GENERAL LAWS

OF THE

STATE OF IDAHO

PASSED BY
THE SECOND REGULAR SESSION OF THE
SIXTIETH IDAHO LEGISLATURE

Convened January 11, 2010
Adjourned March 29, 2010

Volume 1

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

PUBLISHED BY AUTHORITY OF THE SECRETARY OF STATE

BEN YSURSA
Secretary of State
Boise, Idaho

CHAPTER 1
(S.B. No. 1268)

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 LIVESTOCK DISEASE DEFICIENCY FUND; PROVIDING AN APPROPRIATION AND A TRANSFER OF FUNDS TO THE HAZARDOUS SUBSTANCE EMERGENCY RESPONSE FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated and the State Controller shall transfer $7,203,100 from the General Fund to the Fire Suppression Deficiency Fund. Such moneys shall be used to reimburse costs incurred by the Range and Forest 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 $410,000 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 $46,700 from the General Fund to the Livestock Disease Control Deficiency Fund. Such moneys shall be used to reimburse costs incurred by the Animal Industries Program in the Department of Agriculture pursuant to Section 25-212A, Idaho Code.

SECTION 4. There is hereby appropriated and the State Controller shall transfer $67,600 from the General Fund to the Hazardous Substance Emergency Response Fund. Such moneys shall be used to reimburse costs incurred by the Bureau of Homeland Security in the Military Division of the Office of the Governor pursuant to Section 39-7110, Idaho Code.

SECTION 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 11, 2010.

CHAPTER 2
(H.B. No. 406)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE PUBLIC UTILITIES COMMISSION FOR FISCAL YEAR 2010; 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 290, Laws of 2009, there is hereby appropriated to the Public Utilities Commission the following amount to be expended for the designated program ac-

cording to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

FOR:	
Personnel Costs	$149,400
Operating Expenditures	70,800
Capital Outlay	12,500
TOTAL	$232,700
FROM:	
American Reinvestment Fund	$232,700

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

Approved February 11, 2010.

CHAPTER 3
(H.B. No. 379)

AN ACT

RELATING TO THE ELECTION CAMPAIGN FUND; REPEALING CHAPTER 25, TITLE 34, IDAHO CODE, RELATING TO THE ELECTION CAMPAIGN FUND; REPEALING SECTION 63-3088, IDAHO CODE, RELATING TO A CERTAIN DESIGNATION BY INDIVIDUALS ON CERTAIN TAX FORMS; PROVIDING FOR DISTRIBUTION OF CERTAIN MONEYS; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Chapter 25, Title 34, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Section 63-3088, Idaho Code, be, and the same is hereby repealed.

SECTION 3. DISTRIBUTION OF MONEYS. (1) On and after January 1, 2011, any moneys remaining in the Election Campaign Fund established by Section 34-2502, Idaho Code, shall be disbursed in a manner consistent with the provisions of Chapter 25, Title 34, Idaho Code, as that chapter existed on December 31, 2009.

(2) The State Tax Commission shall not permit the designation on state income tax return forms by individuals as provided for in Section 63-3088, Idaho Code, as that section existed on December 31, 2009, for any income tax return, amended, late or otherwise filed with the State Tax Commission on or after January 1, 2011. The State Tax Commission shall, in a conspicuous manner on the principal form provided for purposes of individual taxation, notify individuals that such designation shall not be permitted on and after January 1, 2011.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2010.

Approved February 16, 2010.

CHAPTER 4
(H.B. No. 418)

AN ACT

RELATING TO APPROPRIATIONS TO THE DEPARTMENT OF ADMINISTRATION FOR FISCAL YEAR 2010; AMENDING CHAPTER 205, LAWS OF 2009, BY THE ADDITION OF NEW SECTIONS TO TRANSFER FUNDS FOR ELECTED OFFICIALS' RENT; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES FROM THE PERMANENT BUILDING FUND; AND DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Chapter 205, Laws of 2009, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 6, 7 and 8, Chapter 205, Laws of 2009, and to read as follows:

SECTION 6. The State Controller is hereby directed to transfer on July 1, 2009, or as soon thereafter as practicable, $915,000 from the Permanent Building Fund to the Administration and Accounting Services Fund/Facilities Services for statewide elected officials' rent.

SECTION 7. The State Controller is hereby directed to transfer on January 1, 2010, or as soon thereafter as practicable, $915,000 from the Permanent Building Fund to the Administration and Accounting Services Fund/Facilities Services for statewide elected officials' rent.

SECTION 8. There is hereby reappropriated to the Department of Administration, the sum of $59,000 from the Permanent Building Fund appropriated for Public Works for Capitol restoration and renovation, which is the unexpended and unencumbered balance of moneys as provided in Sections 4 and 6, Chapter 455, Laws of 2006, and Section 1, Chapter 333, Laws of 2007, to be used for Capitol restoration and renovation for the period July 1, 2009, through June 30, 2010.

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, 2009.

Approved February 16, 2010.

CHAPTER 5
(H.B. No. 388)

AN ACT

RELATING TO INCOME TAX; AMENDING SECTION 63-3022H, IDAHO CODE, TO PROVIDE A DEFINITION OF "REAL PROPERTY"; AMENDING SECTION 63-3029E, IDAHO CODE, TO REVISE THE DEFINITION OF "REVENUE-PRODUCING ENTERPRISE"; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

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

63-3022H. DEDUCTION OF CAPITAL GAINS. (1) If an individual taxpayer reports capital gain net income in determining taxable income, eighty percent (80%) in taxable year 2001 and sixty percent (60%) in taxable years thereafter of the capital gain net income from the sale or exchange of qualified property shall be a deduction in determining Idaho taxable income.

(2) The deduction provided in this section is limited to the amount of the capital gain net income from all property included in taxable income. Gains treated as ordinary income by the Internal Revenue Code do not qualify for the deduction allowed in this section. The deduction otherwise allowable under this section shall be reduced by the amount of any federal capital gains deduction relating to such property, but not below zero.

(3) Property held by an estate, trust, S corporation, partnership, limited liability company or an individual is "qualified property" under this section if the property had an Idaho situs at the time of sale and is:

(a) Real property held at least twelve (12) months;

(b) Tangible personal property used in Idaho for at least twelve (12) months by a revenue-producing enterprise;

(c) Cattle or horses held for breeding, draft, dairy or sporting purposes for at least twenty-four (24) months if more than one-half (1/2) of the taxpayer's gross income (as defined in section 61(a) of the Internal Revenue Code) for the taxable year is from farming or ranching operations in Idaho;

(d) Breeding livestock other than cattle or horses held at least twelve (12) months if more than one-half (1/2) of the taxpayer's gross income (as defined in section 61(a) of the Internal Revenue Code) for the taxable year is from farming or ranching operations in Idaho;

(e) Timber grown in Idaho and held at least twenty-four (24) months;

(f) In determining the period for which property subject to this section has been held by a taxpayer, the provisions of section 1223 of the Internal Revenue Code shall apply, except that the holding period shall not include the holding period of property given up in an exchange, when such property would not have constituted qualified property under this section without regard to meeting the holding period nor shall the holding period include any time period in which the property subject to this section was held by a corporation other than an S corporation.

(4) As used in this section "revenue-producing enterprise" means:

(a) The production, assembly, fabrication, manufacture, or processing of any agricultural, mineral or manufactured product;

(b) The storage, warehousing, distribution, or sale at wholesale of any products of agriculture, mining or manufacturing;

(c) The feeding of livestock at a feedlot;

(d) The operation of laboratories or other facilities for scientific, agricultural, animal husbandry, or industrial research, development, or testing.

(5) As used in this section the term "real property" means land and other tangible property permanently upon or affixed to the land.

SECTION 2. That Section 63-3029E, Idaho Code, be, and the same is hereby amended to read as follows:

63-3029E. DEFINITIONS -- CONSTRUCTION OF TERMS. As used in this section and in section 63-3029F, Idaho Code:

(1) (a) "New employee" means a person subject to Idaho income tax withholding whether or not any amounts are required to be withheld, employed by the taxpayer in a trade or business, and covered for unemployment insurance purposes under chapter 13, title 72, Idaho Code, during the taxable year for which the credit allowed by section 63-3029F, Idaho Code, is claimed. A person shall be deemed to be so engaged if such person performs duties on:

(i) A regular full-time basis; or

(ii) A part-time basis if such person is customarily performing such duties at least twenty (20) hours per week.

No credit shall be earned unless the new employee shall have performed such duties for the taxpayer for a minimum of nine (9) months during the taxable year for which the credit is claimed.

(b) The provisions of paragraph (a) of this subsection notwithstanding, no credit shall be allowed for employment of persons by a taxpayer who acquires a trade or business from another taxpayer or who operates in a place of business the same or a substantially identical trade or business as operated by another taxpayer within the prior twelve (12) months, except as the prior taxpayer would have qualified under the provisions of paragraph (c) of this subsection. Employees transferred from a related taxpayer shall not be included in the computation of the credit.

(c) The number of employees during any taxable year for any taxpayer shall be the mathematical average of the number of 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 (a) of this subsection. In the event the business is in operation for less than the entire taxable year, the number of employees of the business for the year shall be the average number actually employed during the months of operation, providing that the qualifications of paragraph (a) of this subsection are met.

(2) "Revenue-producing enterprise" ~~means the production, assembly, fabrication, manufacture or processing of any natural resource product~~ shall be as defined in section 63-3022H, Idaho Code.

(3) "Same or a substantially identical trade or business" means a trade or business in which the products produced or sold, or the activities conducted are the same in character and use and are produced, sold or conducted in the same manner as, or for the same types of customers as, the products or activities produced, sold or conducted in another trade or business.

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, 2010.

Approved February 16, 2010.

CHAPTER 6
(H.B. No. 440)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF LABOR FOR FISCAL YEAR 2010; 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 288, Laws of 2009, there is hereby appropriated to the Department of Labor the following amount to be expended for the designated program according to the designated expense class from the listed fund for the period July 1, 2009, through June 30, 2010:

EMPLOYMENT SERVICES:

FOR:

Trustee & Benefit Payments $786,000

FROM:

Federal Grant Fund $786,000

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 16, 2010.

CHAPTER 7
(H.B. No. 439)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF SELF-GOVERNING AGENCIES FOR THE BOARD OF DENTISTRY UNDER THE MEDICAL BOARDS FOR FISCAL YEAR 2010; 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 316, Laws of 2009, there is hereby appropriated to the Department of Self-Governing Agencies 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, 2009, through June 30, 2010:

BOARD OF DENTISTRY:

FOR:

Operating Expenditures $50,000

FROM:

State Regulatory Fund $50,000

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

Approved February 16, 2010.

CHAPTER 8
(S.B. No. 1292)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF LANDS FOR FISCAL YEAR 2010; 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 235, Laws of 2009, there is hereby appropriated to the Department of Lands the following amount to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2009, through June 30, 2010:

	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
I. FOREST RESOURCES MANAGEMENT:			
FROM:			
Endowment Administrative Fund	$53,000		$53,000
II. LAND, RANGE, AND MINERAL RESOURCE MANAGEMENT:			
FROM:			
Endowment Administrative Fund	$10,300		$10,300
III. FOREST AND RANGE FIRE PROTECTION:			
FROM:			
Department of Lands Fund		$133,400	$133,400
TOTAL	$63,300	$133,400	$196,700

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

Approved February 18, 2010.

CHAPTER 9
(S.B. No. 1293)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY FOR FISCAL YEAR 2010; REDUCING THE APPROPRIATION TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY FOR FISCAL YEAR 2010; 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 234, Laws of 2009, there is hereby appropriated to the Department of Environmental Quality the following amount to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2009, through June 30, 2010:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION AND SUPPORT SERVICES:				
FROM:				
American Reinvestment Fund		$7,700		$7,700
II. AIR QUALITY:				
FROM:				
American Reinvestment Fund	$41,700	$740,700		$782,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Department of Environmental Quality				
(Federal) Fund	_____	900,000		900,000
TOTAL	$41,700	$1,640,700		$1,682,400
III. WATER QUALITY:				
FROM:				
Department of Environmental Quality				
(Receipts) Fund		$50,000		$50,000
IV. WASTE MANAGEMENT AND REMEDIATION:				
FROM:				
Environmental Remediation (Box) Fund			$125,000	$125,000
Department of Environmental Quality				
(Receipts) Fund	$49,100	$160,000		209,100
American Reinvestment Fund		3,294,300		3,294,300
Department of Environmental Quality				
(Federal) Fund	_____	5,000,000	_____	5,000,000
TOTAL	$49,100	$8,454,300	$125,000	$8,628,400
GRAND TOTAL	$90,800	$10,152,700	$125,000	$10,368,500

SECTION 2. The appropriation made in Section 1, Chapter 234, Laws of 2009, to the Department of Environmental Quality, is hereby reduced by the following amount from the designated programs according to the designated expense classes from the listed funds for the period July 1, 2009, through June 30, 2010:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. WATER QUALITY:				
FROM:				
Department of Environmental Quality				
(Federal) Fund		$450,000		$450,000
II. COEUR D'ALENE BASIN COMMISSION:				
FROM:				
Department of Environmental Quality				
(Federal) Fund		$250,000	$200,000	$450,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
III. WASTE MANAGEMENT AND REMEDIATION:				
FROM:				
American Reinvestment Fund	$22,000	_____	_____	$22,000
TOTAL	$22,000	$700,000	$200,000	$922,000

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

Approved February 18, 2010.

CHAPTER 10
(H.B. No. 380)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3037, IDAHO CODE, TO SPECIFY FILING DATES FOR CERTAIN INFORMATION RETURNS, TO MAKE A TECHNICAL CORRECTION AND TO AUTHORIZE THE STATE TAX COMMISSION TO PROVIDE A DIFFERENT DATE NO EARLIER THAN THE DATE REQUIRED BY THE INTERNAL REVENUE CODE FOR FILING EQUIVALENT FEDERAL RETURNS IN A NONELECTRONIC FORMAT.

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

SECTION 1. That Section 63-3037, Idaho Code, be, and the same is hereby amended to read as follows:

63-3037. INFORMATION RETURNS. (a) All persons, in whatever capacity, including lessees or mortgagors of real or personal property, fiduciaries and employers, making payment to another person of interest, rent, salaries, wages, except as provided by subsection (b) of section 63-3035, Idaho Code, and section 63-3036, Idaho Code, premiums, annuities, compensation, remunerations, emoluments, payments to subcontractors, other fixed or determinable gains, profits and income, or corporate liquidation distributions shall make returns to the state tax commission setting forth the amount of such gains, profits and income, and the name and address of the recipient of such payment. Such returns shall correspond to the requirements of the Internal Revenue Code, but shall be filed with the state tax commission on or before the last day of February of the year following the year to which the return relates.

(b) The state tax commission may, by ~~regulation,~~ rule:

(1) E~~e~~xcuse the filing of any returns required by subsection (a) of this section when it finds that the returns required of any class or group of persons do not contribute to the efficient administration of the taxes imposed by this chapter.

(2) When necessary for the efficient administration of this section, set a different due date for the returns required by this section, provided however, such date shall not be earlier than the date required by the Internal Revenue Code for filing equivalent federal returns in a nonelectronic format.

(c) The commission may prescribe rules providing standards consistent with section 63-115, Idaho Code, for determining which returns must be transmitted electronically. The commission may not require any person to transmit returns electronically unless such person is required to report on the return at least two hundred fifty (250) annual information returns. In promulgating such rules, the commission shall take into account, among other relevant factors, the ability of the taxpayer to comply, at a reasonable cost, with the requirements of such rules.

Approved February 23, 2010.

CHAPTER 11
(H.B. No. 381)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3021, IDAHO CODE, TO CLARIFY THE DEFINITION OF "NET OPERATING LOSS," TO PROVIDE THAT NET OPERATING LOSSES OF A CORPORATION WILL SURVIVE A MERGER SUBJECT TO CERTAIN CONDITIONS AND TO MAKE A TECHNICAL CORRECTION; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-3021, Idaho Code, be, and the same is hereby amended to read as follows:

63-3021. NET OPERATING LOSS. (a) The term "net operating loss" means the amount by which Idaho taxable income, after making the modifications specified in subsection (b) of this section, is less than zero (0).

(b) Add the following amounts:

(1) The amount of any net operating loss deduction included in Idaho taxable income.

(2) In the case of a taxpayer other than a corporation:

(i) Any amount deducted due to losses in excess of gains from sales or exchanges of capital assets; and

(ii) Any deduction for long-term capital gains provided by this chapter.

(3) Any deduction allowed under section 151 of the Internal Revenue Code (relating to personal exemption) or any deduction in lieu of any such deduction.

(4) Any deduction for the standard or itemized deductions provided for in section 63 of the Internal Revenue Code, or section 63-3022(j), Idaho Code, except for any deduction allowable under section 165(c)(3) of the Internal Revenue Code (relating to casualty losses) pertaining to property physically located inside Idaho at the time of the casualty.

(c) Subject to the provisions of sections 381 and 382, Internal Revenue Code, Idaho net operating losses incurred by a corporation will survive a merger.

(1) Changes in the location of a loss corporation's business or its key employees shall not be treated as a failure to satisfy the continuity of business requirements.

(2) If the premerger corporation conducted operations in Idaho and at least one (1) other state, the section 382, Internal Revenue Code, loss limitation is limited further by the premerger loss corporation's Idaho apportionment factor for the last taxable year preceding the date of the merger.

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, 2010.

Approved February 23, 2010.

CHAPTER 12
(H.B. No. 441)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE DIVISION OF VOCATIONAL REHABILITATION FOR FISCAL YEAR 2010; 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 328, Laws of 2009, there is hereby appropriated to the Division of Vocational Rehabilitation 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, 2009, through June 30, 2010:

VOCATIONAL REHABILITATION:	
FOR:	
Operating Expenditures	$2,300,000
Capital Outlay	200,000
TOTAL	$2,500,000
FROM:	
Federal Grant Fund	$2,500,000

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

Approved February 23, 2010.

CHAPTER 13
(S.B. No. 1294)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE STATE TAX COMMISSION FOR FISCAL YEAR 2010; REDUCING THE APPROPRIATION TO THE STATE TAX COMMISSION FOR FISCAL YEAR 2010; 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 179, Laws of 2009, there is hereby appropriated to the State Tax Commission $22,000 to be expended for the County Support Program for operating expenditures from the Seminars and Publications Fund for the period July 1, 2009, through June 30, 2010.

SECTION 2. The appropriation made in Section 1, Chapter 179, Laws of 2009, to the State Tax Commission is hereby reduced by $22,000 for the County Support Program for capital outlay from the Seminars and Publications Fund for the period July 1, 2009, through June 30, 2010.

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 24, 2010.

CHAPTER 14
(H.B. No. 384)

AN ACT

RELATING TO MOTOR FUELS TAXES; AMENDING SECTION 63-2401, IDAHO CODE, TO REVISE THE DEFINITION OF MOTOR FUEL AND TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 63-2412, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE RELATING TO THE DISTRIBUTION OF REVENUES FROM THE TAX ON MOTOR FUELS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 63-2418, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE RELATING TO THE DISTRIBUTION OF REVENUES FROM THE TAX ON SPECIAL FUELS AND TO MAKE TECHNICAL CORRECTIONS; DECLARING AN EMERGENCY, PROVIDING APPLICATION TO CERTAIN UNTAXED ETHANOL AND PROVIDING RETROACTIVE APPLICATION AND EFFECTIVE DATES.

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

SECTION 1. That Section 63-2401, Idaho Code, be, and the same is hereby amended to read as follows:

63-2401. DEFINITIONS. In this chapter:

(1) "Aircraft engine fuel" means:

(a) Aviation gasoline, defined as any mixture of volatile hydrocarbons used in aircraft reciprocating engines; and

(b) Jet fuel, defined as any mixture of volatile hydrocarbons used in aircraft turbojet and turboprop engines.

(2) "Biodiesel" means any fuel that is derived in whole or in part from agricultural products or animal fats or the wastes of such products and is suitable for use as fuel in diesel engines.

(3) "Biodiesel blend" means any fuel produced by blending biodiesel with petroleum-based diesel to produce a fuel suitable for use in diesel engines.

(4) "Bond" means:

(a) A surety bond, in an amount required by this chapter, duly executed by a surety company licensed and authorized to do business in this state conditioned upon faithful performance of all requirements of this chapter, including the payment of all taxes, penalties and other obligations arising out of the provisions of this chapter; or

(b) A deposit with the commission by any person required to be licensed pursuant to this chapter under terms and conditions as the commission may prescribe, of a like amount of lawful money of the United States or bonds or other obligations of the United States, the state of Idaho, or any county of the state; or

(c) An irrevocable letter of credit issued to the commission by a bank doing business in this state payable to the state upon failure of the person on whose behalf it is issued to remit any payment due under the provisions of this chapter.

(5) "Commercial motor boat" means any boat, equipped with a motor, which is wholly or partly used in a profit-making enterprise or in an enterprise conducted with the intent of making a profit.

(6) "Commission" means the state tax commission of the state of Idaho.

(7) "Distributor" means any person who receives motor fuel in this state, and includes a special fuels dealer. Any person who sells or receives gaseous fuels will not be considered a distributor unless the gaseous fuel is delivered into the fuel supply tank or tanks of a motor vehicle not then owned or controlled by him.

(8) "Dyed fuel" means diesel fuel that is dyed pursuant to requirements of the internal revenue service, or the environmental protection agency.

(9) "Exported" means delivered by truck or rail across the boundaries of this state by or for the seller or purchaser from a place of origin in this state.

(10) "Gasohol" means gasoline blended with ten percent (10%) or more of anhydrous ethanol.

(11) "Gasoline" means any mixture of volatile hydrocarbons suitable as a fuel for the propulsion of motor vehicles or motor boats. "Gasoline" also means aircraft engine fuels when used for the operation or propulsion of motor vehicles or motor boats and includes gasohol, but does not include special fuels.

(12) "Highways" means every place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel which is maintained by the state of Idaho or an agency or taxing subdivision or unit thereof or the federal government or an agency or instrumentality thereof. Provided, however, if the cost of maintaining a roadway is primarily borne by a special fuels user who operates motor vehicles on that roadway pursuant to a written contract during any period of time that a special fuels tax liability accrues to the user, such a roadway shall not be considered a "highway" for any purpose related to calculating that user's special fuels' tax liability or refund.

(13) "Idling" means the period of time greater than twenty-five hundredths (.25) of an hour when a motor vehicle is stationary with the engine operating at less than one thousand two hundred (1,200) revolutions per minute (RPM), without the power take-off (PTO) unit engaged, with the transmission in the neutral or park position, and with the parking brake set.

(14) "Imported" means delivered by truck or rail across the boundaries of this state by or for the seller or purchaser from a place of origin outside this state.

(15) "International fuel tax agreement" and "IFTA" mean the international fuel tax agreement required by the intermodal surface transportation efficiency act of 1991, Public Law 102-240, 105 Stat. 1914, and referred to in title 49, U.S.C., section 31701, including subsequent amendments to that agreement.

(16) "Jurisdiction" means a state of the United States, the District of Columbia, a province or territory of Canada, or a state, territory or agency of Mexico in the event that the state, territory or agency participates in the international fuel tax agreement.

(17) "Licensed distributor" means any distributor who has obtained a license under the provisions of section 63-2427A, Idaho Code.

(18) "Motor fuel" means gasoline, <u>ethanol, ethanol blended fuel, gasoline blend stocks, natural gasoline,</u> special fuels, aircraft engine fuels or any other fuels suitable for the operation or propulsion of motor vehicles, motor boats or aircraft.

(19) "Motor vehicle" means every self-propelled vehicle designed for operation, or required to be licensed for operation, upon a highway.

(20) "Person" means any individual, firm, fiduciary, copartnership, association, limited liability company, corporation, governmental instrumentality including the state and all of its agencies and political subdivisions, or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intent to give a more limited meaning is disclosed by the context. Whenever used in any clause prescribing and imposing a fine or imprisonment, or both, the term "person"

as applied to an association means the partners or members, and as applied to corporations, the officers.

(21) "Recreational vehicle" means a snowmobile as defined in section 67-7101, Idaho Code; a motor driven cycle or motorcycle as defined in section 49-114, Idaho Code; any recreational vehicle as defined in section 49-119, Idaho Code; and an all-terrain vehicle as defined in section 67-7101, Idaho Code.

(22) "Retail dealer" means any person engaged in the retail sale of motor fuels to the public or for use in the state.

(23) "Special fuels" means:

(a) All fuel suitable as fuel for diesel engines;

(b) A compressed or liquified gas obtained as a byproduct in petroleum refining or natural gasoline manufacture, such as butane, isobutane, propane, propylene, butylenes, and their mixtures; and

(c) Natural gas, either liquid or gas, and hydrogen, used for the generation of power for the operation or propulsion of motor vehicles.

(24) "Special fuels dealer" means "distributor" under subsection (~~6~~7) of this section.

(25) "Special fuels user" means any person who uses or consumes special fuels for the operation or propulsion of motor vehicles owned or controlled by him upon the highways of this state.

(26) "Use" means either:

(a) The receipt, delivery or placing of fuels by a licensed distributor or a special fuels dealer into the fuel supply tank or tanks of any motor vehicle not owned or controlled by him while the vehicle is within this state; or

(b) The consumption of fuels in the operation or propulsion of a motor vehicle on the highways of this state.

SECTION 2. That Section 63-2412, Idaho Code, be, and the same is hereby amended to read as follows:

63-2412. DISTRIBUTION OF TAX REVENUES FROM TAX ON GASOLINE AND AIRCRAFT ENGINE FUEL. (1) The revenues received from the taxes imposed by sections 63-2402 and 63-2421, Idaho Code, upon the receipt or use of gasoline, and any penalties, interest, or deficiency additions, shall be distributed periodically as follows:

(a) An amount of money equal to the actual cost of collecting, administering and enforcing the gasoline tax requirements by the commission, as determined by it shall be retained by the commission. The amount retained by the commission shall not exceed the amount authorized to be expended by appropriation by the legislature. Any unencumbered balance in excess of the actual cost of collecting, administering and enforcing the gasoline tax requirements by the commission at the end of each fiscal year shall be distributed as listed in paragraph (e) of this subsection.

(b) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized by the commission to be paid shall be paid from the state refund account and those moneys are hereby continuously appropriated for that purpose.

(c) As soon as possible after the beginning of each fiscal year, the sum of two hundred fifty thousand dollars ($250,000) shall be distributed to the railroad grade crossing protection account in the dedicated fund, to pay the amounts from the account pursuant to the provisions of section 62-304C, Idaho Code.

(d) As soon as possible after the beginning of each fiscal year, the sum of one hundred thousand dollars ($100,000) shall be distributed to the local bridge inspection account in the dedicated fund, to pay the

amounts from the account pursuant to the provisions of section 40-703, Idaho Code.

(e) An amount of money equal to seven percent (7%) shall be distributed to the state highway account established in section 40-702, Idaho Code.

(f) The balance remaining with the commission after distributing the amounts in paragraphs (a) through (~~d~~e) of subsection (1) of this section shall be distributed to the highway distribution account created in section 40-701, Idaho Code.

(2) The revenues received from the taxes imposed by section 63-2408, Idaho Code, and any penalties, interest, and deficiency amounts, shall be distributed as follows:

(a) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized by the commission to be paid shall be paid from the state refund account, and those moneys are hereby continuously appropriated.

(b) The balance remaining of all the taxes collected shall be distributed to the state aeronautics account~~,~~ as provided in section 21-211, Idaho Code.

SECTION 3. That Section 63-2418, Idaho Code, be, and the same is hereby amended to read as follows:

63-2418. DISTRIBUTION OF TAX REVENUES FROM TAX ON SPECIAL FUELS. The revenues received from the tax imposed by this chapter upon the receipt of special fuel and any penalties, interest~~,~~ or deficiency additions, or from the fees imposed by the commission under the provisions of section 63-2424 or 63-2438, Idaho Code, shall be distributed as follows:

(1) An amount of money equal to the actual cost of collecting, administering and enforcing the special fuels tax provisions by the commission, as determined by it shall be retained by the commission. The amount retained by the commission shall not exceed the amount authorized to be expended by appropriation by the legislature. Any unencumbered balance in excess of the actual cost of collecting, administering and enforcing the special fuels tax requirements by the commission at the end of each fiscal year shall be distributed to the highway distribution account.

(2) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized by the commission to be paid under this chapter shall be paid from the state refund account, those moneys being hereby continuously appropriated.

