.

SECTION 30. That Sections 19-4529, 19-4530, 19-4531, 19-4532, 19-4533 and 19-4534, Idaho Code, be, and the same are hereby repealed.

SECTION 31. That Chapter 45, Title 19, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 19-4529, Idaho Code, and to read as follows:

19-4529. EXTRADITION OF PERSONS IMPRISONED OR CHARGED IN ANOTHER STATE OR WHO HAVE LEFT DEMANDING STATE INVOLUNTARILY -- AUTHORIZED SIGNATURE OF GOVERNOR. (1) When it is desired to have returned to this state a person charged in this state with a crime, and such person is imprisoned or is held under criminal proceedings then pending against him in another state, the governor of this state may agree with the executive authority of such other state for the extradition of such person before the conclusion of such proceedings or his term of sentence in such other state, upon condition that such person be returned to such other state at the expense of this state as soon as the prosecution in this state is terminated.

(2) The governor of this state may also surrender on demand of the executive authority of any other state any person in this state who is charged in the manner provided in section 19-4523, Idaho Code, with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

(3) Any written, stamped, photocopied or electronic signature of the governor on documents executed pursuant to subsections (1) and (2) of this section, applied at his direction and under his supervision, is deemed to be the authorized signature of the governor.

SECTION 32. That Chapter 45, Title 19, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 19-4530, Idaho Code, and to read as follows:

19-4530. WRITTEN WAIVER OF EXTRADITION PROCEEDINGS. (1) Any person who is arrested in this state and who is charged with having committed a crime in another state or alleged to have escaped from confinement or broken the terms of his bail, probation or parole may waive the issuance and service of the warrant provided for in sections 19-4507 and 19-4508, Idaho Code, and all other procedures incidental to extradition proceedings by executing or subscribing in the presence of a judge or magistrate of a court of record within this state a writing which states that

he consents to return to the demanding state, except that before the waiver is executed or subscribed to by the person it is the duty of the judge or magistrate to inform the person of his right to the issuance or service of a warrant of extradition and the right to contest extradition by habeas corpus as provided in section 19-4510, Idaho Code.

(2) If the consent is duly executed, the judge or magistrate shall direct the officer who has custody of the person to deliver the person promptly to the accredited agent or agents of the demanding state and to deliver or cause to be delivered to the agent or agents a copy of the consent.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section, a law enforcement agency holding a person who is alleged to have broken the terms of his probation, parole, bail or other release shall immediately deliver the person to the duly authorized agent of the demanding state without the requirement of a governor's warrant if all of the following apply:

(a) The person has signed a prior waiver of extradition as a term of his current probation, parole, bail or other release in the demanding state.

(b) The law enforcement agency holding the person has received both of the following:

(i) An authenticated copy of the prior waiver of extradition signed by the person.

(ii) A photograph and fingerprints properly identifying the person as the person who signed the waiver.

(4) The delivery of a fugitive to an agent of the demanding state does not constitute a waiver by this state of its right, power or privilege to regain custody of the person by extradition, detainer proceedings or other process for the purpose of trial, sentencing or punishment for any criminal offense charged against the person in this state.

(5) In any criminal proceeding wherein a court in this state has issued a warrant for the arrest of a person and that person was arrested in any other state, territory or possession of the United States, and that person waives extradition and consents to return to this state, the sheriff of the county where the warrant was issued may contract with an agent for the return of such person to this state, or the sheriff or his deputy may return such person to this state.

Approved March 17, 2008.

CHAPTER 137
(H.B. No. 493)

AN ACT

RELATING TO INSURANCE; AMENDING SECTION 41-114A, IDAHO CODE, TO PROVIDE THAT "SERVICE CONTRACTS" MAY PROVIDE FOR THE REPAIR, REPLACEMENT, OR MAINTENANCE OF PROPERTY FOR DAMAGE RESULTING FROM POWER SURGES AND FOR ACCIDENTAL DAMAGE FROM HANDLING.

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

SECTION 1. That Section 41-114A, Idaho Code, be, and the same is hereby amended to read as follows:

41-114A. SERVICE CONTRACTS. (1) The term "service contract," as used in this section, means a contract or agreement for a separately stated consideration for a specific duration to perform the repair, replacement or maintenance of property or to reimburse, in whole or in part, the owner of such property for the repair, replacement or maintenance of property if an operational or structural failure is due to a defect in materials or manufacturing or to normal wear and tear. A service contract may contain a provision for incidental payment under such contract where service, repair or replacement is not feasible or economical. Service contracts, other than motor vehicle service contracts subject to the provisions of the Idaho motor vehicle service contract act, chapter 28, title 49, Idaho Code, may provide for the repair, replacement or maintenance of property for damage resulting from power surges and accidental damage from handling.

(2) The marketing, sale, offering for sale, issuance, making, proposing to make, and administration of a service contract is exempt from the provisions of title 41, Idaho Code.

(3) Service contracts shall be subject to the provisions of the Idaho consumer protection act, chapter 6, title 48, Idaho Code.

Approved March 17, 2008.

CHAPTER 138
(H.B. No. 496, As Amended)

AN ACT

RELATING TO STATE GOVERNMENT AND THE STATE PERSONNEL SYSTEM; AMENDING SECTION 67-5302, IDAHO CODE, TO PROVIDE FOR OVERTIME PAY FOR CERTAIN EMPLOYEES UPON EMERGENCY DECLARATION BY THE GOVERNOR OR WITH THE APPROVAL OF THE APPOINTING AUTHORITY AND THE STATE BOARD OF EXAMINERS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-5302, Idaho Code, be, and the same is hereby amended to read as follows:

67-5302. DEFINITIONS. As used in this chapter, and other applicable sections of the Idaho Code, each of the terms defined in this section shall have the meaning given in this section unless a different meaning is clearly required by the context. Such terms and their definitions are:

(1) "Administrative employee" means any person, nonclassified or classified appointed to a position which meets the following criteria:

(a) (i) Responsible office or nonmanual work directly related to the management policies of a department or section; or

(ii) Responsible work that is directly related to academic instruction or training carried on in the administration of a school system or educational establishment; and

(b) The employee must customarily and regularly exercise discretion and independent judgment, as distinguished from using skills and following procedures. The employee must have the authority to make important decisions; and

(c) The employee must:

(i) Regularly assist a bona fide executive or administrative employee; or

(ii) Perform work under general supervision along specialized or technical lines requiring special training, experience or knowledge; or

(iii) Execute under only general supervision special assignments; and

(d) The employee is classified to a position allocated to the pay grade equivalent to two hundred sixty (260) points or higher pursuant to the rating system established by rule.

(e) Final designation of a classified position as "administrative" within this definition shall be made by the administrator of the division of human resources.

(2) "Administrator" means the administrator of the division of human resources in the governor's office.

(3) "Appointing authority" means the officer, board, commission, person or group of persons authorized by statute or lawfully delegated authority to make appointments to or employ personnel in any department.

(4) "Class" means a group of positions sufficiently similar as to the duties performed, degree of supervision exercised or required, minimum requirements of training, experience or skill, and other characteristics, that the same title, the same tests of fitness and the same schedule of compensation may be applied to each position in the group.

(5) "Classified officer or employee" means any person appointed to or holding a position in any department of the state of Idaho which position is subject to the provisions of the merit examination, selection, retention, promotion and dismissal requirements of chapter 53, title 67, Idaho Code.

(6) "Commission" means the Idaho personnel commission.

(7) "Compensatory time" means approved time off from duty provided in compensation for overtime hours worked.

(8) "Department" means any department, agency, institution or office of the state of Idaho.

(9) "Disabled veteran" is as defined in section 65-502, Idaho Code.

(10) "Earned administrative leave" means hours which exceed the regularly scheduled hours but do not result in overtime. These hours may accrue after hours worked and hours on paid leave exceed forty (40) hours in one (1) work week.

(11) "Eligible" means a person who has been determined to be qualified for a classified position and whose name has been placed on the register of eligibles.

(12) "Executive employee" means any person, nonclassified or classified, appointed to a position equivalent to a bureau chief or above as provided in section 67-2402, Idaho Code, or any employee meeting the following criteria:

(a) An individual whose primary duty is management of a department, division or bureau; and

(b) Who customarily and regularly directs the work of at least two (2) or more other employees therein; and

(c) Who has the authority to hire and fire, or to recommend hiring and firing; or whose recommendation on these and other actions affecting employees is given particular weight; and

(d) Who customarily and regularly exercises discretionary powers; and

(e) Who is classified to a position allocated to the pay grade equivalent to two hundred sixty (260) points or higher pursuant to the rating system established by rule.

(f) Final designation of a classified position as "executive" in this definition shall be made by the administrator.

(13) "Exempt employee" means any employee, classified or nonclassified, who is determined to be an executive, professional or administrative employee as defined herein, or who qualifies for any other exemption from cash compensation for overtime under applicable federal law. Final designation of a classified position as exempt shall be made by the administrator.

(14) "Full-time employee" means any employee working a forty (40) hour work week.

(15) "Holiday" means the following:

January 1 (New Year's Day);
Third Monday in January (Martin Luther King, Jr.-Idaho Human Rights Day);
Third Monday in February (Washington's Birthday);
Last Monday in May (Memorial Day);
July 4 (Independence Day);
First Monday in September (Labor Day);
Second Monday in October (Columbus Day);
November 11 (Veterans Day);
Fourth Thursday in November (Thanksgiving);
December 25 (Christmas).

In addition, the term "holiday" shall mean any day so designated by the President of the United States or the governor of this state for a public fast, thanksgiving or holiday.

In the event that a holiday occurs on a Saturday, the preceding Friday shall be a holiday, and if the holiday falls on a Sunday, the following Monday shall be a holiday.

A holiday is a day of exemption from work granted to nonexecutive employees during which said employees shall be compensated as if they actually worked. Employees classified as executive exempt are entitled to ten (10) paid holidays per year. If such an employee works on one (1) of the official holidays listed in this subsection, then such employee may take an alternative day off but shall not receive additional compensation.

(16) "Hours worked" means those hours actually spent in the performance of the employee's job on any day including holidays, and shall not include vacation or sick leave or other approved leave of absence.

(17) "Nonclassified employee" means any person appointed to or holding a position in any department of the state of Idaho, which position is exempted from the provisions of chapter 53, title 67, Idaho Code, as provided for in section 67-5303, Idaho Code.

(18) "Normal work week" means any forty (40) hours worked during a particular one hundred sixty-eight (168) hour period as previously established by the employee's appointing authority.

(19) "Open competitive examination" means an examination which may be taken by qualified applicants to compete on an equal basis for listing on the register of eligibles.

(20) "Overtime work" means time worked on holidays and time worked

in excess of forty (40) hours in a period of one hundred sixty-eight (168) consecutive hours, except that in the case of those employees engaged in law enforcement, correctional and fire protection activities characterized by irregular shift work schedules, time worked in excess of one hundred sixty (160) hours in a period of twenty-eight (28) consecutive days shall constitute overtime work within the meaning of this chapter. Such employees may also be paid overtime for specific hours worked in addition to their normal schedules upon emergency declaration by the governor or with the approval of the appointing authority and the board of examiners.

(21) "Participating department" means any department of the state of Idaho which employs persons in classified positions subject to the merit examination, selection, retention, promotion and dismissal requirements of this chapter.

(22) "Part-time employee" means any employee whose usually scheduled work is less than forty (40) hours in a period of one hundred sixty-eight (168) consecutive hours.

(23) "Personnel system" means the procedure for administering employees in accordance with this chapter.

(24) "Political office" means a public office for which partisan politics is a basis for nomination, election or appointment.

(25) "Political organization" means a party which sponsors candidates for election to political office.

(26) "Position" means a group of duties and responsibilities legally assigned or delegated by one (1) or more appointing authorities and requiring the employment of one (1) person.

(27) "Professional employee" means any person, nonclassified or classified, appointed to a position which meets the following criteria:

(a) The employee's primary duty must be either:

(i) Work requiring knowledge of an advanced type in a field of science or learning, customarily obtained by a prolonged course of specialized instruction and study; or

(ii) Work that is original and creative in character in a recognized field of artistic endeavor and the result of which depends primarily on his invention, imagination, or talent; or

(iii) Work as a teacher certified or recognized as such in a school system or educational institution by which he is employed; and

(b) The employee must consistently exercise discretion and judgment; and

(c) The employee must do work that is predominantly intellectual and varied, as distinguished from routine or mechanical duties; and

(d) The employee is classified to a position allocated to the pay grade equivalent to two hundred sixty (260) points or higher pursuant to the rating system established by rule.

(e) Final designation of a classified position as "professional" within this definition shall be made by the administrator.

(28) "Provisional appointment" means appointment to a classified position pending the establishment of a register for such position and employment shall not be continued in this status longer than thirty (30) days after establishment of a register.

(29) "Qualifying examination" means an examination or evaluation given to a selected person to determine eligibility for reclassification or appointment to a position in a classification.

(30) "Register" means a list of names of persons who have been determined to be eligible for employment in a classified position as determined on the basis of examination and merit factors as established by the administrator.

(31) "Seasonal appointment" means an appointment to a position which is permanent in nature, but which has intermittent work periods throughout the year.

(32) "Service rating" means a recorded evaluation of work performance and promotional potential of an employee by his supervisor.

(33) "Temporary appointment" means appointment to a position which is not permanent in nature, and in which employment will not exceed one thousand three hundred eighty-five (1,385) hours during any twelve (12) month period. No person holding a temporary appointment may work in excess of one thousand three hundred eighty-five (1,385) hours during a twelve (12) month period of time for any one (1) department, except upon petition by the appointing authority of the department of lands that demonstrates good cause, the administrator of the division of human resources may extend the one thousand three hundred eighty-five (1,385) hour limit for employees of the department who are required to perform fire suppression activities.

(34) "Vacation leave" means a period of exemption from work granted to employees during which time said employees shall be compensated. The term shall not include compensatory time for overtime work.

(35) "Veteran" is as defined in section 65-502, 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 17, 2008.

CHAPTER 139
(H.B. No. 522)

AN ACT

RELATING TO HEALTH INSURANCE CONTRACTS; AMENDING CHAPTER 18, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-1847, IDAHO CODE, TO PROHIBIT THE ASSIGNMENT OF A HEALTH INSURANCE CONTRACT UNLESS DISCLOSED TO AND AGREED TO BY A HEALTH CARE PRACTITIONER OR FACILITY.

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

SECTION 1. That Chapter 18, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-1847, Idaho Code, and to read as follows:

41-1847. ASSIGNMENT OF HEALTH INSURANCE CONTRACTS. (1) No insurer, as defined in section 41-5601, Idaho Code, shall assign the benefits of any contract with a practitioner or facility, as defined in section 41-5601, Idaho Code, that contains an agreement by the practitioner or facility to provide services to a patient covered by the insurer at a fee which is discounted from that practitioner's or facility's usual and

customary fee, unless the contract between the insurer and the practitioner or facility, in conspicuous and plain language, specifically permits the contract to be assigned.

(2) An insurer shall send prompt written or electronic notice to the practitioner or facility, in conformance with the notice provisions of the contract between the insurer and the practitioner or facility, of each assignment it makes that is permitted by subsection (1) of this section. The notice shall identify the name and principal business address of each assignee.

(3) An assignment in violation of this section shall be void. The director shall enforce the provisions of this section and shall review and, if appropriate, investigate complaints received by the department related to noncompliance with the provisions of this section. If the director determines an insurer has violated the provisions of this section, the director may impose an administrative fine not to exceed five thousand dollars ($5,000) based upon an enforcement action. The director shall not suspend or revoke an insurer's certificate of authority for violation of this section. This section shall not create a private cause of action by or on behalf of a beneficiary or practitioner or facility against an insurer.

Approved March 17, 2008.

CHAPTER 140
(H.B. No. 523)

AN ACT

RELATING TO BANKING; REPEALING SECTION 26-307, IDAHO CODE, RELATING TO ADDITION TO CAPITAL STRUCTURE OF BANK, AND SECTION 26-603, IDAHO CODE, RELATING TO AUTHORITY OF THE DIRECTOR OF THE DEPARTMENT OF FINANCE REGARDING RESERVES; AMENDING SECTION 19-5304, IDAHO CODE, TO REVISE THE DEFINITION OF "VICTIM"; AMENDING SECTION 26-201, IDAHO CODE, TO PROVIDE FOR CONTROL OF THE BANK ACT OVER OTHER DESIGNATED LAWS; AMENDING SECTION 26-203, IDAHO CODE, TO REMOVE A RECORDING REQUIREMENT; AMENDING SECTION 26-601, IDAHO CODE, TO REMOVE CERTAIN RESERVE REQUIREMENTS AND TO REVISE THE BANKS THAT ARE SUBJECT TO CERTAIN RESERVE REQUIREMENTS; AMENDING SECTION 26-602, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 26-702, IDAHO CODE, TO REMOVE RESTRICTIONS ON REDEEMED OR OTHERWISE PURCHASED PORTION OF A BANK'S OWN CAPITAL STOCK AND TO PROVIDE FOR REDEMPTION OR PURCHASE OF A BANK'S OWN CAPITAL STOCK FOR SPECIFIED PURPOSES; AND AMENDING SECTION 26-708, IDAHO CODE, TO REVISE A CODE REFERENCE.

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

SECTION 1. That Sections 26-307 and 26-603, Idaho Code, be, and the same are hereby repealed.

SECTION 2. 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 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, or payments to or on behalf of a directly injured victim to pay or settle a claim or claims against such person or entity in tort or pursuant to statute and arising from the crime.

(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 relevant 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.

SECTION 3. That Section 26-201, Idaho Code, be, and the same is hereby amended to read as follows:

26-201. GENERAL CORPORATION LAWS APPLICABLE. Except as otherwise provided herein, the general business corporation laws of this state shall apply to all corporations organized and operating under the bank act. In the event of any conflict between the provisions of the bank act and the provisions of the general business corporation laws, the laws governing limited liability companies, partnerships and other business associations and entities, or the laws governing entity mergers, acquisitions, conversions, domestications, interest exchanges and divisions, the bank act shall control.

SECTION 4. That Section 26-203, Idaho Code, be, and the same is hereby amended to read as follows:

26-203. ARTICLES OF INCORPORATION — FORM. Proposed articles of incorporation of a banking corporation shall be in a form acceptable to the director, and must be submitted to the director for approval as to form and content before the same are filed for record in the offices of the secretary of state~~, and county recorder~~; provided that no bank shall be required to have the word "corporation" in its corporate name. The articles may include a provision which eliminates or limits the personal liability of the directors of the bank in accordance with section 30-1-202, Idaho Code, provided that such provision shall not eliminate or limit the liability of a director under section 26-213(5), Idaho Code.

SECTION 5. That Section 26-601, Idaho Code, be, and the same is hereby amended to read as follows:

26-601. RESERVE. Every bank~~,-not-a-member-of--the--Federal--Reserve System,--shall-have-on-hand-each-day-as-a-reserve,-an-amount-equal-to-at least-ten-per-cent-(10%)-of-its-net-demand-deposits-and--four--per--cent (4%)-of-its-savings-and-time-deposits.--Said-reserve-shall-be-in-cash-in its--vaults--or--held-on-deposit-subject-to-check-with-any-other-bank-or banks-which-shall-have-been-approved-by-the-director-as-reserve--depositories--and--shall-be-computed-biweekly-in-the-following-manner:--on-the basis-of-average-daily-net-deposit-balances-and-average--daily--cash--in its--vaults--or-held-on-deposit-in-reserve-depositories-subject-to-check during-the-prior-biweekly-period.-Biweekly--periods--shall--end--at--the close--of--business-on-days-to-be-fixed-by-the-director.-Notwithstanding the-above,-upon-an-annual-showing-by-a-bank,-not-a-member-of-the-Federal Reserve-System,-that-it-is-subject-to-the-reserve--requirements--of--the Federal--Reserve-Act,-the-director-may-waive-the-reserve-requirements-of this-act.~~

~~Any-bank-which-is-or-becomes-a-member-of-the-Federal-Reserve-System,~~ organized under the laws of this state and authorized to receive deposits shall comply with the reserve requirements of the Federal Reserve act.

SECTION 6. That Section 26-602, Idaho Code, be, and the same is hereby amended to read as follows:

26-602. DIMINUTION OF RESERVE. (1) When the reserve of any bank falls below the amount required by section 26-601, Idaho Code, for a ~~biweekly~~ any reporting period, the bank shall immediately restore its reserve to the amount required by section 26-601, Idaho Code, and in addition:

(a) If a bank is deficient in reserve for two (2) nonconsecutive ~~biweekly~~ reporting periods in a calendar year, the bank shall pay to the department of finance at the end of the second ~~biweekly~~ reporting period a fine of three hundred dollars ($300).

(b) If a bank is deficient in reserves for three (3) nonconsecutive ~~biweekly~~ reporting periods in a calendar year, the bank shall pay to the department of finance at the end of the third ~~biweekly~~ reporting period a fine equal to five percent (5%) of the dollar amount by which it was deficient in reserves for the third ~~biweekly~~ reporting period or five hundred dollars ($500), whichever is greater.

(c) If a bank is deficient in reserves for more than three (3) nonconsecutive ~~biweekly~~ reporting periods or for two (2) or more consecutive reporting periods in a calendar year, the director shall proceed as provided in section 26-1115, Idaho Code. The bank shall not increase its loans or discounts until its reserve is fully restored and the director may by order set a minimum level of cash reserves which the bank must maintain until such time as the director has reason to believe that the bank will comply with the reserve requirements of section 26-601, Idaho Code.

(2) The penalties set out in subsection (1) of this section are not exclusive. The director may in proper cases proceed in his discretion as provided in section 26-1115, Idaho Code, or chapter 10, title 26, Idaho Code.

SECTION 7. That Section 26-702, Idaho Code, be, and the same is hereby amended to read as follows:

26-702. BANK STOCK. (1) Except as provided in subsection (2) of this section, no bank shall accept as collateral, nor make any loans or discounts on the security of nor purchase any shares of its own capital stock. No bank shall purchase the shares of any other bank wherever organized, or situated, except stock of federal reserve banks. A bank may acquire a security interest in or purchase its own stock if the acquisition is necessary to prevent loss upon a debt previously contracted in good faith and the stock so purchased or acquired shall within six (6) months from the date of acquirement be sold or disposed of at public or private sale. After the expiration of six (6) months any such stock shall not be considered as a part of the assets of such bank.

(2) With the written approval of the director, a bank may redeem or otherwise purchase ~~a portion~~ shares of its own capital stock if the director finds that such redemption or purchase does not impair the capital structure of the bank as required by section 26-205, Idaho Code, is for legitimate corporate purposes and not for speculation, is not for an unreasonable price, does not conflict with the articles of incorporation or the bylaws of the bank, and is not otherwise detrimental to the bank or to the public interest~~;provided, however;(i) that a bank may not hold its capital stock so redeemed or purchased for a period longer than twelve (12) months from the date of such redemption or purchase; and (ii) a bank shall not retain at any one time a total number of shares of~~

~~its-capital-stock-so-redeemed-or-purchased-in-excess-of-seven--per--cent (7%)--of-the-total-number-of-shares-of-its-capital-stock-then-issued-and outstanding.~~ Legitimate corporate purposes for acquiring and holding of treasury stock may include:

(a) To have shares available for use in connection with employee stock option, bonus, purchase or similar plans;

(b) To sell to a director for the purpose of acquiring qualifying shares;

(c) To purchase a director's qualifying shares upon cessation of the director's service in that capacity if there is no ready market for the shares;

(d) To reduce the number of shareholders to qualify as a subchapter S corporation;

(e) To reduce costs associated with shareholder communications and meetings;

(f) To facilitate a bank's shareholder dividend reinvestment plan; or

(g) Any other legitimate corporate purpose as may be approved by the director.

SECTION 8. That Section 26-708, Idaho Code, be, and the same is hereby amended to read as follows:

26-708. VALUATION OF ASSETS. No bank shall enter or at any time carry on its books any of its assets at a valuation exceeding their actual cost to the bank; nor shall the value of any of its assets be increased on the books of the bank without the written consent of the director. Additional charges, delinquency charges and other similar charges on consumer credit transactions permitted by and made in compliance with the ~~Uniform-Consumer~~ Idaho Credit Code and added to the principal balance of the loan, shall not come within the prohibition of this section.

Approved March 17, 2008.

CHAPTER 141
(H.B. No. 555)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE SELF-GOVERNING AGENCIES FOR FISCAL YEAR 2008; 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 230, Laws of 2007, there is hereby appropriated to the Self-Governing Agencies for the Board of Accountancy the sum of $25,000 from the State Regulatory fund for operating expenditures for the period July 1, 2007, through June 30, 2008.

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 17, 2008.

CHAPTER 142
(S.B. No. 1251)

AN ACT

RELATING TO REAL ESTATE; AMENDING SECTION 54-2016, IDAHO CODE, TO REVISE THE TIME IN WHICH CERTAIN BROKERS AND BRANCH MANAGERS ARE REQUIRED TO COMPLETE A COMMISSION-APPROVED BUSINESS CONDUCT AND OFFICE OPERATIONS COURSE; AMENDING SECTION 54-2022, IDAHO CODE, TO REVISE THE TIME IN WHICH CERTAIN LICENSE APPLICANTS ARE REQUIRED TO COMPLETE PRELICENSE REAL ESTATE COURSES, TO REVISE AN EXCEPTION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-2023, IDAHO CODE, TO REVISE THE TIME IN WHICH A LICENSEE MAY RETAKE CERTAIN COURSES FOR CONTINUING EDUCATION CREDIT AND TO PROVIDE THAT THE REAL ESTATE COMMISSION SHALL DETERMINE WHETHER CERTAIN COURSES ARE WITHIN APPROVED TOPIC AREAS ESTABLISHED BY THE COMMISSION; AMENDING SECTION 54-2027, IDAHO CODE, TO REQUIRE CERTIFIED COURSE PROVIDERS TO CREATE AND RETAIN CERTAIN STUDENT RECORDS FOR A DESIGNATED PERIOD OF TIME; AND AMENDING SECTION 54-2033, IDAHO CODE, TO PROVIDE FOR INSTRUCTOR TEACHING STANDARDS.

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

SECTION 1. 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~~ <u>three</u> (~~5~~<u>3</u>) 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~~ three (~~5~~3) 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~~ three (~~5~~3) 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.

(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.

SECTION 2. That Section 54-2022, Idaho Code, be, and the same is hereby amended to read as follows:

54-2022. REAL ESTATE EDUCATION -- PRELICENSE REQUIREMENTS. (1) Except as provided in section 54-2015, Idaho Code, an applicant seeking a primary Idaho license as a real estate salesperson, broker or associate broker shall furnish satisfactory proof to the commission that the applicant has successfully completed current commission-approved and accredited courses of real estate study as follows:

(a) Salesperson's license. For a salesperson's license, the applicant shall complete a total of ninety (90) classroom hours~~,~~ or the equivalent in available correspondence hours;

(b) Broker's or associate broker's license. Applicants seeking a broker's or associate broker's license shall, in addition to meeting the requirements for a salesperson's license, successfully complete four (4) specified courses in advanced real estate study, for a minimum of ninety (90) additional classroom hours, or the equivalent in available correspondence hours.

(2) Each applicant shall successfully complete all prelicense real estate courses within no more than ~~five~~ three (~~5~~3) years prior to the date of the license application. However, upon written request for special consideration by the license applicant, the commission may waive or modify the ~~five-year~~ three-year requirement at its discretion, based on the applicant's experience or additional education. Each waiver request shall be submitted with a current certified license history from Idaho

or the applicant's other licensing jurisdiction, which history shall indicate all disciplinary actions taken against the applicant's license and the status and standing of such license in such licensing state or jurisdiction, along with sufficient proof of education completion.

(3) To receive credit for prelicense real estate courses, a student must regularly attend and complete the course, and such course must meet all requirements set forth in section 54-2036, Idaho Code.

(4) No credit will be given for courses taken for audit.

(5) Credit for completion of approved prelicense education ~~course work~~ coursework will not be granted when the content of a course repeats that for which credit has been previously received.

(6) Upon written request from a license applicant, the commission may waive or modify one (1) or more prelicense course requirements based upon the applicant's satisfactory completion of similar real estate courses in Idaho or another state or jurisdiction. The request for waiver shall be accompanied by an official transcript from the institution that provided the course of instruction, along with a description of the subjects covered in the course and the number of classroom hours involved in the instruction. "Satisfactory completion" means the applicant regularly attended the course and received a final grade of "C" or better.

SECTION 3. 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. A maximum of four (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~~ three (5~~3~~) 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 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 commission determines that 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 commission determines that 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 4. 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 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 f~~For each individual student, create and retain for a period of five (5) years, 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. 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 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. 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. 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 5. That Section 54-2033, Idaho Code, be, and the same is hereby amended to read as follows:

54-2033. INSTRUCTOR QUALIFICATIONS. (1) Qualified instructors at degree-granting institutions. A qualified or full-time instructor or professor of an accredited college or university in any state or jurisdiction and who teaches real estate-related courses is deemed to be an approved instructor of such courses, in Idaho, for the purposes of this chapter.

(2) Other instructor applicants. All other individuals wishing to teach any real estate courses for credit toward Idaho prelicense requirements, including the business conduct and office operations course, or the commission continuing education core course requirements must first meet the following additional qualifications and receive separate certification for each course to be taught:

(a) Unless this requirement is waived upon special review of the commission in the manner stated below, no individual instructor seeking certification may have had a real estate or other professional or occupational license suspended or revoked for disciplinary reasons or have been refused a renewal of a license issued by the state of Idaho or any other state or jurisdiction. Further, the individual may not have been convicted, issued any fine, placed on probation, received a withheld judgment, or completed any sentence of confinement for or on account of any felony, or any misdemeanor involving fraud, misrepresentation, or dishonest or dishonorable dealing, in a court of proper jurisdiction. The failure of a certified instructor to maintain the qualifications required by this subsection shall be grounds for the commission to withdraw or cancel the instructor's certificate as provided in section 54-2025(3), Idaho Code.

(b) Each applicant for certification shall also:

(i) Submit a completed application for instructor certification in the form and manner required by the commission, with all required fees;

(ii) File an executed "irrevocable consent to service of process" in the manner and form prescribed by the commission and according to section 54-2012(1)(j), Idaho Code;

(iii) Qualify as at least one (1) of the following:

1. An attorney at law actively licensed in any state or jurisdiction with at least five (5) years of active practice in the areas of study proposed to be taught, and who has also successfully completed a commission-approved instructor training course or procedure, including an assistant teaching period;

2. An individual currently approved or certified and in good standing as a real estate instructor for the same or similar course material in any other state or jurisdiction;

3. An individual who is appointed to teach a nationally recognized real estate course which is generally accepted in other states or jurisdictions; or

4. An individual with at least five (5) years active real estate-related experience who has also successfully completed a commission-approved instructor training procedure, including an assistant teaching period.

(3) Instructor teaching standards. An instructor certified to teach any real estate course for credit toward the requirements of this chapter shall comply with the minimum teaching standards established by the commission. A certified instructor shall not teach the course in a manner that is detrimental to the purpose of educating licensees.

Approved March 17, 2008.

CHAPTER 143
(S.B. No. 1253)

AN ACT

RELATING TO THE UNIFORM SECURITIES ACT; AMENDING SECTION 30-14-202, IDAHO CODE, TO REVISE EXEMPT TRANSACTIONS; AMENDING SECTION 30-14-412, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 30-14-611, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE.

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

SECTION 1. That Section 30-14-202, Idaho Code, be, and the same is hereby amended to read as follows:

30-14-202. EXEMPT TRANSACTIONS. The following transactions are exempt from the requirements of sections 30-14-301 through 30-14-306, Idaho Code, and section 30-14-504, Idaho Code:

(1) An isolated nonissuer transaction, whether or not effected by or through a broker-dealer;

(2) A nonissuer transaction by or through a broker-dealer registered, or exempt from registration under this chapter, and a resale transaction by a sponsor of a unit investment trust registered under the investment company act of 1940, in a security of a class that has been

outstanding in the hands of the public for at least ninety (90) days, if, at the date of the transaction:

(a) The issuer of the security is engaged in business, the issuer is not in the organizational stage or in bankruptcy or receivership, and the issuer is not a blank check, blind pool, or shell company that has no specific business plan or purpose or has indicated that its primary business plan is to engage in a merger or combination of the business with, or an acquisition of, an unidentified person;

(b) The security is sold at a price reasonably related to its current market price;

(c) The security does not constitute the whole or part of an unsold allotment to, or a subscription or participation by, the broker-dealer as an underwriter of the security or a redistribution;

(d) A nationally recognized securities manual or its electronic equivalent designated by any rule adopted or an order issued under this chapter or a record filed with the securities and exchange commission that is publicly available contains:

(i) A description of the business and operations of the issuer;

(ii) The names of the issuer's executive officers and the names of the issuer's directors, if any;

(iii) An audited balance sheet of the issuer as of a date within eighteen (18) months before the date of the transaction or, in the case of a reorganization or merger when the parties to the reorganization or merger each had an audited balance sheet, a pro forma balance sheet for the combined organization; and

(iv) An audited income statement for each of the issuer's two (2) immediately previous fiscal years or for the period of existence of the issuer, whichever is shorter, or, in the case of a reorganization or merger when each party to the reorganization or merger had audited income statements, a pro forma income statement; and

(e) Any one (1) of the following requirements is met:

(i) The issuer of the security has a class of equity securities listed on a national securities exchange registered under section 6 of the securities exchange act of 1934 or designated for trading on the national association of securities dealers automated quotation system;

(ii) The issuer of the security is a unit investment trust registered under the investment company act of 1940;

(iii) The issuer of the security, including its predecessors, has been engaged in continuous business for at least three (3) years; or

(iv) The issuer of the security has total assets of at least two million dollars ($2,000,000) based on an audited balance sheet as of a date within eighteen (18) months before the date of the transaction or, in the case of a reorganization or merger when the parties to the reorganization or merger each had such an audited balance sheet, a pro forma balance sheet for the combined organization;

(3) A nonissuer transaction by or through a broker-dealer registered or exempt from registration under this chapter in a security of a foreign issuer that is a margin security defined in regulations or rules

adopted by the board of governors of the federal reserve system;

(4) A nonissuer transaction by or through a broker-dealer registered or exempt from registration under this chapter in an outstanding security if the guarantor of the security files reports with the securities and exchange commission under the reporting requirements of section 13 or 15(d) of the securities exchange act of 1934 (15 U.S.C. 78m or 78o(d));

(5) A nonissuer transaction by or through a broker-dealer registered or exempt from registration under this chapter in a security that:

(a) Is rated at the time of the transaction by a nationally recognized statistical rating organization in one (1) of its four (4) highest rating categories; or

(b) Has a fixed maturity or a fixed interest or dividend, if:

(i) A default has not occurred during the current fiscal year or within the three (3) previous fiscal years of the issuer or any predecessor, in the payment of principal, interest, or dividends on the security; and

(ii) The issuer is engaged in business, is not in the organizational stage or in bankruptcy or receivership, and is not and has not been within the previous twelve (12) months a blank check, blind pool, or shell company that has no specific business plan or purpose or has indicated that its primary business plan is to engage in a merger or combination of the business with, or an acquisition of, an unidentified person;

(6) A nonissuer transaction by or through a broker-dealer registered or exempt from registration under this chapter effecting an unsolicited order or offer to purchase;

(7) A nonissuer transaction executed by a bona fide pledgee without the purpose of evading this chapter;

(8) A nonissuer transaction by a federal covered investment adviser with investments under management in excess of one hundred million dollars ($100,000,000) acting in the exercise of discretionary authority in a signed record for the account of others;

(9) A transaction in a security, whether or not the security or transaction is otherwise exempt, in exchange for one (1) or more bona fide outstanding securities, claims, or property interests, or partly in such exchange and partly for cash, if the terms and conditions of the issuance and exchange or the delivery and exchange and the fairness of the terms and conditions have been approved by the administrator after a hearing as provided in section 30-14-202A, Idaho Code, or otherwise;

(10) A transaction between the issuer or other person on whose behalf the offering is made and an underwriter, or among underwriters;

(11) A transaction in a note, bond, debenture or other evidence of indebtedness secured by a mortgage or other security agreement if~~:~~

~~(a)~~ ~~T~~the note, bond, debenture or other evidence of indebtedness is offered and sold with the mortgage or other security agreement as a unit;

~~(b) A general solicitation or general advertisement of the transaction is not made; and~~

~~(c) A commission or other remuneration is not paid or given, directly or indirectly, to a person not registered under this chapter as a broker-dealer or as an agent;~~

(12) A transaction by an executor, administrator of an estate, sheriff, marshal, receiver, trustee in bankruptcy, guardian or conservator;

(13) A sale or offer to sell to:

(a) An institutional investor;

(b) A federal covered investment adviser; or

(c) Any other person exempted by a rule adopted or an order issued under this chapter;

(14) A sale or an offer to sell securities of an issuer, if the transaction is part of a single issue in which:

(a) Not more than ten (10) purchasers are present in this state during any twelve (12) consecutive months, other than those designated in subsection (13) of this section;

(b) A general solicitation or general advertising is not made in connection with the offer to sell or sale of the securities;

(c) A commission or other remuneration is not paid or given, directly or indirectly, to a person other than a broker-dealer registered under this chapter or an agent registered under this chapter for soliciting a prospective purchaser in this state; and

(d) The issuer reasonably believes that all the purchasers in this state, other than those designated in subsection (13) of this section, are purchasing for investment;

(15) A transaction under an offer to existing security holders of the issuer, including persons that at the date of the transaction are holders of convertible securities, options or warrants, if a commission or other remuneration, other than a standby commission, is not paid or given, directly or indirectly, for soliciting a security holder in this state;

(16) An offer to sell, but not a sale, of a security not exempt from registration under the securities act of 1933 if:

(a) A registration or offering statement or similar record as required under the securities act of 1933 has been filed, but is not effective, or the offer is made in compliance with rule 165 adopted under the securities act of 1933 (17 CFR 230.165); and

(b) A stop order of which the offeror is aware has not been issued against the offeror by the administrator or the securities and exchange commission, and an audit, inspection or proceeding that is public and that may culminate in a stop order is not known by the offeror to be pending;

(17) An offer to sell, but not a sale, of a security exempt from registration under the securities act of 1933 if:

(a) A registration statement has been filed under this chapter, but is not effective;

(b) A solicitation of interest is provided in a record to offerees in compliance with a rule adopted by the administrator under this chapter; and

(c) A stop order of which the offeror is aware has not been issued by the administrator under this chapter and an audit, inspection or proceeding that may culminate in a stop order is not known by the offeror to be pending;

(18) A transaction involving the distribution of the securities of an issuer to the security holders of another person in connection with a merger, consolidation, exchange of securities, sale of assets, or other reorganization to which the issuer, or its parent or subsidiary and the other person, or its parent or subsidiary, are parties;

(19) A rescission offer, sale or purchase under section 30-14-510, Idaho Code;

(20) An offer or sale of a security to a person not a resident of this state and not present in this state if the offer or sale does not constitute a violation of the laws of the state or foreign jurisdiction in which the offeree or purchaser is present and is not part of an unlawful plan or scheme to evade this chapter;

(21) Employees' stock purchase, savings, option, profit-sharing, pension, or similar employees' benefit plan, including any securities, plan interests, and guarantees issued under a compensatory benefit plan or compensation contract, contained in a record, established by the issuer, its parents, its majority-owned subsidiaries, or the majority-owned subsidiaries of the issuer's parent for the participation of their employees including offers or sales of such securities to:

(a) Directors; general partners; trustees, if the issuer is a business trust; officers; consultants; and advisers;

(b) Family members who acquire such securities from those persons through gifts or domestic relations orders;

(c) Former employees, directors, general partners, trustees, officers, consultants and advisers if those individuals were employed by or providing services to the issuer when the securities were offered; and

(d) Insurance agents who are exclusive insurance agents of the issuer, or the issuer's subsidiaries or parents, or who derive more than fifty percent (50%) of their annual income from those organizations;

(22) A transaction involving:

(a) A stock dividend or equivalent equity distribution, whether the corporation or other business organization distributing the dividend or equivalent equity distribution is the issuer or not, if nothing of value is given by stockholders or other equity holders for the dividend or equivalent equity distribution other than the surrender of a right to a cash or property dividend if each stockholder or other equity holder may elect to take the dividend or equivalent equity distribution in cash, property or stock;

(b) An act incident to a judicially approved reorganization in which a security is issued in exchange for one (1) or more outstanding securities, claims, or property interests, or partly in such exchange and partly for cash; or

(c) The solicitation of tenders of securities by an offeror in a tender offer in compliance with rule 162 adopted under the securities act of 1933 (17 CFR 230.162); or

(23) A nonissuer transaction in an outstanding security by or through a broker-dealer registered or exempt from registration under this chapter, if the issuer is a reporting issuer in a foreign jurisdiction designated by this subsection or by a rule adopted or an order issued under this chapter; has been subject to continuous reporting requirements in the foreign jurisdiction for not less than one hundred eighty (180) days before the transaction; and the security is listed on the foreign jurisdiction's securities exchange that has been designated by this subsection or by a rule adopted or an order issued under this chapter, or is a security of the same issuer that is of senior or substantially equal rank to the listed security or is a warrant or right to purchase or subscribe to any of the foregoing. For purposes of this subsection, Canada, together with its provinces and territories, is a designated foreign jurisdiction and the Toronto stock exchange, inc., is a

designated securities exchange. After an administrative hearing in compliance with chapter 52, title 67, Idaho Code, the administrator, by rule adopted or an order issued under this chapter, may revoke the designation of a securities exchange under this subsection, if the administrator finds that revocation is necessary or appropriate in the public interest and for the protection of investors.

SECTION 2. That Section 30-14-412, Idaho Code, be, and the same is hereby amended to read as follows:

30-14-412. DENIAL, REVOCATION, SUSPENSION, WITHDRAWAL, RESTRICTION, CONDITION OR LIMITATION OF REGISTRATION. (a) Disciplinary conditions -- Applicants. If the administrator finds that the order is in the public interest and subsection (d) of this section authorizes the action, an order issued under this chapter may deny an application, or may condition or limit registration of an applicant to be a broker-dealer, agent, investment adviser or investment adviser representative, and, if the applicant is a broker-dealer or investment adviser, ~~of~~ <u>or</u> a partner, officer, director or person having a similar status or performing similar functions, or a person directly or indirectly in control, of the broker-dealer or investment adviser.

(b) Disciplinary conditions -- Registrants. If the administrator finds that the order is in the public interest and subsection (d) of this section authorizes the action, an order issued under this chapter may revoke, suspend, condition or limit the registration of a registrant and, if the registrant is a broker-dealer or investment adviser, ~~of~~ <u>or</u> a partner, officer, director or person having a similar status or performing similar functions, or a person directly or indirectly in control, of the broker-dealer or investment adviser. Provided however, the administrator may not:

(1) Institute a revocation or suspension proceeding under this subsection based on an order issued under a law of another state that is reported to the administrator or a designee of the administrator more than one (1) year after the date of the order on which it is based; or

(2) Under subsection (d)(5)(A) or (B) of this section, issue an order on the basis of an order issued under the securities act of another state unless the other order was based on conduct for which subsection (d) of this section would authorize the action had the conduct occurred in this state.

(c) Disciplinary penalties -- Registrants. If the administrator finds that the order is in the public interest and subsections (d)(1) through (6), (8), (9), (10), (12) or (13) of this section authorizes the action, an order under this chapter may censure, impose a bar or suspension from association with a broker-dealer or investment adviser registered in this state, or impose a civil penalty in an amount not to exceed five thousand dollars ($5,000) for each violation, on a registrant and, if the registrant is a broker-dealer or investment adviser, a partner, officer, director or person having a similar status or performing similar functions, or a person directly or indirectly in control, of the broker-dealer or investment adviser.

(d) Grounds for discipline. A person may be disciplined under subsections (a) through (c) of this section if the person:

(1) Has filed an application for registration in this state under

this chapter or the predecessor act within the previous ten (10) years, which, as of the effective date of registration or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained a statement that, in light of the circumstances under which it was made, was false or misleading with respect to a material fact;

(2) Willfully violated or willfully failed to comply with this chapter or the predecessor act or a rule adopted or an order issued under this chapter or the predecessor act within the previous ten (10) years;

(3) Has been convicted of any felony or within the previous ten (10) years has been convicted of a misdemeanor involving a security, a commodity future or option contract, or an aspect of a business involving securities, commodities, investments, franchises, insurance, banking or finance;

(4) Is enjoined or restrained by a court of competent jurisdiction in an action instituted by the administrator under this chapter or the predecessor act, a state, the securities and exchange commission, or the United States from engaging in or continuing an act, practice or course of business involving an aspect of a business involving securities, commodities, investments, franchises, insurance, banking or finance;

(5) Is the subject of an order, issued after notice and opportunity for hearing by:

(A) The securities, depository institution, insurance or other financial services regulator of a state or by the securities and exchange commission or other federal agency denying, revoking, barring or suspending registration as a broker-dealer, agent, investment adviser, federal covered investment adviser, or investment adviser representative;

(B) The securities regulator of a state or the securities and exchange commission against a broker-dealer, agent, investment adviser, investment adviser representative, or federal covered investment adviser;

(C) The securities and exchange commission or a self-regulatory organization suspending or expelling the registrant from membership in the self-regulatory organization;

(D) A court adjudicating a United States postal service fraud order;

(E) The insurance regulator of a state denying, suspending or revoking registration as an insurance agent; or

(F) A depository institution regulator suspending or barring the person from the depository institution business;

(6) Is the subject of an adjudication or determination, after notice and opportunity for hearing, by the securities and exchange commission, the commodity futures trading commission; the federal trade commission; a federal depository institution regulator, or a depository institution, insurance or other financial services regulator of a state that the person willfully violated the securities act of 1933, the securities exchange act of 1934, the investment advisers act of 1940, the investment company act of 1940, or the commodity exchange act, the securities or commodities law of a state, or a federal or state law under which a business involving investments, franchises, insurance, banking or finance is regulated;

(7) Is insolvent, either because the person's liabilities exceed the person's assets or because the person cannot meet the person's obligations as they mature, provided however that the administrator may not enter an order against an applicant or registrant under this paragraph (7) without a finding of insolvency as to the applicant or registrant;

(8) Refuses to allow or otherwise impedes the administrator from conducting an audit or inspection under section 30-14-411(d), Idaho Code, or refuses access to a registrant's office to conduct an audit or inspection under section 30-14-411(d), Idaho Code;

(9) Has failed to reasonably supervise an agent, investment adviser representative or other individual, if the agent, investment adviser representative or other individual was subject to the person's supervision and committed a violation of this chapter or the predecessor act or a rule adopted or an order issued under this chapter or the predecessor act within the previous ten (10) years;

(10) Has not paid the proper filing fee within thirty (30) days after having been notified by the administrator of a deficiency, provided however that the administrator shall vacate an order under this paragraph (10) when the deficiency is corrected;

(11) After notice and opportunity for a hearing, has been found within the previous ten (10) years:

(A) By a court of competent jurisdiction to have willfully violated the laws of a foreign jurisdiction under which the business of securities, commodities, investment, franchises, insurance, banking or finance is regulated;

(B) To have been the subject of an order of a securities regulator of a foreign jurisdiction denying, revoking or suspending the right to engage in the business of securities as a broker-dealer, agent, investment adviser, investment adviser representative or similar person; or

(C) To have been suspended or expelled from membership by or participation in a securities exchange or securities association operating under the securities laws of a foreign jurisdiction;

(12) Is the subject of a cease and desist order issued by the securities and exchange commission or issued under the securities, commodities, investment, franchise, banking, finance or insurance laws of a state;

(13) Has engaged in dishonest or unethical practices in the securities, commodities, investment, franchise, banking, finance or insurance business within the previous ten (10) years; or

(14) Is not qualified on the basis of factors such as training, experience and knowledge of the securities business. Provided however, in the case of an application by an agent for a broker-dealer that is a member of a self-regulatory organization or by an individual for registration as an investment adviser representative, a denial order may not be based on this paragraph (14) if the individual has successfully completed all examinations required by subsection (e) of this section. The administrator may require an applicant for registration under section 30-14-402 or 30-14-404, Idaho Code, who has not been registered in a state within the two (2) years preceding the filing of an application in this state to successfully complete an examination.

(e) Examinations. A rule adopted or an order issued under this chapter may require that an examination, including an examination developed or approved by an organization of securities regulators, be successfully completed by a class of individuals or all individuals. An order issued under this chapter may waive, in whole or in part, an examination as to an individual and a rule adopted under this chapter may waive, in whole or in part, an examination as to a class of individuals if the administrator determines that the examination is not necessary or appropriate in the public interest and for the protection of investors.

(f) Summary process. The administrator may suspend or deny an application summarily; restrict, condition, limit or suspend a registration; or censure, bar, or impose a civil penalty on a registrant before final determination of an administrative proceeding. Upon the issuance of an order, the administrator shall promptly notify each person subject to the order that the order has been issued, the reasons for the action, and that within fifteen (15) days after the receipt of a request in a record from the person the matter will be scheduled for a hearing. If a hearing is not requested and none is ordered by the administrator within thirty (30) days after the date of service of the order, the order becomes final by operation of law. If a hearing is requested or ordered, the administrator, after notice of and opportunity for hearing to each person subject to the order, may modify or vacate the order or extend the order until final determination.

(g) Procedural requirements. An order issued may not be issued under this section, except under subsection (f) of this section, without:

(1) Appropriate notice to the applicant or registrant;

(2) Opportunity for hearing; and

(3) Findings of fact and conclusions of law in a record in accordance with chapter 52, title 67, Idaho Code.

(h) Control person liability. A person that controls, directly or indirectly, a person not in compliance with this section may be disciplined by order of the administrator under subsections (a) through (c) of this section to the same extent as the noncomplying person, unless the controlling person did not know, and in the exercise of reasonable care could not have known, of the existence of conduct that is a ground for discipline under this section.

(i) Limit on investigation or proceeding. The administrator may not institute a proceeding under subsection (a), (b) or (c) of this section based solely on material facts actually known by the administrator unless an investigation or the proceeding is instituted within one (1) year after the administrator actually acquires knowledge of the material facts.

SECTION 3. That Section 30-14-611, Idaho Code, be, and the same is hereby amended to read as follows:

30-14-611. SERVICE OF PROCESS. (a) Signed consent to service of process. ~~From September 1, 2004, through June 30, 2005, all persons applying for registration or making a notice filing shall submit to the administrator a signed consent to service of process.~~ A consent appointing the administrator the person's agent for service of process in a noncriminal action or proceeding against the person, or the person's successor or personal representative under this chapter or a rule

adopted or an order issued under this chapter after the consent is filed, has the same force and validity as if the service were made personally on the person filing the consent. From July 1, 2005, and thereafter, registrants shall be required to submit a consent to service of process only if there has been a material change.

(b) Conduct constituting appointment of agent for service. If a person, including a nonresident of this state, engages in an act, practice, or course of business prohibited or made actionable by this chapter or a rule adopted or an order issued under this chapter and the person has not filed a consent to service of process under subsection (a) of this section, the act, practice, or course of business constitutes the appointment of the administrator as the person's agent for service of process in a noncriminal action or proceeding against the person or the person's successor or personal representative.

(c) Procedure for service of process. Service under subsection (a) or (b) of this section may be made by providing a copy of the process to the office of the administrator, but it is not effective unless:

(1) The plaintiff, which may be the administrator, promptly sends notice of the service and a copy of the process, return receipt requested, to the defendant or respondent at the address set forth in the consent to service of process or, if a consent to service of process has not been filed, at the last known address, or takes other reasonable steps to give notice; and

(2) The plaintiff files an affidavit of compliance with this subsection in the action or proceeding on or before the return day of the process, if any, or within the time that the court, or the administrator in a proceeding before the administrator, allows.

(d) Service in administrative proceedings or civil actions by administrator. Service pursuant to subsection (c) of this section may be used in a proceeding before the administrator or by the administrator in a civil action in which the administrator is the moving party.

(e) Opportunity to defend. If process is served under subsection (c) of this section, the court, or the administrator in a proceeding before the administrator, shall order continuances as are necessary or appropriate to afford the defendant or respondent reasonable opportunity to defend.

Approved March 17, 2008.

CHAPTER 144
(S.B. No. 1257)

AN ACT

RELATING TO REAL ESTATE; AMENDING SECTION 54-2004, IDAHO CODE, TO REVISE A DEFINITION AND TO DEFINE A TERM; AND AMENDING SECTION 54-2020, IDAHO CODE, TO PROVIDE FOR CERTIFICATION AND RECERTIFICATION FEES FOR REAL ESTATE EDUCATION PROVIDERS, INSTRUCTORS AND COURSES.

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 (3~~2~~3) 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 day" means and includes each day of the week except Saturday, Sunday or any other legal holiday enumerated in section 73-108, Idaho Code.

(9) "Business name" means the name in which the brokerage company is licens~~ed by the~~ commission.

(9~~1~~0) "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~~1~~) "Commission" means the Idaho real estate commission, unless the context clearly indicates a different meaning.

(11~~2~~) "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~~3~~) "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~~4~~) "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~~4~~5) "Cooperative sale" means a transaction involving two (2) or more brokers.

(15~~5~~6) "Council" means the Idaho real estate education council.

(16~~6~~7) "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~~7~~8) "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~~8~~9) "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 and time.

(1~~9~~20) "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~~1~~1) "Executive director" means the executive director of the Idaho real estate commission.

(21~~2~~2) "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~~3~~3) "Fee or commission" means a payment, actual, promised or expected, as compensation for the performance of any act requiring a real estate license.

(23~~4~~4) "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~~5~~5) "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~~6~~6) "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~~7~~7) "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~~8~~8) "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~~9~~) "Main office" means the principal location where the real estate broker is licensed to transact business.

(~~29~~30) "Person" means and includes an individual, or any legal business entity.

(30~~1~~) "Primary Idaho license" means an Idaho real estate license that is not contingent upon continuance of a license in another state or jurisdiction.

(31~~2~~) "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~~3~~) "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~~4~~) "Real estate salesperson" or "salesperson" means any person who has qualified and is licensed as a real estate salesperson in Idaho under this chapter, and is licensed under, associated with, and represents a designated broker in the performance of any act described in subsection (32~~3~~) of this section.

(34~~5~~) "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, 2007~~8~~.

(35~~6~~) "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~~7~~) "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~~8~~) "Revoked license" means a license that has been permanently revoked by the issuing authority.

(38~~9~~) "Sales associate" means a salesperson or an associate broker licensed under and associated with a designated broker.

(39~~40~~) "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~~0~~1) "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.

(4~~1~~2) "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.

(4~~2~~3) "Suspended license" means a license that has been temporarily suspended by the issuing authority.

SECTION 2. 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 established by administrative rule of the commission;

(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 an amount not to exceed twenty-five dollars ($25.00), the exact fee to be established by administrative rule of the commission;

(4) For the printing of a 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) 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) 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;

(8) An application fee for the certification and recertification of each real estate education provider, instructor or course as follows:

(a) For providers, an application fee in the amount of seventy-five dollars ($75.00) for initial certification and fifty dollars ($50.00) for recertification;

(b) For instructors, an application fee in the amount of fifty dol-

lars ($50.00) for initial certification and twenty-five dollars ($25.00) for recertification;

(c) For courses, an application fee in the amount of fifty dollars ($50.00) for initial certification and twenty-five dollars ($25.00) for recertification.

Provided however, that lower fee amounts may be established by administrative rule of the commission.

Approved March 17, 2008.

CHAPTER 145
(S.B. No. 1325)

AN ACT

RELATING TO APPOINTMENT OF CONSERVATORS; AMENDING SECTION 15-5-410, IDAHO CODE, TO REVISE THE PRIORITY OF WHO MAY BE APPOINTED CONSERVATOR AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 15-5-410, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-410. WHO MAY BE APPOINTED CONSERVATOR -- PRIORITIES. (~~a~~1) The court may appoint an individual, except as set forth hereafter, or a corporation with general power to serve as trustee, as conservator of the estate of a protected person. The following are entitled to consideration for appointment in the order listed:

(~~1~~a) ~~a~~An individual or corporation nominated by the protected person if he is fourteen (14) or more years of age and has, in the opinion of the court, sufficient mental capacity to make an intelligent choice;

(b) The individual or corporation nominated as conservator of the protected person in the financial power of attorney of the protected person, or if no such nomination is made therein, the individual or corporation nominated as agent therein, provided that:

(i) If the nomination is of coconservators, or coagents, as appropriate, the court may consider whether appointment of coconservators is in the best interests of the protected person or whether a sole conservator should be appointed;

(ii) If several individuals or corporations are nominated in order of priority, the court shall consider such nominations in that order of priority; and

(iii) If more than one (1) financial power of attorney made by the protected person exists, the court shall determine which financial power of attorney is appropriate to be the basis for nomination of a conservator;

(~~2~~c) ~~t~~The spouse of the protected person;

(~~3~~d) ~~a~~An adult child of the protected person;

(~~4~~e) ~~a~~A conservator, guardian of property or other like fiduciary, ~~(~~but not a fiduciary serving only as a trustee~~)~~, appointed or recognized by the appropriate court of any other jurisdiction in which the protected person resides;

(5f) aA parent of the protected person, or a person nominated by the will of a deceased parent;

(6g) aAny relative of the protected person with whom he has resided for more than six (6) months prior to the filing of the petition;

(7h) aA person nominated by the person who is caring for him or paying benefits to him.

(b2) A person in priorities (2c), (3d), (4e), (5f), or (6g) of subsection (a1) of this section may nominate in writing a person to serve in his stead. With respect to persons having equal priority, the court is to select the one who is best qualified of those willing to serve. The court for good cause, may pass over a person having priority and appoint a person having less priority or no priority.

(c3) No convicted felon shall be appointed as a conservator of the estate of a protected person unless the court finds by clear and convincing evidence that such appointment is in the best interests of the protected person.

Approved March 17, 2008.

CHAPTER 146
(S.B. No. 1331)

AN ACT

RELATING TO PUBLIC ASSISTANCE; AMENDING SECTION 56-214, IDAHO CODE, TO REMOVE A PROVISION RELATING TO THE TRANSFER OF AN ASSET IN THE FORM OF AN ANNUITY AND TO PROVIDE THAT, SUBJECT TO CERTAIN EXCEPTIONS, THE TRANSFER OF ANY ASSET NOT FOR FAIR MARKET VALUE IS PRESUMED TO BE FOR THE PURPOSE OF SHELTERING ASSETS TO QUALIFY FOR MEDICAL ASSISTANCE.

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

SECTION 1. That Section 56-214, Idaho Code, be, and the same is hereby amended to read as follows:

56-214. AWARD OF PUBLIC ASSISTANCE -- INELIGIBILITY UPON TRANSFER OF PROPERTY. Upon the completion of the investigation, the state department shall determine whether the applicant is eligible for public assistance under the provisions of this act, the type and amount of public assistance he shall receive, and the date upon which such public assistance shall begin. Public assistance shall be paid in the manner prescribed by the state department.

(1) Assistance to families with children shall not be granted under this act to any person who within six (6) months prior to applying for or at any time during which such assistance is received, has either made an assignment or transfer of property for the purpose of rendering himself eligible for assistance under this act, or who has divested himself of any interest in property without adequate consideration which interest or proceeds therefrom could reasonably be expected to contribute to the support and maintenance of such person and his family, except that

any person who is ineligible for public assistance due solely to such assignment or transfer shall become eligible provided:

(a) There is a showing that such person has caused such property to be assigned or transferred back to him; or

(b) There is a showing that the person to whom such property is assigned or transferred has, subsequent to such assignment or transfer, met subsistence and medical care costs exclusive of any obligation for support, of such person or family, according to the department's assistance standard, equal to, or in excess of, the market value of the property so assigned or transferred; or

(c) There is a showing that the subsistence and medical care costs of such person, according to the department's assistance standard, subsequent to such assignment or transfer, equal or exceed the market value of the property so assigned or transferred.

(2) Eligibility for old age assistance under section 56-207, Idaho Code, or aid to the blind under section 56-208, Idaho Code, or aid to the disabled under section 56-209a, Idaho Code, shall be determined by continuing to consider as available any resource that was transferred prior to July 1, 1988, until such resource is fully accounted for under the provisions of section 1613(c) of the social security act as such section read on June 30, 1988.

(3) Eligibility for medical assistance under section 56-209b, Idaho Code, shall continue to apply the rules of the director of the department of health and welfare concerning transfer of property as such rules read on October 29, 1988, to transfers that occur prior to July 1, 1989, to persons other than to the spouse of the person receiving or applying for medical assistance, and to interspousal transfers that occur prior to October 1, 1989.

(4) The provisions of section 1917(c) of the social security act as amended by public law 100-360 and further amended by public law 100-485 and as hereafter amended shall apply as of July 1, 1989, to transfers of assets other than to the spouse, and as of October 1, 1989, to transfers between spouses, except that such provisions shall not apply either to transfers that occurred before July 1, 1988, or to transfers that have been fully accounted for under subsection (3) of this section. Notwithstanding the foregoing, any transfer of assets not otherwise specifically permitted by federal law or rule of the department~~, whether or~~ not for fair market value ~~including, but not limited to, a transfer in the form of an annuity,~~ is presumed to be for the purpose of sheltering assets to qualify for medical assistance. Such assets transferred shall be counted as available in determining eligibility, and will subject the applicant to penalties prescribed by the director, unless the applicant for assistance can demonstrate by clear and convincing evidence that the transfer was intended for another purpose.

(5) Any funds, securities, accounts, contracts and all other property held in or transferred to a special needs trust as provided in chapter 14, title 68, Idaho Code, section 15-5-409, Idaho Code, and section 15-5-409a, Idaho Code, shall not be considered by the state department in determining whether the applicant is eligible for public assistance under the provisions of this act, so long as the action is permitted under the provisions of section 1917(c) and (d) of the social security act, as amended.

(6) If any provision of this section or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the section that can be given effect without the invalid provisions or applications, and to this end the provisions of this section are severable.

Approved March 17, 2008.

CHAPTER 147
(S.B. No. 1344, As Amended)

AN ACT

RELATING TO INSURANCE; AMENDING CHAPTER 3, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-318, IDAHO CODE, TO PROVIDE FOR SPECIFIC COOPERATION WITH THE DEPARTMENT OF HEALTH AND WELFARE BY SPECIFIED INSURERS AS A CONDITION FOR DOING BUSINESS IN THE STATE AND TO PROVIDE A PENALTY FOR FAILURE TO COOPERATE.

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

SECTION 1. That Chapter 3, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-318, Idaho Code, and to read as follows:

41-318. COOPERATION WITH THE DEPARTMENT OF HEALTH AND WELFARE. (1) A health insurer that provides disability insurance as defined in section 41-503, Idaho Code, including self-insured plans, group health plans as defined in section 607(1) of the employee retirement income security act of 1974, service benefit plans, managed care organizations, pharmacy benefit managers or other parties that are by statute, contract or agreement legally responsible for payment of a claim for a health care item or service with respect to medical assistance programs under chapter 2, title 56, Idaho Code, shall, as a condition of doing business in the state of Idaho, cooperate with the Idaho department of health and welfare by doing the following:

(a) Provide, with respect to an individual who is eligible for or who is or has been provided medical assistance under chapter 2, title 56, Idaho Code, within sixty (60) days of a request of the department, information to determine the period the individual or the individual's spouse or dependents are, or have been, covered by the insurer and the nature of that coverage. The information shall include the name and address of the insurer and the identifying number of the health care insurance plan. The format of the information provided shall include the data elements, medium and frequency of reporting, any costs of the insurer to be reimbursed and procedures that will be followed when a data match is found;

(b) Accept the department's right of recovery on behalf of the state of Idaho, and the assignment to the department of any right of an individual or other entity to payment from the party for an item or service for which payment has been made under chapter 2, title 56, Idaho Code;

(c) Respond to any inquiry by the department regarding a claim for

payment for any health care item or service submitted not later than three (3) years after the date of the provision of the health care item or service; and

(d) Agree not to deny a claim submitted by the department solely on the basis of the date of submission of the claim, the type or format of the claim form, or a failure to present proper documentation at the point-of-sale that is the basis of the claim, if:

(i) The claim is submitted by the department within the three (3) year period beginning on the date on which the item or service was furnished; and

(ii) Any action by the department to enforce its rights with respect to the claim is commenced within six (6) years after the department's submission of the claim.

(2) Failure to cooperate with the department as set forth in subsection (1) of this section shall subject the insurer to suspension or revocation of its certificate of authority pursuant to section 41-326, Idaho Code.

Approved March 17, 2008.

CHAPTER 148
(S.B. No. 1352)

AN ACT

RELATING TO WATER; AMENDING SECTION 42-1414, IDAHO CODE, TO REVISE FEE PROVISIONS FOR FILING NOTICE OF CLAIMS WITH THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES.

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

SECTION 1. That Section 42-1414, Idaho Code, be, and the same is hereby amended to read as follows:

42-1414. FEES FOR FILING NOTICE OF CLAIMS WITH THE DIRECTOR. (1) In order to provide an adequate and equitable cost-sharing formula for financing the costs of adjudicating water rights the department of water resources shall accept no notice of claim required under the provisions of section 42-1409, Idaho Code, unless such notice of claim is submitted with a filing fee based upon the fee schedule set forth below. Failure to pay the variable water use fee in accordance with the timetable provided shall be cause for the department to reject and return the notice of claim to the claimant. The fee schedule set forth below applies to adjudication proceedings commenced or enlarged on or after January 1, 1985.

(a) Flat fee per claim filed:

(i) Claims for domestic and/or stock watering rights ~~based on permit, license, decree or statutory claim~~ ..... $<u>2</u>~~1~~50.00

(ii) Claims for all other rights ..... $~~1~~00<u>50</u>.00

(b) Additional variable water use fee for claims filed based upon acreage, power generating capacity, c.f.s., or equivalent volume of water:

(i) Irrigation use (one fee irrespective of number of claims): ..... $~~2~~1.00 per acre
(ii) Power: ..... $~~7,00~~3.50 per kilowatt of capacity (manufacturer's nameplate rating), or $250,000, whichever is less
(iii) Aquaculture: ..... $~~2~~10.00 per c.f.s.
(iv) Municipal, industrial, commercial, mining, heating, cooling: ..... $~~2~~100.00 per c.f.s.
(v) Public instream flow, public lake level maintenance, wildlife: ..... $~~2~~100.00 per c.f.s.

(c) All fees collected by the department pursuant to this section shall be placed in the water resources adjudication account established in section 42-1777, Idaho Code.

(2) If a claimant increases in an amended notice of claim the amount of water claimed, the amount of land irrigated, or the kilowatt capacity of the generating facility, the claimant shall pay upon filing the amended notice of claim an additional variable fee in accordance with the rates set forth in subsection (1) of this section. Claimants shall be entitled to a return of filing fees or late fees only where the fee was miscalculated at the time the original or amended notice of claim was filed.

(3) If a claimant files a notice of claim after the date set by the director in the notice mailed or served in accordance with subsections (2), (3), or (4) of section 42-1408, Idaho Code, or with subsection (7) of section 42-1409, Idaho Code, the claimant shall pay the fee set forth in subsection (1) of this section, and in addition, the amount of ~~one hundred~~ fifty dollars ($~~1~~050) or fifteen percent (15%) of the original filing fee, whichever is greater. The director may waive the late processing fee or a portion thereof for good cause.

Approved March 17, 2008.

CHAPTER 149
(S.B. No. 1354)

AN ACT

RELATING TO WATER RIGHTS ADJUDICATIONS; AMENDING SECTION 42-1406B, IDAHO CODE, TO DELETE REFERENCE TO ALL USERS OF SURFACE AND GROUND WATER IN NORTHERN IDAHO, TO PROVIDE THAT THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES IS AUTHORIZED TO PETITION THE DISTRICT COURT TO COMMENCE CERTAIN ADJUDICATIONS AND TO PROVIDE THAT PETITIONS TO INITIATE CERTAIN WATER RIGHTS ADJUDICATIONS IN NORTHERN IDAHO SHALL INCLUDE SPECIFIED REQUESTS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 42-1406B, Idaho Code, be, and the same is hereby amended to read as follows:

42-1406B. NORTHERN IDAHO WATER RIGHTS ADJUDICATIONS -- COMMENCEMENT. (1) Effective management of the waters of northern Idaho requires that a comprehensive determination of the nature, extent and priority of

the rights of ~~all~~ users of surface and ground water be determined. Therefore, the director of the department of water resources ~~shall~~ is authorized to petition the district court to commence adjudications within the terms of the McCarran amendment, 43 U.S.C. section 666, of the water rights from surface water and ground water sources in northern Idaho through initiation of three (3) proceedings, provided that each petition includes a request for the deferral of the adjudication of domestic and stock water rights as defined by subsections (4) and (11) of section 42-1401A, Idaho Code, and a request that a commencement order be issued only if the court determines it is possible to defer the adjudication of domestic and stock water rights as defined by subsections (4) and (11) of section 42-1401A, Idaho Code, within the terms of the McCarran amendment. Separate petitions shall be filed for water rights adjudications for each of the following river basins, and related ground water sources whether or not hydraulically connected to a surface water source, within Idaho: the Coeur d'Alene-Spokane river basin, the Palouse river basin, and the Kootenai and Clark Fork-Pend Oreille river basins. The filing of each petition shall be contingent on legislative funding approval. Each petition shall describe the boundaries of the water source or water sources to be adjudicated.

(2) The adjudication shall be brought in any district court in which any part of the water source is located or before a court of special jurisdiction for water right adjudications. Unless otherwise ordered by the supreme court, special jurisdiction for the water rights general adjudications authorized by this section shall reside in the Snake River Basin Adjudication district court of the fifth judicial district of the state of Idaho, in and for the county of Twin Falls. The clerk of the district court in which the petition is filed shall send to the supreme court a true and certified copy of the petition. The supreme court, by order, shall assign the judge to preside over the general adjudication. Venue of the general adjudication shall be determined by order or rule of the supreme court and venue of hearings under the general adjudication shall be determined by order of the presiding judge.

(3) Upon issuance of an order by the district court which authorizes the director to commence an investigation and determination of the various water rights to be adjudicated from the water source or water sources, and which defines the boundaries of the source or sources within the state to be adjudicated, the director of the department of water resources shall proceed in the manner provided under the provisions of chapter 14, title 42, Idaho Code, to the extent not inconsistent with the provisions of this section.

SECTION 2. 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 17, 2008.

CHAPTER 150
(S.B. No. 1359)

AN ACT

RELATING TO SPECIAL MOTOR VEHICLE LICENSE PLATES; AMENDING SECTION 49-402, IDAHO CODE, TO PROVIDE A CODE REFERENCE; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-417D, IDAHO CODE, TO ESTABLISH AN IDAHO RANGELAND SPECIAL PLATE PROGRAM; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 49-402, Idaho Code, be, and the same is hereby amended to read as follows:

49-402. ANNUAL REGISTRATION. (1) The annual fee for operating each pickup truck, each neighborhood electric vehicle and each other motor vehicle having a maximum gross weight not in excess of eight thousand (8,000) pounds shall be:

Vehicles one (1) and two (2) years old $48.00
Vehicles three (3) and four (4) years old $36.00
Vehicles five (5) and six (6) years old $36.00
Vehicles seven (7) and eight (8) years old $24.00
Vehicles over eight (8) years old $24.00

There shall be twelve (12) registration periods, starting in January for holders of validation registration stickers numbered 1, and proceeding consecutively through December for holders of validation registration stickers numbered 12, each of which shall start on the first day of a calendar month and end on the last day of the twelfth month from the first day of the beginning month. Registration periods shall expire midnight on the last day of the registration period in the year designated by the validation registration sticker. The numeral digit on the validation registration stickers shall, as does the registration card, fix the registration period under the staggered plate system of Idaho for the purpose of reregistration and notice of expiration.

A vehicle that has once been registered for any of the above designated periods shall, upon reregistration, be registered for the period bearing the same number, and the registration card shall show and be the exclusive proof of the expiration date of registration and licensing. Vehicles may be initially registered for less than a twelve (12) month period, or for more than a twelve (12) month period, and the fee prorated on a monthly basis if the fractional registration tends to fulfill the purpose of the monthly series registration system.

(2) For all school buses operated either by a nonprofit, nonpublic school or operated pursuant to a service contract with a school district for transporting children to or from school or in connection with school approved activities, the annual fee shall be twenty-four dollars ($24.00).

(3) For all motorcycles and all-terrain vehicles operated upon the public highways the annual fee shall be nine dollars ($9.00). For operation of an all-terrain vehicle or motorcycle off the public highways, the fee specified in section 67-7122, Idaho Code, shall be paid. Registration exemptions provided in section 49-426(2), (3) and (4), Idaho

Code, apply to all-terrain vehicles and motorcycles used for the purposes described in subsections (2), (3) and (4) of section 49-426, Idaho Code.

(4) For all motor homes the fee shall be as specified in subsection (1) of this section and shall be in addition to the fees provided for in section 49-445, Idaho Code.

(5) Registration fees shall not be subject to refund.

(6) A financial institution or repossession service contracted to a financial institution repossessing vehicles under the terms of a security agreement shall move the vehicle from the place of repossession to the financial institution's place of business on a repossession plate. The repossession plate shall also be used for demonstrating the vehicle to a prospective purchaser for a period not to exceed ninety-six (96) hours. The registration fees for repossession plates shall be as required in subsection (1) of this section for a vehicle one (1) and two (2) years old. All other fees required under chapter 4, title 49, Idaho Code, shall be in addition to the registration fee. The repossession plate shall be issued on an annual basis by the department.