(3) An amount of money equal to seven percent (7%) shall be distributed to the state highway account as established in section 40-702, Idaho Code.

(4) The balance remaining with the commission after distributing the amounts specified in subsections (1), ~~and~~ (2) and (3) of this section shall be distributed to the highway distribution account~~,~~ established in section 40-701, Idaho Code.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after July 1, 2010, and untaxed ethanol held in inventory on July 1, 2010, shall be deemed received on July 1, 2010; Sections 2 and 3 of this act shall be in full force and effect on and after passage and approval, and retroactively to July 1, 2009.

Approved February 24, 2010.

CHAPTER 15
(H.B. No. 385)

AN ACT

RELATING TO UNCLAIMED PROPERTY; AMENDING SECTION 14-113, IDAHO CODE, TO ALLOW THE ADMINISTRATOR A PERIOD OF FIVE YEARS PRIOR TO TURNING PROPERTY OVER TO THE PUBLIC SCHOOL ENDOWMENT FUND; AMENDING SECTION 14-517, IDAHO CODE, TO REQUIRE HOLDERS REPORTING TEN OR MORE PROPERTIES TO REPORT IN A FORMAT REQUIRED BY THE ADMINISTRATOR AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 14-522, IDAHO CODE, TO ALLOW THE ADMINISTRATOR DISCRETION TO SELL ABANDONED PROPERTY WITHIN THREE YEARS AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 14-533, IDAHO CODE, TO ALLOW THE ADMINISTRATOR TO WAIVE PENALTIES AND INTEREST IN CERTAIN CASES.

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

SECTION 1. That Section 14-113, Idaho Code, be, and the same is hereby amended to read as follows:

14-113. UNCLAIMED MONEYS -- PAYMENT INTO PUBLIC SCHOOL PERMANENT ENDOWMENT FUND -- ESCHEAT. After a final settlement of the affairs of any estate, if there be no heirs or other claimants thereof, the administrator ~~must pay into the state tax commission any and all moneys and effects which~~ shall submit a report of abandoned property required under section 14-517, Idaho Code, and proceed to dispose of the property in a manner set forth in the uniform unclaimed property act in chapter 5, title 14, Idaho Code, provided that in the event no person appears to claim such property within one thousand eight hundred twenty-seven (1,827) days, approximately five (5) years from the date the property should have been reported, the money or property so deposited shall accrue and be transferred to the public school permanent endowment fund created pursuant to section 4, article IX, of the constitution of the state of Idaho.

SECTION 2. That Section 14-517, Idaho Code, be, and the same is hereby amended to read as follows:

14-517. REPORT OF ABANDONED PROPERTY. (1) A person holding property tangible or intangible, presumed abandoned and subject to custody as unclaimed property under this chapter, shall report to the administrator concerning the property as provided in this section.

(2) The report must be verified and must include:

(a) Except with respect to traveler's checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of property presumed abandoned under this chapter;

(b) In the case of unclaimed funds of more than fifty dollars ($50.00) held or owing under any life or endowment insurance policy or annuity contract, the full name and last known address of the insured or annuitant and of the beneficiary according to the records of the insurance company holding or owing the funds;

(c) In the case of the contents of a safe deposit box or other safekeeping repository or of other tangible property, a description of the property and the place where it is held and may be inspected by the administrator and any amounts owing to the holder;

(d) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due;

(e) The date the property became payable, demandable, or returnable, and the date of the last transaction with the apparent owner with respect to the property; and

(f) Other information the administrator prescribes by rule as necessary for the administration of the provisions of this chapter.

(3) If the person holding property presumed abandoned and subject to custody as unclaimed property is a successor to other persons who previously held the property for the apparent owner or the holder has changed his name while holding the property, he shall file with his report all known names and addresses of each previous holder of the property.

(4) The report must be filed no later than November 1 of each year as of June 30 next preceding. On written request by any person required to file a report, the administrator may postpone the reporting date.

(5) All holders of property presumed abandoned under this section that know the whereabouts of the owner of such property shall, before filing the annual report, communicate with the owner and take necessary steps to prevent abandonment from being presumed. Not more than one hundred twenty (120) days before filing the report required by this section, the holder in possession of property presumed abandoned and subject to custody as unclaimed property under this chapter shall send written notice to the apparent owner at his last known address informing him that the holder is in possession of property subject to this chapter if the holder has in its records an address for the apparent owner which the holder's records do not disclose to be inaccurate.

(6) The written notice required under this section shall include the name and address of the apparent owner, the nature and amount of the property presumed abandoned in the holder's possession, the name and address of the holder of the property presumed abandoned, a request that the apparent owner identify whether the property presumed abandoned is or is not unclaimed property under this chapter, and the reasons therefor, and any other criteria the administrator deems appropriate.

(7) If the apparent owner completes and returns the written notice described in subsection (6) of this section to the holder, and the apparent owner indicates a claim to the property presumed abandoned or indicates that the property identified in the written notice is not abandoned property, the holder need not pay or deliver the property to the administrator, and the property shall not be considered abandoned.

(8) In the event a holder receives a written notice as described in subsection (7) of this section demonstrating that certain property is not abandoned, a new presumption of abandonment may arise for such property due to the passage of time. The date the holder receives the written notice shall be deemed the date such property became payable or distributable for the purposes of calculating whether a presumption of abandonment has arisen.

(9) A report filed pursuant to this section shall be presumed accurate if the holder has maintained adequate records sufficient to establish by a preponderance of evidence that each item on the report is accurate and correct.

(10) Any person or holder in possession of ten (10) or more items of unclaimed property must submit an accurate electronic report in the format prescribed by the administrator.

SECTION 3. That Section 14-522, Idaho Code, be, and the same is hereby amended to read as follows:

14-522. PUBLIC SALE OF ABANDONED PROPERTY. (1) The administrator may, within three (3) years after the receipt of abandoned property, ~~shall~~ sell it to the highest bidder at public sale in whatever city affords, in the judgment of the administrator, the most favorable market for the property involved. The administrator may decline the highest bid and reoffer the prop-

erty for sale if in the judgment of the administrator, the bid is insufficient. If in the judgment of the administrator, the probable cost of sale exceeds the value of the property, it need not be offered for sale. Any sale held under this section must be preceded by a single publication of notice, at least three (3) weeks in advance of sale, in a newspaper of general circulation in the county in which the property is to be sold.

(2) Securities listed on an established stock exchange must be sold at prices prevailing at the time of sale on the exchange. Other securities may be sold over the counter at prices prevailing at the time of sale or by any other method the administrator considers advisable.

(3) A person making a claim under this chapter is entitled to receive either the securities delivered to the administrator by the holder, if they still remain in the hands of the administrator, or the proceeds received from the sale, less any amounts deducted pursuant to section 14-523(3), Idaho Code, but no person has any claim under this chapter against the state, the holder, any transfer agent, registrar, or other person acting for or on behalf of a holder for any appreciation in the value of the property occurring after delivery by the holder to the administrator.

(4) The purchaser of property at any sale conducted by the administrator pursuant to this chapter takes the property free of all claims of the owner or previous holder thereof and of all persons claiming through or under them. The administrator shall execute all documents necessary to complete the transfer of ownership.

SECTION 4. That Section 14-533, Idaho Code, be, and the same is hereby amended to read as follows:

14-533. INTEREST AND PENALTIES. (1) Upon the administrator's showing by a preponderance of evidence that a holder has failed to pay or deliver property within the time prescribed in this chapter, the holder shall pay to the administrator interest at the annual rate of twelve percent (12%) on the property or value thereof from the date the property should have been paid or delivered until actual delivery is made.

(2) Upon the administrator's showing by a preponderance of evidence that a holder has negligently failed to pay or deliver property within the time prescribed in this chapter, the holder shall pay to the administrator a penalty at the annual rate of five percent (5%) on the property or value thereof from the date the property should have been paid or delivered until actual delivery is made unless the holder demonstrates to the satisfaction of the administrator that the failure was due to reasonable cause and not neglect.

(3) A holder who willfully refuses after written demand by the administrator to pay or deliver property as required under this chapter shall be guilty of a misdemeanor and upon conviction may be punished by a fine of not less than three hundred dollars ($300) nor ~~by~~ more than three thousand dollars ($3,000).

(4) Upon a showing that a holder of property presumed to be abandoned or unclaimed has acted in good faith and without negligence to comply with the accurate reporting requirements of section 14-517, Idaho Code, the administrator may waive, in whole or in part, interest pursuant to subsection (1) of this section and penalties pursuant to subsection (2) of this section.

Approved February 24, 2010.

CHAPTER 16
(H.B. No. 397)

AN ACT

RELATING TO DRIVER'S TRAINING INSTRUCTION PERMITS; AMENDING SECTION 49-110, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 49-305, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-306, IDAHO CODE, TO REVISE PROVISIONS RELATING TO PROOF OF IDENTITY; AND AMENDING SECTION 49-307, IDAHO CODE, TO REVISE PROVISIONS RELATING TO EXPIRATION OF CERTAIN TRAINING INSTRUCTION PERMITS, TO REVISE REQUIREMENTS RELATING TO CERTAIN SUPERVISED INSTRUCTION PERMITS AND TO MAKE A TECHNICAL CORRECTION.

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~~ <u>and older</u>; is issued to the instructor of the driver's training course; is issued and expires pursuant to the

provisions of section 49-307, Idaho Code; and the permittee is subject to the conditions specified 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 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 49-305, Idaho Code, be, and the same is hereby amended to read as follows:

49-305. INSTRUCTION PERMITS -- TEMPORARY LICENSES -- 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.

(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) ~~The~~ A certified copy of 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 3. 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 $40.00
(b) Class A, B, C (3-year) license with endorsements -- age 18 to 21 years $30.00
(c) Class A, B, C (1-year) license with endorsements -- age 20 years $15.00
(d) Class D (3-year) license -- under age 18 years $25.00
(e) Class D (3-year) license -- age 18 to 21 years $25.00
(f) Class D (1-year) license -- age 17 years or age 20 years $15.00
(g) Four-year Class D license -- age 21 years and older $30.00
(h) Eight-year Class D license -- age 21 to 63 years $55.00
(i) Class A, B, C instruction permit $29.00
(j) Class D instruction permit or supervised instruction permit $15.00
(k) Duplicate driver's license or permit issued under section 49-318, Idaho Code $15.00
(l) Driver's license extension issued under section 49-319, Idaho Code $10.00
(m) License classification change (upgrade) $25.00
(n) Endorsement addition $15.00
(o) Class A, B, C skills tests not more than $70.00
(p) Class D skills test $24.00
(q) Motorcycle endorsement skills test $10.00
(r) Knowledge test ..... $ 3.00
(s) Seasonal driver's license $39.00
(t) One time motorcycle "M" endorsement $15.00
(u) Motorcycle endorsement instruction permit $15.00
(v) Restricted driving permit or restricted school attendance driving permit $60.00

(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 social security administration.

(a) The requirement that an applicant provide a social security number as verified 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. Ap-

plications 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~~ must 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~~. When a certified copy of his birth certificate or a delayed birth certificate is impossible to obtain from a vital statistics agency, another government issued document ~~which~~ may be submitted that provides satisfactory evidence of a person's full legal name and 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 ten dollars ($10.00) 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 ten dollar ($10.00) fee; and

(e) Remit the remainder to the state treasurer; and

(f) Deposit seventeen dollars and fifty cents ($17.50) 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 seventeen dollars and fifty cents ($17.50) 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) Twenty-eight dollars ($28.00) of each fee for a seasonal or class A, B or C driver's license, and nineteen dollars and fifty cents ($19.50) of each fee charged for a license pursuant to subsection (1)(b) of this section, and eight dollars and sixteen cents ($8.16) of each fee charged for a license pursuant to subsection (1)(c) of this section shall be deposited in the state highway account; and

(c) Twenty dollars ($20.00) 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 account; 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) Ten dollars ($10.00) 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 account; and

(f) Seven dollars and fifty cents ($7.50) of each fee for a motorcycle endorsement and motorcycle endorsement instruction permit shall be deposited in the state highway account; 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) Twelve dollars and seventy cents ($12.70) of each fee for a four-year class D driver's license, and twenty dollars and forty cents ($20.40) of each fee for an eight-year class D driver's license, and ten dollars and fifty cents ($10.50) of each fee charged for a license pursuant to subsections (1)(d) and (e) of this section, and six dollars and eighty-three cents ($6.83) 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) Seven dollars and forty cents ($7.40) 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) Ten dollars ($10.00) of each fee for a class A, B or C skills test shall be deposited in the state highway account; 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) Six dollars and fifty cents ($6.50) of each fee for a class D skills test shall be deposited into the state highway account.

(9) The contractor administering a class A, B or C skills test shall be entitled to not more than sixty dollars ($60.00) 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) Sixty dollars ($60.00) of each restricted driving permit and each restricted school attendance driving permit shall be deposited in the state highway account.

(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 4. That Section 49-307, Idaho Code, be, and the same is hereby amended to read as follows:

49-307. 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 shall pay a nonrefundable fee of fifteen dollars ($15.00). Five dollars ($5.00) 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) 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. 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~~ shall expire five (5) days after the permittee's eighteenth birthday for permittees fourteen and one-half (14 1/2) years of age through seventeen and one-half (17 1/2) years of age. The class D driver's training instruction permit shall expire one hundred eighty (180) days from the date of issue for persons seventeen and one-half (17 1/2) years of age or older. 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 or a class D driver's training instruction permit.

(5) The class D driver's training instruction permit shall be issued to the instructor of the course.

(6) Class D supervised instruction permit.

(a) Upon successful completion of the class D driver's training course, the driver's training instructor shall ~~date~~ submit the student log to the county driver's license office and ~~sign~~ give 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~~.

(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 accompanied 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, the 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~~ gave 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 the 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 fee~~s~~, 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 (7).

(8) Upon completion of the requirements in subsection (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.

(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.

(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 February 24, 2010.

CHAPTER 17
(S.B. No. 1302)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE OFFICE OF ENERGY RESOURCES FOR FISCAL YEAR 2010; REDUCING THE APPROPRIATION TO THE OFFICE OF ENERGY RESOURCES FOR FISCAL YEAR 2010; 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 292, Laws of 2009, there is hereby appropriated to the Office of Energy Resources the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2009, through June 30, 2010:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
Indirect Cost Recovery Fund	$515,200				$515,200
American Reinvestment Fund	798,100	$12,137,000	$4,000	$11,897,700	24,836,800
Federal Grant Fund	301,300				301,300
TOTAL	$1,614,600	$12,137,000	$4,000	$11,897,700	$25,653,300

SECTION 2. The appropriation made in Section 1, Chapter 292, Laws of 2009, to the Office of Energy Resources is hereby reduced by the following amounts according to the designated expense class from the listed funds for the period July 1, 2009, through June 30, 2010:

FOR:	
Personnel Costs	$553,700
FROM:	
Renewable Energy Resources Fund	$35,100
Miscellaneous Revenue Fund	49,200
Petroleum Price Violation Fund	469,400
TOTAL	$553,700

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 February 24, 2010.

CHAPTER 18
(S.B. No. 1307)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF SELF-GOVERNING AGENCIES FOR THE BOARD OF ENGINEERS AND LAND SURVEYORS UNDER THE REGULATORY BOARDS FOR FISCAL YEAR 2010; 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 2, Chapter 316, Laws of 2009, there is hereby appropriated to the Board of Engineers and Land Surveyors under the regulatory boards within the Department of Self-Governing Agencies 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, 2009, through June 30, 2010:

BOARD OF ENGINEERS AND LAND SURVEYORS:

FOR:	
Personnel Costs	$4,000
Operating Expenditures	46,000
TOTAL	$50,000
FROM:	
State Regulatory Fund	$50,000

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

Approved February 26, 2010.

CHAPTER 19
(H.B. No. 390)

AN ACT

RELATING TO THE STATE LIQUOR DIVISION; AMENDING SECTION 23-207, IDAHO CODE, TO REVISE PROVISIONS RELATING TO RULES AND REGULATIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 23-311, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CONTAINERS AND TO PROVIDE CORRECT TERMINOLOGY; AND AMENDING SECTION 23-610, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE POSSESSION OF LIQUOR NOT SUBJECT TO REGULATION BY THE DIVISION AND TO PROVIDE CORRECT TERMINOLOGY.

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

SECTION 1. That Section 23-207, Idaho Code, be, and the same is hereby amended to read as follows:

23-207. SPECIFIC RULES AND REGULATIONS. Without attempting or intending to limit the general powers of the director of the division contained in section 23-206, Idaho Code, such powers shall extend to and include the following:

(a) To prescribe the duties of the secretary, and to supervise his conduct while in the discharge of his duties.

(b) Subject to the provisions of chapter 53, title 67, Idaho Code, to prescribe the qualifications of and to select clerks, accountants, agents, vendors, inspectors, servants, legal counsel, and other personnel to conduct its business and perform its functions; to require that those holding positions of trust be bonded to the state of Idaho in the time, form and manner prescribed by chapter 8, title 59, Idaho Code; to fix the compensation of all appointees and employees, assign their duties, and to discharge them.

(c) To regulate the management, operation, bookkeeping, reporting, equipment, records, and merchandise of state liquor stores and distribution stations and warehouses.

(d) To regulate the importation, purchase, transportation, and storage of alcoholic liquor and the furnishing of alcoholic liquor to state liquor stores, distribution stations, and warehouses established under this act.

(e) To determine the classes, varieties, and brands of alcoholic liquors to be kept in state warehouses and for sale at state liquor stores and distribution stations.

(f) To determine the nature, form, and capacity of packages containing liquor kept or sold.

(g) To prescribe the kinds and character of official seals or labels to be attached to packages of liquor sold to a ~~licensed premises~~ licensee as defined in chapter 9, title 23, Idaho Code. No official seals or labels shall be required to be attached to packages of liquor sold to the general public, at a liquor store or a distributing station~~, which is not a licensed premises through liquor stores or distributing stations~~.

(h) From time to time to fix the sale prices, which shall be uniform throughout the state, of the different classes, varieties, or brands of alcoholic liquor, and to issue and distribute price lists thereof.

(i)~~)~~ To prescribe, prepare, and furnish printed forms and information blanks necessary or convenient for administering this act, and printed copies of the regulations made thereunder. To contract for the printing thereof and of all necessary records and reports.

(j) To regulate the issuance, suspension and revocation of permits and licenses to purchase, manufacture and handle or traffic in alcoholic liquor.

(k) To prescribe the conditions and qualifications necessary for obtaining permits and licenses, and the conditions of use of privileges under them; and to provide for the inspection of the records and the conduct of use of permittees and licensees.

(l) To prescribe the kind, quality, and character of alcoholic liquors which may be purchased or sold under any and all licenses and permits, including the quantity which may be purchased or sold at any one (1) time or within any specified period of time.

SECTION 2. That Section 23-311, Idaho Code, be, and the same is hereby amended to read as follows:

23-311. CONTAINERS. No alcoholic liquor shall be sold to any purchaser, ~~which~~ who is not a ~~licensed premises~~ licensee as defined in chapter 9, title 23, Idaho Code, except in a sealed container ~~division~~ and no such container shall be opened upon the premises of any state warehouse, store, or distributing station. No alcoholic liquor shall be sold to a ~~licensed premises~~ licensee as defined in chapter 9, title 23, Idaho Code, except in a sealed container with the official seal or label prescribed by the ~~dispensary~~ division.

SECTION 3. That Section 23-610, Idaho Code, be, and the same is hereby amended to read as follows:

23-610. POSSESSION OF LIQUOR NOT SUBJECT TO REGULATION BY ~~DISPENSARY~~ DIVISION -- ILLEGAL -- EXCEPTIONS. It shall be unlawful for any person, ~~which~~ who is not a ~~licensed premises~~ licensee as defined in chapter 9, title 23, Idaho Code, to possess more than two (2) quarts of alcoholic liquor that has not been subjected to regulation by the division, except public carriers transporting alcoholic liquor for the division. All ~~licensed premises~~ licensees as defined in chapter 9, title 23, Idaho Code, shall have liquor to which is affixed the official seal or label prescribed by the liquor ~~dispensary~~ division.

Approved February 26, 2010.

CHAPTER 20
(H.B. No. 412)

AN ACT

RELATING TO ADMINISTRATIVE RULES; AMENDING SECTION 67-5201, IDAHO CODE, TO DEFINE A TERM AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-5204, IDAHO CODE, TO PROVIDE FOR ELECTRONIC PUBLICATION OF THE IDAHO ADMINISTRATIVE CODE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-5205, IDAHO CODE, TO PROVIDE FOR ELECTRONIC COPIES OF THE IDAHO ADMINISTRATIVE CODE, TO REVISE LANGUAGE RELATING TO THE FORMAT, COSTS AND DISTRIBUTION OF SUCH CODE, AND TO REVISE LANGUAGE RELATING TO CERTAIN FEES; AMENDING SECTION 67-5226, IDAHO CODE, TO REVISE LANGUAGE RELATING TO AN EXEMPTION FROM CERTAIN REQUIREMENTS OF IDAHO CODE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 67-5201, Idaho Code, be, and the same is hereby amended to read as follows:

67-5201. DEFINITIONS. As used in this act:

(1) "Administrative code" means the Idaho administrative code established in this chapter.

(2) "Agency" means each state board, commission, department or officer authorized by law to make rules or to determine contested cases, but does not include the legislative or judicial branches, executive officers listed in section 1, article IV, of the constitution of the state of Idaho in the exercise of powers derived directly and exclusively from the constitution, the state militia or the state board of correction.

(3) "Agency action" means:

(a) ~~t~~The whole or part of a rule or order;

(b) ~~t~~The failure to issue a rule or order; or

(c) ~~a~~An agency's performance of, or failure to perform, any duty placed on it by law.

(4) "Agency head" means an individual or body of individuals in whom the ultimate legal authority of the agency is vested by any provision of law.

(5) "Bulletin" means the Idaho administrative bulletin established in this chapter.

(6) "Contested case" means a proceeding which results in the issuance of an order.

(7) "Coordinator" means the administrative rules coordinator prescribed in section 67-5202, Idaho Code.

(8) "Document" means any executive order, notice, rule or statement of policy of an agency.

(9) "Final rule" means a rule that has been adopted by an agency under the regular rulemaking process and is in effect.

(10) "License" means the whole or part of any agency permit, certificate, approval, registration, charter, or similar form of authorization required by law, but does not include a license required solely for revenue purposes.

(11) "Official text" means the text of a document issued, prescribed, or promulgated by an agency in accordance with this chapter, and is the only legally enforceable text of such document. Judicial notice shall be taken of all documents issued, prescribed, or promulgated in accordance with this chapter.

(12) "Order" means an agency action of particular applicability that determines the legal rights, duties, privileges, immunities, or other legal interests of one (1) or more specific persons.

(13) "Party" means each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party.

(14) "Pending rule" means a rule that has been adopted by an agency under the regular rulemaking process and remains subject to legislative review.

(15) "Person" means any individual, partnership, corporation, association, governmental subdivision or agency, or public or private organization or entity of any character.

(16) "Proposed rule" means a rule published in the bulletin as provided in section 67-5221, Idaho Code.

(17) "Provision of law" means the whole or a part of the state or federal constitution, or of any state or federal:

(a) ~~s~~Statute; or

(b) ~~r~~Rule or decision of court.

(18) "Publish" means to bring before the public by publication in the bulletin or administrative code, by electronic means or as otherwise specifically provided by law.

(19) "Rule" means the whole or a part of an agency statement of general applicability that has been promulgated in compliance with the provisions of this chapter and that implements, interprets, or prescribes:

(a) ~~l~~Law or policy; or

(b) ~~t~~The procedure or practice requirements of an agency. The term includes the amendment, repeal, or suspension of an existing rule, but does not include:

(i) ~~s~~Statements concerning only the internal management or internal personnel policies of an agency and not affecting private rights of the public or procedures available to the public; or

(ii) ~~d~~Declaratory rulings issued pursuant to section 67-5232, Idaho Code; or

(iii) ~~i~~Intra-agency memoranda; or

(iv) ~~a~~Any written statements given by an agency which pertain to an interpretation of a rule or to the documentation of compliance with a rule.

(20) "Rulemaking" means the process for formulation, adoption, amendment or repeal of a rule.

(21) "Standard" means a manual, guideline, criterion, specification, requirement, measurement or other authoritative principle providing a model or pattern in comparison with which the correctness or appropriateness of specified actions, practices or procedures may be determined.

(22) "Submitted for review" means that a rule has been provided to the legislature for review at a regular or special legislative session as provided in section 67-5291, Idaho Code.

(23) "Temporary rule" means a rule authorized by the governor to become effective before it has been submitted to the legislature for review and

which expires by its own terms or by operation of law no later than the conclusion of the next succeeding regular legislative session unless extended or replaced by a final rule as provided in section 67-5226, Idaho Code.

SECTION 2. That Section 67-5204, Idaho Code, be, and the same is hereby amended to read as follows:

67-5204. PUBLICATION OF ADMINISTRATIVE CODE. (1) The administrative rules coordinator shall ~~annually~~ every year publish electronically a publication to be known as the "Idaho Administrative Code."

(2) The administrative code shall be a codification of:

(a) ~~a~~All executive orders of the governor that have been published in the bulletin and have not been rescinded;

(b) ~~t~~The text of all final rules;

(c) ~~a~~Any legislative documents affecting a final agency rule; and

(d) ~~a~~All documents required by law to be published in the administrative code.

(3) The text of all documents published electronically in the administrative code shall be the official text of that document. Judicial notice shall be taken of all documents published electronically in the administrative code.

SECTION 3. 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~~ electronic 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 electronic 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 electronic 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 electronic 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, The College of Idaho Library, Brigham Young University-Idaho Library and Twin Falls Public Library.

In addition to those free electronic copies required to be distributed by this section, the coordinator shall provide to the legislature free electronic copies of all rules subject to review by the legislature pursuant to section 67-5291, Idaho Code, and may distribute other free electronic 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 electronically 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 such 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 electronically 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 electronically 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 4. That Section 67-5226, Idaho Code, be, and the same is hereby amended to read as follows:

67-5226. TEMPORARY RULES. (1) If the governor finds that:

(a) ~~p~~Protection of the public health, safety, or welfare; or

(b) ~~c~~Compliance with deadlines in amendments to governing law or federal programs; or

(c) ~~c~~Conferring a benefit;

requires a rule to become effective before it has been submitted to the legislature for review the agency may proceed with such notice as is practicable and adopt a temporary rule, except as otherwise provided in section 67-5229(1)(d), Idaho Code. The agency may make the temporary rule immediately effective. The agency shall incorporate the required finding and a concise statement of its supporting reasons in each rule adopted in reliance upon the provisions of this subsection.

(2) A rule adopted pursuant to subsection (1) of this section which imposes a fee or charge may become effective under this section before it has been approved, amended or modified by concurrent resolution only if the governor finds that the fee or charge is necessary to avoid immediate danger which justifies the imposition of the fee or charge.

(3) In no case shall a rule adopted pursuant to this section remain in effect beyond the conclusion of the next succeeding regular session of the legislature unless the rule is approved, amended or modified by concurrent resolution, in which case the rule may remain in effect until the time spec-

ified in the resolution or until the rule has been replaced by a final rule which has become effective as provided in section 67-5224(5), Idaho Code.

(4) Temporary rules shall be published in the first available issue of the bulletin.

(5) Temporary rules are not subject to the requirements of section 67-5223, Idaho Code, provided that ~~the agency adopting the temporary rule sends to the director of legislative services a copy of the temporary rule at the same time the agency sends the temporary rule to the office of~~ the administrative rules coordinator ~~for publication in the bulletin~~ sends a copy of the temporary rules to the director of the legislative services office.

(6) Concurrently with the promulgation of a rule under this section, or as soon as reasonably possible thereafter, an agency shall commence the promulgation of a proposed rule in accordance with the rulemaking requirements of this chapter, unless the temporary rule adopted by the agency will expire by its own terms or by operation of law before the proposed rule could become final.

Approved February 26, 2010.