(7) In addition to the annual registration fee in this section, there shall be an initial program fee of twenty-five dollars ($25.00) and an annual program fee of fifteen dollars ($15.00) for all special license plate programs for those license plates issued pursuant to sections 49-404A, 49-407, 49-408, 49-409, 49-414, 49-416, 49-418 and 49-418D, Idaho Code. For special plates issued pursuant to sections 49-406 and 49-406A, Idaho Code, there shall be an initial program fee of twenty-five dollars ($25.00) but there shall be no annual renewal fee. For special plates issued pursuant to sections 49-415C, 49-415D, 49-416A, 49-416B, 49-416C, 49-416D, 49-416E, 49-417, 49-417A, 49-417B, 49-417C, 49-417D, 49-418A, 49-418B, 49-418C, 49-418E, 49-419, 49-419A, 49-419B, 49-419C, 49-419D, 49-420, 49-420A, 49-420B, 49-420C, 49-420D, 49-420E and 49-420G, Idaho Code, there shall be an initial program fee of thirty-five dollars ($35.00) and an annual program fee of twenty-five dollars ($25.00). The fees contained in this subsection shall be applicable to all new special plate programs. The initial program fee and the annual program fee shall be deposited in the state highway account and shall be used to fund the cost of administration of special license plate programs, unless otherwise specified by law.

SECTION 2. That Chapter 4, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-417D, Idaho Code, and to read as follows:

49-417D. IDAHO RANGELAND PLATES. (1) On and after January 1, 2009, any person who is the owner of a vehicle registered under the provisions of section 49-402 or 49-434(1), Idaho Code, may apply for Idaho rangeland plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of Idaho rangeland plates for other vehicles may be authorized by rule of the board.

(2) In addition to the regular registration fee, the applicant shall be charged a fee of thirty-five dollars ($35.00) for the initial issuance of the plates, and twenty-five dollars ($25.00) upon each succeeding annual registration. Ten dollars ($10.00) of the initial fee and ten dollars ($10.00) of the renewal fee shall be deposited in the state

highway account and shall be used to fund the cost of the administration of this special license plate program. Twenty-five dollars ($25.00) of each initial fee and fifteen dollars ($15.00) of each renewal fee shall be transferred by the state treasurer to an Idaho rangeland resource commission account provided in section 58-1415, Idaho Code.

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

(4) The Idaho rangeland license plate shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. That portion of the design which features Idaho rangelands shall be acceptable to the Idaho rangeland resource commission and shall be approved by the department utilizing a numbering system as determined by the department. Initial costs of the plate program, including the cost of plate design, shall be paid from the Idaho rangeland resource commission account.

(5) Sample Idaho rangeland plates may be purchased from the department for a fee of thirty dollars ($30.00), ten dollars ($10.00) of which shall be deposited in the state highway account and twenty dollars ($20.00) of which shall be transferred to the Idaho rangeland resource commission account.

SECTION 3. This act shall be in full force and effect on and after January 1, 2009.

Approved March 17, 2008.

CHAPTER 151
(S.B. No. 1362)

AN ACT

RELATING TO ASSAULT AND BATTERY; AMENDING SECTION 18-915, IDAHO CODE, TO REMOVE THE REQUIREMENT THAT CERTAIN VICTIMS BE ENGAGED IN THE PERFORMANCE OF DUTIES BEFORE A CERTAIN PUNISHMENT SHALL BE IMPOSED, TO PROVIDE CERTAIN PUNISHMENT FOR CERTAIN VIOLATIONS AGAINST THE PERSON OF SPECIFIED FORMER OR PRESENT OFFICIALS, TO PROVIDE CERTAIN PUNISHMENT BECAUSE OF THE EXERCISE OF CERTAIN OFFICIAL'S OFFICIAL DUTIES, TO PROVIDE FOR IMPOSING CERTAIN PUNISHMENT FOR CERTAIN CRIMES WITH CERTAIN KNOWLEDGE WHILE CERTAIN VICTIMS ARE ENGAGED IN THE PERFORMANCE OF DUTIES, TO PROVIDE CERTAIN PUNISHMENT FOR BATTERY AGAINST THE PERSON OF CERTAIN FORMER OR PRESENT LAW ENFORCEMENT OFFICERS, TO PROVIDE PUNISHMENT FOR BATTERY BECAUSE OF THE EXERCISE OF CERTAIN LAW ENFORCEMENT OFFICERS' OFFICIAL DUTIES, TO PROVIDE PUNISHMENT FOR BATTERY WITH CERTAIN KNOWLEDGE UPON CERTAIN LAW ENFORCEMENT OFFICERS WHILE THE VICTIM IS ENGAGED IN THE PERFORMANCE OF DUTIES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 18-915, Idaho Code, be, and the same is hereby amended to read as follows:

18-915. ASSAULT OR BATTERY UPON CERTAIN PERSONNEL -- PUNISHMENT. (1) Any person who commits a crime provided for in this chapter against or upon a justice, judge, magistrate, prosecuting attorney, public defender, peace officer, bailiff, marshal, sheriff, police officer, correctional officer, employee of the department of correction, employee of a private prison contractor while employed at a private correctional facility in the state of Idaho, employees of the department of water resources authorized to enforce the provisions of chapter 38, title 42, Idaho Code, jailer, parole officer, officer of the Idaho state police, fireman, social caseworkers or social work specialists of the department of health and welfare, employee of a state secure confinement facility for juveniles, employee of a juvenile detention facility, a teacher at a detention facility or a juvenile probation officer, emergency medical technician certified by the department of health and welfare, emergency medical technician-ambulance certified by the department of health and welfare, advanced emergency medical technician and EMT-paramedic certified by the state board of medicine, a member, employee or agent of the state tax commission, United States marshal, or federally commissioned law enforcement officer or their deputies or agents and the perpetrator knows or has reason to know of the victim's status, the punishment shall be as follows:

(a) For committing battery with intent to commit a serious felony the punishment shall be imprisonment in the state prison not to exceed twenty-five (25) years.

(b) For committing any other crime in this chapter the punishment shall be doubled that provided in the respective section, except as provided in subsections (c2) and (d3) of this section.

(c2) For committing a violation of the provisions of section 18-901 or 18-903, Idaho Code, against the person of a former or present justice, judge or magistrate, jailer or correctional officer or other staff of the department of correction, or a county jail, or of a private correctional facility, or of an employee of a state secure confinement facility for juveniles, an employee of a juvenile detention facility, a teacher at a detention facility or a juvenile probation officer: ~~and the person--committing the offense knows or reasonably should know that such victim is a justice, judge or magistrate, jailer or correctional officer or other staff of the department of correction, or of a private--correctional--facility, an employee of a state secure confinement facility for juveniles, an employee of a juvenile detention facility, a teacher at--a detention facility or a juvenile probation officer~~

(a) ~~B~~because of the exercise of official duties or because of the victim's former or present official status, ~~and~~ or

(b) While the victim is engaged in the performance of his duties and the person committing the offense knows or reasonably should know that such victim is a justice, judge or magistrate, jailer or correctional officer or other staff of the department of correction, or of a private correctional facility, an employee of a state secure confinement facility for juveniles, an employee of a juvenile detention facility, a teacher at a detention facility or a juvenile probation officer,

the offense shall be a felony punishable by imprisonment in a correctional facility for a period of not more than five (5) years, and said sentence shall be served consecutively to any sentence being currently served.

(d3) For committing a violation of the provisions of section 18-903, Idaho Code, except unlawful touching as described in section 18-903(b), Idaho Code, against the person of a former or present peace officer, sheriff or police officer:

(a) Because of the exercise of official duty or because of the victim's former or present official status, or

(b) While the victim is engaged in the performance of his duties and the person committing the offense knows or reasonably should know that such victim is a peace officer, sheriff or police officer,

the offense shall be a felony punishable by imprisonment in a correctional facility for a period of not more than five (5) years, and said sentence shall be served consecutively to any sentence being currently served.

Approved March 17, 2008.

CHAPTER 152
(S.B. No. 1371)

AN ACT

RELATING TO RESTITUTION; AMENDING SECTION 19-5304, IDAHO CODE, TO PROVIDE FOR RESTITUTION IN CERTAIN CASES WHERE A PERSON HAS BEEN FOUND GUILTY OF LEAVING THE SCENE OF AN ACCIDENT RESULTING IN INJURY OR DEATH.

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 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 relevant 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.

(14) When a person is found guilty of violating section 18-8007, Idaho Code, the court, in addition to any other sentence imposed, may order the person to pay to any victim an amount of money equal to the amount of that victim's economic loss caused by the person as a result of the incident that created the duties as provided in section 18-8007, Idaho Code.

Approved March 17, 2008.

CHAPTER 153
(S.B. No. 1387)

AN ACT

RELATING TO THE RURAL ECONOMIC DEVELOPMENT AND INTEGRATED FREIGHT TRANSPORTATION PROGRAM; AMENDING SECTION 49-2902, IDAHO CODE, TO PROVIDE THAT AT THE BEGINNING OF EACH STATE FISCAL YEAR THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE SHALL DESIGNATE ONE OF HIS APPOINTEES TO THE INTERAGENCY WORKING GROUP AS COCHAIRMAN OF THE GROUP, TO MAKE TECHNICAL CORRECTIONS AND TO PROVIDE REFERENCE TO THE DEPARTMENT OF COMMERCE.

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

SECTION 1. That Section 49-2902, Idaho Code, be, and the same is hereby amended to read as follows:

49-2902. INTERAGENCY WORKING GROUP CREATED. (1) An interagency working group is hereby created to advise the department of agriculture on issues and policies in support of the department of ~~'s~~ agriculture's administration of the rural economic development and integrated freight transportation program established in section 49-2901, Idaho Code. The interagency working group shall participate in planning and identifying program needs and shall carry out its duties specified in section 49-2903, Idaho Code. Before recommending state funding, using state dedicated funds, and recommending priorities, the interagency working group shall seek pertinent information, facts and data from state and local governments, and agencies regarding rural freight transportation issues.

(2) The interagency working group shall be composed of eight (8) members:

(a) Four (4) members shall be appointed by the director of the Idaho transportation department, two (2) of whom shall be employees of the Idaho transportation department with a working knowledge of rail and truck freight transportation and intermodal entities, one (1) member, not a state employee, shall represent freight shipping interests, and one (1) member shall be a representative from the local highway technical assistance council;

(b) Three (3) members shall be appointed by the director of the department of~~,~~ agriculture, two (2) of whom shall be employees of the department of agriculture with a working knowledge of economic development issues, and one (1) member, not a state employee, shall represent business development and financing interests; and

(c) One (1) member shall be appointed by the director of the department of commerce ~~and--labor~~ and shall be an employee with knowledge of rural economic development issues.

(d) At the beginning of each state fiscal year, the director of the Idaho transportation department shall designate one (1) of his appointees as cochairman, and the director of the department of commerce agriculture shall designate one (1) of his appointees as cochairman.

(e) Each member appointed shall serve at the pleasure of the appointing authority, provided however, the service of state employee members shall run concurrently with their state employment. Nonstate employee members shall serve one (1) term of five (5) years, but may be appointed to serve nonconsecutive terms, and shall be reimbursed according to the provisions of section 59-509(b), Idaho Code.

(f) The interagency working group shall meet at such times as necessary and appropriate to review applications for funds distributed pursuant to the provisions of this chapter, but not less frequently than annually.

(3) The department of agriculture shall determine and provide for amounts appropriated to the fund, a one-time amount not to exceed three percent (3%) for planning and operating expenses and staff assistance and support from the department of agriculture and the Idaho transportation department in order to administer the program, and to administer the fund established in section 49-2904, Idaho Code.

Approved March 17, 2008.

CHAPTER 154
(S.B. No. 1388)

AN ACT

RELATING TO THE RURAL ECONOMIC DEVELOPMENT AND INTEGRATED FREIGHT TRANSPORTATION REVOLVING LOAN FUND; AMENDING SECTION 49-2904, IDAHO CODE, TO INCREASE THE MAXIMUM MATCHING GRANT FUND LIMIT FROM TWENTY-FIVE THOUSAND DOLLARS TO ONE HUNDRED THOUSAND DOLLARS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 49-2904, Idaho Code, be, and the same is hereby amended to read as follows:

49-2904. RURAL ECONOMIC DEVELOPMENT AND INTEGRATED FREIGHT TRANSPORTATION REVOLVING LOAN FUND. (1) The rural economic development and integrated freight transportation revolving loan fund is hereby created in the state treasury. The department of agriculture is authorized to administer the rural economic development and integrated freight transportation revolving loan fund. Moneys in the fund shall be used only for the purposes specified in this chapter. 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 rural economic development and integrated freight transportation revolving loan fund.

(2) Moneys in the fund are subject to appropriation and may consist of appropriations, grants, repayment of loans and other revenues from any other sources.

(3) Moneys in the fund may be used for loans or grants for qualified rural projects for the development and preservation of intermodal rail and truck services and facilities upon terms and conditions to be determined by the department of agriculture with the assistance and advice of the interagency working group as appropriate, for the purpose of:

(a) Rehabilitating, or improving rail lines to preserve essential local rail service;

(b) Purchasing or rehabilitating railroad equipment necessary to maintain essential rail service;

(c) Construction of loading or reloading facilities or other capital improvements including building or improving local transportation infrastructure, to increase business and commerce, and to improve shipping service; or

(d) Coordinating intermodal truck and rail traffic for integrated rural freight transportation.

(4) For the purposes of this chapter, "qualified lines" means class III short lines, branch lines of class I railroads leased or operated by a class III railroad, branch lines of class II railroads, and lines owned by public entities including port districts and intermodal commerce authorities. Definitions of class I, II and III railroads shall be as defined by the federal railroad administration.

(5) Moneys received by the department of agriculture from loan pay-

ments or other revenues shall be redeposited in the rural economic development and integrated freight transportation fund. Repayment of loans made under this chapter shall occur within a period as set by the department, but no repayment which exceeds fifteen (15) years shall be allowed. The repayment schedule and rate of interest shall be determined before the moneys are distributed.

(6) Moneys distributed under the provisions of this chapter shall be provided as loans to qualified lines or shippers.

(7) As funds allow, authorize one (1) matching grant per year not to exceed ~~twenty-five~~ one hundred thousand dollars (~~$25~~100,000) for planning and development of intermodal commerce authorities as provided in chapter 22, title 70, Idaho Code, upon conditions established in subsection (3) of this section.

Approved March 17, 2008.

CHAPTER 155
(S.B. No. 1389)

AN ACT

RELATING TO INSPECTION OF MOTOR CARRIERS; AMENDING SECTION 67-2901B, IDAHO CODE, TO PROVIDE THAT INTRASTATE MOTOR CARRIERS TRANSPORTING WET CONCRETE ARE SUBJECT TO COMPLIANCE REVIEWS AND SAFETY INSPECTIONS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 67-2901B, Idaho Code, be, and the same is hereby amended to read as follows:

67-2901B. INSPECTION OF MOTOR CARRIERS -- EXEMPTIONS -- CERTIFICATION OF REPAIR -- COMPLIANCE REVIEW -- PENALTIES. (1) All motor carriers, except those exempted under the provisions of subsection (2) of this section, are subject to compliance review and inspection by authorized state police employees for compliance with federal motor carrier safety and hazardous materials regulations and for compliance with applicable Idaho laws and rules promulgated by the director pursuant to the provisions of section 67-2901A, Idaho Code. A motor carrier shall submit any vehicle to a safety inspection when requested to do so by an authorized state police employee. Such inspections shall comply, to the extent possible, with national and industry standards for truck inspections and truck safety as adopted by the commercial vehicle safety alliance. A written inspection report shall be provided to the owner, operator or agent of the vehicle following any inspection review pursuant to this section.

(2) The following intrastate motor carriers shall be exempt from safety inspections and compliance reviews:

(a) Motor vehicles employed solely in transporting school children and teachers to or from school or to and from approved school activities, when the motor vehicles are either:

(i) Wholly owned and operated by such school, or

(ii) Leased or contracted by such school and the motor vehicle is not used in the furtherance of any other commercial enterprise; or

(b) Taxicabs or other motor vehicles performing a licensed or franchised taxicab service, having a seating capacity of not more than seven (7) passengers within twenty-five (25) miles of the boundaries of the licensing or franchising jurisdiction; or

(c) Motor vehicles owned or operated by or on behalf of hotels and used exclusively for the transportation of hotel patrons between hotels and local railroads or airports or other common carrier stations; or

(d) Motor vehicles controlled and operated by any farmer when used in the transportation of his farm equipment or in the transportation of supplies to his farm; or

(e) Motor vehicles used exclusively in the distribution of newspapers; or

(f) Transportation of persons or property by motor vehicle at an airport when incidental to transportation by aircraft or other transportation in substitution for scheduled airline service when the carrier cannot provide the scheduled service because of weather and/or mechanical conditions and the transportation is arranged for and paid by the affected airlines; or

(g) Transportation of persons and/or property, including mobile and modular houses manufactured with wheels and undercarriage as part of the substructure, but not transportation of other houses, buildings or structures within a municipality or territory contiguous to such municipality if such operation outside such municipality be a part of a service maintained within the limits of the municipality with the privilege of transfer of passengers to vehicles within the municipality without additional fare; or

(h) The transportation of agricultural products including fresh fruits and vegetables, livestock, livestock feed or manure at any time of the year; or

(i) Motor propelled vehicles for the sole purpose of carrying United States mail or property belonging to the United States; or

(j) Motor carriers transporting products of the forest at any time of the year; or

(k) Motor carriers transporting products of the mine including sand, gravel and aggregates thereof, except petroleum products <u>and wet concrete;</u> or

(l) Motor carriers transporting household goods as defined by the federal surface transportation board; or

(m) Vehicles properly equipped, designed and customarily used for the transportation of disabled or abandoned vehicles by means of a crane, hoist, tow bar, dolly or roll bed, which vehicle shall be known as a "wrecker (tow truck)."

(3) A motor carrier which has received a written inspection report prepared pursuant to subsection (1) of this section indicating that his vehicle does not comply with applicable federal laws or regulations or Idaho laws or rules, shall certify in writing to the director or his designee within fifteen (15) days of his receipt of the inspection report that he has brought his vehicle into compliance with said laws, regulations or rules. The director or his designee may assess an administrative penalty to any person who does not comply with the certification provisions of this section or who makes a false certification. The penalty shall not exceed one hundred dollars ($100) for failure to comply with an inspection report or for making a false certification. If an

assessment is contested, the director shall comply with the provisions governing contested cases under the administrative procedure act, chapter 52, title 67, Idaho Code.

(4) Any motor carrier subject to rules promulgated under the provisions of section 67-2901A, Idaho Code, shall submit to a compliance review upon request of the director or any officer designated by him, by providing for inspection or copying at any reasonable time, the records, books, papers and documents relating to the safety management systems or program of such motor carrier.

(5) Any penalties collected pursuant to subsection (3) of this section shall be deposited to the state highway account.

SECTION 2. This act shall be in full force and effect on and after January 1, 2009.

Approved March 17, 2008.

CHAPTER 156
(S.B. No. 1390)

AN ACT

RELATING TO SPECIAL PILOT PROJECT ROUTES FOR CERTAIN MOTOR CARRIERS; AMENDING SECTION 49-1004, IDAHO CODE, TO UPDATE THE DESCRIPTIONS OF PILOT PROJECT ROUTES DESIGNATED FOR PERMITTED USE BY MOTOR CARRIERS WITH A MAXIMUM GROSS WEIGHT NOT EXCEEDING ONE HUNDRED TWENTY-NINE THOUSAND POUNDS.

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

SECTION 1. That Section 49-1004, Idaho Code, be, and the same is hereby amended to read as follows:

49-1004. PERMITS FOR OVERWEIGHT OR OVERSIZE LOADS -- SPECIAL PILOT PROJECT ROUTES AND ANNUAL PERMITS. (1) Upon application in writing to the board or other proper authorities in charge of, or having jurisdiction over a highway, the board or authorities may in their discretion issue a special permit to the owner or operator of any vehicle allowing vehicles or loads having a greater weight or size than permitted by law to be moved or carried over and on the highways and bridges.

(a) Special permits shall be in writing and may limit the time of use and operation over the particular highways and bridges which may be traversed and may contain any special conditions and require any undertaking or other security as the board or other proper authority shall deem to be necessary to protect the highways and bridges from injury, or provide indemnity for any injury to highways and bridges or to persons or property resulting from such operation.

(b) The owner or operator of an overweight or oversize vehicle shall obtain a permit, or shall establish intent to obtain a permit by contacting a permit office and receiving a permit number before moving the vehicle on the highways.

(c) All special permits or evidence of intent to obtain a permit, shall be carried in the vehicles to which they refer and shall upon

demand be delivered for inspection to any peace officer, authorized agent of the board or any officer or employee charged with the care or protection of the highways.

(2) Nonreducible vehicles or combinations of vehicles hauling nonreducible loads at weights in excess of those set forth in section 49-1001, Idaho Code, shall pay fees as set forth in this subsection (2). Such fees are based on the number of axles on the vehicle or combination of vehicles and the total gross weight.

Number of axles	Column 1 Gross weight of vehicle and load in pounds	Column 2 Gross weight of vehicle and load in pounds
2	40,001	-
3	54,001	-
4	68,001	-
5	80,001	131,001
6	97,001	148,001
7	114,001	165,001

(a) To determine the maximum allowable permit fee for vehicles with more than seven (7) axles, the table can be extended by adding seventeen thousand (17,000) pounds to the last listed weight in both columns 1 and 2 for each added axle.

(b) Permit fees for column 1 shall start at four cents (4¢) per mile and increase four cents (4¢) per mile for each additional two thousand (2,000) pound increment up to the weight indicated in column 2. Permit fees for column 2 shall start at one dollar and two cents ($1.02) per mile and increase seven cents (7¢) per mile for each additional two thousand (2,000) pound increment.

(c) Vehicles operating at weights less than the starting weights per axle configuration listed in column 1 shall be charged four cents (4¢) per mile.

(d) For vehicles operating with axles wider than eight (8) feet six (6) inches or axles with more than four (4) tires per axle, the fee may be reduced by the board or other proper authority having jurisdiction over a highway.

(3) It shall be unlawful for any person to violate, or to cause or permit to be violated, the limitations or conditions of special permits and any violation shall be deemed for all purposes to be a violation of the provisions of this chapter.

(4) An annual special pilot project route permit authorizing travel on pilot project routes shall be issued by the board or may, in its discretion, be issued by a local public highway agency for operation of vehicles with a legal maximum gross weight of at least one hundred five thousand five hundred one (105,501) pounds but not exceeding one hundred twenty-nine thousand (129,000) pounds. Such pilot project routes on nonstate and noninterstate highways shall be determined by the local highway agency for those roads under its jurisdiction. No local public highway agency shall approve a pilot project route which provides a thoroughfare for interstate carriers to pass through the state. State pilot project routes designated by the legislature and identified on a map entitled "Designated Pilot Project Routes" are:

(a) US-20 Montana border to ~~Kimberly to Twin Falls to Nevada--using US-20, US-30, SH-33, US-93, SH-25, SH-50 and SH-74~~ its junction with SH-33; SH-33 to its junction with US-20; US-20 to its junction with US-93; US-93 to its junction with SH-25; SH-25 to its junction with

SH-50; SH-50 to its junction with US-30; US-30 to its junction with SH-74; SH-74 to its junction with US-93; US-93 to the Nevada border.
(b) US-91 from its junction with SH-34 to the Utah border.
(c) US-30 from its junction with I-15 to the Wyoming border.
(d) US-95 south from milepost 66 (Fruitland) to its junction with SH-55.
(e) SH-19 ~~between~~ from its junction with US-95 (Wilder) ~~and~~ to its junction with I-84B (Caldwell).
(f) SH-78 ~~between~~ from its junction with SH-55 (Marsing) ~~and~~ to its junction with SH-51; SH-51 to its junction with SH-78; SH-78 to its junction with I-84B (Hammett).
(g) SH-67 from its junction with SH-51 (Mountain Home) to its junction with SH-78 ~~at~~ (Grandview).
(h) SH-55 from intersection with Farmway Road to junction with US-95.
(i) SH-25 from ~~the intersection of~~ its junction with SH-24 to its junction with SH-27 (Paul).
(j) SH-25 from ~~intersection with~~ its junction with US-93 to milepost 27 (Hazelton).
(k) SH-24 from intersection with US-93 to its intersection with SH-25.
(l) US-20 from its intersection with New Sweden Road to its junction with SH-22/33.
(m) SH-34 from milepost 78 to the junction with US-91.
(n) US-26 from its junction with US-91 north to its intersection with Gallatin/West 23rd Street in Idaho Falls.
(o) US-91 from the intersection with Canyon Road to the junction with US-26.
(p) SH-22 from its junction with I-15 northbound ramps (Dubois) to ~~the~~ its junction with SH-33.
(q) SH-45 from its junction with SH-78 to ~~intersection~~ its junction with I-84 business loop; I-84 business loop to ~~intersection~~ its junction with exit 35 (Nampa Boulevard/Northside Boulevard).
(r) SH-87 from Montana border to junction with US-20.
(s) SH-33 from its junction with SH-31 (Victor) to its junction with SH-33 spur; SH-33 spur to its junction with US-20.
(t) SH-28 from junction with SH-22 to junction with SH-33.
(u) SH-38 from milepost 0.689 to milepost 1.318 at Malad.
(v) SH-27 from its junction with SH-25 ~~at~~ (Paul) to its junction with I-84B (Burley); I-84B to its junction with SH-27; SH-27 to milepost 0 (Oakley).
(w) SH-81 from its junction with SH-77 (Malta) to its junction with US-30 ~~at~~ (Burley).
(x) US-30 from junction with SH-81 at Burley to junction with SH-50 at Kimberly.
(y) US-93 spur from junction with US-30 to junction with US-93 at Twin Falls.
(z) US-93 from junction with US-93 spur to junction with US-30 at Twin Falls.
(aa) US-30 from junction with SH-74 at Twin Falls to junction with I-84 business loop at Bliss.
(bb) US-26 from its junction with SH-75 ~~at~~ (Shoshone) to ~~eastbound exit of~~ its junction with I-84 ~~interchange no.~~ exit 141 ~~at~~ westbound ramps (Bliss); I-84 business loop from ~~eastbound exit of~~ its junc-

tion with I-84 exit 141 westbound ramps to its junction with US-30 at (Bliss).

(cc) SH-46 spur from its junction with SH-46 at (Wendell) to its junction with I-84 ~~interchange no.~~ exit 155 eastbound ramps.

(dd) SH-46 from its junction with US-20 to its junction with I-84 ~~interchange no.~~ exit 157 at eastbound ramps (Wendell.)

(ee) US-20 from junction with US-93 at Carey to junction with I-84 business loop at interchange 95; I-84 business loop from interchange 95 to junction with SH-51; SH-51 to junction with SH-67.

(ff) SH-51 from junction with SH-67 to junction with SH-78.

(gg) SH-44 from its junction with SH-55 at (Eagle) to its junction with I-84 ~~interchange no.~~ exit 25 eastbound ramps.

(hh) US-20/26 from its junction with US-95 at (Parma) to its junction with I-84 ~~interchange no.~~ exit 26 westbound ramps.

(ii) US-20 from junction with US-33 at Sugar City south to junction with US-20 business loop/Holmes Avenue; US-20 business loop/Holmes Avenue south to junction with US-26/Yellowstone; US-26 from intersection with US-20 business loop/Holmes Avenue south to Gallatin.

Additions or deletions to the approved state pilot project routes specified in this subsection (4) shall be made only with the approval of the state legislature.

(5) An annual administrative permit fee for operating on pilot project routes at the weights specified in subsection (4) of this section shall be set by the board for travel on state pilot project routes and by the local public highway agency for travel on routes under its jurisdiction, but not to exceed a maximum of fifty dollars ($50.00) per vehicle. The annual administrative permit fee shall cover administrative costs. Local public highway agencies are authorized to issue special pilot project permits and such permits shall be in writing. Administrative permit fees for permits issued by a local public highway agency shall be retained by the local public highway agency to cover administrative costs, and administrative permit fees for permits issued by the department shall be retained by the department to cover administrative costs. In addition to the annual administrative permit fee and the appropriate registration fee for weights up to one hundred five thousand five hundred (105,500) pounds, the appropriate vehicle registration fees for weights over one hundred five thousand five hundred (105,500) pounds shall be calculated and collected in accordance with the fee schedules set forth in section 49-432 or 49-434, Idaho Code.

Approved March 17, 2008.

CHAPTER 157
(S.B. No. 1403, As Amended)

AN ACT

RELATING TO PUBLIC CHARTER SCHOOLS; AMENDING SECTION 33-5205, IDAHO CODE, TO REQUIRE DOCUMENTATION OF DUE DILIGENCE UPON REFERRAL OF A CHARTER SCHOOL PETITION TO THE PUBLIC CHARTER SCHOOL COMMISSION BY A LOCAL BOARD OF TRUSTEES, TO PROVIDE A CODE REFERENCE, TO REQUIRE ATTENDANCE AT A PUBLIC CHARTER SCHOOL WORKSHOP OFFERED BY THE STATE DEPARTMENT OF EDUCATION, TO REQUIRE SUBMISSION OF PROOF OF ATTENDANCE AND TO PROVIDE DUTIES OF THE DEPARTMENT.

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

SECTION 1. That Section 33-5205, Idaho Code, be, and the same is hereby amended to read as follows:

33-5205. PETITION TO ESTABLISH PUBLIC CHARTER SCHOOL. (1) Any group of persons may petition to establish a new public charter school, or to convert an existing traditional public school to a public charter school.

(a) A petition to establish a new public charter school, including a public virtual charter school, shall be signed by not fewer than thirty (30) qualified electors of the attendance area designated in the petition. Proof of elector qualifications shall be provided with the petition.

(b) A petition to establish a new public virtual school must be submitted directly to the public charter school commission. A petition to establish a new public charter school, other than a new public virtual school, shall first be submitted to the local board of trustees in which the public charter school will be located. A petition shall be considered to be received by an authorized chartering entity as of the next scheduled meeting of the authorized chartering entity after submission of the petition.

(c) The board of trustees may either: (i) consider the petition and approve the charter; or (ii) consider the petition and deny the charter; or (iii) refer the petition to the public charter school commission, but such referral shall not be made until the local board has documented its due diligence in considering the petition. Such documentation shall be submitted with the petition to the public charter school commission. If the petitioners and the local board of trustees have not reached mutual agreement on the provisions of the charter, after a reasonable and good faith effort, within sixty (60) days from the date the charter petition is received, the petitioners may withdraw their petition from the local board of trustees and may submit their charter petition to the public charter school commission, provided it is signed by thirty (30) qualified electors as required by subsection (1)(a) of this section. Documentation of the reasonable and good faith effort between the petitioners and the local board of trustees must be submitted with the petition to the public charter school commission.

(d) The public charter school commission may either: (i) consider the petition and approve the charter; or (ii) consider the petition and deny the charter.

(e) A petition to convert an existing traditional public school shall be submitted to the board of trustees of the district in which the school is located for review and approval. The petition shall be signed by not fewer than sixty percent (60%) of the teachers currently employed by the school district at the school to be converted, and by one (1) or more parents or guardians of not fewer than sixty percent (60%) of the students currently attending the school to be converted. Each petition submitted to convert an existing school or to establish a new charter school shall contain a copy of the articles of incorporation and the bylaws of the nonprofit corporation, which shall be deemed incorporated into the petition.

(2) Not later than sixty (60) days after receiving a petition

signed by thirty (30) qualified electors as required by subsection (1)(a) of this section, the authorized chartering entity shall hold a public hearing for the purpose of discussing the provisions of the charter, at which time the authorized chartering entity shall consider the merits of the petition and the level of employee and parental support for the petition. In the case of a petition submitted to the public charter school commission, such public hearing must be not later than sixty (60) days after receipt of the petition, which may be extended to ninety (90) days if both parties agree to an extension, and the public hearing shall also include any oral or written comments that an authorized representative of the school district in which the proposed public charter school would be physically located may provide regarding the merits of the petition and any potential impacts on the school district. Following review of the petition and the public hearing, the authorized chartering entity shall either approve or deny the charter within sixty (60) days after the date of the public hearing, provided however, that the date may be extended by an additional sixty (60) days if the petition fails to contain all of the information required in this section, or if both parties agree to the extension. This public hearing shall be an opportunity for public participation and oral presentation by the public. This hearing is not a contested case hearing as described in chapter 52, title 67, Idaho Code.

(3) An authorized chartering entity may approve a charter under the provisions of this chapter only if it determines that the petition contains the requisite signatures, the information required by subsections (4) and (5) of this section, and additional statements describing all of the following:

(a) The proposed educational program of the public charter school, designed among other things, to identify what it means to be an "educated person" in the twenty-first century, and how learning best occurs. The goals identified in the program shall include how all educational thoroughness standards as defined in section 33-1612, Idaho Code, shall be fulfilled.

(b) The measurable student educational standards identified for use by the public charter school. "Student educational standards" for the purpose of this chapter means the extent to which all students of the public charter school demonstrate they have attained the skills and knowledge specified as goals in the school's educational program.

(c) The method by which student progress in meeting those student educational standards is to be measured.

(d) A provision by which students of the public charter school will be tested with the same standardized tests as other Idaho public school students.

(e) A provision which ensures that the public charter school shall be state accredited as provided by rule of the state board of education.

(f) The governance structure of the public charter school including, but not limited to, the person or entity who shall be legally accountable for the operation of the public charter school, and the process to be followed by the public charter school to ensure parental involvement.

(g) The qualifications to be met by individuals employed by the public charter school. Instructional staff shall be certified teachers as provided by rule of the state board of education.
(h) The procedures that the public charter school will follow to ensure the health and safety of students and staff.
(i) A plan for the requirements of section 33-205, Idaho Code, for the denial of school attendance to any student who is an habitual truant, as defined in section 33-206, Idaho Code, or who is incorrigible, or whose conduct, in the judgment of the board of directors of the public charter school, is such as to be continuously disruptive of school discipline, or of the instructional effectiveness of the school, or whose presence in a public charter school is detrimental to the health and safety of other pupils, or who has been expelled from another school district in this state or any other state.
(j) Admission procedures, including provision for overenrollment. Such admission procedures shall provide that the initial admission procedures for a new public charter school, including provision for overenrollment, will be determined by lottery or other random method, except as otherwise provided herein. If initial capacity is insufficient to enroll all pupils who submit a timely application, then the admission procedures may provide that preference shall be given in the following order: first, to children of founders, provided that this admission preference shall be limited to not more than ten percent (10%) of the capacity of the public charter school; second, to siblings of pupils already selected by the lottery or other random method; and third, an equitable selection process such as by lottery or other random method. If capacity is insufficient to enroll all pupils for subsequent school terms, who submit a timely application, then the admission procedures may provide that preference shall be given in the following order: first, to pupils returning to the public charter school in the second or any subsequent year of its operation; second, to children of founders, provided that this admission preference shall be limited to not more than ten percent (10%) of the capacity of the public charter school; third, to siblings of pupils already enrolled in the public charter school; and fourth, an equitable selection process such as by lottery or other random method. There shall be no carryover from year to year of the list maintained to fill vacancies. A new lottery shall be conducted each year to fill vacancies which become available.
(k) The manner in which an annual audit of the financial and programmatic operations of the public charter school is to be conducted.
(l) The disciplinary procedures that the public charter school will utilize, including the procedure by which students may be suspended, expelled and reenrolled, and the procedures required by section 33-210, Idaho Code.
(m) A provision which ensures that all staff members of the public charter school will be covered by the public employee retirement system, federal social security, unemployment insurance, worker's compensation insurance, and health insurance.
(n) The public school attendance alternative for students residing within the school district who choose not to attend the public charter school.

(o) A description of the transfer rights of any employee choosing to work in a public charter school that is approved by the board of trustees of a school district, and the rights of such employees to return to any noncharter school in the same school district after employment at such charter school.

(p) A provision which ensures that the staff of the public charter school shall be considered a separate unit for purposes of collective bargaining.

(q) The manner by which special education services will be provided to students with disabilities who are eligible pursuant to the federal individuals with disabilities education act, including disciplinary procedures for these students.

(r) A plan for working with parents who have students who are dually enrolled pursuant to section 33-203, Idaho Code.

(s) The process by which the citizens in the area of attendance shall be made aware of the enrollment opportunities of the public charter school.

(t) A proposal for transportation services as required by section 33-5208(4), Idaho Code.

(u) A plan for termination of the charter by the board of directors, to include:

(i) Identification of who is responsible for dissolution of the charter school;

(ii) A description of how payment to creditors will be handled;

(iii) A procedure for transferring all records of students with notice to parents of how to request a transfer of student records to a specific school; and

(iv) A plan for the disposal of the public charter school's assets.

(4) The petitioner shall provide information regarding the proposed operation and potential effects of the public charter school including, but not limited to, the facilities to be utilized by the public charter school, the manner in which administrative services of the public charter school are to be provided and the potential civil liability effects upon the public charter school and upon the authorized chartering entity.

(5) At least one (1) person among a group of petitioners of a prospective public charter school shall attend a public charter school workshop offered by the state department of education. The state department of education shall provide notice of dates and locations when workshops will be held, and shall provide proof of attendance to workshop attendees. Such proof shall be submitted by the petitioners to an authorized chartering entity along with the charter petition.

Approved March 17, 2008.

CHAPTER 158
(S.B. No. 1410)

AN ACT

RELATING TO THE PUBLIC SCHOOL FOUNDATION PROGRAM; AMENDING SECTION 33-1004A, IDAHO CODE, TO REVISE A REQUIREMENT USED IN DETERMINING THE EXPERIENCE FACTOR OF THE EXPERIENCE AND EDUCATION MULTIPLIER; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 33-1004A, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004A. EXPERIENCE AND EDUCATION MULTIPLIER. Each instructional and administrative staff position shall be assigned an appropriate multiplier based upon the following table:

EXPERIENCE AND EDUCATION

Years	BA	BA + 12	BA + 24	MA BA + 36	MA + 12 BA + 48	MA + 24 BA + 60	MA + 36 ES/DR
0	1.00000	1.03750	1.07640	1.11680	1.15870	1.20220	1.24730
1	1.03750	1.07640	1.11680	1.15870	1.20220	1.24730	1.29410
2	1.07640	1.11680	1.15870	1.20220	1.24730	1.29410	1.34260
3	1.11680	1.15870	1.20220	1.24730	1.29410	1.34260	1.39290
4	1.15870	1.20220	1.24730	1.29410	1.34260	1.39290	1.44510
5	1.20220	1.24730	1.29410	1.34260	1.39290	1.44510	1.49930
6	1.24730	1.29410	1.34260	1.39290	1.44510	1.49930	1.55550
7	1.29410	1.34260	1.39290	1.44510	1.49930	1.55550	1.61380
8	1.34260	1.39290	1.44510	1.49930	1.55550	1.61380	1.67430
9	1.39290	1.44510	1.49930	1.55550	1.61380	1.67430	1.73710
10	1.39290	1.49930	1.55550	1.61380	1.67430	1.73710	1.80220
11	1.39290	1.49930	1.55550	1.61380	1.73710	1.80220	1.86980
12	1.39290	1.49930	1.55550	1.61380	1.73710	1.86980	1.93990
13 or more	1.39290	1.49930	1.55550	1.61380	1.73710	1.86980	2.01260

In determining the experience factor, the actual years of teaching or administrative service in an ~~accredited~~ public school, in an accredited private or parochial school, or beginning in the 2005-06 school year and thereafter in an accredited college or university shall be credited.

In determining the education factor, only credits earned after initial certification, based upon a transcript on file with the teacher certification office of the state department of education, earned at an institution of higher education accredited by the state board of education or a regional accrediting association, shall be allowed. Instructional staff whose initial certificate is an occupational specialist certificate shall be treated as BA degree prepared instructional staff. Credits earned by such occupational specialist instructional staff after initial certification shall be credited toward the education factor.

In determining the statewide average multiplier for instructional staff, no multiplier in excess of 1.59092 shall be used. If the actual

statewide average multiplier for instructional staff, as determined by this section, exceeds 1.59092, then each school district's instructional staff multiplier shall be multiplied by the result of 1.59092 divided by the actual statewide average multiplier for instructional staff.

In determining the statewide average multiplier for administrative staff, no multiplier in excess of 1.86643 shall be used. If the actual statewide average multiplier for administrative staff, as determined by this section, exceeds 1.86643, then each school district's administrative staff multiplier shall be multiplied by the result of 1.86643 divided by the actual statewide average multiplier for administrative staff.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to July 1, 2007.

Approved March 17, 2008.

CHAPTER 159
(S.B. No. 1418)

AN ACT

RELATING TO WATER RIGHTS ADJUDICATIONS; AMENDING SECTION 42-1406B, IDAHO CODE, TO DELETE THE KOOTENAI RIVER BASIN FROM THE NORTHERN IDAHO WATER RIGHTS ADJUDICATION AND TO CLARIFY THAT THE CLARK FORK-PEND OREILLE RIVER BASINS DO NOT INCLUDE BASIN 98; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 42-1406B, Idaho Code, be, and the same is hereby amended to read as follows:

42-1406B. NORTHERN IDAHO WATER RIGHTS ADJUDICATIONS -- COMMENCEMENT. (1) Effective management of the waters of northern Idaho requires that a comprehensive determination of the nature, extent and priority of the rights of all users of surface and ground water be determined. Therefore, the director of the department of water resources shall petition the district court to commence adjudications within the terms of the McCarran amendment, 43 U.S.C. section 666, of the water rights from surface water and ground water sources in northern Idaho through initiation of three (3) proceedings. Separate petitions shall be filed for water rights adjudications for each of the following river basins, and related ground water sources whether or not hydraulically connected to a surface water source, within Idaho: the Coeur d'Alene-Spokane river basin, the Palouse river basin, and the ~~Kootenai and~~ Clark Fork-Pend Oreille river basins, which do not include basin 98. The filing of each petition shall be contingent on legislative funding approval. Each petition shall describe the boundaries of the water source or water sources to be adjudicated.

(2) The adjudication shall be brought in any district court in which any part of the water source is located or before a court of spe-

cial jurisdiction for water right adjudications. Unless otherwise ordered by the supreme court, special jurisdiction for the water rights general adjudications authorized by this section shall reside in the Snake River Basin Adjudication district court of the fifth judicial district of the state of Idaho, in and for the county of Twin Falls. The clerk of the district court in which the petition is filed shall send to the supreme court a true and certified copy of the petition. The supreme court, by order, shall assign the judge to preside over the general adjudication. Venue of the general adjudication shall be determined by order or rule of the supreme court and venue of hearings under the general adjudication shall be determined by order of the presiding judge.

(3) Upon issuance of an order by the district court which authorizes the director to commence an investigation and determination of the various water rights to be adjudicated from the water source or water sources, and which defines the boundaries of the source or sources within the state to be adjudicated, the director of the department of water resources shall proceed in the manner provided under the provisions of chapter 14, title 42, Idaho Code, to the extent not inconsistent with the provisions of this section.

SECTION 2. 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 17, 2008.

CHAPTER 160
(S.B. No. 1428)

AN ACT

RELATING TO FISCAL AFFAIRS OF SCHOOL DISTRICTS; AMENDING SECTION 33-701, IDAHO CODE, TO REVISE THE DATE ON WHICH AUDIT REPORTS ARE DUE, TO PROVIDE A PENALTY FOR NONCOMPLIANCE, TO PROVIDE FOR APPEAL TO THE STATE BOARD OF EDUCATION, TO REQUIRE SCHOOL DISTRICTS TO RESPOND TO THE STATE DEPARTMENT OF EDUCATION'S INQUIRIES REGARDING AN AUDIT REPORT WITHIN A TIME CERTAIN, TO PROVIDE A PENALTY FOR FAILURE TO RESPOND WITHIN THE TIME LIMIT SPECIFIED AND TO PROVIDE FOR APPEAL TO THE STATE BOARD OF EDUCATION.

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 investments permitted by sections 67-1210 and 67-1210A, Idaho Code, 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 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~~ November 10. If the audit report is not received by the state department of education by November 10, the department may withhold all or a portion of the district's November 15 distribution made pursuant to section 33-1009, Idaho Code, for noncompliance with the audit report deadline. Provided however, a district may appeal to the state board of education for reconsideration, in which case the state board of education may reinstate or adjust the funds withheld.

In the event the state department of education requests further explanation or additional information regarding a school district's audit report, such school district shall provide a full and complete response to the state department of education within thirty (30) days of receipt of the state department's request. If a school district fails to respond within the thirty (30) day time limit, the state department of education may withhold all or a portion of the district's next scheduled distribution to be made pursuant to section 33-1009, Idaho Code. Provided however, a district may appeal to the state board of education for reconsideration, in which case the state board of education may reinstate or adjust the funds withheld;

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 17, 2008.

CHAPTER 161
(S.B. No. 1429)

AN ACT

RELATING TO EDUCATION; REPEALING SECTION 33-3805A, IDAHO CODE, RELATING TO PROCEDURE PRIOR TO AUTHORIZATION.

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

SECTION 1. That Section 33-3805A, Idaho Code, be, and the same is hereby repealed.

Approved March 17, 2008.

CHAPTER 162
(S.B. No. 1439)

AN ACT

APPROPRIATING MONEYS TO THE PUBLIC UTILITIES COMMISSION FOR FISCAL YEAR 2009; 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 Public Utilities Commission the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2008, through June 30, 2009:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Public Utilities Commission Fund	$3,666,600	$1,451,600	$61,500	$5,179,700
Federal Grant Fund	52,500	19,400		71,900
TOTAL	$3,719,100	$1,471,000	$61,500	$5,251,600

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, 2008, through June 30, 2009, 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.

Approved March 17, 2008.

CHAPTER 163
(S.B. No. 1445)

AN ACT

APPROPRIATING MONEYS FOR THE COMMISSION ON AGING FOR FISCAL YEAR 2009; 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 Commission on Aging the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2008, through June 30, 2009:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
COMMISSION ON AGING:					
FROM:					
General Fund	$ 606,600	$ 63,400	$17,800	$ 4,808,400	$ 5,496,200
Federal Grant Fund	488,800	289,100		7,059,400	7,837,300
Miscellaneous Revenue Fund	50,000	85,000			135,000
TOTAL	$1,145,400	$437,500	$17,800	$11,867,800	$13,468,500

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Commission on Aging is authorized no more than fifteen and thirty-five hundredths (15.35) full-time equivalent positions at any point during the period July 1, 2008, through June 30, 2009, 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.

Approved March 17, 2008.

CHAPTER 164
(S.B. No. 1451)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE; AMENDING SECTION 1, CHAPTER 295, LAWS OF 2007, TO REVISE THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR SERVICES FOR THE DEVELOPMENTALLY DISABLED IN THE COMMUNITY DEVELOPMENTAL DISABILITIES SERVICES PROGRAM; AMENDING SECTION 3, CHAPTER 295, LAWS OF 2007, TO REVISE THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR SERVICES FOR THE DEVELOPMENTALLY DISABLED IN THE IDAHO STATE SCHOOL AND HOSPITAL PROGRAM; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 1, Chapter 295, Laws of 2007, 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 services for the developmentally disabled in the Community Developmental Disability Services Program 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	$ 4,779,400	~~$1,267,000~~ 483,800	$179,500	$2,745,700	$ ~~8,972,400~~ 8,188,400
Cooperative Welfare Fund (Federal)	4,623,700	1,919,200	108,500	1,300,500	7,951,900
Cooperative Welfare Fund (Dedicated)	760,800	46,300		879,800	1,686,900
TOTAL	$10,163,900	~~$3,233,300~~ 2,449,300	$288,000	$4,926,000	~~$18,611,200~~ 17,827,200

SECTION 2. That Section 3, Chapter 295, Laws of 2007, be, and the same is hereby amended to read as follows:

SECTION 3. There is hereby appropriated to the Department of Health and Welfare for services for the developmentally disabled in the Idaho State School and Hospital Program 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	$ 4,526,100	$ ~~574,000~~ 674,000	$293,500	$115,900	$ ~~5,509,500~~ 5,609,500
Medical Assistance Fund		3,500			3,500
Cooperative Welfare Fund (Federal)	14,450,300	2,891,200	22,100	225,200	17,588,800
Cooperative Welfare Fund (Dedicated)	667,500	$ ~~537,000~~ 437,800		10,600	~~$1,215,900~~ 1,115,900
TOTAL	$19,643,900	$4,006,500	$315,600	$351,700	$24,317,700

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 17, 2008.

CHAPTER 165
(S.B. No. 1452)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE; AMENDING SECTION 1, CHAPTER 302, LAWS OF 2007, TO REVISE THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR MENTAL HEALTH SERVICES IN THE CHILDREN'S MENTAL HEALTH PROGRAM; AMENDING SECTION 3, CHAPTER 302, LAWS OF 2007, TO REVISE THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR MENTAL HEALTH SERVICES IN THE COMMUNITY MENTAL HEALTH PROGRAM; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 1, Chapter 302, Laws of 2007, 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 mental health services in the Children's Mental Health Program 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	$2,367,900	$ ~~815,000~~ 1,185,300	$8,400	~~$5,254,600~~ 5,204,600	$ ~~8,445,900~~ 8,766,200
Cooperative Welfare Fund (Federal)	3,245,600	1,796,100	1,500	1,671,600	6,714,800
Cooperative Welfare Fund (Dedicated)				164,500	164,500
TOTAL	$5,613,500	~~$2,611,100~~ 2,981,400	$9,900	~~$7,090,700~~ 7,040,700	~~$15,325,200~~ 15,645,500

SECTION 2. That Section 3, Chapter 302, Laws of 2007, be, and the same is hereby intended to read as follows:

SECTION 3. There is hereby appropriated to the Department of Health and Welfare for mental health services in the Community Mental Health Services Program 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	$11,914,400	$1,800,100	$239,300	~~$4,131,600~~ 3,541,600	~~$18,085,400~~ 17,495,400
Cooperative Welfare Fund (Federal)	3,247,500	1,107,800	144,400	404,400	4,904,100
Drug Court, Mental Health Court & Family Court Services Fund	168,700	98,000			266,700
Cooperative Welfare Fund (Dedicated)	~~231,400~~ 690,000			650,000	~~881,400~~ 1,340,000
TOTAL	~~$15,562,000~~ 16,020,600	$3,005,900	$383,700	~~$5,106,000~~ 4,596,000	~~$24,137,600~~ 24,006,200

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 17, 2008.

CHAPTER 166
(S.B. No. 1454)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE; AMENDING SECTION 1, CHAPTER 294, LAWS OF 2007, TO REVISE THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR SUBSTANCE ABUSE TREATMENT IN THE SUBSTANCE ABUSE TREATMENT AND PREVENTION PROGRAM; AND DECLARING AN EMERGENCY.

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

SECTION 1. The Section 1, Chapter 294, Laws of 2007, 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 substance abuse services in the Substance Abuse Treatment and Prevention Program 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:					
Cooperative Welfare Fund (General)	$246,300	$ 430,300	$ 400	$ 7,649,600	$ 8,326,600
Prevention of Minors' Access to Tobacco Fund	24,700	46,800			71,500
Substance Abuse Treatment Fund	238,700	~~519,800~~ 741,100		1,593,900	~~2,352,400~~ 2,573,700
Cooperative Welfare Fund (Dedicated)	46,700	438,300			485,000
Liquor Control Fund				650,000	650,000
Cooperative Welfare Fund (Federal)	429,900	2,869,400	1,200	4,807,500	8,108,000
TOTAL	$986,300	~~$4,304,600~~ 4,525,900	$1,600	$14,701,000	~~$19,993,500~~ 20,214,800

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

Approved March 17, 2008.

CHAPTER 167
(S.B. No. 1456)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE; AMENDING SECTION 1, CHAPTER 235, LAWS OF 2007, TO REVISE THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR INDIRECT SUPPORT SERVICES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 1, Chapter 235, Laws of 2007, is hereby amended to read as follows:

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for Indirect Support Services 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	TOTAL
FROM:				
General Fund	$ ~~9,037,400~~ 9,616,600	$ ~~7,395,800~~ 7,195,800	$346,000	~~$16,779,200~~ 17,158,400
Cooperative Welfare Fund (Federal)	10,479,700	7,002,000	281,300	17,763,000
Cooperative Welfare Fund (Dedicated)	417,300	662,800		1,080,100
TOTAL	~~$19,934,400~~ 20,513,600	~~$15,060,600~~ 14,860,600	$627,300	~~$35,622,300~~ 36,001,500

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 17, 2008.

CHAPTER 168
(S.B. No. 1457)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE; AMENDING SECTION 1, CHAPTER 236, LAWS OF 2007, TO REVISE THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR PUBLIC HEALTH SERVICES IN THE PHYSICAL HEALTH SERVICES PROGRAM; AMENDING SECTION 3, CHAPTER 236, LAWS OF 2007, TO REVISE THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR PUBLIC HEALTH SERVICES IN THE EMERGENCY MEDICAL SERVICES PROGRAM; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 1, Chapter 236, Laws of 2007, is 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, 2007, through June 30, 2008:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Fund	~~$1,841,400~~	$ 4,617,900	$55,600	$ 1,287,700	~~$ 7,802,600~~
	1,462,200				7,423,400
Cancer Control Fund	50,100	~~153,200~~		~~198,400~~	401,700
		228,200		123,400	
Central Tumor Registry Fund				182,700	182,700
Food Safety Fund				638,000	638,000
Cooperative Welfare Fund (Federal)	5,211,000	7,631,200	38,700	39,635,100	52,516,000
Cooperative Welfare Fund (Dedicated)				~~8,369,000~~	~~10,612,200~~
	1,473,900	769,300		9,569,000	11,812,200
TOTAL	~~$8,576,400~~	~~$13,171,600~~	$94,300	~~$50,310,900~~	~~$72,153,200~~
	8,197,200	13,246,600		51,435,900	72,974,000

SECTION 2. That Section 3, Chapter 236, Laws of 2007, is hereby amended to read as follows:

SECTION 3. There is hereby appropriated to the Department of Health and Welfare for public health services in the Emergency Medical Services Program the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2007, through June 30, 2008:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General Fund	$ 246,800	$ 12,000	$ 64,300	$ 323,100
Emergency Medical Services Fund I & II	1,302,000	~~1,080,000~~	370,200	~~2,753,000~~
		993,400		2,665,600
Emergency Medical Services Fund III			1,400,000	1,400,000
Cooperative Welfare Fund (Dedicated)	~~179,500~~	~~33,500~~	150,000	~~363,000~~
	238,100	120,900		509,000
Cooperative Welfare Fund (Federal)	~~283,200~~			~~1,720,600~~
	224,600	1,075,100	362,300	1,662,000
TOTAL	$2,011,500	$2,201,400	$2,346,800	$6,559,700

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 17, 2008.

CHAPTER 169
(S.B. No. 1459)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF JUVENILE CORRECTIONS FOR FISCAL YEAR 2009; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Department of Juvenile Corrections the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2008, through June 30, 2009:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
General Fund	$ 2,108,600	$ 888,500	$ 12,000	$ 20,000	$ 3,029,100
Miscellaneous Revenue Fund	71,100	18,700	51,000		140,800
TOTAL	$ 2,179,700	$ 907,200	$ 63,000	$ 20,000	$ 3,169,900
II. COMMUNITY, OPERATIONS AND PROGRAM SERVICES:					
FROM:					
General Fund	$ 1,335,400	$ 209,500	$ 19,500	$ 4,654,500	$ 6,218,900
Juvenile Corrections - Cigarette/Tobacco Tax Fund				4,906,300	4,906,300
Juvenile Corrections Fund	96,300	89,200			185,500
Federal Grant Fund	148,000	244,600		2,000,000	2,392,600
Miscellaneous Revenue Fund		115,100	2,200	327,000	444,300
TOTAL	$ 1,579,700	$ 658,400	$ 21,700	$11,887,800	$14,147,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
III. INSTITUTIONS:					
FROM:					
General Fund	$18,547,200	$2,352,300	$129,400	$ 9,752,400	$30,781,300
Federal Grant Fund	179,200	113,700		1,080,400	1,373,300
State Juvenile Corrections Center Endowment Income Fund		753,600			753,600
Miscellaneous Revenue Fund		545,600		460,000	1,005,600
TOTAL	$18,726,400	$3,765,200	$129,400	$11,292,800	$33,913,800
GRAND TOTAL	$22,485,800	$5,330,800	$214,100	$23,200,600	$51,231,300

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Juvenile Corrections is authorized no more than four hundred six and twenty-five hundredths (406.25) full-time equivalent positions at any point during the period July 1, 2008, through June 30, 2009, 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.

Approved March 17, 2008.

CHAPTER 170
(H.B. No. 410, As Amended, As Amended in the Senate)

AN ACT

RELATING TO DENTISTS; AMENDING CHAPTER 9, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-936, IDAHO CODE, TO PROVIDE FOR THE CONTINUED OPERATION OF A DENTAL PRACTICE BY THE PERSONAL REPRESENTATIVE, EXECUTOR OR SURVIVING SPOUSE OR HEIR OF A DECEASED SOLE PROPRIETOR DENTIST.

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

SECTION 1. That Chapter 9, 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 54-936, Idaho Code, and to read as follows:

54-936. CONTINUED OPERATION OF DENTAL PRACTICE -- DEATH OF SOLE PROPRIETOR DENTIST. In the case of the death of a sole proprietor dentist, the provisions of this chapter shall not be construed as prohibiting the personal representative, executor, surviving spouse or surviving

heir of the dentist, upon notification to the state board of dentistry, from continuing to operate the dental practice of the deceased for a period of not more than six (6) months following death. An additional six (6) month period of operation shall be allowed upon approval of the board pursuant to rules as adopted by the board. This exception shall only apply where during such period of time there is a good faith effort being made to sell the dental practice and that all the decisions pertaining to the diagnosis, care and treatment of the patients are made by a dentist licensed and authorized to practice pursuant to the provisions of this chapter. For purposes of this section, "sole proprietor dentist" means a dentist who solely owns a dental practice, regardless of the type of legal entity under which it is operated.

Approved March 17, 2008.

CHAPTER 171
(H.B. No. 502)

AN ACT

RELATING TO PUBLIC CHARTER SCHOOLS; AMENDING SECTION 33-5205A, IDAHO CODE, TO PROVIDE FOR RELOCATION OF PUBLIC CHARTER SCHOOL FACILITIES TO ANOTHER SCHOOL DISTRICT IF THE APPROVED PRIMARY ATTENDANCE AREA OF THE PUBLIC CHARTER SCHOOL IS LOCATED WITHIN MORE THAN ONE SCHOOL DISTRICT AND TO MAKE TECHNICAL CHANGES.

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

SECTION 1. That Section 33-5205A, Idaho Code, be, and the same is hereby amended to read as follows:

33-5205A. TRANSFER OF CHARTER. (1) A charter for a public charter school approved by the board of trustees of a local school district may be transferred to, and placed under the chartering authority of, the public charter school commission if the board of trustees of such local school district, the public charter school commission, and the board of directors of the public charter school all agree to such transfer, including any revision to the charter that may be required in connection with such transfer. A charter for a public charter school approved by the public charter school commission may be transferred to, and placed under the chartering authority of, the board of trustees of the local school district in which the public charter school is located if the public charter school commission, the board of trustees of such local school district, and the board of directors of the public charter school all agree to such transfer, including any revisions to the charter that may be required in connection with such transfer. A request to transfer a charter may be initiated by the board of directors of a public charter school or by the authorized chartering entity with chartering authority over the charter of such public charter school.

(2) A public charter school, approved by the public charter school commission, which has a primary attendance area located within more than one (1) school district, may transfer the physical location of its public charter school within its primary attendance area to locate the

facilities within the boundaries of another school district within the approved primary attendance area if the public charter school commission, the board of trustees of each of the relevant school districts and the board of directors of the public charter school all approve of such transfer of facilities location, and if the public charter school commission approves any revisions to the charter that may be required in connection with such transfer.

(3) If all parties fail to reach agreement in regard to the request to transfer a charter, as required herein, then the matter may be appealed directly to the state board of education. With respect to such appeal, the state board of education shall substantially follow the procedure as provided in section 33-5207(5)(b), Idaho Code. A transferred charter school shall not be considered a new public charter school, and shall not be subject to the limitations of section 33-5203(2), Idaho Code.

Approved March 17, 2008.

CHAPTER 172
(H.B. No. 567)

AN ACT

RELATING TO THE SALES AND USE TAX; AMENDING SECTION 63-36220, IDAHO CODE, TO PROVIDE THAT THE IDAHO DIGITAL LEARNING ACADEMY IS AN EDUCATIONAL INSTITUTION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 63-36220, Idaho Code, be, and the same is hereby amended to read as follows:

63-36220. EXEMPT PRIVATE AND PUBLIC ORGANIZATIONS. (1) There are exempted from the taxes imposed by this chapter:

(a) Sales to or purchases by hospitals, health-related entities, educational institutions, forest protective associations and canal companies which are nonprofit organizations; and

(b) Donations to, sales to, and purchases by the Idaho Foodbank Warehouse, Inc.; and

(c) Donations to, sales to, and purchases by food banks or soup kitchens of food or other tangible personal property used by food banks or soup kitchens in the growing, storage, preparation or service of food, but not including motor vehicles or trailers; and

(d) Sales of clothes to, donations of clothes to, and purchases of clothes by nonsale clothiers; and

(e) Sales to or purchases by centers for independent living; and

(f) Sales to or purchases by the state of Idaho and its agencies and its political subdivisions; and

(g) Sales to or purchases by volunteer fire departments or licensed emergency medical service agencies; and

(h) Sales to or purchases by a qualifying senior citizen center; and

(i) Sales to or purchases by the Blind Services Foundation, Inc.; and

(j) Donations to, sales to or purchases by the Advocates for Survivors of Domestic Violence and Sexual Assault, Inc., a nonprofit corporation~~.~~; and

(k) Sales to or purchases by nonprofit organizations offering free dental clinic services to children~~.~~; and

(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, the Idaho digital learning academy established pursuant to chapter 55, 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.

Approved March 17, 2008.

CHAPTER 173
(H.B. No. 573)

AN ACT

APPROPRIATING MONEYS TO THE DIVISION OF VETERANS SERVICES WITHIN THE DEPARTMENT OF SELF-GOVERNING AGENCIES FOR FISCAL YEAR 2009; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; APPROPRIATING ADDITIONAL MONEYS TO THE DIVISION OF VETERANS SERVICES WITHIN THE DEPARTMENT OF SELF-GOVERNING AGENCIES FOR FISCAL YEAR 2008; REDUCING THE APPROPRIATION TO THE DIVISION OF VETERANS SERVICES WITHIN THE DEPARTMENT OF SELF-GOVERNING AGENCIES FOR FISCAL YEAR 2008; AND DECLARING AN EMERGENCY FOR SECTIONS 3 AND 4 OF THIS ACT.

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

SECTION 1. There is hereby appropriated to the Division of Veterans Services within the Department of Self-Governing Agencies the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2008, through June 30, 2009:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Fund	$ 1,643,600	$ 95,600		$64,600	$ 1,803,800
Miscellaneous Revenue Fund	10,589,500	3,674,700	$355,000		14,619,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Veterans Services					
Endowment Income Fund		442,500	14,500		457,000
Federal Grant Fund	5,119,300	13,286,200	215,500		18,621,000
TOTAL	$17,352,400	$17,499,000	$585,000	$64,600	$35,501,000

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Division of Veterans Services is authorized no more than three hundred seven and thirty hundredths (307.30) full-time equivalent positions at any point during the period July 1, 2008, through June 30, 2009, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. In addition to the appropriation made in Section 1, Chapter 267, Laws of 2007, there is hereby appropriated to the Division of Veterans Services within the Department of Self-Governing Agencies the following amounts to be expended according to the designated expense classes from the listed fund for the period July 1, 2007, through June 30, 2008:

FOR:	
Personnel Costs	$ 527,700
Operating Expenditures	1,157,700
Capital Outlay	147,600
TOTAL	$1,833,000
FROM:	
Federal Grant Fund	$1,833,000

SECTION 4. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made in Section 1, Chapter 267, Laws of 2007, to the Division of Veterans Services within the Department of Self-Governing Agencies is hereby reduced by the following amount according to the designated expense classes from the listed fund for the period July 1, 2007, through June 30, 2008:

FOR:	
Personnel Costs	$527,700
Operating Expenditures	370,100
TOTAL	$897,800
FROM:	
Miscellaneous Revenue Fund	$897,800

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, Sections 3 and 4 of this act shall be in full force and effect on and after passage and approval.

Approved March 17, 2008.

CHAPTER 174
(H.B. No. 574)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO STATE LOTTERY FOR FISCAL YEAR 2009; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND EXPRESSING LEGISLATIVE INTENT TO CLARIFY THE SCOPE OF THE APPROPRIATION.

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

SECTION 1. There is hereby appropriated to the Idaho State Lottery in the Department of Self-Governing Agencies the following amounts to be expended for administrative costs according to the designated expense classes from the listed fund for the period July 1, 2008, through June 30, 2009:

FOR:	
Personnel Costs	$ 2,842,500
Operating Expenditures	8,260,900
Capital Outlay	111,900
TOTAL	$11,215,300
FROM:	
State Lottery Fund	$11,215,300

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Idaho State Lottery is authorized no more than forty-seven (47) full-time equivalent positions at any point during the period July 1, 2008, through June 30, 2009, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. It is legislative intent that amounts necessary to pay prizes, retailer commissions, advertising and promotional costs shall be continuously appropriated to the Idaho State Lottery under the provisions of Section 67-7428, Idaho Code.

Approved March 17, 2008.

CHAPTER 175
(S.B. No. 1324, As Amended)

AN ACT

RELATING TO NONPROBATE TRANSFERS; AMENDING CHAPTER 6, TITLE 15, IDAHO CODE, BY THE ADDITION OF A NEW PART 4, CHAPTER 6, TITLE 15, IDAHO CODE, TO PROVIDE FOR COMMUNITY PROPERTY WITH RIGHT OF SURVIVORSHIP IN REAL PROPERTY AND TO PROVIDE FOR TERMINATION OF COMMUNITY PROPERTY WITH RIGHT OF SURVIVORSHIP IN REAL PROPERTY.

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

SECTION 1. That Chapter 6, Title 15, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW PART, to be known and designated as Part 4, Chapter 6, Title 15, Idaho Code, and to read as follows:

PART 4. COMMUNITY PROPERTY RIGHT OF SURVIVORSHIP

15-6-401. COMMUNITY PROPERTY WITH RIGHT OF SURVIVORSHIP IN REAL PROPERTY. Any estate in real property held by a husband and wife as community property with right of survivorship shall, upon the death of one (1) spouse, transfer and belong to the surviving spouse. An estate in community property with right of survivorship is created by a grant, transfer or devise to a husband and wife, when expressly declared in the grant, transfer or devise to be an estate in community property with right of survivorship. An estate in community property with right of survivorship may also be created by grant or transfer from a husband and wife, when holding title as community property or otherwise, to themselves or from either husband or wife to both husband and wife when expressly declared in the grant, transfer or devise to be an estate in community property with right of survivorship.

15-6-402. TERMINATION OF COMMUNITY PROPERTY WITH RIGHT OF SURVIVORSHIP IN REAL PROPERTY. (1) In the case of real property owned by a husband and wife as community property with right of survivorship pursuant to section 15-6-401, Idaho Code, the right of survivorship is extinguished on the recordation in the office of the recorder of the county or counties where the real property is located an affidavit entitled "affidavit terminating right of survivorship" executed by either spouse under oath which sets forth:

(a) A stated intent by the spouse to terminate the survivorship right;

(b) A description in the instrument by which the right of survivorship was created, including the date the instrument was recorded and the county recorder's book and page or instrument reference number; and

(c) The legal description of the real property affected by the affidavit.

The recordation shall not extinguish the community interest of either spouse.

(2) Divorce, or annulment of the marriage of, the husband and wife, unless otherwise ordered by the court in which the divorce is granted, severs the interests of the former spouses in property held by them at the time of the divorce or annulment as community property with the right of survivorship and transforms the interests of the former spouses into tenancies in common. A severance under this section does not affect any third party interest in property acquired for value and in good faith reliance on an apparent title by survivorship in the survivor of the former spouses unless a writing declaring the severance has been noted, registered, filed or recorded in records appropriate to the kind and location of the property that a person relied upon as evidence of ownership in the ordinary course of transactions involving that property.

Approved March 18, 2008.

CHAPTER 176
(S.B. No. 1350)

AN ACT

RELATING TO THE IDAHO UNIFORM LIMITED LIABILITY COMPANY ACT; AMENDING TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 6, TITLE 30, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROVIDE FOR KNOWLEDGE AND FOR NOTICE, TO PROVIDE FOR THE NATURE, PURPOSE AND DURATION OF LIMITED LIABILITY COMPANIES, TO PROVIDE FOR POWERS, TO PROVIDE FOR GOVERNING LAW, TO PROVIDE FOR SUPPLEMENTAL PRINCIPLES OF LAW, TO PROVIDE FOR NAMES, TO PROVIDE FOR RESERVATION OF NAMES, TO PROVIDE FOR SCOPE, FUNCTION AND LIMITATIONS OF OPERATING AGREEMENTS, TO PROVIDE FOR THE EFFECT OF OPERATING AGREEMENTS ON LIMITED LIABILITY COMPANIES AND PERSONS BECOMING MEMBERS, TO PROVIDE FOR A PREFORMATION AGREEMENT, TO PROVIDE FOR THE EFFECT OF OPERATING AGREEMENTS ON THIRD PARTIES AND TO RECORDS EFFECTIVE ON BEHALF OF LIMITED LIABILITY COMPANIES, TO PROVIDE FOR THE DESIGNATED OFFICE AND REGISTERED AGENT, TO PROVIDE FOR CHANGE OF DESIGNATED OFFICE, TO PROVIDE FOR FORMATION OF LIMITED LIABILITY COMPANIES AND FOR CERTIFICATE OF ORGANIZATION, TO PROVIDE FOR PROFESSIONAL COMPANIES, TO PROVIDE FOR AMENDMENT OR RESTATEMENT OF CERTIFICATES OF ORGANIZATION, TO PROVIDE FOR SIGNING OF RECORDS TO BE DELIVERED FOR FILING TO THE SECRETARY OF STATE, TO PROVIDE FOR SIGNING AND FILING PURSUANT TO JUDICIAL ORDER, TO PROVIDE FOR DELIVERY TO AND FILING OF RECORDS BY THE SECRETARY OF STATE AND FOR EFFECTIVE TIME AND DATE, TO PROVIDE FOR CORRECTING FILED RECORDS, TO PROVIDE FOR LIABILITY FOR INACCURATE INFORMATION IN FILED RECORDS, TO PROVIDE FOR CERTIFICATES OF EXISTENCE OR AUTHORIZATION, TO PROVIDE FOR ANNUAL REPORTS FOR THE SECRETARY OF STATE, TO PROVIDE FOR FILING, SERVICE AND COPYING FEES, TO PROVIDE FOR NO AGENCY POWER OF MEMBERS AS MEMBERS, TO PROVIDE FOR STATEMENTS OF AUTHORITY, TO PROVIDE FOR STATEMENTS OF DENIAL, TO PROVIDE FOR LIABILITY OF MEMBERS AND MANAGERS, TO PROVIDE FOR BECOMING A MEMBER, TO PROVIDE FOR FORMS OF CONTRIBUTION, TO PROVIDE FOR LIABILITY FOR CONTRIBUTIONS, TO PROVIDE FOR SHARING OF AND RIGHT TO DISTRIBUTIONS BEFORE DISSOLUTION, TO PROVIDE FOR LIMITATIONS ON DISTRIBUTIONS, TO PROVIDE FOR LIABILITY FOR IMPROPER DISTRIBUTIONS, TO PROVIDE FOR MANAGEMENT OF LIMITED LIABILITY COMPANIES, TO PROVIDE FOR INDEMNIFICATION AND INSURANCE, TO PROVIDE FOR STANDARDS OF CONDUCT FOR MEMBERS AND MANAGERS, TO PROVIDE FOR RIGHT OF MEMBERS, MANAGERS AND DISSOCIATED MEMBERS TO INFORMATION, TO PROVIDE FOR NATURE OF TRANSFERABLE INTEREST, TO PROVIDE FOR TRANSFER OF TRANSFERABLE INTEREST, TO PROVIDE FOR CHARGING ORDERS, TO PROVIDE FOR POWER OF PERSONAL REPRESENTATIVE OF DECEASED MEMBER, TO PROVIDE FOR MEMBER'S POWER TO DISSOCIATE AND FOR WRONGFUL DISSOCIATION, TO PROVIDE FOR EVENTS CAUSING DISSOCIATION, TO PROVIDE FOR EFFECT OF PERSON'S DISSOCIATION AS MEMBER, TO PROVIDE FOR EVENTS CAUSING DISSOLUTION, TO PROVIDE FOR WINDING UP, TO PROVIDE FOR KNOWN CLAIMS AGAINST DISSOLVED LIMITED LIABILITY COMPANIES, TO PROVIDE FOR OTHER CLAIMS AGAINST DISSOLVED LIMITED LIABILITY COMPANIES, TO PROVIDE GROUNDS FOR ADMINISTRATIVE DISSOLUTION AND FOR PROCEDURE AND EFFECT, TO PROVIDE FOR REINSTATEMENT FOLLOWING ADMINISTRATIVE DISSOLUTION, TO PROVIDE FOR APPEAL FROM REJECTION OF REINSTATEMENT, TO PROVIDE FOR DISTRIBUTION OF ASSETS IN WINDING UP LIMITED LIABILITY COMPA-

NIES' ACTIVITIES, TO PROVIDE GOVERNING LAW FOR FOREIGN LIMITED LIABILITY COMPANIES, TO PROVIDE APPLICATION FOR CERTIFICATE OF AUTHORITY FOR FOREIGN LIMITED LIABILITY COMPANIES, TO PROVIDE ACTIVITIES NOT CONSTITUTING TRANSACTING BUSINESS FOR FOREIGN LIMITED LIABILITY COMPANIES, TO PROVIDE FOR FILING CERTIFICATES OF AUTHORITY BY FOREIGN LIMITED LIABILITY COMPANIES, TO PROVIDE FOR NONCOMPLYING NAMES OF FOREIGN LIMITED LIABILITY COMPANIES, TO PROVIDE FOR REVOCATION OF CERTIFICATE OF AUTHORITY OF FOREIGN LIMITED LIABILITY COMPANIES, TO PROVIDE FOR CANCELLATION OF CERTIFICATE OF AUTHORITY OF FOREIGN LIMITED LIABILITY COMPANIES, TO PROVIDE FOR THE EFFECT OF FAILURE TO HAVE FOREIGN LIMITED LIABILITY CERTIFICATE OF AUTHORITY, TO PROVIDE FOR ACTION BY THE ATTORNEY GENERAL, TO PROVIDE FOR DIRECT ACTION BY MEMBERS, TO PROVIDE FOR DERIVATIVE ACTIONS, TO PROVIDE FOR PROPER PLAINTIFF, TO PROVIDE FOR PLEADING, TO PROVIDE FOR SPECIAL LITIGATION COMMITTEES, TO PROVIDE FOR PROCEEDS AND EXPENSES, TO PROVIDE FOR APPLICABILITY OF THE IDAHO ENTITY TRANSACTIONS ACT, TO PROVIDE FOR RESTRICTIONS ON APPROVAL OF MERGERS, CONVERSIONS AND DOMESTICATIONS, TO PROVIDE FOR UNIFORMITY OF APPLICATION AND CONSTRUCTION, TO PROVIDE FOR RELATION TO THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT, TO PROVIDE A SAVINGS CLAUSE, TO PROVIDE FOR THE APPLICATION TO EXISTING RELATIONSHIPS; AMENDING SECTION 30-1-401, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES; AMENDING SECTION 63-3004A, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES; AMENDING SECTION 63-3622, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES; REPEALING CHAPTER 6, TITLE 53, IDAHO CODE, RELATING TO THE IDAHO LIMITED LIABILITY COMPANY ACT; AND PROVIDING EFFECTIVE DATES.

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 6, Title 30, Idaho Code, and to read as follows:

CHAPTER 6
IDAHO UNIFORM LIMITED LIABILITY COMPANY ACT
PART 1.
GENERAL PROVISIONS

30-6-101. SHORT TITLE. This chapter may be cited as the "Idaho Uniform Limited Liability Company Act."

30-6-102. DEFINITIONS. In this chapter:

(1) "Allied professional services" means professional services which are so related in substance that they are frequently offered in conjunction with one another as parts of the same service package to the consumer.

(2) "Certificate of organization" means the certificate required by section 30-6-201, Idaho Code. The term includes the certificate as amended or restated.

(3) "Contribution" means any benefit provided by a person to a limited liability company:

(a) In order to become a member upon formation of the company and in accordance with an agreement between or among the persons that

have agreed to become the initial members of the company;

(b) In order to become a member after formation of the company and in accordance with an agreement between the person and the company; or

(c) In the person's capacity as a member and in accordance with the operating agreement or an agreement between the member and the company.

(4) "Debtor in bankruptcy" means a person that is the subject of:

(a) An order for relief under Title 11 of the United States Code or a successor statute of general application; or

(b) A comparable order under federal, state or foreign law governing insolvency.

(5) "Designated office" means:

(a) The office that a limited liability company is required to designate and maintain under section 30-6-113, Idaho Code; or

(b) The principal office of a foreign limited liability company.

(6) "Distribution," except as otherwise provided in section 30-6-405(7), Idaho Code, means a transfer of money or other property from a limited liability company to another person on account of a transferable interest.

(7) "Effective," with respect to a record required or permitted to be delivered to the secretary of state for filing under this chapter, means effective under section 30-6-205(3), Idaho Code.

(8) "Foreign limited liability company" means an unincorporated entity formed under the law of a jurisdiction other than this state and denominated by that law as a limited liability company.

(9) "Limited liability company," except in the phrase "foreign limited liability company," means an entity formed under this chapter.

(10) "Manager" means a person that under the operating agreement of a manager-managed limited liability company is responsible, alone or in concert with others, for performing the management functions stated in section 30-6-407(3), Idaho Code.

(11) "Manager-managed limited liability company" means a limited liability company that qualifies under section 30-6-407(1), Idaho Code.

(12) "Member" means a person that has become a member of a limited liability company under section 30-6-401, Idaho Code, and has not dissociated under section 30-6-602, Idaho Code.

(13) "Member-managed limited liability company" means a limited liability company that is not a manager-managed limited liability company.

(14) "Membership" or "membership interest" means, for purposes of a professional company formed under section 30-6-201A, Idaho Code, a member's transferable interest, together with the member's governance rights under part 4 of this chapter.

(15) "Operating agreement" means the agreement, whether or not referred to as an operating agreement and whether oral, in a record, implied, or in any combination thereof, of all the members of a limited liability company, including a sole member, concerning the matters described in section 30-6-110(1), Idaho Code. The term includes the agreement as amended or restated.

(16) "Organizer" means a person that acts under section 30-6-201, Idaho Code, to form a limited liability company.

(17) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivi-

sion, agency, or instrumentality, or any other legal or commercial entity.

(18) "Principal office" means the principal executive office of a limited liability company or foreign limited liability company, whether or not the office is located in this state.

(19) "Professional company" means a limited liability company organized under the provisions of this chapter for the sole and specific purpose of rendering professional services, allied professional services, and services ancillary to the professional services and which has as its members only: (a) natural persons who themselves are duly licensed or otherwise legally authorized to render one (1) or more of the same professional services as the professional company; and/or (b) professional corporations, partnerships or limited liability companies, all of whose shareholders, partners or members are duly licensed or otherwise legally authorized to render one (1) or more of the same professional services as the professional company.

(20) "Professional service" means any type of service to the public which can be rendered by a member of any profession within the purview of his profession. For the purpose of this chapter, the professions shall be held to include the practices of architecture, chiropractic, dentistry, engineering, landscape architecture, law, medicine, nursing, occupational therapy, optometry, physical therapy, podiatry, professional geology, psychology, certified or licensed public accountancy, social work, surveying and veterinary medicine, and no others.

(21) "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.

(22) "Registered agent" means an agent for service of process in this state in accordance with chapter 4, title 30, Idaho Code.

(23) "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.

(24) "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.

(25) "Transfer" includes an assignment, conveyance, deed, bill of sale, lease, mortgage, security interest, encumbrance, gift and transfer by operation of law.

(26) "Transferable interest" means the right, as originally associated with a person's capacity as a member, to receive distributions from a limited liability company in accordance with the operating agreement, whether or not the person remains a member or continues to own any part of the right.

(27) "Transferee" means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a member.

30-6-103. KNOWLEDGE -- NOTICE. (1) A person knows a fact when the person:

(a) Has actual knowledge of it; or

(b) Is deemed to know it under subsection (4)(a) of this section or law other than this chapter.

(2) A person has notice of a fact when the person:

(a) Has reason to know the fact from all of the facts known to the person at the time in question; or

(b) Is deemed to have notice of the fact under subsection (4)(b) of this section;

(3) A person notifies another of a fact by taking steps reasonably required to inform the other person in ordinary course, whether or not the other person knows the fact.

(4) A person that is not a member is deemed:

(a) To know of a limitation on authority to transfer real property as provided in section 30-6-302(7), Idaho Code; and

(b) To have notice of a limited liability company's:

(i) Dissolution, ninety (90) days after a statement of dissolution under section 30-6-702(2)(b)(i), Idaho Code, becomes effective;

(ii) Termination, ninety (90) days after a statement of termination under section 30-6-702(2)(b)(vi), Idaho Code, becomes effective; and

(iii) Merger, conversion or domestication, ninety (90) days after articles of merger, conversion or domestication under part 10 of this chapter become effective.

30-6-104. NATURE, PURPOSE AND DURATION OF LIMITED LIABILITY COMPANY. (1) A limited liability company is an entity distinct from its members.

(2) A limited liability company may have any lawful purpose.

(3) A limited liability company has perpetual duration.

(4) A limited liability company may have one (1) or more members.

30-6-105. POWERS. A limited liability company has the capacity to sue and be sued in its own name and the power to do all things necessary or convenient to carry on its activities including, in the case of a professional company formed under this chapter, the power to render professional services.

30-6-106. GOVERNING LAW. The law of this state governs:

(1) The internal affairs of a limited liability company; and

(2) The liability of a member as member and a manager as manager for the debts, obligations or other liabilities of a limited liability company.

30-6-107. SUPPLEMENTAL PRINCIPLES OF LAW. Unless displaced by particular provisions of this chapter, the principles of law and equity supplement this chapter.

30-6-108. NAME. (1) The name of a limited liability company must contain the words "limited liability company" or "limited company" or the abbreviation "L.L.C.," "LLC," "L.C.," or "LC." "Limited" may be abbreviated as "ltd." and "company" may be abbreviated as "co." If the limited liability company is a professional company, however, the name of the limited liability company must contain the words "Professional Company" or the abbreviations "P.L.L.C." or "PLLC."

(2) Unless authorized by subsection (3) of this section, the name of a limited liability company must be distinguishable on the records of

the secretary of state from:

(a) The name of each person that is not an individual and that is incorporated, organized or authorized to transact business in this state;

(b) The limited liability company name stated in each certificate of organization that contains the statement as provided in section 30-6-201(2)(c), Idaho Code, and that has not lapsed; and

(c) Each name reserved under section 30-6-109, Idaho Code, and sections 30-1-402 and 30-1-403, Idaho Code, sections 30-3-28 and 30-3-29, Idaho Code, and section 53-2-109, Idaho Code.

(3) A limited liability company may apply to the secretary of state for authorization to use a name that does not comply with subsection (2) of this section. The secretary of state shall authorize use of the name applied for if, as to each noncomplying name:

(a) The present user, registrant or owner of the noncomplying name consents in a signed record to the use and submits an undertaking in a form satisfactory to the secretary of state to change the noncomplying name to a name that complies with subsection (2) of this section and is distinguishable in the records of the secretary of state from the name applied for; or

(b) The applicant delivers to the secretary of state a certified copy of the final judgment of a court establishing the applicant's right to use in this state the name applied for.

(4) Subject to section 30-6-805, Idaho Code, this section applies to a foreign limited liability company transacting business in this state which has a certificate of authority to transact business in this state or which has applied for a certificate of authority.

30-6-109. RESERVATION OF NAME. (1) A person may reserve the exclusive use of the name of a limited liability company, including a fictitious or assumed name for a foreign limited liability company whose name is not available, by delivering an application to the secretary of state for filing. The application must state the name and address of the applicant and the name proposed to be reserved. If the secretary of state finds that the name applied for is available, it must be reserved for the applicant's exclusive use for a four (4) month period.

(2) The owner of a name reserved for a limited liability company may transfer the reservation to another person by delivering to the secretary of state for filing a signed notice of the transfer which states the name and address of the transferee.

30-6-110. OPERATING AGREEMENT -- SCOPE, FUNCTION AND LIMITATIONS. (1) Except as otherwise provided in subsections (2) and (3) of this section, the operating agreement governs:

(a) Relations among the members as members and between the members and the limited liability company;

(b) The rights and duties under this chapter of a person in the capacity of manager;

(c) The activities of the company and the conduct of those activities; and

(d) The means and conditions for amending the operating agreement.

(2) To the extent the operating agreement does not otherwise provide for a matter described in subsection (1) of this section, this chapter governs the matter.

(3) An operating agreement may not:
(a) Vary a limited liability company's capacity under section 30-6-105, Idaho Code, to sue and be sued in its own name;
(b) Vary the law applicable under section 30-6-106, Idaho Code;
(c) Vary the power of the court under section 30-6-204, Idaho Code;
(d) Subject to subsections (4) through (7) of this section, eliminate the duty of loyalty, the duty of care, or any other fiduciary duty;
(e) Subject to subsections (4) through (7) of this section, eliminate the contractual obligation of good faith and fair dealing under section 30-6-409(4), Idaho Code;
(f) Unreasonably restrict the duties and rights stated in section 30-6-410, Idaho Code;
(g) Vary the power of a court to decree dissolution in the circumstances specified in sections 30-6-701(1)(d) and (e), Idaho Code;
(h) Vary the requirement to wind up a limited liability company's business as specified in sections 30-6-702(1) and (2)(a), Idaho Code;
(i) Unreasonably restrict the right of a member to maintain an action under part 9 of this chapter;
(j) Restrict the right to approve a merger, conversion or domestication under chapter 18, title 30, Idaho Code, to a member that will have personal liability with respect to a surviving, converted or domesticated organization; or
(k) Except as otherwise provided in section 30-6-112(2), Idaho Code, restrict the rights under this chapter of a person other than a member or manager.
(4) If not manifestly unreasonable, the operating agreement may:
(a) Restrict or eliminate the duty:
(i) As required in sections 30-6-409(2)(a) and (7), Idaho Code, to account to the limited liability company and to hold as trustee for it any property, profit or benefit derived by the member in the conduct or winding up of the company's business, from a use by the member of the company's property, or from the appropriation of a limited liability company opportunity;
(ii) As required in sections 30-6-409(2)(b) and (7), Idaho Code, to refrain from dealing with the company in the conduct or winding up of the company's business as or on behalf of a party having an interest adverse to the company; and
(iii) As required by sections 30-6-409(2)(c) and (7), Idaho Code, to refrain from competing with the company in the conduct of the company's business before the dissolution of the company;
(b) Identify specific types or categories of activities that do not violate the duty of loyalty;
(c) Alter the duty of care, except to authorize intentional misconduct or knowing violation of law;
(d) Alter any other fiduciary duty, including eliminating particular aspects of that duty; and
(e) Prescribe the standards by which to measure the performance of the contractual obligation of good faith and fair dealing under section 30-6-409(4), Idaho Code.
(5) The operating agreement may specify the method by which a spe-

cific act or transaction that would otherwise violate the duty of loyalty may be authorized or ratified by one (1) or more disinterested and independent persons after full disclosure of all material facts.

(6) To the extent the operating agreement of a member-managed limited liability company expressly relieves a member of a responsibility that the member would otherwise have under this chapter and imposes the responsibility on one (1) or more other members, the operating agreement may, to the benefit of the member that the operating agreement relieves of the responsibility, also eliminate or limit any fiduciary duty that would have pertained to the responsibility.

(7) The operating agreement may alter or eliminate the indemnification for a member or manager provided by section 30-6-408(1), Idaho Code, and may eliminate or limit a member or manager's liability to the limited liability company and members for money damages, except for:

(a) Breach of the duty of loyalty;

(b) A financial benefit received by the member or manager to which the member or manager is not entitled;

(c) A breach of a duty under section 30-6-406, Idaho Code;

(d) Intentional infliction of harm on the company or a member; or

(e) An intentional violation of criminal law.

(8) The court shall decide any claim, under subsection (4)(a) of this section, that a term of an operating agreement is manifestly unreasonable. The court:

(a) Shall make its determination as of the time the challenged term became part of the operating agreement and by considering only circumstances existing at that time; and

(b) May invalidate the term only if, in light of the purposes and activities of the limited liability company, it is readily apparent that:

(i) The objective of the term is unreasonable; or

(ii) The term is an unreasonable means to achieve the provision's objective.

30-6-111. OPERATING AGREEMENT -- EFFECT ON LIMITED LIABILITY COMPANY AND PERSONS BECOMING MEMBERS -- PREFORMATION AGREEMENT. (1) A limited liability company is bound by and may enforce the operating agreement, whether or not the company has itself manifested assent to the operating agreement.

(2) A person that becomes a member of a limited liability company is deemed to assent to the operating agreement.

(3) Two (2) or more persons intending to become the initial members of a limited liability company may make an agreement providing that upon the formation of the company the agreement will become the operating agreement. One (1) person intending to become the initial member of a limited liability company may assent to terms providing that upon the formation of the company the terms will become the operating agreement.

30-6-112. OPERATING AGREEMENT -- EFFECT ON THIRD PARTIES AND RELATIONSHIP TO RECORDS EFFECTIVE ON BEHALF OF LIMITED LIABILITY COMPANY. (1) An operating agreement may specify that its amendment requires the approval of a person that is not a party to the operating agreement or the satisfaction of a condition. An amendment is ineffective if its adoption does not include the required approval or satisfy the specified condition.

(2) The obligations of a limited liability company and its members to a person in the person's capacity as a transferee or dissociated member are governed by the operating agreement. Subject only to any court order issued under section 30-6-503(2)(b), Idaho Code, to effectuate a charging order, an amendment to the operating agreement made after a person becomes a transferee or dissociated member is effective with regard to any debt, obligation or other liability of the limited liability company or its members to the person in the person's capacity as a transferee or dissociated member.

(3) If a record that has been delivered by a limited liability company to the secretary of state for filing and has become effective under this chapter contains a provision that would be ineffective under section 30-6-110(3), Idaho Code, if contained in the operating agreement, the provision is likewise ineffective in the record.

(4) Subject to subsection (3) of this section, if a record that has been delivered by a limited liability company to the secretary of state for filing and has become effective under this chapter conflicts with a provision of the operating agreement:

(a) The operating agreement prevails as to members, dissociated members, transferees and managers; and

(b) The record prevails as to other persons to the extent they reasonably rely on the record.

30-6-113. DESIGNATED OFFICE AND REGISTERED AGENT. (1) A limited liability company shall designate and continuously maintain in this state:

(a) An office, which need not be a place of its activity in this state; and

(b) A registered agent.

(2) A foreign limited liability company that has a certificate of authority under section 30-6-802, Idaho Code, shall designate and continuously maintain in this state a registered agent.

30-6-114. CHANGE OF DESIGNATED OFFICE. (1) A limited liability company or foreign limited liability company may change its designated office by delivering to the secretary of state for filing a statement of change containing:

(a) The name of the company;

(b) The street and mailing addresses of its current designated office; and

(c) If the current designated office is to be changed, the street and mailing addresses of the new designated office.

(2) Subject to section 30-6-205(3), Idaho Code, a statement of change is effective when filed by the secretary of state.

PART 2.
FORMATION -- CERTIFICATE OF ORGANIZATION AND OTHER FILINGS

30-6-201. FORMATION OF LIMITED LIABILITY COMPANY -- CERTIFICATE OF ORGANIZATION. (1) One (1) or more persons may act as organizers to form a limited liability company by signing and delivering to the secretary of state for filing a certificate of organization.

(2) A certificate of organization must state:

(a) The name of the limited liability company, which must comply with section 30-6-108, Idaho Code;

(b) The street and mailing addresses of the initial designated office and the information required by section 30-405(1), Idaho Code;

(c) The name and mailing address of at least one (1) member or manager of the limited liability company; and

(d) If the limited liability company is a professional company, a statement to that effect and the principal profession or professions for which members are duly licensed or otherwise legally authorized to render professional services.

(3) Subject to section 30-6-112(3), Idaho Code, a certificate of organization may also contain statements as to matters other than those required by subsection (2) of this section. However, a statement in a certificate of organization is not effective as a statement of authority as defined in section 30-6-302, Idaho Code. The secretary of state shall not accept operating agreements for filing.

(4) The following rules apply to the filing of a certificate of organization:

(a) A limited liability company is formed when the secretary of state has filed the certificate of organization, unless the certificate states a delayed effective date pursuant to section 30-6-205(3), Idaho Code.

(b) If the certificate states a delayed effective date, a limited liability company is not formed if, before the certificate takes effect, a statement of cancellation is signed and delivered to the secretary of state for filing and the secretary of state files the certificate of cancellation.

(c) Subject to any delayed effective date and except in a proceeding by this state to dissolve a limited liability company, the filing of the certificate of organization by the secretary of state is conclusive proof that the organizer satisfied all conditions to the formation of a limited liability company.

30-6-201A. PROFESSIONAL COMPANY. (1) Section 30-6-201, Idaho Code, shall not be deemed to authorize a professional company to render allied professional services where the laws pertaining to specific professions or the codes of ethics or professional responsibility of any of the professions involved in such a proposed professional company prohibit such a combination of professional services.

(2) No professional company may render professional services in this state except through its managers, members, employees and agents who are duly licensed or otherwise legally authorized to render such professional services within this state. The term "employee," as used in this section, does not include clerks, secretaries, bookkeepers, technicians and other assistants who are not usually and ordinarily considered by custom and practice to be rendering professional services to the public for which a license or other legal authorization is required.

(3) Nothing contained in this section shall be interpreted to abolish, repeal, modify, restrict or limit the law now in effect in this state applicable to the professional relationship and liabilities between the person furnishing the professional services and the person receiving such professional services or to the standards for professional conduct. Notwithstanding section 30-6-304(1), Idaho Code, any

manager, member, agent or employee of a professional company organized under this chapter shall remain personally and fully liable and accountable for any negligent or wrongful acts or misconduct committed by him, or by any person under his direct supervision and control, while rendering professional services on behalf of the professional company to the person for whom such professional services were being rendered. The professional company shall be liable up to the full value of its property for any negligent or wrongful acts or misconduct committed by any of its managers, members, agents or employees while they are engaged on behalf of the professional company in the rendering of professional services.

(4) The relationship of a person, whether as an individual, shareholder of a professional corporation, partner of a partnership or member of a professional company, to a professional company organized under the provisions of this chapter with which such person is associated, whether as manager, member or employee, shall in no way modify or diminish the jurisdiction over him of the governmental authority or state agency which licensed, certified or registered him for a particular profession.

(5) No professional company may offer membership to or accept as a member anyone other than an individual who is duly licensed or otherwise legally authorized to render the same specific professional services as those for which the company was organized or professional corporations, partnerships or limited liability companies, all of whose shareholders, partners or members are duly licensed or otherwise legally authorized to render the same specific professional services as those for which the professional company was organized. No member of a professional company shall enter into a voting trust agreement or any other type of agreement vesting another person with the authority to exercise the voting power of his membership.

(6) If any manager, member, agent or employee of a professional company who has been rendering professional services within this state accepts employment that, pursuant to existing law, places restrictions or limitations upon his continued rendering of such professional services, he shall cease to be a member in such professional company in accordance with the provisions of section 30-6-602(15), Idaho Code, and the remaining members of the professional company shall take such action as is required to terminate such membership.

(7) No member of a professional company may sell or transfer his membership in such professional company except to another individual, professional corporation, partnership or limited liability company eligible to be a member of such professional company and except pursuant to the provisions of section 30-6-502, Idaho Code.

(8) The provisions of this section shall not be considered as repealing, modifying or restricting the applicable provisions of law regulating the several professions except insofar as such laws conflict with this section.

30-6-202. AMENDMENT OR RESTATEMENT OF CERTIFICATE OF ORGANIZATION. (1) A certificate of organization may be amended or restated at any time.

(2) To amend its certificate of organization, a limited liability company must deliver to the secretary of state for filing an amendment stating:

(a) The name of the company;

(b) The date of filing of its certificate of organization; and

(c) The changes the amendment makes to the certificate as most recently amended or restated.

(3) To restate its certificate of organization, a limited liability company must deliver to the secretary of state for filing a restatement, designated as such in its heading, stating:

(a) In the heading or in an introductory paragraph, the company's present name and the date of the filing of the company's initial certificate of organization;

(b) If the company's name has been changed at any time since the company's formation, each of the company's former names; and

(c) The changes the restatement makes to the certificate as most recently amended or restated.

(4) Subject to sections 30-6-112(3) and 30-6-205(3), Idaho Code, an amendment to or restatement of a certificate of organization is effective when filed by the secretary of state.

(5) If a member of a member-managed limited liability company, or a manager of a manager-managed limited liability company, knows that any information in a filed certificate of organization was inaccurate when the certificate was filed or has become inaccurate owing to changed circumstances, the member or manager shall promptly:

(a) Cause the certificate to be amended; or

(b) If appropriate, deliver to the secretary of state for filing a statement of change under section 30-6-114, Idaho Code, or section 30-408, Idaho Code, or a statement of correction under section 30-6-206, Idaho Code.

30-6-203. SIGNING OF RECORDS TO BE DELIVERED FOR FILING TO SECRETARY OF STATE. (1) A record delivered to the secretary of state for filing pursuant to this chapter must be signed as follows:

(a) Except as otherwise provided in paragraphs (b) through (d) of this subsection, a record signed on behalf of a limited liability company must be signed by a person authorized by the company.

(b) A limited liability company's initial certificate of organization must be signed by at least one (1) person acting as an organizer.

(c) A record filed on behalf of a dissolved limited liability company that has no members must be signed by the person winding up the company's activities under section 30-6-702(3), Idaho Code, or a person appointed under section 30-6-702(4), Idaho Code, to wind up those activities.

(d) A statement of cancellation under section 30-6-201(4)(b), Idaho Code, must be signed by each organizer that signed the initial certificate of organization, but a personal representative of a deceased or incompetent organizer may sign in the place of the decedent or incompetent.

(e) A statement of denial by a person under section 30-6-303, Idaho Code, must be signed by that person.

(f) Any other record must be signed by the person on whose behalf the record is delivered to the secretary of state.

(2) Any record filed under this chapter may be signed by an agent.

(3) Any record filed under this chapter must be signed in a manner acceptable to the secretary of state.

30-6-204. SIGNING AND FILING PURSUANT TO JUDICIAL ORDER. (1) If a person required by this chapter to sign a record or deliver a record to the secretary of state for filing under this chapter does not do so, any other person that is aggrieved may petition the district court to order:

(a) The person to sign the record;

(b) The person to deliver the record to the secretary of state for filing; or

(c) The secretary of state to file the record unsigned.

(2) If a petitioner under subsection (1) of this section is not the limited liability company or foreign limited liability company to which the record pertains, the petitioner shall make the company a party to the action.

30-6-205. DELIVERY TO AND FILING OF RECORDS BY SECRETARY OF STATE -- EFFECTIVE TIME AND DATE. (1) A record authorized or required to be delivered to the secretary of state for filing under this chapter must be captioned to describe the record's purpose, be in a medium permitted by the secretary of state, and be delivered to the secretary of state. If the filing fees have been paid, unless the secretary of state determines that a record does not comply with the filing requirements of this chapter, the secretary of state shall file the record and:

(a) For a statement of denial under section 30-6-303, Idaho Code, send a copy of the filed statement and a receipt for the fees to the person on whose behalf the statement was delivered for filing and to the limited liability company; and

(b) For all other records, send a copy of the filed record and a receipt for the fees to the person on whose behalf the record was filed.

(2) Upon request and payment of the requisite fee, the secretary of state shall send to the requester a certified copy of a requested record.

(3) Except as otherwise provided in section 30-6-206, Idaho Code, a record delivered to the secretary of state for filing under this chapter may specify an effective time and a delayed effective date. Subject to sections 30-408, 30-6-201(4)(a) and 30-6-206, Idaho Code, a record filed by the secretary of state is effective:

(a) If the record does not specify either an effective time or a delayed effective date, on the date and at the time the record is filed as evidenced by the secretary of state's endorsement of the date and time on the record;

(b) If the record specifies an effective time but not a delayed effective date, on the date the record is filed at the time specified in the record;

(c) If the record specifies a delayed effective date but not an effective time, at 12:01 a.m. on the earlier of:

(i) The specified date; or

(ii) The ninetieth day after the record is filed; or

(d) If the record specifies an effective time and a delayed effective date, at the specified time on the earlier of:

(i) The specified date; or

(ii) The ninetieth day after the record is filed.

30-6-206. CORRECTING FILED RECORD. (1) A limited liability company or foreign limited liability company may deliver to the secretary of state for filing a statement of correction to correct a record previously delivered by the company to the secretary of state and filed by the secretary of state, if at the time of filing the record contained inaccurate information or was defectively signed.

(2) A statement of correction under subsection (1) of this section may not state a delayed effective date and must:

(a) Describe the record to be corrected, including its filing date, or attach a copy of the record as filed;

(b) Specify the inaccurate information and the reason it is inaccurate or the manner in which the signing was defective; and

(c) Correct the defective signature or inaccurate information.

(3) When filed by the secretary of state, a statement of correction under subsection (1) of this section is effective retroactively as of the effective date of the record the statement corrects, but the statement is effective when filed:

(a) For the purposes of section 30-6-103(4), Idaho Code; and

(b) As to persons that previously relied on the uncorrected record and would be adversely affected by the retroactive effect.

30-6-207. LIABILITY FOR INACCURATE INFORMATION IN FILED RECORD. (1) If a record delivered to the secretary of state for filing under this chapter and filed by the secretary of state contains inaccurate information, a person that suffers a loss by reliance on the information may recover damages for the loss from:

(a) A person that signed the record, or caused another to sign it on the person's behalf, and knew the information to be inaccurate at the time the record was signed; and

(b) Subject to subsection (2) of this section, a member of a member-managed limited liability company or the manager of a manager-managed limited liability company, if:

(i) The record was delivered for filing on behalf of the company; and

(ii) The member or manager had notice of the inaccuracy for a reasonably sufficient time before the information was relied upon so that, before the reliance, the member or manager reasonably could have:

1. Effected an amendment under section 30-6-202, Idaho Code;

2. Filed a petition under section 30-6-204, Idaho Code; or

3. Delivered to the secretary of state for filing a statement of change under section 30-6-114, Idaho Code, or section 30-408, Idaho Code, or a statement of correction under section 30-6-206, Idaho Code.

(2) To the extent that the operating agreement of a member-managed limited liability company expressly relieves a member of responsibility for maintaining the accuracy of information contained in records delivered on behalf of the company to the secretary of state for filing under this chapter and imposes that responsibility on one (1) or more other members, the liability stated in subsection (1)(b) of this section applies to those other members and not to the member that the operating agreement relieves of the responsibility.

(3) An individual who signs a record authorized or required to be filed under this chapter affirms under penalty of perjury that the information stated in the record is accurate.

30-6-208. CERTIFICATE OF EXISTENCE OR AUTHORIZATION. (1) The secretary of state, upon request and payment of the requisite fee, shall furnish to any person a certificate of existence for a limited liability company if the records filed in the office of the secretary of state show that the company has been formed under section 30-6-201, Idaho Code, and the secretary of state has not filed a statement of termination pertaining to the company. A certificate of existence must state:

(a) The company's name;

(b) That the company was duly formed under the laws of this state and the date of formation;

(c) Whether all fees due under this chapter or other law to the secretary of state have been paid;

(d) Whether the company's most recent annual report required by section 30-6-209, Idaho Code, has been filed by the secretary of state;

(e) Whether the secretary of state has administratively dissolved the company;

(f) Whether the company has delivered to the secretary of state for filing a statement of dissolution;

(g) That a statement of termination has not been filed by the secretary of state; and

(h) Other facts of record in the office of the secretary of state which are specified by the person requesting the certificate.

(2) The secretary of state, upon request and payment of the requisite fee, shall furnish to any person a certificate of authorization for a foreign limited liability company if the records filed in the office of the secretary of state show that the secretary of state has filed a certificate of authority, has not revoked the certificate of authority, and has not filed a notice of cancellation. A certificate of authorization must state:

(a) The company's name and any alternate name adopted under section 30-6-805(1), Idaho Code, for use in this state;

(b) That the company is authorized to transact business in this state;

(c) Whether all fees due under this chapter or other law to the secretary of state have been paid;

(d) Whether the company's most recent annual report required by section 30-6-209, Idaho Code, has been filed by the secretary of state;

(e) That the secretary of state has not revoked the company's certificate of authority and has not filed a notice of cancellation; and

(f) Other facts of record in the office of the secretary of state which are specified by the person requesting the certificate.

(3) Subject to any qualification stated in the certificate, a certificate of existence or certificate of authorization issued by the secretary of state is conclusive evidence that the limited liability company is in existence or the foreign limited liability company is authorized to transact business in this state.

30-6-209. ANNUAL REPORT FOR SECRETARY OF STATE. (1) Each year, a limited liability company or a foreign limited liability company authorized to transact business in this state shall deliver to the secretary of state for filing a report that states:

(a) The name of the company;

(b) The information required by section 30-405(1), Idaho Code;

(c) The street and mailing addresses of the company's designated office;

(d) The street and mailing addresses of its principal office;

(e) The name and mailing address of at least one (1) member or manager; and

(f) In the case of a foreign limited liability company, the state or other jurisdiction under whose law the company is formed and any alternate name adopted under section 30-6-805(1), Idaho Code.

(2) Information in an annual report under this section must be current as of the date the report is delivered to the secretary of state for filing.

(3) The annual report of a limited liability company or foreign limited liability company shall be delivered to the secretary of state each year before the end of the month during which a limited liability company was initially organized, or a foreign limited liability company was initially authorized to transact business. Beginning one (1) year after a limited liability company is organized or a foreign limited liability company is authorized to transact business, and each year thereafter, the annual report of the limited liability company must be received in the office of the secretary of state not later than the close of business on the final day of the applicable month. If the secretary of state finds that such report conforms to the requirements of this chapter, he shall file the same.

(4) If an annual report under this section does not contain the information required in subsection (1) of this section, the secretary of state shall promptly notify the reporting limited liability company or foreign limited liability company and return the report to it for correction. If the report is corrected to contain the information required in subsection (1) of this section and delivered to the secretary of state within thirty (30) days after the effective date of the notice, it is timely delivered.

(5) If an annual report under this section contains an address of a designated office or the name or address of a registered agent which differs from the information shown in the records of the secretary of state immediately before the annual report becomes effective, the differing information in the annual report is considered a statement of change under section 30-6-114, Idaho Code, or section 30-408, Idaho Code.

30-6-210. FILING, SERVICE AND COPYING FEES. (1) 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 a certificate.

(2) The secretary of state shall charge and collect the following fees when the documents described are delivered for filing:

(a) Certificate of organization $100.00
(b) Correction statement ..... $ 30.00
(c) Statement of cancellation ..... $ 30.00
(d) Statement of authority ..... $ 30.00
(e) Statement of denial ..... $ 30.00
(f) Amendment of certificate of organization ..... $ 30.00
(g) Restatement of certificate of organization ..... $ 30.00
(h) Statement of dissolution ..... no fee

PART 3.
RELATIONS OF MEMBERS AND MANAGERS
TO PERSONS DEALING WITH LIMITED LIABILITY COMPANY

30-6-301. NO AGENCY POWER OF MEMBER AS MEMBER. (1) A member is not an agent of a limited liability company solely by reason of being a member.

(2) A person's status as a member does not prevent or restrict law other than this chapter from imposing liability on a limited liability company because of the person's conduct.

30-6-302. STATEMENT OF AUTHORITY. (1) A limited liability company may deliver to the secretary of state for filing a statement of authority. The statement:

(a) Must include the name of the company and the street and mailing addresses of its designated office;

(b) With respect to any position that exists in or with respect to the company, may state the authority, or limitations on the authority, of all persons holding the position to:

(i) Execute an instrument transferring real property held in the name of the company; or

(ii) Enter into other transactions on behalf of, or otherwise act for or bind, the company; and

(c) May state the authority, or limitations on the authority, of a specific person to:

(i) Execute an instrument transferring real property held in the name of the company; or

(ii) Enter into other transactions on behalf of, or otherwise act for or bind, the company.

(2) To amend or cancel a statement of authority filed by the secretary of state under section 30-6-205(1), Idaho Code, a limited liability company must deliver to the secretary of state for filing an amendment or cancellation stating:

(a) The name of the company;

(b) The street and mailing addresses of the company's designated office;

(c) The caption of the statement being amended or canceled and the date the statement being affected became effective; and

(d) The contents of the amendment or a declaration that the statement being affected is canceled.

(3) A statement of authority affects only the power of a person to bind a limited liability company to persons that are not members.

(4) Subject to subsection (3) of this section and section 30-6-103(4), Idaho Code, and except as otherwise provided in subsections (6), (7) and (8) of this section, a limitation on the authority of a

person or a position contained in an effective statement of authority is not by itself evidence of knowledge or notice of the limitation by any person.

(5) Subject to subsection (3) of this section, a grant of authority not pertaining to transfers of real property and contained in an effective statement of authority is conclusive in favor of a person that gives value in reliance on the grant, except to the extent that when the person gives value:

(a) The person has knowledge to the contrary;

(b) The statement has been canceled or restrictively amended under subsection (2) of this section; or

(c) A limitation on the grant is contained in another statement of authority that became effective after the statement containing the grant became effective.

(6) Subject to subsection (3) of this section, an effective statement of authority that grants authority to transfer real property held in the name of the limited liability company and that is delivered by the limited liability company to the secretary of state for filing is conclusive in favor of a person that gives value in reliance on the grant without knowledge to the contrary, except to the extent that when the person gives value:

(a) The statement has been canceled or restrictively amended under subsection (2) of this section; or

(b) A limitation on the grant is contained in another statement of authority that became effective after the statement containing the grant became effective.

(7) Subject to subsection (3) of this section, if a statement containing a limitation on the authority to transfer real property held in the name of a limited liability company is filed with the secretary of state, all persons are deemed to know of the limitation.

(8) Subject to subsection (9) of this section, an effective statement of dissolution or termination is a cancellation of any filed statement of authority for the purposes of subsection (6) of this section and is a limitation on authority for the purposes of subsection (7) of this section.

(9) After a statement of dissolution becomes effective, a limited liability company may deliver to the secretary of state for filing a statement of authority that is designated as a postdissolution statement of authority. The statement operates as provided in subsections (6) and (7) of this section.

(10) Unless earlier canceled, an effective statement of authority is canceled by operation of law five (5) years after the date on which the statement, or its most recent amendment, becomes effective.

(11) An effective statement of denial operates as a restrictive amendment under this section.

30-6-303. STATEMENT OF DENIAL. A person named in a filed statement of authority granting that person authority may deliver to the secretary of state for filing a statement of denial that:

(1) Provides the name of the limited liability company and the caption of the statement of authority to which the statement of denial pertains; and

(2) Denies the grant of authority.

30-6-304. LIABILITY OF MEMBERS AND MANAGERS. (1) The debts, obligations or other liabilities of a limited liability company, whether arising in contract, tort or otherwise:

(a) Are solely the debts, obligations or other liabilities of the company; and

(b) Do not become the debts, obligations or other liabilities of a member or manager solely by reason of the member acting as a member or manager acting as a manager.

(2) The failure of a limited liability company to observe any particular formalities relating to the exercise of its powers or management of its activities is not a ground for imposing liability on the members or managers for the debts, obligations or other liabilities of the company.

PART 4.
RELATIONS OF MEMBERS TO EACH OTHER
AND TO LIMITED LIABILITY COMPANY

30-6-401. BECOMING A MEMBER. (1) If a limited liability company is to have only one (1) member upon formation, the person becomes a member as agreed by that person and the organizer of the company. That person and the organizer may be, but need not be, different persons. If different, the organizer acts on behalf of the initial member.

(2) If a limited liability company is to have more than one (1) member upon formation, those persons become members as agreed by the persons before the formation of the company. The organizer acts on behalf of the persons in forming the company and may be, but need not be, one (1) of the persons.

(3) After formation of a limited liability company, a person becomes a member:

(a) As provided in the operating agreement;

(b) As the result of a transaction effective under chapter 18, title 30, Idaho Code;

(c) With the consent of all the members; or

(d) If, within ninety (90) consecutive days after the company ceases to have any members:

(i) The last person to have been a member, or the legal representative of that person, designates a person to become a member; and

(ii) The designated person consents to become a member.

(4) A person may become a member without acquiring a transferable interest and without making or being obligated to make a contribution to the limited liability company.

30-6-402. FORM OF CONTRIBUTION. A contribution may consist of tangible or intangible property or other benefit to a limited liability company, including money, services performed, promissory notes, other agreements to contribute money or property, and contracts for services to be performed.

30-6-403. LIABILITY FOR CONTRIBUTIONS. (1) A person's obligation to make a contribution to a limited liability company is not excused by the person's death, disability, or other inability to perform personally. If a person does not make a required contribution, the person or the

person's estate is obligated to contribute money equal to the value of the part of the contribution which has not been made, at the option of the company.

(2) A creditor of a limited liability company which extends credit or otherwise acts in reliance on an obligation described in subsection (1) of this section may enforce the obligation.

30-6-404. SHARING OF AND RIGHT TO DISTRIBUTIONS BEFORE DISSOLUTION. (1) Any distributions made by a limited liability company before its dissolution and winding up must be in equal shares among members and dissociated members, except to the extent necessary to comply with any transfer effective under section 30-6-502, Idaho Code, and any charging order in effect under section 30-6-503, Idaho Code.

(2) A person has a right to a distribution before the dissolution and winding up of a limited liability company only if the company decides to make an interim distribution. A person's dissociation does not entitle the person to a distribution.

(3) A person does not have a right to demand or receive a distribution from a limited liability company in any form other than money. Except as otherwise provided in section 30-6-708(3), Idaho Code, a limited liability company may distribute an asset in kind if each part of the asset is fungible with each other part and each person receives a percentage of the asset equal in value to the person's share of distributions.

(4) If a member or transferee becomes entitled to receive a distribution, the member or transferee is entitled to all remedies available to a creditor of the limited liability company with respect to the distribution.

30-6-405. LIMITATIONS ON DISTRIBUTION. (1) A limited liability company may not make a distribution if after the distribution:

(a) The company would not be able to pay its debts as they become due in the ordinary course of the company's activities; or

(b) The company's total assets would be less than the sum of its total liabilities plus the amount that would be needed, if the company were to be dissolved, wound up and terminated at the time of the distribution, to satisfy the preferential rights upon dissolution, winding up and termination of members whose preferential rights are superior to those of persons receiving the distribution.

(2) A limited liability company may base a determination that a distribution is not prohibited under subsection (1) of this section on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable under the circumstances.

(3) Except as otherwise provided in subsection (6) of this section, the effect of a distribution under subsection (1) of this section is measured:

(a) In the case of a distribution by purchase, redemption or other acquisition of a transferable interest in the company, as of the date money or other property is transferred or debt incurred by the company; and

(b) In all other cases, as of the date:

(i) The distribution is authorized, if the payment occurs within one hundred twenty (120) days after that date; or

(ii) The payment is made, if the payment occurs more than one hundred twenty (120) days after the distribution is authorized.

(4) A limited liability company's indebtedness to a member incurred by reason of a distribution made in accordance with this section is at parity with the company's indebtedness to its general, unsecured creditors.

(5) A limited liability company's indebtedness, including indebtedness issued in connection with or as part of a distribution, is not a liability for purposes of subsection (1) of this section if the terms of the indebtedness provide that payment of principal and interest are made only to the extent that a distribution could be made to members under this section.

(6) If indebtedness is issued as a distribution, each payment of principal or interest on the indebtedness is treated as a distribution, the effect of which is measured on the date the payment is made.

(7) In subsection (1) of this section, "distribution" does not include amounts constituting reasonable compensation for present or past services or reasonable payments made in the ordinary course of business under a bona fide retirement plan or other benefits program.

30-6-406. LIABILITY FOR IMPROPER DISTRIBUTIONS. (1) Except as otherwise provided in subsection (2) of this section, if a member of a member-managed limited liability company or manager of a manager-managed limited liability company consents to a distribution made in violation of section 30-6-405, Idaho Code, and in consenting to the distribution fails to comply with section 30-6-409, Idaho Code, the member or manager is personally liable to the company for the amount of the distribution that exceeds the amount that could have been distributed without the violation of section 30-6-405, Idaho Code.

(2) To the extent the operating agreement of a member-managed limited liability company expressly relieves a member of the authority and responsibility to consent to distributions and imposes that authority and responsibility on one (1) or more other members, the liability stated in subsection (1) of this section applies to the other members and not the member that the operating agreement relieves of authority and responsibility.

(3) A person that receives a distribution knowing that the distribution to that person was made in violation of section 30-6-405, Idaho Code, is personally liable to the limited liability company but only to the extent that the distribution received by the person exceeded the amount that could have been properly paid under section 30-6-405, Idaho Code.

(4) A person against which an action is commenced because the person is liable under subsection (1) of this section may:

(a) Implead any other person that is subject to liability under subsection (1) of this section and seek to compel contribution from the person; and

(b) Implead any person that received a distribution in violation of subsection (3) of this section and seek to compel contribution from the person in the amount the person received in violation of subsection (3) of this section.

(5) An action under this section is barred if not commenced within two (2) years after the distribution.

30-6-407. MANAGEMENT OF LIMITED LIABILITY COMPANY. (1) A limited liability company is a member-managed limited liability company unless the operating agreement:

(a) Expressly provides that:

(i) The company is or will be "manager-managed";

(ii) The company is or will be "managed by managers"; or

(iii) Management of the company is or will be "vested in managers"; or

(b) Includes words of similar import.

(2) In a member-managed limited liability company, as among the members, the following rules apply:

(a) The management and conduct of the company are vested in the members.

(b) Each member has equal rights in the management and conduct of the company's activities.

(c) A difference arising among members as to a matter in the ordinary course of the activities of the company may be decided by a majority of the members.

(d) An act outside the ordinary course of the activities of the company may be undertaken only with the consent of all members.

(e) The operating agreement may be amended only with the consent of all members.

(3) In a manager-managed limited liability company, as among the members and the managers, the following rules apply:

(a) Except as otherwise expressly provided in this chapter, any matter relating to the activities of the company is decided exclusively by the managers.

(b) Each manager has equal rights in the management and conduct of the activities of the company.

(c) A difference arising among managers as to a matter in the ordinary course of the activities of the company may be decided by a majority of the managers.

(d) The consent of all members is required to:

(i) Sell, lease, exchange or otherwise dispose of all, or substantially all, of the company's property, with or without the good will, outside the ordinary course of the company's activities;

(ii) Approve a merger, conversion or domestication under part 10 of this chapter;

(iii) Undertake any other act outside the ordinary course of the company's activities; and

(iv) Amend the operating agreement.

(e) A manager may be chosen at any time by the consent of a majority of the members and remains a manager until a successor has been chosen, unless the manager at an earlier time resigns, is removed, or dies, or, in the case of a manager that is not an individual, terminates. A manager may be removed at any time by the consent of a majority of the members without notice or cause.

(f) A person need not be a member to be a manager, but the dissociation of a member that is also a manager removes the person as a manager. If a person that is both a manager and a member ceases to be a manager, that cessation does not by itself dissociate the person as a member.

(g) A person's ceasing to be a manager does not discharge any debt,

obligation or other liability to the limited liability company or members which the person incurred while a manager.

(4) An action requiring the consent of members under this chapter may be taken without a meeting, and a member may appoint a proxy or other agent to consent or otherwise act for the member by signing an appointing record, personally or by the member's agent.

(5) The dissolution of a limited liability company does not affect the applicability of this section. However, a person that wrongfully causes dissolution of the company loses the right to participate in management as a member and a manager.

(6) This chapter does not entitle a member to remuneration for services performed for a member-managed limited liability company, except for reasonable compensation for services rendered in winding up the activities of the company.

30-6-408. INDEMNIFICATION AND INSURANCE. (1) A limited liability company shall reimburse for any payment made and indemnify for any debt, obligation or other liability incurred by a member of a member-managed company or the manager of a manager-managed company in the course of the member's or manager's activities on behalf of the company, if, in making the payment or incurring the debt, obligation or other liability, the member or manager complied with the duties stated in sections 30-6-405 and 30-6-409, Idaho Code.

(2) A limited liability company may purchase and maintain insurance on behalf of a member or manager of the company against liability asserted against or incurred by the member or manager in that capacity or arising from that status even if, under section 30-6-110(7), Idaho Code, the operating agreement could not eliminate or limit the person's liability to the company for the conduct giving rise to the liability.

30-6-409. STANDARDS OF CONDUCT FOR MEMBERS AND MANAGERS. (1) A member of a member-managed limited liability company owes to the company and, subject to section 30-6-901(2), Idaho Code, the other members the fiduciary duties of loyalty and care stated in subsections (2) and (3) of this section.

(2) The duty of loyalty of a member in a member-managed limited liability company includes the duties:

(a) To account to the company and to hold as trustee for it any property, profit or benefit derived by the member:

(i) In the conduct or winding up of the company's activities;

(ii) From a use by the member of the company's property; or

(iii) From the appropriation of a limited liability company opportunity;

(b) To refrain from dealing with the company in the conduct or winding up of the company's activities as or on behalf of a person having an interest adverse to the company; and

(c) To refrain from competing with the company in the conduct of the company's activities before the dissolution of the company.

(3) Subject to the business judgment rule, the duty of care of a member of a member-managed limited liability company in the conduct and winding up of the company's activities is to act with the care that a person in a like position would reasonably exercise under similar circumstances and in a manner the member reasonably believes to be in the best interests of the company. In discharging this duty, a member may

rely in good faith upon opinions, reports, statements or other information provided by another person that the member reasonably believes is a competent and reliable source for the information.

(4) A member in a member-managed limited liability company or a manager-managed limited liability company shall discharge the duties under this chapter or under the operating agreement and exercise any rights consistently with the contractual obligation of good faith and fair dealing.

(5) It is a defense to a claim under subsection (2)(b) of this section and any comparable claim in equity or at common law that the transaction was fair to the limited liability company.

(6) All of the members of a member-managed limited liability company or a manager-managed limited liability company may authorize or ratify, after full disclosure of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty.

(7) In a manager-managed limited liability company, the following rules apply:

(a) Subsections (1), (2), (3) and (5) of this section apply to the manager or managers and not the members.

(b) The duty stated under subsection (2)(c) of this section continues until winding up is completed.

(c) Subsection (4) of this section applies to the members and managers.

(d) Subsection (6) of this section applies only to the members.

(e) A member does not have any fiduciary duty to the company or to any other member solely by reason of being a member.

30-6-410. RIGHT OF MEMBERS, MANAGERS AND DISSOCIATED MEMBERS TO INFORMATION. (1) In a member-managed limited liability company, the following rules apply:

(a) On reasonable notice, a member may inspect and copy during regular business hours, at a reasonable location specified by the company, any record maintained by the company regarding the company's activities, financial condition and other circumstances, to the extent the information is material to the member's rights and duties under the operating agreement or this chapter.

(b) The company shall furnish to each member:

(i) Without demand, any information concerning the company's activities, financial condition and other circumstances which the company knows and is material to the proper exercise of the member's rights and duties under the operating agreement or this chapter, except to the extent the company can establish that it reasonably believes the member already knows the information; and

(ii) On demand, any other information concerning the company's activities, financial condition and other circumstances, except to the extent the demand or information demanded is unreasonable or otherwise improper under the circumstances.

(c) The duty to furnish information under paragraph (b) of this subsection also applies to each member to the extent the member knows any of the information described in paragraph (b) of this subsection.

(2) In a manager-managed limited liability company, the following rules apply:

(a) The informational rights stated in subsection (1) of this section and the duty stated in subsection (1)(c) of this section apply to the managers and not the members.

(b) During regular business hours and at a reasonable location specified by the company, a member may obtain from the company and inspect and copy full information regarding the activities, financial condition and other circumstances of the company as is just and reasonable if:

(i) The member seeks the information for a purpose material to the member's interest as a member;

(ii) The member makes a demand in a record received by the company, describing with reasonable particularity the information sought and the purpose for seeking the information; and

(iii) The information sought is directly connected to the member's purpose.

(c) Within ten (10) days after receiving a demand pursuant to paragraph (b)(ii) of this subsection, the company shall in a record inform the member that made the demand:

(i) Of the information that the company will provide in response to the demand and when and where the company will provide the information; and

(ii) If the company declines to provide any demanded information, the company's reasons for declining.

(d) Whenever this chapter or an operating agreement provides for a member to give or withhold consent to a matter, before the consent is given or withheld, the company shall, without demand, provide the member with all information that is known to the company and is material to the member's decision.

(3) On ten (10) days' demand made in a record received by a limited liability company, a dissociated member may have access to information to which the person was entitled while a member if the information pertains to the period during which the person was a member, the person seeks the information in good faith, and the person satisfies the requirements imposed on a member by subsection (2)(b) of this section. The company shall respond to a demand made pursuant to this subsection in the manner provided in subsection (2)(c) of this section.

(4) A limited liability company may charge a person that makes a demand under this section the reasonable costs of copying, limited to the costs of labor and material.

(5) A member or dissociated member may exercise rights under this section through an agent or, in the case of an individual under legal disability, a legal representative. Any restriction or condition imposed by the operating agreement or under subsection (7) of this section applies both to the agent or legal representative and the member or dissociated member.

(6) The rights under this section do not extend to a person as transferee.

(7) In addition to any restriction or condition stated in its operating agreement, a limited liability company, as a matter within the ordinary course of its activities, may impose reasonable restrictions and conditions on access to and use of information to be furnished under this section, including designating information confidential and impos-

ing nondisclosure and safeguarding obligations on the recipient. In a dispute concerning the reasonableness of a restriction under this subsection, the company has the burden of proving reasonableness.

PART 5.
TRANSFERABLE INTERESTS AND RIGHTS
OF TRANSFEREES AND CREDITORS

30-6-501. NATURE OF TRANSFERABLE INTEREST. A transferable interest is personal property.

30-6-502. TRANSFER OF TRANSFERABLE INTEREST. (1) A transfer, in whole or in part, of a transferable interest:

(a) Is permissible, provided however, that the transfer of a transferable interest in a professional company is not permissible absent compliance with section 30-6-201A(7), Idaho Code;

(b) Does not by itself cause a member's dissociation or a dissolution and winding up of the limited liability company's activities; and

(c) Subject to section 30-6-504, Idaho Code, does not entitle the transferee to:

(i) Participate in the management or conduct of the company's activities; or

(ii) Except as otherwise provided in subsection (3) of this section, have access to records or other information concerning the company's activities.

(2) A transferee has the right to receive, in accordance with the transfer, distributions to which the transferor would otherwise be entitled.

(3) In a dissolution and winding up of a limited liability company, a transferee is entitled to an account of the company's transactions only from the date of dissolution.

(4) A transferable interest may be evidenced by a certificate of the interest issued by the limited liability company in a record, and, subject to this section, the interest represented by the certificate may be transferred by a transfer of the certificate.

(5) A limited liability company need not give effect to a transferee's rights under this section until the company has notice of the transfer.

(6) A transfer of a transferable interest in violation of a restriction on transfer contained in the operating agreement is ineffective as to a person having notice of the restriction at the time of transfer.

(7) Except as otherwise provided in section 30-6-602(4)(b), Idaho Code, when a member transfers a transferable interest, the transferor retains the rights of a member other than the interest in distributions transferred and retains all duties and obligations of a member.

(8) When a member transfers a transferable interest to a person that becomes a member with respect to the transferred interest, the transferee is liable for the member's obligations under sections 30-6-403 and 30-6-406(3), Idaho Code, known to the transferee when the transferee becomes a member.

30-6-503. CHARGING ORDER. (1) On application by a judgment creditor of a member or transferee, a court may enter a charging order against the transferable interest of the judgment debtor for the unsatisfied amount of the judgment. A charging order constitutes a lien on a judgment debtor's transferable interest and requires the limited liability company to pay over to the person to which the charging order was issued any distribution that would otherwise be paid to the judgment debtor.

(2) To the extent necessary to effectuate the collection of distributions pursuant to a charging order in effect under subsection (1) of this section, the court may:

(a) Appoint a receiver of the distributions subject to the charging order, with the power to make all inquiries the judgment debtor might have made; and

(b) Make all other orders necessary to give effect to the charging order.

(3) Upon a showing that distributions under a charging order will not pay the judgment debt within a reasonable time, the court may foreclose the lien and order the sale of the transferable interest. The purchaser at the foreclosure sale only obtains the transferable interest, does not thereby become a member, and is subject to section 30-6-502, Idaho Code.

(4) At any time before foreclosure under subsection (3) of this section, the member or transferee whose transferable interest is subject to a charging order under subsection (1) of this section may extinguish the charging order by satisfying the judgment and filing a certified copy of the satisfaction with the court that issued the charging order.

(5) At any time before foreclosure under subsection (3) of this section, a limited liability company or one (1) or more members whose transferable interests are not subject to the charging order may pay to the judgment creditor the full amount due under the judgment and thereby succeed to the rights of the judgment creditor, including the charging order.

(6) This chapter does not deprive any member or transferee of the benefit of any exemption laws applicable to the member's or transferee's transferable interest.

(7) This section provides the exclusive remedy by which a person seeking to enforce a judgment against a member or transferee may, in the capacity of judgment creditor, satisfy the judgment from the judgment debtor's transferable interest.

30-6-504. POWER OF PERSONAL REPRESENTATIVE OF DECEASED MEMBER. If a member dies, the deceased member's personal representative or other legal representative may exercise the rights of a transferee provided in section 30-6-502(3), Idaho Code, and, for the purposes of settling the estate, the rights of a current member under section 30-6-410, Idaho Code.

PART 6.
MEMBER'S DISSOCIATION

30-6-601. MEMBER'S POWER TO DISSOCIATE -- WRONGFUL DISSOCIATION. (1) A person has the power to dissociate as a member at any time, rightfully or wrongfully, by withdrawing as a member by express will under section 30-6-602(1), Idaho Code.

(2) A person's dissociation from a limited liability company is wrongful only if the dissociation:

(a) Is in breach of an express provision of the operating agreement; or

(b) Occurs before the termination of the company and:

(i) The person withdraws as a member by express will;

(ii) The person is expelled as a member by judicial order under section 30-6-602(5), Idaho Code;

(iii) The person is dissociated under section 30-6-602(7)(a), Idaho Code, by becoming a debtor in bankruptcy; or

(iv) In the case of a person that is not a trust other than a business trust, an estate or an individual, the person is expelled or otherwise dissociated as a member because it willfully dissolved or terminated.

(3) A person that wrongfully dissociates as a member is liable to the limited liability company and, subject to section 30-6-901, Idaho Code, to the other members for damages caused by the dissociation. The liability is in addition to any other debt, obligation or other liability of the member to the company or the other members.

30-6-602. EVENTS CAUSING DISSOCIATION. A person is dissociated as a member from a limited liability company when:

(1) The company has notice of the person's express will to withdraw as a member, but, if the person specified a withdrawal date later than the date the company had notice, on that later date;

(2) An event stated in the operating agreement as causing the person's dissociation occurs;

(3) The person is expelled as a member pursuant to the operating agreement;

(4) The person is expelled as a member by the unanimous consent of the other members if:

(a) It is unlawful to carry on the company's activities with the person as a member;

(b) There has been a transfer of all of the person's transferable interest in the company, other than:

(i) A transfer for security purposes; or

(ii) A charging order in effect under section 30-6-503, Idaho Code, which has not been foreclosed;

(c) The person is a corporation and, within ninety (90) days after the company notifies the person that it will be expelled as a member because the person has filed a certificate of dissolution or the equivalent, its charter has been revoked, or its right to conduct business has been suspended by the jurisdiction of its incorporation, the certificate of dissolution has not been revoked or its charter or right to conduct business has not been reinstated; or

(d) The person is a limited liability company or partnership that has been dissolved and whose business is being wound up;

(5) On application by the company, the person is expelled as a member by judicial order because the person:

(a) Has engaged, or is engaging, in wrongful conduct that has adversely and materially affected, or will adversely and materially affect, the company's activities;

(b) Has willfully or persistently committed, or is willfully and persistently committing, a material breach of the operating agree-

ment or the person's duties or obligations under section 30-6-409, Idaho Code; or

(c) Has engaged in, or is engaging, in conduct relating to the company's activities which makes it not reasonably practicable to carry on the activities with the person as a member;

(6) In the case of a person who is an individual:

(a) The person dies; or

(b) In a member-managed limited liability company:

(i) A guardian or general conservator for the person is appointed; or

(ii) There is a judicial order that the person has otherwise become incapable of performing the person's duties as a member under this chapter or the operating agreement;

(7) In a member-managed limited liability company, the person:

(a) Becomes a debtor in bankruptcy;

(b) Executes an assignment for the benefit of creditors; or

(c) Seeks, consents to or acquiesces in the appointment of a trustee, receiver or liquidator of the person or of all or substantially all of the person's property;

(8) In the case of a person that is a trust or is acting as a member by virtue of being a trustee of a trust, the trust's entire transferable interest in the company is distributed;

(9) In the case of a person that is an estate or is acting as a member by virtue of being a personal representative of an estate, the estate's entire transferable interest in the company is distributed;

(10) In the case of a member that is not an individual, partnership, limited liability company, corporation, trust or estate, the termination of the member;

(11) The company participates in a merger under chapter 18, title 30, Idaho Code, if:

(a) The company is not the surviving entity; or

(b) Otherwise as a result of the merger, the person ceases to be a member;

(12) The company participates in a conversion under chapter 18, title 30, Idaho Code;

(13) The company participates in a domestication under chapter 18, title 30, Idaho Code, if, as a result of the domestication, the person ceases to be a member;

(14) The company terminates; or

(15) In the case of a professional company, restrictions or limitations are placed upon a member's ability to continue to render professional services.

30-6-603. EFFECT OF PERSON'S DISSOCIATION AS MEMBER. (1) When a person is dissociated as a member of a limited liability company:

(a) The person's right to participate as a member in the management and conduct of the company's activities terminates;

(b) If the company is member-managed, the person's fiduciary duties as a member end with regard to matters arising and events occurring after the person's dissociation; and

(c) Subject to section 30-6-504, Idaho Code, and chapter 18, title 30, Idaho Code, any transferable interest owned by the person immediately before dissociation in the person's capacity as a member is owned by the person solely as a transferee.

(2) A person's dissociation as a member of a limited liability company does not of itself discharge the person from any debt, obligation or other liability to the company or the other members which the person incurred while a member.

PART 7.
DISSOLUTION AND WINDING UP

30-6-701. EVENTS CAUSING DISSOLUTION. (1) A limited liability company is dissolved, and its activities must be wound up, upon the occurrence of any of the following:

(a) An event or circumstance that the operating agreement states causes dissolution;

(b) The consent of all the members;

(c) The passage of ninety (90) consecutive days during which the company has no members;

(d) On application by a member, the entry by the district court of an order dissolving the company on the grounds that:

(i) The conduct of all or substantially all of the company's activities is unlawful; or

(ii) It is not reasonably practicable to carry on the company's activities in conformity with the certificate of organization and the operating agreement; or

(e) On application by a member, the entry by the district court of an order dissolving the company on the grounds that the managers or those members in control of the company:

(i) Have acted, are acting, or will act in a manner that is illegal or fraudulent; or

(ii) Have acted or are acting in a manner that is oppressive and was, is, or will be directly harmful to the applicant.

(2) In a proceeding brought under subsection (1)(e) of this section, the district court may order a remedy other than dissolution.

30-6-702. WINDING UP. (1) A dissolved limited liability company shall wind up its activities, and the company continues after dissolution only for the purpose of winding up.

(2) In winding up its activities, a limited liability company:

(a) Shall discharge the company's debts, obligations or other liabilities, settle and close the company's activities, and marshal and distribute the assets of the company; and

(b) May:

(i) Deliver to the secretary of state for filing a statement of dissolution stating the name of the company and that the company is dissolved;

(ii) Preserve the company activities and property as a going concern for a reasonable time;

(iii) Prosecute and defend actions and proceedings, whether civil, criminal or administrative;

(iv) Transfer the company's property;

(v) Settle disputes by mediation or arbitration;

(vi) Deliver to the secretary of state for filing a statement of termination stating the name of the company and that the company is terminated; and

(vii) Perform other acts necessary or appropriate to the winding up.

(3) If a dissolved limited liability company has no members, the legal representative of the last person to have been a member may wind up the activities of the company. If the person does so, the person has the powers of a sole manager under section 30-6-407(3), Idaho Code, and is deemed to be a manager for the purposes of section 30-6-304(1)(b), Idaho Code.

(4) If the legal representative under subsection (3) of this section declines or fails to wind up the company's activities, a person may be appointed to do so by the consent of transferees owning a majority of the right to receive distributions as transferees at the time the consent is to be effective. A person appointed under this subsection:

(a) Has the powers of a sole manager under section 30-6-407(3), Idaho Code, and is deemed to be a manager for the purposes of section 30-6-304(1)(b), Idaho Code; and

(b) Shall promptly deliver to the secretary of state for filing an amendment to the company's certificate of organization to:

(i) State that the company has no members;

(ii) State that the person has been appointed pursuant to this subsection to wind up the company; and

(iii) Provide the street and mailing addresses of the person.

(5) The district court may order judicial supervision of the winding up of a dissolved limited liability company, including the appointment of a person to wind up the company's activities:

(a) On application of a member, if the applicant establishes good cause;

(b) On the application of transferee, if:

(i) The company does not have any members;

(ii) The legal representative of the last person to have been a member declines or fails to wind up the company's activities; and

(iii) Within a reasonable time following the dissolution a person has not been appointed pursuant to subsection (3) of this section; or

(c) In connection with a proceeding under section 30-6-701(1)(d) or (e), Idaho Code.

30-6-703. KNOWN CLAIMS AGAINST DISSOLVED LIMITED LIABILITY COMPANY. (1) Except as otherwise provided in subsection (4) of this section, a dissolved limited liability company may give notice of a known claim under subsection (2) of this section, which has the effect as provided in subsection (3) of this section.

(2) A dissolved limited liability company may in a record notify its known claimants of the dissolution. The notice must:

(a) Specify the information required to be included in a claim;

(b) Provide a mailing address to which the claim is to be sent;

(c) State the deadline for receipt of the claim, which may not be less than one hundred twenty (120) days after the date the notice is received by the claimant; and

(d) State that the claim will be barred if not received by the deadline.

(3) A claim against a dissolved limited liability company is barred if the requirements of subsection (2) of this section are met and:

(a) The claim is not received by the specified deadline; or
(b) If the claim is timely received but rejected by the company:
(i) The company causes the claimant to receive a notice in a record stating that the claim is rejected and will be barred unless the claimant commences an action against the company to enforce the claim within ninety (90) days after the claimant receives the notice; and
(ii) The claimant does not commence the required action within the ninety (90) days.
(4) This section does not apply to a claim based on an event occurring after the effective date of dissolution or a liability that on that date is contingent.

30-6-704. OTHER CLAIMS AGAINST DISSOLVED LIMITED LIABILITY COMPANY. (1) A dissolved limited liability company may publish notice of its dissolution and request persons having claims against the company to present them in accordance with the notice.
(2) The notice authorized by subsection (1) of this section must:
(a) Be published at least once in a newspaper of general circulation in the county in this state in which the dissolved limited liability company's principal office is located or, if it has none in this state, in the county in which the company's designated office is or was last located;
(b) Describe the information required to be contained in a claim and provide a mailing address to which the claim is to be sent; and
(c) State that a claim against the company is barred unless an action to enforce the claim is commenced within five (5) years after publication of the notice.
(3) If a dissolved limited liability company publishes a notice in accordance with subsection (2) of this section, unless the claimant commences an action to enforce the claim against the company within five (5) years after the publication date of the notice, the claim of each of the following claimants is barred:
(a) A claimant that did not receive notice in a record under section 30-6-703, Idaho Code;
(b) A claimant whose claim was timely sent to the company but not acted on; and
(c) A claimant whose claim is contingent at, or based on an event occurring after, the effective date of dissolution.
(4) A claim not barred under this section may be enforced:
(a) Against a dissolved limited liability company, to the extent of its undistributed assets; and
(b) If assets of the company have been distributed after dissolution, against a member or transferee to the extent of that person's proportionate share of the claim or of the assets distributed to the member or transferee after dissolution, whichever is less, but a person's total liability for all claims under this paragraph does not exceed the total amount of assets distributed to the person after dissolution.

30-6-705. GROUNDS FOR ADMINISTRATIVE DISSOLUTION, PROCEDURE AND EFFECT. (1) The secretary of state may administratively dissolve a limited liability company if:
(a) The limited liability company does not deliver its annual

report to the secretary of state by the date on which it is due;

(b) The limited liability company is without a registered agent for sixty (60) days or more; or

(c) The secretary of state has credible information that the limited liability company has failed to notify the secretary of state within sixty (60) days after the occurrence that its registered agent has been changed or that its registered agent has resigned.

(2) If the secretary of state determines that one (1) or more grounds exist under this section for dissolving a limited liability company, the secretary of state shall give notice of the determination to the limited liability company by first class mail addressed to its mailing address as indicated on its most recent annual report or, if the limited liability company has not yet filed an annual report, to its registered agent.

(3) If the limited liability company does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within sixty (60) days after receipt of the notice of determination, the secretary of state shall administratively dissolve the limited liability company by noting the fact of dissolution and the effective date thereof in his records. The secretary of state shall give notice of the dissolution to the limited liability company by first class mail addressed to its mailing address as indicated on its most recent annual report or, if the limited liability company has not yet filed an annual report, to its registered agent.

(4) A limited liability company administratively dissolved continues its legal existence but may not carry on any business except that necessary to wind up and liquidate its business and affairs under sections 30-6-702 and 30-6-708, Idaho Code, and notify claimants under sections 30-6-703 and 30-6-704, Idaho Code.

(5) The administrative dissolution of a limited liability company does not terminate the authority of its registered agent.

30-6-706. REINSTATEMENT FOLLOWING ADMINISTRATIVE DISSOLUTION. (1) A limited liability company that has been administratively dissolved may apply to the secretary of state for reinstatement within ten (10) years after the effective date of dissolution. The application must be delivered to the secretary of state for filing and state:

(a) The name of the company and the effective date of its dissolution;

(b) That the grounds for dissolution have been eliminated; and

(c) That the company's name satisfies the requirements of section 30-6-108, Idaho Code.

(2) If the secretary of state determines that an application under subsection (1) of this section contains the required information and that the information is correct, the secretary of state shall prepare a certificate of reinstatement that states this determination, file the original of the certificate of reinstatement, and mail a copy to the limited liability company.

(3) When a reinstatement becomes effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the limited liability company may resume its activities as if the dissolution had not occurred.

30-6-707. APPEAL FROM REJECTION OF REINSTATEMENT. (1) If the secretary of state denies a limited liability company's application for reinstatement following administrative dissolution, the secretary of state shall mail the company a copy of the notice that reinstatement has been denied.

(2) Within thirty (30) days after mailing of a notice of denial of reinstatement under subsection (1) of this section, a limited liability company may appeal from the denial by petitioning the district court of Ada county to set aside the dissolution. The petition must be served on the secretary of state and contain a copy of the secretary of state's notice of dissolution, the company's application for reinstatement, and the secretary of state's notice of denial.

(3) The district court may, if grounds exist, order the secretary of state to reinstate a dissolved limited liability company or take other action the court considers appropriate.

30-6-708. DISTRIBUTION OF ASSETS IN WINDING UP LIMITED LIABILITY COMPANY'S ACTIVITIES. (1) In winding up its activities, a limited liability company must apply its assets to discharge its obligations to creditors, including members that are creditors.

(2) After a limited liability company complies with subsection (1) of this section, any surplus must be distributed in the following order, subject to any charging order in effect under section 30-6-503, Idaho Code:

(a) To each person owning a transferable interest that reflects contributions made by a member and not previously returned, an amount equal to the value of the unreturned contributions; and

(b) In equal shares among members and dissociated members, except to the extent necessary to comply with any transfer effective under section 30-6-502, Idaho Code.

(3) If a limited liability company does not have sufficient surplus to comply with subsection (2)(a) of this section, any surplus must be distributed among the owners of transferable interests in proportion to the value of their respective unreturned contributions.

(4) All distributions made under subsections (2) and (3) of this section must be paid in money.

PART 8.
FOREIGN LIMITED LIABILITY COMPANIES

30-6-801. GOVERNING LAW. (1) The law of the state or other jurisdiction under which a foreign limited liability company is formed governs:

(a) The internal affairs of the company; and

(b) The liability of a member as member and a manager as manager for the debts, obligations or other liabilities of the company; provided however, that a foreign professional company rendering services in this state shall be subject to the laws of this state and the code of ethics or professional responsibility which are applicable to the professions in which such professional company is rendering services in this state.

(2) A foreign limited liability company may not be denied a certificate of authority by reason of any difference between the law of the

jurisdiction under which the company is formed and the law of this state.

(3) A certificate of authority does not authorize a foreign limited liability company to engage in any business or exercise any power that a limited liability company may not engage in or exercise in this state.

30-6-802. APPLICATION FOR CERTIFICATE OF AUTHORITY. (1) A foreign limited liability company may apply for a certificate of authority to transact business in this state by delivering an application to the secretary of state for filing. The application must state:

(a) The name of the company and, if the name does not comply with section 30-6-108, Idaho Code, an alternate name adopted pursuant to section 30-6-805(1), Idaho Code;

(b) The name of the state or other jurisdiction under whose law the company is formed;

(c) The street and mailing addresses of the company's principal office and, if the law of the jurisdiction under which the company is formed requires the company to maintain an office in that jurisdiction, the street and mailing addresses of the required office;

(d) The information required by section 30-405(1), Idaho Code; and

(e) The name and mailing address of at least one (1) member or manager.