CHAPTER 21
(H.B. No. 413)

AN ACT

RELATING TO ADMINISTRATIVE RULES; AMENDING SECTION 67-5203, IDAHO CODE, TO PROVIDE FOR THE ELECTRONIC PUBLICATION OF THE IDAHO ADMINISTRATIVE BULLETIN, TO PROVIDE THAT ALL DOCUMENTS PUBLISHED ELECTRONICALLY IN THE BULLETIN SHALL BE THE OFFICIAL TEXT, TO PROVIDE FOR JUDICIAL NOTICE, TO REMOVE LANGUAGE PROVIDING THAT THE COORDINATOR SHALL PROVIDE FOR ACCESS TO THE BULLETIN AND THE ADMINISTRATIVE CODE BY ELECTRONIC MEANS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 67-5203, Idaho Code, be, and the same is hereby amended to read as follows:

67-5203. PUBLICATION OF ADMINISTRATIVE BULLETIN. (1) All documents required or authorized in this chapter or by other provision of law to be published shall initially be published electronically in the bulletin. The bulletin shall be published electronically by the administrative rules coordinator not less frequently than the first Wednesday of each calendar month, but not more frequently than every other week.

(2) The bulletin shall contain all previously unpublished documents filed with the coordinator in compliance with a publication schedule established by the coordinator.

(3) Each issue of the bulletin shall contain a table of contents. A cumulative index shall be published at least every three (3) months.

(4) The following documents, if not required to be otherwise published, shall be published in the bulletin:

(a) ~~a~~All executive orders of the governor;

(b) ~~a~~Agency notices of intent to promulgate rules, notices of proposed rules, and the text of all proposed and pending rules, together with any explanatory material supplied by the agency;

(c) ~~a~~All agency documents required by law to be published in the bulletin; and

(d) ~~a~~Any legislative documents affecting a final agency rule.

(5) The text of all documents published electronically in the bulletin shall be the official text of that document until the document has been published in the administrative code. Judicial notice shall be taken of all documents published electronically in the bulletin.

~~(6) The coordinator shall provide a process for access to the contents of the bulletin and to the administrative code by electronic means.~~

Approved February 26, 2010.

CHAPTER 22
(H.B. No. 437)

AN ACT

RELATING TO THE SECRETARY OF STATE; AMENDING SECTION 67-6607, IDAHO CODE, TO ALLOW THE FILING OF REPORTS BY ELECTRONIC MEANS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-6619, IDAHO CODE, TO ALLOW THE FILING OF REPORTS BY ELECTRONIC MEANS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-6623, IDAHO CODE, TO PROVIDE ADDITIONAL DUTIES OF THE SECRETARY OF STATE AND TO MAKE TECHNICAL CORRECTIONS; DECLARING AN EMERGENCY AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. That Section 67-6607, Idaho Code, be, and the same is hereby amended to read as follows:

67-6607. REPORTS OF CONTRIBUTIONS AND EXPENDITURES. (a) The political treasurer for each candidate and the political treasurer of each political committee shall file with the secretary of state:

(1) Not more than fourteen (14) days and not less than seven (7) days before the date of a primary election in which the candidate or political committee is involved, a statement of all contributions received and all expenditures or encumbrances made by or on behalf of the candidate or political committee prior to the fifteenth day before the primary election;

(2) Not more than thirty (30) days after the date of a primary election in which a candidate or a political committee is involved, a statement of all contributions received and all expenditures or encumbrances made by or on behalf of the candidate or political committee to cover the period since the fifteenth day before the primary election to and including the tenth day after the primary election;

(3) For all political committees supporting or opposing measures, a statement of all contributions received and all expenditures or encumbrances made by or on behalf of the measure or any candidate or made by or against the measure or any candidate shall be filed on the same dates provided in paragraphs (1), (2), (4), (5) and (6) of this subsection;

(4) Not later than October 10 immediately preceding a general election in which the candidate or political committee is involved, a statement of all contributions received and all expenditures or encumbrances made by or on behalf of the candidate or political committee since and including the eleventh day after the date of the primary election and to and including September 30;

(5) Not more than fourteen (14) days and not less than seven (7) days before the date of a general election in which the candidate or political committee is involved, a statement of all contributions received and all expenditures or encumbrances made by or on behalf of the candidate or political committee since and including October 1 and to and including the sixteenth day before the general election, together with

a cumulative statement showing all such contributions and expenditures or encumbrances to and including the sixteenth day before the general election; and

(6) Not more than thirty (30) days after the date of a general election in which the candidate or political committee is involved, a statement of all contributions received and all expenditures or encumbrances made by or on behalf of the candidate or political committee to cover the period since the fifteenth day before the general election to and including the tenth day after the general election.

(b) For the first report under this section the reporting period shall cover the period beginning with the first contribution, expenditure, or encumbrance.

(c) Notwithstanding any other reports required under this section, the political treasurer for each candidate and any political committee supporting or opposing a measure shall notify the secretary of state, in writing, of any contribution of one thousand dollars ($1,000) or more, received by the political treasurer after the sixteenth day before, but more than forty-eight (48) hours before, any primary or general election. This notification shall be made within forty-eight (48) hours after the receipt of such contribution and shall include the name of the candidate or measure, the identification of the contributor, and the date of receipt and amount of the contribution. The notification shall be in addition to the reporting of these contributions in the ~~post-election~~ postelection report.

(d) For all reports required pursuant to this section the secretary of state shall accept the date of a postmark as the date of receipt except for the seven (7) day ~~pre-election~~ preelection reports which must be received by no later than 5:00 p.m. on the seventh day preceding the primary or general election.

(e) Any reports required to be filed under the provisions of this section may also be filed by means of an electronic facsimile transmission machine and may be filed by other electronic means as approved by the secretary of state.

SECTION 2. That Section 67-6619, Idaho Code, be, and the same is hereby amended to read as follows:

67-6619. REPORTING BY LOBBYISTS. (1) Any lobbyist registered under section 67-6617, Idaho Code, shall file with the secretary of state an annual report of his lobbying activities signed by both the lobbyist and the lobbyist's employer or employers. The reports shall be made in the form and manner prescribed by the secretary of state and shall be filed on January 31 of each year. In addition to the annual report, while the legislature is in session, every registered lobbyist shall file interim monthly periodic reports for each month or portion thereof that the legislature is in session, which reports need to be signed only by the lobbyist and which shall be filed within fifteen (15) days of the first day of the month for the activities of the month just past, provided however, that any lobbyist covered under this chapter whose lobbying activities are confined only to executive officials shall be required to file interim periodic reports semiannually on January 31 and July 31, which reports need to be signed by the lobbyist and the lobbyist's employer or employers.

(2) Each annual, semiannual and monthly periodic report shall contain:

(a) The total of all expenditures made or incurred on behalf of such lobbyist by the lobbyist's employer or employers, not including payments made directly to the lobbyist, during the period covered by the report. The totals shall be segregated according to financial category including, but not limited to: entertainment, food and refreshment, honoraria, travel, lodging, advertising and other like expenditures. Reimbursed personal living and travel expenses of a lobbyist made or in-

curred directly or indirectly for any lobbying purpose need not be reported.

(b) The name of any legislator or executive official to whom or for whose benefit on any one (1) occasion, an expenditure in excess of: (i) seventy-five dollars ($75.00) per person from 2008 through December 31, 2010, and (ii) in excess of one hundred dollars ($100) per person on and after January 1, 2011, for the purpose of lobbying, is made or incurred and the date, name of payee, purpose and amount of such expenditure. Expenditures for the benefit of the members of the household of a legislator or executive official shall also be itemized if such expenditure exceeds the amount listed in this subsection.

(c) In the case of a lobbyist employed by more than one (1) employer, the proportionate amount of such expenditures in each category made or incurred on behalf of each of his employers.

(d) The subject matter of proposed legislation and the number of each senate or house bill, resolution, memorial or other legislative activity or any rule, ratemaking decision, procurement, contract, bid or bid process, financial services agreement or bond in which the lobbyist has been engaged in supporting or opposing during the reporting period; provided that in the case of appropriations bills, the lobbyist shall enumerate the specific section or sections which he supported or opposed.

(e) The itemization threshold in subsection (2)(b) of this section shall be adjusted biennially by directive of the secretary of state, using consumer price index data compiled by the United States department of labor.

(3) Reports provided by this section to be filed under the provisions of this section may be filed by means of an electronic facsimile transmission machine and may be filed by other electronic means as approved by the secretary of state.

SECTION 3. That Section 67-6623, Idaho Code, be, and the same is hereby amended to read as follows:

67-6623. DUTIES OF SECRETARY OF STATE. The secretary of state is charged with enforcement of the provisions of this act, and in addition to duties otherwise prescribed herein, it shall be his duty:

(a) ~~t~~To prescribe forms for statements and other information required to be filed by this act, and to furnish such forms and instruction manual to persons required to file such statements and information;

(b) ~~t~~To make statements and other information filed with him available for public inspection and copying during regular office hours, and to make copying facilities available at a charge not to exceed actual cost;

(c) ~~t~~To preserve such statements and other information for a period of four (4) years from date of receipt;

(d) ~~t~~To make investigations with respect to statements filed under the provisions of this act, and with respect to alleged failures to file any statement required under the provisions of this act, and upon complaint by any person with respect to alleged violations of any part of this act;

(e) ~~t~~To report suspected violations of law to the appropriate law enforcement authorities;

(f) ~~t~~To prescribe and publish rules ~~and regulations,~~ in accordance with the provisions of chapter 52, title 67, Idaho Code, and to take such other actions as may be appropriate to carry out the provisions of this act;

(g) To prescribe methods of the filing of reports by electronic means.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, Sections 2 and 3 of this act shall be in full force and ef-

fect on and after passage and approval. Section 1 of this act shall be in full force and effect on and after July 1, 2010.

Approved February 26, 2010.

CHAPTER 23
(H.B. No. 451)

AN ACT

RELATING TO ENVIRONMENTAL QUALITY; AMENDING SECTION 39-103, IDAHO CODE, TO REVISE THE DEFINITION OF "PUBLIC WATER SUPPLY" AND TO DEFINE "PUBLIC DRINKING WATER SYSTEM."

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

SECTION 1. That Section 39-103, Idaho Code, be, and the same is hereby amended to read as follows:

39-103. DEFINITIONS. Whenever used or referred to in this chapter, unless a different meaning clearly appears from the context, the following terms shall have the following meanings:

(1) "Air contaminant" or "air contamination" means the presence in the outdoor atmosphere of any dust, fume, mist, smoke, radionuclide, vapor, gas or other gaseous fluid or particulate substance differing in composition from or exceeding in concentration the natural components of the atmosphere.

(2) "Air pollution" means the presence in the outdoor atmosphere of any contaminant or combination thereof in such quantity of such nature and duration and under such conditions as would be injurious to human health or welfare, to animal or plant life, or to property, or to interfere unreasonably with the enjoyment of life or property.

(3) "Board" means the board of environmental quality.

(4) "Cyanidation" means the method of extracting target precious metals from ores by treatment with cyanide solution, which is the primary leaching agent for extraction.

(5) "Cyanidation facility" means that portion of a new ore processing facility, or a material modification or a material expansion of that portion of an existing ore processing facility that utilizes cyanidation and is intended to contain, treat, or dispose of cyanide containing materials including spent ore, tailings, and process water.

(6) "Department" means the department of environmental quality.

(7) "Director" means the director of the department of environmental quality or the director's designee.

(8) "Emission" means any controlled or uncontrolled release or discharge into the outdoor atmosphere of any air contaminant or combination thereof. Emission also includes any release or discharge of any air contaminant from a stack, vent or other means into the outdoor atmosphere that originates from an emission unit.

(9) "Laboratory" means not only facilities for biological, serological, biophysical, cytological and pathological tests, but also facilities for the chemical or other examination of materials from water or other substances.

(10) "Medical waste combustor" means any device, incinerator, furnace, boiler or burner, and any and all appurtenances thereto, which burns or pyrolyzes medical waste consisting of human or animal tissues, medical cultures, human blood or blood products, materials contaminated with human blood or tissues, used or unused surgical wastes, used or unused sharps, including hypodermic needles, suture needles, syringes and scalpel blades.

(11) "Person" means any individual, association, partnership, firm, joint stock company, trust, estate, political subdivision, public or private corporation, state or federal governmental department, agency or instrumentality, or any other legal entity which is recognized by law as the subject of rights and duties.

(12) "Public water supply" ~~means all mains, pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use in incorporated municipalities; or unincorporated communities where ten (10) or more separate premises or households are being served or intended to be served; or any other supply which serves water to the public and which the department declares to have potential health significance~~ or "public drinking water system" means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen (15) service connections, regardless of the number of water sources or configuration of the distribution system, or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes any collection, treatment, storage and distribution facilities that are under the control of the operator of such system and used primarily in connection with such system, and any collection or pretreatment storage facilities not under such control that are used primarily in connection with such system. Such term does not include any special irrigation district.

(13) "Solid waste" means garbage, refuse, radionuclides and other discarded solid materials, including solid waste materials resulting from industrial, commercial and agricultural operations and from community activities but does not include solid or dissolved materials in domestic sewage or other significant pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents, dissolved materials in irrigation return flows or other common water pollutants.

(14) "Solid waste disposal" means the collection, storage, treatment, utilization, processing or final disposal of solid waste.

(15) "State" means the state of Idaho.

(16) "Substantive" means that which creates, defines or regulates the rights of any person or implements, interprets or prescribes law or policy, but does not include statements concerning only the internal management of the department and not affecting private rights or procedures available to the public.

(17) "Water pollution" is such alteration of the physical, thermal, chemical, biological or radioactive properties of any waters of the state, or such discharge of any contaminant into the waters of the state as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare or to domestic, commercial, industrial, recreational, esthetic or other legitimate uses or to livestock, wild animals, birds, fish or other aquatic life.

(18) "Waters" means all accumulations of water, surface and underground, natural and artificial, public and private or parts thereof which are wholly or partially within, flow through or border upon this state except for private waters as defined in section 42-212, Idaho Code.

Approved February 26, 2010.

CHAPTER 24
(H.B. No. 452)

AN ACT

RELATING TO PUBLIC HEALTH DISTRICTS; AMENDING SECTION 39-416, IDAHO CODE, TO REMOVE REFERENCE TO THE SUBMISSION OF STANDARDS TO THE DIRECTOR OF LEGISLATIVE SERVICES, TO REVISE PROVISIONS RELATED TO THE SUBMISSION OF RULES FOR REVIEW AND COMMENT, TO PROVIDE THAT CERTAIN RULES SHALL BE SUBMITTED TO THE STATE BOARD OF ENVIRONMENTAL QUALITY FOR REVIEW AND COMMENT AND CERTAIN RULES SHALL BE SUBMITTED TO THE STATE BOARD OF HEALTH AND WELFARE FOR REVIEW AND COMMENT, AND TO PROVIDE THAT THE STATE BOARD OF ENVIRONMENTAL QUALITY SHALL TAKE SPECIFIED ACTION ON CERTAIN RULES.

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

SECTION 1. That Section 39-416, Idaho Code, be, and the same is hereby amended to read as follows:

39-416. RULES ADOPTED BY DISTRICT BOARD -- PROCEDURE. (1) The district board by the affirmative vote of a majority of its members may adopt, amend or rescind rules and standards as it deems necessary to carry out the purposes and provisions of this act.

(2) Every rule or standard adopted, amended, or rescinded by the district board shall be done in a manner conforming to the provisions of chapter 52, title 67, Idaho Code.

(3) At the same time that proposed rules ~~and standards~~ are transmitted to the director of legislative services, they shall be submitted for review and comment to ~~the state board of health and welfare, and to~~ the board of county commissioners of each county within the public health district's jurisdiction. <u>If the rules relate to environmental protection or programs administered by the department of environmental quality, the rules shall also be submitted for review and comment to the state board of environmental quality. All other rules that do not relate to environmental protection or programs administered by the department of environmental quality shall be submitted for review and comment to the state board of health and welfare.</u> The state board of health and welfare<u>, or the state board of environmental quality,</u> shall, within seventy-five (75) days of receipt of a district board's proposed rules, disapprove of the adoption of the rules if, on the advice of the attorney general, such rules would be in conflict with state laws or rules. The state board of health and welfare<u>, or the state board of environmental quality,</u> shall immediately advise the district board as to the reason for the disapproval.

(4) This section does not apply to measures adopted for the internal operation of the district board or for federal programs where the regulations are established by the federal government but shall apply to all measures affecting the public at large or any identifiable segment thereof.

Approved February 26, 2010.

CHAPTER 25
(H.B. No. 453)

AN ACT

RELATING TO WATER QUALITY; AMENDING SECTION 39-3627, IDAHO CODE, TO INCREASE THE PERCENTAGE OF THE TOTAL STATE REVOLVING LOAN FUND THAT MAY BE USED FOR CERTAIN NONPOINT SOURCE POLLUTION CONTROL PROJECTS.

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

SECTION 1. That Section 39-3627, Idaho Code, be, and the same is hereby amended to read as follows:

39-3627. PAYMENTS BY STATE BOARD OF ENVIRONMENTAL QUALITY -- CONTRACTS WITH MUNICIPALITIES AND COMMUNITY AND NONPROFIT NONCOMMUNITY PUBLIC WATER SYSTEMS -- RULES -- APPROVAL OF ATTORNEY GENERAL -- AUDIT OF PAYMENTS. (1) The Idaho board of environmental quality may make payments not to exceed ninety percent (90%) of the estimated reasonable cost of an eligible construction project funded by a grant. Payments may be made which are equal to one hundred percent (100%) of the estimated reasonable cost of an eligible construction project funded by a loan.

(2) The Idaho board of environmental quality may, in the name of the state of Idaho, enter into contracts with municipalities and community and nonprofit noncommunity public water systems and any such municipality and community and nonprofit noncommunity public water system may enter into a contract with the Idaho board of environmental quality, concerning eligible construction projects. Any such contract may include such provisions as may be agreed upon by the parties thereto, and shall include, in substance, the following provisions:

(a) An estimate of the reasonable cost of the project as determined by the Idaho board of environmental quality.

(b) An agreement by the municipality or community and nonprofit noncommunity public drinking water system, binding for the actual service life of the sewage treatment works or the actual service life of the community and nonprofit noncommunity public drinking water system:

(i) To proceed expeditiously with, and complete, the project in accordance with plans approved pursuant to section 39-118, Idaho Code.

(ii) To commence operation of the sewage treatment works or community and nonprofit noncommunity public drinking water system on completion of the project, and not to discontinue operation or dispose of the sewage treatment works or community and nonprofit noncommunity public drinking water system without the approval of the board of environmental quality.

(iii) To operate and maintain the sewage treatment works or community and nonprofit noncommunity public drinking water system in accordance with applicable provisions and rules of the board.

(iv) To make available on an equitable basis the services of the sewage treatment works or community and nonprofit noncommunity public drinking water system to the residents and commercial and industrial establishments of areas it was designed to serve.

(v) To provide for the payment of the municipality's share or the community and nonprofit noncommunity public drinking water system's share of the cost of the project when the project is built using grant funds.

(vi) To develop and to secure the approval of the department of plans for the operation and maintenance of the sewage treatment works or community and nonprofit noncommunity public drinking wa-

ter system; and of plans and programs for the recovery of the capital costs and operating expenses of the works or system.

(vii) To allow the board to make loans of up to one hundred percent (100%) and supplemental grants based upon financial capability to a municipality for the estimated reasonable cost of an eligible project, which may include treatment of nondomestic wastewater.

(viii) To provide for the accumulation of funds through the use of taxing powers, through charges made for services, through revenue bonds, or otherwise, for the purposes of: (1) capital replacement, (2) future improvement, betterment, and extension of such works occasioned by increased wastewater loadings on the works, and (3) establishing a fund dedicated solely to repayment of principal and interest of loans made subsequent to this chapter.

(ix) To commence annual principal and interest payments not later than one (1) year from the date construction is completed and to provide for full amortization of loans not later than twenty (20) years from the date project construction is completed.

(c) The terms under which the Idaho board of environmental quality may unilaterally terminate the contract and/or seek repayment from the municipality or community and nonprofit noncommunity public drinking water system of sums already paid pursuant to the contract for noncompliance by the municipality with the terms and conditions of the contract and the provisions of this chapter.

(3) The board of environmental quality may, in the name of the state of Idaho, enter into loan contracts with applicants for the implementation of nonpoint source pollution control programs. To be eligible for a loan the project proposed by an applicant must be consistent with the state nonpoint source management plan. Up to ~~five~~ twenty percent (~~5~~20%) of the total state revolving loan fund may be used for nonpoint source pollution control projects which demonstrate a benefit/nexus to a municipality.

(4) The board may adopt rules necessary for the making and enforcing of contracts hereunder and establishing procedures to be followed in applying for state construction grants or loans or training grants herein authorized as shall be necessary for the effective administration of the grants and loans program.

(5) All contracts entered into pursuant to this section shall be subject to approval by the attorney general as to form. All payments by the state pursuant to such contracts shall be made after audit and upon warrant as provided by law on vouchers approved by the director.

Approved February 26, 2010.

CHAPTER 26
(S.B. No. 1253)

AN ACT

RELATING TO AN APPEAL; AMENDING SECTION 16-1512, IDAHO CODE, TO REVISE PROVISIONS RELATING TO AN APPEAL FROM AN ORDER GRANTING OR REFUSING TO GRANT AN ORDER OF ADOPTION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 16-1625, IDAHO CODE, TO REVISE PROVISIONS RELATING TO AN APPEAL FROM CERTAIN COURT ORDERS OR DECREES; AND AMENDING SECTION 16-2014, IDAHO CODE, TO REVISE PROVISIONS RELATING TO AN APPEAL FROM A COURT ORDER OR DECREE GRANTING OR REFUSING TO GRANT A TERMINATION.

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

SECTION 1. That Section 16-1512, Idaho Code, be, and the same is hereby amended to read as follows:

16-1512. APPEAL FROM ORDER ~~TO DISTRICT COURT~~ -- BINDING EFFECT OF ADOPTION ORDER. (1) Any appeal ~~may be taken to the district court of the county~~ from an order ~~of the magistrates division of the district court~~ granting or refusing to grant an order of adoption ~~or from any other intermediate order in adoption proceedings~~ shall be taken to the supreme court.

(2) After the order of adoption by the court becomes final, no party to an adoption proceeding, nor anyone claiming under such party, may later question the validity ~~or~~ of the adoption proceedings by reason of any defect or irregularity therein, jurisdiction or otherwise, but shall be fully bound by the order, except for such appeal as may be allowed in subsection (1) of this section. In no event, for any reason, other than fraud on the part of the party adopting a child, shall an adoption be overturned by any court or collaterally attacked by any person or entity after six (6) months from the date the order of adoption becomes final. This provision is intended as a statute of repose.

SECTION 2. That Section 16-1625, Idaho Code, be, and the same is hereby amended to read as follows:

16-1625. APPEAL -- EFFECT ON CUSTODY. (1) An aggrieved party may appeal the following orders or decrees of the court to the district court, ~~within thirty (30) days of the filing of such order or decree~~ or may seek a direct permissive appeal to the supreme court as provided by rules adopted by the supreme court:

(a) An adjudicatory decree entered pursuant to section 16-1619, Idaho Code;

(b) Any order subsequent to the adjudicatory decree that vests legal custody of the child in the department or other authorized agency;

(c) Any order subsequent to the adjudicatory decree that authorizes or mandates the department to cease reasonable efforts to make it possible to return the child to his home, including an order finding that the parent subjected the child to aggravated circumstances as set forth in section 16-1619(6)(d), Idaho Code; or

(d) An order of dismissal.

(2) Where the order affects the custody of a child, the appeal shall be heard at the earliest practicable time. The pendency of an appeal shall not suspend the order of the court regarding a child, and it shall not discharge the child from the legal custody of the authorized agency to whose care he has been committed, unless otherwise ordered by the district court. No bond or undertaking shall be required of any party appealing to the district court under the provisions of this section. Any final order or judgment of the district court shall be appealable to the supreme court of the state of Idaho in the same manner as appeals in other civil actions. The filing of the notice of appeal shall not, unless otherwise ordered, stay the order of the district court.

SECTION 3. That Section 16-2014, Idaho Code, be, and the same is hereby amended to read as follows:

16-2014. APPEALS. Any appeal ~~may be taken to the district court~~ from an order or decree of the court granting or refusing to grant a termination~~, in the manner and form as appeals are taken in other civil proceedings from the magistrates division of the district court to district courts~~ shall be taken to the supreme court, provided~~,~~ however, pendency of an appeal or application therefor shall not suspend the order of the court relative to termination of the parent-child relationship.

Approved March 4, 2010.

CHAPTER 27
(S.B. No. 1254)

AN ACT

RELATING TO THE IDAHO STATE BAR; AMENDING SECTION 3-405, IDAHO CODE, TO REVISE A DEFINITION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 3-405, Idaho Code, be, and the same is hereby amended to read as follows:

3-405. MEMBER OF THE IDAHO STATE BAR DEFINED. All persons who have been heretofore, or shall hereafter be, duly admitted to practice law before the ~~S~~supreme ~~C~~court of this state, and who have not been disbarred or suspended therefrom, and who shall have paid the license fee in this ~~Act~~ chapter provided for, and all attorney magistrates, judges of the district court and court of appeals, and ~~S~~supreme ~~C~~court~~s~~ justices of this state, and of the district court of the United States for Idaho, are hereby declared to be members of the Idaho ~~S~~state ~~B~~bar.

Approved March 4, 2010.

CHAPTER 28
(S.B. No. 1255)

AN ACT

RELATING TO THE ESCAPE OF PRISONERS; AMENDING SECTION 18-2505, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE ESCAPE BY A JUVENILE FROM CUSTODY; AND AMENDING SECTION 18-2506, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE ESCAPE BY A JUVENILE FROM CUSTODY.

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

SECTION 1. That Section 18-2505, Idaho Code, be, and the same is hereby amended to read as follows:

18-2505. ESCAPE BY ONE CHARGED WITH, CONVICTED OF, OR ON PROBATION FOR A FELONY -- ESCAPE BY A JUVENILE FROM CUSTODY. (1) Every prisoner charged with, convicted of, or on probation for a felony who is confined in any correctional facility, as defined in section 18-101A, Idaho Code, including any private correctional facility, or who while outside the walls of such correctional facility in the proper custody of any officer or person, or while in any factory, farm or other place without the walls of such correctional facility, who escapes or attempts to escape from such officer or person, or from such correctional facility, or from such factory, farm or other place without the walls of such correctional facility, shall be guilty of a felony, and upon conviction thereof, any such second term of imprisonment shall commence at the time he would otherwise have been discharged. Escape shall be deemed to include abandonment of a job site or work assignment without the permission of an employment supervisor or officer. Escape includes the intentional act of leaving the area of restriction set forth in a court order admitting a person to bail or release on a person's own recognizance with electronic or global positioning system tracking~~,~~ or monitoring, ~~and detention~~ or the area of restriction set forth in a sentencing order, except for leaving the area of restriction for the purpose of obtaining emergency medical care. A person may not be charged with the crime of escape for leaving the

aforementioned area of restriction unless the person was notified in writing by the court at the time of setting of bail, release or sentencing of the consequences of violating this section by intentionally leaving the area of restriction.

(2) Any person who is charged with, found to have committed, adjudicated for or is on probation for an offense which would be a felony if committed by an adult, and who is confined in a juvenile detention facility or other secure or nonsecure facility for juveniles and who escapes or attempts to escape from the facility or from the lawful custody of any officer or person shall be subject to proceedings under chapter 5, title 20, Idaho Code, for an offense which would be a felony if committed by an adult. If the juvenile is or has been proceeded against as an adult, pursuant to section 20-508 or 20-509, Idaho Code, the person shall be guilty of a felony for a violation of this section and shall be subject to adult criminal proceedings.

SECTION 2. That Section 18-2506, Idaho Code, be, and the same is hereby amended to read as follows:

18-2506. ESCAPE BY ONE CHARGED WITH OR CONVICTED OF A MISDEMEANOR -- ESCAPE BY A JUVENILE FROM CUSTODY.

(1) (a) Every prisoner charged with or convicted of a misdemeanor who is confined in any county jail or other place or who is engaged in any county work outside of such jail or other place, or who is in the lawful custody of any officer or person, who escapes or attempts to escape therefrom, is guilty of a misdemeanor. Escape includes the intentional act of leaving the area of restriction set forth in a court order admitting a person to bail or release on a person's own recognizance with electronic or global positioning system tracking~~,~~ or monitoring, ~~and detention~~ or the area of restriction set forth in a sentencing order, except for leaving the area of restriction for the purpose of obtaining emergency medical care. A person may not be charged with the crime of escape for leaving the aforementioned area of restriction unless the person was notified in writing by the court at the time of setting of bail, release or sentencing of the consequences of violating this section by intentionally leaving the area of restriction.

(b) In cases involving escape or attempted escape by use of threat, intimidation, force, violence, injury to person or property other than that of the prisoner, or wherein the escape or attempted escape was perpetrated by use or possession of any weapon, tool, instrument or other substance, the prisoner shall be guilty of a felony.