(2) A foreign limited liability company shall deliver with a completed application under subsection (1) of this section a certificate of existence or a record of similar import signed by the secretary of state or other official having custody of the company's publicly filed records in the state or other jurisdiction under whose law the company is formed.

30-6-803. ACTIVITIES NOT CONSTITUTING TRANSACTING BUSINESS. (1) Activities of a foreign limited liability company which do not constitute transacting business in this state within the meaning of this part include:

(a) Maintaining, defending or settling an action or proceeding;

(b) Carrying on any activity concerning its internal affairs, including holding meetings of its members or managers;

(c) Maintaining accounts in financial institutions;

(d) Maintaining offices or agencies for the transfer, exchange and registration of the company's own securities or maintaining trustees or depositories with respect to those securities;

(e) Selling through independent contractors;

(f) Soliciting or obtaining orders, whether by mail or electronic means or through employees or agents or otherwise, if the orders require acceptance outside this state before they become contracts;

(g) Creating or acquiring indebtedness, mortgages or security interests in real or personal property;

(h) Securing or collecting debts or enforcing mortgages or other security interests in property securing the debts and holding, protecting or maintaining property so acquired;

(i) Conducting an isolated transaction that is completed within thirty (30) days and is not in the course of similar transactions; and

(j) Transacting business in interstate commerce.

(2) For purposes of this part, the ownership in this state of income-producing real property or tangible personal property, other than property excluded under subsection (1) of this section, constitutes transacting business in this state.

(3) This section does not apply in determining the contacts or activities that may subject a foreign limited liability company to service of process, taxation or regulation under law of this state other than this chapter.

30-6-804. FILING OF CERTIFICATE OF AUTHORITY. Unless the secretary of state determines that an application for a certificate of authority does not comply with the filing requirements of this chapter, the secretary of state, upon payment of all filing fees, shall file the application of a foreign limited liability company, prepare, sign and file a certificate of authority to transact business in this state, and send a copy of the filed certificate, together with a receipt for the fees, to the company or its representative.

30-6-805. NONCOMPLYING NAME OF FOREIGN LIMITED LIABILITY COMPANY. (1) A foreign limited liability company whose name does not comply with section 30-6-108, Idaho Code, may not obtain a certificate of authority until it adopts, for the purpose of transacting business in this state, an alternate name that complies with section 30-6-108, Idaho Code. A foreign limited liability company that adopts an alternate name under this subsection and obtains a certificate of authority with the alternate name need not comply with chapter 5, title 53, Idaho Code. After obtaining a certificate of authority with an alternate name, a foreign limited liability company shall transact business in this state under the alternate name unless the company is authorized under chapter 5, title 53, Idaho Code, to transact business in this state under another name.

(2) If a foreign limited liability company authorized to transact business in this state changes its name to one that does not comply with section 30-6-108, Idaho Code, it may not thereafter transact business in this state until it complies with subsection (1) of this section and obtains an amended certificate of authority.

30-6-806. REVOCATION OF CERTIFICATE OF AUTHORITY. (1) A certificate of authority of a foreign limited liability company to transact business in this state may be revoked by the secretary of state in the manner provided in subsections (2) and (3) of this section, if the company does not:

(a) Deliver its annual report by the date on which it is due as required under section 30-6-209, Idaho Code;

(b) Appoint and maintain a registered agent; or

(c) Deliver for filing a statement of a change under section 30-408, Idaho Code, within thirty (30) days after a change has occurred in the name or address of the registered agent.

(2) To revoke a certificate of authority of a foreign limited liability company, the secretary of state must mail a notice of revocation to the company's registered agent, or if the company does not appoint and maintain a proper registered agent, to the company's designated office. The notice must state:

(a) The revocation's effective date, which must be at least sixty (60) days after the date the secretary of state mails the notice; and

(b) The grounds for revocation under subsection (1) of this section.

(3) The authority of a foreign limited liability company to transact business in this state ceases on the effective date of the notice of revocation unless before that date the company cures each ground for revocation stated in the notice mailed under subsection (2) of this section.

30-6-807. CANCELLATION OF CERTIFICATE OF AUTHORITY. To cancel its certificate of authority to transact business in this state, a foreign limited liability company must deliver to the secretary of state for filing a notice of cancellation stating the name of the company and that the company desires to cancel its certificate of authority. The certificate is canceled when the notice becomes effective.

30-6-808. EFFECT OF FAILURE TO HAVE CERTIFICATE OF AUTHORITY. (1) A foreign limited liability company transacting business in this state may not maintain an action or proceeding in this state unless it has a certificate of authority to transact business in this state.

(2) The failure of a foreign limited liability company to have a certificate of authority to transact business in this state does not impair the validity of a contract or act of the company or prevent the company from defending an action or proceeding in this state.

(3) A member or manager of a foreign limited liability company is not liable for the debts, obligations or other liabilities of the company solely because the company transacted business in this state without a certificate of authority.

30-6-809. ACTION BY ATTORNEY GENERAL. The attorney general may maintain an action to enjoin a foreign limited liability company from transacting business in this state in violation of this part.

PART 9.
ACTIONS BY MEMBERS

30-6-901. DIRECT ACTION BY MEMBER. (1) Subject to subsection (2) of this section, a member may maintain a direct action against another member, a manager or the limited liability company to enforce the member's rights and otherwise protect the member's interests, including rights and interests under the operating agreement or this chapter or arising independently of the membership relationship.

(2) A member maintaining a direct action under this section must plead and prove an actual or threatened injury that is not solely the result of an injury suffered or threatened to be suffered by the limited liability company.

30-6-902. DERIVATIVE ACTION. A member may maintain a derivative action to enforce a right of a limited liability company if:

(1) The member first makes a demand on the other members in a member-managed limited liability company, or the managers of a manager-managed limited liability company, requesting that they cause the com-

pany to bring an action to enforce the right, and the managers or other members do not bring the action within a reasonable time; or

(2) A demand under subsection (1) of this section would be futile.

30-6-903. PROPER PLAINTIFF. (1) Except as otherwise provided in subsection (2) of this section, a derivative action under section 30-6-902, Idaho Code, may be maintained only by a person that is a member at the time the action is commenced and remains a member while the action continues.

(2) If the sole plaintiff in a derivative action dies while the action is pending, the court may permit another member of the limited liability company to be substituted as plaintiff.

30-6-904. PLEADING. In a derivative action under section 30-6-902, Idaho Code, the complaint must state with particularity:

(1) The date and content of plaintiff's demand and the response to the demand by the managers or other members; or

(2) If a demand has not been made, the reasons a demand under section 30-6-902(1), Idaho Code, would be futile.

30-6-905. SPECIAL LITIGATION COMMITTEE. (1) If a limited liability company is named as or made a party in a derivative proceeding, the company may appoint a special litigation committee to investigate the claims asserted in the proceeding and determine whether pursuing the action is in the best interests of the company. If the company appoints a special litigation committee, on motion by the committee made in the name of the company, except for good cause shown, the district court shall stay discovery for the time reasonably necessary to permit the committee to make its investigation. This subsection does not prevent the court from enforcing a person's right to information under section 30-6-410, Idaho Code, or, for good cause shown, granting extraordinary relief in the form of a temporary restraining order or preliminary injunction.

(2) A special litigation committee may be composed of one (1) or more disinterested and independent individuals, who may be members.

(3) A special litigation committee may be appointed:

(a) In a member-managed limited liability company:

(i) By the consent of a majority of the members not named as defendants or plaintiffs in the proceeding; and

(ii) If all members are named as defendants or plaintiffs in the proceeding, by a majority of the members named as defendants; or

(b) In a manager-managed limited liability company:

(i) By a majority of the managers not named as defendants or plaintiffs in the proceeding; and

(ii) If all managers are named as defendants or plaintiffs in the proceeding, by a majority of the managers named as defendants.

(4) After appropriate investigation, a special litigation committee may determine that it is in the best interests of the limited liability company that the proceeding:

(a) Continue under the control of the plaintiff;

(b) Continue under the control of the committee;

(c) Be settled on terms approved by the committee; or

(d) Be dismissed.

(5) After making a determination under subsection (4) of this section, a special litigation committee shall file with the court a statement of its determination and its report supporting its determination, giving notice to the plaintiff. The district court shall determine whether the members of the committee were disinterested and independent and whether the committee conducted its investigation and made its recommendation in good faith, independently, and with reasonable care, with the committee having the burden of proof. If the district court finds that the members of the committee were disinterested and independent and that the committee acted in good faith, independently, and with reasonable care, the district court shall enforce the determination of the committee. Otherwise, the district court shall dissolve the stay of discovery entered under subsection (1) of this section and allow the action to proceed under the direction of the plaintiff.

30-6-906. PROCEEDS AND EXPENSES. (1) Except as otherwise provided in subsection (2) of this section:

(a) Any proceeds or other benefits of a derivative action under section 30-6-902, Idaho Code, whether by judgment, compromise or settlement, belong to the limited liability company and not to the plaintiff; and

(b) If the plaintiff receives any proceeds, the plaintiff shall remit them immediately to the company.

(2) If a derivative action under section 30-6-902, Idaho Code, is successful in whole or in part, the district court may award the plaintiff reasonable expenses, including reasonable attorney's fees and costs, from the recovery of the limited liability company.

PART 10.
MERGER, INTEREST EXCHANGE, CONVERSION AND DOMESTICATION

30-6-1001. APPLICABILITY OF IDAHO ENTITY TRANSACTIONS ACT. (1) Unless the limited liability company is excluded therefrom by section 30-18-110, Idaho Code, and except as provided in subsection (2) of this section, a merger, interest exchange, conversion or domestication, 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 30-6-1002, 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.

30-6-1002. RESTRICTIONS ON APPROVAL OF MERGERS, INTEREST EXCHANGES, CONVERSIONS AND DOMESTICATIONS. (1) If a member of a constituent, converting or domesticating limited liability company will have personal liability with respect to a surviving, converted or domesticated organization, approval or amendment of a plan of merger, interest exchange, conversion or domestication is ineffective without the consent of the member, unless:

(a) The company's operating agreement provides for approval of a merger, interest exchange, conversion or domestication with the consent of fewer than all the members; and

(b) The member has consented to the provision of the operating agreement.

(2) A member does not give the consent required by subsection (1) of this section merely by consenting to a provision of the operating agreement that permits the operating agreement to be amended with the consent of fewer than all the members.

PART 11.
MISCELLANEOUS PROVISIONS

30-6-1101. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

30-6-1102. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. To the extent this chapter modifies, limits and supersedes the federal electronic signatures in global and national commerce act, 15 U.S.C. section 7001 et seq., this chapter 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).

30-6-1103. SAVINGS CLAUSE. This chapter does not affect an action commenced, proceeding brought, or right accrued before this chapter takes effect.

30-6-1104. APPLICATION TO EXISTING RELATIONSHIPS. (1) Before July 1, 2010, this chapter governs only:

(a) A limited liability company formed on or after July 1, 2008; and

(b) Except as otherwise provided in subsection (3) of this section, a limited liability company formed before July 1, 2008, which elects, in the manner provided in its operating agreement or by law for amending the operating agreement, to be subject to this chapter.

(2) Except as otherwise provided in subsection (3) of this section, on and after July 1, 2010, this chapter governs all limited liability companies.

(3) For the purposes of applying this chapter to a limited liability company formed before July 1, 2008:

(a) The company's articles of organization are deemed to be the company's certificate of organization; and

(b) For the purposes of applying section 30-6-102(10), Idaho Code, and subject to section 30-6-112(4), Idaho Code, language in the company's articles of organization designating the company's management structure operates as if that language were in the operating agreement.

SECTION 2. That Section 30-1-401, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-401. CORPORATE NAME. (1) A corporate name:

(a) Must contain the word "corporation," "incorporated," "company," or "limited," or the abbreviation "corp.," "inc.," "co.," or "ltd.," or words or abbreviations of like import in another language; provided however, that if the word "company" or its abbreviation is

used it shall not be immediately preceded by the word "and" or by an abbreviation of or symbol representing the word "and";

(b) May not contain language falsely stating or implying government affiliation or stating or implying that the corporation is organized for a purpose other than that permitted by section 30-1-301, Idaho Code, and its articles of incorporation.

(2) Except as authorized by subsections (3) and (4) of this section, a corporate name must be distinguishable upon the records of the secretary of state from:

(a) The corporate name of a corporation incorporated or authorized to transact business in this state;

(b) A name reserved or registered under section 30-1-402 or 30-1-403, Idaho Code, or reserved under section 53-2-109, Idaho Code, or as reserved under section 30-6-109 or 53-603, Idaho Code, as appropriate pursuant to section 30-6-1104, Idaho Code;

(c) The fictitious name adopted by a foreign corporation authorized to transact business in this state because its real name is unavailable;

(d) The corporate name of a nonprofit corporation incorporated or authorized to transact business in this state; and

(e) The name of any limited partnership, limited liability partnership or limited liability company which is organized under the laws of this state or registered to do business in this state.

(3) A corporation may apply to the secretary of state for authorization to use a name that is not distinguishable on his records from one (1) or more of the names described in subsection (2) of this section. The secretary of state shall authorize use of the name applied for if:

(a) The other corporation, holder of a reserved or registered name, limited partnership, limited liability partnership or limited liability company consents to the use in writing and submits an undertaking in a form satisfactory to the secretary of state to change its name to a name that is distinguishable upon the records of the secretary of state from the name of the applying corporation; or

(b) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(4) A corporation may use the name, including the fictitious name, of another domestic or foreign corporation or limited liability company that is used in this state if the other corporation or limited liability company is organized or authorized to transact business in this state and the proposed user corporation:

(a) Has merged with the other corporation or limited liability company;

(b) Has been formed by reorganization of the other corporation or limited liability company; or

(c) Has acquired all or substantially all of the assets, including the name, of the other corporation or limited liability company.

(5) This chapter does not control the use of assumed business names, governed by "The Assumed Business Names Act of 1997," chapter 5, title 53, Idaho Code.

(6) Nothing in this section shall abrogate or limit the law as to unfair competition or unfair practice in the use of trade names, nor derogate from the common law, the principles of equity, or the statutes

of this state or of the United States with respect to the right to acquire and protect trade names.

(7) The assumption of a name in violation of this section shall not affect or vitiate the corporate existence, but the courts of this state, having equity jurisdiction, may, upon the application of the state, or of any person, unincorporated association, or corporation interested or affected, enjoin such corporation in violation from doing business under any name assumed in violation of this section.

SECTION 3. That Section 63-3006A, Idaho Code, be, and the same is hereby amended to read as follows:

63-3006A. LIMITED LIABILITY COMPANY -- CLASSIFICATION AND TAXATION. Notwithstanding the provisions of section 63-3006, Idaho Code, for the purposes of chapter 30, title 63, Idaho Code, a limited liability company as defined in subsection (5) or (6) of section 53-601, Idaho Code, or as defined in section 30-6-102, Idaho Code, as appropriate pursuant to section 30-6-1104, Idaho Code, shall be classified as a partnership, corporation, unincorporated association or otherwise pursuant to the provisions of the internal revenue code. A limited liability company that is classified as a partnership pursuant to the internal revenue code shall be treated as a partnership for purposes of chapter 30, title 63, Idaho Code. A limited liability company that is classified other than a partnership pursuant to the internal revenue code shall be treated for purposes of chapter 30, title 63, Idaho Code, in accordance with its classification.

SECTION 4. That Section 63-3622K, Idaho Code, be, and the same is hereby amended to read as follows:

63-3622K. OCCASIONAL SALES. (a) There are exempted from the taxes imposed by this chapter occasional sales of tangible personal property.

(b) As used in this section, the term "occasional sale" means:

(1) A sale of property not held or used by a person in the course of an activity for which he is required to hold a seller's permit, provided such sale is not one (1) of a series of sales sufficient in number or of such a nature as to constitute the seller a "retailer" under section 63-3610(c), Idaho Code. The definition of "occasional sales" provided in this subsection does not apply to use tax in regard to tangible personal property used to improve real property when such property is obtained, directly or indirectly, from a person in the business of making like or similar improvements to real property.

(2) Any transfer of all or substantially all of the property held or used by a person in a business requiring a seller's permit when, after such transfer, the real or ultimate ownership of such property is substantially similar to that which existed before such transfer. For the purpose of this section, stockholders, bondholders, partners, or other persons holding an interest in a corporation or other entity are regarded as having a "real or ultimate ownership" of the property of such corporation or other entity.

(3) A transfer of capital assets to or by a business when the transfer is accomplished through an adjustment of the beneficial interest of the business and the transferor has paid sales or use

taxes pursuant to section 63-3619 or 63-3621, Idaho Code, on the capital assets, incidental to:

(i) A division of joint venture, partnership, or limited liability company assets among the members or partners in exchange for a proportional reduction of the transferee's interest in the joint venture, partnership, or limited liability company. For the purposes of this section, the term "limited liability company" means a business organization as defined in chapter 6, title 53, Idaho Code, or as defined in section 30-6-102, Idaho Code, as appropriate pursuant to section 30-6-1104, Idaho Code;

(ii) The formation of a partnership, joint venture, or limited liability company by the transfer of assets to the partnership, joint venture, or limited liability company or transfers to a partnership, joint venture, or limited liability company in exchange for proportionate interests in the partnership, joint venture, or limited liability company;

(iii) The formation of a corporation by the owners of a business and the transfer of their business assets to the corporation in exchange for stock in proportion to assets contributed;

(iv) The transfer of assets of shareholders in the formation or dissolution of a corporation;

(v) The transfer of capital assets by a corporation to its stockholders in exchange for surrender of capital stock;

(vi) The transfer of assets from a parent corporation to a subsidiary corporation which is owned at least eighty percent (80%) by the parent corporation, which transfer is solely in exchange for stock or securities of the subsidiary corporation;

(vii) The transfer of assets from a subsidiary corporation which is owned at least eighty percent (80%) by the parent corporation to a parent corporation or another subsidiary which is owned at least eighty percent (80%) by the parent corporation, which transfer is solely in exchange for stock or securities of the parent corporation or the subsidiary which received the assets.

(4) The sale, lease or rental of a capital asset in substantially the same form as acquired by the transferor and on which the initial transferor has paid sales or use taxes pursuant to section 63-3619 or 63-3621, Idaho Code, when the owners of all of the outstanding stock, equity or interest of the transferor are the same as the transferee or are members of the same family within the second degree of consanguinity or affinity.

(5) The sale of substantially all of the operating assets of a business or of a separate division, branch, or identifiable segment to a buyer who continues operation of the business. For the purpose of this subsection, a "separate division, branch, or identifiable segment" shall be deemed to exist if, prior to its sale, the income and expense attributable to such "separate division, branch, or identifiable segment" could be separately ascertained from the books of accounts and records.

(6) Sales by persons who are not defined as "retailers" in section 63-3610, Idaho Code.

(7) Sales of animals by any 4-H club or FFA club held in conjunction with a fair or the western Idaho spring lamb sale.

(8) The sale or purchase of tangible personal property at home yard

sales; provided however, that no more than two (2) such home yard sales per individual calendar year shall be exempt.

(c) As used in this section, the term "occasional sale," when applied to the sale of a motor vehicle, means only:

(1) Sales of motor vehicles between members of a family related within the second degree of consanguinity, unless a sales or use tax was not imposed on the sale of that motor vehicle at the time of purchase, in which situation the sale is taxable.

(2) Sales of motor vehicles that fall within the scope of the transactions detailed in subsection (b)(2) through (b)(5) of this section.

(d) The exemption provided by subsection (b)(1), (b)(4), (b)(6) or (b)(8) of this section shall not apply to the sale, purchase or use of aircraft, as defined in section 21-201, Idaho Code, nor shall it apply to the sale, purchase or use of boats or vessels, as defined in section 67-7003, Idaho Code, nor shall it apply to the sale, purchase or use of snowmobiles, recreational vehicles or off-highway motorbikes, as defined in section 63-3622HH, Idaho Code.

SECTION 5. That Chapter 6, Title 53, Idaho Code, be, and the same is hereby repealed.

SECTION 6. Sections 1, 2, 3 and 4 of this act shall be in full force and effect on and after July 1, 2008. Section 5 of this act shall be in full force and effect on and after July 1, 2010.

Approved March 18, 2008.

CHAPTER 177
(S.B. No. 1380, As Amended)

AN ACT

RELATING TO PROTECTION OF CREDIT REPORTS; REPEALING SECTION 28-51-101, IDAHO CODE, RELATING TO DEFINITIONS AND SECTION 28-51-102, IDAHO CODE, RELATING TO A BLOCK OF INFORMATION APPEARING AS A RESULT OF A VIOLATION OF A CRIMINAL CODE PROVISION PROHIBITING MISAPPROPRIATION OF PERSONAL INFORMATION; AMENDING TITLE 28, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 52, TITLE 28, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROVIDE FOR A SECURITY FREEZE ON A CONSUMER'S CREDIT REPORT, TO PROVIDE FOR REMOVAL OF A SECURITY FREEZE AND FOR REQUIREMENTS AND TIMING, TO PROVIDE FOR EXCEPTIONS, TO PROVIDE FOR FEES FOR A SECURITY FREEZE, TO PROVIDE FOR CHANGES TO INFORMATION IN A CREDIT REPORT SUBJECT TO A SECURITY FREEZE, TO PROVIDE FOR PROTECTION OF PERSONAL INFORMATION AND TO PROVIDE ENFORCEMENT.

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

SECTION 1. That Sections 28-51-101 and 28-51-102, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Title 28, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 52, Title 28, Idaho Code, and to read as follows:

CHAPTER 52
CREDIT REPORT PROTECTION ACT

28-52-101. SHORT TITLE. This chapter shall be known and cited as the "Credit Report Protection Act."

28-52-102. DEFINITIONS. In this chapter:

(1) "Consumer" means a natural person.

(2) "Consumer reporting agency" means a person who, for fees, dues or on a cooperative basis, regularly engages in whole or in part in the practice of assembling or evaluating information concerning a consumer's credit or other information for the purpose of furnishing a credit report to another person.

(3) "Credit report" means a consumer report, as defined in 15 U.S.C. section 1681a, that is used or collected, in whole or in part, for the purpose of serving as a factor in establishing a consumer's eligibility for credit for personal, family or household purposes.

(4) "Personal information" means personally identifiable financial information provided by a consumer to another person, resulting from any transaction with the consumer or any service performed for the consumer or otherwise obtained by another person. Personal information does not include publicly available information, as that term is defined by regulations prescribed under 15 U.S.C. section 6804, or any list, description or other grouping of consumers, and publicly available information pertaining to consumers that is derived without using any nonpublic personal information. Notwithstanding the foregoing, "personal information" includes any list, description or other grouping of consumers, and publicly available information pertaining to the consumers, that is derived using any nonpublic personal information other than publicly available information.

(5) "Proper identification" has the same meaning as in 15 U.S.C. section 1681h(a)(1) and includes:

(a) The consumer's full name, including first, middle and last names and any suffix;

(b) Any name the consumer previously used;

(c) The consumer's current and recent full addresses, including street address, any apartment number, city, state and zip code;

(d) The consumer's social security number; and

(e) The consumer's date of birth.

(6) "Security freeze" means a prohibition, consistent with section 28-52-103, Idaho Code, on a consumer reporting agency's furnishing of a consumer's credit report to a third party intending to use the credit report to determine the consumer's eligibility for credit.

28-52-103. SECURITY FREEZE. (1) A consumer may place a security freeze on the consumer's credit report by:

(a) Making a request to a consumer reporting agency in writing by regular or certified mail at an address designated by the consumer reporting agency to receive the request;

(b) Providing proper identification; and

(c) Paying the fee required by the consumer reporting agency in accordance with section 28-52-106, Idaho Code.

(2) Upon receiving a request from a consumer under subsection (1) of this section, the consumer reporting agency shall:

(a) Place a security freeze on the consumer's credit report within three (3) business days after receiving the consumer's request; and

(b) Within five (5) business days after placing the security freeze, send a written confirmation of the security freeze to the consumer and provide the consumer with a unique personal identification number or password to be used by the consumer when providing authorizations for removal or temporary lifts of the security freeze under section 28-52-104, Idaho Code.

(3) If a security freeze is in place, a consumer reporting agency may not release a consumer's credit report, or information from the credit report, to a third party that intends to use the information to determine a consumer's eligibility for credit without prior authorization from the consumer.

(4) Notwithstanding subsection (3) of this section, a consumer reporting agency may communicate to a third party requesting a consumer's credit report that a security freeze is in effect on the consumer's credit report. If a third party requesting a consumer's credit report in connection with the consumer's application for credit is notified of the existence of a security freeze under this section, the third party may treat the consumer's application as incomplete.

(5) A consumer reporting agency shall require proper identification of the consumer requesting to place, remove or temporarily remove a security freeze.

(6) A consumer reporting agency shall develop a contact method to receive and process a consumer's request to permanently remove or temporarily lift a security freeze. The contact method may include: a postal address; an electronic contact method chosen by the consumer reporting agency, which may include the use of fax, internet or other electronic means; or the use of telephone in a manner that is consistent with any federal requirements placed on the consumer reporting agency. By no later than September 1, 2008, a consumer reporting agency shall develop a secure electronic means for a consumer to request the temporary lift of a security freeze.

(7) A security freeze placed under this section may be removed only in accordance with section 28-52-104, Idaho Code.

28-52-104. REMOVAL OF SECURITY FREEZE -- REQUIREMENTS AND TIMING. (1) A consumer reporting agency may remove a security freeze from a consumer's credit report only if the consumer reporting agency receives the consumer's request through a contact method established and required in accordance with subsection (6) of section 28-52-103, Idaho Code, and the consumer reporting agency receives the consumer's proper identification and other information sufficient to identify the consumer, including the consumer's personal identification number or password; or the consumer makes a material misrepresentation of fact in connection with the placement of the security freeze and the consumer reporting agency notifies the consumer in writing before removing the security freeze.

(2) A consumer reporting agency shall temporarily lift a security freeze upon receipt of the consumer's request through the contact method established by the consumer reporting agency in accordance with subsection (6) of section 28-52-103, Idaho Code, along with:

(a) The consumer's proper identification and other information sufficient to identify the consumer;

(b) The consumer's personal identification number or password;

(c) The proper information regarding the third party who is to receive the credit report or the time period for which the credit report is to be available to users of the credit report; and

(d) A fee, if applicable.

(3) A consumer reporting agency shall remove or temporarily lift a security freeze from a consumer's credit report as follows:

(a) Except as provided in paragraph (b) of this subsection regarding temporary lifts, within three (3) business days after the business day on which the consumer's written request to remove or temporarily lift the security freeze is received by the consumer reporting agency using a contact method chosen by the consumer reporting agency in accordance with subsection (6) of section 28-52-103, Idaho Code; and

(b) On and after September 1, 2008, within fifteen (15) minutes after the consumer's request to temporarily lift the security freeze is received by the consumer reporting agency through the electronic contact method chosen by the consumer reporting agency in accordance with subsection (6) of section 28-52-103, Idaho Code, if such request is received between 6:00 a.m. and 9:30 p.m. mountain time.

(4) A consumer reporting agency need not remove or temporarily lift a security freeze within the time specified in subsection (3) of this section if the consumer fails to meet the requirements of subsection (1) or (2) of this section, as applicable, or the consumer reporting agency's ability to remove the security freeze within such time is prevented by:

(a) An act of God, including fire, earthquake, hurricane, storm or similar natural disaster or phenomenon;

(b) Unauthorized or illegal acts by a third party, including terrorism, sabotage, riot, vandalism, labor strikes or disputes disrupting operations, or similar occurrence;

(c) Operation interruption, including electrical failure, unanticipated delay in equipment or replacement part delivery, computer hardware or software failures inhibiting response time, or similar disruption;

(d) Governmental action, including emergency order or regulation, judicial or law enforcement action or similar directive;

(e) Regularly scheduled maintenance, during other than normal business hours, of, or updates to, the consumer reporting agency's systems;

(f) Commercially reasonable maintenance of, or repair to, the consumer reporting agency's systems that is unexpected or unscheduled; or

(g) Receipt of a removal request outside of normal business hours.

28-52-105. EXCEPTIONS. (1) Notwithstanding subsection (1) of section 28-52-103, Idaho Code, a consumer reporting agency may furnish a consumer's credit report to a third party if the purpose of the credit report is to:

(a) Use the credit report for purposes permitted under 15 U.S.C. section 1681b(c);

(b) Review the consumer's account with the third party, including for account maintenance or monitoring credit line increases or other upgrades or enhancements;

(c) Collect on a financial obligation owed by the consumer to the

third party requesting the credit report; or

(d) Review the consumer's account with another person, or collect on a financial obligation owed by the consumer to another person and the credit report request is for purposes permitted under 15 U.S.C. section 1681b(c) or the third party requesting the credit report is a subsidiary, affiliate, agent, assignee or prospective assignee of the person holding the consumer's account or to whom the consumer owes a financial obligation.

(2) The consumer's request for a security freeze does not prohibit the consumer reporting agency from disclosing the consumer's credit report for other than credit related purposes consistent with the definition of credit report in section 28-52-102, Idaho Code. The following list identifies the types of credit report disclosures by consumer reporting agencies to third parties that are not prohibited by a security freeze:

(a) The third party does not use the credit report for the purpose of serving as a factor in establishing a consumer's eligibility for credit;

(b) The third party is acting under a court order, warrant or subpoena requiring release of the credit report;

(c) The third party is a child support agency, or its agent or assignee acting under part D, title IV, of the social security act or a similar state law;

(d) The third party is the federal department of health and human services or a similar state agency, or its agent or assignee, investigating medicare or medicaid fraud;

(e) The purpose of the credit report is to investigate or collect delinquent taxes, assessments or unpaid court orders and the third party is the federal internal revenue service; a state taxing authority; the division of motor vehicles of the Idaho transportation department; a county, municipality or other taxing district; a federal, state or local law enforcement agency; or the agent or assignee listed in subsection (1) or (2) of this section;

(f) The third party is using the information solely for criminal record information, tenant screening, employment screening, fraud prevention or detection, or personal loss history information;

(g) The third party is a person or entity regulated under title 41, Idaho Code;

(h) The third party is administering a credit file monitoring service to which the consumer has subscribed; or

(i) The third party requests the credit report for the sole purpose of providing the consumer with a copy of the consumer's credit report or credit score upon the consumer's request.

(3) Section 28-52-103, Idaho Code, does not apply to:

(a) A consumer reporting agency, the sole purpose of which is to resell credit information by assembling and merging information contained in the database of another consumer reporting agency and that does not maintain a permanent database of credit information from which a consumer's credit report is produced;

(b) A check services or fraud prevention services company that issues reports on incidents of fraud or authorizations for the purpose of approving or processing negotiable instruments, electronic fund transfers or similar methods of payment; or

(c) A deposit account information service company that issues

reports concerning account closures based on fraud, substantial overdrafts, automated teller machine abuse or similar information concerning a consumer to a requesting financial institution for the purpose of evaluating a consumer's request to create a deposit account.

(4) Nothing in this chapter prohibits a person from obtaining, aggregating or using information lawfully obtained from public records in a manner that does not otherwise violate the provisions of this chapter.

28-52-106. FEES FOR SECURITY FREEZE. (1) Except as provided in subsection (2) of this section, a consumer reporting agency may charge an administrative fee, not to exceed six dollars ($6.00), to a consumer for each placement of a security freeze, and six dollars ($6.00) for each temporary lift of a security freeze. A consumer reporting agency may not charge an administrative fee for a removal of a security freeze.

(2) A consumer reporting agency may not charge a fee under section 28-52-103(1)(c), Idaho Code, to a consumer who has been the victim of identity theft and who has submitted to the consumer reporting agency a valid police report, an investigative report or complaint that the consumer has filed with a law enforcement agency.

(3) A consumer may be charged a reasonable fee, not to exceed ten dollars ($10.00), if the consumer fails to retain the original personal identification number, password or other device provided by the consumer reporting agency and if the consumer asks the consumer reporting agency to reissue the same or a new personal identification number, password or other device.

28-52-107. CHANGES TO INFORMATION IN A CREDIT REPORT SUBJECT TO A SECURITY FREEZE. (1) If a credit report is subject to a security freeze, a consumer reporting agency shall notify the consumer who is the subject of the credit report within thirty (30) days if the consumer reporting agency changes the consumer's name, date of birth, social security number or address.

(2) Notwithstanding subsection (1) of this section, a consumer reporting agency may make technical modifications to information in a credit report that is subject to a security freeze without providing notification to the consumer. Technical modifications include the addition or subtraction of abbreviations to names and addresses and transpositions or corrections of incorrect numbering or spelling.

(3) When providing notice of a change of address under subsection (1) of this section, the consumer reporting agency shall provide notice to the consumer at both the new address and the former address.

28-52-108. PROTECTION OF PERSONAL INFORMATION. (1) Except as otherwise specifically provided by law, a person shall not intentionally communicate an individual's social security number to the general public.

(2) The state of Idaho, a department, agency, board, commission or other political subdivision may not employ or contract for the employment of an inmate in any facility operated by the department of correction or private correctional facility contracted with the department of correction or county jail in any capacity that would allow any inmate access to any other person's personal information.

28-52-109. ENFORCEMENT. (1) Except as otherwise specified in this section, any credit reporting agency that willfully fails to comply with any requirement imposed under this chapter with respect to any consumer is liable to that consumer in an amount equal to the sum of:

(a) Any actual damages sustained by the consumer as a result of the failure or damages of not less than one hundred dollars ($100) and not more than one thousand dollars ($1,000); or

(b) Such amount of punitive damages as the court may allow; and

(c) In the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

(2) Any person who obtains a consumer report, requests a security freeze, requests the temporary lifting of a freeze or requests the removal of a security freeze from a consumer reporting agency under false pretenses or in an attempt to violate federal or state law shall be liable to the consumer reporting agency for actual damages sustained by the consumer reporting agency or one thousand dollars ($1,000), whichever is greater.

(3) Any credit reporting agency who is negligent in failing to comply with any requirement imposed under this chapter with respect to any consumer is liable to that consumer in an amount equal to the sum of:

(a) Any actual damages sustained by the consumer as a result of the failure; and

(b) In the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

(4) Upon a finding by the court that an unsuccessful pleading, motion or other paper filed in connection with an action under this chapter was filed in bad faith or for purposes of harassment, the court shall award to the prevailing party attorney's fees reasonable in relation to the work expended in responding to the pleading, motion, or other paper.

(5) The attorney general may enforce this chapter's provisions and, notwithstanding any other provision of law, the attorney general has exclusive authority to bring an action against a credit reporting agency for violation of section 28-52-104(3)(b), Idaho Code, concerning the requirement that a credit reporting agency temporarily lift a freeze within fifteen (15) minutes. In an action by the attorney general, a credit reporting agency that violates this chapter's provisions is subject to a civil penalty not less than one hundred dollars ($100) or greater than one thousand dollars ($1,000) for a violation or series of violations concerning a specific consumer and no greater than one hundred thousand dollars ($100,000) in the aggregate for related violations concerning more than one (1) consumer. In addition to the penalties provided in this section, the attorney general may seek injunctive relief to prevent future violations of this chapter in the district court in Ada county or in the district court for the district in which a consumer resides who is the subject of a credit report on which a violation occurs.

Approved March 18, 2008.

CHAPTER 178
(S.B. No. 1382)

AN ACT

RELATING TO LIQUOR; AMENDING SECTION 23-904, IDAHO CODE, TO REVISE LICENSE FEE PROVISIONS AND TO PROVIDE FOR LICENSE RENEWAL FEES RELATING TO YEAR-ROUND RESORTS; AND AMENDING SECTION 23-957, IDAHO CODE, TO INCREASE THE MAXIMUM NUMBER OF YEAR-ROUND LIQUOR LICENSES THAT MAY BE ISSUED TO OWNERS, OPERATORS OR LESSEES OF CERTAIN FACILITIES LOCATED AND OPERATED WITHIN THE OWNERSHIP OR LEASEHOLD PREMISES OF YEAR-ROUND RESORTS.

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

SECTION 1. That Section 23-904, Idaho Code, be, and the same is hereby amended to read as follows:

23-904. LICENSE FEES. Each licensee licensed under the provisions of this act shall pay an annual license fee to the director as follows:

(1) For each license in a city of one thousand (1,000) population or less, three hundred dollars ($300) per annum.

(2) For each license in a city of from one thousand (1,000) to three thousand (3,000) population, five hundred dollars ($500) per annum.

(3) For each license in a city having a population of more than three thousand (3,000), seven hundred fifty dollars ($750) per annum.

(4) For each railroad train for sale only in buffet, club or dining cars, fifty dollars ($50.00) per annum of the scheduled run of such train within the state of Idaho; provided, that such license shall be in full, and in lieu of all other licenses herein provided for.

(5) For each common carrier boat line for sale only in buffet, club dining rooms, two hundred fifty dollars ($250) per annum. Such license shall be in full, and in lieu of all other licenses herein provided for.

(6) For each license issued to the owner, operator, or lessee of a golf course as described in section 23-903, Idaho Code, or to the lessee of any premises situate on such golf course, situate in any county having a population of:

(a) Less than twenty thousand (20,000), two hundred dollars ($200) per annum;

(b) Twenty thousand (20,000) but less than forty thousand (40,000), three hundred dollars ($300) per annum; and

(c) Forty thousand (40,000) or more, four hundred dollars ($400) per annum.

(7) For each common carrier airline for sale only in common carrier aircraft, two hundred fifty dollars ($250) per annum. Such license shall be in full, and in lieu of all other licenses herein provided for.

(8) For each license issued to the owner, operator, or lessee of a restaurant operated on an airport, as described in section 23-903, Idaho Code, situate within the corporate limits of a city, the fee shall be the same as provided in paragraphs (1) through (3), inclusive, of this section.

(9) For each license issued to the owner, operator, or lessee of a restaurant operated on an airport, as described in section 23-903, Idaho

Code, situate without the corporate limits of a city, the fee shall be the same as provided in paragraph (6) of this section. Licenses issued under and pursuant to the provisions of this act shall expire at 1:00 o'clock a.m. on the first day of January of the following year.

(10) For each license issued to an owner or operator of a year-round resort as described in section 23-957, Idaho Code, a one (1) time fee of twenty-five thousand dollars ($25,000), with a subsequent renewal fee of three thousand five hundred dollars ($3,500) per annum. For each license issued to an owner or operator of a beverage, lodging or dining facility ~~owner--or--operator~~ within the premises of a year-round resort as described in section 23-957, Idaho Code, ~~two~~ a one (1) time fee of twenty-five thousand ~~five-hundred~~ dollars ($~~2,~~525,000) with a subsequent renewal fee of three thousand five hundred dollars ($3,500) per annum. For each license issued to a lessee of a beverage, lodging or dining facility ~~lessee~~ within the premises of the year-round resort as described in section 23-957, Idaho Code, ~~two~~ a one (1) time fee of twenty-five thousand ~~five-hundred~~ dollars ($~~2,~~525,000) with a subsequent renewal fee of three thousand five hundred dollars ($3,500) per annum.

Provided that any licensee who operates for only a portion of a year may have his license fee prorated from the date he commences operation to the end of the calendar year, but in no event for less than six (6) months.

In the event a licensee who was previously issued a license on a prorated basis under the provisions hereof desires to have such license renewed for the same period for the next succeeding year, he shall file his intention to so apply for such license with the director, accompanied by the fee required for the issuance of such license on or before December 31 of the year preceding.

The license fees herein provided for are exclusive of and in addition to other license fees chargeable in the state of Idaho.

The basis upon which respective populations of municipalities shall be determined is the last preceding census or any subsequent special census conducted by the United States bureau of the census, unless a direct enumeration of the inhabitants thereof be made by the state of Idaho, in which case such later direct enumeration shall constitute such basis.

SECTION 2. That Section 23-957, Idaho Code, be, and the same is hereby amended to read as follows:

23-957. YEAR-ROUND LIQUOR LICENSE. (1) Nothing in this chapter shall prohibit the issuance of not more than ~~three~~ twelve (~~3~~12) licenses to the owner, operator or lessee of beverage, lodging or dining facilities located and operated within the ownership or leasehold premises of a year-round resort.

(2) Nothing contained in this chapter shall prohibit the issuance of a license to the owner, operator or lessee of a golf course, ski resort, cross-country skiing facility or waterfront resort, as defined in sections 23-903, 23-903a and 23-948, Idaho Code, located within the ownership or leasehold premises of a year-round resort, provided that such license shall count against the maximum number of licenses allowed by subsection (1) of this section.

(3) No license issued to the owner, operator or lessee of beverage, lodging or dining facilities located and operated within the ownership

or leasehold premises of a year-round resort shall be transferable to another location or facility located outside the ownership or leasehold premises of the year-round resort.

(4) The fees for licenses granted to the owner, operator or lessee of beverage, lodging or dining facilities located and operated within the ownership or leasehold premises of a year-round resort shall be the same as those prescribed for year-round resorts in section 23-904(10), Idaho Code.

(5) "Year-round resort" means a resort open to the public year around which offers all of the following within the ownership or leasehold premises of the resort:

(a) Cross-country skiing on not less than thirty (30) kilometers of groomed cross-country skiing trails;

(b) Alpine skiing on real property of not less than eight hundred fifty (850) acres, operating two (2) or more chair lifts with a vertical lift of two thousand eight hundred (2,800) feet or more, and having operating snowmaking equipment providing coverage to at least seventy-five (75) acres of skiing;

(c) A golf course having:

(i) No less than eighteen (18) holes with greens, fairways and tees laid out and used in the usual and regular manner of a golf course;

(ii) A total distance of seven thousand (7,000) yards as measured by totaling the tee-to-green distance of all holes; and

(iii) The course planted in grass;

(d) Mountain bike activities which include at least twelve (12) miles of single track trails, chair lift served access to at least two thousand eight hundred (2,800) feet of vertical descent and a full service bike rental and repair facility; and

(e) At least seventy (70) private residences and accommodations available to provide overnight lodging and dining facilities serving at least two (2) meals per day for at least five hundred (500) persons located within the ownership or leasehold premises of the resort.

Approved March 18, 2008.

CHAPTER 179
(S.B. No. 1397, As Amended)

AN ACT

RELATING TO PUBLIC ADJUSTING; AMENDING TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 58, TITLE 41, IDAHO CODE, TO PROVIDE FOR PURPOSE AND SCOPE, TO DEFINE TERMS, TO REQUIRE A LICENSE, TO PROVIDE FOR EXCEPTIONS TO LICENSING, TO PROVIDE FOR APPLICATION FOR LICENSE, TO PROVIDE FOR LICENSE QUALIFICATIONS, TO PROVIDE FOR EXAMINATION, TO PROVIDE FOR EXEMPTIONS FROM EXAMINATION, TO PROVIDE FOR NONRESIDENT LICENSE RECIPROCITY, TO PROVIDE FOR LICENSE, TO PROVIDE FOR LICENSE DENIAL, NONRENEWAL OR REVOCATION, TO REQUIRE BOND OR LETTER OF CREDIT, TO REQUIRE CONTINUING EDUCATION, TO PROVIDE LIMITATIONS OF FEES PAID BY PUBLIC ADJUSTER, TO PROVIDE FOR CONTRACTS BETWEEN PUBLIC ADJUSTERS AND INSURED, TO PROVIDE FOR ESCROW OR TRUST

ACCOUNTS, TO PROVIDE FOR RECORD RETENTION, TO PROVIDE STANDARDS OF CONDUCT OF PUBLIC ADJUSTER, TO PROVIDE FOR REPORTING OF ACTIONS, TO GRANT AUTHORITY TO PROMULGATE RULES AND TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE FOR AN EFFECTIVE DATE WITH A CONTINGENCY.

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

SECTION 1. That Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 58, Title 41, Idaho Code, and to read as follows:

CHAPTER 58
PUBLIC ADJUSTER LICENSING ACT

41-5801. PURPOSE AND SCOPE. This chapter governs the qualifications and procedures for the licensing of public adjusters. It specifies the duties of and restrictions on public adjusters, which include limiting their licensure to assisting insureds in first party claims.

41-5802. DEFINITIONS. As used in this chapter:

(1) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership or other legal entity.

(2) "Fingerprints" means an impression of the lines on the finger taken for purpose of identification. The impression may be electronic or in ink converted to electronic format.

(3) "Home state" means the District of Columbia or any state or territory of the United States in which the public adjuster's principal place of residence or principal place of business is located. If neither the state in which the public adjuster maintains the principal place of residence nor the state in which the public adjuster maintains the principal place of business has a substantially similar law governing public adjusters, the public adjuster may declare another state in which it becomes licensed and acts as a public adjuster to be the home state.

(4) "Individual" means a natural person.

(5) "Person" means an individual or a business entity.

(6) "Public adjuster" means any person who, for compensation or any other thing of value on behalf of the insured:

(a) Acts or aids, solely in relation to first party claims arising under insurance contracts that insure the real or personal property of the insured, on behalf of an insured in negotiating for, or effecting the settlement of, a claim for loss or damage covered by an insurance contract;

(b) Advertises for employment as a public adjuster of insurance claims or solicits business or represents himself or herself to the public as a public adjuster of first party insurance claims for losses or damages arising out of policies of insurance that insure real or personal property; or

(c) Directly or indirectly solicits business, investigates or adjusts losses, or advises an insured about first party claims for losses or damages arising out of policies of insurance that insure real or personal property for another person engaged in the business of adjusting losses or damages covered by an insurance policy, for the insured.

41-5803. LICENSE REQUIRED. (1) A person shall not act or hold himself out as a public adjuster in this state unless the person is licensed as a public adjuster in accordance with this chapter.

(2) A person licensed as a public adjuster shall not misrepresent to a claimant that he or she is an adjuster representing an insurer in any capacity, including acting as an employee of the insurer or acting as an independent adjuster unless so appointed by an insurer in writing to act on the insurer's behalf for that specific claim or purpose. A licensed public adjuster is prohibited from charging that specific claimant a fee when appointed by the insurer and the appointment is accepted by the public adjuster.

41-5804. EXCEPTIONS TO LICENSING. Notwithstanding section 41-5803, Idaho Code, a license as a public adjuster shall not be required of the following:

(1) An attorney admitted to practice in this state, when acting in his or her professional capacity as an attorney;

(2) A producer licensed in Idaho who acts only on behalf of his or her own insured and does not hold himself or herself out to the public as a public adjuster;

(3) A person who negotiates or settles claims arising under a life or health insurance policy or an annuity contract;

(4) A person employed only for the purpose of obtaining facts surrounding a loss or furnishing technical assistance to a licensed public adjuster including, but not limited to, photographers, estimators, private investigators, engineers and handwriting experts;

(5) A licensed health care provider, or employee of a licensed health care provider, who prepares or files a health claim form on behalf of a patient; or

(6) A person who settles subrogation claims between insurers.

41-5805. APPLICATION FOR LICENSE. (1) A person applying for a public adjuster license shall make application to the department on an application form prescribed by the department.

(2) The applicant shall declare under penalty of perjury and under penalty of refusal, suspension or revocation of the license that the statements made in the application are true, correct and complete to the best of the applicant's knowledge and belief.

(3) In order to make a determination of license eligibility, the department is authorized to require fingerprints of applicants and submit the fingerprints and the fee required to perform the criminal history record checks to the Idaho state police and the federal bureau of investigation (FBI) for state and national criminal history record checks; the department shall require a criminal history record check on each applicant in accordance with this chapter. The department shall require each applicant to submit a full set of fingerprints in order for the department to obtain and receive national criminal history records from the FBI criminal justice information services division.

(a) The department may contract for the collection, transmission and resubmission of fingerprints required under this section. If the department does so, the fee for collecting, transmitting and retaining fingerprints shall be payable directly to the contractor by the person. The department may agree to a reasonable fingerprinting fee to be charged by the contractor.

(b) The department is authorized to receive criminal history record information in lieu of the Idaho state police that submitted the fingerprints to the FBI.

41-5806. LICENSE QUALIFICATIONS. (1) Before issuing a public adjuster license to an applicant under this section, the department shall find that the applicant:

(a) Is at least eighteen (18) years of age;

(b) Is eligible to designate this state as his or her home state or is a nonresident who is eligible for a license under section 41-5809, Idaho Code;

(c) Has successfully passed the public adjuster examination;

(d) Has not committed any act that is a ground for denial, suspension or revocation of a license as set forth in section 41-5811, Idaho Code;

(e) Is trustworthy, reliable, and of good reputation, evidence of which may be determined by the department;

(f) Is financially responsible to exercise the license and has provided proof of financial responsibility as required in section 41-5812, Idaho Code;

(g) Has paid the fees set forth by rule adopted pursuant to section 41-401, Idaho Code; and

(h) Maintains an office in the home state of residence with public access by reasonable appointment and/or regular business hours. This includes a designated office within a home state of residence.

(2) In addition to satisfying the requirements of subsection (1), when applicable, a business entity shall:

(a) Designate a licensed individual public adjuster responsible for the business entity's compliance with the insurance laws and rules of this state;

(b) Designate only licensed individual public adjusters to exercise the business entity's license; and

(c) The department may require any documents reasonably necessary to verify the information contained in the application.

41-5807. EXAMINATION. (1) An individual applying for a public adjuster license under this chapter shall pass a written examination unless exempt pursuant to section 41-5808, Idaho Code. The examination shall test the knowledge of the individual concerning the duties and responsibilities of a public adjuster and the insurance laws and rules of this state. Examinations required by this section shall be developed and conducted under rules prescribed by the department.

(2) The department may make arrangements, including contracting with an outside testing service, for administering examinations and collecting the nonrefundable fee set forth by rule of the department.

(3) Each individual applying for an examination shall remit a nonrefundable fee as prescribed by the department in an amount set by rule of the department adopted pursuant to section 41-401, Idaho Code.

(4) An individual who fails to appear for the examination as scheduled or fails to pass the examination shall reapply for an examination and remit all required fees and forms before being rescheduled for another examination.

41-5808. EXEMPTIONS FROM EXAMINATION. (1) An individual who applies for a public adjuster license in this state who was previously licensed as a public adjuster in another state based on a public adjuster examination shall not be required to complete any prelicensing examination. This exemption is only available if the person is currently licensed in that state or if the person applies for a license in this state within ninety (90) days of cancellation of the applicant's previous license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state or the state's producer database records or records maintained by the national association of insurance commissioners (NAIC), its affiliates, or subsidiaries, indicate that the public adjuster is or was licensed and in good standing.

(2) A person licensed as a public adjuster in another state based on a public adjuster examination who moves to this state shall make application within ninety (90) days of establishing legal residence to become a resident licensee pursuant to section 41-5805, Idaho Code. No prelicensing examination shall be required of that person to obtain a public adjuster license.

(3) An individual who applies for a public adjuster license in this state who was previously licensed as a public adjuster in this state shall not be required to complete any prelicensing examination. This exemption is only available if the application is received within twelve (12) months of the cancellation of the applicant's previous license in this state and if, at the time of cancellation, the applicant was in good standing in this state.

(4) A licensed individual who moves and establishes residency in this state must apply for a resident license within ninety (90) days of establishing residency here and must relinquish his or her resident license in the former home state.

41-5809. NONRESIDENT LICENSE RECIPROCITY. (1) Unless denied licensure pursuant to sections 41-5810 or 41-5811, Idaho Code, a nonresident person shall receive a nonresident public adjuster license if:

(a) The person is currently licensed as a resident public adjuster and in good standing in his or her home state;

(b) The person has submitted the proper request for licensure, has paid the fees required by rule of the department adopted pursuant to section 41-5806(1)(g), Idaho Code, and has provided proof of financial responsibility as required in section 41-5812, Idaho Code;

(c) The person has submitted or transmitted to the department the appropriate completed application for licensure; and

(d) The person's home state awards nonresident public adjuster licenses to residents of this state on the same basis.

(2) The department may verify the public adjuster's licensing status through the producer database maintained by the NAIC, its affiliates, or subsidiaries.

(3) As a condition to continuation of a public adjuster license issued under this section, the licensee shall maintain a resident public adjuster license in his or her home state. The nonresident public adjuster license issued under this section shall terminate and be surrendered immediately to the department if the home state public adjuster license terminates for any reason, unless the public adjuster has been issued a license as a resident public adjuster in his or her new home

state. Notification to the state or states where a nonresident license is issued must be made as soon as possible, within thirty (30) days of the change in new state resident license. The licensee shall include new and old addresses. A new state resident license is required for nonresident licenses to remain valid. The new state resident license must have reciprocity with the licensing nonresident state(s) for the nonresident license not to terminate.

41-5810. LICENSE. (1) Unless denied licensure under this chapter, persons who have met the requirements of this chapter shall be issued a public adjuster license.

(2) A public adjuster license shall remain in effect unless revoked, terminated or suspended as long as the request for renewal and the fee set forth in the rule promulgated under section 41-5806(1)(g), Idaho Code, is paid and any other requirements for license renewal are met by the due date.

(3) The licensee shall inform the department by any means acceptable to the department of a change of address, change of legal name, or change of information submitted on the application within thirty (30) days of the change.

(4) A public adjuster who allows his or her license to lapse may, within twelve (12) months from the due date of the renewal, reinstate his or her public adjuster license upon the department's receipt of the request for renewal, payment of a penalty in the amount of double the unpaid renewal fee and certification that all continuing education requirements have been met. The new public adjuster license shall be effective the date the department receives all of the above stated items required for reinstatement.

(5) A licensed public adjuster who is unable to comply with license renewal procedures due to military service, a long-term medical disability or some other extenuating circumstance, may request a waiver of those procedures. The public adjuster may also request a waiver of any examination requirement, fine or other sanction imposed for failure to comply with renewal procedures.

(6) The license shall contain the licensee's name, city and state of business address, license number, the date of issuance, the expiration date and any other information the department deems necessary.

(7) In order to assist in the performance of the department's duties, the department may contract with nongovernmental entities, including the NAIC or any affiliates or subsidiaries that the NAIC oversees, to perform any ministerial functions, including the collection of fees and data, related to licensing that the department may deem appropriate.

41-5811. LICENSE DENIAL, NONRENEWAL OR REVOCATION. (1) The department may place on probation, suspend, revoke or refuse to issue or renew a public adjuster's license or may levy a civil penalty in accordance with section 41-1016, Idaho Code, or any combination of actions, for any one (1) or more of the following causes:

(a) Providing incorrect, misleading, incomplete or materially untrue information in the license application;

(b) Violating any insurance laws, or violating any rule, regulation, subpoena or order of the department or of another state's insurance department;

(c) Obtaining or attempting to obtain a license through misrepresentation or fraud;
(d) Improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business;
(e) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;
(f) Having been convicted of a felony, or a misdemeanor which evidences bad moral character, dishonesty, a lack of integrity and financial responsibility, or an unfitness and inability to provide acceptable service to the consuming public;
(g) Having admitted to or been found to have committed any insurance unfair trade practice or insurance fraud;
(h) Using fraudulent, coercive or dishonest practices; or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;
(i) Having an insurance license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory;
(j) Forging another's name to an application for insurance or to any document related to an insurance transaction;
(k) Cheating, including improperly using notes or any other reference material, to complete an examination for an insurance license;
(l) Knowingly accepting insurance business from an individual who is not licensed but who is required to be licensed by the department;
(m) Failing to comply with an administrative or court order imposing a child support obligation, provided however, that nothing in this provision shall be deemed to abrogate or modify chapter 14, title 7, Idaho Code; or
(n) Failing to pay state income tax or comply with any administrative or court order directing payment of state income tax.

(2) The license of a business entity may be suspended, revoked or refused if the department finds, after hearing, that an individual licensee's violation was known or should have been known by one (1) or more of the partners, officers or managers acting on behalf of the business entity and the violation was neither reported to the department nor corrective action taken.

(3) In addition to or in lieu of any applicable denial, suspension or revocation of a license, a person may, after hearing, be subject to a civil fine or administrative penalty according to section 41-1016, Idaho Code.

(4) The department shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by this chapter and title 41, Idaho Code, against any person who is under investigation for or charged with a violation of this chapter or title 41, Idaho Code, even if the person's license or registration has been surrendered or has lapsed by operation of law.

41-5812. BOND OR LETTER OF CREDIT. Prior to issuance of a license as a public adjuster and for the duration of the license, the applicant shall secure evidence of financial responsibility in a format prescribed by the department through a security bond or irrevocable letter of credit.

(1) A surety bond executed and issued by an insurer authorized to issue surety bonds in this state, which bond:

(a) Shall be in the minimum amount of twenty thousand dollars ($20,000);

(b) Shall be in favor of this state and shall specifically authorize recovery by the department on behalf of any person in this state who sustained damages as the result of erroneous acts, a failure to act, conviction of fraud, or conviction of unfair practices in his or her capacity as a public adjuster; and

(c) Shall not be terminated unless at least thirty (30) days' prior written notice will have been filed with the department and given to the licensee.

(2) An irrevocable letter of credit issued by a qualified financial institution, which letter of credit:

(a) Shall be in the minimum amount of twenty thousand dollars ($20,000);

(b) Shall be to an account within the department and subject to lawful levy of execution on behalf of any person to whom the public adjuster has been found to be legally liable as the result of erroneous acts, a failure to act, fraudulent acts, or unfair practices in his or her capacity as a public adjuster; and

(c) Shall not be terminated unless at least thirty (30) days' prior written notice will have been filed with the department and given to the licensee.

(3) The issuer of the evidence of financial responsibility shall notify the department upon termination of the bond or letter of credit, unless otherwise directed by the department.

(4) The department may ask for the evidence of financial responsibility at any time deemed relevant.

(5) The authority to act as a public adjuster shall automatically terminate if the evidence of financial responsibility terminates or becomes impaired.

41-5813. CONTINUING EDUCATION. (1) An individual, who holds a public adjuster license and who is not exempt under subsection (2) of this section, shall satisfactorily complete a minimum of twenty-four (24) hours of continuing education courses, including three (3) hours of law or ethics, reported on a biennial basis in conjunction with the license renewal cycle.

(2) This section shall not apply to:

(a) Licensees not licensed for one (1) full year prior to the end of the applicable continuing education biennium; or

(b) Licensees holding nonresident public adjuster licenses who have met the continuing education requirements of their home state and whose home state gives credit to residents of this state on the same basis.

(3) Only continuing education courses approved by the department shall be used to satisfy the continuing education requirement of subsection (1) of this section.

(4) Failure of the licensee to comply with the applicable education requirement by the expiration date of the license shall be grounds for the director to refuse to continue any such license. The licensee may reinstate his or her license by submitting proof of all education requirements within ninety (90) days from the date of expiration of the

license and by submitting an additional administrative penalty of one hundred dollars ($100) for a delinquency of one (1) day to thirty (30) days, two hundred dollars ($200) for a delinquency of thirty-one (31) days to sixty (60) days, and three hundred dollars ($300) for a delinquency of sixty-one (61) days to ninety (90) days. Following the ninetieth day from the date of nonrenewal of the license and up to one (1) year from the nonrenewal date, the licensee must complete all requirements for licensure including retesting, submission of a new application and payment of all new licensing fees. In addition, the individual must submit proof of completion of the required education requirements from the licensing period in which the license was terminated. After the license has been expired for one (1) year or more, the individual must reapply and retest as a new applicant.

41-5814. PUBLIC ADJUSTER FEES. (1) A public adjuster shall not pay a commission, service fee or other valuable consideration to a person for investigating or settling claims in this state if that person is required to be licensed under this chapter and is not so licensed.

(2) A person shall not accept a commission, service fee or other valuable consideration for investigating or settling claims in this state if that person is required to be licensed under this chapter and is not so licensed.

(3) A public adjuster may pay or assign commission, service fees or other valuable consideration to persons who do not investigate or settle claims in this state, unless the payment would violate section 41-1314, Idaho Code.

41-5815. CONTRACT BETWEEN PUBLIC ADJUSTER AND INSURED. (1) Public adjusters shall ensure that all contracts for their services are in writing and contain the following terms:

(a) Legible full name of the adjuster signing the contract, as specified in department records;

(b) Permanent home state business address and phone number;

(c) Department license number;

(d) Title of "public adjuster contract";

(e) Insured's full name, street address, insurance company name and policy number, if known, or upon notification;

(f) Description of the loss and its location, if applicable;

(g) Description of services to be provided to the insured;

(h) Signatures of the public adjuster and the insured;

(i) Date contract was signed by the public adjuster and date the contract was signed by the insured;

(j) Attestation language stating that the public adjuster is fully bonded pursuant to state law; and

(k) Full salary, fee, commission, compensation or other considerations the public adjuster is to receive for services.

(2) The contract may specify that the public adjuster shall be named as a co-payee on an insurer's payment of a claim.

(a) If the compensation is based on a share of the insurance settlement, the exact percentage shall be specified.

(b) Initial expenses to be reimbursed to the public adjuster from the proceeds of the claim payment shall be specified by type, with dollar estimates set forth in the contract and with any additional expenses first approved by the insured.

(3) If the insurer, not later than seventy-two (72) hours after the date on which the loss is reported to the insurer, either pays or commits in writing to pay to the insured the policy limit of the insurance policy, the public adjuster shall:

(a) Not receive a commission consisting of a percentage of the total amount paid by an insurer to resolve a claim;

(b) Inform the insured that the loss recovery amount might not be increased by insurer; and

(c) Be entitled only to reasonable compensation from the insured for services provided by the public adjuster on behalf of the insured, based on the time spent on a claim and expenses incurred by the public adjuster, until the claim is paid or the insured receives a written commitment to pay from the insurer.

(4) A public adjuster shall provide the insured a written disclosure concerning any direct or indirect financial interest that the public adjuster has with any other party that is involved in any aspect of the claim, other than the salary, fee, commission or other consideration established in the written contract with the insured including, but not limited to, any ownership of, other than as a minority stockholder, or any compensation expected to be received from, any construction firm, salvage firm, building appraisal firm, motor vehicle repair shop, or any other firm that provides estimates for work, or that performs any work, in conjunction with damages caused by the insured loss on which the public adjuster is engaged. The word "firm" shall include any person.

(5) A public adjuster contract may not contain any contract term that:

(a) Allows the public adjuster's percentage fee to be collected when money is due from an insurance company, but not paid, or that allows a public adjuster to collect the entire fee from the first check issued by an insurance company, rather than as a percentage of each check issued by an insurance company;

(b) Requires the insured to authorize an insurance company to issue a check only in the name of the public adjuster;

(c) Imposes collection costs or late fees; or

(d) Precludes a public adjuster from pursuing civil remedies.

(6) Prior to the signing of the contract the public adjuster shall provide the insured with a separate disclosure document regarding the claim process that states:

(a) Property insurance policies obligate the insured to present a claim to his or her insurance company for consideration. There are three (3) types of adjusters that could be involved in that process. The definitions of the three types are as follows:

(i) "Company adjuster" means the insurance adjusters are employees of an insurance company. They represent the interest of the insurance company and are paid by the insurance company. They will not charge you a fee.

(ii) "Independent adjuster" means the insurance adjusters are hired on a contract basis by an insurance company to represent the insurance company's interest in the settlement of the claim. They are paid by your insurance company. They will not charge you a fee.

(iii) "Public adjuster" means the insurance adjusters do not work for any insurance company. They work for the insured to assist in the preparation, presentation and settlement of the

claim. The insured hires them by signing a contract agreeing to pay them a fee or commission based on a percentage of the settlement or other method of compensation.

(b) The insured is not required to hire a public adjuster to help the insured meet his or her obligations under the policy, but has the right to do so.

(c) The insured has the right to initiate direct communications with the insured's attorney, the insurer, the insurer's adjuster, and the insurer's attorney, or any other person regarding the settlement of the insured's claim.

(d) The public adjuster is not a representative or employee of the insurer.

(e) The salary, fee, commission or other consideration is the obligation of the insured, not the insurer.

(7) The contract shall be executed in duplicate to provide an original contract to the public adjuster, and an original contract to the insured. The public adjuster's original contract shall be available at all times for inspection without notice by the department.

(8) The public adjuster shall provide the insurer a notification letter, which has been signed by the insured, authorizing the public adjuster to represent the insured's interest.

(9) The public adjuster shall give the insured written notice of the insured's rights as provided in this section.

(10) The insured has the right to rescind the contract within three (3) business days after the date the contract was signed. The rescission shall be in writing and mailed or delivered to the public adjuster at the address in the contract within the three (3) business day period.

(11) If the insured exercises the right to rescind the contract, anything of value given by the insured under the contract will be returned to the insured within twenty-eight (28) days following the receipt by the public adjuster of the cancellation notice.

41-5816. ESCROW OR TRUST ACCOUNTS. A public adjuster who receives, accepts or holds any funds on behalf of an insured, towards the settlement of a claim for loss or damage, shall deposit the funds in a non-interest bearing escrow or trust account in a financial institution that is insured by an agency of the federal government in the public adjuster's home state or where the loss occurred.

41-5817. RECORD RETENTION. (1) A public adjuster shall maintain a complete record of each transaction as a public adjuster. The records required by this section shall include the following:

(a) Name of the insured;

(b) Date, location and amount of the loss;

(c) Copy of the contract between the public adjuster and insured;

(d) Name of the insurer, amount, expiration date and number of each policy carried with respect to the loss;

(e) Itemized statement of the insured's recoveries;

(f) Itemized statement of all compensation received by the public adjuster, from any source whatsoever, in connection with the loss;

(g) A register of all moneys received, deposited, disbursed or withdrawn in connection with a transaction with an insured, including fees, transfers and disbursements from a trust account and all transactions concerning all interest bearing accounts;

(h) Name of public adjuster who executed the contract;

(i) Name of the attorney representing the insured, if applicable, and the name of the claims representatives of the insurance company; and

(j) Evidence of financial responsibility in a format prescribed by the department.

(2) Records shall be maintained for at least five (5) years after the termination of the transaction with an insured and shall be open to examination by the department at all times.

(3) Records submitted to the department in accordance with this section that contain information identified in writing as proprietary by the public adjuster shall be treated as confidential by the department pursuant to section 9-340D, Idaho Code.

41-5818. STANDARDS OF CONDUCT OF PUBLIC ADJUSTER. (1) A public adjuster is obligated, under his or her license, to serve with objectivity and complete loyalty the interest of his or her client alone; and to render to the insured such information, counsel and service, as within the knowledge, understanding and opinion in good faith of the licensee, as will best serve the insured's insurance claim needs and interests.

(2) A public adjuster shall not solicit, or attempt to solicit, an insured during the progress of a loss-producing occurrence, as defined in the insured's insurance contract.

(3) A public adjuster shall not permit an unlicensed employee or representative of the public adjuster to conduct business for which a license is required under this chapter.

(4) A public adjuster shall not have a direct or indirect financial interest in any aspect of the claim, other than the salary, fee, commission or other consideration established in the written contract with the insured, unless full written disclosure has been made to the insured as set forth in section 41-5815(6), Idaho Code.

(5) A public adjuster shall not acquire any interest in salvage of property subject to the contract with the insured unless the public adjuster obtains written permission from the insured after settlement of the claim with the insurer as set forth in section 41-5815(4), Idaho Code.

(6) The public adjuster shall disclose to an insured if he or she has any interest or will be compensated by any construction firm, salvage firm, building appraisal firm, motor vehicle repair shop or any other firm that performs any work in conjunction with damages caused by the insured loss. The word "firm" shall include any person.

(7) Any compensation or anything of value in connection with an insured's specific loss that will be received by a public adjuster shall be disclosed by the public adjuster to the insured in writing, including the source and amount of any such compensation.

(8) Public adjusters shall adhere to the following general ethical requirements:

(a) A public adjuster shall not undertake the adjustment of any claim if the public adjuster is not competent and knowledgeable as to the terms and conditions of the insurance coverage, or which otherwise exceeds the public adjuster's current expertise;

(b) A public adjuster shall not knowingly make any oral or written material misrepresentations or statements which are false or maliciously critical and intended to injure any person engaged in the

business of insurance to any insured client or potential insured client;

(c) No public adjuster, while so licensed by the department, may represent or act as a company adjuster or as an independent adjuster on the same claim;

(d) The contract shall not be construed to prevent an insured from pursuing any civil remedy after the three (3) business day revocation or cancellation period;

(e) A public adjuster shall not enter into a contract or accept a power of attorney that vests in the public adjuster the effective authority to choose the persons who shall perform repair work; and

(f) A public adjuster shall ensure that all contracts for the public adjuster's services are in writing and set forth all terms and conditions of the engagement.

(9) A public adjuster may not agree to any loss settlement without the insured's knowledge and consent.

41-5819. REPORTING OF ACTIONS. (1) The public adjuster shall report to the department any administrative action taken against the public adjuster in another jurisdiction or by another governmental agency in this state within thirty (30) days of the final disposition of the matter. This report shall include a copy of the order, consent to order, or other relevant legal documents.

(2) Within thirty (30) days of the initial pretrial hearing date, the public adjuster shall report to the department any criminal prosecution of the public adjuster taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing, and any other relevant legal documents.

41-5820. RULES. The department may, in accordance with section 41-211, Idaho Code, promulgate reasonable rules as are necessary or proper to carry out the purposes of this chapter.

41-5821. SEVERABILITY. If any provisions of this chapter, or the application of a provision to any persons or circumstances, shall be held invalid, the remainder of the chapter, and the application of the provision to persons or circumstances other than those to which it is held invalid, shall not be affected.

SECTION 2. This act shall be in full force and effect on and after July 1, 2008. Provided however, that the provisions of section 41-5805, Idaho Code, do not become effective until a state participates in the NAIC's central repository for the purpose of obtaining criminal background information.

Approved March 18, 2008.

CHAPTER 180
(S.B. No. 1414, As Amended)

AN ACT

RELATING TO COUNTY OPTION KITCHEN AND TABLE WINE ACT; AMENDING SECTION 23-1325, IDAHO CODE, TO PROVIDE AN EXCEPTION TO A PROHIBITION FOR CERTAIN WINERIES HAVING ANY FINANCIAL INTEREST IN ANY LICENSED RETAILER OR OWNING OR CONTROLLING ANY REAL PROPERTY UPON WHICH A LICENSED RETAILER CONDUCTS BUSINESS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 23-1325, Idaho Code, be, and the same is hereby amended to read as follows:

23-1325. FINANCIAL INTEREST IN OR AID TO RETAILERS PROHIBITED -- CERTAIN AID PERMITTED. (1) It shall be unlawful for any importer, distributor, vintner or winery, directly or indirectly, or through an affiliate, subsidiary, officer, director, agent or employee:

(a) To have any financial interest in any licensed retailer's business, or to own or control any real property upon which a licensed retailer conducts his business, except ~~such~~ that this subsection (1)(a) shall not apply to any winery, as defined in section 23-1303, Idaho Code, or to property ~~as shall have~~ that has been ~~so~~ owned or controlled continuously for more than one (1) year prior to July 1, 1975; or

(b) To aid or assist any licensed retailer by giving such retailer, or any employee thereof, any discounts, premiums or rebates in connection with any sale of wine; or

(c) To aid or assist any retailer by furnishing, giving, renting, lending or selling any equipment, signs, supplies, wine menus or wine lists, services, or other thing of value which may be used in conducting the retailer's retail wine business, except as expressly permitted by this chapter; or

(d) To enter into any lease or other agreement with any retail licensee to control the product or products sold by such retailer; or

(e) To provide for any rental or other charge to be paid to or by the retailer for product display or advertising display space.

(2) An importer, distributor, vintner or winery as an incident to merchandising in the ordinary course of business, and if available to all licensed retailers without discrimination, may sell to a retailer equipment, supplies or clothing which may be used in conducting the retailer's retail wine business. A winery, vintner, importer or distributor may not sell such equipment or supplies at a price, or under terms, intended or designed to encourage or induce the retailer to use products of the seller to the exclusion of the products of other wineries, vintners, importers or distributors. In no event shall the sales price of such equipment or supplies be less than the reasonable value of such equipment or supplies.

(3) Notwithstanding the provisions of subsection (2) of this section, a vintner, winery, importer or distributor, as an incident to merchandising in the ordinary course of business, and if available to all

retailers without discrimination, may lend, give, furnish or sell to a retailer, the following items:

(a) Those services, equipment, brochures and recipes authorized under the provisions of sections 23-1325A and 23-1325B, Idaho Code;

(b) Signs, posters, placards, designs, devices, decorations or graphic displays bearing advertising matter and for use in windows or elsewhere in the interior of a retail establishment. The importer, distributor, vintner or winery shall not directly or indirectly pay or credit the retailer for displaying such materials or for any expense incidental to their operation;

(c) Newspaper cuts, mats or engraved blocks for use in retailer's advertisements;

(d) Items such as sport schedules, posters, calendars, informational pamphlets, decals and other similar materials for display at the point of sale which bear brand advertising for wine prominently displayed thereon, and which items are intended for use by the retailer's customers off the licensed premises and which items are made available to the retailer's customers for such purpose;

(e) Temporary signs or banners displaying a vintner's, winery's or distributor's name, trademark or label, which signs may be permitted to be temporarily displayed on the exterior portion of the retailer premises in connection with a special event, in accordance with such rules relating thereto as may be established by the director.

(4) A distributor may perform services incident to or in connection with the stocking, rotation and restocking of wine sold and delivered to such licensed retailer on or in such licensed retailer's storeroom, salesroom shelves or refrigerating units, including the marking or remarking of containers of such wine to indicate the selling price as established by the retailer and to the arranging, rearranging, or relocating of advertising displays referred to in this section. A distributor may, with the permission of the retailer and in accordance with space allocations directed by the retailer, set, remove, replace, reset or relocate all wine upon shelves of the retailer. Labor performed or schematics prepared by the distributor relating to conduct authorized pursuant to the provisions of this subsection (4) shall not constitute prohibited conduct.

(5) An importer, distributor, vintner or winery may furnish or give to a retailer authorized to sell wine for consumption on the licensed premises, for sampling purposes only, a container of wine, containing not more than sixty-four (64) ounces, not currently being sold by the retailer, and which container is clearly marked "NOT FOR SALE--FOR SAMPLING PURPOSES ONLY."

(6) A licensed winery may aid or assist a licensed retail wine outlet which retails exclusively the wine product of that winery and which outlet is wholly owned and operated by that winery. Two (2) or more wineries may use the same location for their respective retail wine outlets provided each outlet holds a separate retail wine license or wine by the drink license.

(7) Every violation of the provisions of this section by an importer, distributor, vintner or winery in which a licensed retailer shall have actively participated shall constitute a violation on the part of such licensed retailer.

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 18, 2008.

CHAPTER 181
(S.B. No. 1415, As Amended)

AN ACT

RELATING TO COUNTY OPTION KITCHEN AND TABLE WINE ACT; AMENDING SECTION 23-1303, IDAHO CODE, TO ALPHABETIZE TERMS AND TO REVISE DEFINITIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 23-1303, Idaho Code, be, and the same is hereby amended to read as follows:

23-1303. DEFINITIONS. (1) The following terms as used in this chapter are hereby defined as follows:

(a) ~~"Table wine" shall mean any alcoholic beverage containing not more than sixteen percent (16%) alcohol by volume obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing sugar whether or not other ingredients are added~~ "Dessert wine" means only those beverages that are designated or labeled, pursuant to the federal alcohol administration act, as "sherry," "madeira" or "port," which contain more than sixteen percent (16%) alcohol by volume, but do not exceed twenty-one percent (21%) alcohol by volume. Dessert wine as defined herein shall not be deemed to be a spirit based beverage for the purposes of paragraph (g) of this subsection.

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

~~(c) "Dessert wine" means only those beverages that are designated or labeled, pursuant to the federal alcohol administration act, as "sherry," "madeira" or "port," which contain more than sixteen percent (16%) alcohol by volume, but do not exceed twenty-one percent (21%) alcohol by volume. Dessert wine as defined herein shall not be deemed to be a spirit based beverage for the purposes of subsection (p) of this section.~~

~~(d) "Retail wine license" means a license issued by the director, authorizing a person to sell table wine and/or dessert wine at retail for consumption off the licensed premises.~~

~~(e) "Wine distributor's license" means a license issued by the director to a person authorizing such person to distribute table wine or dessert wine to retailers within the state of Idaho.~~

~~(f) "Wine importer's license" means a license issued by the director to a person authorizing such person to import table wine or dessert wine into the state of Idaho and to sell and distribute such wines to a distributor.~~

~~(g) "Retailer" means a person to whom a retail wine license has been issued.~~

~~(h)--"Distributor"-means-a--person--to--whom--a--wine--distributor's license-has-been-issued;~~

~~(i)--"Importer"-means-a-person-to-whom-a-wine-importer's-license-has been-issued;~~

(c) "Distributor" means a person to whom a wine distributor's license has been issued.

(d) "Domestic produced product" means wine at least seventy-five percent (75%) of which by volume is derived from fruit or agricultural products grown in Idaho.

(e) "Importer" means a person to whom a wine importer's license has been issued.

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

(g) "Low proof spirit beverages" means any alcoholic beverage containing not more than fourteen percent (14%) alcohol by volume obtained by distillation mixed with drinkable water, fruit juices and/or other ingredients in solution. These products shall be considered and taxed as wine. Spirit based beverages exceeding fourteen percent (14%) alcohol by volume shall be considered as liquor and sold only through the state liquor dispensary system.

(h) "Person" includes an individual, firm, copartnership, association, corporation, or any group or combination acting as a unit, and includes the plural as well as the singular unless the intent to give a more limited meaning is disclosed by the context in which it is used.

(i) "Retailer" means a person to whom a retail wine license has been issued.

(j) "Retail wine license" means a license issued by the director, authorizing a person to sell table wine and/or dessert wine at retail for consumption off the licensed premises.

(k) "Table wine" shall mean any alcoholic beverage containing not more than sixteen percent (16%) alcohol by volume obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing sugar whether or not other ingredients are added.

(l) "Theater" means a room, place or outside structure for performances or readings of dramatic literature, plays or dramatic representations of an art form not in violation of any provision of Idaho law.

(m) "Vintner" means a person who manufactures, bottles, or sells table wine or dessert wine to importers for resale within this state other than a licensed "winery" as herein defined.

(n) "Wine" includes table wine and dessert wine, unless the context requires otherwise.

(o) "Wine by the drink license" means a license to sell table wine or dessert wine by the individual glass or opened bottle at retail, for consumption on the premises only.

(p) "Wine distributor's license" means a license issued by the director to a person authorizing such person to distribute table wine or dessert wine to retailers within the state of Idaho.

(q) "Wine importer's license" means a license issued by the director to a person authorizing such person to import table wine or dessert wine into the state of Idaho and to sell and distribute such wines to a distributor.

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

~~(k)--"Winery-license"-means-a-license-issued-by-the-director-authorizing-a-person-to-maintain-a-winery.~~

~~(l)--"Vintner"-means-a-person-who-manufactures,--bottles,--or--sells table--wine--or--dessert--wine-to-importers-for-resale-within-this-state other-than-a-licensed-"winery"-as-herein-defined.~~

~~(m)--"Person"-includes-an-individual,-firm,-copartnership,--association,--corporation,--or--any--group-or-combination-acting-as-a-unit,-and includes-the-plural-as-well-as-the-singular-unless-the-intent-to-give--a more-limited-meaning-is-disclosed-by-the-context-in-which-it-is-used.~~

~~(n)--"Wine--by-the-drink-license"-means-a-license-to-sell-table-wine or-dessert-wine-by-the-individual-glass-or-opened-bottle-at-retail,--for consumption-on-the-premises-only.~~

~~(o)--"Domestic--produced--product"--means-wine-at-least-seventy-five percent-(75%)-of-which-by-volume-is-derived-from-fruit--or--agricultural products-grown-in-Idaho.~~

~~(p)--"Low--proof-spirit-beverages"-means-any-alcoholic-beverage-containing-not-more-than-fourteen-percent-(14%)-alcohol-by-volume--obtained by--distillation--mixed--with-drinkable-water,-fruit-juices-and/or-other ingredients-in-solution.--These-products-shall-be-considered--and--taxed as-wine.-Spirit-based-beverages-exceeding-fourteen-percent-(14%)-alcohol by--volume-shall-be-considered-as-liquor-and-sold-only-through-the-state liquor-dispensary-system.~~

~~(q)--"Wine"-includes-table-wine-and-dessert-wine,-unless-the-context requires-otherwise.~~

~~(r)--"Theater"-means-a-room,-place-or-outside-structure-for--performances-or-readings-of-dramatic-literature,-plays-or-dramatic-representations-of-an-art-form-not-in-violation-of-any-provision-of-Idaho-law.~~

~~(s)--"Live--performance"--means-a-performance-occurring-in-a-theater and-not-otherwise-in-violation-of-any-provision-of-Idaho-law.~~

(s) "Winery license" means a license issued by the director authorizing a person to maintain a winery.

(~~t~~2) All other words and phrases used in this chapter, the definitions of which are not herein given, shall be given their ordinary and commonly understood and accepted meanings.

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 18, 2008.

CHAPTER 182
(S.B. No. 1419)

AN ACT

RELATING TO EXEMPT PROPERTY AND ALLOWANCES; AMENDING SECTION 15-2-401, IDAHO CODE, TO REMOVE A REFERENCE TO THE FAMILY ALLOWANCE; AMENDING SECTION 15-2-402, IDAHO CODE, TO REVISE THE DETERMINATION AND AMOUNT

OF THE HOMESTEAD ALLOWANCE, TO REMOVE CERTAIN CIRCUMSTANCES QUALIFYING A SURVIVING SPOUSE FOR A HOMESTEAD ALLOWANCE, TO REVISE TERMINOLOGY, TO PROVIDE A HOMESTEAD ALLOWANCE FOR CERTAIN MINOR AND DISABLED CHILDREN AND TO REMOVE CERTAIN CIRCUMSTANCES QUALIFYING SUCH MINOR AND DISABLED CHILDREN FOR A HOMESTEAD ALLOWANCE; AMENDING SECTION 15-2-403, IDAHO CODE, TO REMOVE REFERENCES TO THE FAMILY ALLOWANCE, TO PROVIDE FOR AN ALLOWANCE FOR CERTAIN TANGIBLE PERSONAL PROPERTY, TO REMOVE PROVISIONS DEALING WITH ENCUMBERED CHATTELS AND DEFICIENCIES OF EXEMPT PROPERTY, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 15-2-404, IDAHO CODE, RELATING TO FAMILY ALLOWANCE; AMENDING SECTION 15-2-405, IDAHO CODE, TO PROVIDE A CODE REFERENCE, TO REMOVE REFERENCES TO THE FAMILY ALLOWANCE, TO REMOVE A PROVISION FOR A CERTAIN LUMP SUM FAMILY ALLOWANCE, TO REVISE TERMINOLOGY AND TO REMOVE A PROVISION PERMITTING A PERSONAL REPRESENTATIVE OR CERTAIN INTERESTED PERSONS TO PETITION THE COURT FOR A CERTAIN FAMILY ALLOWANCE; AMENDING CHAPTER 2, TITLE 15, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 15-2-406, IDAHO CODE, TO PROVIDE FOR LIMITATIONS ON EXEMPT PROPERTY AND HOMESTEAD ALLOWANCE BY WILL; AND AMENDING SECTION 56-218, IDAHO CODE, TO REMOVE PROVISIONS DEALING WITH PETITIONING THE COURT FOR AN EXEMPT PROPERTY ALLOWANCE CLAIM UNDER CERTAIN CIRCUMSTANCES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 15-2-401, Idaho Code, be, and the same is hereby amended to read as follows:

15-2-401. APPLICABLE LAW. This part applies to the estate of a decedent who dies domiciled in this state. Rights to the homestead allowance~~,~~ and to exempt property~~,-and-the-family-allowance~~ for a decedent who dies not domiciled in this state are governed by the law of the decedent's domicile at death.

SECTION 2. That Section 15-2-402, Idaho Code, be, and the same is hereby amended to read as follows:

15-2-402. HOMESTEAD ALLOWANCE. The homestead allowance is exempt from and has priority over all claims against the estate except as hereinafter set forth. The homestead allowance is in addition to any share passing to the surviving spouse or minor or ~~dependent~~ disabled child by the will of the decedent unless otherwise provided in the will, or by intestate succession, or by way of elective share. The amount of the homestead allowance shall be ~~the-sum-set-forth-in-the-provisions-of-section--55-1003,-Idaho-Code,-as-those-provisions-are-in-effect-on-the-date of-the-decedent's-death~~ fifty thousand dollars ($50,000). The homestead allowance is not a right to claim ownership of, or succession to, any homestead owned by the decedent at the time of the decedent's death but is only the right to claim the sum set forth above. The right to a homestead allowance is determined as follows:

(a) If there is a surviving spouse of the decedent, ~~and-the-surviving--spouse--does--not,-at-the-time-of-the-death-of-the-decedent,-have-a homestead,-which-for-purposes-of-this-chapter-shall-have-the-same--definition--as--set--forth--in--section-63-701(2),-Idaho-Code,~~ the surviving

spouse shall be entitled to a homestead allowance. ~~unless the surviving spouse receives (by will or other dispositive instrument, by intestate succession, by survivorship, or by other means) such a homestead either from the decedent or due to the death of the decedent;~~

(b) If there is no surviving spouse, and there are one (1) or more ~~minor and/or dependent~~ children ~~of the decedent~~ under the age of twenty-one (21) years whom the decedent was obligated to support or children who were in fact being supported by the decedent and who are disabled, as provided in 42 U.S.C. section 1382c, then each such minor or disabled child ~~and each dependent child of the decedent~~ is entitled to a portion of the homestead allowance in the amount of the homestead allowance divided by the number of such minor ~~and dependent~~ or disabled children ~~of the decedent~~ entitled to receive the homestead allowance~~, unless the minor child or dependent child receives (by will or other dispositive instrument, by intestate succession, by survivorship, or by other means) such a homestead either from the decedent or due to the death of the decedent.~~

SECTION 3. That Section 15-2-403, Idaho Code, be, and the same is hereby amended to read as follows:

15-2-403. EXEMPT PROPERTY. In addition to any homestead allowance, the decedent's surviving spouse is entitled from the estate to value, not exceeding ten thousand dollars ($10,000) in excess of any security interests therein, in tangible personal property including, but not limited to, household furniture, automobiles, furnishings, appliances, family heirlooms and personal effects, subject to the terms of section 15-2-406, Idaho Code. If there is no surviving spouse, the decedent's children are entitled jointly to the same ~~value unless the decedent's will provides otherwise. If encumbered chattels are selected and if the value in excess of security interests, plus that of other exempt property, is less than ten thousand dollars ($10,000), or if there is not ten thousand dollars ($10,000) worth of exempt property in the estate, the spouse or children are entitled to other assets of the estate, if any, to the extent necessary to make up the ten thousand dollar ($10,000) value~~ tangible personal property, subject to the terms of section 15-2-406, Idaho Code. Rights to exempt property ~~and assets needed to make up a deficiency of exempt property~~ have priority over all claims against the estate~~, except that the right to any assets to make up a deficiency of exempt property shall abate as necessary to permit prior payment of homestead allowance and family allowance, and except as otherwise provided.~~ These rights are in addition to any benefit or share passing to the surviving spouse or children by the will of the decedent, (unless otherwise provided in the will), or by intestate succession, or by way of elective share.

SECTION 4. That Section 15-2-404, Idaho Code, be, and the same is hereby repealed.

SECTION 5. That Section 15-2-405, Idaho Code, be, and the same is hereby amended to read as follows:

15-2-405. SOURCE -- DETERMINATION -- DOCUMENTATION -- MISCELLANEOUS PROVISIONS. If the estate is otherwise sufficient, property specifically

devised, including the provisions pursuant to section 15-2-513, Idaho Code, may not be used to satisfy rights to the homestead allowance~~,--family allowance~~ or~~,~~ exempt property. Subject to this restriction, the surviving spouse, the guardians of the minor children, or children who are adults may select property of the estate as homestead allowance~~,--family allowance,~~ or exempt property. The personal representative may make these selections if the surviving spouse, the children or the guardians of the minor children are unable or fail to do so within a reasonable time or if there is no guardian of a minor child. The personal representative may execute an instrument to establish the homestead allowance~~,--family--allowance,~~ or exempt property. ~~The personal representative may determine the family allowance in a lump sum not exceeding eighteen thousand dollars ($18,000) or periodic installments not exceeding one thousand five hundred dollars ($1,500) per month for one (1) year, and may disburse funds of the estate in payment of the family allowance and any part of the homestead allowance payable in cash.~~ The personal representative or any interested person aggrieved by any selection, determination, payment, proposed payment, or failure to act under this section may petition the court for appropriate relief~~,--which may include a--family--allowance--other than that which the personal representative determined or could have determined~~. Despite any language to the contrary in this chapter, the homestead allowance~~,--family allowance,~~ and exempt property are not mandatory or automatic, ~~allowances,~~ but rather must be applied for by the surviving spouse and/or children, as appropriate, as set forth in this title. Even though these allowances and the right to apply for exempt property are not claims against estates, the manner of and time period for applying for these allowances or the exempt property shall be the same as set forth in sections 15-3-801, 15-3-803 and 15-3-804, Idaho Code; provided however, that the personal representative shall not be required to give actual notice to a surviving spouse or a minor or ~~dependent~~ disabled child of the right to apply for these homestead allowances or the exempt property, and provided further that any notice actually given by the personal representative does not need to make any additional or special reference to an application by the surviving spouse or ~~dependent or~~ minor or disabled or adult children also being barred if not submitted within the time period set forth in the notice. Also, the personal representative shall not be liable to the surviving spouse, minor or ~~dependent~~ disabled or adult child, any creditor, or any other successor to the estate in the same manner as provided in section 15-3-801(c), Idaho Code, as a result of giving or failing to give notice. The homestead allowance~~,--family allowance,~~ and exempt property may not be enforced or applied for on behalf of a surviving spouse or a minor ~~or dependent~~ or adult child of the decedent by a creditor of the surviving spouse or a minor or ~~dependent~~ disabled or adult child of the decedent, or by any person or entity claiming by, through, or because of the surviving spouse or minor or ~~dependent~~ disabled or adult child of the decedent. Despite any language to the contrary in other sections of this chapter, the homestead allowance~~,--family allowance,~~ and exempt property do not take precedence over reasonable administrative costs and expenses of the estate of the decedent.

SECTION 6. That Chapter 2, 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 15-2-406, Idaho Code, and to read as follows:

15-2-406. LIMITATIONS ON EXEMPT PROPERTY AND HOMESTEAD ALLOWANCE BY WILL. The decedent may provide by will that a surviving spouse, and/or adult children, but not minor or disabled children:

(1) Are not entitled to any exempt property or homestead allowance; or

(2) Are entitled to limited exempt property or a limited homestead allowance, as provided in the will; but

(3) May not condition such elimination or limitation upon whether the estate of the decedent is subject to a claim for estate recovery for medicaid benefits paid to the decedent or to a spouse of the decedent.

SECTION 7. That Section 56-218, Idaho Code, be, and the same is hereby amended to read as follows:

56-218. RECOVERY OF CERTAIN MEDICAL ASSISTANCE. (1) Except where exempted or waived in accordance with federal law medical assistance pursuant to this chapter paid on behalf of an individual who was fifty-five (55) years of age or older when the individual received such assistance may be recovered from the individual's estate, and the estate of the spouse, if any, for such aid paid to either or both:

(a) There shall be no adjustment or recovery until after the death of both the individual and the spouse, if any, and only at a time when the individual has no surviving child who is under twenty-one (21) years of age or is blind or permanently and totally disabled as defined in 42 U.S.C. 1382c.

(b) While one (1) spouse survives, except where joint probate will be authorized pursuant to section 15-3-111, Idaho Code, a claim for recovery under this section may be established in the estate of the deceased spouse.

(c) The claim against the estate of the first deceased spouse must be made within the time provided by section 15-3-801(b), Idaho Code, if the estate is administered and actual notice is given to the director as required by subsection (5) of this section. However, if there is no administration of the estate of the first deceased spouse, or if no actual notice is given to the director as required by subsection (5) of this section, no claim shall be required until the time provided for creditor claims in the estate of the survivor.

(d) Nothing in this section authorizes the recovery of the amount of any aid from the estate or surviving spouse of a recipient to the extent that the need for aid resulted from a crime committed against the recipient.

(2) Transfers of real or personal property, on or after the look-back dates defined in 42 U.S.C. 1396p, by recipients of such aid, or their spouses, without adequate consideration are voidable and may be set aside by an action in the district court.

(3) Except where there is a surviving spouse, or a surviving child who is under twenty-one (21) years of age or is blind or permanently and totally disabled as defined in 42 U.S.C. 1382c, the amount of any medical assistance paid under this chapter on behalf of an individual who was fifty-five (55) years of age or older when the individual received such assistance is a claim against the estate in any guardianship or conservatorship proceedings and may be paid from the estate.

(4) For purposes of this section, the term "estate" shall include:

(a) All real and personal property and other assets included within

the individual's estate, as defined for purposes of state probate law; and

(b) Any other real and personal property and other assets in which the individual had any legal title or interest at the time of death, ~~(to the extent of such interest)~~, including such assets conveyed to a survivor, heir, or assign of the deceased individual through joint tenancy, tenancy in common, survivorship, life estate, living trust or other arrangement.

(5) Claims made pursuant to this section shall be classified and paid as a debt with preference as defined in section 15-3-805(5), Idaho Code. Any distribution or transfer of the estate prior to satisfying such claim is voidable and may be set aside by an action in the district court. The personal representative of every estate subject to a claim under this section must, within thirty (30) days of the appointment, give notice in writing to the director of his or her appointment to administer the estate. ~~However, if an exempt property allowance claim is made in an estate subject to a claim under this section by one (1) or more persons not described in subsection (2) of this section, then, to the extent such exempt property allowance claim exceeds the fair market value of the actual personal property of the decedent held by the estate subject to a claim under this section (including, but not limited to, such items as household furniture, automobiles, furnishings, appliances, and personal effects), the persons making such exempt property allowance claim must file with the court, and with the personal representative or administrator of the estate, and with the department, a written statement under oath containing the following:~~

~~(a) A statement that no personal property of the decedent has been transferred without adequate consideration to any person or entity, including any one (1) or more of the persons making the exempt property allowance claim, to the actual knowledge of any of the persons making the exempt property allowance claim, within a time period commencing one (1) year prior to the death of the decedent and ending on the date of the statement; or~~

~~(b) A statement that personal property of the decedent has been transferred without adequate consideration to any person or entity, including one (1) or more of the persons making the exempt property allowance claim, within a time period commencing one (1) year prior to the death of the decedent and ending on the date of the statement, to the actual knowledge of any of the persons making the exempt property allowance claim, and stating the fair market value of the personal property so transferred, and stating a reasonable description of such property, and stating the method of determining the fair market value of the personal property so transferred.~~

~~If the written statement indicates that there has been such a transfer of personal property, then the fair market value of the personal property so transferred shall be subtracted from the remaining exempt property allowance claim, after subtraction of the personal property held by the estate, as described above, and only any still remaining portion of the exempt property claim may be paid by the estate to the persons making the exempt property allowance claim. The statement submitted under paragraph (a) or (b) of this subsection, must be signed under oath by all persons making the exempt property claim.~~

(6) The department may file a notice of lien against the property of any estate subject to a claim under this section.

(a) In order to perfect a lien against real or personal property, the department shall, within ninety (90) days after the personal representative or successor makes a written request for prompt action to the director, or three (3) years from the death of the decedent, whichever is sooner, file a notice of lien in the same general form and manner as provided in section 56-218A(3)(a), Idaho Code, in the office of the secretary of state, pursuant to section 45-1904, Idaho Code. Failure to file a notice of lien does not affect the validity of claims made pursuant to this section.

(b) The department may release the lien in whole or in part to permit the estate property to be administered by a court-appointed personal representative.

(c) The department may foreclose its lien, without probate, in any of the following circumstances:

(i) Where no personal representative has been appointed after one (1) year from the date of death of the survivor of both the individual and spouse, if any;

(ii) Where the property has been abandoned by the decedent's heirs or successors, if any;

(iii) Where the real property taxes that are due and payable have remained unpaid for two (2) years and, after demand by the department, the heirs or successors, if any, have failed to seek appointment or pay the property taxes; or

(iv) Where all parties interested in the estate consent to foreclosure of the lien.

(7) The director shall promulgate rules reasonably necessary to implement this section including, but not limited to, rules establishing undue hardship waivers for the following circumstances:

(a) The estate subject to recovery is income-producing property that provides the primary source of support for other family members; or

(b) The estate has a value below an amount specified in the rules; or

(c) Recovery by the department will cause the heirs of the deceased individual to be eligible for public assistance.

(8) The cause of action to void a transfer without adequate consideration established in this section shall not be deemed to have accrued until the department discovers, or reasonably could have discovered, the facts constituting the transfer without adequate consideration.

Approved March 18, 2008.

CHAPTER 183
(S.B. No. 1434)

AN ACT

RELATING TO ADMINISTRATIVE RULES; AMENDING SECTION 67-5202, IDAHO CODE, TO PROVIDE THAT THE OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR SHALL HAVE THE AUTHORITY TO MAKE CLERICAL REVISIONS OR TO CORRECT MANIFEST TYPOGRAPHICAL OR GRAMMATICAL ERRORS TO BOTH PROPOSED AND EXISTING RULES UNDER CERTAIN CIRCUMSTANCES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-5223, IDAHO CODE, TO ALLOW THE

RULES COORDINATOR TO MAKE TECHNICAL CORRECTIONS AND THEN SUBMIT PROPOSED RULES AND ACCOMPANYING NOTICE TO THE DIRECTOR OF LEGISLATIVE SERVICES FOR REVIEW; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-5202, Idaho Code, be, and the same is hereby amended to read as follows:

67-5202. OFFICE OF ADMINISTRATIVE RULES COORDINATOR. (1) There is hereby established the office of administrative rules coordinator in the department of administration. The coordinator shall be a nonclassified employee and shall be appointed by and serve at the pleasure of the director of the department of administration. All other employees of the office of administrative rules employed on July 1, 1996, shall be classified employees, but upon their termination their positions and any positions vacant upon July 1, 1996, shall be nonclassified positions and any persons employed to fill positions in the office of administrative rules thereafter shall be exempt from the provisions of chapter 53, title 67, Idaho Code.

(2) The coordinator shall have the authority to make clerical revisions or to correct manifest typographical or grammatical errors to both proposed and existing rules that do not alter the sense, meaning or effect of such rules.

(3) The coordinator shall receive all notices and rules required in this chapter to be published in the bulletin or the administrative code. The coordinator shall prescribe a uniform style, form, and numbering system which shall apply to all rules adopted by all agencies. The coordinator shall review all submitted rules for style, form, and numbering, and may return a rule that is not in proper style, form, or number.

SECTION 2. That Section 67-5223, Idaho Code, be, and the same is hereby amended to read as follows:

67-5223. INTERIM LEGISLATIVE REVIEW -- STATEMENT OF ECONOMIC IMPACT. (1) ~~At the same time that~~ After notice of proposed rulemaking is filed with the coordinator, the ~~agency~~ coordinator, after making technical corrections as authorized in section 67-5202, Idaho Code, shall provide the ~~same~~ notice, accompanied by the full text of the rule under consideration in legislative format, as well as a statement of the substance of the intended action, to the director of legislative services. If the proposed rulemaking is based upon a requirement of federal law or regulation, a copy of that specific federal law or regulation shall accompany the submission to the director of legislative services. The director of legislative services shall analyze and refer the material under consideration to the germane joint subcommittee created in section 67-454, Idaho Code.

(2) An agency shall prepare and deliver to the germane joint subcommittee a statement of economic impact with respect to a proposed rule if the germane joint subcommittee files a written request with the agency for such a statement. The statement shall contain an evaluation of the costs and benefits of the rule, including any health, safety, or welfare costs and benefits. The adequacy of the contents of the statement of economic impact is not subject to judicial review.

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 18, 2008.

CHAPTER 184
(S.B. No. 1462)

AN ACT

APPROPRIATING MONEYS FOR THE MILITARY DIVISION FOR FISCAL YEAR 2009; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND GRANTING A CONTINUOUS APPROPRIATION FOR THE BUREAU OF HOMELAND SECURITY'S MISCELLANEOUS REVENUE FUND FOR FISCAL YEAR 2009.

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 Military Division the following amounts to be expended for the following programs according to the designated expense classes from the listed funds for the period July 1, 2008, through June 30, 2009:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MILITARY MANAGEMENT:					
FROM:					
General Fund	$ 1,683,200	$ 491,400	$ 55,400	$ 227,400	$ 2,457,400
Indirect Cost Recovery Fund	121,900	220,700			342,600
Federal Grant Fund		167,200			167,200
Miscellaneous Revenue Fund		115,900			115,900
TOTAL	$ 1,805,100	$ 995,200	$ 55,400	$ 227,400	$ 3,083,100
II. FEDERAL AND STATE CONTRACTS:					
FROM:					
General Fund	$ 839,000	$ 1,178,200	$ 42,000		$ 2,059,200
Federal Grant Fund	10,146,900	13,852,600	42,000		24,041,500
TOTAL	$10,985,900	$15,030,800	$ 84,000		$26,100,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
III. BUREAU OF HOMELAND SECURITY:					
FROM:					
General Fund	$ 1,491,700	$ 211,000	$ 38,400		$ 1,741,100
Administration and Accounting Fund	1,666,100	849,300	417,300		2,932,700
Federal Grant Fund	1,858,600	6,208,800		$14,937,900	23,005,300
TOTAL	$ 5,016,400	$ 7,269,100	$455,700	$14,937,900	$27,679,100
GRAND TOTAL	$17,807,400	$23,295,100	$595,100	$15,165,300	$56,862,900

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Military Division is authorized no more than two hundred thirty-seven and eight-tenths (237.8) full-time equivalent positions at any point during the period July 1, 2008, through June 30, 2009, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. The Military Division is hereby granted continuous appropriation authority for the Bureau of Homeland Security's Miscellaneous Revenue Fund for the period July 1, 2008, through June 30, 2009, for the purpose of covering incurred costs arising out of hazardous substance incidents.

Approved March 18, 2008.

CHAPTER 185
(S.B. No. 1407)

AN ACT

RELATING TO SCHOLARSHIPS; AMENDING SECTION 33-4302, IDAHO CODE, TO PROVIDE FOR ADDITIONAL SCHOLARSHIP ELIGIBILITY, TO DEFINE A TERM 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 <u>of, or become disabled by,</u>

injuries or wounds sustained 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; 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, or become disabled by, 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; 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; 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.

(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.

(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.

(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.

For the purposes of this section, a member of the armed forces of the United States is considered disabled if he or she is unable to perform with reasonable continuity the material duties of any gainful occupation for which he or she is reasonably fitted by education, training and experience.

(6) Applicants for the scholarship program herein prescribed shall provide institutional administrative personnel with documentation of their rights under this act.

Approved March 18, 2008.

CHAPTER 186
(S.B. No. 1335)

AN ACT

RELATING TO THE UNIFORM POWER OF ATTORNEY ACT; REPEALING PART 5, CHAPTER 5, TITLE 15, IDAHO CODE, RELATING TO POWERS OF ATTORNEY; AMENDING TITLE 15, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 12, TITLE 15, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROVIDE FOR APPLICABILITY, TO PROVIDE FOR DURABILITY OF POWER OF ATTORNEY, TO PROVIDE FOR EXECUTION OF POWER OF ATTORNEY, TO PROVIDE FOR VALIDITY OF POWER OF ATTORNEY, TO PROVIDE FOR MEANING AND EFFECT OF POWER OF ATTORNEY, TO PROVIDE FOR NOMINATION OF CONSERVATOR AND FOR RELATION OF AGENT TO COURT-APPOINTED FIDUCIARY, TO PROVIDE FOR WHEN POWER OF ATTORNEY IS EFFECTIVE, TO PROVIDE FOR TERMINATION OF POWER OF ATTORNEY OR AGENT'S AUTHORITY, TO PROVIDE FOR COAGENTS AND SUCCESSOR AGENTS, TO PROVIDE FOR REIMBURSEMENT AND COMPENSATION OF AGENT, TO PROVIDE FOR AGENT'S ACCEPTANCE, TO PROVIDE FOR AGENT'S DUTIES, TO PROVIDE FOR EXONERATION OF AGENT, TO PROVIDE FOR JUDICIAL RELIEF, TO PROVIDE FOR AGENT'S LIABILITY, TO PROVIDE FOR AGENT'S RESIGNATION AND FOR NOTICE, TO PROVIDE FOR ACCEPTANCE OF AND RELIANCE UPON AN ACKNOWLEDGED POWER OF ATTORNEY, TO PROVIDE LIABILITY FOR REFUSAL TO ACCEPT AN ACKNOWLEDGED POWER OF ATTORNEY, TO PROVIDE FOR PRINCIPLES OF LAW AND EQUITY, TO PROVIDE FOR LAWS APPLICABLE TO FINANCIAL INSTITUTIONS AND ENTITIES, TO PROVIDE FOR REMEDIES UNDER OTHER LAW, TO PROVIDE FOR AUTHORITY THAT REQUIRES SPECIFIC GRANT AND FOR GRANT OF GENERAL AUTHORITY, TO PROVIDE FOR INCORPORATION OF AUTHORITY, TO PROVIDE FOR CONSTRUCTION OF AUTHORITY GENERALLY, TO PROVIDE FOR AUTHORITY REGARDING REAL PROPERTY, TO PROVIDE FOR AUTHORITY REGARDING TANGIBLE PERSONAL PROPERTY, TO PROVIDE FOR AUTHORITY REGARDING STOCKS AND BONDS, TO PROVIDE FOR AUTHORITY REGARDING COMMODITIES AND OPTIONS, TO PROVIDE FOR AUTHORITY REGARDING BANKS AND OTHER FINANCIAL INSTITUTIONS, TO PROVIDE FOR AUTHORITY REGARDING OPERATION OF AN ENTITY OR BUSINESS, TO PROVIDE FOR AUTHORITY REGARDING INSURANCE AND ANNUITIES, TO PROVIDE FOR AUTHORITY REGARDING ESTATES, TRUSTS AND OTHER BENEFICIAL INTERESTS, TO PROVIDE FOR AUTHORITY REGARDING CLAIMS AND LITIGATION, TO PROVIDE FOR AUTHORITY REGARDING PERSONAL AND FAMILY MAINTENANCE, TO PROVIDE FOR AUTHORITY REGARDING BENEFITS FROM GOVERNMENTAL PROGRAMS OR CIVIL OR MILITARY SERVICE, TO PROVIDE FOR AUTHORITY REGARDING RETIREMENT PLANS, TO PROVIDE FOR AUTHORITY REGARDING TAXES, TO PROVIDE FOR AUTHORITY REGARDING GIFTS, TO PROVIDE FOR STATUTORY FORM POWER OF ATTORNEY, TO PROVIDE FOR AGENT'S CERTIFICATION FORM, TO PROVIDE FOR UNIFORMITY OF APPLICATION AND CONSTRUCTION, TO PROVIDE FOR RELATION TO THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT AND TO PROVIDE FOR EFFECT ON EXISTING POWERS OF ATTORNEY; AND AMENDING SECTION 54-1142, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE.

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

SECTION 1. That Part 5, Chapter 5, Title 15, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Title 15, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 12, Title 15, Idaho Code, and to read as follows:

CHAPTER 12
UNIFORM POWER OF ATTORNEY ACT

PART 1.
GENERAL PROVISIONS AND DEFINITIONS

15-12-101. SHORT TITLE. This chapter may be known and cited as the "Uniform Power of Attorney Act."

15-12-102. DEFINITIONS. In this chapter:

(1) "Agent" means a person granted authority to act for a principal under a power of attorney, whether denominated an agent, attorney-in-fact, or otherwise. The term includes an original agent, coagent, successor agent or a person to which an agent's authority is delegated.

(2) "Durable" with respect to a power of attorney means not terminated by the principal's incapacity.

(3) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

(4) "Good faith" means honesty in fact.

(5) "Incapacity" means inability of an individual to manage property or business affairs because:

(a) The individual has an impairment in the ability to receive and evaluate information or make or communicate decisions even with the use of technological assistance; or

(b) The individual is:

(i) Missing;

(ii) Detained, including incarcerated in a penal system; or

(iii) Outside the United States and unable to return.

(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) "Power of attorney" means a writing or other record which grants authority to an agent to act in the place of the principal, whether or not the term power of attorney is used.

(8) "Presently exercisable general power of appointment" with respect to the property or property interest subject to the power means that the power is exercisable at the time in question to vest absolute ownership in the principal individually, the principal's estate, the principal's creditors, or the creditors of the principal's estate. The term includes a power of appointment that is not exercisable until the occurrence of a specified event, the satisfaction of an ascertainable standard, or the passage of a specified period only after the occurrence of the specified event, the satisfaction of the ascertainable standard, or the passage of the specified period. The term does not include a power exercisable in a fiduciary capacity or only by will.

(9) "Principal" means an individual who grants authority to an agent in a power of attorney.

(10) "Property" means anything that may be the subject of ownership, whether real or personal, or legal or equitable, or any interest or right therein.

(11) "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.

(12) "Sign" means, with 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 sound, symbol or process.

(13) "State" means a state of the United States, the District of Columbia, Puerto Rico, United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

(14) "Stocks and bonds" means stocks, bonds, mutual funds and all other types of securities and financial instruments, whether held directly, indirectly, or in any other manner, except commodity futures contracts and call and put options on stocks and stock indexes.

15-12-103. APPLICABILITY. This chapter applies to all powers of attorney except:

(1) A power to the extent it is coupled with an interest in the subject of the power, including, but not limited to, a power given to or for the benefit of a creditor in connection with a credit transaction;

(2) A power to make health care decisions;

(3) A proxy or other delegation to exercise voting rights or management rights with respect to an entity; and

(4) A power created on a form prescribed by a government or governmental subdivision, agency or instrumentality for a governmental purpose.

15-12-104. POWER OF ATTORNEY IS DURABLE. A power of attorney created under this chapter is durable unless it expressly provides that it is terminated by the incapacity of the principal.

15-12-105. EXECUTION OF POWER OF ATTORNEY. A power of attorney must be signed by the principal or in the principal's conscious presence by another individual directed by the principal to sign the principal's name on the power of attorney, including as set forth in section 73-114, Idaho Code. The signature is presumed to be genuine if the principal acknowledges the signature before a notary public or other individual authorized to take acknowledgments, including as set forth in section 51-109(6), Idaho Code, or section 55-712B, Idaho Code.

15-12-106. VALIDITY OF POWER OF ATTORNEY. (1) A power of attorney executed in this state on or after the effective date of this chapter is valid if its execution complies with section 15-12-105, Idaho Code.

(2) A power of attorney executed in this state before the effective date of this chapter is valid if its execution complied with the law of this state as it existed at the time of execution.

(3) A power of attorney executed other than in this state is valid in this state if, when the power of attorney was executed, the execution complied with:

(a) The law of the jurisdiction that determines the meaning and

effect of the power of attorney pursuant to section 15-12-107, Idaho Code; or

(b) The requirements for a military power of attorney pursuant to 10 U.S.C. section 1044b, as amended.

(4) Except as otherwise provided by statute other than this chapter, a photocopy or electronically transmitted copy of an original power of attorney has the same effect as the original.

15-12-107. MEANING AND EFFECT OF POWER OF ATTORNEY. The meaning and effect of a power of attorney is determined by the law of the jurisdiction indicated in the power of attorney and, in the absence of an indication of jurisdiction, by the law of the jurisdiction in which the power of attorney was executed.

15-12-108. NOMINATION OF CONSERVATOR; RELATION OF AGENT TO COURT-APPOINTED FIDUCIARY. (1) In a power of attorney, a principal may nominate a conservator of the principal's estate for consideration by the court if protective proceedings for the principal's estate are thereafter commenced.

(2) If, after a principal executes a power of attorney, a court appoints a conservator of the principal's estate or other fiduciary charged with the management of some or all of the principal's property, the agent is accountable to the fiduciary as well as to the principal. The power of attorney is not terminated and the agent's authority continues unless limited, suspended or terminated by the court.

15-12-109. WHEN POWER OF ATTORNEY EFFECTIVE. (1) A power of attorney is effective when executed unless the principal provides in the power of attorney that it is to become effective at a future date or upon the occurrence of a future event or contingency.

(2) If a power of attorney is to become effective upon the occurrence of a future event or contingency, the principal, in the power of attorney, may authorize one (1) or more persons to determine in a writing or other record that the event or contingency has occurred.

(3) If a power of attorney is to become effective upon the principal's incapacity and the principal has not authorized a person to determine whether the principal is incapacitated, or the person authorized is unable or unwilling to make the determination, the power of attorney becomes effective upon a determination in a writing or other record by:

(a) A physician or licensed psychologist that the principal is incapacitated within the meaning of section 15-12-102(5)(a), Idaho Code; or

(b) A licensed attorney at law, judge or appropriate governmental official that the principal is incapacitated within the meaning of section 15-12-102(5)(b), Idaho Code.

(4) A person authorized by the principal in the power of attorney to determine that the principal is incapacitated may act as the principal's personal representative as defined in, and pursuant to, the health insurance portability and accountability act, sections 1171 through 1179 of the social security act, 42 U.S.C. section 1320d through 1320d-8, as amended, and applicable regulations, to obtain access to the principal's health care information and communicate with the principal's health care provider.

15-12-110. TERMINATION OF POWER OF ATTORNEY OR AGENT'S AUTHORITY. (1) A power of attorney terminates when:

(a) The principal dies;

(b) The principal becomes incapacitated, if the power of attorney is not durable;

(c) The principal revokes the power of attorney;

(d) The power of attorney provides it terminates;

(e) The purpose of the power of attorney is accomplished; or

(f) The principal revokes the agent's authority or the agent dies, becomes incapacitated, or resigns, and the power of attorney does not provide for another agent to act under the power of attorney.

(2) An agent's authority terminates when:

(a) The principal revokes the agent's authority;

(b) The agent dies, becomes incapacitated or resigns;

(c) An action is filed for the dissolution or annulment of the agent's marriage to the principal or their legal separation, unless the power of attorney otherwise provides; or

(d) The power of attorney terminates.

(3) Unless the power of attorney otherwise provides, an agent's authority is exercisable until the power of attorney terminates, notwithstanding a lapse of time since the execution of the power of attorney.

(4) Termination of an agent's authority or of a power of attorney is not effective as to the agent or another person that, without actual knowledge of the termination, acts in good faith under the power of attorney. An act so performed, unless otherwise invalid or unenforceable, binds the principal and the principal's successors in interest.

(5) Incapacity of the principal of a power of attorney that is not durable does not revoke or terminate the power of attorney as to an agent or other person that, without actual knowledge of the incapacity, acts in good faith under the power of attorney. An act so performed, unless otherwise invalid or unenforceable, binds the principal and the principal's successors in interest.

(6) The execution of a power of attorney does not revoke a power of attorney previously executed by the principal unless the subsequent power of attorney provides that the previous power of attorney is revoked or that all other powers of attorney are revoked.

15-12-111. COAGENTS AND SUCCESSOR AGENTS. (1) A principal may designate two (2) or more persons to act as coagents. Unless a power of attorney otherwise provides, each coagent may exercise its authority independently.

(2) A principal may designate one (1) or more successor agents to act if an agent resigns, dies, becomes incapacitated, is not qualified to serve, or declines to serve, including a successor coagent. A principal may grant to an agent or other person designated by name, office or function, authority to designate one (1) or more successor agents, including a successor coagent. Unless a power of attorney otherwise provides, a successor agent:

(a) Has the same authority as that granted to the original agent; and

(b) May not act until all predecessor agents have resigned, died, become incapacitated, are no longer qualified to serve, or have declined to serve.

(3) Except as otherwise provided in the power of attorney and subsection (4) of this section, an agent that does not participate in or conceal a breach of fiduciary duty committed by another agent, including a predecessor agent, is not liable for the actions of the other agent.

(4) An agent that has actual knowledge of a breach or imminent breach of fiduciary duty by another agent shall notify the principal and, if the principal is incapacitated, take any action reasonably appropriate in the circumstances to safeguard the principal's best interest. An agent that fails to notify the principal or take action as required by this subsection is liable for the reasonably foreseeable damages that could have been avoided if the agent had notified the principal or taken such action.

15-12-112. REIMBURSEMENT AND COMPENSATION OF AGENT. Unless the power of attorney otherwise provides, an agent is entitled to reimbursement of expenses reasonably incurred on behalf of the principal and to compensation that is reasonable under the circumstances.

15-12-113. AGENT'S ACCEPTANCE. Except as otherwise provided in the power of attorney, a person accepts appointment as an agent under a power of attorney by exercising authority or performing duties as an agent or by any other assertion or conduct indicating acceptance.

15-12-114. AGENT'S DUTIES. (1) Notwithstanding provisions in a power of attorney, an agent that has accepted appointment shall:

(a) Act in accordance with the principal's reasonable expectations to the extent actually known by the agent and, otherwise, in the principal's best interest;

(b) Act in good faith; and

(c) Act only within the scope of authority granted in the power of attorney.

(2) Except as otherwise provided in the power of attorney, an agent that has accepted appointment shall:

(a) Act loyally for the principal's benefit;

(b) Act so as not to create a conflict of interest that impairs the agent's ability to act impartially in the principal's best interest;

(c) Act with the care, competence and diligence ordinarily exercised by agents in similar circumstances;

(d) Keep a record of all receipts, disbursements and transactions made on behalf of the principal;

(e) Cooperate with a person that has authority to make health care decisions for the principal to carry out the principal's reasonable expectations to the extent actually known by the agent and, otherwise, act in the principal's best interest; and

(f) Attempt to preserve the principal's estate plan, to the extent actually known by the agent, if preserving the plan is consistent with the principal's best interest based on all relevant factors, including:

(i) The value and nature of the principal's property;

(ii) The principal's foreseeable obligations and need for maintenance;

(iii) Minimization of taxes, including income, estate, inheritance, generation-skipping transfer and gift taxes; and

(iv) Eligibility for a benefit, a program or assistance under a statute or governmental regulation.

(3) An agent that acts in good faith is not liable to any beneficiary of the principal's estate plan for failure to preserve the plan.

(4) An agent that acts with care, competence and diligence for the best interest of the principal is not liable solely because the agent also benefits from the act or has an individual or conflicting interest in relation to the property or affairs of the principal.

(5) If an agent is selected by the principal because of special skills or expertise possessed by the agent, or in reliance on the agent's representation that the agent has special skills or expertise, the special skills or expertise must be considered in determining whether the agent has acted with care, competence and diligence under the circumstances.

(6) Absent a breach of duty to the principal, an agent is not liable if the value of the principal's property declines.

(7) An agent that exercises authority to delegate to another person the authority granted by the principal or that employs another person on behalf of the principal is not liable for an act, error of judgment or default of that person if the agent exercises care, competence and diligence in selecting and monitoring the person.

(8) Except as otherwise provided in the power of attorney, an agent is not required to disclose receipts, disbursements or transactions conducted on behalf of the principal unless ordered by a court or requested by the principal, a guardian, conservator, other fiduciary acting for the principal, a governmental agency having authority to protect the welfare of the principal or, upon the death of the principal, by the personal representative or successor in interest of the principal's estate. If so requested, the agent shall comply with the request within thirty (30) days or provide a writing or other record substantiating why additional time is needed and shall comply with the request within an additional thirty (30) days.

15-12-115. EXONERATION OF AGENT. A provision in a power of attorney relieving the agent of liability for breach of duty is binding on the principal and the principal's successors in interest except to the extent the provision:

(1) Relieves the agent of liability for breach of duty committed dishonestly, with an improper motive, or with reckless indifference to the purposes of the power of attorney or the best interest of the principal; or

(2) Was inserted as a result of an abuse of a confidential or fiduciary relationship with the principal.

15-12-116. JUDICIAL RELIEF. (1) The following persons may petition a court to construe a power of attorney or review the agent's conduct, and grant appropriate relief:

(a) The principal or the agent;

(b) A guardian, conservator or other fiduciary acting for the principal;

(c) A person authorized to make health care decisions for the principal;

(d) The principal's spouse, parent or descendant;

(e) An individual who would qualify as a presumptive heir of the principal;

(f) A person named as a beneficiary to receive any property, benefit or contractual right on the principal's death or as a beneficiary of a trust created by or for the principal that has a financial interest in the principal's estate;

(g) A governmental agency having regulatory authority to protect the welfare of the principal;

(h) The principal's caregiver or another person that demonstrates sufficient interest in the principal's welfare; and

(i) A person asked to accept the power of attorney.

(2) Upon motion by the principal, the court shall dismiss a petition filed under this section, unless the court finds that the principal lacks capacity to revoke the agent's authority or the power of attorney.

(3) The court may award reasonable attorney's fees and costs to the prevailing party in a proceeding under this section.

15-12-117. AGENT'S LIABILITY. An agent that violates this chapter is liable to the principal or the principal's successors in interest for the amount required to:

(1) Restore the value of the principal's property to what it would have been had the violation not occurred; and

(2) Reimburse the principal or the principal's successors in interest for the attorney's fees and costs, and other professional fees and costs, paid on the agent's behalf.

15-12-118. AGENT'S RESIGNATION -- NOTICE. If a power of attorney does not provide the method for an agent's resignation, an agent may resign by giving written notice to the principal and, if the principal is incapacitated:

(1) To the conservator or guardian, if one (1) has been appointed for the principal, and a coagent or successor agent; or

(2) If there is no person described in subsection (1) of this section, to:

(a) The principal's caregiver;

(b) Another person reasonably believed by the agent to have sufficient interest in the principal's welfare; or

(c) A governmental agency having authority to protect the welfare of the principal.

15-12-119. ACCEPTANCE OF AND RELIANCE UPON AN ACKNOWLEDGED POWER OF ATTORNEY. (1) For purposes of this section and section 15-12-120, Idaho Code, "acknowledged" means purportedly verified before a notary public or other individual authorized to take acknowledgments.

(2) A person that in good faith accepts an acknowledged power of attorney without actual knowledge that the signature is not genuine may rely upon the presumption under section 15-12-105, Idaho Code, that the signature is genuine.

(3) A person that in good faith accepts an acknowledged power of attorney without actual knowledge that the power of attorney is void, invalid or terminated, that the purported agent's authority is void, invalid or terminated, or that the agent is exceeding or improperly exercising the agent's authority may rely upon the power of attorney as if the power of attorney were genuine, valid and still in effect, the

agent's authority were genuine, valid and still in effect, and the agent had not exceeded and had properly exercised the authority.

(4) A person that is asked to accept an acknowledged power of attorney may request, and rely upon, without further investigation:

(a) An agent's certification under penalty of perjury of any factual matter concerning the principal, the agent or the power of attorney;

(b) An English translation of the power of attorney if the power of attorney contains, in whole or in part, language other than English; and

(c) An opinion of counsel as to any matter of law concerning the power of attorney if the person making the request provides in a writing or other record the reason for the request.

(5) An English translation or an opinion of counsel requested under this section must be provided at the principal's expense unless the request is made more than seven (7) business days after the power of attorney is presented for acceptance.

(6) For purposes of this section and section 15-12-120, Idaho Code, a person that conducts activities through employees is without actual knowledge of a fact relating to a power of attorney, a principal or an agent if the employee conducting the transaction involving the power of attorney is without actual knowledge of the fact.

15-12-120. LIABILITY FOR REFUSAL TO ACCEPT AN ACKNOWLEDGED POWER OF ATTORNEY. (1) Except as otherwise provided in subsection (2) of this section:

(a) A person must either accept an acknowledged power of attorney or request an agent's certification, a translation or an opinion of counsel pursuant to section 15-12-119(4), Idaho Code, within seven (7) business days after presentation of the power of attorney for acceptance;

(b) If a person requests an agent's certification, a translation, or an opinion of counsel under section 15-12-119(4), Idaho Code, the person must accept the power of attorney no later than five (5) business days after receipt of the certification, translation or opinion of counsel; and

(c) A person may not require an additional or different form of power of attorney for authority granted in the power of attorney presented.

(2) A person is not required to accept an acknowledged power of attorney if:

(a) The person is not otherwise required to engage in a transaction with the principal in the same circumstances;

(b) Engaging in a transaction with the agent or the principal in the same circumstances would not be consistent with federal law;

(c) The person has actual knowledge of the termination of the agent's authority or of the power of attorney before exercise of the power;

(d) A request for a certification, a translation, or an opinion of counsel under section 15-12-119(4), Idaho Code, is refused;

(e) The person in good faith believes that the power is not valid or that the agent does not have the authority to perform the act requested, whether or not an agent's certification, a translation or an opinion of counsel has been requested or provided; or

(f) The person makes, or has actual knowledge that another person has made, a report to the local adult protective services office stating a good faith belief that the principal may be subject to physical or financial abuse, neglect, exploitation or abandonment by the agent or a person acting for or with the agent.

(3) A person that refuses in violation of this section to accept an acknowledged power of attorney is subject to:

(a) A court order mandating acceptance of the power of attorney; and

(b) Liability for reasonable attorney's fees and costs incurred in any action or proceeding that confirms the validity of the power of attorney or mandates acceptance of the power of attorney.

15-12-121. PRINCIPLES OF LAW AND EQUITY. Unless displaced by a provision of this chapter, the principles of law and equity supplement this chapter.

15-12-122. LAWS APPLICABLE TO FINANCIAL INSTITUTIONS AND ENTITIES. This chapter does not supersede any law applicable to financial institutions or other entities, and the other law controls if inconsistent with this chapter.

15-12-123. REMEDIES UNDER OTHER LAW. The remedies under this chapter are not exclusive and do not abrogate any right or remedy under the law of this state.

PART 2.
AUTHORITY

15-12-201. AUTHORITY THAT REQUIRES SPECIFIC GRANT -- GRANT OF GENERAL AUTHORITY. (1) An agent under a power of attorney may exercise the following authority on behalf of the principal or with the principal's property only if the power of attorney expressly grants the agent the authority and exercise is not otherwise prohibited by other agreement or instrument to which the authority or property is subject:

(a) Create, amend, revoke or terminate an inter vivos trust;

(b) Make a gift;

(c) Create or change rights of survivorship;

(d) Create or change a beneficiary designation;

(e) Delegate authority granted under the power of attorney;

(f) Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan; or

(g) Exercise fiduciary powers that the principal has authority to delegate.

(2) Notwithstanding a grant of authority to exercise authority in subsection (1) of this section, unless the power of attorney otherwise provides, an agent that is not an ancestor, spouse or descendant of the principal, may not exercise authority under a power of attorney to create in the agent, or in an individual to whom the agent owes a legal obligation of support, an interest in the principal's property, whether by gift, right of survivorship, beneficiary designation, disclaimer or otherwise.

(3) Subject to subsections (1), (2), (4) and (5) of this section,

if a power of attorney grants to an agent authority to do all acts that a principal could do, the agent has the general authority described in sections 15-12-204 through 15-12-216, Idaho Code.

(4) Unless the power of attorney otherwise provides, a grant of authority to make a gift is subject to section 15-12-217, Idaho Code.

(5) Subject to subsections (1), (2) and (4) of this section, if the subjects over which authority is granted in a power of attorney are similar or overlap, the broadest authority controls.

(6) Authority granted in a power of attorney is exercisable with respect to a property interest that the principal has when the power of attorney is executed or acquires later, whether or not the property is located in this state and whether or not the authority is exercised or the power of attorney is executed in this state.

(7) An act performed by an agent pursuant to a power of attorney has the same effect and inures to the benefit of and binds the principal and the principal's successors in interest as if the principal had performed the act.

15-12-202. INCORPORATION OF AUTHORITY. (1) An agent has authority described in this part if the power of attorney refers to general authority with respect to the descriptive term for the subjects stated in sections 15-12-204 through 15-12-217, Idaho Code, or cites the section in which the authority is described.

(2) A reference in a power of attorney to general authority with respect to the descriptive term for a subject in sections 15-12-204 through 15-12-217, Idaho Code, or a citation to sections 15-12-204 through 15-12-217, Idaho Code, incorporates the entire section as if it were set out in full in the power of attorney.

(3) A principal may modify authority incorporated by reference.

15-12-203. CONSTRUCTION OF AUTHORITY GENERALLY. Except as otherwise provided in the power of attorney, by executing a power of attorney that incorporates by reference a subject described in sections 15-12-204 through 15-12-217, Idaho Code, or that grants to an agent authority to do all acts that a principal could do pursuant to section 15-12-201(3), Idaho Code, a principal authorizes the agent, with respect to that subject, to:

(1) Demand, receive and obtain by litigation or otherwise, money or another thing of value to which the principal is, may become, or claims to be entitled, and conserve, invest, disburse, or use anything so received for the purposes intended;

(2) Contract in any manner with any person, on terms agreeable to the agent, to accomplish a purpose of a transaction and perform, rescind, cancel, terminate, reform, restate, release or modify the contract or another contract made by or on behalf of the principal;

(3) Execute, acknowledge, seal, deliver, file or record any instrument or communication the agent considers desirable to accomplish a purpose of a transaction, including creating at any time a schedule listing some or all of the principal's property and attaching it to the power of attorney;

(4) Prosecute, defend, submit to alternative dispute resolution, settle and propose or accept a compromise with respect to a claim existing in favor of or against the principal or intervene in litigation relating to the claim;

(5) Seek on the principal's behalf the assistance of a court or other governmental agency to carry out an act authorized in the power of attorney;

(6) Engage, compensate and discharge an attorney, accountant, discretionary investment manager, expert witness or other assistant;

(7) Prepare, execute and file a record, report or other document to safeguard or promote the principal's interest under a statute or governmental regulation;

(8) Communicate with any representative or employee of a government, governmental subdivision, agency or instrumentality on behalf of the principal;

(9) Access communications intended for and communicate on behalf of the principal, whether by mail, electronic transmission, telephone or other means; and

(10) In general, do any other lawful act with respect to the subject and all property related to the subject.

15-12-204. REAL PROPERTY. Unless a power of attorney otherwise provides, language in a power of attorney granting general authority with respect to real property authorizes the agent to:

(1) Demand, buy, lease, receive, accept as a gift or as security for an extension of credit or otherwise acquire or reject an interest in real property or a right incident to real property;

(2) Sell; exchange; convey with or without covenants, representations or warranties; quitclaim; release; surrender; retain title for security; encumber; partition; consent to partitioning; subject to an easement or covenant; subdivide; apply for zoning, rezoning or other governmental permits; plat or consent to platting; develop; grant options concerning; lease; sublease; contribute to an entity in exchange for an interest in that entity; or otherwise grant or dispose of an interest in real property or a right incident to real property;

(3) Pledge or mortgage an interest in real property or right incident to real property as security in order to borrow money or pay, renew or extend the time of payment of a debt of the principal or a debt guaranteed by the principal;

(4) Release, assign, satisfy or enforce by litigation or otherwise a mortgage, deed of trust, conditional sale contract, encumbrance, lien or other claim to real property which exists or is asserted;

(5) Manage or conserve an interest in real property or a right incident to real property owned or claimed to be owned by the principal, including:

(a) Insuring against liability, or casualty or other loss;

(b) Obtaining or regaining possession or protecting the interest or right by litigation or otherwise;

(c) Paying, assessing, compromising or contesting taxes or assessments or applying for and receiving refunds in connection with them; and

(d) Purchasing supplies, hiring assistance or labor and making repairs or alterations to the real property;

(6) Use, develop, alter, replace, remove, erect or install structures or other improvements upon real property in or incident to which the principal has, or claims to have, an interest or right;

(7) Participate in a reorganization with respect to real property or an entity that owns an interest in or right incident to real property

and receive and hold stocks and bonds or other property received in a plan of reorganization, and act with respect to them, including:

(a) Selling or otherwise disposing of them;

(b) Exercising or selling an option, conversion, or similar right with respect to them; and

(c) Exercising any voting rights in person or by proxy;

(8) Change the form of title of an interest in or right incident to real property; and

(9) Dedicate to public use, with or without consideration, easements or other real property in which the principal has, or claims to have, an interest.

15-12-205. TANGIBLE PERSONAL PROPERTY. Unless a power of attorney otherwise provides, language in a power of attorney granting general authority with respect to tangible personal property authorizes the agent to:

(1) Demand, buy, receive, accept as a gift or as security for an extension of credit or otherwise acquire or reject ownership or possession of tangible personal property or an interest in tangible personal property;

(2) Sell; exchange; convey with or without covenants, representations or warranties; quitclaim; release; surrender; create a security interest in; grant options concerning; lease; sublease; or otherwise dispose of tangible personal property or an interest in tangible personal property;

(3) Grant a security interest in tangible personal property or an interest in tangible personal property as security in order to borrow money or pay, renew or extend the time of payment of a debt of the principal or a debt guaranteed by the principal;

(4) Release, assign, satisfy, or enforce by litigation or otherwise, a security interest, lien or other claim on behalf of the principal, with respect to tangible personal property or an interest in tangible personal property;

(5) Manage or conserve tangible personal property or an interest in tangible personal property on behalf of the principal, including:

(a) Insuring against liability, or casualty or other loss;

(b) Obtaining or regaining possession of or protecting the property or interest, by litigation or otherwise;

(c) Paying, assessing, compromising or contesting taxes or assessments or applying for and receiving refunds in connection with taxes or assessments;

(d) Moving the property from place to place;

(e) Storing the property for hire or on a gratuitous bailment; and

(f) Using and making repairs, alterations or improvements to the property; and

(6) Change the form of title of an interest in tangible personal property.

15-12-206. STOCKS AND BONDS. Unless a power of attorney otherwise provides, language in a power of attorney granting general authority with respect to stocks and bonds authorizes the agent to:

(1) Buy, sell and exchange securities;

(2) Establish, continue, modify or terminate a securities account;

(3) Pledge securities as security in order to borrow, pay, renew or

extend the time of payment of a debt of the principal;

(4) Receive certificates and other evidences of ownership with respect to securities; and

(5) Exercise voting rights with respect to securities in person or by proxy, enter into voting trusts and consent to limitations on the right to vote.

15-12-207. COMMODITIES AND OPTIONS. Unless a power of attorney otherwise provides, language in a power of attorney granting general authority with respect to commodities and options authorizes the agent to:

(1) Buy, sell, exchange, assign, settle and exercise commodity futures contracts and call and put options on stocks and stock indexes traded on a regulated option exchange; and

(2) Establish, continue, modify and terminate option accounts.

15-12-208. BANKS AND OTHER FINANCIAL INSTITUTIONS. Unless a power of attorney otherwise provides, language in a power of attorney granting general authority with respect to banks and other financial institutions authorizes the agent to:

(1) Continue, modify and terminate an account or other banking arrangement made by or on behalf of the principal;

(2) Establish, modify and terminate an account or other banking arrangement with a bank, trust company, savings and loan association, credit union, thrift company, brokerage firm or other financial institution selected by the agent;

(3) Contract for services available from a financial institution, including renting a safe deposit box or space in a vault;

(4) Withdraw, by check, order, electronic funds transfer or otherwise, money or property of the principal deposited with or left in the custody of a financial institution;

(5) Receive statements of account, vouchers, notices and similar documents from a financial institution and act with respect to them;

(6) Enter a safe deposit box or vault and withdraw or add to the contents;

(7) Borrow money and pledge as security personal property of the principal necessary in order to borrow money or pay, renew or extend the time of payment of a debt of the principal;

(8) Make, assign, draw, endorse, discount, guarantee and negotiate promissory notes, checks, drafts and other negotiable or nonnegotiable paper of the principal or payable to the principal or the principal's order, transfer money, receive the cash or other proceeds of those transactions and accept a draft drawn by a person upon the principal and pay it when due;

(9) Receive for the principal and act upon a sight draft, warehouse receipt or other document of title whether tangible or electronic, or other negotiable or nonnegotiable instrument;

(10) Apply for, receive and use letters of credit, credit and debit cards, electronic transaction authorizations and traveler's checks from a financial institution and give an indemnity or other agreement in connection with letters of credit; and

(11) Consent to an extension of the time of payment with respect to commercial paper or a financial transaction with a financial institution.

15-12-209. OPERATION OF AN ENTITY OR BUSINESS. Subject to the terms of a document or an agreement governing an entity or an entity ownership interest, and unless a power of attorney otherwise provides, language in a power of attorney granting general authority with respect to operation of an entity or business authorizes the agent to:

(1) Operate, buy, sell, enlarge, reduce or terminate an ownership interest;

(2) Perform a duty or discharge a liability and exercise in person or by proxy a right, power, privilege or option that the principal has, may have, or claims to have;

(3) Enforce the terms of an ownership agreement;

(4) Defend, submit to alternative dispute resolution, settle or compromise litigation to which the principal is a party because of an ownership interest;

(5) Exercise in person or by proxy, or enforce by litigation or otherwise, a right, power, privilege or option the principal has or claims to have as the holder of stocks and bonds;

(6) Defend, submit to alternative dispute resolution, settle or compromise litigation to which the principal is a party concerning stocks and bonds;

(7) With respect to an entity or business owned solely by the principal:

(a) Continue, modify, renegotiate, extend and terminate a contract made by or on behalf of the principal with respect to the entity or business before execution of the power of attorney;

(b) Determine:

(i) The location of its operation;

(ii) The nature and extent of its business;

(iii) The methods of manufacturing, selling, merchandising, financing, accounting and advertising employed in its operation;

(iv) The amount and types of insurance carried; and

(v) The mode of engaging, compensating and dealing with its employees and accountants, attorneys or other agents;

(c) Change the name or form of organization under which the entity or business is operated and enter into an ownership agreement with other persons to take over all or part of the operation of the entity or business; and

(d) Demand and receive money due or claimed by the principal or on the principal's behalf in the operation of the entity or business and control and disburse the money in the operation of the entity or business;

(8) Put additional capital into an entity or business in which the principal has an interest;

(9) Join in a plan of reorganization, consolidation, conversion, domestication or merger of the entity or business;

(10) Sell or liquidate an entity or business or part of it;

(11) Establish the value of an entity or business under a buy-out agreement to which the principal is a party;

(12) Prepare, sign, file and deliver reports, compilations of information, returns or other papers with respect to an entity or business and make related payments; and

(13) Pay, compromise or contest taxes or assessments and perform any other act to protect the principal from illegal or unnecessary taxation,

fines, penalties or assessments with respect to an entity or business, including attempts to recover, in any manner permitted by law, money paid before or after the execution of the power of attorney.

15-12-210. INSURANCE AND ANNUITIES. Unless a power of attorney otherwise provides, language in a power of attorney granting general authority with respect to insurance and annuities authorizes the agent to:

(1) Continue, pay the premium or make a contribution on, modify, exchange, rescind, release or terminate a contract procured by or on behalf of the principal which insures or provides an annuity to either the principal or another person, whether or not the principal is a beneficiary under the contract;

(2) Procure new, different and additional contracts of insurance and annuities for the principal and the principal's spouse, children and other dependents, and select the amount, type of insurance or annuity and mode of payment;

(3) Pay the premium or make a contribution on, modify, exchange, rescind, release or terminate a contract of insurance or annuity procured by the agent;

(4) Apply for and receive a loan secured by a contract of insurance or annuity;

(5) Surrender and receive the cash surrender value on a contract of insurance or annuity;

(6) Exercise an election;

(7) Exercise investment powers available under a contract of insurance or annuity;

(8) Change the manner of paying premiums on a contract of insurance or annuity;

(9) Change or convert the type of insurance or annuity with respect to which the principal has or claims to have authority described in this section;

(10) Apply for and procure a benefit or assistance under a statute or governmental regulation to guarantee or pay premiums of a contract of insurance on the life of the principal;

(11) Collect, sell, assign, hypothecate, borrow against or pledge the interest of the principal in a contract of insurance or annuity;

(12) Select the form and timing of the payment of proceeds from a contract of insurance or annuity; and

(13) Pay, from proceeds or otherwise, compromise or contest, and apply for refunds in connection with, a tax or assessment levied by a taxing authority with respect to a contract of insurance or annuity or its proceeds or liability accruing by reason of the tax or assessment.

15-12-211. ESTATES, TRUSTS AND OTHER BENEFICIAL INTERESTS. (1) In this section, "estates, trusts, and other beneficial interests" means a trust, probate estate, guardianship, conservatorship, escrow or custodianship, or any other fund from which the principal is, may become, or claims to be, entitled to a share or payment.

(2) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to estates, trusts and other beneficial interests authorizes the agent to:

(a) Accept, receive, receipt for, sell, assign, pledge or exchange a share in or payment from the estate, trust or beneficial interest;

(b) Demand or obtain money or another thing of value to which the principal is, may become, or claims to be, entitled by reason of the estate, trust or beneficial interest, by litigation or otherwise;

(c) Exercise for the benefit of the principal a presently exercisable power of appointment held by the principal;

(d) (i) Initiate, participate in, submit to alternative dispute resolution, settle, oppose or propose or accept a compromise with respect to litigation to:

1. Ascertain the meaning, validity or effect of a deed, will, declaration of trust or other instrument or transaction affecting the interest of the principal; or

2. Remove, substitute or surcharge a fiduciary; and

(ii) Regardless of whether or not language in a power of attorney grants general authority with respect to estates, trusts and other beneficial interests, the agent is authorized to enter into any resolution of disputes and other matters involving trusts and estates judicially or nonjudicially as provided in part 1, chapter 8, title 15, Idaho Code;

(e) Conserve, invest, disburse or use anything received for an authorized purpose;

(f) Transfer an interest of the principal in real property, stocks and bonds, accounts with financial institutions or securities intermediaries, insurance, annuities and other property to the trustee of a trust created by the principal as settlor; and

(g) (i) Release or consent to a reduction in or modification of a share in or payment from the estate, trust or beneficial interest; and

(ii) Regardless of whether or not language in a power of attorney grants general authority with respect to estates, trusts and other beneficial interests, the agent is authorized to reject, renounce or disclaim a share in or payment from the estate, trust or beneficial interest pursuant to section 15-2-801, Idaho Code.

15-12-212. CLAIMS AND LITIGATION. Unless a power of attorney otherwise provides, language in a power of attorney granting general authority with respect to claims and litigation authorizes the agent to perform any lawful act on behalf of the principal in connection with claims and litigation, including:

(1) Assert and maintain before a court or administrative agency a claim, claim for relief, cause of action, counterclaim, offset, recoupment or defense, including an action to recover property or other thing of value, recover damages sustained by the principal, eliminate or modify tax liability, or seek an injunction, specific performance or other relief;

(2) Bring an action to determine adverse claims, intervene in litigation and seek to act as amicus curiae;

(3) Seek an attachment, garnishment, order of arrest or other preliminary, provisional or intermediate relief and use an available procedure to effect or satisfy a judgment, order or decree;

(4) Perform any lawful act, including make or accept a tender, offer of judgment, or admission of facts, submit a controversy on an agreed statement of facts, consent to examination before trial and bind the principal in litigation;

(5) Submit to alternative dispute resolution, settle and propose or accept a compromise;

(6) Waive the issuance and service of process upon the principal, accept service of process, appear for the principal, designate persons upon which process directed to the principal may be served, execute and file or deliver stipulations on the principal's behalf, verify pleadings, seek appellate review, procure and give surety and indemnity bonds, contract and pay for the preparation and printing of records and briefs, receive, execute and file or deliver a consent, waiver, release, confession of judgment, satisfaction of judgment, notice, agreement or other instrument in connection with the prosecution, settlement or defense of a claim or litigation;

(7) Act for the principal with respect to bankruptcy or insolvency, whether voluntary or involuntary, concerning the principal or some other person, or with respect to a reorganization, receivership, or application for the appointment of a receiver or trustee which affects an interest of the principal in property or other thing of value;

(8) Pay a judgment, award or order against the principal or a settlement made in connection with litigation or alternative dispute resolution; and

(9) Receive money or another thing of value paid in settlement of or as proceeds of a claim or litigation.

15-12-213. PERSONAL AND FAMILY MAINTENANCE. (1) Unless a power of attorney otherwise provides, language in a power of attorney granting general authority with respect to personal and family maintenance authorizes the agent to:

(a) Perform the acts necessary to maintain the customary standard of living of the principal, the principal's spouse, and the following individuals, whether living when the power of attorney is executed or later born:

(i) The principal's children;

(ii) Other individuals legally entitled to be supported by the principal; and

(iii) Those individuals whom the principal has customarily supported or indicated the intent to support;

(b) Make periodic payments of child support and other family maintenance required by a court or governmental agency or an agreement to which the principal is a party;

(c) Provide living quarters for those individuals described in paragraph (a) of this subsection by purchase, lease or other contract or pay the operating costs, including interest, amortization payments, repairs, improvements and taxes, on premises owned by the principal or occupied by those individuals;

(d) Provide normal domestic help, usual vacations and travel expenses, and funds for shelter, clothing, food, appropriate education, including postsecondary and professional-technical education and other current living costs for those individuals described in paragraph (a) of this subsection;

(e) Pay expenses for necessary health care and custodial care on behalf of the individuals described in paragraph (a) of this subsection;

(f) Act as the principal's personal representative pursuant to the health insurance portability and accountability act, sections 1171

through 1179 of the social security act, 42 U.S.C. section 1320d through 1320d-8, as amended, and applicable regulations, in making decisions related to the past, present or future payment for the provision of health care consented to by the principal or anyone authorized under the law of this state to consent to health care on behalf of the principal;

(g) Continue any provision made by the principal for automobiles or other means of transportation, including registering, licensing, insuring and replacing them for the individuals described in paragraph (a) of this subsection;

(h) Maintain credit and debit accounts for the convenience of the individuals described in paragraph (a) of this subsection and open new accounts to accomplish a lawful purpose; and

(i) Continue payments incidental to the membership or affiliation of the principal in a religious institution, club, society, order or other organization or to continue contributions to those organizations.

(2) Authority with respect to personal and family maintenance is neither dependent upon, nor limited by, authority that an agent may or may not have with respect to gifts under this chapter.

15-12-214. BENEFITS FROM GOVERNMENTAL PROGRAMS OR CIVIL OR MILITARY SERVICE. (1) In this section, "benefits from governmental programs or civil or military service" means any benefit, program or assistance provided under a statute or governmental regulation including social security, medicare and medicaid.