(2) Any person who is charged with, found to have committed, adjudicated for or is on probation for an offense which would be a misdemeanor if committed by an adult, and who is confined in a juvenile detention facility or other secure or nonsecure facility for juveniles and who escapes or attempts to escape from the facility or from the lawful custody of an officer or person, shall be subject to proceedings under the provisions of chapter 5, title 20, Idaho Code, for an act which would be a misdemeanor if committed by an adult, or, if the escape or attempted escape was undertaken as provided in subsection (1)(b) of this section, for an offense which would be a felony if committed by an adult. If the juvenile is or has been proceeded against as an adult, pursuant to section 20-508 or 20-509, Idaho Code, the person shall be guilty of a misdemeanor, or if subsection (1)(b) of this section applies, of a felony and, in either case, shall be subject to adult criminal proceedings.

Approved March 4, 2010.

CHAPTER 29
(H.B. No. 421)

AN ACT

RELATING TO ATTORNEY'S FEES AND COSTS; AMENDING SECTION 12-117, IDAHO CODE, TO CLARIFY WHEN ATTORNEY'S FEES, WITNESS FEES AND EXPENSES MAY BE AWARDED IN CERTAIN INSTANCES AND TO INCLUDE A DEFINITION; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 12-117, Idaho Code, be, and the same is hereby amended to read as follows:

12-117. ATTORNEY'S FEES, WITNESS FEES AND EXPENSES AWARDED IN CERTAIN INSTANCES. (1) Unless otherwise provided by statute, in any administrative proceeding or civil judicial proceeding involving as adverse parties a state agency~~, a city, a county or other taxing district~~ or political subdivision and a person, the state agency or political subdivision or the court, as the case may be, shall award the prevailing party reasonable attorney's fees, witness fees and other reasonable expenses, if ~~the court~~ it finds that the nonprevailing party ~~against whom the judgment is rendered~~ acted without a reasonable basis in fact or law.

(2) If ~~the prevailing party is awarded a partial judgment and the court finds the party against whom partial judgment is rendered acted without a reasonable basis in fact or law, the court shall allow the prevailing party's attorney's fees, witness fees and expenses in an amount which reflects the person's partial recovery~~ a party to an administrative proceeding or to a civil judicial proceeding prevails on a portion of the case, and the state agency or political subdivision or the court, as the case may be, finds that the nonprevailing party acted without a reasonable basis in fact or law with respect to that portion of the case, it shall award the partially prevailing party reasonable attorney's fees, witness fees and other reasonable expenses with respect to that portion of the case on which it prevailed.

(3) Expenses awarded against a state agency~~, city, county or other taxing district~~ or political subdivision pursuant to this section shall be paid from funds in the regular operating budget of the state agency~~, the city, the county or the taxing district~~ or political subdivision. If sufficient funds are not available in the budget of the state agency, the expenses shall be considered a claim governed by the provisions of section 67-2018, Idaho Code. If sufficient funds are not available in the budget of the ~~city, county or taxing district~~ political subdivision, the expenses shall be considered a claim pursuant to chapter 9, title 6, Idaho Code. Every state agency~~, city, county~~ or ~~taxing district~~ political subdivision against which litigation expenses have been awarded under this act shall, at the time of submission of its proposed budget, submit a report to the governmental body which appropriates its funds in which the amount of expenses awarded and paid under this act during the fiscal year is stated.

(4) For the purposes of this section:

(a) "Person" shall mean any individual, partnership, corporation, association or any other private organization;

(b) "Political subdivision" shall mean a city, a county or any taxing district.

(c) "State agency" shall mean any agency as defined in section 67-5201, Idaho Code.

(5) If the amount pleaded in an action by a person is two thousand five hundred dollars ($2,500) or less, the person must satisfy the requirements of section 12-120, Idaho Code, as well as the requirements of this section

before he or she may recover attorney's fees, witness fees or expenses pursuant to 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 May 31, 2009 and shall apply to all cases filed and pending as of June 1, 2009.

Approved March 4, 2010.

CHAPTER 30
(H.B. No. 422)

AN ACT

RELATING TO LAWS AGAINST GAMING; REPEALING SECTION 18-3808, IDAHO CODE, RELATING TO OFFICERS ENFORCING THE LAWS AGAINST GAMING.

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

SECTION 1. That Section 18-3808, Idaho Code, be, and the same is hereby repealed.

Approved March 4, 2010.

CHAPTER 31
(H.B. No. 430)

AN ACT

RELATING TO INSURANCE ADMINISTRATORS; REPEALING CHAPTER 9, TITLE 41, IDAHO CODE, RELATING TO INSURANCE ADMINISTRATORS; AMENDING TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 9, TITLE 41, IDAHO CODE, TO DEFINE TERMS, TO REQUIRE THE USE OF WRITTEN AGREEMENTS BY ADMINISTRATORS, TO PROVIDE THAT PAYMENTS RECEIVED BY AN ADMINISTRATOR ARE DEEMED PAYMENTS RECEIVED BY THE INSURER, TO REQUIRE THE MAINTENANCE OF CERTAIN BOOKS AND RECORDS BY ADMINISTRATORS, TO REQUIRE INSURER APPROVAL OF ADVERTISING USED BY ADMINISTRATORS AND FILING OF ADVERTISING MATERIALS WITH THE DIRECTOR, TO REQUIRE THAT FUNDS RECEIVED BY AN ADMINISTRATOR BE HELD IN A FIDUCIARY CAPACITY AND REMITTED TIMELY TO THE APPROPRIATE PERSON, TO REQUIRE THAT ADMINISTRATORS DELIVER CERTAIN MATERIALS TO COVERED PERSONS, TO PROVIDE REQUIREMENTS FOR THE COMPENSATION OF ADMINISTRATORS, TO REQUIRE CERTAIN NOTICE BE GIVEN TO COVERED INDIVIDUALS, TO REQUIRE REGISTRATION BY PERSONS ACTING AS ADMINISTRATORS FOR SELF-FUNDED PLANS, TO PROVIDE REQUIREMENTS FOR HOME STATE LICENSING AS AN ADMINISTRATOR, TO PROVIDE FOR A NONRESIDENT ADMINISTRATOR LICENSE, TO PROVIDE FOR THE EXPIRATION AND RENEWAL OF AN ADMINISTRATOR LICENSE AND PAYMENT OF RENEWAL FEES, TO REQUIRE THAT ADMINISTRATORS FILE AN ANNUAL REPORT, TO PROVIDE GROUNDS FOR THE DENIAL, SUSPENSION OR REVOCATION OF AN ADMINISTRATOR'S LICENSE, TO REQUIRE REPORTING OF ACTIONS TAKEN AGAINST AN ADMINISTRATOR BY ANOTHER JURISDICTION AND TO PROVIDE THAT THE PROVISIONS OF THE CHAPTER ARE NOT LIMITING; AND DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Chapter 9, Title 41, Idaho Code, be, and the same is hereby repealed.

SECTION 2. 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 9, Title 41, Idaho Code, and to read as follows:

CHAPTER 9
INSURANCE ADMINISTRATORS

41-901. DEFINITIONS. For the purposes of this chapter:

(1) "Administrator" or "third party administrator" or "TPA" means any person who directly or indirectly underwrites, collects charges or premiums from or adjusts or settles claims on residents of this state in connection with life, annuity or health insurance coverage offered or provided by an insurer, except any of the following:

(a) An employer, or a wholly owned direct or indirect subsidiary of an employer, on behalf of its employees or the employees of one (1) or more subsidiaries or affiliated corporations of such employer.

(b) A union on behalf of its members.

(c) An insurance company that is either authorized to transact insurance in this state or acting as an insurer with respect to a policy lawfully issued and delivered by such company in and pursuant to the laws of a state in which the insurer was authorized to transact an insurance business, or a hospital, medical, dental or optometric service corporation or a health care service organization, including their sales representatives, possessing a valid certificate of authority in this state when engaged in the performance of their duties.

(d) An insurance producer licensed to sell life, annuities or health coverage in this state whose activities are limited exclusively to the sale, solicitation and negotiation of insurance.

(e) A creditor on behalf of its debtors with respect to insurance covering a debt between the creditor and its debtors.

(f) A trust, its trustees, agents and employees acting pursuant to such trust established in conformity with 29 U.S.C. 186.

(g) A trust exempt from taxation under section 501(a) of the Internal Revenue Code, its trustees and employees acting pursuant to such trust or a custodian and the custodian's agents or employees acting pursuant to a custodian account that meets the requirements of section 401(f) of the Internal Revenue Code.

(h) A credit union or a financial institution that is subject to supervision or examination by federal or state banking authorities, or a mortgage lender, to the extent they collect and remit premiums to licensed insurance producers or to limited lines producers or authorized insurers in connection with loan payments.

(i) A credit card issuing company that advances for and collects premiums or charges from its credit cardholders who have authorized such collection.

(j) A person who adjusts or settles claims in the normal course of that person's practice or employment as an attorney at law and who does not collect charges or premiums in connection with life, annuity or health insurance coverage.

(k) A person licensed as a managing general agent in this state whose activities are limited exclusively to the scope of activities conveyed under such license.

(l) A person who is affiliated with an insurer and who acts solely as an administrator for the direct and assumed insurance business of an affiliated insurer. The insurer is responsible for the acts of the administrator and is responsible for providing all of the administrator's

books and records to the insurance director upon a request from the insurance director. For purposes of this paragraph, "insurer" means a licensed insurance company, hospital or professional service corporation or a managed care organization.

(2) "Affiliate" or "affiliated" means an entity or person who directly or indirectly through one (1) or more intermediaries controls or is controlled by, or is under common control with, a specified entity or person.

(3) "Control," including the terms "controlling," "controlled by" and "under common control with," means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing ten percent (10%) or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided in section 41-3806(11), Idaho Code, that control does not exist in fact. The director may determine, after furnishing all persons in interest notice and an opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

(4) "Director" means the director of the Idaho department of insurance.

(5) "GAAP" means United States "Generally Accepted Accounting Principles" consistently applied.

(6) "Home state" means the District of Columbia and any state or territory of the United States in which an administrator is incorporated or maintains its principal place of business. If neither the state in which the administrator is incorporated nor the state in which it maintains its principal place of business has adopted the provisions of this chapter, or a substantially similar law governing administrators, the administrator may declare another state in which it conducts business to be its "home state."

(7) "Insurer" means a person undertaking to provide life, annuity or health coverage or self-funded coverage who is subject to regulation under title 41, Idaho Code.

(8) "NAIC" means the "National Association of Insurance Commissioners."

(9) "Nonresident administrator" means an administrator with a home state other than Idaho.

(10) "Underwrites" or "underwriting" means, but is not limited to, the acceptance of employer or individual applications for coverage of individuals in accordance with the written rules of the insurer or self-funded plan, or the overall planning and coordinating of a benefits program.

(11) "Uniform application" means the current version of the NAIC uniform application for third party administrators.

41-902. WRITTEN AGREEMENT NECESSARY. (1) No administrator shall act as such without a written agreement between the administrator and the insurer, and the written agreement shall be retained as part of the official records of both the insurer and the administrator for the duration of the agreement and for five (5) years thereafter. The agreement shall be consistent with the provisions of this chapter and shall contain all provisions required in this chapter, except insofar as those requirements do not apply to the functions performed by the administrator.

(2) The written agreement shall include a statement of duties that the administrator is expected to perform on behalf of the insurer and the lines, classes or types of insurance for which the administrator is to be authorized to administer. The agreement shall make provision with respect to under-

writing or other standards pertaining to the business underwritten by the insurer.

(3) The insurer or administrator may, with written notice to the other party and the director, terminate the written agreement as provided in the agreement. The insurer may suspend the underwriting authority of the administrator during the pendency of any dispute regarding the termination of the written agreement. The insurer shall fulfill any lawful obligations with respect to policies affected by the written agreement regardless of any dispute between the insurer and the administrator.

41-903. PAYMENT TO ADMINISTRATOR. If an insurer utilizes the services of an administrator, the payment to the administrator of any premiums or charges for insurance by or on behalf of the insured shall be deemed to have been received by the insurer and the payment of return premiums or claims forwarded by the insurer to the administrator shall not be deemed payment to the insured or claimant until the payments are received by the insured or claimant. Nothing in this chapter limits any right of the insurer against the administrator resulting from the failure of the administrator to make payments to the insurer, insured parties or claimants.

41-904. MAINTENANCE OF INFORMATION. (1) Every administrator shall maintain and make available to the insurer complete books and records of all transactions performed on behalf of the insurer. The books and records shall be maintained in accordance with prudent standards of insurance recordkeeping and shall be maintained for a period of not less than five (5) years from the date of their creation.

(2) The director shall have access to books and records maintained by an administrator for the purposes of examination, audit and inspection.

(3) The insurer shall own the records generated by the administrator pertaining to the insurer; however, the administrator shall retain the right to continuing access to books and records to permit the administrator to fulfill all of its contractual obligations to insured parties, claimants and the insurer, and its obligations to maintain records available to the director.

(4) In the event the insurer and the administrator cancel their agreement, notwithstanding the provisions of subsection (1) of this section, the administrator may, by written agreement with the insurer, transfer all records to a new administrator rather than retain them for five (5) years. In such cases, the new administrator shall acknowledge, in writing, that it is responsible for retaining the records of the prior administrator as required in subsection (1) of this section.

41-905. ADVERTISING -- APPROVAL. An administrator may use only advertising pertaining to the business underwritten by an insurer that has been approved in writing by the insurer in advance of its use. Prior to approving the use of advertising by an administrator, the insurer shall first file the advertising with the director along with a certification in a form prescribed by the director that the advertising complies with Idaho law. The director may disapprove the use of the advertising on any of the grounds set forth in section 41-1813, Idaho Code.

41-906. PREMIUM COLLECTION AND PAYMENT OF CLAIMS. (1) All insurance charges or premiums collected by an administrator on behalf of or for an insurer, and the return of premiums received from that insurer, shall be held by the administrator in a fiduciary capacity. The funds shall be immediately remitted to the person entitled to them or shall be deposited promptly in a fiduciary account established and maintained by the administrator in a federally or state insured financial institution. The written agreement between the administrator and the insurer shall provide for the administrator

to periodically render an accounting to the insurer detailing all transactions performed by the administrator pertaining to the business underwritten by the insurer.

(2) All such funds, including charges, fees or premiums, shall be used to establish the premium tax under section 41-402, Idaho Code.

(3) If charges or premiums deposited in a fiduciary account have been collected on behalf of one (1) or more insurers, the administrator shall keep records clearly recording the deposits in and withdrawals from the account on behalf of each insurer. The administrator shall keep copies of all the records and, upon request of an insurer, shall furnish the insurer with copies of such records pertaining to deposits and withdrawals associated with the insurer.

(4) The administrator shall not pay any claim by withdrawals from a fiduciary account in which premiums or charges are deposited. Withdrawals from the account shall be made as provided in the written agreement between the administrator and the insurer. The written agreement shall address, but not be limited to, the following:

(a) Remittance to an insurer entitled to remittance;

(b) Deposit in an account maintained in the name of the insurer;

(c) Transfer to and deposit in a claims-paying account with claims to be paid as provided for in subsection (5) of this section;

(d) Payment to a group policyholder for remittance to the insurer entitled to such remittance;

(e) Payment to the administrator of its commission, fees or charges; and

(f) Remittance of return premiums to the person or persons entitled to such return premiums.

(5) All claims paid by the administrator from funds collected on behalf of or for an insurer shall be paid only on drafts or checks of and as authorized by the insurer.

41-907. DELIVERY OF MATERIALS TO COVERED INDIVIDUALS. Any policies, certificates, booklets, termination notices or other written communications delivered by the insurer to the administrator for delivery to insured parties or covered individuals shall be delivered by the administrator promptly after receipt of instructions from the insurer to deliver them.

41-908. COMPENSATION TO THE ADMINISTRATOR. (1) An administrator shall not enter into an agreement or understanding with an insurer in which the effect is to make the amount of the administrator's commissions, fees or charges contingent upon savings effected by the adjustment, settlement and payment of losses covered by the insurer's obligations. This provision shall not prohibit an administrator from receiving performance-based compensation for providing hospital or other auditing services.

(2) The provisions of this section shall not prevent the compensation of an administrator from being based on premiums or charges collected or the number of claims paid or processed.

41-909. NOTICE TO COVERED INDIVIDUALS -- DISCLOSURE OF CHARGES AND FEES. (1) Where the services of an administrator are utilized, the administrator shall provide a written notice approved by the insurer to covered individuals advising them of the identity of and relationship among the administrator, the policyholder and the insurer.

(2) Where an administrator collects funds, the reason for collection of each item shall be identified to the insured party and each item shall be shown separately from any premium. Additional charges may not be made for services to the extent the services have been paid for by the insurer.

(3) The administrator shall disclose to the insurer all charges, fees and commissions received from all services in connection with the provision

of administrative services for the insurer, including any fees or commissions paid by insurers providing reinsurance.

41-910. REGISTRATION REQUIREMENT. A person who directly or indirectly underwrites, collects charges or premiums from or adjusts or settles claims on residents of this state in connection with life, annuity or health coverage provided by a self-funded plan not regulated under title 41, Idaho Code, shall register with the director biennially on a form prescribed by the director, verifying its status as herein described.

41-911. HOME STATE LICENSE. (1) A person shall apply to be an administrator in its home state and shall receive a license from the regulatory authority of its home state prior to performing any function of an administrator in this state.

(2) A person applying to Idaho as the home state shall submit to the director an application in the form prescribed by the director that shall include or be accompanied by the following information and documents:

(a) All basic organizational documents of the applicant, including any articles of incorporation, articles of association, partnership agreement, trade name certificate, trust agreement, shareholder agreement, certificate of existence from the Idaho secretary of state and other applicable documents and all amendments to such documents;

(b) The bylaws, rules, regulations or similar documents regulating the internal affairs of the applicant;

(c) NAIC biographical affidavits for the individuals who are directly or indirectly responsible for the conduct of affairs of the applicant, including all members of the board of directors, board of trustees, executive committee or other governing board or committee, the principal officers in the case of a corporation or the partners or members in the case of a partnership, association or limited liability company, any shareholders or members holding directly or indirectly ten percent (10%) or more of the voting stock, voting securities or voting interest of the applicant and any other person who directly or indirectly exercises control or influence over the affairs of the applicant;

(d) Audited annual financial statements or reports for the two (2) most recent fiscal years that prove that the applicant has a positive net worth. If the applicant has been in existence for less than two (2) fiscal years, the uniform application shall include financial statements or reports, certified by an officer of the applicant and prepared in accordance with GAAP, for any completed fiscal years and for any month during the current fiscal year for which such financial statements or reports have been completed. An audited annual financial report prepared on a consolidated basis shall include a columnar consolidating or combining worksheet that shall be filed with the report and include the following:

(i) Amounts shown on the consolidated audited financial report shall be shown on the worksheet;

(ii) Amounts for each entity shall be stated separately; and

(iii) Explanations of consolidating and eliminating entries shall be included.

The applicant shall also include such other information as the director may require in order to review the current financial condition of the applicant;

(e) A statement describing the business plan, including information on staffing levels and activities, proposed in this state and nationwide. The plan shall provide details setting forth the applicant's capability for providing a sufficient number of experienced and qualified personnel in the areas of claims processing, recordkeeping and underwriting;

(f) The license application fee as provided for by rule; and

(g) Such other pertinent information as may be required by the director.

(3) An administrator licensed or applying for licensure under the provisions of this section shall make available for inspection by the director, copies of all contracts with insurers or other persons utilizing the services of the administrator.

(4) An administrator licensed or applying for licensure under the provisions of this section shall produce its accounts, records and files for examination, and make its officers available to give information with respect to its affairs, as often as reasonably required by the director.

(5) The director may refuse to issue a license if the director determines that the administrator or any individual responsible for the conduct of affairs of the administrator is not competent, trustworthy, financially responsible or of good personal and business reputation, or has had an insurance or an administrator certificate of authority or license denied or revoked for cause by any jurisdiction, or if the director determines that any of the grounds set forth in section 41-915, Idaho Code, exist with respect to the administrator.

(6) A license issued under this section shall remain valid, unless surrendered, suspended or revoked by the director, for so long as the administrator continues in business in this state and remains in compliance with the provisions of this chapter and any applicable rules.

(7) An administrator licensed or applying for licensure under the provisions of this section shall immediately notify the director of any material change in its ownership, control or other fact or circumstance affecting its qualification for a license in this state.

(8) An administrator licensed or applying for a home state license that administers or will administer self-funded health plans subject to regulation under chapter 40 or 41, title 41, Idaho Code, shall maintain a surety bond for the use and benefit of the director to be held in trust for the benefit and protection of covered persons and the insurer or insurers against loss by reason of acts of fraud or dishonesty. The bond shall be in the greater of the following amounts:

(a) One hundred thousand dollars ($100,000); or

(b) An amount equal to the greater of ten percent (10%) of the contributions collected by the administrator from self-funded plans subject to regulation under chapters 40 and 41, title 41, Idaho Code, or ten percent (10%) of the benefits paid by such self-funded plans administered during the preceding calendar year. If the administrator did not administer any self-funded plans subject to regulation under chapter 40 or 41, title 41, Idaho Code, during the preceding calendar year, the bond shall be in an amount equal to ten percent (10%) of the contributions projected to be received by the administrator from such self-funded plans during the next calendar year.

41-912. NONRESIDENT ADMINISTRATOR LICENSE. (1) Unless an administrator has obtained a home state license in this state, any administrator who performs administrator duties in this state shall obtain a nonresident administrator license in accordance with the provisions of this section by filing with the director the uniform application, accompanied by a letter of certification. In lieu of requiring an administrator to file a letter of certification with the uniform application, the director may verify the nonresident administrator's home state certificate of authority or license status through an electronic database maintained by the NAIC, its affiliates or subsidiaries.

(2) An administrator shall not be eligible for a nonresident administrator license under the provisions of this section if it does not hold a license in a home state that has adopted under the provisions of this chapter or a substantially similar law governing administrators.

(3) Except as provided in subsections (2) and (8) of this section, the director shall issue to the administrator a nonresident administrator license promptly upon receipt of a complete application.

(4) Each nonresident administrator shall file biennially, as a part of its application for renewal of its license, a statement that its home state administrator license remains in force and has not been revoked or suspended by its home state during the preceding years.

(5) At the time of filing the application for licensing required under the provisions of this section the nonresident administrator shall pay a license application fee as provided for by rule.

(6) An administrator licensed or applying for licensure under the provisions of this section shall produce its accounts, records and files for examination, and make its officers available to give information with respect to its affairs, as often as reasonably required by the director.

(7) A nonresident administrator is not required to hold a nonresident administrator license in this state if the administrator is licensed in its home state and the administrator's duties in this state are limited to:

(a) The administration of a group policy or plan and no more than a total of twenty percent (20%) of covered persons, for all plans the administrator services, reside in this state; and

(b) The total number of covered persons residing in this state is less than one hundred (100).

(8) The director may refuse to issue a nonresident administrator license, or delay the issuance of a nonresident administrator license, if the director determines that, due to events or information obtained subsequent to the home state's licensure of the administrator, the nonresident administrator cannot satisfy the requirements of this chapter or that grounds exist for the home state's revocation or suspension of the administrator's home state certificate of authority or license.

41-913. EXPIRATION AND RENEWAL OF ADMINISTRATOR LICENSE. (1) A license issued pursuant to this chapter shall expire on December 31 of the year following its issuance, but may be renewed for a period of two (2) years commencing January 1 upon filing a renewal form prescribed by the director accompanied by a fee as provided for by rule. The renewal form shall be filed on or before December 31. Any renewal form postmarked or submitted electronically after December 31 shall be accompanied by an additional late filing fee in the amount of double the unpaid renewal fee. Any renewal postmarked after January 31 must be submitted as a new application with supporting documents and accompanied by the full application fee as provided for by rule.

(2) The license shall be renewed by the director unless the director determines that the administrator is not competent, trustworthy or financially responsible, or has had an insurance license denied, revoked or suspended for cause by any state, or otherwise does not meet the qualifications for licensure as set forth in this chapter.

41-914. ANNUAL REPORT. (1) Each administrator licensed under the provisions of this chapter shall file an annual report for the preceding calendar year with the director on or before July 1 of each year, or within such extension of time as the director for good cause may grant. The annual report shall include an audited financial statement performed by an independent certified public accountant. An audited annual financial report prepared on a consolidated basis shall include a columnar consolidating or combining worksheet that shall be filed with the report and include the following:

(a) Amounts shown on the consolidated audited financial report shall be shown on the worksheet;

(b) Amounts for each entity shall be stated separately; and

(c) Explanations of consolidating and eliminating entries shall be included.

The report shall be in the form and contain such matters as the director prescribes and shall be verified by at least two (2) officers of the administrator.

(2) The annual report shall include the complete names and addresses of all insurers with which the administrator had agreements during the preceding fiscal year.

41-915. GROUNDS FOR DENIAL, SUSPENSION OR REVOCATION OF LICENSE. (1) The license of an administrator shall be denied, suspended or revoked if the director finds that the administrator:

(a) Is in an unsound financial condition;

(b) Is using such methods or practices in the conduct of its business so as to render its further transaction of business in this state hazardous or injurious to insured persons or the public; or

(c) Has failed to pay any judgment rendered against it in this state within sixty (60) days after the judgment has become final.

(2) The director may deny, suspend or revoke the license of an administrator if the director finds that the administrator:

(a) Has violated any lawful rule or order of the director or any provision of title 41, Idaho Code;

(b) Has refused to be examined or to produce its accounts, records and files for examination, or if any individual responsible for the conduct of affairs of the administrator, including members of the board of directors, board of trustees, executive committee or other governing board or committee, the principal officers in the case of a corporation or the partners or members in the case of a partnership, association or limited liability company, any shareholder or member holding directly or indirectly ten percent (10%) or more of the voting stock, voting securities or voting interest of the administrator and any other person who exercises control or influence over the affairs of the administrator, has refused to give information with respect to its affairs or has refused to perform any other legal obligation as to an examination, when required by the director;

(c) Has, without just cause, refused to pay proper claims or perform services arising under its contracts or has, without just cause, caused covered individuals to accept less than the amount due them or caused covered individuals to employ attorneys or bring suit against the administrator to secure full payment or settlement of such claims;

(d) Fails, at any time, to meet any qualification for which issuance of the license could have been refused had the failure then existed and been known to the director;

(e) Or any of the individuals responsible for the conduct of its affairs, including members of the board of directors, board of trustees, executive committee or other governing board or committee, the principal officers in the case of a corporation or the partners or members in the case of a partnership, association or limited liability company, any shareholder or member holding directly or indirectly ten percent (10%) or more of its voting stock, voting securities or voting interest and any other person who exercises control or influence over its affairs, has been convicted of, or has entered a plea of guilty or nolo contendere to any felony, or to a misdemeanor that 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 without regard to whether adjudication was withheld; or

(f) Is under suspension or revocation in another state.

(3) The director may, in his discretion and without advance notice or hearing, immediately suspend the license of an administrator if the director finds that one (1) or more of the following circumstances exist:

(a) The administrator is insolvent or impaired;

(b) A proceeding for receivership, conservatorship, rehabilitation or other delinquency proceeding regarding the administrator has been commenced in any state;

(c) The financial condition or business practices of the administrator otherwise pose an imminent threat to the public health, safety or welfare of the residents of this state; or

(d) A final order suspending or revoking the administrator's license in its home state has been entered.

(4) If the director finds that one (1) or more grounds exist for the suspension or revocation of a license issued under the provisions of this chapter, the director may, in lieu of or in addition to suspension or revocation, impose an administrative penalty upon the administrator pursuant to section 41-117, Idaho Code.

41-916. REPORTING OF ACTIONS. (1) An administrator shall report to the director any administrative action taken against the administrator in another jurisdiction or by another governmental agency within thirty (30) days of the final disposition of the matter. The report shall include a copy of the order, consent order or other relevant legal documents.

(2) Within thirty (30) days of the initial pretrial hearing date, an administrator shall report to the director any criminal prosecution of the administrator or an individual responsible for the conduct of its affairs 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.

41-917. PROVISIONS NOT LIMITING. The requirements of this chapter are not a waiver or limitation of provisions of this title or other laws of this state but are additional requirements.

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 February 1, 2010.

Approved March 4, 2010.