(2) Unless a power of attorney otherwise provides, language in a power of attorney granting general authority with respect to benefits from governmental programs or civil or military service authorizes the agent to:

(a) Execute vouchers in the name of the principal for allowances and reimbursements payable by the United States or a foreign government or by a state or subdivision of a state to the principal, including allowances and reimbursements for transportation of the individuals described in section 15-12-213(1)(a), Idaho Code, and for shipment of their household effects;

(b) Take possession and order the removal and shipment of property of the principal from a post, warehouse, depot, dock or other place of storage or safekeeping, either governmental or private, and execute and deliver a release, voucher, receipt, bill of lading, shipping ticket, certificate or other instrument for that purpose;

(c) Enroll in, apply for, select, reject, change, amend or discontinue, on the principal's behalf, a benefit or program;

(d) Prepare, file and maintain a claim of the principal for a benefit or assistance, financial or otherwise, to which the principal claims to be entitled under a statute or governmental regulation;

(e) Prosecute, defend, submit to alternative dispute resolution, settle and propose or accept a compromise with respect to any benefit or assistance the principal may be entitled to receive under a statute or governmental regulation; and

(f) Receive the financial proceeds of a claim of the type described in paragraph (d) of this subsection and conserve, invest, disburse or use anything so received for a lawful purpose.

15-12-215. RETIREMENT PLANS. (1) In this section, "retirement plan" means any plan or account created by an employer, the principal or another individual for the purpose of providing retirement benefits or deferred compensation of which the principal is a participant, beneficiary or owner, including a plan or account under the following sections of the Internal Revenue Code:

(a) An individual retirement account under Internal Revenue Code section 408, 26 U.S.C. section 408, as amended;

(b) A Roth individual retirement account under Internal Revenue Code section 408A, 26 U.S.C. section 408A, as amended;

(c) A deemed individual retirement account under Internal Revenue Code section 408(q), 26 U.S.C. section 408(q), as amended;

(d) An annuity or mutual fund custodial account under Internal Revenue Code section 403(b), 26 U.S.C. section 403(b), as amended;

(e) A pension, profit-sharing, stock bonus or other retirement plan qualified under Internal Revenue Code section 401(a), 26 U.S.C. section 401(a), as amended;

(f) A plan under Internal Revenue Code section 457(b), 26 U.S.C. section 457(b), as amended; and

(g) A nonqualified deferred compensation plan under Internal Revenue Code section 409A, 26 U.S.C. section 409A, as amended.

(2) Unless a power of attorney otherwise provides, language in a power of attorney granting general authority with respect to retirement plans authorizes the agent to:

(a) Select the form and timing of payments under a retirement plan and withdraw benefits from a plan;

(b) Make a rollover, including a direct trustee to trustee rollover, of benefits from one (1) retirement plan to another;

(c) Establish a retirement plan in the principal's name;

(d) Make contributions to a retirement plan;

(e) Exercise investment powers available under a retirement plan; and

(f) Borrow from, sell assets to or purchase assets from a retirement plan.

15-12-216. TAXES. Unless a power of attorney otherwise provides, language in a power of attorney granting general authority with respect to taxes authorizes the agent to:

(1) Prepare, sign and file federal, state, local and foreign income, gift, payroll, property, federal insurance contributions act and other tax returns, claims for refunds, requests for extension of time, petitions regarding tax matters and any other tax related documents, including receipts, offers, waivers, consents, including consents and agreements under Internal Revenue Code section 2032A, 26 U.S.C. section 2032A, as amended, closing agreements and any power of attorney required by the internal revenue service or other taxing authority with respect to a tax year upon which the statute of limitations has not run and the following twenty-five (25) tax years;

(2) Pay taxes due, collect refunds, post bonds, receive confidential information and contest deficiencies determined by the internal revenue service or other taxing authority;

(3) Exercise any election available to the principal under federal, state, local or foreign tax law; and

(4) Act for the principal in all tax matters for all periods before the internal revenue service, and any other taxing authority.

15-12-217. GIFTS. (1) In this section, a gift "for the benefit of" a person includes, but is not limited to, a gift to a trust, an account under the uniform transfers to minors act and a tuition savings account or prepaid tuition plan as defined under Internal Revenue Code section 529, 26 U.S.C. section 529, as amended.

(2) Unless a power of attorney otherwise provides, language in a power of attorney granting general authority with respect to gifts authorizes the agent to:

(a) Make outright to, or for the benefit of, a person, a gift of any of the principal's property, including by the exercise of a presently exercisable power of appointment held by the principal, in an amount per donee not to exceed the annual dollar limits of the federal gift tax exclusion under Internal Revenue Code section 2503(b), 26 U.S.C. section 2503(b), as amended, without regard to whether the federal gift tax exclusion applies to the gift, and if the principal's spouse agrees to consent to a split gift pursuant to Internal Revenue Code section 2513, 26 U.S.C. section 2513, as amended, in an amount per donee not to exceed twice the annual federal gift tax exclusion limit; and

(b) Consent, pursuant to Internal Revenue Code section 2513, 26 U.S.C. section 2513, as amended, to the splitting of a gift made by the principal's spouse in an amount per donee not to exceed the aggregate annual gift tax exclusions for both spouses.

(3) An agent may make a gift of the principal's property only as the agent determines is consistent with the principal's objectives if actually known by the agent and, if unknown, as the agent determines is consistent with the principal's best interest based on all relevant factors, including, but not limited to:

(a) The value and nature of the principal's property;

(b) The principal's foreseeable obligations and need for maintenance;

(c) Minimization of taxes, including income, estate, inheritance, generation-skipping transfer and gift taxes;

(d) Eligibility for a benefit, a program, or assistance under a statute or governmental regulation; and

(e) The principal's personal history of making or joining in making gifts.

PART 3.
STATUTORY FORMS

15-12-301. STATUTORY FORM POWER OF ATTORNEY. A document substantially in the following form may be used to create a statutory form power of attorney that has the meaning and effect prescribed in this chapter.

IDAHO STATUTORY FORM POWER OF ATTORNEY

IMPORTANT INFORMATION

This power of attorney authorizes another person (your agent) to make decisions concerning your property for you (the principal). Your agent can make decisions and act with respect to your property (including your money) whether or not you are able to act for yourself. The meaning of authority over subjects listed on this form is explained in the uniform power of attorney act, chapter 12, title 15, Idaho Code.

This power of attorney does not authorize the agent to make health care decisions for you.

You should select someone you trust to serve as your agent. The agent's authority will continue until your death unless you revoke the power of attorney or the agent resigns.

Your agent is entitled to reasonable compensation unless you state otherwise in the Special Instructions.

This form provides for designation of one (1) agent. If you wish to name more than one (1) agent, you may name a coagent in the Special Instructions. Coagents are not required to act together unless you include that requirement in the Special Instructions.

If your agent is unable or unwilling to act for you, your power of attorney will end unless you have named a successor agent. You may also name a second successor agent.

This power of attorney becomes effective immediately unless you state otherwise in the Special Instructions.

If you have questions about the power of attorney or the authority you are granting to your agent, you should seek legal advice before signing this form.

DESIGNATION OF AGENT

I, ...(Name of Principal)...., name the following person as my agent:

Name of Agent:.....
Agent's Address:.....
Agent's Phone Number:.....

DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

If my agent is unable or unwilling to act for me, I name as my successor agent:

Name of Successor Agent:.....
Successor Agent's Address:.....
Successor Agent's Phone Number:.....

If my successor agent is unable or unwilling to act for me, I name as my second successor agent:

Name of Second Successor Agent:.....
Second Successor Agent's Address:.....
Second Successor Agent's Phone Number:.....

GRANT OF GENERAL AUTHORITY

I grant my agent and any successor agent general authority to act for me with respect to the following subjects as defined in the uniform power of attorney act, chapter 12, title 15, Idaho Code:

(INITIAL each subject you want to include in the agent's general authority. If you wish to grant general authority over all of the subjects you may initial "All Preceding Subjects" instead of initialing each subject.)

(...) Real Property
(...) Tangible Personal Property
(...) Stocks and Bonds
(...) Commodities and Options
(...) Banks and Other Financial Institutions
(...) Operation of an Entity or Business
(...) Insurance and Annuities
(...) Estates, Trusts, and Other Beneficial Interests
(...) Claims and Litigation
(...) Personal and Family Maintenance
(...) Benefits from Governmental Programs or Civil or Military Service
(...) Retirement Plans
(...) Taxes
(...) All Preceding Subjects

GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

My agent MAY NOT do any of the following specific acts for me UNLESS I have INITIALED the specific authority listed below:

(CAUTION: Granting any of the following will give your agent the authority to take actions that could significantly reduce your property or change how your property is distributed at your death. INITIAL ONLY the specific authority you WANT to give your agent.)

(...) Create, amend, revoke, or terminate an inter vivos trust
(...) Make a gift, subject to the limitations of the uniform power of attorney act, chapter 12, title 15, Idaho Code, and any special instructions in this power of attorney
(...) Make a gift without limitations except any special instructions in this power of attorney
(...) Create or change rights of survivorship
(...) Create or change a beneficiary designation
(...) Authorize another person to exercise the authority granted under this power of attorney
(...) Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan
(...) Exercise fiduciary powers that the principal has authority to delegate

LIMITATION ON AGENT'S AUTHORITY

An agent that is not my ancestor, spouse, or descendant MAY NOT use my property to benefit the agent or a person to whom the agent owes an obligation of support unless I have included that authority in the Special Instructions.

SPECIAL INSTRUCTIONS (OPTIONAL)

On the following lines you may give special instructions:

.....

.....

.....

EFFECTIVE DATE

This power of attorney is effective immediately unless I have stated otherwise in the Special Instructions.

NOMINATION OF CONSERVATOR (OPTIONAL)

If it becomes necessary for a court to appoint a conservator of my estate, I nominate the following person(s) for appointment:

Name of Nominee for conservator of my estate: .....
Nominee's Address: .....
Nominee's Phone Number:.....

RELIANCE ON THIS POWER OF ATTORNEY

Any person, including my agent, may rely upon the validity of this power of attorney or a copy of it unless that person knows it is terminated or invalid.

SIGNATURE AND ACKNOWLEDGMENT
(OPTION ONE - IF YOU ARE ABLE TO SIGN ON YOUR OWN)

Your Signature: .....
Date: .....
Your Name Printed: .....
Your Address: .....
Your Phone Number: .....

NOTARY - REQUIRED FOR RECORDING AND FOR REAL PROPERTY

State of Idaho, county of ...., ss.

On this .... day of ...., in the year of ...., before me (here insert the name and quality of the officer), personally appeared ...., known or identified to me (or proved to me on the oath of ....), to be the person whose name is subscribed to the within instrument, and acknowledged to me that he (or they) executed the same.

My commission expires on ....,....

(OPTION TWO - IF YOU ARE UNABLE TO SIGN ON YOUR OWN AND DIRECT THE NOTARY TO SIGN FOR YOU)

Signature of person by notary: .....

Witness Signature: .....

Signature affixed by notary in the presence of (names of person and witness).

State of Idaho)
) ss.
County of .....)

On this ..... day of ....., in the year ....., before me (here insert the name and quality of the officer), personally appeared ....., known or identified to me (or proved to me on the oath of .....) to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same by directing the undersigned notary to affix his signature thereto.

.....(official signature and seal)

My commission expires on .....,....

IMPORTANT INFORMATION FOR AGENT

AGENT'S DUTIES

When you accept the authority granted under this power of attorney, a special legal relationship is created between you and the principal. This relationship imposes upon you legal duties that continue until you resign or the power of attorney is terminated or revoked. You must:

(1) Do what you know the principal reasonably expects you to do with the principal's property or, if you do not know the principal's expectations, act in the principal's best interest;
(2) Act in good faith;
(3) Do nothing beyond the authority granted in this power of attorney; and
(4) Disclose your identity as an agent whenever you act for the principal by signing the name of the principal and signing your own name as "agent" in the following manner:

.....(Principal's Name).....by.....(Your Signature).....as agent

Unless the Special Instructions in this power of attorney state otherwise, you must also:

(1) Act loyally for the principal's benefit;
(2) Avoid conflicts that would impair your ability to act in the principal's best interest;
(3) Act with care, competence and diligence;
(4) Keep a record of all receipts, disbursements, and transactions conducted for the principal;
(5) Cooperate with any person that has authority to make health care decisions for the principal to do what you know the principal reasonably expects or, if you do not know the principal's expectations, to act in the principal's best interest; and
(6) Attempt to preserve the principal's estate plan if you know the plan and preserving the plan is consistent with the principal's best interest.

TERMINATION OF AGENT'S AUTHORITY

You must stop acting on behalf of the principal if you learn of any event that terminates this power of attorney or your authority under this power of attorney. Events that terminate a power of attorney or your authority to act under a power of attorney include:

(1) Death of the principal;
(2) The principal's revocation of the power of attorney or your authority;
(3) The occurrence of a termination event stated in the power of attorney;
(4) The purpose of the power of attorney is fully accomplished; or
(5) A legal action is filed with a court to end your marriage to the principal, or for your legal separation, unless the Special Instructions in this power of attorney state that such an action will not terminate your authority.

LIABILITY OF AGENT

The meaning of the authority granted to you is defined in the act. If you violate the act or act outside the authority granted, you may be liable for any damages caused by your violation.

IF THERE IS ANYTHING ABOUT THIS DOCUMENT OR YOUR DUTIES THAT YOU DO NOT UNDERSTAND, YOU SHOULD SEEK LEGAL ADVICE.

15-12-302. AGENT'S CERTIFICATION. The following optional form may be used by an agent to certify facts concerning a power of attorney.

AGENT'S CERTIFICATION AS TO THE VALIDITY OF POWER OF ATTORNEY AND AGENT'S AUTHORITY

State of Idaho)
) ss.
County of .....)

I, ...(Name of Agent)....., certify under penalty of perjury that .....(Name of Principal) ..... granted me authority as an agent or successor agent in a Power of Attorney dated .....

I further certify that to my knowledge:

(1) The Principal is alive and has not revoked the Power of Attorney or my authority to act under the Power of Attorney and that the Power of Attorney and my authority to act under the Power of Attorney have not terminated;

(2) If the Power of Attorney was drafted to become effective upon the happening of an event or contingency, the event or contingency has occurred;

(3) If I was named as a successor agent, that the prior agent is no longer able or willing to serve; and

(4) (Insert other relevant statements): .....
.....

SIGNATURE AND ACKNOWLEDGMENT

.....
Agent's Signature

Date: .....
Agent's Name Printed: .....
Agent's Address: .....
Agent's Phone Number: .....

This document was acknowledged before me on .....(date)....., by ....(Name of Agent).....
Notary Public for Idaho: .....
Residing at: .....
My commission expires on: .....

PART 4.
MISCELLANEOUS PROVISIONS

15-12-401. 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 the states that enact it.

15-12-402. 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).

15-12-403. EFFECT ON EXISTING POWERS OF ATTORNEY. Except as otherwise provided in this chapter, on the effective date of this chapter:

(1) This chapter applies to a power of attorney created before, on or after the effective date of this chapter;

(2) This chapter applies to a judicial proceeding concerning a power of attorney commenced on or after the effective date of this chapter;

(3) This chapter applies to a judicial proceeding concerning a power of attorney commenced before the effective date of this chapter unless the court finds that application of a provision of this chapter would substantially interfere with the effective conduct of the judicial proceeding or prejudice the rights of a party, in which case that provision does not apply and the superseded law applies; and

(4) An act done before the effective date of this chapter is not affected by this chapter.

SECTION 3. That Section 54-1142, Idaho Code, be, and the same is hereby amended to read as follows:

54-1142. AUTHORITY IN ABSENCE OF PREARRANGED FUNERAL PLAN. (1) If the decedent has not made a prearranged funeral plan as set forth in section 54-1139, Idaho Code, the right to control the disposition of the

remains of a deceased person vests in, and devolves upon the following in the order named:

(a) The person designated in a written document executed by the decedent and acknowledged in the same manner as required for instruments conveying real property, and subject to such limitations, restrictions, or directions, as may be set forth in such document;

(b) The person designated as agent under a durable power of attorney for health care executed by the decedent, unless such durable power of attorney for health care contains express and clear language denying such right;

(c) The person designated in a durable power of attorney executed by the decedent, if such power of attorney contains express and clear language granting such right to the agent named in such power of attorney;

(d) The competent surviving spouse of the decedent;

(e) A majority of the competent surviving adult children of the decedent, provided that less than one-half (1/2) of the competent surviving adult children shall be vested with the right to control the disposition of the remains of the decedent if they have used reasonable efforts to notify all other competent surviving adult children of their instructions to dispose of the decedent's remains and are not aware of any opposition to those instructions on the part of more than one-half (1/2) of all competent surviving adult children;

(f) The competent surviving parents or parent of the decedent, provided that if one (1) of the competent surviving parents is absent, the remaining competent surviving parent shall be vested with the right to control the disposition of the remains of the decedent after reasonable efforts have been made and are unsuccessful in locating the absent competent surviving parent;

(g) The person appointed by a court of competent jurisdiction as the personal representative or administrator of the estate of the decedent;

(h) The person nominated as the personal representative of the estate of the decedent in the will of the decedent;

(i) The competent adult person or persons entitled to inherit from the decedent under the intestate succession laws of the state of Idaho, respectively in the next degree of kinship, provided that if there is more than one (1) competent surviving adult person of the same degree of kinship, the majority of those persons, and provided further that less than the majority of competent surviving adult persons of the same degree of kinship shall be vested with the right to control the disposition of the remains of the decedent if those persons have used reasonable efforts to notify all other competent surviving adult persons of the same degree of kinship of their instructions to dispose of the decedent's remains and are not aware of any opposition to those instructions on the part of one-half (1/2) or more of all competent surviving adult persons of the same degree of kinship;

(j) If the persons listed above fail to exercise their right to dispose of the remains of the deceased person within forty (40) days of the death of the deceased person, the person acting as guardian of the ward at the time of the ward's death, or if no guardian was then acting, the person acting as conservator of the protected per-

son at the time of the protected person's death, has the authority to dispose of the deceased person's remains, including cremation of the remains.

(2) If any person to whom the right of control has vested pursuant to the foregoing has been charged with first or second degree murder or voluntary manslaughter in connection with the decedent's death, and those charges are known to the funeral director or cemetery authority, the right of control is relinquished and passed on to the next qualifying person as listed above as if the charged person did not exist; provided however, that if the charges against such person are dropped, or if such person is acquitted of the charges, the right of control is returned to the person.

(3) For purposes of this section:

(a) "Adult" means an individual who is eighteen (18) years of age or older;

(b) "Child" means a natural or adopted child of the decedent;

(c) "Competent" means the individual has not been declared incompetent by a court of law, or who has been declared competent by a court of law after a prior declaration of incompetence;

(d) "Durable power of attorney" means a power of attorney described in section ~~15-5-501~~ 15-12-102, Idaho Code, or any similar document properly executed under the laws of another jurisdiction; and

(e) "Durable power of attorney for health care" means the document described in chapter 45, title 39, Idaho Code, or any similar document properly executed under the laws of another jurisdiction;

(f) "Will" means any testamentary device which is valid under the Idaho probate code, including, but not limited to, sections 15-2-503, 15-2-504 and 15-2-506, Idaho Code, whether or not originally executed in, or under the laws of, the state of Idaho.

(4) (a) A cemetery authority or licensed funeral director or a licensed hospital or its authorized personnel may permit or assist in, and a physician may perform, an autopsy of any remains of a decedent in its custody:

(i) If the decedent, prior to his death, authorizes an autopsy in his will or in another written instrument, including, but not limited to, a durable power of attorney for health care; or

(ii) Upon the receipt of a written authorization signed by, telegrammed from, or received by facsimile transmission from, a person representing himself to be the person who is entitled under this section to control the disposition of the remains of the decedent, or to be a coroner or any other duly authorized public officer; or

(iii) Upon the receipt of an oral authorization obtained by telephone, and recorded on tape or other recording device, from a person representing himself to be the person who is entitled under this section to control the disposition of the remains of the decedent, or to be a coroner or any other duly authorized public officer.

(b) A cemetery authority or a licensed funeral director of a licensed hospital or its authorized personnel is not liable for permitting or assisting, and a physician is not liable for performing, an autopsy pursuant to the authorization provided in paragraph (a) of this subsection unless he has actual notice that such representa-

tion is untrue at the time the autopsy is performed. If such authorization is contained in a will, the autopsy may be performed regardless of the validity of the will in other respects and regardless of whether the will may not be offered for, or admitted to, probate until a later date.

(c) This subsection shall not authorize the obtaining of an oral authorization by telephone, recorded on tape or other recording device, for the autopsy of a deceased person if it is made known to the physician who is to perform the autopsy that the deceased person was, at the time of his death, a member of a religion or group which opposes autopsies.

Approved March 18, 2008.

CHAPTER 187
(S.B. No. 1340)

AN ACT

RELATING TO MEDICAID; AMENDING SECTION 56-209h, IDAHO CODE, TO REVISE DEFINITIONS, TO DEFINE ADDITIONAL TERMS, TO PROVIDE FOR DOCUMENTATION RETENTION FOR A SPECIFIED TIME PERIOD, TO PROVIDE FOR RECOVERY BY THE DEPARTMENT OF HEALTH AND WELFARE OF PAYMENTS MADE UNDER ANY PUBLIC ASSISTANCE CONTRACT OR PROVIDER AGREEMENT, TO REVISE GROUNDS UPON WHICH THE DEPARTMENT MAY TAKE CERTAIN ACTIONS, TO PROVIDE FOR EXCLUSION FROM PROGRAM PARTICIPATION AS A MEDICAID PROVIDER, TO PROVIDE FOR SANCTIONS FOR INTENTIONAL PROGRAM VIOLATIONS AND TO PROVIDE AN OPPORTUNITY TO APPEAL.

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

SECTION 1. That Section 56-209h, Idaho Code, be, and the same is hereby amended to read as follows:

56-209h. ADMINISTRATIVE REMEDIES. (1) Definitions. For purposes of this section:

(a) "Abuse" or "abusive" means provider practices that are inconsistent with sound fiscal, business, child care or medical practices, and result in an unnecessary cost to ~~the--medical~~ a public assistance program, in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care, or in physical harm, pain or mental anguish to a ~~medical~~ public assistance recipient.

(b) "Claim" means any request or demand for payment, ~~of~~ or document submitted to initiate payment, for items or services provided under ~~the--state's--medical~~ a public assistance program, whether under a contract or otherwise.

(c) "Fraud" or "fraudulent" means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person.

(d) "Intentional program violation" means intentionally false or misleading action, omission or statement made in order to qualify as

a provider or recipient in a public assistance program.

(e) "Knowingly," "known" or "with knowledge" means that a person, with respect to information or an action:

(i) Has actual knowledge of the information or action; or

(ii) Acts in deliberate ignorance of the truth or falsity of the information or the correctness or incorrectness of the action; or

(iii) Acts in reckless disregard of the truth or falsity of the information or the correctness or incorrectness of the action.

(ef) "Managing employee" means a general manager, business manager, administrator, director or other individual who exercises operational or managerial control over, or who directly or indirectly conducts the day-to-day operation of, an institution, organization or agency.

(fg) "Medicaid fraud control unit" means that medicaid fraud control unit as provided for in section 56-226, Idaho Code.

(gh) "Ownership or control interest" means a person or entity that:

(i) Has an ownership interest totaling twenty-five percent (25%) or more in an entity; or

(ii) Is an officer or director of an entity that is organized as a corporation; or

(iii) Is a partner in an entity that is organized as a partnership; or

(iv) Is a managing member in an entity that is organized as a limited liability company.

(i) "Provider" means an individual, organization, agency or other entity providing items or services under a public assistance program.

(j) "Public assistance program" means assistance for which provision is made in any federal or state law existing or hereafter enacted by the state of Idaho or the congress of the United States by which payments are made from the federal government to the state in aid, or in respect to payment by the state for welfare purposes to any category of needy person, and any other program of assistance for which provision for federal or state funds for aid may from time to time be made.

(2) The department shall establish and operate an administrative fraud control program to enforce violations of the provisions of this chapter and of the state plan pursuant to subchapters XIX and XXI, chapter 7, title 42, U.S.C., that are outside the scope of the duties of the medicaid fraud control unit and to render and receive referrals from and to said unit.

(3) Review of documentation of services. All claims submitted by providers for payment are subject to prepayment and postpayment review as designated by rule. Except as otherwise provided by rule, providers shall generate documentation at the time of service sufficient to support each claim, and shall retain the documentation for a minimum of five (5) years from the date the item or service was provided. The department or authorized agent shall be given immediate access to such documentation upon written request.

(4) Immediate action. In the event that the department identifies a suspected case of fraud or abuse and the department has reason to believe that payments made during the investigation may be difficult or impractical to recover, the department may suspend or withhold payments

to the provider pending investigation. In the event that the department identifies a suspected case of fraud or abuse and it determines that it is necessary to prevent or avoid immediate danger to the public health or safety, the department may summarily suspend a provider agreement pending investigation. When payments have been suspended or withheld or a provider agreement suspended pending investigation, the department shall provide for a hearing within thirty (30) days of receipt of any duly filed notice of appeal.

(5) Recovery of payments. Upon referral of a matter from the medicaid fraud control unit, or if it is determined by the department that any condition of payment contained in rule, regulation, statute, or provider agreement was not met, the department may initiate administrative proceedings to recover any payments made for items or services under any public assistance contract or provider agreement the individual or entity has with the department. Interest shall accrue on overpayments at the statutory rate set forth in section 28-22-104, Idaho Code, from the date of final determination of the amount owed for items or services until the date of recovery.

(6) Provider status. The department may terminate the provider agreement or otherwise deny provider status to any individual or entity who:

(a) Submits a claim with knowledge that the claim is incorrect, including reporting costs as allowable which were known to be disallowed in a previous audit, unless the provider clearly indicates that the item is being claimed to establish the basis for an appeal and each disputed item and amount is specifically identified; or

(b) Submits a fraudulent claim; or

(c) Knowingly makes a false statement or representation of material fact in any document required to be maintained or submitted to the department; or

(d) Submits a claim for an item or service known to be medically unnecessary; or

(e) Fails to provide, upon written request by the department, immediate access to documentation required to be maintained; or

(f) Fails repeatedly or substantially to comply with the rules and regulations governing medical assistance payments or other public assistance program payments; or

(g) Knowingly violates any material term or condition of its provider agreement; or

(h) Has failed to repay, or was a "managing employee" or had an "ownership or control interest" in any entity that has failed to repay, any overpayments or claims previously found to have been obtained contrary to statute, rule, regulation or provider agreement; or

(i) Has been found, or was a "managing employee" in any entity which has been found, to have engaged in fraudulent conduct or abusive conduct in connection with the delivery of health care or public assistance items or services; or

(j) Fails to meet the qualifications specifically required by rule or by any applicable licensing board.

Any individual or entity denied provider status under this section may be precluded from participating as a provider in ~~the medical~~ any public assistance program for up to five (5) years from the date the department's action becomes final.

(7) The department must refer all cases of suspected medicaid provider fraud to the medicaid fraud control unit and shall promptly comply with any request from the medicaid fraud control unit for access to and free copies of any records or information kept by the department or its contractors, computerized data stored by the department or its contractors, and any information kept by providers to which the department is authorized access by law.

(8) Civil monetary penalties. The department may also assess civil monetary penalties against a provider and any officer, director, owner, and/or managing employee of a provider for conduct identified in subsections (6)(a) through (6)(i) of this section. The amount of the penalties shall be up to one thousand dollars ($1,000) for each item or service improperly claimed, except that in the case of multiple penalties the department may reduce the penalties to not less than twenty-five percent (25%) of the amount of each item or service improperly claimed if an amount can be readily determined. Each line item of a claim, or cost on a cost report is considered a separate claim. These penalties are intended to be remedial, recovering at a minimum costs of investigation and administrative review, and placing the costs associated with noncompliance on the offending provider.

(9) Exclusion. Any individual or entity convicted of a criminal offense related to the delivery of an item or service under any state or federal program shall be excluded from program participation as a medicaid provider for a period of not less than ten (10) years. Unless otherwise provided in this section or required by federal law, the department may exclude any individual or entity for a period of not less than one (1) year for any conduct for which the secretary of the department of health and human services or designee could exclude an individual or entity.

(10) Sanction of individuals or entities. The department may sanction individuals or entities by barring them from public assistance programs for intentional program violations where the federal law allows sanctioning individuals from receiving assistance. Individuals or entities who are determined to have committed an intentional program violation will be sanctioned from receiving public assistance for a period of twelve (12) months for the first violation, twenty-four (24) months for the second violation and permanently for the third violation.

(11) Individuals or entities subject to administrative remedies as described in subsections (4) through (10) of this section shall be provided the opportunity to appeal pursuant to chapter 52, title 67, Idaho Code, and the department's rules for contested cases.

(12) Adoption of rules. The department shall promulgate such rules as are necessary to carry out the policies and purposes of this section.

Approved March 18, 2008.

CHAPTER 188
(S.B. No. 1341)

AN ACT

RELATING TO PUBLIC ASSISTANCE FRAUD; AMENDING SECTION 56-227, IDAHO CODE, TO REVISE A TERM AND ITS SCOPE, TO PROVIDE FOR THE ESTABLISH-

MENT OF A FRAUD CONTROL PROGRAM IN THE DEPARTMENT OF HEALTH AND WELFARE AND TO PROVIDE FOR ITS AUTHORITY AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 56-227, Idaho Code, be, and the same is hereby amended to read as follows:

56-227. FRAUDULENT ACTS -- PENALTY. (~~a~~1) Whoever knowingly obtains, or attempts to obtain, or aids or abets any person in obtaining, by means of a willfully false statement or representation, material omission, or fraudulent devices, public assistance, relief or federal-aid assistance to which he is not entitled, or in an amount greater than that to which he is justly entitled, shall be punished in the same manner and to the same extent as for larceny or theft of the money or value of the public assistance so obtained or attempted to be so obtained.

(~~b~~2) Whoever sells, conveys, mortgages or otherwise disposes of his property, real or personal, or conceals his income or resources, for the purpose of rendering him eligible for any form of assistance, theretofore or thereafter applied for, to which he would not otherwise be entitled, shall be punished in the same manner and to the same extent as for larceny or theft of the money or value of the assistance so obtained or so attempted to be obtained.

(~~c~~3) Every person who knowingly aids or abets any person in selling, conveying, mortgaging or otherwise disposing of his property, real or personal, or in concealing his income or resources for the purpose of rendering him eligible for any form of public assistance or relief, theretofore or thereafter applied for and received, to which he would not otherwise be entitled, shall be punished in the same manner and to the same extent as for larceny or theft of the money or value of the public assistance or relief so obtained or attempted to be obtained.

(~~d~~4) For the purpose of this section ~~federal-aid~~ public assistance shall include the specific categories of assistance for which provision is made in any federal or state law existing or hereafter enacted by the congress of the United States or the state of Idaho by which payments are made from the federal government to the state in aid or in respect to payment by the state for welfare purposes to any category of needy person and any other program of assistance for which provision for federal or state funds for aid may from time to time be made.

(5) The state department of health and welfare shall establish and operate a fraud control program to investigate suspected fraud relating to applications for public assistance benefits, and public assistance benefits received by individuals or entities. Such activities shall be those which do not fall under the authority of the medicaid fraud control unit as provided in section 56-226, Idaho Code. The department shall establish a procedure to coordinate information with prosecuting attorneys to prosecute offenders who commit fraudulent acts pursuant to this chapter.

Approved March 18, 2008.

CHAPTER 189
(S.B. No. 1363)

AN ACT

RELATING TO INDIGENT MEDICAL SERVICES; AMENDING SECTION 31-3506, IDAHO CODE, TO REVISE THE EVENT USED TO DETERMINE COUNTY RESIDENCY; AND AMENDING SECTION 31-3510A, IDAHO CODE, TO REMOVE A PROVISION PROVIDING THAT REIMBURSEMENT MONEYS RECEIVED BY A COUNTY NEED NOT BE BUDGETED OR APPROPRIATED PURSUANT TO STATUTE AND TO PROVIDE THAT THE PORTION OF MONEYS RECEIVED BY THE COUNTY AS REIMBURSEMENT NOT ASSIGNED TO THE STATE CATASTROPHIC HEALTH CARE FUND SHALL BE CREDITED TO THE COUNTY INDIGENT FUND.

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

SECTION 1. That Section 31-3506, Idaho Code, be, and the same is hereby amended to read as follows:

31-3506. OBLIGATED COUNTY. The county obligated for payment shall be determined as follows:

(1) The obligated county for payment of pharmaceuticals for noninstitutionalized individuals shall be the county where the applicant currently resides.

(2) The obligated county for payment of necessary medical services for medical indigent individuals shall be as follows:

(a) The last county in which the applicant or head of household has maintained a residence for six (6) consecutive months or longer within the past five (5) years preceding ~~application~~ incurrence shall be obligated. If the applicant or head of household maintains another residence in a different county or state for purposes of employment, the county where the family residence is maintained shall be deemed the applicant's or head of household's place of residence.

(b) If an individual has not resided in any county for a period of six (6) months within the five (5) years preceding incurrence of medical costs for which counties have a responsibility in whole or in part, then the county where the applicant maintained a residence for at least thirty (30) days immediately preceding such incurrence shall be the obligated county.

(c) Active military duty, or being admitted as a patient in a hospital, nursing home, other medical facility or institution, shall not change the obligated county. The county obligated shall remain the same county that would have been obligated prior to institutionalization as above described.

(d) For full-time students at public institutions of higher learning, the obligated county shall be the county of residence of the applicant unless an obligated person, for whom the applicant is claimed as a dependent, resides in another county or state.

(e) If an individual has not resided in any county for a consecutive period of thirty (30) days but has resided in the state of Idaho for a consecutive period of thirty (30) days then the county where the individual last resided prior to receiving medical services shall be the obligated county.

SECTION 2. That Section 31-3510A, Idaho Code, be, and the same is hereby amended to read as follows:

31-3510A. REIMBURSEMENT. (1) Receipt of financial assistance pursuant to this chapter shall obligate an applicant to reimburse the county from which assistance is received and the catastrophic health care costs program for such reasonable portion of the financial assistance paid on behalf of the applicant as the board may determine that the applicant is able to pay from resources over a reasonable period of time. Cash amounts received shall be prorated between the county and the state in proportion to the amount each has paid.

(2) A final determination shall not relieve the applicant's duty to make additional reimbursement from resources if the board subsequently finds within a reasonable period of time that there has been a substantial change in circumstances such that the applicant is able to pay additional amounts up to the total claim paid on behalf of the applicant.

(3) A final determination shall not prohibit the board from reviewing a petition from an applicant to reduce an order of reimbursement based on a substantial change in circumstances.

(4) The automatic lien created pursuant to the chapter may be filed and recorded in any county of this state wherein the applicant has resources and may be liquidated or unliquidated in amount. Nothing herein shall prohibit an applicant from executing a consensual lien in addition to the automatic lien created by filing an application pursuant to this chapter. In the event that resources can be located in another state, the clerk may file the lien with the district court and provide notice to the recipient. The recipient shall have twenty (20) days to object, following which the district court shall enter judgment against the recipient. The judgment entered may thereafter be filed as provided for the filing of a foreign judgment in that jurisdiction.

(5) The county shall have the same right of recovery as provided to the state of Idaho pursuant to sections 56-218 and 56-218A, Idaho Code.

(6) The board may require the employment of such of the medically indigent as are capable and able to work and whose attending physician certifies they are capable of working.

(7) That portion of the ~~M~~Moneys received by a county as reimbursement that are not assigned to the state catastrophic health care fund shall be credited to the county indigent fund. ~~and need not be budgeted or appropriated in the manner required by chapter 16, title 31, Idaho Code, but shall be available for expenditure at any time for the purposes of the county indigent fund.~~

(8) If, after a hearing, the final determination of the board is to require a reimbursement amount or rate the applicant believes excessive, the applicant may seek judicial review of the final determination of the board in the manner provided in section 31-1506, Idaho Code.

Approved March 18, 2008.

CHAPTER 190
(S.B. No. 1377)

AN ACT

RELATING TO WHOLESALE DRUG DISTRIBUTION; AMENDING SECTION 54-1753, IDAHO CODE, TO PROVIDE FOR ADDITIONAL INFORMATION REQUIRED FOR LICENSURE AND TO REMOVE A BOND REQUIREMENT; TO REMOVE A REQUIREMENT TO ESTABLISH A FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 54-1753, Idaho Code, be, and the same is hereby amended to read as follows:

54-1753. WHOLESALE DRUG DISTRIBUTOR LICENSING REQUIREMENT -- MINIMUM REQUIREMENTS FOR LICENSURE. (1) Every wholesale distributor who engages in the wholesale distribution of prescription drugs must be licensed by the board, and every nonresident wholesale distributor must be licensed by the board if it ships prescription drugs into this state in accordance with this act before engaging in wholesale distributions of wholesale prescription drugs. The board shall exempt manufacturers distributing their own federal food and drug administration approved drugs and devices from any licensing and other requirements to the extent not required by federal law or regulation, unless particular requirements are deemed necessary and appropriate following rulemaking.

(2) The board shall require the following minimum information from each wholesale distributor applying for a license under subsection (1) of this section:

(a) The name, full business address and telephone number of the licensee;

(b) All trade or business names used by the licensee;

(c) Addresses, telephone numbers, and the names of contact persons for all facilities used by the licensee for the storage, handling, and distribution of prescription drugs;

(d) The type of ownership or operation, i.e., partnership, corporation, or sole proprietorship;

(e) The name of each person who is an owner or an operator of the licensee;

(f) A list of all licenses and permits issued to the applicant by any other state that authorizes the applicant to purchase or possess prescription drugs;

(g) The name of the applicant's designated representative for the facility, together with the personal information statement and fingerprints, required pursuant to paragraph (h) of this subsection (2) for such individual;

(h) Each individual required by paragraph (g) of this subsection (2) to provide a personal information statement and fingerprints shall provide the following information to the board:

(i) The individual's places of residence for the past seven (7) years;

(ii) The individual's date and place of birth;

(iii) The individual's occupations, positions of employment and offices held during the past seven (7) years;

(iv) The principal business and address of any business, corporation or other organization in which each such office of the individual was held or in which each such occupation or position of employment was carried on;

(v) Whether the individual has been, during the past seven (7) years, the subject of any proceeding for the revocation of any license or any criminal violation and, if so, the nature of the proceeding and the disposition of the proceeding;

(vi) Whether, during the past seven (7) years, the individual has been enjoined, either temporarily or permanently, by a court of competent jurisdiction from violating any federal or state law regulating the possession, control or distribution of prescription drugs or criminal violations, together with details concerning any such event;

(vii) A description of any involvement by the individual with any business, including any investments, other than the ownership of stock in a publicly traded company or mutual fund, during the past seven (7) years, which manufactured, administered, prescribed, distributed or stored pharmaceutical products, and any lawsuits in which such businesses were named as a party and in which the individual was also a named party in the same lawsuit or, regardless of whether the individual was a named party, in which the individual testified as a witness at trial or in a deposition;

(viii) A description of any felony criminal offense of which the individual, as an adult, was found guilty, regardless of whether adjudication of guilt was withheld or whether the individual pled guilty or nolo contendere. If the individual indicates that a criminal conviction is under appeal and submits a copy of the notice of appeal of that criminal offense, the applicant must, within fifteen (15) days after the disposition of the appeal, submit to the board a copy of the final written order of disposition; and

(ix) A photograph of the individual taken in the previous year.

(3) The information required pursuant to subsection (2) of this section shall be provided under oath.

(4) The board shall not issue a wholesale distributor license to an applicant, unless the board:

(a) Conducts a physical inspection of the facility at the address provided by the applicant as required in subsection (2)(a) of this section; and

(b) Determines that the designated representative meets the following qualifications:

(i) Is at least twenty-one (21) years of age;

(ii) Has been employed full time for at least three (3) years in a pharmacy or with a wholesale distributor in a capacity related to the dispensing and distribution of, and recordkeeping relating to, prescription drugs;

(iii) Is employed by the applicant full time in a managerial level position;

(iv) Is actively involved in and aware of the actual daily operation of the wholesale distributor;

(v) Is physically present at the facility of the applicant

during regular business hours, except when the absence of the designated representative is authorized including, but not limited to, sick leave and vacation leave;

(vi) Is serving in the capacity of a designated representative for only one (1) applicant at a time, except where more than one (1) licensed wholesale distributor is colocated in the same facility and such wholesale distributors are members of an affiliated group, as defined in section 1504 of the Internal Revenue Code;

(vii) Does not have any convictions under any federal, state or local law relating to wholesale or retail prescription drug distribution or distribution of controlled substances; and

(viii) Does not have any felony convictions under federal, state or local law.

(5) The board shall submit the fingerprints provided by a person with a license application for a statewide criminal records check and for forwarding to the federal bureau of investigation for a national criminal records check of the individual.

(6) ~~The board shall require every wholesale distributor applying for a license to submit a bond of at least one hundred thousand dollars ($100,000), or other equivalent means of security acceptable to the board, such as an irrevocable letter of credit or a deposit in a trust account or financial institution, payable to a fund established by the board pursuant to subsection (7) of this section. Chain pharmacy warehouses that are not engaged in wholesale distribution are exempt from the bond requirement. The purpose of the bond is to secure payment of any fines or penalties imposed by the board and any fees and costs incurred by the board regarding that license, which are authorized under the law of this state and which the licensee fails to pay thirty (30) days after the fines, penalties or costs become final. The board may make a claim against such bond or security until one (1) year after the licensee's license ceases to be valid. A single bond may suffice to cover all facilities operated by the applicant in this state.~~

~~(7) The board shall establish a fund, separate from its other accounts, in which to deposit the wholesale distributor bonds.~~

~~(8)~~ If a wholesale distributor distributes prescription drugs from more than one (1) facility, the wholesale distributor shall obtain a license for each facility.

(~~9~~7) In accordance with each licensure renewal, the board shall send to each wholesale distributor licensed under this section a form setting forth the information that the wholesale distributor provided pursuant to subsection (2) of this section. Within thirty (30) days of receiving such form, the wholesale distributor must identify and state under oath to the board all changes or corrections to the information that was provided pursuant to subsection (2) of this section. Changes in, or corrections to, any information in subsection (2) of this section shall be submitted to the board as required by the board. The board may suspend or revoke the license of a wholesale distributor if such authority determines that the wholesale distributor no longer qualifies for the license issued under this section.

(~~10~~8) The designated representative identified pursuant to subsection (2)(g) of this section must receive and complete continuing training in applicable federal law and the law of this state governing wholesale distribution of prescription drugs.

(~~11~~9) The board may adopt rules to approve an accreditation body to evaluate a wholesaler's operations to determine compliance with professional standards and any other applicable laws, and to perform inspections of each facility and location where wholesale distribution operations are conducted by the wholesaler.

(~~12~~0) Information provided under this section shall not be disclosed to any person other than a state licensing authority, government board or government agency, provided such licensing authority, government board or agency needs such information for licensing or monitoring 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.

Approved March 18, 2008.

CHAPTER 191
(S.B. No. 1405)

AN ACT

RELATING TO SCHOOL DISTRICT REAL AND PERSONAL PROPERTY; AMENDING SECTION 33-601, IDAHO CODE, TO PROVIDE FOR THE TRANSFER OR CONVEYANCE OF ANY REAL OR PERSONAL PROPERTY OWNED BY A SCHOOL DISTRICT TO ANY PUBLIC CHARTER SCHOOL; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 33-601, Idaho Code, be, and the same is hereby amended to read as follows:

33-601. REAL AND PERSONAL PROPERTY -- ACQUISITION, USE OR DISPOSAL OF SAME. The board of trustees of each school district shall have the following powers and duties:

(1~~.~~) To rent to or from others, school buildings or other property used, or to be used, for school purposes.

(2~~.~~) To contract for the construction, repair, or improvement of any real property, or the acquisition, purchase or repair of any equipment, or other personal property necessary for the operation of the school district.

Except for the purchase of curricular materials as defined in section 33-118A, Idaho Code, such contract shall be executed in accordance with the provisions of chapter 28, title 67, Idaho Code.

(3~~.~~) To designate and purchase any real property necessary for school purposes or in the operation of the district, or remove any building, or dispose of any real property. Prior to, but not more than one (1) year prior to, any purchase or disposal of real property, the board shall have such property appraised by an appraiser certified in the state of Idaho, which appraisal shall be entered in the records of the board of trustees, and shall be used to establish the value of the real property. The board of trustees shall determine the size of the site necessary for school purposes. The site shall be located within the incorporated limits of any city within the district; provided, however,

that if the board finds that it is not in the best interests of the electors and the students of the district to locate the site within the incorporated limits of a city, the board, by duly adopted resolution setting forth the reasons for its finding, may designate a site located elsewhere within the district. In elementary school districts, except upon removal for highway purposes, a site may be designated or changed only after approval of two-thirds (2/3) or more of the electors voting at the annual meeting.

(4~~7~~) (a) To convey, except as provided by paragraph (b) of this subsection, by deed, bill of sale, or other appropriate instrument, all of the estate and interest of the district in any property, real or personal. In elementary school districts, except such conveyance as is authorized by subsection (6~~7~~) of this section, any of the transactions authorized in this subsection shall be subject to the approval of two-thirds (2/3) or more of the electors voting at the annual meeting.

Prior to such sale or conveyance, the board shall have the property appraised pursuant to this section, which appraisal shall be entered in the records of the board of trustees. The property may be sold at public auction or by sealed bids, as the board of trustees shall determine, to the highest bidder. Such property may be sold for cash or for such terms and conditions as the board of trustees shall determine for a period not exceeding ten (10) years, with the annual rate of interest on all deferred payments not less than seven percent (7%) per annum. The title to all property sold on contract shall be retained in the name of the school district until full payment has been made by the purchaser, and title to all property sold under a note and mortgage or deed of trust shall be transferred to the purchaser at the point of sale under the terms and conditions of the mortgage or deed of trust as the board of trustees shall determine. Notice of the time and the conditions of such sale shall be published twice, and proof thereof made, in accordance with subsections g. and h. of section 33-402, Idaho Code, except that when the appraised value of the property is less than one thousand dollars ($1,000), one (1) single notice by publication shall be sufficient and the property shall be sold by sealed bids or at public auction.

The board of trustees may accept the highest bid, may reject any bid, or reject all bids. If the real property was donated to the school district the board may, within a period of one (1) year from the time of the appraisal, sell the property without additional advertising or bidding. Otherwise, the board of trustees must have new appraisals made and again publish notice for bids, as before. If, thereafter, no satisfactory bid is made and received, the board may proceed under its own direction to sell and convey the property. In no case shall any real property of the school district be sold for less than its appraisal.

The board of trustees may sell personal property, with an estimated value of less than one thousand dollars ($1,000), without appraisal, by sealed bid or at public auction, provided that there has been not less than one (1) published advertisement prior to the sale of said property. If the property has an estimated value of less than five hundred dollars ($500), the property may be disposed of in the most cost-effective and expedient manner by an employee of

the district empowered for that purpose by the board, provided however, such employee shall notify the board prior to disposal of said property.

(b) Real and personal property may be exchanged hereunder for other property. Provided, however, that aside from the provisions of this paragraph, any school district may by a vote of one-half (1/2) plus one (1) of the members of the full board of trustees, by resolution duly adopted, authorize the transfer or conveyance of any real or personal property owned by such school district to the government of the United States, any city, county, the state of Idaho, any hospital district organized under chapter 13, title 39, Idaho Code, any other school district, any public charter school, any library district, any community college district, or any recreation district, with or without any consideration accruing to the school district, when in the judgment of the board of trustees it is for the interest of such school district that said transfer or conveyance be made. Prior to any transfer or conveyance of any real or personal property pursuant to this paragraph (4~)(b), the board shall have the property appraised by an appraiser certified in the state of Idaho, which appraisal shall be entered in the records of the board of trustees, and shall be used to establish the value of the real or personal property.

(5~) To enter into contracts with any city located within the boundaries of the school district for the joint purchase, construction, development, maintenance and equipping of playgrounds, ball parks, swimming pools, and other recreational facilities upon property owned either by the school district or the city.

(6~) To convey rights-of-way and easements for highway, public utility, and other purposes over, upon or across any school property and, when necessary to the use of such property for any such purpose, to authorize the removal of school buildings to such new location, or locations, as shall be determined by the board of trustees, and such removal shall be made at no cost or expense to the school district.

(7~) To authorize the use of any school building of the district as a community center, or for any public purpose, and to establish a policy of charges, if any, to be made for such use.

(8~) To exercise the right of eminent domain under the provisions of chapter 7, title 7, Idaho Code, for any of the uses and purposes provided in section 7-701, Idaho Code.

(9~) If there is a great public calamity, such as an extraordinary fire, flood, storm, epidemic, or other disaster, or if it is necessary to do emergency work to prepare for national or local defense, or it is necessary to do emergency work to safeguard life, health or property, the board of trustees may pass a resolution declaring that the public interest and necessity demand the immediate expenditure of public money to safeguard life, health or property. Upon adoption of the resolution, the board may expend any sum required in the emergency without compliance with this section.

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 18, 2008.

CHAPTER 192
(S.B. No. 1431, As Amended)

AN ACT

RELATING TO LIENS AND FORECLOSURES; AMENDING TITLE 45, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 16, TITLE 45, IDAHO CODE, TO PROVIDE LEGISLATIVE FINDINGS, TO PROVIDE FOR CERTAIN CONTRACTS IN WRITING, TO PROVIDE FOR NOTICE RELATING TO MORTGAGE FORECLOSURE, TO PROVIDE FOR RIGHT OF CONTRACT RESCISSION, TO PROVIDE FOR EXCLUSIONS AND TO PROVIDE PENALTIES; AND AMENDING SECTION 45-1505, IDAHO CODE, TO PROVIDE FOR NOTICE RELATING TO MORTGAGE FORECLOSURE.

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

SECTION 1. That Title 45, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 16, Title 45, Idaho Code, and to read as follows:

CHAPTER 16
CONSUMER FORECLOSURE PROTECTION ACT

45-1601. LEGISLATIVE FINDINGS. The legislature finds that some persons and businesses are engaging in patterns of conduct that defraud innocent homeowners of their title, equity interest, or other value in residential dwellings under the guise of stopping or postponing a foreclosure sale. The legislature also finds this activity to be contrary to the public policy of this state and therefore establishes notice requirements governing contracts or agreements entered into during the foreclosure period. The legislature further finds that the provisions of this chapter shall be construed in such a manner that it does not inhibit transactions with legitimate lenders and investors.

45-1602. CONTRACT NOTICE. (1) During the foreclosure period described in section 45-1506, Idaho Code, any contract or agreement with the owner or owners of record that involves the transfer of any interest in residential real property, as defined in section 45-525(5)(b), Idaho Code, subject to foreclosure must be in writing and must be accompanied by and affixed to the following notice in twelve (12) point boldface type and on a separate sheet of canary yellow or some similarly colored yellow paper no smaller than eight and one-half (8 1/2) inches by eleven (11) inches:

"NOTICE REQUIRED BY IDAHO LAW

Mortgage foreclosure is a legal proceeding where a lender terminates a borrower's interest in property to satisfy unpaid debt secured by the property. This can mean that when a homeowner gets behind on his or her mortgage payments, the lender forces a sale of the home on which the mortgage loan is based. Some individuals or businesses may say they can "save" your home from foreclosure. You should be cautious about such claims. It is important that you understand all the terms of a plan to "rescue" you from mortgage foreclosure and how it will

affect you. It may result in your losing valuable equity that you may have in your home. If possible, you should consult with an attorney or financial professional to find out what other options you may have. Do not delay seeking advice, because the longer you wait, the fewer options you may have.

You may find helpful information online. One excellent source is the Department of Housing and Urban Development (HUD) website which can be found at "http://www.hud.gov/foreclosure/index.cfm". HUD also maintains on its website a list of approved housing counselors who can provide free information to assist homeowners with financial problems. Another good source of information is found at the Office of the Attorney General's website at "http://www2.state.id.us/ag/".

Under Idaho law, you have five (5) days to rescind or undo certain contracts or agreements that relate to transferring interests in property or money in a foreclosure situation. An attorney or financial professional can tell you more about this option.".

(2) If during the foreclosure period described in section 45-1506, Idaho Code, any contract or agreement that involves the transfer of any interest in residential real property, as defined in section 45-525(5)(b), Idaho Code, was solicited, negotiated, or represented to the consumer in the Spanish language, the written notice to be provided to the consumer and set forth in this section shall be in the Spanish language on a form to be prepared and made available by the office of the attorney general.

45-1603. RIGHT OF RESCISSION OF CONTRACT. (1) In addition to any other legal right to cancel or rescind a contract, any person whose property is in foreclosure as described in section 45-1505, Idaho Code, has the right to cancel or rescind any and all contracts or agreements relating to such property entered into during the foreclosure period within five (5) business days of entering into such contract or agreement. Neither funds nor an interest in the property shall be transferred or transferable until the five (5) days have passed.

(2) Cancellation occurs when such person gives written notice of cancellation to all other parties to the contract. Notice of cancellation need not take any particular form and, however expressed, is effective if it indicates the intention not to be bound by the contract.

(3) Notice of cancellation, if given by mail, is effective when deposited in the mail properly addressed with postage prepaid. Notice by certified mail, return receipt requested, addressed to the address specified in the contract or agreement, shall be conclusive proof of notice of service.

45-1604. EXCLUSIONS. The provisions of this chapter shall not apply to:

(1) Regulated lenders, as defined in section 28-41-301(37), Idaho Code;

(2) Any person licensed or chartered under the laws of any state or

of the United States as a bank, trust company, savings and loan association, credit union, or industrial loan company. The terms "bank," "trust company," "savings and loan association," "credit union" and "industrial loan company" shall include affiliates or wholly-owned subsidiaries of such organizations, provided that the affiliate or subsidiary is regularly examined by the chartering state or federal agency for consumer compliance purposes;

(3) Mortgage lenders and mortgage brokers licensed under the Idaho residential mortgage practices act, sections 26-3101 et seq., Idaho Code;

(4) Employees and agents of the organizations specified in subsections (1), (2) and (3) of this section, when acting within the scope of such employment or agency; and

(5) Family member or members of the owner or owners of record of any interest in residential real property subject to foreclosure. For purposes of this chapter, "family member or members" means a natural person or the spouse of a natural person who is related to such owner or owners of record by blood, adoption or marriage within the second degree of consanguinity or a grandchild or the spouse of a grandchild.

45-1605. PENALTIES. In addition to any other penalty provided by law, any person who violates the provisions of this chapter shall be liable for penalties and damages in accordance with chapter 6, title 48, Idaho Code.

SECTION 2. That Section 45-1505, Idaho Code, be, and the same is hereby amended to read as follows:

45-1505. FORECLOSURE OF TRUST DEED, WHEN. The trustee may foreclose a trust deed by advertisement and sale under this act if:

(1) The trust deed, any assignments of the trust deed by the trustee or the beneficiary and any appointment of a successor trustee are recorded in mortgage records in the counties in which the property described in the deed is situated; and

(2) There is a default by the grantor or other person owing an obligation the performance of which is secured by the trust deed or by their successors in interest with respect to any provision in the deed which authorizes sale in the event of default of such provision; and

(3) The trustee or beneficiary shall have (a) filed for record in the office of the recorder in each county wherein the trust property, or some part or parcel, is situated, a notice of default identifying the deed of trust by stating the name or names of the trustor or trustors and giving the book and page where the same is recorded, or a description of the trust property, and containing a statement that a breach of the obligation for which the transfer in trust is security has occurred, and setting forth the nature of such breach and his election to sell or cause to be sold such property to satisfy such obligation; and (b) mailed a copy of such notice by registered or certified mail, return receipt requested, to any person requesting such notice of record as provided in section 45-1511, Idaho Code. Service by mail in accordance with this subsection (3) shall be deemed effective at the time of mailing. In addition, the trustee shall mail the notice required in this section to any individual who owns an interest in property which is the subject of this section. Such notice shall be accompanied by and affixed

to the following notice in twelve (12) point boldface type, on a separate sheet of canary yellow or some similarly colored yellow paper, no smaller than eight and one-half (8 1/2) inches by eleven (11) inches:

"NOTICE REQUIRED BY IDAHO LAW

Mortgage foreclosure is a legal proceeding where a lender terminates a borrower's interest in property to satisfy unpaid debt secured by the property. This can mean that when a homeowner gets behind on his or her mortgage payments, the lender forces a sale of the home on which the mortgage loan is based. Some individuals or businesses may say they can "save" your home from foreclosure. You should be cautious about such claims. It is important that you understand all the terms of a plan to "rescue" you from mortgage foreclosure and how it will affect you. It may result in your losing valuable equity that you may have in your home. If possible, you should consult with an attorney or financial professional to find out what other options you may have. Do not delay seeking advice, because the longer you wait, the fewer options you may have.

Under Idaho law, you have five (5) days to rescind or undo certain contracts or agreements that relate to transferring interests in property or money in a foreclosure situation. An attorney or financial professional can tell you more about this option.".

If the trust deed, or any assignments of the trust deed, are in the Spanish language, the written notice set forth in this section shall be in the Spanish language on a form to be prepared and made available by the office of the attorney general.

(4) No action, suit or proceeding has been instituted to recover the debt then remaining secured by the trust deed, or any part thereof, or if such action or proceeding has been instituted, the action or proceeding has been dismissed.

Approved March 18, 2008.

CHAPTER 193
(S.B. No. 1440)

AN ACT

RELATING TO SPECIAL MOTOR VEHICLE LICENSE PLATES; AMENDING SECTION 49-402, IDAHO CODE, TO PROVIDE A CODE REFERENCE; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-415E, IDAHO CODE, TO ESTABLISH THE IDAHO 2009 SPECIAL OLYMPICS WORLD WINTER GAMES SPECIAL LICENSE PLATE PROGRAM; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 49-402, Idaho Code, be, and the same is hereby amended to read as follows:

49-402. ANNUAL REGISTRATION. (1) The annual fee for operating each pickup truck, each neighborhood electric vehicle and each other motor vehicle having a maximum gross weight not in excess of eight thousand (8,000) pounds shall be:

Vehicles one (1) and two (2) years old $48.00
Vehicles three (3) and four (4) years old $36.00
Vehicles five (5) and six (6) years old $36.00
Vehicles seven (7) and eight (8) years old $24.00
Vehicles over eight (8) years old $24.00

There shall be twelve (12) registration periods, starting in January for holders of validation registration stickers numbered 1, and proceeding consecutively through December for holders of validation registration stickers numbered 12, each of which shall start on the first day of a calendar month and end on the last day of the twelfth month from the first day of the beginning month. Registration periods shall expire midnight on the last day of the registration period in the year designated by the validation registration sticker. The numeral digit on the validation registration stickers shall, as does the registration card, fix the registration period under the staggered plate system of Idaho for the purpose of reregistration and notice of expiration.

A vehicle that has once been registered for any of the above designated periods shall, upon reregistration, be registered for the period bearing the same number, and the registration card shall show and be the exclusive proof of the expiration date of registration and licensing. Vehicles may be initially registered for less than a twelve (12) month period, or for more than a twelve (12) month period, and the fee prorated on a monthly basis if the fractional registration tends to fulfill the purpose of the monthly series registration system.

(2) For all school buses operated either by a nonprofit, nonpublic school or operated pursuant to a service contract with a school district for transporting children to or from school or in connection with school approved activities, the annual fee shall be twenty-four dollars ($24.00).

(3) For all motorcycles and all-terrain vehicles operated upon the public highways the annual fee shall be nine dollars ($9.00). For operation of an all-terrain vehicle or motorcycle off the public highways, the fee specified in section 67-7122, Idaho Code, shall be paid. Registration exemptions provided in section 49-426(2), (3) and (4), Idaho Code, apply to all-terrain vehicles and motorcycles used for the purposes described in subsections (2), (3) and (4) of section 49-426, Idaho Code.

(4) For all motor homes the fee shall be as specified in subsection (1) of this section and shall be in addition to the fees provided for in section 49-445, Idaho Code.

(5) Registration fees shall not be subject to refund.

(6) A financial institution or repossession service contracted to a financial institution repossessing vehicles under the terms of a security agreement shall move the vehicle from the place of repossession to the financial institution's place of business on a repossession plate. The repossession plate shall also be used for demonstrating the vehicle to a prospective purchaser for a period not to exceed ninety-six (96) hours. The registration fees for repossession plates shall be as required in subsection (1) of this section for a vehicle one (1) and two (2) years old. All other fees required under chapter 4, title 49, Idaho

Code, shall be in addition to the registration fee. The repossession plate shall be issued on an annual basis by the department.

(7) In addition to the annual registration fee in this section, there shall be an initial program fee of twenty-five dollars ($25.00) and an annual program fee of fifteen dollars ($15.00) for all special license plate programs for those license plates issued pursuant to sections 49-404A, 49-407, 49-408, 49-409, 49-414, 49-416, 49-418 and 49-418D, Idaho Code. For special plates issued pursuant to sections 49-406 and 49-406A, Idaho Code, there shall be an initial program fee of twenty-five dollars ($25.00) but there shall be no annual renewal fee. For special plates issued pursuant to sections 49-415C, 49-415D, 49-415E, 49-416A, 49-416B, 49-416C, 49-416D, 49-416E, 49-417, 49-417A, 49-417B, 49-417C, 49-418A, 49-418B, 49-418C, 49-418E, 49-419, 49-419A, 49-419B, 49-419C, 49-419D, 49-420, 49-420A, 49-420B, 49-420C, 49-420D, 49-420E and 49-420G, Idaho Code, there shall be an initial program fee of thirty-five dollars ($35.00) and an annual program fee of twenty-five dollars ($25.00). The fees contained in this subsection shall be applicable to all new special plate programs. The initial program fee and the annual program fee shall be deposited in the state highway account and shall be used to fund the cost of administration of special license plate programs, unless otherwise specified by law.

SECTION 2. That Chapter 4, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-415E, Idaho Code, and to read as follows:

49-415E. IDAHO 2009 SPECIAL OLYMPICS WORLD WINTER GAMES PLATES. (1) Any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for and, upon department approval, receive Idaho 2009 special olympics world winter games license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of Idaho 2009 special olympics world winter games license plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars ($35.00) for the initial issuance of plates, and twenty-five dollars ($25.00) upon each succeeding annual registration. Ten dollars ($10.00) of the initial fee and ten dollars ($10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-five dollars ($25.00) of each initial fee and fifteen dollars ($15.00) of each renewal fee shall be transferred by the state treasurer for deposit to the 2009 special olympics world winter games headquarters in Boise, Idaho, and shall be used by this international nonprofit organization to provide support and assistance to their programs dedicated to empowering individuals with intellectual disabilities to become physically fit, productive and respected members of society through sports training and competition.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may

transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(4) The 2009 special olympics world winter games license plate shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. The design and any slogan on the plate shall be acceptable to the Idaho 2009 special olympics world winter games board of directors and shall be approved by the transportation department utilizing a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the Idaho 2009 special olympics world winter games.

(5) Sample Idaho 2009 special olympics world winter games license plates may be purchased for a fee of thirty dollars ($30.00), ten dollars ($10.00) of which shall be deposited in the state highway account and twenty dollars ($20.00) of which shall be transferred to the 2009 special olympics world winter games headquarters in Boise, Idaho, and shall be used by this international nonprofit organization to provide support and assistance to their programs dedicated to empowering individuals with intellectual disabilities to become physically fit, productive and respected members of society through sports training and competition.

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 18, 2008.

CHAPTER 194
(S.B. No. 1442)

AN ACT

RELATING TO DRIVER'S INSTRUCTION PERMITS; AMENDING SECTION 49-110, IDAHO CODE, TO REVISE THE DEFINITIONS OF "CLASS D DRIVER'S TRAINING INSTRUCTION PERMIT" AND "CLASS D INSTRUCTION PERMIT"; AMENDING SECTION 49-302, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 49-303, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-305, IDAHO CODE, TO PROVIDE AN EXPIRATION DATE FOR CERTAIN CLASS D INSTRUCTION PERMITS, TO PROVIDE CORRECT TERMINOLOGY, TO SPECIFY AGE AND OTHER QUALIFICATIONS FOR OBTAINING A PERMIT AND TO DELETE REFERENCE TO APPLICATION FOR A CLASS D DRIVER'S TRAINING INSTRUCTION PERMIT; AND AMENDING SECTION 49-307, IDAHO CODE, TO PROVIDE CONDITIONS FOR ISSUANCE AND EXPIRATION OF CLASS D DRIVER'S TRAINING INSTRUCTION AND CLASS D INSTRUCTION PERMITS, TO REVISE THE FEE FOR ALL DRIVER'S TRAINING INSTRUCTION PERMITS AND TO REVISE THE DISTRIBUTION OF FEES, TO PROVIDE FOR ISSUANCE OF TEMPORARY PERMITS, TO SPECIFY A CONDITION UNDER WHICH A CLASS D SUPERVISED INSTRUCTION PERMIT BECOMES A CLASS D INSTRUCTION PERMIT AND TO PROVIDE FOR EXPIRATION OF SUCH INSTRUCTION PERMIT, TO CLARIFY THE REQUIREMENTS FOR OPERATING A CLASS D VEHICLE WITH A CLASS D SUPERVISED INSTRUCTION PERMIT AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 49-110, Idaho Code, be, and the same is hereby amended to read as follows:

49-110. DEFINITIONS -- I.

(1) "Identifying number" means:

(a) Motor number. That identifying number stamped on the engine of a vehicle.

(b) Vehicle identification number. The numbers and letters, if any, placed on a vehicle by the manufacturer for the purpose of identifying the vehicle.

(2) "Implements of husbandry" means every vehicle including self-propelled units, designed or adapted and used exclusively in agricultural, horticultural, dairy and livestock growing and feeding operations when being incidentally operated. Such implements include, but are not limited to, combines, discs, dry and liquid fertilizer spreaders, cargo tanks, harrows, hay balers, harvesting and stacking equipment, pesticide applicators, plows, swathers, mint tubs and mint wagons, and farm wagons. A farm tractor when attached to or drawing any implement of husbandry shall be construed to be an implement of husbandry. "Implements of husbandry" do not include semitrailers, nor do they include motor vehicles or trailers, unless their design limits their use to agricultural, horticultural, dairy or livestock growing and feeding operations.

(3) "Incidentally operated" means the transport of the implement of husbandry from one (1) farm operation to another.

(4) "Individual record" means a record containing personal information about a designated person who is the subject of the record as identified in a request for information.

(5) "Infraction" means a civil public offense, not constituting a crime, which is not punishable by incarceration and for which there is no right to a trial by jury or right to court-appointed counsel, and which is punishable by only a penalty not exceeding one hundred dollars ($100) and no imprisonment.

(6) "Instruction permits":

(a) "Class A, B or C instruction permit" means a temporary privilege to operate a motor vehicle for which a commercial driver's license is required; is available only to a person who is eighteen (18) years of age or older; is issued pursuant to the provisions of section 49-305, Idaho Code; and the permittee is subject to the conditions specified therein.

(b) "Class D driver's training instruction permit" means a temporary privilege to operate a class D motor vehicle while attending classes as an enrollee of a public or private driver's training course only; is available to a person aged fourteen and one-half (14 1/2) up to age seventeen (17) years; is issued to the instructor of the driver's training course; ~~expires one (1) year from the date of issue;~~ is issued and expires pursuant to the provisions of section 49-307, Idaho Code; and the permittee is subject to the conditions specified ~~therein~~ in section 49-307, Idaho Code.

(c) "Class D instruction permit" means a temporary privilege to operate a class D motor vehicle which is available to a person under the age of seventeen (17) years who has successfully completed an approved driver's training course and has satisfied the requirements

of a class D supervised instruction permit, or to any person seventeen (17) years of age or older; is valid for a period of one hundred eighty (180) days or as provided in section 49-305, Idaho Code, if applicable; privileges are limited to driving with a person who is at least eighteen (18) years of age who holds a valid class D driver's license and is actually occupying a seat beside the permittee; is issued pursuant to the provisions of section 49-305, Idaho Code; and the permittee is subject to the conditions specified ~~therein~~ in section 49-305, Idaho Code.

(d) "Class D supervised instruction permit" means a temporary privilege to operate a class D motor vehicle which is available to a person who is at least fourteen and one-half (14 1/2) years of age who has successfully completed an approved driver's training course, and is valid for a minimum of six (6) months. No person may apply for a class D driver's license until he has attained the age of at least fifteen (15) years and has successfully satisfied the requirements of this permit, as specified and issued pursuant to the provisions of section 49-307, Idaho Code.

(7) "Instructor" means any person, whether acting for himself as operator of a commercial driver training school or for such a school for compensation, who teaches, conducts classes of, gives demonstrations to, or supervises practice of, persons learning to operate or drive motor vehicles.

(8) "Insurer" means any insurer, public or private, which shall include, but not be limited to, insurance companies domiciled in the state of Idaho, agents, adjuster or any other person acting on behalf of any insurance not domiciled in the state of Idaho and any self-insured entity operating under Idaho insurance laws or rules.

(9) "International registration plan" means a registration reciprocity agreement among the states of the United States and provinces of Canada providing for payment of registration and licensing fees on a proportional basis determined by the fleet miles operated in the various jurisdictions.

(10) "Intersection" means:

(a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two (2) highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

(b) Where a highway includes two (2) roadways thirty (30) feet or more apart, then every crossing of each roadway of the divided highway by an intersecting highway shall be regarded as a separate intersection. In the event an intersecting highway also includes two (2) roadways thirty (30) feet or more apart, then every crossing of two (2) roadways of the highways shall be regarded as a separate intersection.

(c) The junction of an alley with a street or highway shall not constitute an intersection.

SECTION 2. That Section 49-302, Idaho Code, be, and the same is hereby amended to read as follows:

49-302. WHAT PERSONS ARE EXEMPT FROM LICENSE. The following persons are exempt from licensing if driving privileges are not suspended, canceled, revoked, disqualified, denied or refused:

(1) Any person while driving or operating any farm tractor or implement of husbandry when incidentally operated on a highway.

(2) Farmers are exempt from obtaining a class A, B or C driver's license to operate a commercial motor vehicle which is:

(a) Controlled and operated by a farmer, including operation by employees or family members; and

(b) Used to transport either agricultural products, farm machinery, farm supplies, or both, to or from a farm; and

(c) Not used in the operations of a common or contract motor carrier; and

(d) Used within one hundred fifty (150) miles of the person's farm.

(3) Any person is exempt from obtaining a class A, B or C driver's license for the operation of commercial motor vehicles which are necessary to the preservation of life or property or the execution of emergency governmental functions, are equipped with audible and visual signals, and are not subject to normal traffic regulations.

(4) Any person is exempt from obtaining a class A, B or C license to operate a commercial vehicle which is exclusively used to transport personal possessions or family members for nonbusiness or recreational purposes.

(5) A nonresident who is at least fifteen (15) years of age and who has in his immediate possession a valid driver's license issued to him in his home state or country may operate a motor vehicle in Idaho only as a class D operator with driving privileges restricted to daylight hours only except as provided in section 49-307(~~7~~9), Idaho Code, and with full privileges at sixteen (16) years of age, and only if Idaho residency is not established.

(6) A nonresident who is at least fifteen (15) years of age and who has in his possession a valid driver's license with a motorcycle endorsement or who has a valid motorcycle driver's license issued to him in his home state or country may operate a motorcycle in Idaho with driving privileges restricted to daylight hours only, and with full privileges at sixteen (16) years of age.

(7) A nonresident who has in his immediate possession a valid commercial driver's license issued to him in his home state or country may operate a motor vehicle in Idaho.

(8) A nonresident on active duty in the armed forces of the United States who has a valid driver's license issued by his home jurisdiction, and such nonresident's spouse or dependent son or daughter who has a valid driver's license issued by such person's home jurisdiction.

(9) Any active duty military personnel, active duty U.S. coast guard personnel, and members of the reserves and national guard on active duty including personnel on full-time national guard duty, personnel on part-time training and national guard military technicians who as civilians are required to wear military uniforms and are subject to the code of military justice, are exempt from obtaining a commercial driver's license to operate military vehicles. This exemption does not apply to U.S. reserve technicians.

(10) Any person with a valid driver's license issued in their name is exempt from the requirement to obtain a motorcycle endorsement on the license when operating a motorcycle on highways or sections of highways

designated for unregistered motorcycle use under section 49-426(3), Idaho Code.

SECTION 3. 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's 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~~9), 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's 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) Has been adjudged by a court of competent jurisdiction to be an habitual drunkard or addicted to the use of narcotic drugs, and such order has been received by the department.

(7) Has been adjudged by a licensed physician or by a court of competent jurisdiction to be afflicted with or suffering from any mental 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 driver's 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.

SECTION 4. That Section 49-305, Idaho Code, be, and the same is hereby amended to read as follows:

49-305. INSTRUCTION PERMITS -- TEMPORARY LICENSES -- ~~TEMPORARY DRIVER'S--TRAINING~~ MOTORCYCLE ENDORSEMENT INSTRUCTION PERMIT. (1) Upon passage of the required knowledge tests appropriate for the vehicle being operated, the department may issue a class A, B or C instruction permit for the type of vehicle(s) the person will be operating, or a class D instruction permit for a class D motor vehicle, entitling the applicant, while having the permit in his immediate possession, to drive a motor vehicle upon the highways for a period of up to one hundred eighty (180) days or as provided in paragraph (b) of this subsection (1) for certain class D instruction permits. That person must be accompanied by an adult driver eighteen (18) years of age or older who holds a valid driver's license appropriate for the vehicle being operated and who is actually occupying a seat beside the driver.

(a) Any person under the age of seventeen (17) years who has successfully completed an approved driver's training course and has satisfied the requirements of a class D supervised instruction permit, or any person who has reached the age of seventeen (17) years may apply for a class D instruction permit. Any person applying for any class D instruction permit or driving privileges who is under the age of eighteen (18) years shall be in compliance with school attendance requirements of section 49-303A, Idaho Code.

(b) If a person reaches the age of seventeen (17) years while operating a class D vehicle with a class D supervised instruction permit, and such class D supervised instruction permit becomes a class D instruction permit as provided in section 49-307, Idaho Code, then such class D instruction permit shall expire five (5) days after the permittee's eighteenth birthday.

(c) Any person who has reached the age of eighteen (18) years, holds a valid Idaho class D driver's license and has at least one (1) year of driving experience, may apply for a class A, B or C instruction permit.

(~~c~~d) The department shall not issue a hazardous material endorsement on any instruction permit.

(2) The department may, at its discretion, issue a temporary class D driver's license to an applicant for a class D driver's license permitting him to operate a motor vehicle while the department is completing its investigation and determination of all facts relative to the applicant's right to receive a driver's license. The temporary license may be canceled at the department's discretion at any time after issuance. The temporary license must be in the applicant's immediate possession while operating a motor vehicle, and it shall be invalid when the applicant's driver's license has been issued or for good cause has been refused.

(3) ~~If an applicant for a class D driver's training instruction permit cannot provide a certified copy of his birth certificate at the time of application, the department may issue a temporary driver's training instruction permit upon receipt of both a photo identification and a letter from the school verifying the applicant's enrollment in a driver training course.~~ The certified copy of ~~his~~ an applicant's birth certificate shall be required before a class D driver's license or class D instruction permit will be issued.

(4) The department may issue a motorcycle endorsement instruction permit to an applicant who has a valid driver's license and who has successfully completed the motorcycle rider's knowledge test and paid the appropriate fees. The permit entitles the applicant, while having the permit in his immediate possession, to operate a motorcycle upon the highways for a period not to exceed one hundred eighty (180) days. If the permittee passes the skills test for a motorcycle endorsement within one hundred eighty (180) days of issuance of the motorcycle endorsement instruction permit, he shall not be required to pay the motorcycle endorsement fee. A person holding a motorcycle instruction permit shall not carry any passenger while operating a motorcycle, shall not operate a motorcycle except during the hours of daylight only and shall not operate a motorcycle upon any interstate highway system.

A violation of the conditions of a motorcycle endorsement instruction permit is an infraction. The department shall cancel the permit whether or not such violation results in conviction of the infraction.

SECTION 5. That Section 49-307, Idaho Code, be, and the same is hereby amended to read as follows:

49-307. ~~FEE--FOR~~ CLASS D DRIVER'S TRAINING INSTRUCTION PERMIT AND TEMPORARY PERMITS -- CLASS D SUPERVISED INSTRUCTION PERMIT -- APPLICATION FOR A CLASS D DRIVER'S LICENSE -- RESTRICTIONS ON CLASS D DRIVER'S LICENSE. (1) No enrollee of any class D driver's training course shall be allowed to attend classes or participate in driving instruction unless he has obtained a class D driver's training instruction permit, or a class D instruction permit as provided in subsection (4) of this section. The class D driver's training instruction permit shall expire five (5) days after the permittee's eighteenth birthday.

(2) Every enrollee of a class D driver's training course ~~in a pub-~~

~~lic-school~~ shall pay a nonrefundable fee of ~~thirty~~ fifteen dollars (~~$30~~$15.00). ~~Twenty-five~~ Five dollars ($25.00) of each fee so imposed shall be deposited in the driver training account, five dollars ($5.00) shall be deposited in the state highway account, and five dollars ($5.00) ~~will~~ shall be deposited in the county current expense fund.

~~(2)--Every-enrollee-of-a-class-D-driver's-training-course-offered-by a-commercial-business-shall-pay--a--nonrefundable--fee--of--ten--dollars ($10.00).--Five-dollars-($5.00)-of-the-fee-so-imposed-shall-be-deposited in-the-driver-training-account-and-five-dollars-($5.00)-shall-be--deposited-in-the-county-current-expense-fund.~~

(3) Each enrollee of a class D driver's training course shall provide the type of information required for a driver's license or instruction permit.~~,-but-the~~ If an enrollee of a class D driver's training course cannot provide a certified copy of his birth certificate at the time of application for a permit, the department may issue a temporary driver's training instruction permit or a temporary class D instruction permit upon receipt of both a photo identification and a letter from the school verifying the applicant's enrollment in a driver's training course. The certified copy of an applicant's birth certificate shall be required before a class D driver's license will be issued.

(4) The class D driver's training instruction permit is available to a person aged fourteen and one-half (14 1/2) years up to seventeen (17) years of age. Persons aged seventeen (17) years or older may attend classes or participate in driver's training instruction while operating with a class D instruction permit.

(5) The class D driver's training instruction permit shall be issued to the instructor of the course~~,-and-the-class-D-driver's--training-instruction-permit-shall-expire-one-(1)-year-from-the-issue-date.-No enrollee--of--any--class--D-driver's-training-course-shall-be-allowed-to attend-classes-or-participate--in--driving--instruction--unless--he--has obtained-a-class-D-driver's-training-instruction-permit.~~

(6) Class D supervised instruction permit.

(~~4~~a) Upon successful completion of the class D driver's training course, the driver's training instructor shall date and sign the class D driver's training instruction permit over to the parent or legal guardian of the permittee, and the parent or legal guardian shall also date and sign the class D driver's training instruction permit and in so doing agrees to assume responsibility for ensuring that the permittee complies with the requirements of operating a vehicle with a class D supervised instruction permit. The signed and dated class D driver's training instruction permit shall then serve as a class D supervised instruction permit.

(b) In the event the permittee reaches the age of seventeen (17) years while operating a class D vehicle with a class D supervised instruction permit, the supervised instruction permit shall become a class D instruction permit, and such class D instruction permit shall expire five (5) days after the permittee's eighteenth birthday.

(~~5~~7) No permittee may apply for a class D driver's license sooner than fifteen (15) years of age and no sooner than six (6) months after completing a class D driver's training course, during which time the permittee shall satisfy all requirements for operation of a class D vehicle with a class D supervised instruction permit as follows:

(a) The permittee shall not operate a vehicle unless he is accompa-

nied by a driver who holds a valid driver's license, is twenty-one (21) years of age or older, and who is actually occupying a seat beside the permittee driver. The supervising driver and the permittee shall be the only occupants of the front passenger section of the vehicle.

(b) Over a period of time not less than six (6) months. t~~T~~he permittee shall accumulate at least fifty (50) hours of supervised driving time, ten (10) hours of which shall be during hours of darkness.

(c) The permit shall be in the permittee's immediate possession at all times while operating a vehicle.

(d) In addition to the permittee driver and the supervising driver, all other occupants of the vehicle shall wear a seat belt or be restrained by child passenger restraints as required by law.

(e) The permittee is subject to the provisions of sections 18-1502 and 18-8004, Idaho Code, relating to violation of age restrictions on consumption of beer, wine, and alcohol and driving under the influence of alcohol, drugs or any other intoxicating substances, respectively.

(f) The permittee shall not have been convicted of any moving traffic violation, or have had driving privileges suspended by the department or the court for any offense, or found to be in violation of any of the restrictions on the class D supervised instruction permit, for a period of at least six (6) months from the date the driver's training instructor signed the permit over to the parent or legal guardian, or from the date a canceled class D supervised instruction permit was reissued, or until the permittee reaches seventeen (17) years of age.

(g) If the permittee is under seventeen (17) years of age and is convicted of a violation of any traffic law, or section 18-1502, Idaho Code, or section 18-8004, Idaho Code, or section 23-949, Idaho Code, or is found to be in violation of any of the restrictions on the class D supervised instruction permit, the department shall cancel the class D supervised instruction permit, and the cancellation shall not be used to establish rates of motor vehicle insurance charged by a casualty insurer. If t~~T~~he permittee is under seventeen (17) years of age, the permittee may reapply for and be issued a new class D supervised instruction permit upon payment of the appropriate fees, and shall again be required to operate with the class D supervised instruction permit for at least six (6) months from the date of reissue without a conviction or suspension, accumulate the required hours of driving time and adhere to the requirements as specified in paragraphs (a) through (f) of this subsection (5~~7~~).

(6~~8~~) Upon completion of the requirements in subsection (5~~7~~) of this section, the permittee shall take the knowledge test and skills test administered by a person certified by the Idaho transportation department to administer knowledge and skills tests.

(7~~9~~) Upon passage of the knowledge and skills tests, the permittee may apply for a class D driver's license with driving privileges restricted to daylight hours for persons under sixteen (16) years of age, and with full privileges at sixteen (16) years of age or older. Provided however, the restriction on daylight hours only driving privileges for persons under sixteen (16) years of age shall not apply if:

(a) The person under sixteen (16) years of age has a valid class D driver's license; and

(b) Is accompanied by a driver who holds a valid driver's license and is twenty-one (21) years of age or older and is actually occupying a seat beside the licensee who is under sixteen (16) years of age; and

(c) The two (2) licensed drivers are the only occupants of the front passenger section of the vehicle.

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.

(~~8~~10) Upon passage of the knowledge and skills tests, the permittee may apply for a class D driver's license. Any such licensee who is under the age of seventeen (17) years shall be required, during the first six (6) months from the date of issue of the class D driver's license, to limit the number of passengers in the vehicle who are under the age of seventeen (17) years to not more than one (1) such passenger. Provided however, the limit of one (1) passenger under the age of seventeen (17) years shall not apply to passengers who are related to the driver by blood, adoption or marriage.

Approved March 18, 2008.

CHAPTER 195
(S.B. No. 1466)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO EDUCATIONAL PUBLIC BROADCASTING SYSTEM FOR FISCAL YEAR 2009; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND DIRECTING THE REAPPROPRIATION OF CERTAIN MONEYS.

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 Educational Public Broadcasting System the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2008, through June 30, 2009:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Fund	$1,002,200	$831,500	$1,696,600	$3,530,300
Miscellaneous Revenue Fund	998,400	10,000		1,008,400
TOTAL	$2,000,600	$841,500	$1,696,600	$4,538,700

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Idaho Educational Public Broadcasting System is authorized no more than thirty-three (33) full-time equivalent positions to be funded by the appropriation in Section 1 of this act, at any point during the period July 1, 2008, through June 30, 2009, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. Any unspent moneys appropriated for digital equipment upgrades for the period July 1, 2007, through June 30, 2008, shall be reappropriated for the purposes of completing future digital equipment projects. This appropriation acknowledges that additional nonstate grant funds may become available to support digital equipment upgrades during the period July 1, 2008, through June 30, 2009.

Approved March 18, 2008.

CHAPTER 196
(S.B. No. 1252, As Amended)

AN ACT

RELATING TO STATE EMPLOYEES; AMENDING SECTION 59-1607, IDAHO CODE, TO PROVIDE THAT THE SUPREME COURT AND LEGISLATIVE COUNCIL SHALL PRESCRIBE CERTAIN EMPLOYMENT RULES FOR CERTAIN EMPLOYEES, TO REVISE HOW CERTAIN EMPLOYEES ACCRUE AND USE COMPENSATORY TIME, TO PROVIDE LIMITS AND TO PROVIDE EXCEPTIONS; AMENDING SECTION 67-5302, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 67-5328, IDAHO CODE, TO REVISE HOW COMPENSATORY TIME MAY BE ACCRUED AND UTILIZED, TO PROVIDE LIMITS, TO PROVIDE EXCEPTIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-5333, IDAHO CODE, TO DELETE REFERENCE TO EARNED ADMINISTRATIVE LEAVE AND TO PROVIDE THAT SICK LEAVE SHALL ONLY BE TAKEN IN PAY PERIODS SUBSEQUENT TO BEING EARNED; AMENDING SECTION 67-5334, IDAHO CODE, TO DELETE REFERENCE TO EARNED ADMINISTRATIVE LEAVE, TO PROVIDE FOR ACCRUAL OF VACATION TIME FOR EMPLOYEES WHO ARE DESIGNATED AS EXEMPT UNDER ANY OTHER COMPLETE EXEMPTION IN FEDERAL LAW AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 59-1607, Idaho Code, be, and the same is hereby amended to read as follows:

59-1607. HOURS OF WORK AND OVERTIME. (1) It is the policy of the legislature of the state of Idaho that all classified and nonclassified officers and employees of the executive branch of state government shall be treated substantially similar with reference to hours of employment, holidays and vacation leave, except as provided in this chapter. For wage, hour and working conditions, the supreme court and the legislative council shall prescribe rules for employees of the judicial branch and the legislative branch, respectively. The policy of this state shall not restrict the extension of regular work hour schedules on an overtime basis, which shall be the same for classified and nonclassified employees, in those activities and duties where such extension is necessary and authorized by the appointing authority.

(2) The appointing authority of any department shall determine the necessity for overtime work and shall provide for cash compensation or compensatory time off for such overtime work for eligible classified and nonclassified officers and employees.

(3) Classified and nonclassified officers and employees who fall within one (1) or more of the following categories are ineligible for

cash compensation or compensatory time for overtime work:

(a) Elected officials; or

(b) Those included in the definition of section 67-5303(j), Idaho Code.

(4) Classified and nonclassified employees who are designated as executive, as provided in section 67-5302, Idaho Code, and who are not included in the definition of subsection (3) of this section, shall be ineligible for compensatory time or cash compensation for overtime work. Such salaried employees shall report absences in excess of one-half (1/2) day. Unused compensatory time balances in excess of two hundred forty (240) hours as of the date of enactment of this act shall be forfeited on December 31, 2008. Unused compensatory time balances of two hundred forty (240) hours or less shall be forfeited on December 31, 2006. Employees who become executives within their current agency as set forth in section 67-5302(12), Idaho Code, shall have twelve (12) months from the date of this act or of appointment, whichever is later, to use any compensatory time balance. After twelve (12) months, any remaining compensatory time will be forfeited. Compensatory time is not transferable, and shall be forfeited at the time of transfer to another appointing authority or upon separation from state service.

(5) Classified and nonclassified officers and employees who are designated as administrative or professional as provided in the federal fair labor standards act, or who are designated as exempt under any other complete exemption in federal law, and who are not included in the definition of subsection (3) of this section, shall be ineligible for cash compensation for overtime work unless cash payment is authorized by the state board of examiners for overtime accumulated during unusual or emergency situations, but such classified and nonclassified officers and employees shall be allowed compensatory time off from duty for overtime work. Such compensatory time shall be earned and allowed on a one (1) hour for one (1) hour basis, shall not be transferable, and shall be forfeited at the time of transfer to another appointing authority or upon separation from state service. Compensatory time may be accrued and accumulated up to a maximum of two hundred forty (240) hours. Effective with the first pay period in July, 2008 (beginning date June 15, 2008), compensatory time balances in excess of two hundred forty (240) hours will not continue to accrue until the balance is below the maximum. After the last pay period in June, 2009 (ending date June 13, 2009), balances in excess of two hundred forty (240) hours shall be forfeited.

(6) Classified and nonclassified officers and employees who are not designated as executive, administrative or professional as provided in this section, and who are not included in the definition of subsection (3) of this section or who are not designated as exempt under any other complete exemption in federal law, shall be eligible for cash compensation or compensatory time off from duty for overtime work, subject to the restrictions of applicable federal law. Compensatory time off may be provided in lieu of cash compensation at the discretion of the appointing authority after consultation, in advance, with the employee. Compensatory time off shall be paid at the rate of one and one-half (1 1/2) hours for each overtime hour worked. Compensatory time off which has been earned during any one-half (1/2) fiscal year but not taken by the end of the succeeding one-half (1/2) fiscal year, shall be paid in cash on the first payroll following the close of such succeeding one-half (1/2) fiscal year. Compensatory time not taken at the time of transfer

to another appointing authority or upon separation from state service shall be liquidated at the time of such transfer or separation by payment in cash.

(7) Notwithstanding the provisions of this section, employees may be paid for overtime work during a disaster or emergency with the approval of the board of examiners.

SECTION 2. That Section 67-5302, Idaho Code, be, and the same is hereby amended to read as follows:

67-5302. DEFINITIONS. As used in this chapter, and other applicable sections of the Idaho Code, each of the terms defined in this section shall have the meaning given in this section unless a different meaning is clearly required by the context. Such terms and their definitions are:

(1) "Administrative employee" means any person, nonclassified or classified appointed to a position which meets the ~~following~~ criteria~~:~~ set forth in the federal fair labor standards act, 29 U.S.C. section 201, et seq.

~~(a)--(i)---Responsible--office-or-nonmanual-work-directly-related-to the-management-policies-of-a-department-or-section;-or~~

~~(ii)--Responsible-work-that-is--directly--related--to--academic instruction--or--training-carried-on-in-the-administration-of-a school-system-or-educational-establishment;-and~~

~~(b)--The-employee-must-customarily-and-regularly-exercise-discretion and-independent-judgment,-as-distinguished--from--using--skills--and following--procedures.--The-employee-must-have-the-authority-to-make important-decisions;-and~~

~~(c)--The-employee-must:~~

~~(i)---Regularly-assist-a-bona-fide-executive-or--administrative employee;-or~~

~~(ii)--Perform--work-under-general-supervision-along-specialized or-technical-lines-requiring-special--training,--experience--or knowledge;-or~~

~~(iii)-Execute--under--only--general-supervision-special-assignments;-and~~

~~(d)--The-employee-is-classified-to-a-position-allocated-to--the--pay grade--equivalent-to-two-hundred-sixty-(260)-points-or-higher-pursuant-to-the-rating-system-established-by-rule.~~

~~(e)~~ Final designation of a classified position as "administrative" within this definition shall be made by the administrator of the division of human resources. Exceptions to this designation which do not violate the federal fair labor standards act, 29 U.S.C. section 201, et seq., may be made by the administrator.

(2) "Administrator" means the administrator of the division of human res~~ources in the~~ governor's office.

(3) "Appointing authority" means the officer, board, commission, person or group of persons authorized by statute or lawfully delegated authority to make appointments to or employ personnel in any department.

(4) "Class" means a group of positions sufficiently similar as to the duties performed, degree of supervision exercised or required, minimum requirements of training, experience or skill, and other characteristics, that the same title, the same tests of fitness and the same schedule of compensation may be applied to each position in the group.

(5) "Classified officer or employee" means any person appointed to or holding a position in any department of the state of Idaho which position is subject to the provisions of the merit examination, selection, retention, promotion and dismissal requirements of chapter 53, title 67, Idaho Code.

(6) "Commission" means the Idaho personnel commission.

(7) "Compensatory time" means approved time off from duty provided in compensation for overtime hours worked.

(8) "Computer worker" means any person, nonclassified or classified, appointed to a position which meets the criteria set forth in the federal fair labor standards act, 29 U.S.C. section 201, et seq. Final designation of a classified position as "computer worker" within this definition shall be made by the administrator of the division of human resources. Exceptions to this designation which do not violate the federal fair labor standards act, 29 U.S.C. section 201, et seq., may be made by the administrator.

(9) "Department" means any department, agency, institution or office of the state of Idaho.

(910) "Disabled veteran" is as defined in section 65-502, Idaho Code.

~~(10) "Earned administrative leave" means hours which exceed the regularly scheduled hours but do not result in overtime. These hours may accrue after hours worked and hours on paid leave exceed forty (40) hours in one (1) work week.~~

(11) "Eligible" means a person who has been determined to be qualified for a classified position and whose name has been placed on the register of eligibles.

(12) "Executive employee" means any person, nonclassified or classified, appointed to a position equivalent to a bureau chief or above as provided in section 67-2402, Idaho Code, or any employee meeting the following criteria:

(a) An individual whose primary duty is management of a department, division or bureau; and

(b) Who customarily and regularly directs the work of at least two (2) or more other employees therein; and

(c) Who has the authority to hire and fire, or to recommend hiring and firing; or whose recommendation on these and other actions affecting employees is given particular weight; and

(d) Who customarily and regularly exercises discretionary powers; and

(e) Who is classified to a position allocated to the pay grade equivalent to two hundred sixty (260) points or higher pursuant to the rating system established by rule.

(f) Final designation of a classified position as "executive" in this definition shall be made by the administrator. Exceptions to this designation which do not violate the federal fair labor standards act, 29 U.S.C. section 201, et seq., may be made by the administrator.

(13) "Exempt employee" means any employee, classified or nonclassified, who is determined to be an executive, professional or administrative employee as defined herein, or who qualifies for any other exemption from cash compensation for overtime under applicable federal law. Final designation of a classified position as exempt shall be made by the administrator.

(14) "Full-time employee" means any employee working a forty (40) hour work week.

(15) "Holiday" means the following:

January 1 (New Year's Day);
Third Monday in January (Martin Luther King, Jr.-Idaho Human Rights Day);
Third Monday in February (Washington's Birthday);
Last Monday in May (Memorial Day);
July 4 (Independence Day);
First Monday in September (Labor Day);
Second Monday in October (Columbus Day);
November 11 (Veterans Day);
Fourth Thursday in November (Thanksgiving);
December 25 (Christmas).

In addition, the term "holiday" shall mean any day so designated by the President of the United States or the governor of this state for a public fast, thanksgiving or holiday.

In the event that a holiday occurs on a Saturday, the preceding Friday shall be a holiday, and if the holiday falls on a Sunday, the following Monday shall be a holiday.

A holiday is a day of exemption from work granted to nonexecutive employees during which said employees shall be compensated as if they actually worked. Employees classified as executive exempt are entitled to ten (10) paid holidays per year. If such an employee works on one (1) of the official holidays listed in this subsection, then such employee may take an alternative day off but shall not receive additional compensation.

(16) "Hours worked" means those hours actually spent in the performance of the employee's job on any day including holidays, and shall not include vacation or sick leave or other approved leave of absence.

(17) "Nonclassified employee" means any person appointed to or holding a position in any department of the state of Idaho, which position is exempted from the provisions of chapter 53, title 67, Idaho Code, as provided for in section 67-5303, Idaho Code.

(18) "Normal work week" means any forty (40) hours worked during a particular one hundred sixty-eight (168) hour period as previously established by the employee's appointing authority.

(19) "Open competitive examination" means an examination which may be taken by qualified applicants to compete on an equal basis for listing on the register of eligibles.

(20) "Overtime work" means time worked on holidays and time worked in excess of forty (40) hours in a period of one hundred sixty-eight (168) consecutive hours, except that in the case of those employees engaged in law enforcement, correctional and fire protection activities characterized by irregular shift work schedules, time worked in excess of one hundred sixty (160) hours in a period of twenty-eight (28) consecutive days shall constitute overtime work within the meaning of this chapter.

(21) "Participating department" means any department of the state of Idaho which employs persons in classified positions subject to the merit examination, selection, retention, promotion and dismissal requirements of this chapter.

(22) "Part-time employee" means any employee whose usually scheduled work is less than forty (40) hours in a period of one hundred sixty-

eight (168) consecutive hours, and who shall not be entitled to sick leave accruals provided in section 67-5333, Idaho Code, vacation leave provided in section 67-5334, Idaho Code, nor holiday pay as defined in subsection (15) of this section, unless contributions are being made to the public employee retirement system in accordance with chapter 13, title 59, Idaho Code, and rules promulgated by the public employee retirement system board.

(23) "Personnel system" means the procedure for administering employees ~~in accor~~dance with this chapter.

(24) "Political office" means a public office for which partisan politics is a basis for nomination, election or appointment.

(25) "Political organization" means a party which sponsors candidates for election to political office.

(26) "Position" means a group of duties and responsibilities legally assigned or delegated by one (1) or more appointing authorities and requiring the employment of one (1) person.

(27) "Professional employee" means any person, nonclassified or classified, appointed to a position which meets the ~~following~~ criteria~~:~~ set forth in the federal fair labor standards act, 29 U.S.C. section 201, et seq.

~~(a) The employee's primary duty must be either:~~

~~(i) Work requiring knowledge of an advanced type in a field of science or learning; customarily obtained by a prolonged course of specialized instruction and study; or~~

~~(ii) Work that is original and creative in character in a recognized field of artistic endeavor and the result of which depends primarily on his invention, imagination, or talent; or~~

~~(iii) Work as a teacher certified or recognized as such in a school system or educational institution by which he is employed; and~~

~~(b) The employee must consistently exercise discretion and judgment; and~~

~~(c) The employee must do work that is predominantly intellectual and varied, as distinguished from routine or mechanical duties; and~~

~~(d) The employee is classified to a position allocated to the pay grade equivalent to two hundred sixty (260) points or higher pursuant to the rating system established by rule.~~

~~(e)~~ Final designation of a classified position as "professional" within this definition shall be made by the administrator. Exceptions to this designation which do not violate the federal fair labor standards act, 29 U.S.C. section 201, et seq., may be made by the administrator.

(28) "Provisional appointment" means appointment to a classified position ~~pending the~~ establishment of a register for such position and employment shall not be continued in this status longer than thirty (30) days after establishment of a register.

(29) "Qualifying examination" means an examination or evaluation given to a selected person to determine eligibility for reclassification or appointment to a position in a classification.

(30) "Register" means a list of names of persons who have been determined to be eligible for employment in a classified position as determined on the basis of examination and merit factors as established by the administrator.

(31) "Seasonal appointment" means an appointment to a position which

is permanent in nature, but which has intermittent work periods throughout the year.

(32) "Service rating" means a recorded evaluation of work performance and promotional potential of an employee by his supervisor.

(33) "Temporary appointment" means appointment to a position which is not permanent in nature, and in which employment will not exceed one thousand three hundred eighty-five (1,385) hours during any twelve (12) month period. No person holding a temporary appointment may work in excess of one thousand three hundred eighty-five (1,385) hours during a twelve (12) month period of time for any one (1) department, except upon petition by the appointing authority of the department of lands that demonstrates good cause, the administrator of the division of human resources may extend the one thousand three hundred eighty-five (1,385) hour limit for employees of the department who are required to perform fire suppression activities.

(34) "Vacation leave" means a period of exemption from work granted to employees during which time said employees shall be compensated. The term shall not include compensatory time for overtime work.

(35) "Veteran" is as defined in section 65-502, Idaho Code.

SECTION 3. That Section 67-5328, Idaho Code, be, and the same is hereby amended to read as follows:

67-5328. HOURS OF WORK AND OVERTIME. (1) It is hereby declared to be the policy of the legislature of the state of Idaho that all classified employees shall be treated substantially similar with reference to hours of employment. The policy of this state as declared in this act shall not restrict the extension of regular work hour schedules on an overtime basis in those activities and duties where such extension is necessary and authorized, provided that overtime work performed under such extension is compensated for as hereinafter provided.

(2) The appointing authority of any department shall determine the necessity for overtime work and shall provide for cash compensation or compensatory time off for such overtime work for eligible classified officers and employees, subject to the restrictions of applicable federal law.

(3) Cash for overtime and compensatory time shall be paid based on the following criteria:

(a) Classified and nonclassified officers and employees who fall within one (1) or more of the following categories are ineligible for cash compensation or compensatory time for overtime work:

(i) Elected officials; or

(ii) Those included in the definition of section 67-5303(j), Idaho Code.

(b) Classified and nonclassified employees who are designated as executive, as provided in section 67-5302, Idaho Code, and who are not included in the definition of subsection (3)(a) of this section, shall be ineligible for compensatory time or cash compensation for overtime work. Such salaried employees shall report absences in excess of one-half (1/2) day. Unused compensatory time balances in excess of two hundred forty (240) hours as of the date of enactment of this act shall be forfeited on December 31, 2008. Unused compensatory time balances of two hundred forty (240) hours or less shall be forfeited on December 31, 2006. Employees who become executives

within their current agency as set forth in section 67-5302(12), Idaho Code, shall have twelve (12) months from the date of this act or of appointment, whichever is later, to use any compensatory time balance. After twelve (12) months, any remaining compensatory time will be forfeited. Compensatory time is not transferable, and shall be forfeited at the time of transfer to another appointing authority or upon separation from state service.

(c) Classified and nonclassified employees who are designated as administrative or professional, as provided in the federal fair labor standards act, 29 U.S.C. section 201, et seq., or who are designated as exempt under any other complete exemption in federal law, and who are not included in the definition of either subsection (3)(a) or (3)(b) of this section, shall be ineligible for cash compensation for overtime work unless cash payment is authorized by the state board of examiners for overtime accumulated during unusual or emergency situations, but such classified and nonclassified employees shall be allowed compensatory time off from duty for overtime work. Such compensatory time shall be earned and allowed on a one (1) hour for one (1) hour basis, shall not be transferable, and shall be forfeited at the time of transfer to another appointing authority or upon separation from state service. Compensatory time may be accrued and accumulated up to a maximum of two hundred forty (240) hours. Effective with the first pay period in July, 2008 (beginning date June 15, 2008), compensatory time balances in excess of two hundred forty (240) hours will not continue to accrue until the balance is below the maximum. After the last pay period in June, 2009 (ending date June 13, 2009), balances in excess of two hundred forty (240) hours shall be forfeited.

(d) Classified employees who are not designated as executive, administrative or professional as provided in this section, and who are not included in the definition of subsection (3)(a) of this section or who are not designated as exempt under any other complete exemption in federal law, shall be eligible for cash compensation or compensatory time off from duty for overtime work, subject to the restrictions of applicable federal law. Compensatory time off may be provided in lieu of cash compensation at the discretion of the appointing authority after consultation, in advance, with the employee. Compensatory time off shall be paid at the rate of one and one-half (1 1/2) hours for each overtime hour worked. Compensatory time off which has been earned during any one-half (1/2) fiscal year but not taken by the end of the succeeding one-half (1/2) fiscal year, shall be paid in cash on the first payroll following the close of such succeeding one-half (1/2) fiscal year. Compensatory time not taken at the time of transfer to another appointing authority or upon separation from state service shall be liquidated at the time of such transfer or separation by payment in cash.

(e) Notwithstanding the provisions of this section, employees may be paid for overtime work during a disaster or emergency with the approval of the board of examiners.

(4) Cash compensation for overtime, when paid, shall be at one and one-half (1 1/2) times the hourly rate of that officer's or employee's salary or wage, except for those employees whose positions fall within the definitions of executive, administrative or professional as stated in section 67-5302, Idaho Code, who will be paid at their regular hourly

rate of pay as provided for in subsection (3) of this section.

(5) Except as provided for in subsection (3) of this section, compensation for authorized overtime work shall be made at the completion of the pay period next following the pay period in which the overtime work occurred and shall be added to the regular salary payment.

SECTION 4. 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 <u>and shall only be taken in pay periods subsequent to being earned.</u>

(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.

SECTION 5. That Section 67-5334, Idaho Code, be, and the same is hereby amended to read as follows:

67-5334. VACATION TIME. (1) Vacation time shall be computed as follows:

(a) Vacation time shall not accrue to any officer or employee on any kind of leave of absence without pay, suspension without pay or layoff. Vacation 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.

(b) The rate per hour at which vacation leave shall accrue to eligible classified officers and employees earning credited state service who are covered and nonexempt under the federal fair labor standards act, 29 U.S.C. section 201, et seq., shall be at the rate represented by the proportion 96/2080 during the first ten thousand four hundred (10,400) hours of credited state service; at the rate represented by the proportion 120/2080 during the second ten thousand four hundred (10,400) hours of credited state service; at the rate represented by the proportion 144/2080 during the third ten thousand four hundred (10,400) hours of credited state service; and at the rate represented by the proportion 168/2080 thereafter.

(c) Classified officers and employees earning credited state service and defined as an exempt "professional," "administrative," ~~or~~ "computer worker" under the federal fair labor standards act, 29 U.S.C. section 201, et seq., or who are designated as exempt under any other complete exemption in federal law shall be at the rate represented by the proportion 120/2080 during the first ten thousand four hundred (10,400) hours of credited state service; at the rate represented by the proportion 144/2080 during the second ten thousand four hundred (10,400) hours of credited state service; and at the rate represented by the proportion 168/2080 thereafter.

(d) Classified officers and employees earning credited state service and defined as an exempt "executive" under section 67-5302, Idaho Code, shall be at the rate represented by the proportion 200/2080.

(2) Eligibility and use of vacation time shall be determined as follows:

(a) An appointing authority shall permit each officer or employee to take vacation leave to the extent such leave has accrued.

(b) Vacation leave may be accrued and accumulated only as follows, unless amounts in excess of the permitted accumulations have been expressly authorized in writing by the board of examiners during unusual or emergency situations:

During the first ten thousand four hundred (10,400) hours of credited state service, vacation leave may be accrued and accumulated to a maximum of one hundred ninety-two (192) hours; employees classified as "executive" under section 67-5302, Idaho Code, may accrue and accumulate vacation leave to a maximum of two hundred (200) hours during this period;

During the second ten thousand four hundred (10,400) hours of credited state service, vacation leave may be accrued and accumulated to a maximum of two hundred forty (240) hours;

During the third ten thousand four hundred (10,400) hours of credited state service, vacation leave may be accrued and accumulated to a maximum of two hundred eighty-eight (288) hours;

After thirty-one thousand two hundred (31,200) hours of credited state service, vacation leave may be accrued and accumulated to a maximum of three hundred thirty-six (336) hours.

(c) Vacation leave shall be transferable from department to department only to the extent that it is accrued and accumulated.

(d) Vacation leave shall not be earned, accrued or accumulated during any pay period in which the maximum accruals and accumulations provided by this section have been met.

(e) Vacation leave not taken shall be compensated for at the time of separation only to the maximum accruals and accumulations allowed by this section.

(f) Vacation leave shall be taken on a workday basis. Regularly scheduled days off and officially designated holidays falling within a period of vacation leave shall not be counted against vacation leave. Vacation leave shall not be taken in advance of being earned and shall only be taken in pay periods subsequent to being earned.

(g) With the approval of the appointing authority for both the transferring and receiving officer or employee, an officer or employee may transfer accrued vacation leave, up to a maximum of forty (40) hours per fiscal year, to another officer or employee for purposes of sick leave in the event the receiving officer or employee or a family member suffers from a serious illness or injury. The amount transferred shall be converted to sick leave. An officer or employee shall not be allowed to receive more than one hundred sixty (160) hours of transferred leave per fiscal year, and a transfer shall not occur until the receiving employee has exhausted all of his or her accrued sick and vacation leave. An officer or employee shall not be eligible to transfer vacation leave unless his or her balance exceeds eighty (80) hours, and in no event may an officer or employee transfer an amount of accrued leave which would result in an accrued balance of less than eighty (80) hours.

(3) Upon separation from state employment and to the limits allowed by subsection (2) of this section, all classified officers and employees shall receive a lump sum payment for accrued but unused vacation leave at the hourly rate of pay of that officer or employee.

Approved March 19, 2008.

CHAPTER 197
(S.B. No. 1463)

AN ACT

APPROPRIATING MONEYS TO THE ATTORNEY GENERAL FOR FISCAL YEAR 2009; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; DIRECTING THE ATTORNEY GENERAL TO PAY CERTAIN PUBLICATION COSTS FROM THE SPECIAL LITIGATION PROGRAM FOR FISCAL YEAR 2009; 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, 2008, through June 30, 2009:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. STATE LEGAL SERVICES:				
FROM:				
General Fund	$17,178,700	$ 794,600	$290,700	$18,264,000
Consumer Protection Fund	108,300	116,900		225,200
Federal Grant Fund	536,400	345,600		882,000
TOTAL	$17,823,400	$1,257,100	$290,700	$19,371,200
II. SPECIAL LITIGATION:				
FROM:				
General Fund		$ 951,600		$ 951,600
GRAND TOTAL	$17,823,400	$2,208,700	$290,700	$20,322,800

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Attorney General is authorized no more than two hundred five and fifteen hundredths (205.15) full-time equivalent positions at any point during the period July 1, 2008, through June 30, 2009, 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. Regarding annual child sexual abuse reports, pursuant to Section 67-1405, Idaho Code, the Office of the Attorney General is hereby directed to pay the associated costs for publishing this annual report from appropriations made to the Attorney General for the Special Litigation Program for the period July 1, 2008, through June 30, 2009.

SECTION 4. There is hereby reappropriated to the Office of the Attorney General for Special Litigation, subject to the provisions of Section 5 of this act, the unexpended and unencumbered balance of General Fund moneys as appropriated for Special Litigation for fiscal year 2008, to be used for nonrecurring expenditures, for the period July 1, 2008, through June 30, 2009.

SECTION 5. The reappropriation for the General Fund granted in Section 4 of this act shall be subject to the following provisions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 2008, is zero, the reappropriation for the General Fund in Section 4 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, 2008, is greater than zero, but less than the total General Fund reappropriation authority granted to all state agencies, that amount reappropriated in Section 4 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 19, 2008.

CHAPTER 198
(H.B. No. 365, As Amended)

AN ACT

RELATING TO TRANSPORTATION; AMENDING SECTION 49-105, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 49-107, IDAHO CODE, TO DEFINE A TERM AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-114, IDAHO CODE, TO REVISE DEFINITIONS, TO DEFINE TERMS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-123, IDAHO CODE, TO REVISE DEFINITIONS AND TO DEFINE A TERM; AMENDING SECTION 49-402, IDAHO CODE, TO REQUIRE COMPLIANCE WITH FEDERAL MOTOR VEHICLE SAFETY STANDARDS FOR CERTAIN VEHICLES SUBJECT TO REGISTRATION AND TO PROHIBIT REGISTRATION AND OPERATION OF CERTAIN VEHICLES ON PUBLIC HIGHWAYS OF THE STATE; AMENDING SECTION 49-501, IDAHO CODE, TO PROVIDE AN EXEMPTION FROM TITLING REQUIREMENTS; AMENDING SECTION 49-1606, IDAHO CODE, TO REVISE DEALER LICENSING PROVISIONS; AND AMENDING SECTION 49-1608, IDAHO CODE, TO REVISE DEALER LICENSE BOND PROVISIONS.

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

SECTION 1. That Section 49-105, Idaho Code, be, and the same is hereby amended to read as follows:

49-105. DEFINITIONS -- D. (1) "Dealer" means every person in the business of buying, selling or exchanging five (5) or more new or used vehicles, new or used neighborhood electric vehicles, new or used motorcycles, motor-driven cycles, snow machines or ~~motor-scooters~~ motorbikes, travel trailers, all-terrain vehicles, utility type vehicles or motor homes in any calendar year, either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise, or who has an established place of business for the sale, lease, trade, or display of these vehicles. No insurance company, bank, finance company, public utilities company, or other person coming into possession of any vehicle, as an incident to its regular business, who shall sell that vehicle under any contractual rights it may have, shall be considered a dealer. See also "salvage pool," section 49-120, Idaho Code.

(2) "Dealer's selling agreement." (See "Franchise," section 49-107, Idaho Code)

(3) "Department" means the Idaho transportation department acting directly or through its duly authorized officers and agents, except in chapters 6 and 9, title 49, Idaho Code, where the term means the Idaho state police, except as otherwise specifically provided.

(4) "Designated family member" means the spouse, child, grandchild, parent, brother or sister of the owner of a vehicle dealership who, in the event of the owner's death, is entitled to inherit the ownership interest in the dealership under the same terms of the owner's will, or

who has been nominated in any other written instrument, or who, in the case of an incapacitated owner of a dealership, has been appointed by a court as the legal representative of the dealer's property.

(5) "Director" means the director of the Idaho transportation department, except in chapters 6, 9 and 22, title 49, Idaho Code, where the term means the director of the Idaho state police.

(6) "Disclose" means to engage in any practice or conduct to make available and make known personal information contained in records of the department about a person to any other person, organization or entity, by any means of communication.

(7) "Disqualification" as defined in 49 CFR part 383, means withdrawal by the department of commercial vehicle driving privileges.

(8) "Distributor" means any person, firm, association, corporation or trust, resident or nonresident, who has a franchise from a manufacturer of vehicles to distribute vehicles in this state, and who in whole or in part sells or distributes new vehicles to dealers or who maintains distributor representatives.

(9) "Distributor branch" means a branch office similarly maintained by a distributor for the same purposes a factory branch is maintained.

(10) "Distributor representative" means any person, firm, association, corporation or trust, and each officer and employee thereof engaged as a representative of a distributor or distributor branch of vehicles for the purpose of making or promoting the sale of vehicles, or for supervising or contacting dealers or prospective dealers.

(11) "District" means:

(a) Business district. The territory contiguous to and including a highway when within any six hundred (600) feet along the highway there are buildings in use for business or industrial purposes, including hotels, banks or office buildings, railroad stations and public buildings which occupy at least three hundred (300) feet of frontage on one side or three hundred (300) feet collectively on both sides of the highway.

(b) Residential district. The territory contiguous to and including a highway not comprising a business district when the property on the highway for a distance of three hundred (300) feet or more is in the main improved with residences, or residences and buildings in use for business.

(c) Urban district. The territory contiguous to and including any highway which is built up with structures devoted to business, industry or dwelling houses. For purposes of establishing speed limits in accordance with the provisions of section 49-654, Idaho Code, no state highway or any portion thereof lying within the boundaries of an urban district is subject to the limitations which otherwise apply to nonstate highways within an urban district. Provided, this subsection shall not limit the authority of the duly elected officials of an incorporated city acting as a local authority to decrease speed limits on state highways passing through any district within the incorporated city.

(12) "Documented vessel" means a vessel having a valid marine document as a vessel of the United States.

(13) "Drag race" means the operation of two (2) or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of one (1) or more vehicles over a common selected course, from the same point to the same

point, for the purpose of comparing the relative speeds or power of acceleration of the vehicles within a certain distance or time limit.

(14) "Driver" means every person who drives or is in actual physical control of a vehicle.

(15) "Driver's license" means a license or permit issued by the department or by any other jurisdiction to an individual which authorizes the individual to operate a motor vehicle or commercial motor vehicle on the highways in accordance with the requirements of title 49, Idaho Code.

(16) "Driver's license -- Classes of" are issued for the operation of a vehicle based on the size of the vehicle or the type of load and mean:

(a) Class A. This license shall be issued and valid for the operation of any combination of motor vehicles with a manufacturer's gross combination weight rating (GCWR) in excess of twenty-six thousand (26,000) pounds, provided the manufacturer's gross vehicle weight rating (GVWR) of the vehicle(s) being towed is in excess of ten thousand (10,000) pounds. Persons holding a valid class A license may also operate vehicles requiring a class B, C or D license.

(b) Class B. This license shall be issued and valid for the operation of any single vehicle with a manufacturer's gross vehicle weight rating (GVWR) in excess of twenty-six thousand (26,000) pounds, or any such vehicle towing a vehicle not in excess of ten thousand (10,000) pounds manufacturer's gross vehicle weight rating (GVWR). Persons holding a valid class B license may also operate vehicles requiring a class C license or a class D license.

(c) Class C. This license shall be issued and valid for the operation of any single vehicle or combination of vehicles that does not meet the definition of class A or class B, as defined in this section, but that either is designed to transport sixteen (16) or more people including the driver, or is of any size which does not meet the definition of class A or class B and is used in the transportation of materials found to be hazardous according to the hazardous material transportation act and which requires the motor vehicle to be placarded under the federal hazardous materials regulations 49 CFR part 172, subpart F. Persons holding a valid class C license may also operate vehicles requiring a class D license.

(d) Class D. This license shall be issued and valid for the operation of a motor vehicle that is not a commercial vehicle as defined in section 49-123, Idaho Code.

(e) "Seasonal driver's license" means a special restricted class B or C driver's license to operate certain commercial vehicles in farm-related industries under restrictions imposed by the department. As used in this definition, "farm-related industry" shall mean custom harvesters, farm retail outlets and suppliers, agri-chemical businesses and livestock feeders. Seasonal driver's licenses are not valid for driving vehicles carrying any quantities of hazardous material requiring placarding, except for diesel fuel in quantities of one thousand (1,000) gallons or less, liquid fertilizers, i.e., plant nutrients, in vehicles or implements of husbandry with total capacities of three thousand (3,000) gallons or less, and solid fertilizers, i.e., solid plant nutrients, that are not mixed with any organic substance.

(17) "Driver record" means any record that pertains to an individual's driver's license, driving permit, driving privileges, driving history, identification documents or other similar credentials issued by the department.

(18) "Driver's license endorsements" means special authorizations that are required to be displayed on a driver's license which permit the driver to operate certain types of commercial vehicles or commercial vehicles hauling certain types of cargo, or to operate a motorcycle or a school bus.

(a) "Endorsement T -- Double/Triple trailer" means this endorsement is required on a class A, B or C license to permit the licensee to operate a vehicle authorized to tow more than one (1) trailer.

(b) "Endorsement H -- Hazardous material" means this endorsement is required on a class A, B or C license if the driver is operating a vehicle used in the transportation of materials found to be hazardous according to the hazardous material transportation act and which requires the motor vehicle to be placarded under the federal hazardous materials regulations 49 CFR part 172, subpart F.

(c) "Endorsement P -- Passenger" means this endorsement is required on a class A, B or C license to permit the licensee to operate a vehicle designed to transport sixteen (16) or more people including the driver.

(d) "Endorsement N -- Tank vehicle" means this endorsement is required on a class A, B or C license to permit the licensee to operate a vehicle which is designed to transport any liquid or gaseous materials within a tank that is either permanently or temporarily attached to the vehicle. Such vehicles include, but are not limited to, cargo tanks and portable tanks, as defined in federal regulations 49 CFR part 171. This definition does not include portable tanks having a rated capacity under one thousand (1,000) gallons.

(e) "Endorsement M -- Motorcycle" means this endorsement is required on a driver's license to permit the driver to operate a motorcycle <u>or motor-driven cycle.</u>

(f) "Endorsement S -- School bus" means this endorsement is required on a class A, B or C license to permit the licensee to operate a school bus in accordance with 49 CFR part 383, to transport preprimary, primary or secondary school students from home to school, from school to home, or to and from school-sponsored events. School bus does not include a bus used as a common carrier.

(19) "Driveway" means a private road giving access from a public way to a building on abutting grounds.

(20) "Dromedary tractor" means every motor vehicle designed and used primarily for drawing a semitrailer and so constructed as to carry manifested cargo in addition to a part of the weight of the semitrailer.

SECTION 2. That Section 49-107, Idaho Code, be, and the same is hereby amended to read as follows:

49-107. DEFINITIONS -- F. (1) "Factory branch" means a branch office maintained by a person who manufactures or assembles vehicles for sale to distributors or to dealers, or for directing or supervising, in whole or in part, its representatives.

(2) "Factory representative" means any person and each officer and employee engaged as a representative of a manufacturer of vehicles or by

a factory branch for the purpose of making or promoting a sale of their vehicles, or for supervising or contacting their dealers or prospective dealers.

(3) "Farm tractor" means every motor vehicle designed or adapted and used primarily as a farm implement power unit operated with or without other farm implements attached in any manner consistent with the structural design of that power unit.

(4) "Farm vehicle." (See "Vehicle," section 49-123, Idaho Code)

(5) "Federal motor vehicle safety standards (FMVSS)" means those safety standards established by the national highway traffic safety administration, under title 49 CFR part 500-599, for the safe construction and manufacturing of self-propelled motorized vehicles for operation on public highways. Such vehicles as originally designed and manufactured shall be so certified by the manufacturer to meet the federal motor vehicle safety standards or the standards in force for a given model year or as certified by the national highway traffic safety administration.

(6) "Felony" means any offense under state or federal law that is punishable by death or imprisonment for a term exceeding one (1) year.

(~~6~~7) "Fifth wheel trailer." (See "Trailer," section 49-121, Idaho Code)

(~~7~~8) "Financial institution" means any bank that is authorized to do business in the state of Idaho and any other financial institution that is registered with the department of finance.

(~~8~~9) "Flammable liquid" means any liquid which has a flash point of 70 degrees Fahrenheit, or less, as determined by a tagliabue or equivalent closed-cup test device.

(~~9~~10) "Fleet" means one (1) or more apportionable vehicles.

(~~10~~11) "Fleet registration" means an optional form of registration through the department rather than a county assessor for registration of twenty-five (25) or more commercial or farm vehicles or any combination thereof. This registration is not an option for fleets of rental vehicles. Terms and conditions are further specified in section 49-434(5), Idaho Code.

(~~11~~12) "Fold down camping trailer." (See "Trailer," section 49-121, Idaho Code)

(~~12~~13) "Foreign vehicle." (See "Vehicle," section 49-123, Idaho Code)

(~~13~~14) "Franchise" means a contract or agreement between a dealer and a manufacturer of new vehicles or its distributor or factory branch by which the dealer is authorized to engage in the business of selling any specified make or makes of new vehicles.

(~~14~~15) "Full-time salesman" means any person employed as a vehicle salesman on behalf of a dealer for thirty (30) or more hours per week, and who sells, purchases, exchanges or negotiates for the sale, purchase or exchange of five (5) or more vehicles during each year in which his license is in effect.

SECTION 3. That Section 49-114, Idaho Code, be, and the same is hereby amended to read as follows:

49-114. DEFINITIONS -- M. (1) "Major component part" means a rear clip, cowl, frame or inner structure forward of the cowl, body, cab,

front end assembly, front clip or such other part which is critical to the safety of the vehicle.

(2) "Manifest" means a form used for identifying the quantity, composition, origin, routing, waste or material identification code and destination of hazardous material or hazardous waste during any transportation within, through, or to any destination in this state.

(3) "Manufactured home." (See section 39-4105, Idaho Code)

(4) "Manufacturer" means every person engaged in the business of constructing or assembling vehicles of a type required to be registered at an established place of business in this state. The term, for purposes of sections 49-1613 through 49-1615, 49-1617, 49-1622 and 49-1623, Idaho Code, shall include a distributor and other factory representatives.

(5) "Manufacturer's year designation" means the model year designated by the vehicle manufacturer, and not the year in which the vehicle is, in fact, manufactured.

(6) "Maximum gross weight" means the scale weight of a vehicle, equipped for operation, to which shall be added the maximum load to be carried as declared by the owner in making application for registration. When a vehicle against which a registration fee is assessed is a combination of vehicles, the term "maximum gross weight" means the combined maximum gross weights of all vehicles in the combination.

(7) "Metal tire." (See "Tires," section 49-121, Idaho Code)

(8) "Mileage" means actual distance that a vehicle has traveled.

(9) "Moped" means a limited-speed motor-driven cycle having:

(a) Both motorized and pedal propulsion that is not capable of propelling the vehicle at a speed in excess of thirty (30) miles per hour on level ground, whether two (2) or three (3) wheels are in contact with the ground during operation. If an internal combustion engine is used, the displacement shall not exceed fifty (50) cubic centimeters and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged; or

(b) Two (2) wheels or three (3) wheels with no pedals, which is powered solely by electrical energy, has an automatic transmission, a motor which produces less than two (2) gross brake horsepower, is capable of propelling the device at a maximum speed of not more than thirty (30) miles per hour on level ground and as originally manufactured, meets federal motor vehicle safety standards for motor-driven cycles. A moped is not required to be titled and no motorcycle endorsement is required of its operator.

(10) "Motorbike" means a vehicle as defined in section 67-7101, Idaho Code. Such vehicle shall be titled and may be approved for motorcycle registration under section 49-402, Idaho Code, upon certification by the owner of the installation and use of conversion components that make the motorbike compliant with federal motor vehicle safety standards.

(11) "Motorcycle" means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, that meets the federal motor vehicle safety standards as originally designed, and includes a converted motorbike, but ~~excluding~~ does not include a motor-driven cycle, a motorbike, a tractor ~~and~~ or a moped.

(1~~1~~2) "Motor carrier" means an individual, partnership, corporation

or other legal entity engaged in the transportation by motor vehicle of persons or property in the furtherance of a business or for hire.

(13) "Motor-driven cycle" means a cycle with a motor that produces five (5) brake horsepower or less as originally manufactured that meets federal motor vehicle safety standards as originally designed, and does not include mopeds. Such vehicle shall be titled and a motorcycle endorsement is required for its operation.

(1~~2~~4) "Motor home" means a vehicular unit designed to provide temporary living ~~quarters,~~ built into an integral part or permanently attached to a self-propelled motor vehicle chassis. The vehicle must contain permanently installed independent life support systems which meet the American National Standards Institute (ANSI) A119.7 Standard for Recreational Vehicles, and provide at least four (4) of the following facilities: cooking, refrigeration or ~~ice-box~~ icebox, self-contained toilet, heating and/or air conditioning, a potable water supply system, including a faucet and sink, separate 110-125 volt electrical power supply and/or LP-gas supply.

(1~~3~~5) "Motorized wheelchair" means a motor vehicle with a speed not in excess of eight (8) miles per hour, designed for and used by a handicapped person.

(1~~4~~6) "Motor number." (See "Identifying number," section 49-110, Idaho Code)

(1~~5~~7) "Motor vehicle." (See "Vehicle," section 49-123, Idaho Code)

(1~~6~~8) "Motor vehicle liability policy" means an owner's or operator's policy of liability insurance, certified as provided in section 49-1210, Idaho Code, as proof of financial responsibility, and issued by an insurance carrier duly authorized to transact business in this state, to or for the benefit of the person named therein as insured.

(1~~7~~9) "Motor vehicle record" means any record that pertains to a motor vehicle registration, motor vehicle title or identification documents or other similar credentials issued by the department or other state or local agency.

SECTION 4. That Section 49-123, Idaho Code, be, and the same is hereby amended to read as follows:

49-123. DEFINITIONS -- V. (1) "Variable load suspension axle" means an axle or axles designed to support a part of the vehicle and load and which can be regulated to vary the amount of load supported by such an axle or axles and which can be deployed or lifted by the operator of the vehicle. See also section 49-117, Idaho Code.

(a) "Fully raised" means that the variable load suspension axle is in an elevated position preventing the tires on such axle from having any contact with the roadway.

(b) "Fully deployed" means that the variable load suspension axle is supporting a portion of the weight of the loaded vehicle as controlled by the preset pressure regulator valve.

(2) "Vehicle" means:

(a) General. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

(b) Authorized emergency vehicle. Vehicles operated by any fire department or law enforcement agency of the state of Idaho or any

political subdivision of the state, ambulances, vehicles belonging to personnel of voluntary fire departments while in performance of official duties only, vehicles belonging to, or operated by EMS personnel certified or otherwise recognized by the EMS bureau of the Idaho department of health and welfare while in the performance of emergency medical services, sheriff's search and rescue vehicles which are under the immediate supervision of the county sheriff, wreckers which are engaged in motor vehicle recovery operations and are blocking part or all of one (1) or more lanes of traffic, other emergency vehicles designated by the director of the Idaho state police or vehicles authorized by the Idaho transportation board and used in the enforcement of laws specified in section 40-510, Idaho Code, pertaining to vehicles of ten thousand (10,000) pounds or greater.

(c) Commercial vehicle or commercial motor vehicle. For the purposes of chapter 3 of this title, (driver's licenses), a motor vehicle or combination of motor vehicles designed or used to transport passengers or property if the motor vehicle:

1. Has a manufacturer's gross combination weight rating (GCWR) in excess of twenty-six thousand (26,000) pounds inclusive of a towed unit with a manufacturer's gross vehicle weight rating (GVWR) of more than ten thousand (10,000) pounds; or
2. Has a manufacturer's gross vehicle weight rating (GVWR) in excess of twenty-six thousand (26,000) pounds; or
3. Is designed to transport sixteen (16) or more people, including the driver; or
4. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the hazardous material transportation act and which require the motor vehicle to be placarded under the hazardous materials regulations (49 CFR part 172, subpart F).

For the purposes of chapter 4, title 49, Idaho Code, (motor vehicle registration), a vehicle or combination of vehicles of a type used or maintained for the transportation of persons for hire, compensation or profit, or the transportation of property for the owner of the vehicle, or for hire, compensation, or profit, and shall include fixed load specially constructed vehicles exceeding the limits imposed by chapter 10, title 49, Idaho Code, and including drilling rigs, construction, drilling and wrecker cranes, log jammers, log loaders, and similar vehicles which are normally operated in an overweight or oversize condition or both, but shall not include those vehicles registered pursuant to sections 49-402 and 49-402A, Idaho Code, or exempted by section 49-426, Idaho Code. A motor vehicle used in a ridesharing arrangement that has a seating capacity for not more than fifteen (15) persons, including the driver, shall not be a "commercial vehicle" under the provisions of this title relating to equipment requirements, rules of the road, or registration.

(d) Farm vehicle. A vehicle or combination of vehicles owned by a farmer or rancher, which are operated over public highways, and used exclusively to transport unprocessed agricultural, dairy or livestock products raised, owned and grown by the owner of the vehicle to market or place of storage; and shall include the transportation by the farmer or rancher of any equipment, supplies or products pur-

chased by that farmer or rancher for his own use, and used in the farming or ranching operation or used by a farmer partly in transporting agricultural products or livestock from the farm of another farmer that were originally grown or raised on the farm, or when used partly in transporting agricultural supplies, equipment, materials or livestock to the farm of another farmer for use or consumption on the farm but not transported for hire, and shall not include vehicles of husbandry or vehicles registered pursuant to sections 49-402 and 49-402A, Idaho Code.

(e) Foreign vehicle. Every vehicle of a type required to be registered under the provisions of this title brought into this state from another state, territory or country other than in the ordinary course of business by or through a manufacturer or dealer and not registered in this state.

(f) Glider kit vehicle. Every large truck manufactured from a kit manufactured by a manufacturer of large trucks which consists of a frame, cab complete with wiring, instruments, fenders and hood and front axles and wheels. The "glider kit" is made into a complete assembly by the addition of the engine, transmission, rear axles, wheels and tires.

(g) Motor vehicle. Every vehicle which is self-propelled, and ~~every vehicle--which is propelled by electric power obtained from overhead trolley wires but not operated upon rails, except~~ for the purpose of titling and registration meets federal motor vehicle safety standards as defined in section 49-107, Idaho Code. Motor vehicle does not include vehicles moved solely by human power, electric personal assistive mobility devices and motorized wheelchairs or other such vehicles that are specifically exempt from titling or registration requirements under title 49, Idaho Code.

(h) Multipurpose passenger vehicle (MPV). For the purposes of section 49-966, Idaho Code, a motor vehicle designed to carry ten (10) or fewer persons which is constructed either on a truck chassis or with special features for occasional off-road operation.

(i) Neighborhood electric vehicle (NEV). A self-propelled, electrically-powered, four-wheeled motor vehicle which is emission free and conforms to the definition and requirements for low-speed vehicles as adopted in the federal motor vehicle safety standards for low-speed vehicles under federal regulations at 49 CFR part 571. An NEV shall be titled, registered and insured according to law as provided respectively in chapters 4, 5 and 12, title 49, Idaho Code, and shall only be operated by a licensed driver. Operation of an NEV on a highway shall be allowed as provided in section 49-663, Idaho Code.

(j) Noncommercial vehicle. For the purposes of chapter 4, title 49, Idaho Code, (motor vehicle registration), a noncommercial vehicle shall not include those vehicles required to be registered under sections 49-402 and 49-402A, Idaho Code, and means all other vehicles or combinations of vehicles which are not commercial vehicles or farm vehicles, but shall include motor homes. A noncommercial vehicle shall include those vehicles having a combined gross weight not in excess of sixty thousand (60,000) pounds and not held out for hire, used for purposes related to private use and not used in the furtherance of a business or occupation for compensation or profit or for transporting goods for other than the owner.

(k) Passenger car. For the purposes of section 49-966, Idaho Code, a motor vehicle, except a multipurpose passenger vehicle, motorcycle or trailer, designed to carry ten (10) or fewer persons.

(l) Reconstructed or repaired vehicle. Every vehicle that has been rebuilt or repaired using like make and model parts and visually appears as a vehicle that was originally constructed under a distinctive manufacturer. This includes a salvage vehicle which is damaged to the extent that a "reconstructed vehicle" or "repaired vehicle" brand is required, and other vehicles which have been reconstructed by the use of a kit designed to be used to construct an exact replica of a vehicle which was previously constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles. A glider kit vehicle is not a reconstructed vehicle.

(m) Replica vehicle. A vehicle made to replicate any passenger car or truck previously manufactured, using metal, fiberglass or other composite materials. Replica vehicles must look like the original vehicle being replicated but may use a more modern drive train. At a minimum, replica vehicles shall meet the same federal motor vehicle safety and emission standards in effect for the year and type of vehicle being replicated.

(n) Salvage vehicle. Any vehicle for which a salvage certificate, salvage bill of sale or other documentation showing evidence that the vehicle has been declared salvage or which has been damaged to the extent that the owner, or an insurer, or other person acting on behalf of the owner, determines that the cost of parts and labor minus the salvage value makes it uneconomical to repair or rebuild. When an insurance company has paid money or has made other monetary settlement as compensation for a total loss of any motor vehicle, such motor vehicle shall be considered to be a salvage vehicle.

(no) Specially constructed vehicle. Every vehicle of a type required to be registered not originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction and cannot be visually identified as a vehicle produced by a particular manufacturer. This includes:

1. A vehicle that has been structurally modified so that it does not have the same appearance as a similar vehicle from the same manufacturer; or
2. A vehicle that has been constructed entirely from homemade parts and materials not obtained from other vehicles; or
3. A vehicle that has been constructed by using major component parts from one (1) or more manufactured vehicles and cannot be identified as a specific make or model; or
4. A vehicle constructed by the use of a custom kit that cannot be visually identified as a specific make or model. All specially constructed vehicles of a type required to be registered shall be certified by the owner to meet all applicable federal motor vehicle safety standards in effect at the time construction is completed, and all requirements of chapter 9, title 49, Idaho Code.

(op) Total loss vehicle. Every vehicle that is deemed to be uneconomical to repair due to scrapping, dismantling or destruction. A total loss shall occur when an insurance company or any other person

pays or makes other monetary settlement to the owner when it is deemed to be uneconomical to repair the damaged vehicle. The compensation for total loss as defined herein shall not include payments by an insurer or other person for medical care, bodily injury, vehicle rental or for anything other than the amount paid for the actual damage to the vehicle.

(3) "Vehicle identification number." (See "Identifying number," section 49-110, Idaho Code)

(4) "Vehicle salesman" means any person who, for a salary, commission or compensation of any kind, is employed either directly or indirectly, or regularly or occasionally by any dealer to sell, purchase or exchange, or to negotiate for the sale, purchase or exchange of vehicles. (See also "full-time salesman," section 49-107, Idaho Code, and "part-time salesman," section 49-117, Idaho Code)

(5) "Vessel." (See section 67-7003, Idaho Code)

(6) "Veteran." (See section 65-502, Idaho Code)

(7) "Violation" means a conviction of a misdemeanor charge involving a moving traffic violation, or an admission or judicial determination of the commission of an infraction involving a moving traffic infraction, except bicycle infractions.

SECTION 5. That Section 49-402, Idaho Code, be, and the same is hereby amended to read as follows:

49-402. ANNUAL REGISTRATION. (1) The annual fee for operating each pickup truck, each neighborhood electric vehicle and each other motor vehicle having a maximum gross weight not in excess of eight thousand (8,000) pounds and that complies with the federal motor vehicle safety standards as defined in section 49-107, Idaho Code, shall be:

Vehicles one (1) and two (2) years old $48.00
Vehicles three (3) and four (4) years old $36.00
Vehicles five (5) and six (6) years old $36.00
Vehicles seven (7) and eight (8) years old $24.00
Vehicles over eight (8) years old $24.00

There shall be twelve (12) registration periods, starting in January for holders of validation registration stickers numbered 1, and proceeding consecutively through December for holders of validation registration stickers numbered 12, each of which shall start on the first day of a calendar month and end on the last day of the twelfth month from the first day of the beginning month. Registration periods shall expire midnight on the last day of the registration period in the year designated by the validation registration sticker. The numeral digit on the validation registration stickers shall, as does the registration card, fix the registration period under the staggered plate system of Idaho for the purpose of reregistration and notice of expiration.

A vehicle that has once been registered for any of the above designated periods shall, upon reregistration, be registered for the period bearing the same number, and the registration card shall show and be the exclusive proof of the expiration date of registration and licensing. Vehicles may be initially registered for less than a twelve (12) month period, or for more than a twelve (12) month period, and the fee prorated on a monthly basis if the fractional registration tends to fulfill the purpose of the monthly series registration system.

(2) For all school buses operated either by a nonprofit, nonpublic

school or operated pursuant to a service contract with a school district for transporting children to or from school or in connection with school approved activities, the annual fee shall be twenty-four dollars ($24.00).

(3) For all motorcycles and motor-driven cycles which comply with the federal motor vehicle safety standards, and all-terrain vehicles operated upon the public highways the annual fee shall be nine dollars ($9.00). For operation of an all-terrain vehicle or motorcycle off the public highways, the fee specified in section 67-7122, Idaho Code, shall be paid. Registration exemptions provided in section 49-426(2), (3) and (4), Idaho Code, apply to all-terrain vehicles and motorcycles used for the purposes described in subsections (2), (3) and (4) of section 49-426, Idaho Code.

(4) For all motor homes the fee shall be as specified in subsection (1) of this section and shall be in addition to the fees provided for in section 49-445, Idaho Code.

(5) Registration fees shall not be subject to refund.

(6) A financial institution or repossession service contracted to a financial institution repossessing vehicles under the terms of a security agreement shall move the vehicle from the place of repossession to the financial institution's place of business on a repossession plate. The repossession plate shall also be used for demonstrating the vehicle to a prospective purchaser for a period not to exceed ninety-six (96) hours. The registration fees for repossession plates shall be as required in subsection (1) of this section for a vehicle one (1) and two (2) years old. All other fees required under chapter 4, title 49, Idaho Code, shall be in addition to the registration fee. The repossession plate shall be issued on an annual basis by the department.

(7) In addition to the annual registration fee in this section, there shall be an initial program fee of twenty-five dollars ($25.00) and an annual program fee of fifteen dollars ($15.00) for all special license plate programs for those license plates issued pursuant to sections 49-404A, 49-407, 49-408, 49-409, 49-414, 49-416, 49-418 and 49-418D, Idaho Code. For special plates issued pursuant to sections 49-406 and 49-406A, Idaho Code, there shall be an initial program fee of twenty-five dollars ($25.00) but there shall be no annual renewal fee. For special plates issued pursuant to sections 49-415C, 49-415D, 49-416A, 49-416B, 49-416C, 49-416D, 49-416E, 49-417, 49-417A, 49-417B, 49-417C, 49-418A, 49-418B, 49-418C, 49-418E, 49-419, 49-419A, 49-419B, 49-419C, 49-419D, 49-420, 49-420A, 49-420B, 49-420C, 49-420D, 49-420E and 49-420G, Idaho Code, there shall be an initial program fee of thirty-five dollars ($35.00) and an annual program fee of twenty-five dollars ($25.00). The fees contained in this subsection shall be applicable to all new special plate programs. The initial program fee and the annual program fee shall be deposited in the state highway account and shall be used to fund the cost of administration of special license plate programs, unless otherwise specified by law.

(8) Any vehicle that does not meet federal motor vehicle safety standards shall not be registered and shall not be permitted to operate on public highways of the state, as defined in section 40-117, Idaho Code, unless otherwise specifically authorized.

SECTION 6. That Section 49-501, Idaho Code, be, and the same is hereby amended to read as follows:

49-501. TITLING REQUIREMENTS -- EXEMPTIONS. (1) The provisions of this chapter shall apply to every vehicle required to be registered with the department in chapter 4, title 49, Idaho Code.

(2) In addition, the titling requirements of this chapter shall apply to the following vehicles which are not required to be registered under the provisions of chapter 4, title 49, Idaho Code:

(a) All-terrain vehicles, motorbikes, snowmobiles and utility type vehicles as defined in section 67-7101, Idaho Code, except that such vehicles having an internal combustion engine with a displacement of less than fifty (50) cubic centimeters will not be titled; and

(b) Manufactured homes as defined in section 39-4105, Idaho Code.

(3) Certain vehicles which are required to be registered under the provisions of chapter 4, title 49, Idaho Code, shall be exempt from the titling requirements of this chapter as follows:

(a) Utility trailers whose unladen weight is less than two thousand (2,000) pounds; and

(b) The board may, by rule, exempt vehicles and motor vehicles registered under the provisions of sections 49-434 and 49-435, Idaho Code, from the titling requirements of this chapter.

(4) Vehicles exempt from registration under the provisions of section 49-426, Idaho Code, are exempt from the titling requirements of this chapter, unless otherwise specifically required by the provisions of subsection (2) of this section.

SECTION 7. That Section 49-1606, Idaho Code, be, and the same is hereby amended to read as follows:

49-1606. CLASSES OF LICENSES -- NONRESIDENT DEALERS. Licenses issued under the provisions of this chapter shall be as follows:

(1) A dealer's license shall permit the licensee to engage in the business of selling or exchanging new and used vehicles, new and used motorcycles, motor-driven cycles and ~~motor-scooters~~ motorbikes, new and used all-terrain vehicles, utility type vehicles, snow machines and travel trailers, and new and used motor homes. This form of license shall permit licensees who are owners or part owners of the business of the licensee to act as vehicle salesmen.

(2) A vehicle salesman's license shall permit the licensee to engage in the activities of a vehicle salesman.

(3) A wholesale dealer's license shall permit the licensee to engage in the business of wholesaling used vehicles to Idaho vehicle dealers. The holder of this license must meet all the requirements for a principal place of business, except for the requirement of display area and adequate room to repair vehicles.

(4) A vehicle manufacturer's license shall permit the licensee to engage in the business of constructing or assembling vehicles, of the type subject to registration under this title at an established place of business within Idaho.

(5) A distributor, factory branch, or distributor branch license shall permit the licensee to engage in the business of selling and distributing vehicles, parts, and accessories to their franchised dealers.

(6) A representative (factory branch or distributor, etc.) license shall permit the licensee to engage in the business of contacting his respective authorized dealers, for the purpose of making or promoting the sale of his, its, or their vehicles, parts, and accessories.

(7) Pending the satisfaction of the department that the applicant has met the requirements for licensure, it may issue a temporary permit to any applicant for a license. A temporary permit shall not exceed a period of ninety (90) days while the department is completing its investigation and determination of facts relative to the qualifications of the applicant for a license. A temporary permit shall terminate when the applicant's license has been issued or refused.

(8) The department may issue a probationary vehicle salesman's license, subject to conditions to be observed in the exercise of the privilege granted either upon application for issuance of a license or upon application for renewal of a license. The conditions to be attached to the exercise of the privilege shall not appear on the face of the license but shall, in the judgment of the department, be in the public interest and suitable to the qualifications of the applicant as disclosed by the application and investigation by the department.

(9) A nonresident dealer who is currently authorized to do business as, and has an established place of business as a vehicle dealer in another state, is not subject to licensure under the provisions of this chapter as long as the sales are limited to the exportation of vehicles for sale to, and the importation of vehicles purchased from, licensed Idaho vehicle dealers.

SECTION 8. That Section 49-1608, Idaho Code, be, and the same is hereby amended to read as follows:

49-1608. LICENSE BOND. (1) Before any dealer's license shall be issued by the department to any applicant, the applicant shall procure and file with the department good and sufficient bond in the amount shown, conditioned that the applicant shall not practice any fraud, make any fraudulent representation or violate any of the provisions of this chapter, rules of the department, or the provisions of chapter 5, title 49, section 49-1418, or chapter 6, title 48, Idaho Code, or federal motor vehicle safety standards, or odometer fraud in the conduct of the business for which he is licensed.

(a) All dealers, including wholesale, but excluding a dealer exclusively in the business of motorcycles, motor-driven cycles and ~~motor scooters~~ motorbikes, all-terrain vehicles, utility type vehicles and snow machine sales, twenty thousand dollars ($20,000).

(b) A dealer exclusively in the business of motorcycle, motor-driven cycle and ~~motor-scooter~~ motorbike sales, all-terrain vehicles, utility type vehicles and snow machine sales, ten thousand dollars ($10,000).

(2) The bond required in this section may be continuous in form and the total aggregate liability on the bond shall be limited to the payment of the amounts set forth in this section. The bond shall be in the following form:

(a) A corporate surety bond, by a surety licensed to do business in this state; or

(b) A certificate of deposit, in a form prescribed by the director; or

(c) A cash deposit with the director.

(3) If a bond is canceled or otherwise becomes invalid, upon receiving notice of the cancellation or invalidity, the department shall immediately suspend the dealer's license and take possession of the

license itself, all vehicle plates used in the business and all unused title applications of the licensee. The licensee is entitled to a hearing which shall be held within twenty (20) days of the suspension. Upon receiving notice that a valid bond is in force, the department shall immediately reinstate the license.

(4) The bond requirements of this section shall be satisfied if the applicant is a duly licensed manufactured home dealer in accordance with chapter 21, title 44, Idaho Code, and the bond required by section 44-2103, Idaho Code, otherwise meets the requirements of this section. The amount of the bond shall be in the amount as required in this section or that required in section 44-2103, Idaho Code, whichever is greater. The applicant shall furnish a certified copy of the bond as required in section 44-2103, Idaho Code, to the department.

Approved March 19, 2008.

CHAPTER 199
(H.B. No. 398)

AN ACT

RELATING TO VOCATIONAL REHABILITATION; AMENDING SECTION 33-2308, IDAHO CODE, TO PROVIDE FOR THE BOARD FOR PROFESSIONAL-TECHNICAL EDUCATION TO ASSIST PERSONS SUFFERING FROM CHRONIC RENAL DISEASE TO OBTAIN OTHER SERVICES, INCLUDING FINANCIAL ASSISTANCE, FOR SPECIFIED EXPENSES AND TO PROVIDE FOR RULEMAKING AUTHORITY.