CHAPTER 32
(H.B. No. 432)

AN ACT

RELATING TO IMMUNIZATION ASSESSMENTS; AMENDING TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 60, TITLE 41, IDAHO CODE, TO STATE LEGISLATIVE INTENT, TO DEFINE TERMS, TO PROVIDE FOR THE IDAHO IMMUNIZATION ASSESSMENT BOARD, TO PROVIDE FOR A PLAN OF OPERATION, TO PROVIDE FOR POWERS AND LIABILITY OF THE BOARD, TO PROVIDE FOR ASSESSMENTS, TO PROVIDE FOR THE IDAHO IMMUNIZATION DEDICATED VACCINE FUND AND TO PROVIDE RULEMAKING AUTHORITY; PROVIDING SEVERABILITY; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION; AND PROVIDING A SUNSET DATE.

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 60, Title 41, Idaho Code, and to read as follows:

CHAPTER 60
IMMUNIZATION ASSESSMENTS

41-6001. LEGISLATIVE INTENT. The intent of the legislature is to provide a supplemental funding mechanism for the Idaho immunization program administered by the Idaho department of health and welfare, by creating a dedicated vaccine fund and an independent board, which board is empowered to assess fees from all carriers. The chapter's goal is to ensure access to childhood vaccinations in Idaho, by decreasing costs and enabling the maintenance of a single distribution of vaccines available to health care providers in Idaho who administer the vaccines to program eligible children.

41-6002. DEFINITIONS. As used in this chapter:

(1) "Board" means the Idaho immunization assessment board created by section 41-6003, Idaho Code.

(2) "Carrier" means any entity required to be licensed or registered in the state of Idaho that provides health insurance, health benefit plans, or is authorized to provide health insurance, or administers health insurance or health benefit coverage. For purposes of this chapter, the term "carrier" includes an insurance company, a hospital or professional service corporation, a fraternal benefit society, a managed care organization, entities that provide excess or stop-loss insurance, and persons or entities acting as an administrator or third party administrator of health insurance or health benefits as defined by or required to be registered with the director under title 41, Idaho Code. For the purposes of this chapter, the term "carrier" does not include an entity that only issues policies, certificates or subscriber contracts within the state of Idaho that are limited to a specific disease, hospital confinement indemnity, accident-only, credit, dental, vision, medicare supplement, long-term care, disability income insurance, student health benefits only coverage issued as a supplement to liability insurance, worker's compensation or similar insurance, automobile medical payment insurance, or nonrenewable short-term coverage issued for a period of twelve (12) months or less.

(3) "Director" means the director of the department of insurance of the state of Idaho.

(4) "Fund" means the Idaho immunization dedicated vaccine fund created in section 41-6007, Idaho Code.

(5) "Idaho immunization program" means that program administered by the Idaho department of health and welfare to provide vaccinations against diseases to Idaho children consistent with Idaho and federal law.

(6) "Plan of operation" means the plan of operation of the fund as established by the board.

(7) "Program-eligible child" means any child, natural or adopted, who is under nineteen (19) years of age, whose custodial parent or legal guardian resides in Idaho and who is not eligible for the federal vaccines for children program.

(8) "Vaccine" means any preparations of killed microorganisms, living attenuated organisms or living fully virulent organisms that are approved by the federal food and drug administration and recommended by the federal advisory committee on immunization practices of the centers for disease control and prevention.

(9) "Vaccines for children" program is that federally funded program that provides vaccines at no cost to eligible children pursuant to section 1928 of the social security act.

41-6003. IDAHO IMMUNIZATION ASSESSMENT BOARD. (1) There is hereby created in the Idaho department of insurance the Idaho immunization assessment board. The board will perform an essential governmental function in the exercise of powers conferred upon it by this chapter and shall be a governmental entity within the meaning of chapter 9, title 6, Idaho Code.

(2) The board shall consist of nine (9) members and one (1) ex officio member:

(a) Six (6) members shall be appointed by the director and serve at the pleasure of the director. In selecting the members of the board, the director shall appoint:

(i) Three (3) members representing carriers, one (1) of whom shall represent administrators or third party administrators;

(ii) One (1) primary care physician licensed and practicing in Idaho; and

(iii) Two (2) members representing the Idaho business community.

(b) One (1) member appointed by the director of the department of health and welfare;

(c) One (1) member shall be a member of the senate, appointed by the president pro tempore of the senate;

(d) One (1) member shall be a member of the house of representatives, appointed by the speaker of the house of representatives; and

(e) The director or his designated representative shall serve as an ex officio tenth member of the board.

(3) The initial board members appointed by the director pursuant to subsection (2)(a) of this section shall be appointed as follows: Legislative members of the board shall serve for a term of two (2) years.

(a) Two (2) members, as determined by the director, shall serve an initial term of two (2) years;

(b) Two (2) members, as determined by the director, shall serve an initial term of three (3) years; and

(c) One (1) member, as determined by the director, shall serve an initial term of four (4) years.

Subsequent board members appointed by the director pursuant to subsection (2)(a) of this section shall serve for terms of three (3) years.

(4) A vacancy on the board appointed by the director pursuant to subsection (2)(a) of this section shall be filled by the director. A vacancy in a legislative member's position on the board shall be filled in the same manner as the original appointment.

(5) Except for employees of the state of Idaho, members of the board shall not receive compensation or reimbursement for expenses for their service on the board. Employees of the state of Idaho serving on the board shall be reimbursed for their vouched expenses associated with their service on the board in a manner consistent with policy for other state employees.

41-6004. PLAN OF OPERATION. (1) The board shall submit to the director a plan of operation and thereafter any amendments thereto. The plan of operation, and any amendments thereto, shall become effective upon written approval by the director. If the board fails to submit a suitable plan of operation, the director shall adopt and promulgate a temporary plan of operation.

(2) The plan of operation shall:

(a) Identify methodology and procedures for determining assessments to the carriers that are fair and equitable;

(b) Establish procedures for the director to collect assessments from carriers to fund vaccine purchases by the state of Idaho; and

(c) Provide for any additional matters necessary for the implementation and administration of the fund.

(3) Administrative cost associated with the creation and amending the plan of operation shall be paid out of the fund.

41-6005. POWER AND LIABILITY OF THE BOARD. (1) The board shall have the power to:

(a) Enter into contracts as are necessary or proper to carry out the provisions and purposes of this chapter;

(b) Determine the method of assessment and assess carriers in accordance with the provisions of section 41-6006, Idaho Code;

(c) Require carriers to provide to the board such statements and reports the board deems necessary to fulfill its duties under this chapter; and

(d) Establish policies and procedures as may be necessary or convenient for the implementation of this chapter and the operation of the assessments authorized by this chapter.

(2) Neither the board nor its members shall be liable for any obligations of the vaccine assessments. No member or employee of the board shall be liable, and no cause of action of any nature may arise against them, for any act or omission related to the performance of their powers and duties under this chapter, unless such act or omission constitutes willful or wanton misconduct. Participation by a carrier in the assessments authorized by this chapter or on the board under the provisions of this chapter shall not be grounds for any legal action, criminal or civil liability, or penalty against the fund or any of its carriers or board members, either jointly or separately.

41-6006. ASSESSMENTS. (1) The department of health and welfare shall report to the board on or before March 1, 2010, and on or before January 1 thereafter, the total number of program eligible children in the Idaho immunization reminder information system registry who received vaccines, the doses and the total nonvaccine-for-children funds expended for vaccines purchased and administered through the Idaho immunization program for the previous state fiscal year.

(2) Each carrier's proportion of the assessment and the dates upon which the carrier must pay the assessment into the fund shall be determined by the board based on annual statements and other reports deemed necessary by the board. In making the assessment determination, the board shall also consider such factors as the number of vaccine doses administered in the pertinent time period and the number of program eligible children in the pertinent time period, as well as any necessary costs and expenses to administer the fund and discharge the duties of the board.

(3) For late or nonpayment of assessments by a carrier, the director shall impose interest at the rate provided by section 28-22-104(1), Idaho Code, and may impose such other penalties as provided in title 41, Idaho Code.

(4) Except as otherwise provided in this subsection, a carrier shall pay an assessment made by the board within sixty (60) days of the notice of assessment being sent to the carrier. For good cause, a carrier may seek from the director a deferment from all or part of an assessment imposed by the board. The director may defer all or part of the assessment if the director determines that the payment of the assessment would place the carrier in a financially impaired condition, as provided in title 41, Idaho Code. If all or part of an assessment against a carrier is deferred, the amount deferred shall be assessed against the other carriers in a manner consistent with the basis for assessment set forth in this section. The carrier receiving the deferment shall remain liable to the fund for the amount deferred and shall be prohibited from insuring any new individuals in the state of Idaho until such time as it pays the assessments.

(5) The initial assessments as determined by the board shall be paid into the fund on or before April 1, 2010.

(6) The moneys raised by the assessment authorized in this section shall be used solely for the purposes expressly authorized by this chapter.

41-6007. IDAHO IMMUNIZATION DEDICATED VACCINE FUND. There is hereby created in the state treasury the Idaho immunization dedicated vaccine fund. Moneys in the fund shall be appropriated solely for purposes established by this chapter. All funds in excess to the cost required to develop and amend a plan of operation as permitted in section 41-6004, Idaho Code, shall be paid to the Idaho department of health and welfare for the sole purposes of purchasing vaccine for use in the Idaho immunization program. The fund and any assessments imposed or collected pursuant to the operation of the fund shall at all times be free from taxation of every kind.

41-6008. RULEMAKING AUTHORITY. Upon consultation with the board, the director shall have the authority to promulgate rules necessary to implement this chapter.

SECTION 2. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to February 1, 2010.

SECTION 4. The provisions of this Chapter 60, Title 41 shall be null, void and of no force and effect on and after July 1, 2013.

Approved March 4, 2010.

CHAPTER 33
(H.B. No. 443)

AN ACT

RELATING TO CRIMINAL HISTORY RECORDS AND CRIME INFORMATION; AMENDING SECTION 67-3004, IDAHO CODE, TO REVISE PROVISIONS RELATING TO FINGERPRINTING AND IDENTIFICATION.

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

SECTION 1. That Section 67-3004, Idaho Code, be, and the same is hereby amended to read as follows:

67-3004. FINGERPRINTING AND IDENTIFICATION. (1) The bureau shall:

(a) Obtain and file fingerprints, physical descriptions and any other available identifying data on persons who have been arrested or served a criminal summons in this state for a retainable offense;

(b) Accept fingerprints and other identifying data taken by a law enforcement agency for the purpose of identification or conducting a records review for criminal justice purposes; and

(c) ~~Have the capacity to conduct crime scene investigations for the detection and identification of latent fingerprints~~ Process latent fingerprints generated from crime scenes, evidence and law enforcement agencies through the automated fingerprint identification system for prospective identification.

(2) The bureau shall establish policy regarding an arrest fingerprint card and procedures for the taking of fingerprints under this section.

(3) When a person is arrested for a retainable offense, with or without a warrant, fingerprints of the person shall be taken by the law enforcement

agency making the arrest. A law enforcement agency may contract or make arrangements with a jail or correctional facility or other criminal justice agency to take the required fingerprints from a person who is arrested by the law enforcement agency.

(4) If a person was arrested and is in the custody of a law enforcement agency, jail or correctional facility and a felony summons or information is filed for an offense separate from the offense for which the person is in custody, the agency, jail or correctional facility shall take the fingerprints of the person in connection with the new offense.

(5) At the initial court appearance or arraignment of a person for an offense pursuant to a felony summons or information, the court, upon notice from the prosecuting attorney, shall order a law enforcement agency to fingerprint the person if he has not been previously fingerprinted for the same offense.

(6) When a defendant is convicted or otherwise adjudicated for a felony offense for which the defendant has not been previously fingerprinted, the court shall order, upon notice from the prosecuting attorney, a law enforcement agency to fingerprint the defendant as a condition of sentence, probation or release.

(7) When a person is received by a state correctional facility, the department of correction shall ensure that legible fingerprints of the person are taken and submitted to the bureau.

(8) When the bureau receives fingerprints of a person in connection with an arrest or incarceration, the bureau shall make a reasonable effort to confirm within five (5) working days the identity of the person fingerprinted. In an emergency situation when an immediate positive identification is needed, a criminal justice agency may request the department to provide immediate identification service.

(9) If the arresting officer, the law enforcement agency that employs the officer, or the jail or correctional facility where fingerprints were taken is notified by the bureau that fingerprints taken under this section are not legible, the officer, agency or facility shall make a reasonable effort to obtain a legible set of fingerprints. If legible fingerprints cannot be obtained within a reasonable period of time, and if illegible fingerprints were taken under a court order, the officer or agency shall inform the court, which shall order the defendant to submit to fingerprinting again.

(10) Any person who was arrested or served a criminal summons and who subsequently was not charged by indictment or information within one (1) year of the arrest or summons and any person who was acquitted of all offenses arising from an arrest or criminal summons may have the fingerprint and criminal history record taken in connection with the incident expunged pursuant to the person's written request directed to the department.

Approved March 4, 2010.

CHAPTER 34
(S.B. No. 1256)

AN ACT

RELATING TO EXECUTIONS; AMENDING SECTION 11-101, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE RIGHT OF THE COURT TO STAY EXECUTION AND TO REMOVE REFERENCE TO CERTAIN IDAHO CODE SECTIONS.

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

SECTION 1. That Section 11-101, Idaho Code, be, and the same is hereby amended to read as follows:

11-101. TIME WITHIN WHICH EXECUTION MAY ISSUE -- STAY PENDING DISPOSITION OF MOTIONS. Except as provided in section 5-245, Idaho Code, for execution on judgments for support of a child, the party in whose favor judgment is given may, at any time within five (5) years after the entry thereof, have a writ of execution issued for its enforcement, subject to the right of the court to stay execution as ~~herein~~ provided by the rules adopted by the supreme court.

~~In its discretion and on such conditions for the security of the adverse party or parties as are proper, the court may stay the execution of, or any proceeding to enforce, a judgment pending the disposition of a motion for a new trial made pursuant to section 10-602, Idaho Code, or judgment notwithstanding the verdict made pursuant to sections 10-224 and 10-602, Idaho Code, or a motion for relief from a judgment or order made pursuant to section 5-905, Idaho Code.~~

Approved March 4, 2010.

CHAPTER 35
(S.B. No. 1257)

AN ACT

RELATING TO JUSTICE COURT AND POLICE COURT; REPEALING SECTION 19-3907, IDAHO CODE, RELATING TO CHANGE OF VENUE, GROUNDS AND APPLICATION; REPEALING SECTION 19-3908, IDAHO CODE, RELATING TO CHANGE OF VENUE AND PROCEEDINGS; AND AMENDING SECTION 50-2207, IDAHO CODE, TO REMOVE REFERENCE TO THE POLICE COURT.

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

SECTION 1. That Section 19-3907, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Section 19-3908, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Section 50-2207, Idaho Code, be, and the same is hereby amended to read as follows:

50-2207. DISPOSITION OF RECORDS. Upon the disincorporation of said city, every public officer of said city shall immediately turn over, to the board of county commissioners of the county in which said corporation is situated, all public property of every nature and description in their possession. ~~Provided however, that all court records of the police court, if such there be in said corporation, shall be retained by said police judge as justice of the peace of such precinct in which said corporation is situated, and as such justice of the peace, he shall have authority to execute and complete all unfinished business standing on the same.~~

Approved March 4, 2010.

CHAPTER 36
(S.B. No. 1297)

AN ACT

RELATING TO VEHICLE AND VESSEL TITLES; AMENDING SECTION 49-502, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE DELIVERY OF CERTIFICATE OF TITLE UPON SALE OR DISPOSITION, TO REVISE PROVISIONS RELATING TO CERTAIN DEALER'S REASSIGNMENT OF EXISTING CERTIFICATE OF TITLE OR OF AN APPLICATION FOR DUPLICATE CERTIFICATE OF TITLE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 49-502, Idaho Code, be, and the same is hereby amended to read as follows:

49-502. DELIVERY OF CERTIFICATE OF TITLE UPON SALE OR DISPOSITION -- REASSIGNMENT BY DEALERS. (1) No person shall sell or otherwise dispose of a vehicle without delivery to the purchaser or transferee a certificate of title with an assignment as necessary to show title in the purchaser~~, n~~or transferee.

(2) The owner shown on the records of the department of any vehicle that is at least ten (10) years old or over sixteen thousand (16,000) pounds gross vehicle weight or has no odometer device, or of any vessel whose certificate of title has become lost, mutilated or illegible, may dispose of such vehicle or vessel by delivering to the purchaser or transferee a completed application for duplicate title, together with an assignment as necessary to show title in the purchaser or transferee. To obtain a certificate of title, the purchaser or transferee shall pay the fees pursuant to section 49-202(2)(b) and (c), Idaho Code.

(3) No person shall purchase or otherwise acquire or bring into the state a vehicle except for temporary use as provided by section 49-432, Idaho Code, unless he shall obtain a certificate of title in his name in accordance with the provisions of this chapter.

(4) Any dealer holding current Idaho dealer license plates may, in lieu of having a certificate of title issued in his name, reassign either any existing certificate of title issued in this state or any application of duplicate certificate of title completed pursuant to subsection (2) of this section.

Approved March 4, 2010.

CHAPTER 37
(H.B. No. 382, As Amended in the Senate)

AN ACT

RELATING TO INCOME TAX; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3006C, IDAHO CODE, TO PROVIDE DEFINITIONS OF THE TERMS "PASS-THROUGH ENTITY" AND "OWNER OF INTEREST IN A PASS-THROUGH ENTITY"; AMENDING SECTION 63-3022L, IDAHO CODE, TO REVISE THE MANNER IN WHICH THE INCOME OF PASS-THROUGH ENTITIES INCOME IS REPORTED AND PAID; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3036B, IDAHO CODE, TO PROVIDE A SYSTEM OF BACKUP WITHHOLDING FOR INDIVIDUALS WHO ARE OWNERS OF PASS-THROUGH ENTITIES OR BENEFICIARIES OF A TRUST OR ESTATE WHO DO NOT ELECT TO HAVE THEIR INCOME TAXES PAID ON THE ENTITY'S RETURN; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3006C, Idaho Code, and to read as follows:

63-3006C. PASS-THROUGH ENTITY. The term "pass-through entity" as used in this chapter includes a partnership, as defined in section 63-3006B, Idaho Code, a limited liability company taxed as a partnership under section 63-3006A, Idaho Code, an S corporation required to file a return under section 63-3030(4), Idaho Code, or a trust or estate required to file a return under section 63-3030, Idaho Code. An "owner of an interest in a pass-through entity" includes the shareholders of a corporation, the members of a limited liability company and partners of a partnership.

SECTION 2. That Section 63-3022L, Idaho Code, be, and the same is hereby amended to read as follows:

63-3022L. INDIVIDUALS WHO ARE OFFICERS, DIRECTORS~~, SHAREHOLDERS, PARTNERS~~ OR ~~MEMBERS OF A CORPORATION OR PARTNERSHIP~~ OWNERS OF AN INTEREST IN A PASS-THROUGH ENTITY OR BENEFICIARIES OF A TRUST OR ESTATE. (1) Individuals who are officers, directors~~, shareholders, partners or members of a corporation or partnership~~ or owners of an interest in a pass-through entity, as defined in section 63-3006C, Idaho Code, transacting business in Idaho or who are beneficiaries of a trust or estate with income taxable in Idaho may elect to have Idaho tax relating to income described in subsection (2) of this section reported and paid by the ~~corporation, partnership, trust or estate~~ pass-through entity. Income subject to the election in this subsection shall be taxed at the rate applicable to corporations. ~~The election shall be made on the return of the corporation, partnership, trust or estate from which the income is received.~~ The election in this section is not available to an individual who ~~has Idaho taxable income in addition to income described in subsection (2) of this section~~ is an Idaho resident.

(2) The election in subsection (1) of this section applies to:

(a) Wages, salary and other compensation paid by the ~~corporation, partnership, trust or estate~~ pass-through entity to such officers, directors, ~~shareholders, partners, members~~ owners of an interest in a pass-through entity or beneficiaries to the extent the compensation is Idaho taxable income of the individual to whom it is paid; and

(b) The share of any income, loss, deduction or credit of ~~an S corporation, partnership, trust or estate~~ a pass-through entity required to be included on such ~~shareholder's, partner's, member's or beneficiary's~~ individual's Idaho return.

~~(c) When the gross income attributable to an individual under paragraphs (a) and (b) of this subsection (2) is less than the filing requirement of the individual under section 63-3030, Idaho Code, the income is not income under this subsection.~~

(3) The election in subsection (1) shall be made at the time and in the manner prescribed in the rules of the state tax commission and once made is irrevocable for the taxable year. A new election may be made each year. The state tax commission may, by rule, provide for continuing elections or for the renewal of elections or both.

(4) If no election is made ~~and an officer, director, shareholder, partner, member, or beneficiary of a corporation, partnership, trust or estate transacting business in Idaho fails to file an Idaho income tax return reporting all or any part of the items described in subsection (2) of this section or fails to pay any tax due thereon, such corporation, partnership, trust or estate shall be liable for tax on such items at the rate applicable~~

~~to corporations~~ under subsection (1) of this section, the pass-through entity shall withhold taxes as required in section 63-3036B, Idaho Code.

~~(4) The provisions of this section shall not apply to a corporation, other than an S corporation, with less than fifty percent (50%) of its income taxable within this state.~~

SECTION 3. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3036B, Idaho Code, and to read as follows:

63-3036B. PASS-THROUGH ENTITIES -- BACKUP WITHHOLDING. (1) A pass-through entity, as defined in section 63-3006C, Idaho Code, that is transacting business in Idaho during a taxable year shall withhold tax as prescribed in this section.

(2) For each individual for whom withholding is required under subsection (4) of section 63-3022L, Idaho Code , the pass-through entity shall withhold tax on any actual distributions of funds from income described in subsection (2) of section 63-3022L, Idaho Code, at the highest marginal rate applicable for the taxable year under section 63-3024, Idaho Code.

(3) A pass-through entity is not required to withhold taxes under this section:

(a) In regard to an individual who is a resident of Idaho as defined in section 63-3013, Idaho Code; or

(b) In regard to an individual who makes a timely election under section 63-3022L, Idaho Code, to have the individual's tax reported and paid on the pass-through entity's return; or

(c) Withholding is not required pursuant to a rule adopted under this section.

(4) A pass-through entity that is required to withhold tax under this section shall file a withholding return with the state tax commission setting forth the amount of income described in subsection (2) of section 63-3022L, Idaho Code, the amount of tax withheld under this section and any other information required by the commission. The return shall be filed with the commission on the form and taxes withheld under this section shall be paid to the commission in the time and manner prescribed by rules of the commission. To the extent the commission finds practicable, the rules shall generally conform to the requirement of section 63-3035, Idaho Code.

(5) A pass-through entity that is required to withhold tax under the provisions of this section shall furnish a statement to each individual on whose behalf tax is withheld. The statement shall state the amount of tax withheld on behalf of the individual for the taxable year of the pass-through entity. The statement shall be made on a form prescribed by the commission and shall contain any other information required by it.

(6) A pass-through entity is liable to this state for amounts of tax required to be withheld and paid under the provisions of this section. A pass-through entity is not liable to an officer, director, or individual owner of an interest in the pass-through entity for amounts required to be withheld under the provisions of this section that were paid to the commission as prescribed in this section. Amounts required to be withheld and paid over to the commission under this section that are not withheld or paid over at the time and in the manner required by the provisions of this section shall be a deficiency in tax as defined in section 63-3044, Idaho Code.

SECTION 4. This act shall be in full force and effect on and after January 1, 2011.

Approved March 5, 2010.

CHAPTER 38
(S.B. No. 1265)

AN ACT

RELATING TO OUTFITTERS AND GUIDES; AMENDING SECTION 36-2110, IDAHO CODE, TO REMOVE REFERENCE TO TERRITORIAL CONFLICTS BETWEEN BIG GAME OPERATIONS AS IT RELATES TO ADJUSTMENT OF TERRITORIAL SCOPE OF OPERATIONS OF LICENSED OUTFITTERS BY THE IDAHO OUTFITTERS AND GUIDES LICENSING BOARD.

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

SECTION 1. That Section 36-2110, Idaho Code, be, and the same is hereby amended to read as follows:

36-2110. OPERATIONS OF LICENSEES -- ADJUSTMENT OF AREA -- RULES. (a) Possession of a valid license issued by the board shall be a prerequisite to acting as an outfitter or guide.

1. No more than one (1) person may operate as an outfitter or guide under one (1) license.

2. The operating area as set forth on the outfitter's license including any attachment thereto shall be the limit of such operations for each licensee, subject to subsection (b) below.

(b) The board may adjust the territorial scope of operations of any licensed outfitter, for reasons of game harvest, where territorial conflict exists ~~between the big game operations of outfitters~~, or for the safety of persons utilizing the services of outfitters.

(c) The board shall adopt rules to carry out the provisions of this section.

Approved March 9, 2010.

CHAPTER 39
(S.B. No. 1266)

AN ACT

RELATING TO OUTFITTERS AND GUIDES; AMENDING SECTION 36-2109, IDAHO CODE, TO REVISE TERM OF LICENSE PROVISIONS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 36-2109, Idaho Code, be, and the same is hereby amended to read as follows:

36-2109. FORM AND TERM OF LICENSE -- NOTICE OF DENIAL. (a) Upon concurrence of a majority, the board, in its discretion may issue a license to any applicant who has filed an application in proper form with the board~~,~~ including, but not limited to, payment of the license fee and furnishing of bond. Said license shall be in the form prescribed by the board, ~~and~~ shall be valid for the ~~licensing~~ year ~~or years for which~~ issued from the date issued ~~until the end of the license year or years for which it is issued~~ and shall expire on March 31 of the following year; provided, that no outfitter's or guide's license may be sold, assigned or otherwise transferred either by any holder thereof or by the operation of law except as provided in this chapter. The board may prescribe by rule that limitations or qualifications placed upon an outfitter's or guide's license as provided in this chapter shall be indicated on the face of the license or as an attachment to the license which shall be considered a part of the license.

(b) A license granted by the board including any attachment thereto shall specify the activities licensed and the exact territorial limits of the outfitter's area of operation and shall specify the species of game

to be hunted. In so approving and/or licensing any outfitter's or guide's activity, the board shall consider the following matters, among others:

1. The length of time in which the applicant has operated in that area;
2. The extent to which the applicant is qualified by reason of experience, equipment or resources to operate in that area;
3. The applicant's previous safety record;
4. The accessibility of the area, the particular terrain and the weather conditions normal to that area during the outfitter's or guide's season;
5. The total amount of outfitter's area requested by any applicant giving due consideration to the effect ~~which~~ that such area license grant would have upon the environment, the amount of game ~~which~~ that can be harvested, and the number of persons ~~which~~ that can be adequately served in the area.

(c) The board shall refuse to issue any license to any applicant for an outfitter's or guide's license who the board finds is not a competent person of good moral character, less than eighteen (18) years of age and does not possess a working knowledge of the game and fishing laws of the state of Idaho and the regulations of the United States forest service. The board shall also refuse to issue an outfitter's license to any applicant who the board finds does not have sufficient financial responsibility to conduct adequately the business of an outfitter. The board shall refuse to issue any license to a firm, partnership, corporation or other organization or any combination thereof ~~which~~ that fails to have at least one (1) designated agent conducting its outfitting business who meets all of the qualifications and requirements of a licensed outfitter. The board may also refuse to grant an outfitter's or guide's license to any applicant for violation of any of the provisions hereinafter specified in this chapter as grounds for revocation or suspension of an outfitter's or guide's license. If the application is denied, the board shall notify the applicant, in writing, of the reasons for such denial within ten (10) days and if the applicant shall correct, to the satisfaction of the board, such reasons within thirty (30) days of receipt of such notice and if, thereafter, a majority of the board concur, the board may issue a license to the applicant.

(d) No license shall be issued by the board until a majority thereof has reported favorably thereon; except, an application for a license identical to a license held during the previous year may be issued on approval by one (1) board member providing there is no adverse information on file regarding the applicant.

Approved March 9, 2010.

CHAPTER 40
(S.B. No. 1267)

AN ACT

RELATING TO LICENSE FEES FOR LAWYERS; AMENDING SECTION 3-409, IDAHO CODE, TO REVISE LICENSE FEE PROVISIONS AND TO PROVIDE LICENSE FEE PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 3-409, Idaho Code, be, and the same is hereby amended to read as follows:

3-409. LICENSE FEES AND APPROPRIATIONS. (1) Every person practicing, or holding himself out as practicing law within this state, or holding himself out to the public as a person qualified to practice or carry on the calling of a lawyer within this state, except state and United States judges of the courts of record within this state, shall, prior to so doing and no later than February 1 of each year pay to the board of commissioners of the Idaho

state bar ~~as~~ a license fee ~~the following amounts:~~ as provided in this section.

(2) For the year 2011, license fees shall be in the following amounts:

(a) Active members and house counsel:

(i) For the calendar year of admission to the practice of law in the state of Idaho if admitted prior to July 1: one hundred ~~forty~~ fifty-five dollars ($1~~40~~55);

(ii) For the calendar year of admission to the practice of law in the state of Idaho if admitted after July 1: ~~ninety~~ one hundred dollars ($~~90.00~~100);

(iii) Each year for the next three (3) calendar years following the calendar year of admission: two hundred ~~fifty~~ eighty-five dollars ($2~~55~~85);

(iv) Each year after the third full year of admission: three hundred ~~forty~~ eighty dollars ($3~~40~~80);

(v) Each year following the calendar year of the lawyer's seventy-second birthday: ~~fifty-five~~ sixty dollars ($~~55~~60.00)~~;~~.

(b) Affiliate and emeritus members:

(i) F~~f~~or each calendar year: one hundred ~~twenty~~ thirty-five dollars ($1~~20~~35);

(ii) Each year following the calendar year of the lawyer's seventy-second birthday: sixty dollars ($60.00).

(3) For the year 2012 and each year thereafter, license fees shall be in the following amounts:

(a) Active members and house counsel:

(i) For the calendar year of admission to the practice of law in the state of Idaho if admitted prior to July 1: one hundred seventy-five dollars ($175);

(ii) For the calendar year of admission to the practice of law in the state of Idaho if admitted after July 1: one hundred fifteen dollars ($115);

(iii) Each year for the next three (3) calendar years following the calendar year of admission: three hundred twenty dollars ($320);

(iv) Each year after the third full year of admission: four hundred twenty-five dollars ($425);

(v) Each year following the calendar year of the lawyer's seventy-second birthday: seventy dollars ($70.00).

(b) Affiliate and emeritus members:

(i) For each calendar year: one hundred fifty dollars ($150);

(ii) Each year following the calendar year of the lawyer's seventy-second birthday: seventy dollars ($70.00).

(4) The moneys thus collected, together with other revenues shall be administered under the direction of the board of commissioners of the Idaho state bar for the purpose of administering the Idaho state bar, encouraging local bar associations, promoting legal education seminars, fostering relations between the public and the bar and for the purpose of establishing and maintaining a clients' assistance fund which shall be administered by the Idaho state bar commissioners under rules approved by the supreme court, provided that the clients' assistance fund shall be funded by assessment of the members of the Idaho state bar not to exceed twenty dollars ($20.00) per member per year, independent of the license fee. All moneys received and expended by the commissioners of the Idaho state bar shall be audited annually by a certified public accountant.

SECTION 2. This act shall be in full force and effect on and after November 1, 2010.

Approved March 9, 2010.

CHAPTER 41
(S.B. No. 1287)

AN ACT

RELATING TO HOMEOWNER'S ASSOCIATION LIENS; AMENDING SECTION 45-810, IDAHO CODE, TO PROVIDE THAT A COPY OF A RECORDED LIEN SHALL BE SERVED ON THE OWNER OR REPUTED OWNER NO LATER THAN FIVE BUSINESS DAYS FOLLOWING THE RECORDING OF SUCH LIEN.

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

SECTION 1. That Section 45-810, Idaho Code, be, and the same is hereby amended to read as follows:

45-810. HOMEOWNER'S ASSOCIATION LIENS. (1) Whenever a homeowner's association levies an assessment against a lot for the reasonable costs incurred in the maintenance of common areas consisting of real property owned and maintained by the association, the association, upon complying with subsection (2) of this section, shall have a lien upon the individual lot for such unpaid assessments accrued in the previous twelve (12) months.

(2) (a) An association claiming a lien under subsection (1) of this section shall file in the county in which the lot or some part thereof is located a claim containing:

(i) A true statement of the amount due for the unpaid assessments after deducting all just credits and offsets;

(ii) The name of the owner, or reputed owner, if known;

(iii) The name of the association; and

(iv) A description, sufficient for identification, of the property to be charged with the lien.

(b) When a claim has been filed and recorded pursuant to this section and the owner of the lot subject to the claim thereafter fails to pay any assessment chargeable to such lot, then so long as the original or any subsequent unpaid assessment remains unpaid, such claim shall automatically accumulate the subsequent unpaid assessments without the necessity of further filings under this section.

(c) The claim shall be verified by the oath of an individual having knowledge of the facts and shall be recorded by the county recorder. The record shall be indexed as other liens are required by law to be indexed.

(d) Within ~~twenty-four (24) hours~~ <u>five (5) business days</u> after recording a lien on the property, the association shall serve, by personal delivery to the owner or reputed owner or by certified mail to the last known address of the owner or reputed owner, a true and correct copy of the recorded lien.

(3) The lien may be continued in force for a period of time not to exceed one (1) year from the date the claim is filed and recorded under subsection (2) of this section; provided however, that such period may be extended by the homeowner's association for not to exceed one (1) additional year by recording a written extension thereof. For the purpose of determining the date the claim is filed in those cases when subsequent unpaid assessments have accumulated under the claim as provided in subsection (2) of this section, the claim regarding each unpaid assessment shall be deemed to have been filed at the time such unpaid assessment became due. The lien may be enforced by the board of directors acting on behalf of the association.

(4) This section does not prohibit a homeowner's association from pursuing an action to recover sums for which subsection (1) of this section creates a lien or from taking a deed in lieu of foreclosure in satisfaction of the lien.

(5) An action to recover a money judgment for unpaid assessments may be maintained without foreclosing or waiving the lien securing the claim for unpaid assessments. However, recovery on the action operates to satisfy the lien, or the portion thereof, for which recovery is made.

(6) As used in this section, "homeowner's association" means any incorporated or unincorporated association:

(a) In which membership is based upon owning or possessing an interest in real property; and

(b) That has the authority, pursuant to recorded covenants, bylaws or other governing instruments, to assess and record liens against the real property of its members.

(7) In order to file a lien as provided in this section, a homeowner's association that is an unincorporated association must be governed by bylaws which provide for at least the following:

(a) A requirement that the homeowner's association hold at least one (1) meeting each calendar year;

(b) A requirement that notice of any meeting of the homeowner's association be published and distributed to all members of the homeowner's association;

(c) A requirement that the minutes of all homeowner's association meetings be recorded;

(d) A method of adopting and amending fees; and

(e) A provision providing that no fees or assessments of the homeowner's association may be increased unless a majority of all members of the homeowner's association vote in favor of such increase.

Approved March 9, 2010.

CHAPTER 42
(S.B. No. 1306)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-601, IDAHO CODE, AS AMENDED BY SECTION 44, CHAPTER 341, LAWS OF 2009, TO REVISE PROVISIONS RELATING TO THE SEALED BID OR PUBLIC AUCTION PROCESS FOR CERTAIN REAL PROPERTY, TO PROVIDE THAT IF THE BOARD OF TRUSTEES FINDS IT IS IN THE SCHOOL DISTRICT'S BEST INTERESTS TO TRADE PERSONAL PROPERTY TO A PERSON OR ENTITY FOR LIKE KIND PERSONAL PROPERTY, THE BOARD MAY VOTE TO ELECT TO DO SO AND THE BOARD MAY ELECT TO ABSTAIN FROM AN APPRAISAL OF THE PERSONAL PROPERTY IN CERTAIN INSTANCES 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 33-601, Idaho Code, as amended by Section 44, Chapter 341, Laws of 2009, be, and the same is hereby amended to read as follows:

33-601. REAL AND PERSONAL PROPERTY -- ACQUISITION, USE OR DISPOSAL OF SAME. The board of trustees of each school district shall have the following powers and duties:

(1) To rent to or from others, school buildings or other property used, or to be used, for school purposes.

(2) To contract for the construction, repair, or improvement of any real property, or the acquisition, purchase or repair of any equipment, or other personal property necessary for the operation of the school district.

Except for the purchase of curricular materials as defined in section 33-118A, Idaho Code, such contract shall be executed in accordance with the provisions of chapter 28, title 67, Idaho Code.

(3) To designate and purchase any real property necessary for school purposes or in the operation of the district, or remove any building, or dispose of any real property. Prior to, but not more than one (1) year prior to, any purchase or disposal of real property, the board shall have such property appraised by an appraiser certified in the state of Idaho, which appraisal shall be entered in the records of the board of trustees and shall be used to establish the value of the real property. The board of trustees shall determine the size of the site necessary for school purposes. The site shall be located within the incorporated limits of any city within the district; provided, however, that if the board finds that it is not in the best interests of the electors and the students of the district to locate the site within the incorporated limits of a city, the board, by duly adopted resolution setting forth the reasons for its finding, may designate a site located elsewhere within the district. In elementary school districts, except upon removal for highway purposes, a site may be designated or changed only after approval of two-thirds (2/3) or more of the electors voting at the annual meeting.

(4) (a) To convey, except as provided by paragraph (b) of this subsection, by deed, bill of sale, or other appropriate instrument, all of the estate and interest of the district in any property, real or personal. In elementary school districts, except such conveyance as is authorized by subsection (6) of this section, any of the transactions authorized in this subsection shall be subject to the approval of two-thirds (2/3) or more of the electors voting at the annual meeting.

Prior to such sale or conveyance, the board shall have the property appraised pursuant to this section, which appraisal shall be entered in the records of the board of trustees. The property may be sold at public auction or by sealed bids, as the board of trustees shall determine, to the highest bidder. Such property may be sold for cash or for such terms and conditions as the board of trustees shall determine for a period not exceeding ten (10) years, with the annual rate of interest on all deferred payments not less than seven percent (7%) per annum. The title to all property sold on contract shall be retained in the name of the school district until full payment has been made by the purchaser, and title to all property sold under a note and mortgage or deed of trust shall be transferred to the purchaser at the point of sale under the terms and conditions of the mortgage or deed of trust as the board of trustees shall determine. Notice of the time and the conditions of such sale shall be published twice, and proof thereof made, in accordance with subsections (~~7~~2) and (~~8~~3) 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. <u>During the sealed bid or public auction process, no real property of the school district can be sold for less than its appraised value.</u> If, thereafter, no satisfactory bid is made and received, the board may proceed under its own direction to sell and convey the property <u>for the highest price the market will bear</u>. ~~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 cooperative service agency formed pursuant to section 33-317, Idaho Code, any other school district, the Idaho housing and finance association, 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. Provided however, if the board of trustees finds it is in the school district's best interests to trade personal property to a person or entity for like kind personal property, the board of trustees may vote to elect to do so. The board of trustees may elect to abstain from an appraisal of the personal property if the estimated value of such property is less than five thousand dollars ($5,000).

(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. This act shall be in full force and effect on and after January 1, 2011.

Approved March 9, 2010.

CHAPTER 43
(S.B. No. 1308)

AN ACT

RELATING TO DISPOSITION OF REMAINS; AMENDING SECTION 54-1142, IDAHO CODE, TO PROVIDE THAT IN THE ABSENCE OF A PREARRANGED FUNERAL PLAN OR CERTAIN PROVISIONS IN SUCH PLAN, THAT DISPOSITION OF THE REMAINS OF A DECEDENT MAY VEST IN THE PERSON DESIGNATED BY THE DECEDENT IN A DD FORM 93, IF THE DECEDENT DIED WHILE SERVING IN MILITARY SERVICE IN ANY BRANCH OF THE UNITED STATES ARMED FORCES, UNITED STATES RESERVE FORCES OR NATIONAL GUARD.

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

SECTION 1. That Section 54-1142, Idaho Code, be, and the same is hereby amended to read as follows:

54-1142. AUTHORITY IN ABSENCE OF OR UNCOVERED PROVISIONS IN A PREARRANGED FUNERAL PLAN. (1) If the decedent has not made a prearranged funeral plan as set forth in section 54-1139, Idaho Code, or to the extent any provisions relating to the disposition of the person's remains are not clearly covered in a prearranged funeral plan, the right to control the disposition of the remains of a deceased person or to determine provisions not clearly covered in a prearranged funeral plan 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 <u>or, the person designated by the decedent as authorized to direct disposition as listed on the decedent's United States department of defense record of emergency data, DD form 93, or its successor form, if the decedent died while serving in military service as described in 10 U.S.C. 1481(a)(1)through(8) in any branch of the United States armed forces, United States reserve forces or national guard</u>;

(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 person at the time of the protected person's death, has the authority to dispose of the deceased person's remains, including cremation of the remains.

(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 15-12-102, 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 representation is untrue at the time the autopsy is performed. If such authorization is contained in a will, the autopsy may be performed regardless of the validity of the will in other respects and regardless of whether the will may not be offered for, or admitted to, probate until a later date.

(c) This subsection shall not authorize the obtaining of an oral authorization by telephone, recorded on tape or other recording device, for the autopsy of a deceased person if it is made known to the physician who is to perform the autopsy that the deceased person was, at the time of his death, a member of a religion or group which opposes autopsies.

Approved March 9, 2010.

CHAPTER 44
(H.B. No. 386, As Amended)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3022, IDAHO CODE, TO REVISE HOW WITHDRAWALS FROM THE STATE COLLEGE SAVINGS ACCOUNT ARE ADDED TO TAXABLE INCOME; AMENDING SECTION 63-3029G, IDAHO CODE, TO REVISE THE INCOME TAX CREDIT FOR RESEARCH ACTIVITY; AMENDING SECTION 63-4403, IDAHO CODE, TO PROVIDE THAT THE ADDITIONAL INCOME TAX CREDIT FOR CAPITAL INVESTMENT SHALL BE CALCULATED ON THE AMOUNT OF QUALIFIED INVESTMENT MADE DURING THE PROJECT PERIOD WHEREVER LOCATED WITHIN THIS STATE; AND DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

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

63-3022. ADJUSTMENTS TO TAXABLE INCOME. The additions and subtractions set forth in this section, and in sections 63-3022A through 63-3022Q, Idaho Code, are to be applied to the extent allowed in computing Idaho taxable income:

(a) Add any state and local taxes, as defined in section 164 of the Internal Revenue Code and, measured by net income, paid or accrued during the taxable year adjusted for state or local tax refunds used in arriving at taxable income.

(b) Add the net operating loss deduction used in arriving at taxable income.

(c) (1) A net operating loss for any taxable year commencing on and after January 1, 2000, shall be a net operating loss carryback not to exceed a total of one hundred thousand dollars ($100,000) to the two (2) immediately preceding taxable years. Any portion of the net operating loss not subtracted in the two (2) preceding years may be subtracted in the next twenty (20) years succeeding the taxable year in which the loss arises in order until exhausted. The sum of the deductions may not exceed the amount of the net operating loss deduction incurred. At the election of the taxpayer, the two (2) year carryback may be foregone and the loss subtracted from income received in taxable years arising in the next twenty (20) years succeeding the taxable year in which the loss arises in order until exhausted. The election shall be made as under section 172(b)(3) of the Internal Revenue Code. An election under this subsection must be in the manner prescribed in the rules of the state tax commission and once made is irrevocable for the year in which it is made. The term "income" as used in this subsection (c) means Idaho taxable income as defined in this chapter as modified by section 63-3021(b)(2), (3) and (4), Idaho Code.

(2) Net operating losses incurred by a corporation during a year in which such corporation did not transact business in Idaho or was not included in a group of corporations combined under subsection (t) of section 63-3027, Idaho Code, may not be subtracted. However, if at least one (1) corporation within a group of corporations combined under subsection (t) of section 63-3027, Idaho Code, was transacting business in Idaho during the taxable year in which the loss was incurred, then the net operating loss may be subtracted. Net operating losses incurred by a person, other than a corporation, in activities not taxable by Idaho may not be subtracted.

(d) In the case of a corporation, add the amount deducted under the provisions of sections 243(a) and (c), 244, 245 and 246A of the Internal Revenue Code (relating to dividends received by corporations) as limited by section 246(b)(1) of said code.

(e) In the case of a corporation, subtract an amount determined under section 78 of the Internal Revenue Code to be taxable as dividends.

(f) Subtract the amount of any income received or accrued during the taxable year which is exempt from taxation by this state, under the provisions of any other law of this state or a law of the United States, if not previously subtracted in arriving at taxable income.

(g) For the purpose of determining the Idaho taxable income of the beneficiary of a trust or of an estate:

(1) Distributable net income as defined for federal tax purposes shall be corrected for the other adjustments required by this section.

(2) Net operating losses attributable to a beneficiary of a trust or estate under section 642 of the Internal Revenue Code shall be a deduction for the beneficiary to the extent that income from the trust or estate would be attributable to this state under the provisions of this chapter.

(h) In the case of an individual who is on active duty as a full-time officer, enlistee or draftee, with the armed forces of the United States, which full-time duty is or will be continuous and uninterrupted for one hundred twenty (120) consecutive days or more, deduct compensation paid by the armed forces of the United States for services performed outside this state. The deduction is allowed only to the extent such income is included in taxable income.

(i) In the case of a corporation, including any corporation included in a group of corporations combined under subsection (t) of section 63-3027, Idaho Code, add any capital loss deducted which loss was incurred during any

year in which such corporation did not transact business in Idaho. However, do not add any capital loss deducted if a corporation, including any corporation in a group of corporations combined under subsection (t) of section 63-3027, Idaho Code, was transacting business in Idaho during the taxable year in which the loss was incurred. In the case of persons, other than corporations, add any capital loss deducted which was incurred in activities not taxable by Idaho at the time such loss was incurred. In computing the income taxable to an S corporation or partnership under this section, deduction shall not be allowed for a carryover or carryback of a net operating loss provided for in subsection (c) of this section or a capital loss provided for in section 1212 of the Internal Revenue Code.

(j) In the case of an individual, there shall be allowed as a deduction from gross income either (1) or (2) at the option of the taxpayer:

(1) The standard deduction as defined in section 63, Internal Revenue Code.

(2) Itemized deductions as defined in section 63 of the Internal Revenue Code except state or local taxes measured by net income and general sales taxes as either is defined in section 164 of the Internal Revenue Code.

(k) Add the taxable amount of any lump sum distribution excluded from gross income for federal income tax purposes under the ten (10) year averaging method. The taxable amount will include the ordinary income portion and the amount eligible for the capital gain election.

(l) Deduct any amounts included in gross income under the provisions of section 86 of the Internal Revenue Code relating to certain social security and railroad benefits.

(m) In the case of a self-employed individual, deduct the actual cost of premiums paid to secure worker's compensation insurance for coverage in Idaho, if such cost has not been deducted in arriving at taxable income.

(n) In the case of an individual, deduct the amount contributed to a college savings program pursuant to chapter 54, title 33, Idaho Code, but not more than four thousand dollars ($4,000) per tax year. If the contribution is made on or before April 15, 2001, it may be deducted for tax year 2000 and an individual can make another contribution and claim the deduction according to the limits provided in this subsection during 2001 for tax year 2001, as long as the contribution is made on or before December 31, 2001.

(o) In the case of an individual, add the amount of a nonqualified withdrawal from an individual trust account or savings account established pursuant to chapter 54, title 33, Idaho Code, less any amount of such nonqualified withdrawal included in the individual's federal gross income pursuant to section 529 of the Internal Revenue Code.

(p) In the case of an individual, add the amount of a withdrawal from an individual trust account or savings account established pursuant to chapter 54, title 33, Idaho Code, transferred to a qualified tuition program, as defined in section 529 of the Internal Revenue Code, that is operated by a state other than Idaho. The addition provided in this subsection is limited to the amount of the ~~total~~ contributions to the Idaho individual trust account or savings account by the account owner ~~in the twelve (12) months preceding the date of the transfer~~ <u>that were deducted on the account owner's income tax return for the year of the transfer and the prior taxable year</u>.

SECTION 2. That Section 63-3029G, Idaho Code, be, and the same is hereby amended to read as follows:

63-3029G. CREDITS FOR RESEARCH ACTIVITIES CONDUCTED IN THIS STATE -- CARRY FORWARD.

(1) (a) Subject to the limitations of this section, ~~for taxable years after January 1, 2001,~~ there shall be allowed to a taxpayer a nonrefundable credit against taxes imposed by sections 63-3024, 63-3025

and 63-3025A, Idaho Code, for increasing research activities in Idaho ~~beginning, at the election of the taxpayer, either:~~

~~(i) January 1, 2001, or~~

~~(ii) The first day of the taxpayer's taxable year beginning in 2001~~.

(b) The credit allowed by subsection (1)(a) of this section shall be the sum of:

(i) Five percent (5%) of the excess of qualified research expenses for research conducted in Idaho over the base amount; and

(ii) Five percent (5%) basic research payments allowable under subsection (e) of section 41 of the Internal Revenue Code for basic research conducted in Idaho.

(c) ~~Subject to the limitation in subsection (3) of this section, a taxpayer making the election permitted by subsection (1)(a)(i) of this section, credit for research activities occurring prior to the beginning of the taxpayer's taxable year beginning in 2001 shall be claimed on the taxpayer's return for its taxable year 2001 in addition to credit relating to activity in that year~~ The credit allowed by subsection (1)(a) of this section shall be computed without regard to the calculation of the alternative incremental credit provided for in section 41(c)(4) of the Internal Revenue Code or the alternative simplified credit provided for in section 41(c)(5) of the Internal Revenue Code.

(2) As used in this section:

(a) The terms "qualified research expenses," "qualified research," "basic research payments" and "basic research" shall be as defined in section 41 of the Internal Revenue Code except that the research must be conducted in Idaho.

(b) The term "base amount" shall mean an amount calculated as provided in sections 41(c) and 41(h) of the Internal Revenue Code, except that:

(i) ~~The base amount does not include the calculation of the alternative incremental credit provided for in section 41(c)(4) of the Internal Revenue Code;~~

~~(ii)~~ A taxpayer's gross receipts include only those gross receipts attributable to sources within this state as provided in subsections (q) and (r) of section 63-3027, Idaho Code; and

(ii~~i~~) Notwithstanding section 41(c) of the Internal Revenue Code, for purposes of calculating the base amount, a taxpayer:

(A) May elect to be treated as a start-up company as provided in section 41(c)(3)(B) of the Internal Revenue Code, regardless of whether the taxpayer meets the requirements of section 41(c)(3)(B)(i)(I) or (II) of the Internal Revenue Code; and

(B) May not revoke an election to be treated as a start-up company.

(3) The credit allowed by subsection (1)(a) of this section together with any credits carried forward under subsection (5) of this section shall not exceed the amount of tax due under sections 63-3024, 63-3025 and 63-3025A, Idaho Code, after allowance for all other credits permitted by this chapter. When credits earned in more than one (1) taxable year are available, the oldest credits shall be applied first.

(4) In the case of a group of corporations filing a combined report under subsection (t) of section 63-3027, Idaho Code, credit earned by one (1) member of the group but not used by that member may be used by another member of the group. For a combined group of corporations, any member of the group may claim credit carried forward unless the member who earned the credit is no longer included in the combined group.

(5) The credit allowed by subsection (1)(a) of this section shall be claimed for the taxable year during which the taxpayer qualifies for the credit. If the credit exceeds the limitation under subsection (3) of this

section, the excess amount may be carried forward for a period that does not exceed the next fourteen (14) taxable years.

(6) In addition to other needed rules, the state tax commission may promulgate rules prescribing, in the case of S corporations, partnerships, trusts or estates, a method of attributing the credit under this section to the shareholders, partners or beneficiaries in proportion to their share of the income from the S corporation, partnership, trust or estate.

SECTION 3. That Section 63-4403, Idaho Code, be, and the same is hereby amended to read as follows:

63-4403. ADDITIONAL INCOME TAX CREDIT FOR CAPITAL INVESTMENT. (1) For taxable years beginning on or after January 1, 2006, and before December 31, 2020, and subject to the limitations of this chapter, a taxpayer who has certified that the tax incentive criteria will be met within a project site during a project period shall, in regard to qualified investments made after the beginning of the project period and before December 31, 2020, in lieu of the investment tax credit provided in section 63-3029B, Idaho Code, be allowed a nonrefundable credit against taxes imposed by sections 63-3024, 63-3025 and 63-3025A, Idaho Code, in the amount of three and seventy-five one hundredths percent (3.75%) of the amount of qualified investment made during ~~a taxable year~~ the project period, wherever located within this state.

(2) The credit allowed by this section shall not exceed sixty-two and five-tenths percent (62.5%) of the tax liability of the taxpayer.

(3) The credit allowed by this section shall not exceed seven hundred fifty thousand dollars ($750,000) in any one (1) taxable year.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage approval and retroactively to January 1, 2008. Sections 2 and 3 of this act shall be in full force and effect on and after passage and approval, and retroactively to January 1, 2010.

Approved March 15, 2010.

CHAPTER 45
(H.B. No. 414)

AN ACT

RELATING TO ADMINISTRATIVE RULES; AMENDING SECTION 67-5221, IDAHO CODE, TO REVISE PROVISIONS RELATING TO PUBLIC NOTICE REQUIREMENTS FOR PROPOSED RULEMAKING, TO REMOVE LANGUAGE RELATING TO CERTAIN NEGOTIATED RATES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 67-5221, Idaho Code, be, and the same is hereby amended to read as follows:

67-5221. PUBLIC NOTICE OF PROPOSED RULEMAKING. (1) Prior to the adoption, amendment, or repeal of a rule, the agency shall publish notice of proposed rulemaking in the bulletin. The notice of proposed rulemaking shall include:

(a) ~~t~~The specific statutory authority for the rulemaking including a citation to the specific section of the Idaho Code that has occasioned the rulemaking, or the federal statute or regulation if that is the basis of authority or requirement for the rulemaking;

(b) ~~a~~A statement in nontechnical language of the substance of the proposed rule, including a specific description of any fee or charge imposed or increased;

(c) ~~a~~A specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year when the pending rule will become effective; provided, however, that notwithstanding section 67-5231, Idaho Code, the absence or accuracy of a fiscal impact statement provided pursuant to this subsection shall not affect the validity or the enforceability of the rule;

(d) ~~t~~The text of the proposed rule prepared in legislative format;

(e) ~~t~~The location, date, and time of any public hearings the agency intends to hold on the proposed rule;

(f) ~~t~~The manner in which persons may make written comments on the proposed rule, including the name and address of a person in the agency to whom comments on the proposal may be sent;

(g) ~~t~~The manner in which persons may request an opportunity for an oral presentation as provided in section 67-5222, Idaho Code; and

(h) ~~t~~The deadline for public comments on the proposed rule.

(2) (a) Coinciding with each issue of the bulletin, the coordinator shall cause the publication of an abbreviated notice with a brief description of the subject matter, showing any agency's intent to propose a new or changed rule that is a new addition to that issue of the bulletin. The ~~form of the~~ notice shall be ~~substantially as follows: typefaces used shall measure greater than seven (7) points, and space width shall not be less than two (2) newspaper columns~~ in the form of an official legal notice, as provided for in section 60-105, Idaho Code, and subject to the rates set forth therein. ~~The content of the notice shall be substantially as follows:~~

~~A prominent bold typeface heading designed to alert readers to the rules and information contained in the notice.~~ The notice shall include the agency name and address, rule number, rule subject matter as provided in paragraph (1)(b) of this section, and the comment deadline. ~~A~~ The notice shall also include a brief statement ~~in a prominent bold typeface~~ that informs citizens where they can view the administrative bulletin in ~~hard copy or~~ electronic form ~~shall be included~~.

(b) The coordinator shall cause the notice required in paragraph (a) of this subsection to be published in at least the accepting newspaper of largest paid circulation that is published in each county in Idaho or, if no newspaper is published in the county, then in an accepting newspaper of largest paid circulation published in Idaho and circulated in the county. The newspaper of largest circulation shall be established by the sworn statement of average annual paid weekday issue circulation that has been filed by a newspaper with the United States post office for the calendar year immediately preceding the calendar year during which the advertisement in this section is required to be published. ~~The coordinator is authorized to negotiate a rate or rates with any or all newspapers publishing these notices which will provide adequate exposure to the notices by the least expensive means. For the purposes of this section, the provisions of section 60-105, Idaho Code, shall not apply.~~

Approved March 15, 2010.

CHAPTER 46
(H.B. No. 391, As Amended)

AN ACT

RELATING TO HEALTH AND SAFETY; AMENDING TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 90, TITLE 39, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE DEFINITIONS, TO PROVIDE A STATEMENT OF PUBLIC POLICY AND TO PROVIDE FOR ENFORCEMENT; AND AMENDING SECTION 67-1401, IDAHO CODE, TO REVISE DUTIES OF THE ATTORNEY GENERAL.