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

SECTION 1. That Section 33-2308, Idaho Code, be, and the same is hereby amended to read as follows:

33-2308. ESTABLISHMENT OF VOCATIONAL REHABILITATION PROGRAM TO PROVIDE TREATMENT TO PERSONS SUFFERING FROM CHRONIC RENAL DISEASES. The board for professional-technical education shall establish a vocational rehabilitation program to provide treatment to persons suffering from chronic renal diseases, including dialysis and other medical procedures and techniques which will have a lifesaving effect in the care and treatment of persons suffering from these diseases. The board shall extend financial assistance to persons suffering from chronic renal diseases <u>to assist such persons</u> in obtaining the medical, nursing, pharmaceutical, ~~and~~ technical <u>and other</u> services necessary to care for such diseases, including <u>financial assistance for</u> the rental or purchase of home dialysis equipment and <u>supplies, the payment of medical insurance premiums and patient travel expenses. Provided that the board shall not provide financial assistance to such persons for expenses that are covered by medicare.</u> The board shall <u>promulgate rules that</u> establish standards for determining eligibility for care and treatment under this program in order that treatment shall be provided to those who are financially unable to obtain such treatment without causing severe economic imbalance in the family economic unit. Such standards shall be established without reference to maximum or minimum income levels.

Approved March 19, 2008.

CHAPTER 200
(H.B. No. 405)

AN ACT

RELATING TO LOG SCALING; AMENDING SECTION 38-1203, IDAHO CODE, TO PROVIDE FOR THE IDAHO BOARD OF SCALING PRACTICES AND TO REVISE MEMBERSHIP APPOINTMENT PROVISIONS; AMENDING SECTION 38-808, IDAHO CODE, TO PROVIDE REFERENCES TO THE IDAHO BOARD OF SCALING PRACTICES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 38-809, IDAHO CODE, TO PROVIDE REFERENCES TO THE IDAHO BOARD OF SCALING PRACTICES; AMENDING SECTION 38-1202, IDAHO CODE, TO PROVIDE REFERENCE TO THE IDAHO BOARD OF SCALING PRACTICES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 38-1207, IDAHO CODE, TO PROVIDE REFERENCE TO THE IDAHO BOARD OF SCALING PRACTICES; AND AMENDING SECTION 38-1220A, IDAHO CODE, TO PROVIDE REFERENCE TO THE IDAHO BOARD OF SCALING PRACTICES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 38-1203, Idaho Code, be, and the same is hereby amended to read as follows:

38-1203. ~~STATE~~ IDAHO BOARD OF SCALING PRACTICES -- MEMBERS -- TERMS. A board to be known as the "~~state~~ "Idaho board of scaling practices" is hereby created in the department of lands. It shall consist of the director of the department of lands and five (5) members appointed by the governor from among nominees recommended by the organized and generally recognized forest industry associations or individuals representing nonindustrial private forest landowners provided not less than two (2) board members be appointed from the ~~Idaho forest industry--council~~ intermountain forest association, and not less than two (2) board members be appointed from the associated logging contractors of Idaho, inc., each association to have one (1) member from north of the Salmon river and one (1) member from south of the Salmon river. One (1) member shall be appointed to represent the interests of nonindustrial private forest landowners throughout the state. That person shall be chosen from nominees provided to the governor by the Idaho forest owner's association. The person representing nonindustrial private forest landowners shall own not less than one hundred (100) nor more than five thousand (5,000) acres of private forest land and shall not own or control a forest products manufacturing facility within the state. In choosing this person, the governor shall give preference to persons with a demonstrated history of selling timber or logs to a variety of purchasers and who have scaling or forest management experience. The members of the board shall have the qualifications required by section 38-1204, Idaho Code. The members of the board shall be appointed for a three (3) year term. Each member of the board shall take, subscribe and file the oath required by sections 59-401 through 59-408, Idaho Code, before entering upon the duties of his office. On the expiration of the term of any member, his successor shall be appointed in like manner by the governor for a term of three (3) years and unexpired terms shall be filled for the unexpired balance of the term.

SECTION 2. That Section 38-808, Idaho Code, be, and the same is hereby amended to read as follows:

38-808. RECORDING LOG BRANDS -- PENALTY. (1) Definitions:

(a) "Person" includes the plural and all corporations, foreign and domestic, copartnerships, firms and associations of persons.

(b) "Forest products." For the purposes of this section only, "forest products" means all products derived from trees including, but not limited to, ~~sawlogs~~ saw logs, veneer logs, poles, cedar products, pulp logs, fence posts and every form into which a fallen tree may be cut before it is manufactured into lumber or run through a processing mill or cut into ~~cord-wood~~ cordwood, stove wood or hewn ties.

(c) "Log brand" means a unique symbol or mark placed on or in forest products for the purpose of identifying ownership.

(2) Any owner of forest products in the state of Idaho may use thereon any log brand, which may be applied as a stamped symbol, log brand or affixed tag, not currently registered by any other person in the state; but before any such log brand shall be used, it shall be the duty of such owner intending to use the same to cause a diagram, and a full and complete written description of his log brand, signed by him, to be submitted on "Registration of Log Brands" forms to the office of the ~~state~~ Idaho board of scaling practices, who shall record the same upon receipt of a payment of twenty-five dollars ($25.00), provided the log brand is different from any other log brand currently registered in that office. It shall be the duty of the person in charge of the ~~state~~ Idaho board of scaling practices office to keep a record of all registered log brands, which record shall at all reasonable times be open to public inspection.

(3) All applications for log brands and/or renewals shall be submitted to and approved by the ~~state~~ Idaho board of scaling practices prior to use. Such application shall be made on duplicate log brand registration forms and shall include a diagram or an impression of the log brand stamped on the form, a written description of the log brand and be signed by the person or the agent of the person. The ~~state~~ Idaho board of scaling practices may refuse to approve any log brand which is identical to or closely resembles a currently registered log brand. If approval is denied, the applicant will select another log brand. No person shall brand any prize log.

(4) The expiration date for all log brands registered prior to January 1, 1981, shall be February 28, 1994; the expiration date for all log brands registered from January 1, 1981, through December 31, 1985, shall be February 28, 1995; the expiration date for all log brands registered from January 1, 1986 through December 31, 1989, shall be February 28, 1996; the expiration date for all log brands registered from January 1, 1990, through December 31, 1992, shall be February 28, 1997. Beginning January 1, 1993, renewals or newly approved registrations shall expire on February 28, five (5) years after the year of registration or renewal. Notification of expiration will be sent during the month of September of the year preceding the expiration date. A renewal fee of twenty-five dollars ($25.00) shall be charged each time a log brand is renewed by the same person.

(5) To assign ownership of a currently registered log brand, the current registered owner of the log brand shall file with the ~~state~~

Idaho board of scaling practices a signed and duly notarized instrument on forms provided by the board. Such forms shall specify the effective date of transfer, the assignee and the log brand to be assigned. A fee of twenty-five dollars ($25.00) shall be charged for each transfer. The transferred log brand will be issued a new registration number and shall expire February 28, five (5) years after the year of the transfer.

Any failure to renew a log brand as required by law shall be deemed an abandonment of same. Abandoned or canceled log brands shall not be reissued for a period of one (1) year unless the ~~state~~ Idaho board of scaling practices so authorizes for cause. Any other person may be at liberty to adopt or use the abandoned log brand; but the other person shall not claim or use it until after it has been registered in the other person's own name as provided by this ~~statute~~ section.

(6) Failure to comply with the provisions of this section ~~38-808, Idaho Code,~~ shall be deemed a violation of the log brand law. Upon request of the ~~state~~ Idaho board of scaling practices or its chairperson, it shall be the duty of the attorney general to institute and prosecute civil enforcement actions. In addition, when deemed by the board to be necessary, the board may retain private counsel to institute and prosecute civil enforcement actions. Any person who has been determined to have violated the provision~~(s)~~ of this ~~act~~ chapter shall be liable for any expense, including reasonable attorney's fees, incurred by the state in enforcing the ~~act~~ provisions of this chapter. Any violation of this section ~~38-808, Idaho Code,~~ shall be deemed a misdemeanor and any person, upon conviction, shall be sentenced to pay a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

SECTION 3. That Section 38-809, Idaho Code, be, and the same is hereby amended to read as follows:

38-809. PRIZE LOGS -- SALE AT PUBLIC AUCTION. All logs or timbers suitable for manufacture into lumber, ties, poles, or other timber products, not bearing a legally recorded mark or marks, which shall be placed aboard a transport vehicle for land transportation or placed afloat on a waterway, or permitted to be afloat upon any of the public waters of this state, not confined in booms or rafts, and all such logs or timbers bearing a legally recorded mark or marks not claimed within one (1) year after being placed in transit or afloat shall be prize logs, and no evidence of any private ownership thereof shall be admissible in any proceeding. Prize logs shall be sold by or under the direction of the ~~state~~ Idaho board of scaling practices, and the proceeds of such sale, after deducting the expense of the sale and transportation or other charges incurred in getting said logs to the sale site shall go into the state scaling fund. Such sale shall be at public auction after publication of notice of time and place thereof for not less than three (3) consecutive weeks in a newspaper of general circulation printed and published in the county in which the sale is to be held. It shall be the duty of every person having custody or possession of prize logs to deliver them to the ~~state~~ Idaho board of scaling practices upon demand.

SECTION 4. That Section 38-1202, Idaho Code, be, and the same is hereby amended to read as follows:

38-1202. DEFINITIONS. As used in this ~~act~~ chapter, unless the context or subject matter requires otherwise:

(~~a~~1) Scaler and Professional Scaler. A person who is qualified by reason of his knowledge of the principles of scaling acquired by professional education and/or practical experience, to engage in the practice of scaling forest products.

(~~b~~2) Scaling. The quantitative measurement of logs or other forest products by means of a log rule. The term "scaling" shall include any professional scaling service rendered in connection with the measurement of forest products, or supervision of scaling when such service is rendered requiring the application of scaling principles and data.

(~~c~~3) Board. The ~~state~~ Idaho board of scaling practices.

SECTION 5. That Section 38-1207, Idaho Code, be, and the same is hereby amended to read as follows:

38-1207. MEETINGS -- OFFICERS -- QUORUM. The board shall hold a meeting within thirty (30) days after its members are first appointed and thereafter shall hold at least two (2) regular meetings each year. The rules may provide for such additional regular meetings and for special meetings. Notice of all meetings shall be given as may be provided in the rules. The director of the department of lands shall be chairman of the ~~state~~ Idaho board of scaling practices and the board shall annually elect a vice-chairman and a secretary, who shall be members of the board. Four ~~(4) members sh~~all constitute a quorum.

SECTION 6. That Section 38-1220A, Idaho Code, be, and the same is hereby amended to read as follows:

38-1220A. INSPECTION -- INVESTIGATION -- VIOLATIONS -- ENFORCEMENT -- PENALTY. (a) The chairman of the ~~state~~ Idaho board of scaling practices shall cause investigations to be made upon the request of the board or upon receipt of information con~~cerning~~ an alleged violation of this ~~act~~ chapter or of any rule, ~~regulation,~~ order or license issued or promulgated thereunder, and may cause to be made such other investigations as the chairman shall deem advisable.

(b) The chairman or the chairman's designee shall have the authority to:

(1) Conduct a program of continuing surveillance and of regular or periodic inspection of log scaling sites.

(2) Enter at all reasonable times upon any private or public property for the purpose of inspecting or investigating to ascertain possible violations of this ~~act~~ chapter or of any rule, ~~regulation,~~ order or license issued or promulgated thereunder.

(c) Whenever the chairman determines that any person or legal entity is in violation of any provisions of this ~~act~~ chapter or any rule, ~~regulation,~~ order or license issued or promulgated pursuant to this ~~act~~ chapter, the chairman may initiate a civil enforcement action through the attorney general and/or a criminal action through the prosecuting attorney as provided in section 38-1221, Idaho Code. Civil enforcement actions shall be commenced and prosecuted in the district court in and for the county in which the alleged violation occurred, and may be brought against any person or legal entity who is alleged to have violated any provisions of this ~~act~~ chapter or any rule, ~~regulation,~~

order or license which has become effective pursuant to this ~~act~~ chapter. Such action may be brought to compel compliance with any provisions of this ~~act~~ chapter or any rule, ~~regulation,~~ order or license issued or promulgated hereunder and for any relief or remedies authorized in this ~~act~~ chapter. Except as provided in section 38-1218, Idaho Code, the chairman shall not be required to initiate or prosecute an administrative action before initiating a civil enforcement action.

(d) Any person or legal entity determined in a civil enforcement action to have violated any provision of this ~~act~~ chapter or any rule, ~~regulation,~~ order or license issued or promulgated pursuant to this ~~act~~ chapter shall be liable for a civil penalty not to exceed five thousand dollars ($5,000) per violation or five hundred dollars ($500) for each day of a continuing violation, whichever is greater. The method of recovery of said penalty shall be by a civil enforcement action in the district court in and for the county where the violation occurred. All civil penalties collected under this ~~act~~ chapter shall be paid into the state scaling account.

(e) In addition to such civil penalties, any person or legal entity who has been determined to have violated the provisions of this ~~act~~ chapter or any rule, ~~regulation,~~ order or license issued or promulgated pursuant to this ~~act~~ chapter, shall be liable for any expense, including reasonable attorney's fees, incurred by the state in enforcing ~~the--act~~ this chapter.

(f) No action taken pursuant to the provisions of this ~~act~~ chapter shall relieve any person or legal entity from any civil action and damages that may exist for damage resulting from any violation of this ~~act~~ chapter or any rule, ~~regulation,~~ order or license issued or promulgated thereunder.

Approved March 19, 2008.

CHAPTER 201
(H.B. No. 407)

AN ACT

RELATING TO LOG SCALING; AMENDING SECTION 38-1204, IDAHO CODE, TO REVISE QUALIFICATION PROVISIONS RELATING TO THE STATE BOARD OF SCALING PRACTICES.

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

SECTION 1. That Section 38-1204, Idaho Code, be, and the same is hereby amended to read as follows:

38-1204. QUALIFICATIONS. Appointive members of the board shall be citizens of the United States and residents of this state, and they shall have been regularly engaged in the timber products industry for at least five (5) years, and at least two (2) of whom shall have had experience in or knowledge of the practice of scaling.

Approved March 19, 2008.

CHAPTER 202
(H.B. No. 411)

AN ACT

RELATING TO ANNUITIES; AMENDING SECTION 41-1940, IDAHO CODE, TO PROVIDE FOR SUITABILITY OF ANNUITY SALES TO CONSUMERS.

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

SECTION 1. That Section 41-1940, Idaho Code, be, and the same is hereby amended to read as follows:

41-1940. SUITABILITY OF ANNUITY SALES TO ~~SENIOR~~ CONSUMERS. (1) In recommending to a **senior** consumer the purchase of an annuity or the exchange of an annuity that results in an insurance transaction or a series of insurance transactions, the insurance producer, or the insurer where no producer is involved, shall have reasonable grounds for believing that the recommendation is suitable for the **senior** consumer on the basis of the facts disclosed by the **senior** consumer as to the **senior** consumer's investments and other insurance products and as to the **senior** consumer's age, financial situation and needs.

(2) ~~For--purposes-of-this-section,-"senior-consumer"-means-a-person sixty-five-(65)-years-of-age-or-older.--In-the-event-of-a-joint--purchase by--more--than--one-(1)-party,-the-purchaser-will-be-considered-a-senior consumer-if-any-of-the-parties-is-sixty-five-(65)-years-of-age-or-older.~~

~~(3)~~ Prior to the execution of a purchase or exchange of an annuity resulting from a recommendation, an insurance producer, or an insurer where no producer is involved, shall make reasonable efforts to obtain information concerning:

(a) The **senior** consumer's financial status;

(b) The **senior** consumer's tax status;

(c) The **senior** consumer's investment objectives; and

(d) Such other information used or considered to be reasonable by the insurance producer, or the insurer where no producer is involved, in making recommendations to the **senior** consumer.

(~~4~~3) Neither an insurance producer, nor an insurer where no producer is involved, shall have any obligation to a **senior** consumer under this section related to any recommendation if a **senior** consumer:

(a) Refuses to provide relevant information requested by the insurer or insurance producer;

(b) Decides to enter into an insurance transaction that is not based upon a recommendation of the insurer or insurance producer; or

(c) Fails to provide complete and accurate information.

(~~5~~4) This section shall not apply to recommendations involving:

(a) Direct response solicitations where there is no recommendation based upon information collected from the **senior** consumer;

(b) Contracts used to fund employee retirement or benefit plans established or maintained by an employer;

(c) Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or

(d) Contracts or transactions exempted pursuant to rules promulgated by the director, where the director has determined the protections of this law are not necessary.

(6~~5~~) The director may promulgate rules pursuant to this section for the protection of ~~senior~~ consumers in annuity transactions.

(~~7~~6) Nothing in this section shall be construed to create or imply a private cause of action for a violation of this section or rules promulgated pursuant to this section.

Approved March 19, 2008.

CHAPTER 203
(H.B. No. 412)

AN ACT

RELATING TO MANAGED CARE; AMENDING SECTION 41-3905, IDAHO CODE, TO REVISE THE DEPOSIT REQUIRED OF AN ORGANIZATION OFFERING A LIMITED MANAGED CARE PLAN; AMENDING SECTION 41-3910, IDAHO CODE, TO REVISE THE ANNUAL FILING DATE OF A REPORT SHOWING A MANAGED CARE ORGANIZATION'S AUDITED FINANCIAL CONDITION; AMENDING SECTION 41-3914, IDAHO CODE, TO REVISE A REQUIREMENT RELATED TO ANNUAL DISCLOSURES FURNISHED TO THE DEPARTMENT OF INSURANCE; AMENDING SECTION 41-3918, IDAHO CODE, TO REVISE A PROVISION RELATED TO THE REVIEW AND APPROVAL OF GRIEVANCE PROCEDURES BY MEMBER REPRESENTATIVES OF MANAGED CARE ORGANIZATIONS AND TO DELETE A CODE REFERENCE.

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

SECTION 1. That Section 41-3905, Idaho Code, be, and the same is hereby amended to read as follows:

41-3905. QUALIFICATIONS FOR CERTIFICATE OF AUTHORITY. The director shall not issue or permit to remain in force a certificate of authority authorizing the transaction of managed care plans unless the organization offering the managed care plan is qualified therefor as follows:

(1) It must be empowered to engage in business as a managed care organization under its articles or certificate of incorporation, or of association, or partnership agreement, or other basic organizational document, as the case may be.

(2) It must be financially responsible, and have such funds and financial resources as may reasonably be expected to enable it to fulfill its obligations to its members. An organization offering a general managed care plan must comply with the capital and surplus requirements of a disability insurer under the provisions of section 41-313, Idaho Code. The director shall determine the surplus required of an organization offering a limited managed care plan, which shall be not less than twenty-five thousand dollars ($25,000) or such increased amount as the director may find reasonably necessary by the scope of the organization's proposed operations. As to financial resources of an organization offering a limited managed care plan the director may, among other relevant factors, also consider:

(a) Any agreements with an insurer, professional service corporation, governmental agency, or other responsible organization to underwrite, insure payment for or provide the proposed services;

(b) Agreements with providers for the provision of the proposed services;

(c) Arrangements for liability insurance, or an adequate plan of self-insurance, as to claims for loss or injury arising out of managed care operations;

(d) Reinsurance agreements; and

(e) Deposit requirements under subsection (7) of this section.

(3) It must propose to provide health care services on a predetermined and prepaid basis and indemnity benefits covering all or a portion of the cost of out-of-area services, out-of-network services and emergency services; provided, however, that except for care provided by primary care providers, who shall include at least those categories of providers listed in section 41-3915(2)(e), Idaho Code, a managed care organization may require a determination that a member needs care from a category of provider not listed in section 41-3915(2)(e), Idaho Code, before a member may access out-of-network nonemergency care from a provider not listed in section 41-3915(2)(e), Idaho Code.

(4) It must have the intent to render and capability for rendering or providing coverage for good quality health care services, which will be and are readily available and accessible to members in each geographic area in which it proposes to operate or operates, and such services must be reasonably responsive to the needs of members.

(5) Its procedures for offering health care services, and for offering and terminating health care contracts, must be reasonable and equitable.

(6) It must propose to establish, and after authorization in fact establish and maintain, reasonable and adequate procedures to:

(a) Monitor the quality of health care provided, including a reasonable system of internal peer review of diagnosis and treatment of members' health conditions;

(b) Resolve grievances of members, as required by section 41-3918, Idaho Code; and

(c) Provide members with an opportunity to participate in matters of policy and operation as required by section 41-3916, Idaho Code.

(7) It must comply with the deposit requirements of section 41-316 or 41-316A, Idaho Code, as applicable; provided however, that the amount of the deposit required of an organization offering a limited managed care plan shall be ~~equal to the surplus required of the organization pursuant to subsection (2) of this section~~ not less than twenty-five thousand dollars ($25,000) or such increased amount as the director may find reasonably necessary by the scope of the organization's proposed operations.

(8) Notwithstanding anything to the contrary in this chapter, the director may allow a period of up to three (3) years following the issuance of a certificate of authority to a managed care organization after the effective date of this act to comply with the capital, surplus and deposit requirements of this chapter. The director shall establish minimum initial amounts and minimum increases in capital, surplus and deposits for such certificate holder based upon the number of enrolled members in its managed care plans. If the certificate holder fails to meet the capital, surplus or deposit requirements within the time herein allowed, the organization shall no longer be authorized to offer managed care plans on a predetermined and prepaid basis in this state. If the organization fails to meet the minimum increases established by the

director, the organization shall cease to market its plans upon notice from the director.

(9) Notwithstanding anything to the contrary in this chapter, a managed care organization holding a valid Idaho certificate of authority to transact insurance as a health maintenance organization on or before the effective date of this act may have up to three (3) years from and after that date within which to comply with the increases in capital, surplus and deposit requirements imposed by this act. The director shall establish minimum increases in capital, surplus and deposits for the certificate holder based upon the number of enrolled members in its managed care plans. If the certificate holder fails to meet the capital, surplus or deposit requirements within the time herein allowed, the organization shall no longer be authorized to offer managed care plans on a predetermined and prepaid basis in this state. If the organization fails to meet the minimum increases established by the director, the organization shall cease to market its plans upon notice from the director.

SECTION 2. That Section 41-3910, Idaho Code, be, and the same is hereby amended to read as follows:

41-3910. REPORTS TO THE DIRECTOR. (1) Every managed care organization offering a managed care plan for which a certificate of authority is required shall annually, on or before the first day of ~~March~~ June, file a report with the director showing its audited financial condition on the last day of the preceding December. The report shall be on forms prescribed by the director and shall be verified by an appropriate officer of the organization.

(2) Such report shall include:

(a) A financial statement of the organization, including its balance sheet and statement of income and expenditures for the preceding year certified by an independent public accountant;

(b) Any changes in the information submitted in connection with its application for certificate of authority;

(c) Such other information as is available to the managed care organization relating to the operations of the organization as the director may require by rule to enable him to carry out his duties under this chapter.

SECTION 3. That Section 41-3914, Idaho Code, be, and the same is hereby amended to read as follows:

41-3914. ANNUAL DISCLOSURES. (1) Every managed care organization shall provide to its enrollees and make available for inspection by the general public on an annual basis:

(a) an audited statement of financial condition including a balance sheet and a summary of receipts and disbursements;

(b) a description of the accessibility and availability of services, including a list of the providers currently participating in the managed care plan and of the providers who are accepting new patients, the addresses of primary care physicians and participating hospitals and the specialty of each physician and category of the other participating providers;

(c) a statement as to whether the plan includes a limited formulary

of medications, and a statement that the formulary will be made available to any prospective member or member upon request;

(d) a clear and understandable description of the managed care organization's method of resolving member grievances;

(e) a description of how the qualifications of participating providers may be obtained;

(f) such other information as the director may by rule prescribe.

(2) In addition to matters specified in subsection (1) of this section, each managed care organization shall make available for public inspection a description of the benefit package or packages offered to each class of members and their rates. Such information shall be presented in clear, readable, and concise form and shall include, at a minimum, a description of all of the material elements required of health care contracts.

(3) A managed care organization for which a certificate of authority is required shall furnish a copy of the information required by this section to the department upon request of the director.

SECTION 4. That Section 41-3918, Idaho Code, be, and the same is hereby amended to read as follows:

41-3918. GRIEVANCE SYSTEM. (1) Every managed care organization shall establish a grievance system to resolve grievances initiated by members concerning health care services. The system shall provide reasonable procedures for the resolution of grievances, and shall include an appeals process which affords the member the right to a prompt review by a grievance panel before whom the member has the right either to appear or be heard, or both. A managed care organization offering a managed care plan for which a certificate of authority is required shall have its grievance system approved by the director and shall submit to the director an annual report in a form prescribed by the director which shall include:

(a) A description of the procedures of the grievance system; and

(b) The total number of grievances handled through the grievance system and a compilation of causes underlying the grievances filed.

(2) Every managed care organization shall maintain records of grievances filed with it concerning health care services and each managed care organization for which a certificate of authority is required shall submit to the director a summary report at such times and in such form as the director may require. Grievances involving other persons shall be referred to such persons with a copy to the director.

(3) The director may examine a grievance system of a managed care organization for which a certificate of authority is required, subject to the limitations concerning health records of individuals set forth in section 41-3909(3), Idaho Code.

(4) Every managed care organization must show evidence that such grievance procedures have been reviewed and approved by the member representatives through their participation on advisory panels or other reasonable mechanisms as set forth in section 41-3916~~(2)~~, Idaho Code.

Approved March 19, 2008.

CHAPTER 204
(H.B. No. 415)

AN ACT

RELATING TO THE BOARD OF VETERINARY MEDICINE; AMENDING SECTION 54-2105, IDAHO CODE, TO AUTHORIZE THE BOARD TO EMPLOY AN EXECUTIVE DIRECTOR AND EMPLOY OR CONTRACT WITH OTHER INDIVIDUALS TO PERFORM CERTAIN DUTIES, TO AUTHORIZE THE BOARD TO DETERMINE COMPENSATION AND TO PROVIDE THAT THE EXECUTIVE DIRECTOR SHALL BE EXEMPT FROM THE PROVISIONS OF THE PERSONNEL SYSTEM.

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

SECTION 1. 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, each of the five (5) veterinary members shall be a resident of this state, and 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 cer-

tifications 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. 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, 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;~~ an executive director who shall be responsible for the performance of the administrative functions of the board and such other duties as the board may direct. The board may also employ or contract with other individuals to provide professional, clerical or ~~special;~~ other services deemed necessary by the board to effectuate the provisions of this chapter and the rules of the board, and purchase or rent necessary office

space, equipment and supplies. The compensation of the executive director and other personnel shall be determined by the board and the executive director shall be exempt from the provisions of chapter 53, title 67, Idaho Code.

(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 promulgated hereunder or any order, negotiated settlement or probationary agreement of the board and issue administrative citations to alleged violators.

Approved March 19, 2008.

CHAPTER 205
(H.B. No. 426)

AN ACT

RELATING TO IDAHO AG IN THE CLASSROOM; AMENDING SECTION 57-815, IDAHO CODE, TO PROVIDE FOR IDAHO AG IN THE CLASSROOM, TO PROVIDE FOR THE IDAHO AG IN THE CLASSROOM FUND, TO PROVIDE FOR THE APPROPRIATION AND USE OF MONEYS IN THE FUND, AND TO PROVIDE FOR THE AUDIT OF FUNDS.

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

SECTION 1. That Section 57-815, Idaho Code, be, and the same is hereby amended to read as follows:

57-815. IDAHO AG IN THE CLASSROOM -- IDAHO AG IN THE CLASSROOM ~~ACCOUNT~~ FUND. (1) There is hereby created ~~in the agency--asset--fund--in the--state treasury the Idaho ag in the classroom account. Moneys in the account shall be used only by the state--department--of--agriculture--to provide--funding--for~~ an independent body corporate and politic to be known as Idaho ag in the classroom for the purpose of developing and presenting through the joint efforts of the United States department of agriculture, the state department of agriculture, educators at all levels, and representatives of agricultural organizations statewide and nationwide, an educational program that will provide students in kindergarten through grade twelve (12) with a better understanding of the crucial role of agriculture in all aspects of society and of how Idaho agriculture relates to the rest of the world.

(2) There is hereby created in the state treasury the Idaho ag in the classroom fund. Moneys in the fund shall be used by Idaho ag in the classroom for the purpose of developing and presenting educational programs pursuant to subsection (1) of this section and all moneys so deposited are hereby continuously appropriated for this purpose. The state treasurer shall invest the idle moneys in the ~~account~~ fund, and the interest earned on such investments shall be paid to the ~~account~~ fund. The right is reserved to the state of Idaho to audit the funds of Idaho ag in the classroom at any time.

Approved March 19, 2008.

CHAPTER 206
(H.B. No. 432)

AN ACT

RELATING TO IMPACT FUNDS; AMENDING SECTION 57-1306, IDAHO CODE, TO PROVIDE FOR REMITTANCE OF FUNDS FROM THE SALES OF ROYALTIES, BONUSES OR RENTAL OF RENEWABLE ENERGY SOURCES ON LANDS OF THE FEDERAL GOVERNMENT TO THE VARIOUS COUNTIES FROM WHICH THE RESOURCES WERE DEVELOPED AND TO THE RENEWABLE ENERGY RESOURCES FUND, TO PROVIDE FOR WHAT THE MONEYS MAY BE USED AND TO DEFINE "RENEWABLE ENERGY RESOURCES."

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

SECTION 1. That Section 57-1306, Idaho Code, be, and the same is hereby amended to read as follows:

57-1306. ~~MINING LEASES~~ IMPACT FUNDS. ~~TO COUNTY.~~

(1) (a) Upon receipt of any moneys from the federal government from sales, royalties, bonuses or rentals of oil, gas or mineral lands of the federal government, the state treasurer shall remit ten percent (10%) of such receipts to the general fund of the several counties from which the resources were extracted. The state treasurer shall

compute a particular county's share of such receipts by computing the proportion of the moneys generated by sales, royalties, bonuses or rentals of federal lands situated within that particular county to the total of moneys received from the federal government from sales, royalties, bonuses or rentals of all oil, gas or mineral lands of the federal government within the state of Idaho for the same period. The moneys remitted to the various counties according to the provisions of this section shall be used for the construction and maintenance of public roads or for the support of public schools.

(~~2~~b) The remaining ninety percent (90%) of any moneys received from the federal government from sales, royalties, bonuses or rentals of oil, gas or mineral lands of the federal government shall be deposited into the public school income fund, pursuant to the provisions of section 33-903, Idaho Code.

(2) (a) The state treasurer shall remit ten percent (10%) of any moneys received from the sale, royalties, bonuses or rental of renewable energy resources on lands of the federal government to the general fund of the several counties from which the resources were developed. The state treasurer shall compute a particular county's share of such receipts by computing the proportion of the moneys generated by sales, royalties, bonuses or rentals of federal lands situated within that particular county to the total of moneys received from the federal government from sales, royalties, bonuses or rentals of all renewable energy resource lands of the federal government within the state of Idaho for the same period. The moneys remitted to the various counties according to the provisions of this section shall be used for the construction and maintenance of public roads or for the support of public schools.

(b) The remaining ninety percent (90%) of any moneys received from the sale, royalties, bonuses or rental of renewable energy resources on lands of the federal government shall be deposited by the state treasurer into the renewable energy resources fund which is hereby created. Any interest earned on the investment of idle moneys in the renewable energy resources fund shall be returned to the fund. Moneys in the renewable energy resources fund may be expended pursuant to appropriation and may be used by the administrator of the office of energy resources consistent with duties, powers and authorities of the office.

(3) For the purposes of this section, "renewable energy resources" shall only include geothermal, wind and solar resources.

Approved March 19, 2008.

CHAPTER 207
(H.B. No. 433)

AN ACT

RELATING TO IRRIGATION DISTRICT ELECTIONS; AMENDING SECTION 43-208, IDAHO CODE, TO REVISE TIME REQUIREMENTS RELATING TO THE CANVASS OF RETURNS BY BOARDS OF DIRECTORS.

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

SECTION 1. That Section 43-208, Idaho Code, be, and the same is hereby amended to read as follows:

43-208. CANVASS OF RETURNS. The board of directors must meet at its usual place of meeting on or before the first Monday after each election to canvass the returns, and they shall proceed in the same manner and with like effect, as near as may be, as the board of county commissioners in canvassing the returns of general elections, and when they shall have declared the result, the secretary shall make full entries in his records in like manner as is required of the county recorder in general elections. The board of directors must declare elected the person or persons having the highest number of votes for each office. The secretary must, immediately, make out and deliver to such person or persons a certificate of election signed by him and authenticated with the seal of the board.

Approved March 19, 2008.

CHAPTER 208
(H.B. No. 441)

AN ACT

RELATING TO THE IDAHO FOOD QUALITY ASSURANCE INSTITUTE; AMENDING SECTION 67-8302, IDAHO CODE, TO REVISE MEMBERSHIP PROVISIONS RELATING TO THE COMMISSIONERS OF THE IDAHO FOOD QUALITY ASSURANCE INSTITUTE AND TO DELETE OBSOLETE VERBIAGE.

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

SECTION 1. That Section 67-8302, Idaho Code, be, and the same is hereby amended to read as follows:

67-8302. COMMISSIONERS -- CHAIRMAN -- APPOINTMENTS. The governor shall appoint ten (10) persons to be commissioners of the Idaho food quality assurance institute. The commissioners shall serve at the pleasure of the governor and shall include the following:

(1) One (1) representative of a row crop ~~commodity--commission~~ industry;

(2) One (1) representative of an orchard ~~commodity-commission~~ industry;

(3) One (1) representative of a grain ~~commodity---commission~~ industry;

(4) One (1) representative of a specialty ~~commodity-commission~~ crop industry;

(5) One (1) representative of ~~an-animal-product-commodity-commission~~ a livestock industry;

(6) One (1) consumer;

(7) One (1) representative of the Idaho department of agriculture;

(8) One (1) representative of the college of southern Idaho;

(9) One (1) scientist with practical experience in quality certification procedures and standards;

(10) One (1) representative of the private laboratory industry.

The governor shall appoint a chairman from among the nine (9) commissioners. The commissioners shall be appointed for terms of four (4) years, except that all vacancies shall be filled for the unexpired term. ~~The terms of the first nine (9) commissioners shall end on July 1, 2000; the terms of four (4) of the commissioners next appointed shall end on July 1, 2002, and the terms of the remaining five (5) commissioners next appointed shall end on July 1, 2004.~~ A commissioner shall hold office until a successor has been appointed and qualifies. A certificate of the appointment or reappointment of any commissioner shall be filed in the office of the secretary of state and in the office of the institute, and the certificate shall be conclusive evidence of the due and proper appointment of the commissioner. The governor, the state treasurer, the state controller and the administrator of the division of financial management shall serve as advisors to the commissioners of the institute.

In addition, two (2) members of the Idaho senate, one (1) from the majority party and one (1) from the minority party, and two (2) members of the Idaho house of representatives, one (1) from the majority party and one (1) from the minority party, may be appointed by the legislative council to serve as advisors to the commissioners of the institute. Such appointments shall be for a term of two (2) years beginning on January 1 of each odd-numbered year, and no appointee shall serve more than two (2) terms. Actual and necessary expenses and per diem shall be allowed to the legislative advisors as provided for members of the legislative council, and shall be paid from legislative funds.

Approved March 19, 2008.

CHAPTER 209
(H.B. No. 442)

AN ACT

RELATING TO VULNERABLE ADULTS; AMENDING SECTION 18-1505, IDAHO CODE, TO REVISE A DEFINITION; AND AMENDING SECTION 39-5302, IDAHO CODE, TO REVISE A DEFINITION.

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

SECTION 1. That Section 18-1505, Idaho Code, be, and the same is hereby amended to read as follows:

18-1505. ABUSE, EXPLOITATION OR NEGLECT OF A VULNERABLE ADULT. (1) Any person who abuses or neglects a vulnerable adult under circumstances likely to produce great bodily harm or death is guilty of a felony punishable by imprisonment for not more than ten (10) years and not more than a twenty-five thousand dollar ($25,000) fine.

(2) Any person who abuses or neglects a vulnerable adult under circumstances other than those likely to produce great bodily harm or death is guilty of a misdemeanor.

(3) Any person who exploits a vulnerable adult is guilty of a misdemeanor, unless the monetary damage from such exploitation exceeds one thousand dollars ($1,000), in which case the person is guilty of a fel-

ony punishable by imprisonment for not more than ten (10) years and not more than a twenty-five thousand dollar ($25,000) fine.

(4) As used in this section:

(a) "Abuse" means the intentional or negligent infliction of physical pain, injury or mental injury. Intentional abuse shall be punished under subsection (1) or (2) of this section depending upon the harm inflicted. Abuse by negligent infliction shall only be punished under subsection (2) of this section.

(b) "Caretaker" means any individual or institution that is responsible by relationship, contract or court order to provide food, shelter or clothing, medical or other life-sustaining necessities to a vulnerable adult.

(c) "Exploitation" or "exploit" means an action which may include, but is not limited to, the ~~misuse~~ unjust or improper use of a vulnerable adult's financial power of attorney, funds, property or resources by another person for profit or advantage.

(d) "Neglect" means failure of a caretaker to provide food, clothing, shelter or medical care to a vulnerable adult, in such a manner as to jeopardize the life, health and safety of the vulnerable adult.

(e) "Vulnerable adult" means a person eighteen (18) years of age or older who is unable to protect himself from abuse, neglect or exploitation due to physical or mental impairment which affects the person's judgment or behavior to the extent that he lacks sufficient understanding or capacity to make or communicate or implement decisions regarding his person.

(5) Nothing in this section shall be construed to mean a person is abused, neglected or exploited for the sole reason he is relying upon treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination; nor shall the provisions of this section be construed to require any medical care or treatment in contravention of the stated or implied objection of such a person.

(6) Nothing in this section shall be construed to mean that an employer or supervisor of a person who abuses, exploits or neglects a vulnerable adult may be prosecuted unless there is direct evidence of a violation of this statute by the employer or supervisor.

SECTION 2. That Section 39-5302, Idaho Code, be, and the same is hereby amended to read as follows:

39-5302. DEFINITIONS. For the purposes of this chapter:

(1) "Abuse" means the intentional or negligent infliction of physical pain, injury or mental injury.

(2) "Caretaker" means any individual or institution that is responsible by relationship, contract, or court order to provide food, shelter or clothing, medical or other life-sustaining necessities to a vulnerable adult.

(3) "Commission" means the Idaho commission on aging, established pursuant to chapter 50, title 67, Idaho Code.

(4) "Contractor" means an area agency on aging and its duly authorized agents and employees providing adult protection services pursuant to a contract with the commission in accordance with section 67-5011, Idaho Code. The commission designates area agencies on aging pursuant

to 42 U.S.C.A. 3025(a)(2)(A) and may establish by rule when duties or obligations under this chapter may be fulfilled by an area agency on aging.

(5) "Department" means the Idaho department of health and welfare.

(6) "Emergency" means an exigent circumstance in which a vulnerable adult's health and safety is placed in imminent danger. Imminent danger is when death or severe bodily injury could reasonably be expected to occur without intervention.

(7) "Exploitation" means an action which may include, but is not limited to, the ~~misuse~~ unjust or improper use of a vulnerable adult's financial power of attorney, funds, property, or resources by another person for profit or advantage.

(8) "Neglect" means failure of a caretaker to provide food, clothing, shelter or medical care reasonably necessary to sustain the life and health of a vulnerable adult, or the failure of a vulnerable adult to provide those services for himself.

(9) "Supportive services" means noninvestigatory remedial, social, legal, health, educational, mental health and referral services provided to a vulnerable adult.

(10) "Vulnerable adult" means a person eighteen (18) years of age or older who is unable to protect himself from abuse, neglect or exploitation due to physical or mental impairment which affects the person's judgment or behavior to the extent that he lacks sufficient understanding or capacity to make or communicate or implement decisions regarding his person.

Nothing in this chapter shall be construed to mean a person is abused, neglected, or exploited for the sole reason he is relying upon treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination; nor shall the provisions of this chapter be construed to require any medical care or treatment in contravention of the stated or implied objection of such a person.

Approved March 19, 2008.

CHAPTER 210
(H.B. No. 463)

AN ACT

RELATING TO SPECIAL MOTOR VEHICLE LICENSE PLATES; AMENDING SECTION 49-402, IDAHO CODE, TO PROVIDE A CODE REFERENCE; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-417E, IDAHO CODE, TO ESTABLISH THE NATURAL RESOURCES AND MINING EDUCATION SPECIAL LICENSE PLATE PROGRAM; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 49-402, Idaho Code, be, and the same is hereby amended to read as follows:

49-402. ANNUAL REGISTRATION. (1) The annual fee for operating each pickup truck, each neighborhood electric vehicle and each other motor vehicle having a maximum gross weight not in excess of eight thousand (8,000) pounds shall be:

Vehicles one (1) and two (2) years old $48.00
Vehicles three (3) and four (4) years old $36.00
Vehicles five (5) and six (6) years old $36.00
Vehicles seven (7) and eight (8) years old $24.00
Vehicles over eight (8) years old $24.00

There shall be twelve (12) registration periods, starting in January for holders of validation registration stickers numbered 1, and proceeding consecutively through December for holders of validation registration stickers numbered 12, each of which shall start on the first day of a calendar month and end on the last day of the twelfth month from the first day of the beginning month. Registration periods shall expire midnight on the last day of the registration period in the year designated by the validation registration sticker. The numeral digit on the validation registration stickers shall, as does the registration card, fix the registration period under the staggered plate system of Idaho for the purpose of reregistration and notice of expiration.

A vehicle that has once been registered for any of the above designated periods shall, upon reregistration, be registered for the period bearing the same number, and the registration card shall show and be the exclusive proof of the expiration date of registration and licensing. Vehicles may be initially registered for less than a twelve (12) month period, or for more than a twelve (12) month period, and the fee prorated on a monthly basis if the fractional registration tends to fulfill the purpose of the monthly series registration system.

(2) For all school buses operated either by a nonprofit, nonpublic school or operated pursuant to a service contract with a school district for transporting children to or from school or in connection with school approved activities, the annual fee shall be twenty-four dollars ($24.00).

(3) For all motorcycles and all-terrain vehicles operated upon the public highways the annual fee shall be nine dollars ($9.00). For operation of an all-terrain vehicle or motorcycle off the public highways, the fee specified in section 67-7122, Idaho Code, shall be paid. Registration exemptions provided in section 49-426(2), (3) and (4), Idaho Code, apply to all-terrain vehicles and motorcycles used for the purposes described in subsections (2), (3) and (4) of section 49-426, Idaho Code.

(4) For all motor homes the fee shall be as specified in subsection (1) of this section and shall be in addition to the fees provided for in section 49-445, Idaho Code.

(5) Registration fees shall not be subject to refund.

(6) A financial institution or repossession service contracted to a financial institution repossessing vehicles under the terms of a security agreement shall move the vehicle from the place of repossession to the financial institution's place of business on a repossession plate. The repossession plate shall also be used for demonstrating the vehicle to a prospective purchaser for a period not to exceed ninety-six (96) hours. The registration fees for repossession plates shall be as required in subsection (1) of this section for a vehicle one (1) and two (2) years old. All other fees required under chapter 4, title 49, Idaho Code, shall be in addition to the registration fee. The repossession plate shall be issued on an annual basis by the department.

(7) In addition to the annual registration fee in this section, there shall be an initial program fee of twenty-five dollars ($25.00)

and an annual program fee of fifteen dollars ($15.00) for all special license plate programs for those license plates issued pursuant to sections 49-404A, 49-407, 49-408, 49-409, 49-414, 49-416, 49-418 and 49-418D, Idaho Code. For special plates issued pursuant to sections 49-406 and 49-406A, Idaho Code, there shall be an initial program fee of twenty-five dollars ($25.00) but there shall be no annual renewal fee. For special plates issued pursuant to sections 49-415C, 49-415D, 49-416A, 49-416B, 49-416C, 49-416D, 49-416E, 49-417, 49-417A, 49-417B, 49-417C, 49-417E, 49-418A, 49-418B, 49-418C, 49-418E, 49-419, 49-419A, 49-419B, 49-419C, 49-419D, 49-420, 49-420A, 49-420B, 49-420C, 49-420D, 49-420E and 49-420G, Idaho Code, there shall be an initial program fee of thirty-five dollars ($35.00) and an annual program fee of twenty-five dollars ($25.00). The fees contained in this subsection shall be applicable to all new special plate programs. The initial program fee and the annual program fee shall be deposited in the state highway account and shall be used to fund the cost of administration of special license plate programs, unless otherwise specified by law.

SECTION 2. That Chapter 4, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-417E, Idaho Code, and to read as follows:

49-417E. NATURAL RESOURCES AND MINING EDUCATION PLATES. (1) On and after January 1, 2009, any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for and, upon department approval, receive natural resources and mining education license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of natural resources and mining education license plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars ($35.00) for the initial issuance of plates, and twenty-five dollars ($25.00) upon each succeeding annual registration. Ten dollars ($10.00) of the initial fee and ten dollars ($10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-five dollars ($25.00) of each initial fee and fifteen dollars ($15.00) of each renewal fee shall be transferred by the state treasurer for deposit to the natural resource education outreach (NREO) nonprofit collaborative network in Wallace, Idaho, and shall be used to provide classes for kindergarten through grade 12 educators to promote understanding about the mining industry and other natural resources industries.

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

(4) The natural resources and mining education license plate shall be of a color and design in accordance with the provisions of section

49-402C, Idaho Code. The design and any slogan on the plate shall be acceptable to the NREO and shall be approved by the transportation department utilizing a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the NREO.

(5) Sample natural resources and mining education license plates may be purchased for a fee of thirty dollars ($30.00), ten dollars ($10.00) of which shall be deposited in the state highway account and twenty dollars ($20.00) of which shall be transferred for deposit to the natural resource education outreach (NREO) nonprofit collaborative network in Wallace, Idaho, and shall be used to provide classes for kindergarten through grade 12 educators to promote understanding about the mining industry and other natural resources industries.

SECTION 3. This act shall be in full force and effect on and after January 1, 2009.

Approved March 19, 2008.

CHAPTER 211
(H.B. No. 472)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-406A, IDAHO CODE, TO PROVIDE FOR TWO POLE PERMITS AND TO PROVIDE FOR PERMITS TO USE AS INDIVIDUALS FOR CERTAIN PERSONS.

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

SECTION 1. That Section 36-406A, Idaho Code, be, and the same is hereby amended to read as follows:

36-406A. TWO POLE ~~VALIDATION~~ PERMIT. The commission is authorized to promulgate rules specifying seasons and waters where a resident or nonresident may ~~apply for a validation to be placed on their fishing license~~ purchase a permit authorizing the person to use two (2) poles on waters that have been designated as "two pole" waters by commission rule subject to payment of a fee as specified in section 36-416, Idaho Code. A person who has a ~~validation~~ two pole permit may utilize two (2) poles to fish with during the season so specified by commission rule and on the waters so specified by commission rule. Bona fide residents of Idaho who are expressly exempt from license requirements to fish in the public waters of the state may purchase a permit to use as an individual pursuant to this section as specified by commission rule. Unlicensed nonresident children under the age of fourteen (14) years shall be eligible to purchase a permit to use as an individual if accompanied by a holder of a valid license and provided that any fish caught by such nonresident children shall be included in the bag and possession limit of such license holder.

Approved March 19, 2008.

CHAPTER 212
(H.B. No. 474)

AN ACT
RELATING TO IRRIGATION DISTRICTS; AMENDING SECTION 43-201, IDAHO CODE, TO REVISE PROVISIONS RELATING TO BOARD OF DIRECTOR QUALIFICATIONS.

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

SECTION 1. That Section 43-201, Idaho Code, be, and the same is hereby amended to read as follows:

43-201. ELECTION, TERM OF OFFICE, NOMINATIONS AND QUALIFICATIONS. Following the organization of any district, an election shall be held in accordance with section 34-106, Idaho Code, at which shall be elected one (1) director for each division of said district by the electors of the district at large. The term of office of the directors shall, immediately after the first election following such organization, be selected by lot so that as nearly as may be, one-third (1/3) of the number shall hold office for the term of one (1) year; one-third (1/3) for the term of two (2) years, and the balance for the term of three (3) years. And an election shall be held in the district in accordance with section 34-106, Idaho Code, for each year thereafter, at which directors shall be elected to succeed those whose terms expire, to hold office for a term of three (3) years, or until their successors are elected and qualified. Every director must be a qualified elector and a resident of the division of the director whom he is to succeed in office; provided that~~, in districts of fifteen thousand (15,000) acres or less,~~ the bylaws may, by resolution of two-thirds (2/3) of the board and adoption by two-thirds (2/3) of the electors voting in a district election conducted in accordance with the general election laws of the state applicable to irrigation districts, set forth a provision allowing a district landowner to serve as the director from the division in which the landowner owns land, if the landowner possesses all the qualifications required of electors under the general laws of the state and has resided within fifteen (15) miles of the district for a period of at least thirty (30) days prior to the election; provided further that any landowner who owns land in more than one (1) division may serve as the director only from the division nearest which he resides. Written nominations for the office of director if any are made, must be signed by at least six (6) electors in districts having less than one hundred (100) resident electors and by at least twelve (12) electors in districts having more than one hundred (100) resident electors, and filed with the secretary of the district not less than forty (40) days nor more than sixty (60) days before the date of election; and the names of the persons so nominated shall be placed upon official ballot to be furnished by the district.

Approved March 19, 2008.

CHAPTER 213
(H.B. No. 526, As Amended)

AN ACT

RELATING TO SCRAP DEALERS; AMENDING SECTION 54-2702, IDAHO CODE, TO REVISE THE CONTENT OF RECORDS REQUIRED FOR PURCHASES OF SCRAP FOR TEN DOLLARS OR LESS AND TO MAKE TECHNICAL CHANGES.

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

SECTION 1. That Section 54-2702, Idaho Code, be, and the same is hereby amended to read as follows:

54-2702. RECORDS OF PURCHASES OF SCRAP REQUIRED -- CONTENTS. (1) Every scrap dealer shall keep a legible record describing scrap purchased by him from individuals together with the date and place of such purchase. In addition, ~~he~~ the scrap dealer shall obtain from such individual from whom such purchase is made, ~~his~~ the individual's name and address and shall make a legible record of the same. The records shall include the number of the driver's license of the individual from whom such scrap is purchased together with the license plate number of the vehicle in which he is transporting his scrap, as well as information from any receipts that are applicable. Provided however, for any purchase from an individual that is ten dollars ($10.00) or less, the scrap dealer shall not be required to include in his records the number of the driver's license of the individual or the individual's license plate number of the vehicle in which such individual is transporting his scrap.

(2) Such record and entries therein shall at all times be open to inspection and shall be produced upon request of the state police, by the sheriff of the county or any of his deputies, by any member of the police force in a city or town and any constable in the county in which the scrap dealer does business.

(3) Every person who purchases or transports scrap in an amount over one hundred (100) pounds shall be required to possess a receipt from the person from whom the scrap is obtained or possess a bill of lading for the scrap. A copy of this receipt or bill of lading shall be held by the transporter or purchaser, who shall make it available for inspection by the state police, the county sheriff or his deputies, or any member of a city police department that has proper jurisdiction.

Approved March 19, 2008.

CHAPTER 214
(H.B. No. 544)

AN ACT

RELATING TO PROPERTY TAX RELIEF; AMENDING SECTION 63-713, IDAHO CODE, TO REVISE DEFINITIONS; AND AMENDING SECTION 63-714, IDAHO CODE, TO PROVIDE FOR APPLICATION OF PROPERTY TAX DEFERRAL BY A CERTAIN QUALIFIED CLAIMANT.

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

SECTION 1. That Section 63-713, Idaho Code, be, and the same is hereby amended to read as follows:

63-713. DEFINITIONS. In addition to the definitions in section 63-701, Idaho Code, the following definitions apply to sections 63-712 through 63-721, Idaho Code.

(1) "Qualified claimant" means:

(a) ~~A~~an individual who is a claimant who applies for and properly receives property tax relief under the provisions of sections 63-701 through 63-710, Idaho Code; or

(b) An individual who meets the definition of "claimant" under section 63-701, Idaho Code, and is otherwise eligible to file a claim under sections 63-701 through 63-710, Idaho Code, except by reason of exceeding the income limitations of section 63-705, Idaho Code, may nevertheless be a qualified claimant, provided his household income does not exceed forty thousand dollars ($40,000) for the tax year 2007, which amount shall be increased by the annual cost-of-living percentage modification as determined by the secretary of health and human services pursuant to 42 U.S.C. section 415(i) beginning in 2009.

(2) "Qualified property" means property ~~for which:~~ owned by ~~(a) A~~ a qualified claimant, ~~is eligible to receive benefits under the provisions of sections 63-701 through 63-710, Idaho Code, for the year for which the qualified claimant applies for a deferral of payment of property tax; and~~

~~(b) Is~~ provided that the property is the "homestead," as defined in section 63-701, Idaho Code, of the qualified claimant, is owned only by the qualified claimant and his or her spouse and is not subject to a trust or life estate or other ownership held by a person who is not the qualified claimant or his or her spouse.

SECTION 2. That Section 63-714, Idaho Code, be, and the same is hereby amended to read as follows:

63-714. APPLICATION -- DEFERRAL OF PROPERTY TAX. (1) A qualified claimant, as defined in section 63-713(1)(a), Idaho Code, may elect, upon the application for property tax relief filed under section 63-703, Idaho Code, to defer payment of any property tax due after application of all benefits available under section 63-704, Idaho Code. A qualified claimant, as defined in section 63-713(1)(b), Idaho Code, may apply for property tax deferral under sections 63-712 through 63-721, Idaho Code. The state tax commission shall prescribe the form and manner by which the election must be made and may require that the application include information establishing the outstanding balance of any encumbrances, proof of insurance of an amount adequate for the amount of deferred tax and interest, and such other information as the state tax commission reasonably determines to be necessary. The state tax commission may require written or other proof of the encumbrances or casualty insurance in such form as the state tax commission may determine.

(2) No application for deferral of property taxes shall be granted if:

(a) The application fails to show sufficient equity in that prop-

erty after consideration of encumbrances that are superior to any liens for deferral to secure the payment of all existing deferrals granted in the property; or

(b) The application fails to show proof of insurance of an amount adequate for the amount of the deferred tax and interest; or

(c) The result would be to defer property taxes which, together with the amount of property tax and interest previously deferred on the same property, would exceed fifty percent (50%) of the qualified claimant's proportional share of the market value of the qualified property.

Approved March 19, 2008.

CHAPTER 215
(H.B. No. 546)

AN ACT

RELATING TO HIGHWAYS; AMENDING CHAPTER 5, TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-513C, IDAHO CODE, TO DESIGNATE THAT PORTION OF INTERSTATE HIGHWAY I-90 LOCATED IN IDAHO AS THE IDAHO PORTION OF THE NATIONAL PURPLE HEART TRAIL.

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

SECTION 1. That Chapter 5, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 40-513C, Idaho Code, and to read as follows:

40-513C. DESIGNATION OF PURPLE HEART TRAIL. That portion of interstate highway I-90 located in Idaho is the Idaho portion of the national purple heart trail. The Idaho transportation department shall design and construct signs indicating the highway number, the designation as the purple heart trail, and any other appropriate information. The department shall erect a sign at each end of the highway and markers at intermediate sites along the highway that the department determines are appropriate. The department is required to design, construct, and erect the signs and markers only to the extent that moneys are provided for this purpose through private donations, grants, awards or other moneys.

Approved March 19, 2008.

CHAPTER 216
(H.B. No. 547)

AN ACT

RELATING TO STANDARD FIRE POLICY; AMENDING SECTION 41-2401, IDAHO CODE, TO REVISE A DEFINITION.

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

SECTION 1. That Section 41-2401, Idaho Code, be, and the same is hereby amended to read as follows:

41-2401. STANDARD FIRE POLICY. (1) No fire insurer shall issue any fire insurance policy covering on property or interest therein in this state, other than on the form known as the New York standard as revised in 1943, except as follows:

(a) An insurer may print on or in its policy its name, location, date of incorporation, plan of operation, whether stock, mutual, reciprocal or organized under special charter provisions, and if mutual or reciprocal whether on cash premium or assessment plan; and if it be a stock company, the amount of its paid up capital stock, the names of its officers and agents, the number and date of the policy, and, if it is issued by an agent, the words, "this policy shall not be valid until countersigned by the duly authorized agent of the company at ...."; and, if a mutual or reciprocal insurer, the policy must state the contingent liability, if any, of its policyholders, members, or subscribers for payment of losses and expenses not provided for by its cash funds.

(b) An insurer may print or use in its policies printed forms of description and specifications of the property insured.

(c) An insurer insuring against damage by lightning may print in the clause enumerating the perils insured against the additional words, "also any damage by lightning whether fire ensues or not," and in the clause providing for an apportionment of loss in case of other insurance the words, "whether by fire, lightning or both."

(d) A domestic insurer may print in its policies any provisions which it is authorized or required by the law to insert therein, and any foreign insurer may, with the approval of the director, so print any provision required by its charter or deed of settlement, or by the laws of its own state or country, not contrary to the laws of this state; but the director shall require any provision which, in his opinion modifies the contract of insurance in such a way as to affect the question of loss, to be appended to the policy by an endorsement or rider as hereinafter provided.

(e) The blanks in the standard form may be completed in print or in writing.

(f) An insurer may print upon policies issued in compliance with the preceding provisions of this section the words, "Idaho standard policy."

(g) An insurer may write upon the margin or across the face of the policy, or write or print in type not smaller than nonpareil upon a slip, slips, rider or riders to be attached thereto, provisions adding to or relating to those contained in the standard form; and all such slips, riders, endorsements and provisions must be signed by the officers or agents of the insurer so using them.

(h) If the policy be made by a mutual, reciprocal or other insurer having special regulations lawfully applicable to its organization, membership, policies or contracts of insurance such regulations shall apply to and form a part of the policy as the same may be written or printed upon, attached or appended thereto.

(i) Every policy shall have legibly inscribed upon its face and filing back suitable words to designate whether the insurer making such insurance be a stock, mutual or reciprocal insurer, provided,

that any insurer organized under special charter provisions may so indicate upon its policy and may add a statement of the plan under which it operates in this state.

(j) Every fire policy shall contain language that provides for a thirty (30) day written notice to the insured prior to cancellation of the policy, provided however, that where cancellation is for the nonpayment of premium, at least ten (10) days' notice of such cancellation, accompanied by the reason for the cancellation, shall be given. If delivered via United States mail, such ten (10) day notification period shall begin to run five (5) days following the date of postmark. Proof of mailing of notice of cancellation, or of intention not to renew, or of reasons for cancellation or nonrenewal to the named insured at his address shall be sufficient proof of notice.

(k) Every fire policy shall provide that it becomes effective at 12:01 a.m. of the standard time of the place where the property covered by the insurance is located, on the effective date of the policy.

(2) An insurer issuing the standard fire policy is authorized to affix thereto or include therein a written statement that the policy does not cover loss or damage caused by nuclear reaction, nuclear radiation or radioactive contamination, all whether directly or indirectly resulting from an insured peril under the policy; but nothing herein contained shall be construed to prohibit the attachment to any such policy of an endorsement or endorsements specifically assuming coverage for loss or damage caused by nuclear reaction, nuclear radiation or radioactive contamination.

(3) The standard fire policy is not mandatory for vehicle insurance, or for marine insurance, or inland marine insurance as the same is defined pursuant to section 41-1401(2), Idaho Code, or for insurance on growing crops.

(4) Any policy or contract otherwise subject to the provisions of subsection (1) hereof, which includes either on an unspecified basis as to the coverage or for a single premium coverage against the peril of fire and substantial coverage against other perils need not comply with the provisions of subsection (1) hereof, provided:

(a) Such policy or contract shall afford coverage, with respect to the peril of fire, not less than the coverage afforded by such standard fire policy,

(b) The provisions in relation to mortgagee interests and obligations in such standard fire policy shall be incorporated therein without change,

(c) Such policy or contract is complete as to all of its terms without reference to the standard form of fire insurance policy or any other policy, and

(d) The director is satisfied that such policy or contract complies with the provisions hereof.

(5) With respect to a commercial insurance policy, such standard fire insurance policy may exclude coverage for loss by fire or other perils insured against if the fire or other perils are caused directly or indirectly by terrorism. As used in this section, the term "terrorism" means a violent act or an act that:

(a) Is dangerous to human life, property or infrastructure;

(b) Results in damage within the United States, or outside of the

United States in the case of an air carrier or vessel or the premises of a United States mission; and

(c) Is committed by an individual or individuals, ~~acting on behalf of any foreign person or foreign interest,~~ as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States government by coercion.

Approved March 19, 2008.

CHAPTER 217
(H.B. No. 554)

AN ACT

RELATING TO CURRICULAR MATERIALS USED IN IDAHO PUBLIC SCHOOLS; AMENDING SECTION 33-118A, IDAHO CODE, TO PROVIDE FOR RETENTION OF ALL CURRICULAR MATERIALS ADOPTED IN THE IMMEDIATELY PRECEDING THREE YEARS AND TO PROVIDE FOR MAINTAINING A LIBRARY OF ALL ELECTRONICALLY AVAILABLE CURRICULAR MATERIALS.

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

SECTION 1. That Section 33-118A, Idaho Code, be, and the same is hereby amended to read as follows:

33-118A. CURRICULAR MATERIALS -- ADOPTION PROCEDURES. All curricular materials adoption committees appointed by the state board of education shall contain at least two (2) persons who are not public educators or school trustees. All meetings of curricular materials adoption committees shall be open to the public. Any member of the public may attend such meetings and file written or make oral objections to any curricular materials under consideration. A complete and cataloged library of all curricular materials adopted in the immediately preceding three (3) years and used in Idaho public schools, ~~is~~ and all electronically available curricular materials used in Idaho public schools are to be maintained at the state department of education at all times and open to the public.

"Curricular materials" is defined as textbook and instructional media including software, audio/visual media and internet resources.

Approved March 19, 2008.

CHAPTER 218
(H.B. No. 569)

AN ACT

RELATING TO THE SPECIAL OLYMPICS IDAHO FUND; AMENDING SECTION 36-111, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES; AMENDING CHAPTER 8, TITLE 57, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 57-823, IDAHO CODE, TO PROVIDE FOR THE SPECIAL OLYMPICS IDAHO FUND; AMENDING SEC-

TION 63-3067A, IDAHO CODE, TO REVISE FUNDS AUTHORIZED TO RECEIVE CERTAIN MONEYS AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 63-3067B, IDAHO CODE, TO REVISE FUNDS AUTHORIZED TO RECEIVE CERTAIN MONEYS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 36-111, Idaho Code, be, and the same is hereby amended to read as follows:

36-111. FISH AND GAME SET-ASIDE ACCOUNT. (1) There is hereby established the fish and game set-aside account in the dedicated fund. The account shall have paid into it moneys as follows:

(a) Four dollars ($4.00) of each steelhead trout or anadromous salmon permit sold. Moneys from this source shall be used for the acquisition, development and maintenance of parking areas, access sites, boat ramps and sanitation facilities in salmon and steelhead fishing areas, for management of and research on steelhead trout and anadromous salmon problems, and for technical assistance with litigation concerning steelhead and anadromous salmon originating in Idaho.

(b) Two dollars ($2.00) from each combination hunting and fishing license, or each hunting license sold, as provided in sections 36-406 and 36-407, Idaho Code, except that class 4 licenses shall be exempt from this provision. Moneys from this source shall be used for the purposes of acquiring access to and acquiring and rehabilitating big game ranges and upland bird and waterfowl habitats. Unless it is inconsistent with the goals of the commission, it is the intent of the legislature that the commission negotiate lease arrangements as compared with outright purchase of private property.

(c) One dollar and fifty cents ($1.50) from each antelope, elk and deer tag sold as provided in section 36-409, Idaho Code. Not less than seventy-five cents (75¢) of each one dollar and fifty cents ($1.50) collected shall be placed in a separate account to be designated as a feeding account. Moneys in this account shall be used exclusively for the purposes of winter feeding of and rehabilitation of winter range for antelope, elk and deer. The balance of moneys realized from this source may be used for the control of depredation of private property by antelope, elk and deer and control of predators affecting antelope, elk and deer. Moneys in the feeding account shall not be used for any purpose other than winter feeding as herein specified until the total funds in the account, including any interest earnings thereon, equal or exceed four hundred thousand dollars ($400,000). Moneys in the feeding account may not be expended except upon the declaration of a feeding emergency by the director of the department of fish and game. Such emergency need not exist on a statewide basis but can be declared with respect to one (1) or more regions of the state. The department shall by rule establish the criteria for a feeding emergency.

(d) Those amounts designated by individuals in accordance with section 63-3067A(~~c~~3)(~~i~~a), Idaho Code, and from fees paid under the provisions of section 49-417, Idaho Code. Moneys from these sources shall be used for a nongame management and protection program under the direction of the fish and game commission.

(e) Money derived from the assessment of processing fees. Moneys derived from this source shall be used as provided in section 36-1407, Idaho Code.

(2) Moneys in the fish and game set-aside account and the feeding account established in subsection (1)(c) of this section are subject to appropriation, and the provisions of section 67-3516, Idaho Code. Moneys in the fish and game set-aside account and the feeding account shall be invested by the state treasurer in the manner provided for investment of idle state moneys in the state treasury by section 67-1210, Idaho Code, with interest earned on investments from each account to be paid into that account.

SECTION 2. That Chapter 8, Title 57, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 57-823, Idaho Code, and to read as follows:

57-823. SPECIAL OLYMPICS IDAHO FUND. There is hereby created in the state treasury the "Special Olympics Idaho Fund." Moneys in the fund shall be appropriated to the Idaho chapter of special olympics for athletic programs and health screenings for Idaho children and adults with developmental disabilities. Fund moneys will be used to buy sports equipment, uniforms and transportation services. Donations to the fund will also be used to provide school enrichment programs to children with or without disabilities and health screenings for athletes with developmental disabilities. Funds will also be used for training expenses and year-round event competition. Moneys in the fund shall be appropriated for use in Idaho only.

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~~1) Every individual who:

(~~i~~a) 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~~3) of this section; or

(~~ii~~b) 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~~3) of this section.

(~~b~~2) A designation under subsection (~~a~~1) 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~~3) The trust accounts authorized to receive moneys designated under subsection (~~a~~1) of this section are:

(~~i~~a) The fish and game set-aside account created by section 36-111, Idaho Code;

(~~ii~~b) The Idaho ag in the classroom account created by section 57-815, Idaho Code;

(~~iii~~c) The drug enforcement donation account created by section 57-816, Idaho Code;

(~~iv~~d) The children's trust fund created by section 39-6007, Idaho Code;

(~~v~~e) The ~~United States olympic account created by section 57-817, Idaho Code, but no donation shall exceed five dollars ($5.00)~~ special olympics Idaho fund created in section 57-823, Idaho Code;

(~~vi~~f) The Idaho guard and reserve family support fund created by section 57-820, Idaho Code; and

(~~vii~~g) The American red cross of greater Idaho fund created in section 57-821, Idaho Code.

(d4) Prior to the distribution of funds into any of the trust accounts specified in subsection (c3) 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 63-3067B, Idaho Code, be, and the same is hereby amended to read as follows:

63-3067B. DESIGNATION BY INDIVIDUALS -- TRUST ACCOUNTS. (a1) Every resident individual who:

(~~i~~a) 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 (c3) below; or

(~~ii~~b) 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 (c3) of this section.

(b2) A designation under subsection (a1) 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.

(c3) The trust accounts authorized to receive moneys designated under subsection (a1) of this section are:

(~~i~~a) The fish and game set-aside account created by section 36-111, Idaho Code;

(~~ii~~b) The Idaho ag in the classroom account created by section 57-815, Idaho Code;

(~~iii~~c) The drug enforcement donation account created by section 57-816, Idaho Code;

(~~iv~~d) The children's trust fund created by section 39-6007, Idaho Code;

(~~v~~e) The ~~United States olympic account created by section 57-817, Idaho Code, but no donation shall exceed five dollars ($5.00)~~ special olympics Idaho fund created in section 57-823, Idaho Code;

(~~vi~~f) The Alzheimer's disease services account created in section 57-819, Idaho Code;

(~~vii~~g) The community forestry trust account created in section 38-136, Idaho Code; and

(~~viii~~h) 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.

(d4) Prior to the distribution of funds into any of the trust accounts specified in subsection (e3) 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.

Approved March 19, 2008.

CHAPTER 219
(H.B. No. 575)

AN ACT

RELATING TO TEENS AT RISK; AMENDING SECTION 16-2403, IDAHO CODE, TO REVISE THE DEFINITION OF "TEENS AT RISK"; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 16-2403, Idaho Code, be, and the same is hereby amended to read as follows:

16-2403. DEFINITIONS. As used in this chapter:

(1) "Child" means an individual less than eighteen (18) years of age and not emancipated by either marriage or legal proceeding.

(2) "Consistent with the least restrictive alternative principle" means that services are delivered in the setting which places the fewest restrictions on the personal liberty of the child, and provides the greatest integration with individuals who do not have disabilities, in typical and age appropriate, school, community and family environments, which is consistent with safe, effective and cost-effective treatment for the child and family.

(3) "Department" means the department of health and welfare.

(4) "Designated examiner" means a psychiatrist, psychologist, psychiatric nurse, or social worker and such other mental health professionals as may be designated in accordance with rules promulgated pursuant to the provisions of chapter 52, title 67, Idaho Code, by the department of health and welfare. Any person designated by the department director will be specially qualified by training and experience in the diagnosis and treatment of mental or mentally related illnesses or conditions.

(5) "Director" means the director of the state department of health and welfare.

(6) "Emergency" means a situation in which the child's condition, as evidenced by recent behavior, poses a significant threat to the health or safety of the child, his family or others, or poses a serious risk of substantial deterioration in the child's condition which cannot be eliminated by the use of supportive services or intervention by the

child's parents, or mental health professionals, and treatment in the community while the child remains in his family home.

(7) "Informed consent to treatment" means a knowing and voluntary decision to undergo a specific course of treatment, evidenced in writing, and made by an emancipated child, or a child's parent, or guardian, who has the capacity to make an informed decision, after the staff of the facility or other provider of treatment have explained the nature and effects of the proposed treatment.

(8) "Involuntary treatment" means treatment, services and placement of children provided without consent of the parent of a child, under the authority of a court order obtained pursuant to this chapter, as directed by an order of disposition issued by a designated employee of the department of health and welfare under section 16-2415, Idaho Code.

(9) "Lacks capacity to make an informed decision concerning treatment" means that the parent is unable to understand the nature and effects of hospitalization or treatment, or is unable to engage in a rational decision-making process regarding such hospitalization or treatment, as evidenced by an inability to weigh the risks and benefits, despite conscientious efforts to explain them in terms that the parent can understand.

(10) "Likely to cause harm to himself or to suffer substantial mental or physical deterioration" means that, as evidenced by recent behavior, the child:

(a) Is likely in the near future to inflict substantial physical injury upon himself; or

(b) Is likely to suffer significant deprivation of basic needs such as food, clothing, shelter, health or safety; or

(c) Will suffer a substantial increase or persistence of symptoms of mental illness or serious emotional disturbance which is likely to result in an inability to function in the community without risk to his safety or well-being or the safety or well-being of others, and which cannot be treated adequately with available home and community-based outpatient services.

(11) "Likely to cause harm to others" means that, as evidenced by recent behavior causing, attempting, or threatening such harm with the apparent ability to complete the act, a child is likely to cause physical injury or physical abuse to another person.

(12) "Protection and advocacy system" means the agency designated by the governor as the state protection and advocacy system pursuant to 42 U.S.C. 6042 and 42 U.S.C. 10801 et seq.

(13) "Serious emotional disturbance" means an emotional or behavioral disorder, or a neuropsychiatric condition which results in a serious disability, and which requires sustained treatment interventions, and causes the child's functioning to be impaired in thought, perception, affect or behavior. A disorder shall be considered to "result in a serious disability" if it causes substantial impairment of functioning in family, school or community. A substance abuse disorder does not, by itself, constitute a serious emotional disturbance, although it may coexist with serious emotional disturbance.

(14) "Special therapy" means any treatment modality used to treat children with serious emotional disturbances which is subject to restrictions or special conditions imposed by the department of health and welfare rules.

(15) "Surrogate parent" means any person appointed to act in the

place of the parent of a child for purposes of developing an individual education program under the authority of the individuals with disabilities education act, 20 U.S.C. 1400 et seq., as amended.

(16) "Teens at risk" means ~~children~~ individuals attending Idaho secondary public schools ~~grades seven (7) through twelve (12)~~ who have been identified as expressing or exhibiting indications of depression, suicidal inclination, emotional trauma, substance abuse or other behaviors or symptoms that indicate the existence of, or that may lead to, the development of mental illness or substance abuse.

(17) "Treatment facility" means a facility or program meeting applicable licensing standards, that has been approved for the provisions of services under this chapter by the department of health and welfare.

Approved March 19, 2008.

CHAPTER 220
(H.B. No. 587)

AN ACT

RELATING TO JUDGES' SALARIES; AMENDING SECTION 59-502, IDAHO CODE, TO PROVIDE FOR A SALARY INCREASE FOR 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%), and again commencing on July 1, 2008, 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 three percent (3%).

(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 19, 2008.