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

SECTION 1. That Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 90, Title 39, Idaho Code, and to read as follows:

CHAPTER 90
IDAHO HEALTH FREEDOM ACT

39-9001. SHORT TITLE. This chapter shall be known and may be cited as the "Idaho Health Freedom Act."

39-9002. DEFINITIONS. (1) "Health care services" shall mean any service, treatment, or provision of product for the care of physical or mental disease, illness, injury, defect or condition, or to otherwise maintain or improve physical or mental health, subject to all laws and rules regulating health service providers and products within the state of Idaho.

(2) "Mode of securing" shall mean to purchase directly or on credit or by trade, or to contract for third-party payment by insurance or other legal means authorized by the state of Idaho, or to apply for or accept employer or government sponsored health care benefits under such conditions as may legally be required as a condition of such benefits, or any combination of the same.

(3) "Penalty" shall mean any civil or criminal fine, tax, salary or wage withholding, surcharge, fee or any other imposed consequence, established by law or rule of the federal government of the United States of America or its subdivision or agency, that is used to punish or discourage the exercise of rights protected under this chapter.

39-9003. STATEMENT OF PUBLIC POLICY. (1) The power to require or regulate a person's choice in the mode of securing health care services, or to impose a penalty related thereto, is not found in the Constitution of the United States of America, and is therefore a power reserved to the people pursuant to the Ninth Amendment, and to the several states pursuant to the Tenth Amendment. The state of Idaho hereby exercises its sovereign power to declare the public policy of the state of Idaho regarding the right of all persons residing in the state of Idaho in choosing the mode of securing health care services free from the imposition of penalties, or the threat thereof, by the federal government of the United States of America relating thereto.

(2) It is hereby declared that the public policy of the state of Idaho, consistent with our constitutionally recognized and inalienable rights of liberty, is that every person within the state of Idaho is and shall be free to choose or decline to choose any mode of securing health care services without penalty or threat of penalty by the federal government of the United States of America.

(3) The policy stated herein shall not be applied to impair any right of contract related to the provision of health care services to any person or group.

39-9004. ENFORCEMENT. (1) No public official, employee, or agent of the state of Idaho or any of its political subdivisions, shall act to impose, collect, enforce, or effectuate any penalty in the state of Idaho that violates the public policy set forth in section 39-9003(2), Idaho Code.

(2) The attorney general shall take such action as is provided in section 67-1401(15), Idaho Code, in the defense or prosecution of rights protected under this act.

SECTION 2. That Section 67-1401, Idaho Code, be, and the same is hereby amended to read as follows:

67-1401. DUTIES OF ATTORNEY GENERAL. Except as otherwise provided in this chapter, it is the duty of the attorney general:

(1) To perform all legal services for the state and to represent the state and all departments, agencies, offices, officers, boards, commissions, institutions and other state entities, in all courts and before all administrative tribunals or bodies of any nature. Representation shall be provided to those entities exempted pursuant to the provisions of section 67-1406, Idaho Code. Whenever required to attend upon any court or administrative tribunal the attorney general shall be allowed necessary and actual expenses, all claims for which shall be audited by the state board of examiners.

(2) To advise all departments, agencies, offices, officers, boards, commissions, institutions and other state entities in all matters involving questions of law.

(3) After judgment in any of the causes referred to in the first subdivision, to direct the issuing of such process as may be necessary to carry the same into execution.

(4) To account for and pay over to the proper officer all moneys received which belong to the state.

(5) To supervise nonprofit corporations, corporations, charitable or benevolent societies, person or persons holding property subject to any public or charitable trust and to enforce whenever necessary any noncompliance or departure from the general purpose of such trust and, in order to accomplish such purpose, said nonprofit corporations, corporations, charitable or benevolent societies, person or persons holding property subject to any public or charitable trust are subject at all times to examination by the attorney general, on behalf of the state, to ascertain the condition of its affairs and to what extent, if at all, said trustee or trustees may have failed to comply with trusts said trustee or trustees have assumed or may have departed from the general purpose for which it was formed. In case of any such failure or departure, the attorney general shall institute, in the name of the state, any proceeding necessary to enforce compliance with the terms of the trust or any departure therefrom.

(6) To give an opinion in writing, without fee, to the legislature or either house thereof, or any senator or representative, and to the governor, secretary of state, treasurer, state controller, and the superintendent of public instruction, when requested, upon any question of law relating to their respective offices. The attorney general shall keep a record of all written opinions rendered by the office and such opinions shall be compiled annually and made available for public inspection. All costs incurred in the preparation of said opinions shall be borne by the office of the attorney general. A copy of the opinions shall be furnished to the supreme court and to the state librarian.

(7) When required by the public service, to repair to any county in the state and assist the prosecuting attorney thereof in the discharge of duties.

(8) To bid upon and purchase, when necessary, in the name of the state, and under the direction of the state controller, any property offered for sale under execution issued upon judgments in favor of or for the use of the state, and to enter satisfaction in whole or in part of such judgments as the consideration for such purchases.

(9) Whenever the property of a judgment debtor in any judgment mentioned in the preceding subdivision has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance, taking precedence of the judgment in favor of the state, under the direction of the state controller, to redeem such property from such prior judgment, lien, or encumbrance; and all sums of money necessary for such redemption must, upon the order of the board of examiners, be paid out of any money appropriated for such purposes.

(10) When necessary for the collection or enforcement of any judgment hereinbefore mentioned, to institute and prosecute, in behalf of the state, such suits or other proceedings as may be necessary to set aside and annul all conveyances fraudulently made by such judgment debtors; the cost necessary to the prosecution must, when allowed by the board of examiners, be paid out of any appropriations for the prosecution of delinquents.

(11) To exercise all the common law power and authority usually appertaining to the office and to discharge the other duties prescribed by law.

(12) To report to the governor, at the time required by this code, the condition of the affairs of the attorney general's office and of the reports received from prosecuting attorneys.

(13) To appoint deputy attorneys general and special deputy attorneys general and other necessary staff to assist in the performance of the duties of the office. Such deputies and staff shall be nonclassified employees within the meaning of section 67-5302, Idaho Code.

(14) To establish a medicaid fraud control unit pursuant to the provisions of section 56-226, Idaho Code, and to exercise concurrent investigative and prosecutorial authority and responsibility with county prosecutors to prosecute persons for the violation of the criminal provisions of chapter 2, title 56, Idaho Code, and for criminal offenses that are not defined in said chapter 2, title 56, Idaho Code, but that involve or are directly related to the use of medicaid program funds or services provided through the medicaid program.

(15) To seek injunctive and any other appropriate relief as expeditiously as possible to preserve the rights and property of the residents of the state of Idaho, and to defend as necessary the state of Idaho, its officials, employees and agents in the event that any law or regulation violating the public policy set forth in the Idaho health freedom act, chapter 90, title 39, Idaho Code, is enacted by any government, subdivision or agency thereof.

Approved March 17, 2010.

CHAPTER 47
(S.B. No. 1388)

AN ACT
APPROPRIATING MONEYS TO THE PUBLIC UTILITIES COMMISSION FOR FISCAL YEAR 2011; 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, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Public Utilities Commission Fund	$3,383,600	$1,425,900	$11,200	$4,820,700
American Reinvestment Fund	149,400	70,800		220,200
Federal Grant Fund	82,200	19,500		101,700
TOTAL	$3,615,200	$1,516,200	$11,200	$5,142,600

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, 2010, through June 30, 2011, 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 18, 2010.

CHAPTER 48
(S.B. No. 1332)

AN ACT
RELATING TO PESTICIDES AND CHEMIGATION; AMENDING SECTION 22-3404, IDAHO CODE, TO REVISE CERTAIN EXEMPTIONS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 22-3404, Idaho Code, be, and the same is hereby amended to read as follows:

22-3404. PESTICIDE AND CHEMIGATION APPLICATORS -- CLASSIFICATION LICENSING REQUIREMENTS. (1) The director may classify pesticide applicator licenses issued under this act. Such classifications may include, but are not limited to, professional and private applicators. Separate licensing requirements and testing procedures may be utilized for each classification.

(2) Professional Applicators. ~~n~~No person shall act as a professional applicator without first obtaining a professional applicator's license issued by the department.

(a) Application for a license shall be on a form prescribed by the department and shall be accompanied by a fee as prescribed by rule; and

(b) ~~o~~On the application for a license to perform chemigation, the applicant must certify that the equipment and system he plans to use for chemigation meet department standards and that the owner and persons operating the equipment have read the Idaho rules for chemigation and that the owner intends to operate and maintain the chemigation system according to the rules. On the application for licensure, the department may require other information as it deems necessary; and

(c) ~~a~~An applicant must be at least eighteen (18) years of age and must pass the department's examination in order to demonstrate his knowledge of how to apply, use and handle pesticides or chemicals in areas relevant to the operations he intends to undertake, or proper equipment and methods for injecting chemicals through irrigation systems; and

(d) ~~s~~Show proof of financial responsibility as prescribed by rule; and

(e) ~~a~~An examination fee will be charged as prescribed by rule and an additional examination fee of five dollars ($5.00) shall be charged when an exam is requested at other than a regularly scheduled examination date; and

(f) ~~i~~If at any time a licensed professional applicator fails to maintain the financial responsibility required by paragraph (d) of this subsection, his license shall be automatically suspended until the department receives verification that he is in compliance with paragraph (d) of this subsection.

(3) Private Applicator. ~~—n~~No person shall act as a private applicator without first obtaining a private applicator license issued by the department.

(a) Application for a license shall be on a form prescribed by the department; and

(b) ~~o~~On the application for a license to perform chemigation, the applicant must certify that the equipment and system he plans to use for chemigation meet department standards and that the owner and persons operating the equipment have read the Idaho rules for chemigation and that the owner intends to operate and maintain the chemigation system according to the rules. On the application for licensure, the department may require other information as it deems necessary; and

(c) ~~a~~An applicant must be at least eighteen (18) years of age and must pass the department's examination in order to demonstrate his knowledge of how to apply, use and handle pesticides or chemicals in areas relevant to the operations he intends to undertake or proper equipment and methods for injecting chemicals through irrigation systems; and

(d) ~~a~~An applicant must pay a license fee as prescribed by rule.

(4) If the director finds an applicant qualified for a professional or private applicator's license~~;~~, and if an applicant applying for a license to engage in the application of pesticides or chemicals has met all of the requirements of any applicable federal or state laws, regulations and rules, the director shall issue the license. The license or permit may restrict the applicant to the use of a certain type or types of equipment, pesticides or chemicals. If a license or permit is not issued as applied for, the department shall inform the applicant in writing of the reasons therefor.

(5) The director may by rule require professional applicators to maintain and furnish records forthwith pertaining to the application of pesticides and other relevant information as he may deem necessary.

(6) Licenses issued to dealers~~,~~ and professional and private applicators shall expire as designated by the director unless suspended or revoked as provided for in section 22-3409, Idaho Code.

(7) Exemptions:

(a) The following persons are exempt from subsections (2), (3) and (4) of this section unless the person is applying chemicals through an irrigation system:

1. Any person applying pesticides other than restricted-use pesticides for himself or on an exchange of service basis, and who does not publicly hold himself out as a professional applicator; and

2. ~~a~~Any person using hand-powered equipment to apply pesticides other than restricted-use pesticides to lawns, or to ornamental trees and shrubs ~~owned by such person, or as an incidental part of his business of taking care of yards for remuneration,~~ and who em-

ploys two (2) or fewer persons in his business who apply pesticides and is not holding himself out as a professional applicator; and

3. ~~a~~Any industry, governmental, ~~U~~university of Idaho research personnel and extension research personnel who apply pesticides other than restricted-use pesticides to experimental plots or to demonstrate the use of pesticides; and

4. ~~a~~Any veterinarian who applies pesticides as an integral part of his business and does not publicly hold himself out as a professional applicator.

(b) Federal, state, and other governmental agencies are exempt from the licensing fees provision of subsections (2) and (3) of this section.

(c) Professional applicators who do not apply pesticides may receive an exemption from the proof of financial responsibility required in subsection (2)(d) of this section, upon submitting a completed form prescribed by the department.

Approved March 18, 2010.

CHAPTER 49
(S.B. No. 1296)

AN ACT

RELATING TO COMMERCIAL MOTOR VEHICLES; AMENDING SECTION 49-104, IDAHO CODE, TO REVISE DEFINITIONS AND TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 49-240, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTAIN CIRCUMSTANCES FOR FORFEITURE OF BOND; AMENDING SECTION 49-335, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTAIN DISQUALIFICATIONS AND PENALTIES; AMENDING SECTION 49-1416, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTAIN CITATIONS WHILE OPERATING A COMMERCIAL MOTOR VEHICLE.

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

SECTION 1. That Section 49-104, Idaho Code, be, and the same is hereby amended to read as follows:

49-104. DEFINITIONS -- C. (1) "Cancellation of driver's license" means the annulment or termination by formal action of the department of a person's driver's license because of some error or defect in the driver's license or because the licensee is no longer entitled to the driver's license. The cancellation of a driver's license is without prejudice and after compliance with requirements, the individual may apply for a new driver's license at any time after cancellation.

(2) "Caravaning" means the transportation of any motor vehicle into, out of, or within the state operating on its own wheels or in tow for the purpose of sale or offer of sale by any agent, dealer, manufacturer's representative, purchaser, or prospective purchaser, regardless of residence unless the motor vehicle is licensed by the state of Idaho, or is owned by an automobile dealer, duly licensed as a dealer by this state. It shall also be considered as the transportation of property for hire by a motor vehicle upon the highways of this state.

(3) "Certificate of liability insurance" means a certificate of liability insurance issued by an insurance company authorized to do business in this state or a certificate of liability insurance issued by the department of insurance which demonstrates current insurance against loss resulting from liability imposed by law for bodily injury or death or damage to property suffered by any person caused by accident and arising out of the operation, maintenance or use of a motor vehicle described in the certificate

in an amount not less than that required by section ~~49-1212~~ 49-117(18), Idaho Code, and also demonstrates the current existence of any other coverage required by title 41, Idaho Code, or a certificate of self-insurance issued pursuant to law for each motor vehicle to be registered. A certificate of liability insurance shall contain the information required by the department of insurance, including the name and address of the owner of the motor vehicle and a description of the motor vehicle including identification number if there is one, or a statement that all vehicles owned by a person or entity are covered by insurance, the inception date of coverage, and the name of the insurer. "Certificate of liability insurance" may also include the original contract of liability insurance or a true copy, demonstrating the current existence of the liability insurance described above.

(4) "Certification of safety compliance" means that a motor carrier certifies as part of its registration process that it has knowledge of the federal regulations and rules promulgated by the Idaho transportation department and the Idaho state police applicable to motor carriers.

(5) "Chains" means metal traction devices required pursuant to section 49-948, Idaho Code, which consist of two (2) circular metal loops, one (1) on each side of the tire, connected by not less than nine (9) evenly-spaced chains across the tire tread.

(6) "Commercial coach." (See section 39-4301, Idaho Code)

(7) "Commercial driver's license" means any class A, class B or class C driver's license as defined in section 49-105, Idaho Code.

(8) "Commercial driver license information system (CDLIS)" is the information system established to serve as a clearinghouse for locating information related to the licensing and identification of motor vehicle drivers.

(9) "Commercial driver training school" means a business enterprise conducted by an individual, association, partnership, or corporation, for the education and training of persons, either practically or theoretically, or both, to operate or drive motor vehicles, and charging a consideration or tuition for such services.

(10) "Commercial vehicle" or "commercial motor vehicle." (See "Vehicle," section 49-123, Idaho Code)

(11) "Compliance review" means an on-site examination of motor carrier operations, which may be at the carrier's place of business, including driver's hours of service, vehicle maintenance and inspection, driver qualifications, commercial driver's license requirements, financial responsibility, accidents, hazardous materials, and such other related safety and transportation records to determine safety fitness.

(12) "Controlled substance" means any substance so classified under section 102(6) of the controlled substances act (21 U.S.C. 802(6)), and includes all substances listed on schedules I through V, of 21, CFR part 1308, as they may be revised from time to time.

(13) "Conviction" means:

(a) T~~t~~he person has pled guilty or has been found guilty, notwithstanding the form of the judgment or withheld judgment. A conviction for purposes of this title shall also include an infraction judgment.

(b) For purposes of disqualification or withdrawal of commercial vehicle driving privileges only, "conviction" means an unvacated adjudication of guilt, or determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended or probated.

(14) "Crosswalk" means:

(a) That part of a highway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of

the highway measured from the curbs or in the absence of curbs, from the edges of the traversable highway; and in the absence of a sidewalk on one side of the highway, that part of a highway included within the extension of the lateral lines of the existing sidewalk at right angles to the centerline.

(b) Any portion of a highway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

SECTION 2. That Section 49-240, Idaho Code, be, and the same is hereby amended to read as follows:

49-240. CERTAIN CIRCUMSTANCES FOR FORFEITURE OF BOND FOR TRAFFIC OFFENSES. (1) Whenever a person has received a written uniform misdemeanor traffic citation, summons or complaint containing a notice to appear before a magistrate, and if the attorney prosecuting the case and the defendant concur that it is in the best interest of justice that the defendant may post and forfeit an amount of the bond agreed upon by the parties, the court shall dismiss the charge. When bond is forfeited under the provisions of this subsection, no violation points, as prescribed in section 49-326, Idaho Code, shall accrue. A forfeiture of bond under the provisions of this subsection shall not be recorded as a conviction, but the proceeds of the bond shall be distributed as court costs and fines as though there were a conviction.

(2) The provisions of subsection (1) of this section shall not be available when citations, summons or complaints are written for a violation of the provisions of section 18-8001, 18-8004, 18-8006 or 49-1401, Idaho Code.

(3) Whenever a person who ~~holds~~, while operating a commercial motor vehicle or whenever a holder of a class A, B or C license, has received a written uniform traffic citation, summons or complaint containing a notice to appear before a magistrate for an offense arising out of the operation of a motor vehicle, any bond forfeiture shall be treated as though it were a conviction.

SECTION 3. That Section 49-335, Idaho Code, be, and the same is hereby amended to read as follows:

49-335. DISQUALIFICATIONS AND PENALTIES -- COMMERCIAL DRIVER'S LICENSE. (1) Any person who operates a commercial motor vehicle or who holds a class A, B or C driver's license is disqualified from operating a commercial motor vehicle for a period of not less than one (1) year if convicted in the form of a judgment or withheld judgment of a first violation under any state or federal law of:

(a) Operating a motor vehicle while under the influence of alcohol or a controlled substance;

(b) Operating a commercial motor vehicle while the alcohol concentration of the person's blood, breath or bodily substance is 0.04 or more;

(c) Leaving the scene of an accident involving a motor vehicle driven by the person;

(d) Using a motor vehicle in the commission of any felony;

(e) Operating a commercial motor vehicle when the person's class A, B or C commercial driver's license driving privileges were revoked, suspended or canceled, or during a time when such person was disqualified from operating a commercial motor vehicle, if the reason for such revocation, suspension, cancellation or disqualification was the result of a violation that occurred while the person was operating a commercial motor vehicle;

(f) Causing a fatality through negligent operation of a commercial motor vehicle, including, but not limited to, the crimes of motor vehicle manslaughter, homicide by motor vehicle and negligent homicide.

(2) Any person who operates a commercial motor vehicle or who holds a class A, B or C driver's license is disqualified from operating a commercial motor vehicle for a period of not less than one (1) year if the person refuses to submit to or submits to and fails a test to determine the driver's alcohol, drug or other intoxicating substances concentration while operating a motor vehicle.

(3) If any of the offenses specified in subsection (1) or (2) of this section occurred while transporting a hazardous material required to be placarded, the person is disqualified for a period of not less than three (3) years.

(4) A person is disqualified for the period of time specified in 49 CFR part 383 if found to have committed two (2) or more of any of the offenses specified in subsection (1) or (2) of this section, or any combination of those offenses, arising from two (2) or more separate incidents.

(5) A person is disqualified for the period of time specified in 49 CFR part 383 from operating a commercial motor vehicle who uses a motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, or possession of a controlled substance with the intent to manufacture, distribute or dispense such controlled substance.

(6) A person is disqualified from operating a commercial motor vehicle for a period of not less than sixty (60) days if convicted of two (2) serious traffic violations, or one hundred twenty (120) days if convicted of three (3) or more serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three (3) year period. A conviction for reckless driving shall be considered a serious traffic violation if committed while operating a commercial motor vehicle or a noncommercial motor vehicle, as specified in 49 CFR part 383.

(7) A person who drives, operates, or is in physical control of a commercial motor vehicle within this state while having any detectable amount of alcohol in his system or who refuses to submit to an alcohol test must be placed out of service for twenty-four (24) hours and be subject to the provisions of section 18-8002, Idaho Code.

(8) It is unlawful to violate an out-of-service order. A person who is convicted in the form of a judgment or withheld judgment of a violation of an out-of-service order while driving a commercial motor vehicle is disqualified for not less than:

(a) One hundred eighty (180) days nor more than one (1) year for a first conviction;

(b) Two (2) years nor more than five (5) years for a second conviction arising from separate incidents during any ten (10) year period;

(c) Three (3) years nor more than five (5) years for three (3) or more convictions arising from separate incidents during any ten (10) year period.

(9) A person who is convicted in the form of a judgment or withheld judgment of a violation of an out-of-service order while driving a commercial motor vehicle and while transporting hazardous materials required to be placarded under the hazardous materials transportation act, or while operating motor vehicles designed to transport sixteen (16) or more people including the driver, is disqualified for not less than:

(a) One hundred eighty (180) days nor more than two (2) years for a first conviction;

(b) Three (3) years nor more than five (5) years for subsequent convictions arising from separate incidents in any ten (10) year period.

(10) A person is disqualified from operating a commercial motor vehicle if convicted of a railroad grade crossing violation as specified in 49 CFR part 383 or applicable state laws while operating a commercial motor vehicle. The disqualification shall be for a period of:

(a) Sixty (60) days for a first conviction;

(b) One hundred twenty (120) days for a second conviction during any three (3) year period;

(c) One (1) year for a third or subsequent conviction during any three (3) year period.

(11) A person is disqualified from operating a commercial motor vehicle if the federal motor carrier administration has determined the person's driving constitutes an imminent hazard, as defined in 49 CFR 383.5.

(a) An imminent hazard disqualification may not exceed one (1) year in duration. The driver, or a representative on his or her behalf, may file an appeal of the disqualification with the assistant administrator, adjudications counsel, federal motor carrier safety administration.

(b) Any imminent hazard disqualification transmitted by the federal motor carrier safety administration shall become a part of the driver's record.

(c) The imminent hazard disqualification shall run concurrent to any other existing disqualification.

(12) In addition to the disqualification periods in subsections (8) and (9) of this section, a driver who is convicted of violating an out-of-service order shall be subject to a civil penalty of not less than two thousand five hundred dollars ($2,500) for the first conviction and not less than five thousand dollars ($5,000) for any subsequent conviction.

SECTION 4. That Section 49-1416, Idaho Code, be, and the same is hereby amended to read as follows:

49-1416. RECORD OF TRAFFIC CASES -- REPORT OF CONVICTIONS TO DEPARTMENT. (1) Every magistrate or judge of a court shall keep or cause to be kept a record of every traffic complaint, traffic citation, or other legal form of traffic charge deposited with or presented to the court, and shall keep a record of every official action by the court in reference thereto, including a record of every conviction, forfeiture resulting from every traffic complaint or citation deposited with or presented to the court.

(2) Within ten (10) days after a conviction or forfeiture of bail of a person upon a charge of violating any provision of this title or other law regulating the operation of vehicles on highways, the magistrate of the court or clerk of the court of record in which the conviction was had or bail was forfeited shall prepare and immediately forward to the department, either by paper or electronically, an abstract of the record of the court covering the case in which the person was convicted or forfeited bail. The abstract shall be certified by the person required to prepare the abstract to be true and correct. A report need not be made of any conviction involving the illegal parking or standing of a vehicle.

(3) The abstract, whether paper or electronic, shall be made upon a form as prescribed by the supreme court and shall include the name and address of the party charged, the number if any of his driver's license, the registration number of the motor vehicle involved, the nature of the offense, the date of hearing, the plea, the judgment, or whether bail was forfeited, and the amount of the fine or forfeiture as applicable.

(4) Every court of record shall also forward a like report to the department upon the conviction of any person of manslaughter or other felony in the commission of which a vehicle was used.

(5) Courts shall not mask, defer imposition of judgment, or allow the holder of a commercial driver's license or a person cited while operating a commercial motor vehicle, to enter into a diversion program that would prevent a conviction in any jurisdiction of a violation ~~committed in any type of motor vehicle~~ of a state or local traffic control law, excluding a parking violation, from appearing on the driver's record.

(6) The failure, refusal, or neglect of any judicial officer to comply with any of the requirements of this section shall constitute misconduct in office and shall be grounds for removal.

(7) The department shall keep all abstracts received in either electronic format or on microfilm, and abstracts shall be open to public inspection during reasonable business hours with the exception of personal information which may be exempt from disclosure as otherwise provided by law.

Approved March 18, 2010.

CHAPTER 50
(S.B. No. 1285)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-404, IDAHO CODE, TO PROVIDE THAT RESIDENT YOUTH SMALL GAME LICENSES MAY BE ISSUED TO QUALIFIED PERSONS WHO ARE NINE YEARS OF AGE TO ALLOW THE APPLICATION FOR A CONTROLLED HUNT TURKEY PERMIT AND TO PROVIDE A CONDITION; AMENDING SECTION 36-406, IDAHO CODE, TO REVISE PROVISIONS RELATING TO YOUTH SMALL GAME LICENSES; AND AMENDING SECTION 36-407, IDAHO CODE, TO PROVIDE THAT NONRESIDENT YOUTH SMALL GAME LICENSES MAY BE ISSUED TO QUALIFIED PERSONS WHO ARE NINE YEARS OF AGE TO ALLOW THE APPLICATION FOR A CONTROLLED HUNT TURKEY PERMIT AND TO PROVIDE A CONDITION.

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, 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. <u>Provided, that a license may be issued to qualified persons who are nine (9) years of age to allow the application for a controlled hunt turkey permit; however, said persons shall not hunt until they are ten (10) years of age.</u>

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 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~~ person possessing the qualifications therein described 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, 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 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, 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, 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, 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. Provided, that a license may be issued to qualified persons who are nine (9) years of age to allow the application for a controlled hunt turkey permit; however, said persons shall not hunt until they are ten (10) years of age.

(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, 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 18, 2010.

CHAPTER 51
(S.B. No. 1284)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-412A, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE MAXIMUM AMOUNT OF FINES AND FORFEITURES THAT MAY BE DISTRIBUTED TO LOCAL SHOOTING RANGES.

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

SECTION 1. That Section 36-412A, Idaho Code, be, and the same is hereby amended to read as follows:

36-412A. EDUCATION PROGRAMS -- FINES AND FORFEITURES -- LOCAL SHOOTING RANGES. (1) Fines and forfeitures remitted for violations of fish and game laws pursuant to section 19-4705, Idaho Code, shall be used for hunter and archery education and the improvement of local shooting ranges as provided in this section.

(2) An amount not to exceed one hundred twenty-five thousand dollars ($1~~00~~25,000) per year may be provided for local shooting ranges for the improvement of those ranges and their operations. No single range shall receive all of the money in any single year. The commission shall determine the amount available to distribute up to the limit provided in this section, the distributions, and the recipients. The commission shall have the authority to distribute all or none of the available fines and forfeitures in any single year.

(3) Fines and forfeitures remaining after distribution to local shooting ranges shall be provided to hunter and archery education programs.

Approved March 18, 2010.

CHAPTER 52
(S.B. No. 1283)

AN ACT
RELATING TO FISH AND GAME; AMENDING SECTION 36-411, IDAHO CODE, TO REVISE PROVISIONS RELATING TO HUNTER AND ARCHERY EDUCATION.

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

SECTION 1. That Section 36-411, Idaho Code, be, and the same is hereby amended to read as follows:

36-411. CERTIFICATE OF COMPLETION. (a) Hunter education. No hunting license shall be issued to a person born after January 1, 1975, unless the person has previously held a valid hunting license in this or another state or unless such person presents to the department of fish and game or one of its authorized license vendors, a certificate of completion in hunter education issued by the department under the hunter education program or proof that he holds the equivalent of such a certificate obtained either in Idaho or from an authorized agency or association of another state or country.

(b) Archery education. On and after January 1, 1994, no person shall be issued an archery permit unless that person presents to the department a certificate of completion in archery education issued by the department, or proof that such person holds the equivalent of such a certificate obtained either in Idaho or from an authorized agency or association in another state, or proof that such person has previously held a valid archery permit in Idaho or another state or country.

Approved March 18, 2010.

CHAPTER 53
(S.B. No. 1282)

AN ACT
RELATING TO FISH AND GAME; AMENDING SECTION 36-202, IDAHO CODE, TO REVISE THE DEFINITION OF "TROPHY BIG GAME ANIMAL."

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

SECTION 1. That Section 36-202, Idaho Code, be, and the same is hereby amended to read as follows:

36-202. DEFINITIONS. Whenever the following words appear in title 36, Idaho Code, and orders and rules promulgated by the Idaho fish and game commission or the director of the Idaho department of fish and game, they shall be deemed to have the same meaning and terms of reference as hereinafter set forth. The present tense includes the past and future tenses, and the future, the present.

(a) "Title" means all of the fish and game laws and rules promulgated pursuant thereto.

(b) "Commission" means the Idaho fish and game commission. "Commissioner" means a member of the Idaho fish and game commission.

(c) "Department" means the Idaho department of fish and game.

(d) "Director" means the director of the Idaho department of fish and game or any person authorized to act in his name.

(e) "Employee" means any employee of the Idaho department of fish and game whose salary is paid entirely or in part by funds administered by the Idaho fish and game commission and whose appointment is made in accordance with chapter 53, title 67, Idaho Code, and related rules.

(f) "Person" means an individual, partnership, corporation, company, or any other type of association, and any agent or officer of any partnership, corporation, company, or other type of association. The masculine gender includes the feminine and the neuter. The singular, the plural, and the plural, the singular.

(g) "Wildlife" means any form of animal life, native or exotic, generally living in a state of nature provided that domestic cervidae as defined in section 25-3701, Idaho Code, shall not be classified as wildlife.

(h) "Trophy big game animal" means any big game animal deemed a trophy as ~~per Boone and Crockett standards~~ defined in this subsection (h)1. through 8. For the purpose of this section, a score shall be determined from the antlers of the mule deer, white-tailed deer or elk as measured by the copyrighted Boone and Crockett scoring system. T~~t~~he highest of the typical or nontypical scores shall be used~~, described as follows:~~ for determining the total score.

1. Mule deer: any buck scoring over one hundred fifty (150) points;
2. White-tailed deer: any buck scoring over one hundred thirty (130) points;
3. Elk: any bull scoring over three hundred (300) points;
4. Bighorn sheep: any ram;
5. Moose: any bull;
6. Mountain goat: any male or female;
7. Pronghorn antelope: any buck with at least one (1) horn exceeding fourteen (14) inches;
8. Caribou: any male or female.

(i) "Take" means hunt, pursue, catch, capture, shoot, fish, seine, trap, kill, or possess or any attempt to so do.

(j) "Hunting" means chasing, driving, flushing, attracting, pursuing, worrying, following after or on the trail of, shooting at, stalking, or ly-

ing in wait for, any wildlife whether or not such wildlife is then or subsequently captured, killed, taken, or wounded. Such term does not include stalking, attracting, searching for, or lying in wait for, any wildlife by an unarmed person solely for the purpose of watching wildlife or taking pictures thereof.

(k) "Fishing" means any effort made to take, kill, injure, capture, or catch any fish or bullfrog.

(l) "Trapping" means taking, killing, and capturing wildlife by the use of any trap, snare, deadfall, or other device commonly used to capture wildlife, and the shooting or killing of wildlife lawfully trapped, and includes all lesser acts such as placing, setting or staking such traps, snares, deadfalls, and other devices, whether or not such acts result in the taking of wildlife, and every attempt to take and every act of assistance to any other person in taking or attempting to take wildlife with traps, snares, deadfalls, or other devices.

(m) "Possession" means both actual and constructive possession, and any control of the object or objects referred to; provided that wildlife taken accidentally and in a manner not contrary to the provisions of this title shall not be deemed to be in possession while being immediately released live back to the wild.

(n) "Possession limit" means the maximum limit in number or amount of wildlife which may be lawfully in the possession of any person. "Possession limit" shall apply to wildlife being in possession while in the field or being transported to final place of consumption or storage.

(o) "Bag limit" means the maximum number of wildlife which may be legally taken, caught, or killed by any one (1) person for any particular period of time, as provided by order of the commission. The term "bag limit" shall be construed to mean an individual, independent effort and shall not be interpreted in any manner as to allow one (1) individual to take more than his "bag limit" toward filling the "bag limit" of another.

(p) "Buy" means to purchase, barter, exchange, or trade and includes any offer or attempt to purchase, barter, exchange, or trade.

(q) "Sell" means to offer or possess for sale, barter, exchange, or trade, or the act of selling, bartering, exchanging or trading.

(r) "Transport" means to carry or convey or cause to be carried or conveyed from one (1) place to another and includes an offer to transport, or receipt or possession for transportation.

(s) "Resident" means any person who has been domiciled in this state, with a bona fide intent to make this his place of permanent abode, for a period of not less than six (6) months immediately preceding the date of application for any license, tag, or permit required under the provisions of this title or orders of the commission and who, when temporarily absent from this state, continues residency with intent to return, and who does not claim any resident privileges in any other state or country for any purpose. Such privileges include, but are not limited to: state where valid driver's license is issued; state of voter registration; state where resident state income taxes are filed; state where homeowner's tax exemption is granted. Provided that, until any such person has been continuously domiciled outside the state of Idaho for a sufficient period of time to qualify for resident hunting and fishing privileges in his new state of residence, said person shall be deemed not to have lost his residency in Idaho for the purposes of this title. However, mere ownership of real property or payment of property taxes in Idaho does not establish residency. Provided further that:

1. Idaho residents shall not lose their residency in Idaho if they are absent from the state for religious (not to exceed two (2) years) or full-time educational (not to exceed five (5) years) purposes, full-time to be defined by the educational institution attended, and do not claim residency or use resident privileges in any other state or country for any purpose.

2. Idaho residents who are in the military service of the United States and maintain Idaho as their official state of residence as shown on their current leave and earnings statement, together with their spouse and children under eighteen (18) years of age living in the household, shall be eligible for the purchase of resident licenses.

3. A member of the military service of the United States or of a foreign country, together with his spouse and children under eighteen (18) years of age residing in his household, who have been officially transferred, stationed, domiciled and on active duty in this state for a period of thirty (30) days last preceding application shall be eligible, as long as such assignment continues, to purchase a resident license. A member of the state national guard or air national guard, domiciled in this state for a period of thirty (30) days last preceding application shall be eligible, as long as such residency continues, to purchase a resident license.

4. Any person enrolled as a corpsman at a job corps center in Idaho shall be eligible, as long as he is so enrolled, to obtain a resident fishing license irrespective of his length of residence in this state.

5. Any foreign exchange student enrolled in an Idaho high school shall be eligible, as long as he is so enrolled, to obtain a resident fishing license irrespective of his length of residence in this state.

(t) "Senior resident" means any person who is over sixty-five (65) years of age and who has been a resident of the state of Idaho as hereinbefore provided for not less than five (5) years.

(u) "Nonresident" means any person who does not qualify as a resident.

(v) "Order, rule, regulation and proclamation" are all used interchangeably and each includes the others.

(w) "Blindness" means sight that does not exceed 20/200 as provided by the administrative guidelines of section 56-213, Idaho Code.

(x) "Public highway" means the traveled portion of, and the shoulders on each side of, any road maintained by any governmental entity for public travel, and includes all bridges, culverts, overpasses, fills, and other structures within the limits of the right-of-way of any such road.

(y) "Motorized vehicle" means any water, land or air vehicle propelled by means of steam, petroleum products, electricity, or any other mechanical power.

(z) "Commercial fish hatchery" means any hatchery, pond, lake or stream or any other waters where fish are held, raised, or produced for sale but shall not include facilities used for the propagation of fish commonly considered as ornamental or aquarium varieties.

(aa) "License" means any license, tag, permit or stamp.

(bb) "License vendor" means any person authorized to issue or sell licenses.

(cc) "Proclamation" means the action by the commission and publication of the pertinent information as it relates to the seasons and limits for taking wildlife.

Approved March 18, 2010.

CHAPTER 54
(S.B. No. 1338)

AN ACT

RELATING TO EDUCATION; AMENDING CHAPTER 2, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-212, IDAHO CODE, TO PROVIDE EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN, TO PROVIDE FINDINGS AND PURPOSE, TO PROVIDE RULEMAKING AUTHORITY AND TO PROVIDE FOR A RESPONSIBLE INDIVIDUAL.

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

SECTION 1. That Chapter 2, 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 33-212, Idaho Code, and to read as follows:

33-212. EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN. (1) Finding and purpose. The legislature finds that due to the frequent moves and deployment of military parents, the children of such parents face barriers to educational success. The purpose of this section is to:

(a) Facilitate the timely enrollment of children of military families and ensure that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district(s) or variations in entrance/age requirements;

(b) Facilitate the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content or assessment;

(c) Facilitate the qualification and eligibility for enrollment, educational programs and participation in extracurricular academic, athletic and social activities;

(d) Facilitate the on-time graduation of children of military families;

(e) Provide for the promulgation and enforcement of administrative rules implementing the provisions of this section;

(f) Provide for the collection and sharing of information between and among states, schools and military families; and

(g) Promote flexibility and cooperation between the educational system, parents and the student in order to achieve educational success for the student.

(2) Rulemaking authority. In order to accomplish the purposes set forth in subsection (1) of this section, the state board shall promulgate rules that are consistent with articles II, III, IV, V, VI and VII of the interstate compact on educational opportunity for military children.

(3) Responsible individual. The state board shall designate an individual who is responsible for the administration and management of the responsibilities created by this section and the rules promulgated hereunder.

Approved March 18, 2010.

CHAPTER 55
(S.B. No. 1316)

AN ACT

RELATING TO ANIMALS; AMENDING SECTION 25-3514, IDAHO CODE, TO PROVIDE THAT SPECIFIED LAW SHALL NOT BE CONSTRUED AS INTERFERING WITH OR ALLOWING INTERFERENCE WITH THE HUMANE SLAUGHTER OF EQUINES AND TO CLARIFY PROVISIONS RELATING TO NORMAL AND ACCEPTED PRACTICES OF ANIMAL IDENTIFICATION AND HUSBANDRY.

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

SECTION 1. That Section 25-3514, Idaho Code, be, and the same is hereby amended to read as follows:

25-3514. CHAPTER CONSTRUED NOT TO INTERFERE WITH NORMAL OR LEGAL PRACTICES. No part of this chapter shall be construed as interfering with or allowing interference with:

(1) Normal or accepted veterinary practices;

(2) The humane slaughter of any animal normally and commonly raised as food, ~~or~~ for production of fiber or equines;

(3) Bona fide experiments or research carried out by professionally recognized private or public research facilities or institutions;

(4) The humane destruction of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane destruction of animals for population control;

(5) Normal or accepted practices of animal identification and animal husbandry as established by, but not limited to, guidelines developed and approved by the appropriate national or state commodity organizations;

(6) The killing of any animal, by any person at any time, which may be found outside of the owned or rented property of the owner or custodian of such animal and which is found injuring or posing a threat to any person, farm animal or property;

(7) The killing of an animal that is vicious by an animal control officer, law enforcement officer or veterinarian;

(8) The killing or destruction of predatory animals, vermin or other animals or birds which are injuring or posing a threat to farm or privately owned animals or property, when such killing or destruction is conducted in accordance with laws and rules covering such animals;

(9) Any other exhibitions, competitions, activities, practices or procedures normally or commonly considered acceptable.

The practices, procedures and activities described in this section shall not be construed to be cruel nor shall they be defined as cruelty to animals, nor shall any person engaged in these practices, procedures or activities be charged with cruelty to animals.

Approved March 18, 2010.

CHAPTER 56
(H.B. No. 494)

AN ACT

RELATING TO HEALTH CARE PLANNING; AMENDING SECTION 56-1054, IDAHO CODE, TO REVISE DUTIES OF THE COMMISSION RELATED TO HEALTH INFORMATION TECHNOLOGY PLANNING, TO PERMIT THE COMMISSION TO USE DATA FROM OTHER SOURCES, TO PROMOTE HEALTH AND PATIENT SAFETY PLANNING, TO REVISE THE DUTIES OF THE COMMISSION RELATED TO HEALTH QUALITY AND PATIENT SAFETY PLANNING; AND REPEALING SECTIONS 2 AND 3, CHAPTER 364, LAWS OF 2008, THAT IS A SUNSET CLAUSE.

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

SECTION 1. That Section 56-1054, Idaho Code, be, and the same is hereby amended to read as follows:

56-1054. HEALTH QUALITY PLANNING. (1) It is the intent of the legislature that the department of health and welfare ("the department") promote improved quality of care and improved health outcomes through investment in health information technology and in patient safety and quality initiatives in the state of Idaho.

(a) Coordinated implementation of health information technology in Idaho will establish widespread use of networked electronic health information or health records to allow quick, reliable and secure access to that information in order to promote patient safety and best practices in health care. This goal is consistent with the mission of the office of the national coordinator for health information technology,

established by the president of the United States in 2004, to provide leadership for the development and nationwide implementation of an interoperable health information technology infrastructure to improve the quality and efficiency of health care and the ability of consumers to manage their care and safety.

(b) Coordinated implementation of statewide patient safety standards will identify uniform indicators of and standards for clinical quality and patient safety as well as uniform requirements for reporting provider achievement of those indicators and standards.

(2) There is hereby created and established within the department a health quality planning commission ("the commission").

(a) By May 1, 2006, and as needed after that date, the governor shall appoint eleven (11) voting members upon assurance of equitable geographic and rural representation, comprising members of the public and private sectors with expertise in health information technology and clinical quality and patient safety. The membership shall represent all major participants in the health care delivery and financing systems. A majority of the commission shall be health care providers or employees of health care providers. One (1) member shall be an Idaho resident representing the public interest. The commission chairperson shall be appointed by the director of the department.

(b) Members of the commission shall be appointed for a term of two (2) years. The term of office shall commence on July 1, 2006. As terms of commission members expire, the governor shall appoint each new member or reappointed member to a term of two (2) years in a manner that is consistent with subsection (a) of this section.

(c) The commission shall meet quarterly and at the call of the chairperson.

(d) Each member of the commission shall be compensated as provided by section 59-509(d), Idaho Code.

(e) Upon the occurrence or declaration of a vacancy in the membership of the commission, the department shall notify the represented entity of that fact in writing and the represented entity shall, within sixty (60) days thereafter, nominate at least one (1) and not more than three (3) persons to fill the vacancy and shall forward the nominations to the governor, who shall appoint from among the nominees a person to be a member of the commission to fill the vacancy. Such appointments shall be for a term of two (2) years.

(f) Members of the commission may be removed by the governor for substantial neglect of duty, gross misconduct in office, or the inability to discharge the duties described in this section, after written notice and opportunity for response.

(g) A majority of the members of the commission shall constitute a quorum for the transaction of all business and the carrying out of commission duties.

(3) The department may dedicate funding to the operations of the commission, subject to appropriation from the legislature. The department shall seek federal matching funds and additional private sector funding for commission operations.

(4) The commission shall perform the following duties related to health information technology planning:

(a) ~~Develop and issue a request or requests for proposals from health care information and communications technology contractors to perform a study on health information technology in Idaho~~ Monitor the effectiveness of the Idaho health data exchange; and

(b) ~~Award a contract or contracts for the performance of the study to a nationally recognized expert or experts in health information technology;~~ Make recommendations to the legislature and the department on

opportunities to improve the capabilities of health information technology in the state.

~~(c) Oversee and coordinate contractor performance;~~

~~(d) Provide quarterly progress reports to the director of the department and to the legislative health care task force. An annual report of the commission shall be due to the director and the legislative health care task force on June 30 of each year. The annual report of June 30, 2008, shall review the contractor study and make recommendations regarding implementation of a plan for the creation of a health information technology system as described in subsection (4)(f)(ii) of this section;~~

~~(e) Widely disseminate requests, including through electronic media, for the active participation of private groups and organizations in the development of the plan. Before submitting the final plan to the director of the department, the commission shall issue drafts of the plan for public review and shall hold at least one (1) public meeting to receive public comments on the plan;~~

~~(f) Develop and submit a final plan that shall include, but not be limited to:~~

~~(i) An analysis of existing health information technology in Idaho and of national trends in the development of health information technology systems;~~

~~(ii) A plan for developing a uniform, statewide, flexible and interoperable health information technology system to be used by providers, patients and payers, including a unique patient identifier for all patients;~~

~~(iii) Identification of all major participants in the health care delivery and financing systems that would be affected by the health information technology system;~~

~~(iv) Analysis of the feasibility of incorporating existing infrastructure into the recommended system, analysis of improvements and additions to the existing infrastructure needed to implement the recommended system, and identification of potential obstacles to implementation, such as privacy and security laws, and recommended solutions;~~

~~(v) Development of recommended organizational and governance structures for implementation and maintenance of the system;~~

~~(vi) A business plan for financing the development and maintenance of the technology system, including identification of government and private funding and including consideration of appropriate user fees;~~

~~(vii) A timetable for implementation of the technology system;~~

~~(viii) A means to assess the measurable ability of the recommended system to improve the quality of health care through access to reliable, evidence-based current treatment guidelines; and~~

~~(ix) Provisions to ensure that the system meets the health information technology needs of rural Idahoans; and~~

~~(g) Issue grants to selected providers including, but not limited to, primary care providers, in order to support the adoption of health information technology. The commission shall develop criteria for the selection of grantee providers.~~

(5) The commission may use the information generated by the Idaho health data exchange and other data sources to promote health and patient safety planning. The commission may perform the following duties related to health quality and patient safety planning, provided that performance of these duties may include contracting with and supervising independent entities for the performance of some or all of these duties:

(a) Analyze existing clinical quality assurance and patient safety standards and reporting;

(b) Identify best practices in clinical quality assurance and patient safety standards and reporting;

(c) Recommend a mechanism or mechanisms for the uniform adoption of certain best practices in clinical quality assurance and patient safety standards and reporting including, but not limited to, the creation of regulatory standards;

(d) ~~Recommend a mechanism or mechanisms to promote public understanding of provider achievement of clinical quality and patient safety standards~~ Monitor and report appropriate indicators of quality and patient safety;

(e) Recommend a sustainable structure for leadership of ongoing clinical quality and patient safety ~~improvement~~ reporting in Idaho;

(f) Recommend a mechanism or mechanisms to promote public understanding of provider achievement of clinical quality and patient safety standards;

(g) Provide quarterly progress reports to the director of the department and to the legislative health care task force. An annual report shall be due to the director, the legislative health care task force and the senate and house of representatives health and welfare committees on June 30 of each year ~~and a final report shall be due by June 30, 2010~~; and

(~~g~~h) In regard to the commission's duties provided for in this section, the commission is directed to ensure that such duties are developed and implemented in such a manner and in such forms or formats as to result in health care data that will be readily understood by the citizens of this state.

SECTION 2. That Sections 2 and 3, Chapter 364, Laws of 2008, be, and the same are hereby repealed.

Approved March 18, 2010.

CHAPTER 57
(H.B. No. 484)

AN ACT

RELATING TO NURSES; AMENDING SECTION 54-1403, IDAHO CODE, TO REMOVE ARCHAIC LANGUAGE AND TO REVISE PROVISIONS RELATING TO BOARD MEMBER TERMS OF OFFICE.

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

SECTION 1. That Section 54-1403, Idaho Code, be, and the same is hereby amended to read as follows:

54-1403. BOARD OF NURSING. (1) Appointment, Removal and Term of Office. There is hereby created within the department of self-governing agencies the board of nursing for the state of Idaho composed of nine (9) members appointed by the governor. Membership of the board shall consist of the following:

(a) Five (5) persons licensed to practice professional nursing in Idaho, of whom three (3) shall be educated at the associate degree level provided that one (1) of these may be a diploma nurse, and two (2) of whom shall be educated at the baccalaureate, master's or doctoral level;

(b) Two (2) persons licensed to practice practical nursing in Idaho;

(c) One (1) person licensed as an advanced practice nurse; and

(d) One (1) person who is a lay person to health care occupations.

In making appointments to the board, consideration shall be given to the board's responsibility in areas of education and practice. ~~Members of the board of nursing and of the advisory council for licensed practical nurses holding office under prior law on the effective date of this act shall serve as members of the board created herein until expiration of their respective terms and, as those terms expire or become vacant, the governor shall appoint such other persons as will constitute a complete board as herein prescribed. The two (2) members appointed to reach the full membership provided herein shall be persons licensed to practice professional nursing educated at the associate degree level.~~ Persons may be reappointed to the board so long as they meet the qualifications of the position to which they were originally appointed. In the event that a member has attained an additional degree of education, they may not be reappointed to represent the board position designated for another specific degree of education. Members of the board shall hold office until expiration of the term to which the member was appointed and until his successor has been duly appointed and qualified. Upon expiration of any term or creation of any vacancy, the board shall notify the governor thereof, who then shall make such appointment or fill such vacancy within sixty (60) days. Appointments shall be for terms of four (4) years except appointments to vacancies which shall be for the unexpired term being filled. No member shall be appointed for more than three (3) consecutive terms. The governor may remove any member from the board for neglect of any duty required by law or for incompetency or unprofessional or dishonorable conduct.

(2) Qualifications of Members. No person is qualified for appointment hereunder unless that person is a citizen of the United States and a resident of the state of Idaho. Members required to be licensed hereunder shall not be qualified for appointment to the board unless actively engaged in some field of nursing in Idaho at the time of appointment. No person is qualified for appointment as the lay member of the board if the person or his spouse is licensed in any health occupation; is an employee, officer or agent of or has any financial interest in any health care facility, institution, or association or any insurance company authorized to underwrite health care insurance; or is engaged in the governance and administration of any health care facility, institution or association.

(3) Conduct of Business. The board shall meet at such times as required to conduct the business of the board and shall annually elect from its members a chairman, vice chairman and such other officers as may be desirable. Five (5) members shall constitute a quorum and the vote of a majority of members present at a meeting wherein a quorum is present shall determine the action of the board. Each member of the board shall be compensated as provided by section 59-509(h), Idaho Code.

Approved March 18, 2010.

CHAPTER 58
(H.B. No. 446)

AN ACT

RELATING TO THE STATE TREASURER; REPEALING SECTION 67-1222, IDAHO CODE, RELATING TO CERTAIN REPORTS TO BE FILED WITH THE STATE TREASURER.

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

SECTION 1. That Section 67-1222, Idaho Code, be, and the same is hereby repealed.

Approved March 18, 2010.

CHAPTER 59
(H.B. No. 450)

AN ACT

RELATING TO THE CLEAN LAKES ACT; REPEALING CHAPTER 64, TITLE 39, IDAHO CODE, RELATING TO THE CLEAN LAKES ACT.

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

SECTION 1. That Chapter 64, Title 39, Idaho Code, be, and the same is hereby repealed.

Approved March 18, 2010.

CHAPTER 60
(H.B. No. 411)

AN ACT

RELATING TO THE TIMBER SUPPLY STABILIZATION ACT OF 1989; REPEALING CHAPTER 10, TITLE 58, IDAHO CODE, RELATING TO THE TIMBER SUPPLY STABILIZATION ACT OF 1989.

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

SECTION 1. That Chapter 10, Title 58, Idaho Code, be, and the same is hereby repealed.

Approved March 18, 2010.

CHAPTER 61
(H.B. No. 408)

AN ACT

RELATING TO STATE ENDOWMENT TRUST LANDS; AMENDING SECTION 58-307, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY, TO REVISE PROVISIONS RELATING TO THE LEASE OF STATE ENDOWMENT TRUST LANDS, TO REVISE TERM OF LEASE PROVISIONS, TO REMOVE REFERENCE TO LANDS ELIGIBLE FOR THE FEDERAL CONSERVATION RESERVE ENHANCEMENT PROGRAM AS IT RELATES TO LEASES FOR COMMERCIAL PURPOSES, AND TO PROVIDE THAT CERTAIN TYPES OF LEASES SHALL NOT BE CONSIDERED LEASES FOR COMMERCIAL PURPOSES AS IT RELATES TO SPECIFIED LAW.

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~~ trust lands~~, other than those valuable for stone, coal, oil, gas or other minerals,~~ shall be for a longer term than ~~ten~~ twenty (~~1~~20) 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 trust 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 trust 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~~ twenty (~~1~~20) 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~~ twenty (~~1~~20) years, the department shall hold a hearing in the county in which the parcel is located.

(5) The term "commercial purposes" means fuel cells, low impact hydro, wind, geothermal 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~~ farming leases, grazing leases, conservation leases including lands enrolled in federal conservation programs such as the conservation reserve enhancement program (CREP), noncommercial recreation leases, oil and gas leases, mineral 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.

(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.

(7) Except for 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.

(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.

(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.

(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.

(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 18, 2010.

CHAPTER 62
(H.B. No. 514)

AN ACT

RELATING TO CLASSIFICATION AND RETENTION OF COUNTY RECORDS; AMENDING SECTION 31-871, IDAHO CODE, TO PROVIDE THAT DISPOSITION OF RECORDS SHALL BE UNDER THE DIRECTION AND SUPERVISION OF THE ELECTED OFFICIAL OR DEPARTMENT HEAD RESPONSIBLE FOR SUCH RECORDS.

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

SECTION 1. That Section 31-871, Idaho Code, be, and the same is hereby amended to read as follows:

31-871. CLASSIFICATION AND RETENTION OF RECORDS. (1) County records shall be classified as follows:

(a) "Permanent records" shall consist of, but not be limited to, the following: proceedings of the governing body, ordinances, resolutions, building plans and specifications for commercial projects and government buildings, bond register, warrant register, budget records, general ledger, cash books and records affecting the title to real property or liens thereon, and other documents or records as may be deemed of permanent nature by the board of county commissioners.

(b) "Semipermanent records" shall consist of, but not be limited to, the following: claims, contracts, canceled checks, warrants, duplicate warrants, license applications, building applications for commercial projects and government buildings, departmental reports, purchase orders, vouchers, duplicate receipts, bonds and coupons, registration and other election records excluding election ballots and tally books, financial records, and other documents or records as may be deemed of semipermanent nature by the board of county commissioners.

(c) "Temporary records" shall consist of, but not be limited to, the following: correspondence not related to subsections (1) and (2) of this section, building applications, plans, and specifications for noncommercial and nongovernment projects after the structure or

project receives final inspection and approval, cash receipts subject to audit, election ballots and tally books, and other records as may be deemed temporary by the board of county commissioners.

(d) Those records not included in subsection (1)(a), (b) or (c) of this section shall be classified as permanent, semipermanent or temporary by the board of county commissioners and upon the advice of the office of the prosecuting attorney.

(2) County records shall be retained as follows:

(a) Permanent records shall be retained for not less than ten (10) years.

(b) Semipermanent records shall be kept for not less than five (5) years after date of issuance or completion of the matter contained within the record.

(c) Temporary records shall be retained for not less than two (2) years.

(d) Records may only be destroyed by resolution of the board of county commissioners after regular audit and upon the advice of the prosecuting attorney. A resolution ordering destruction must list, in detail, records to be destroyed. Such disposition shall be under the direction and supervision of the ~~board's clerk~~ elected official or department head responsible for such records.

(e) The provisions of this section shall control the classification and retention schedules of all county records unless otherwise provided in Idaho Code or any applicable federal law.

Approved March 18, 2010.

CHAPTER 63
(H.B. No. 483)

AN ACT

RELATING TO PHARMACISTS; AMENDING SECTION 54-1718, IDAHO CODE, TO REQUIRE CERTAIN APPLICANTS SUBMIT TO AND PAY THE COST OF A FINGERPRINT-BASED CRIMINAL HISTORY CHECK.

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

SECTION 1. That Section 54-1718, Idaho Code, be, and the same is hereby amended to read as follows:

54-1718. LICENSURE AND DISCIPLINE. (1) The board of pharmacy shall be responsible for the control and regulation of the practice of pharmacy in this state including, but not limited to, the following:

(a) The licensing by examination or by reciprocity of applicants who are qualified to engage in the practice of pharmacy under the provisions of this act;

(b) The renewal of licenses to engage in the practice of pharmacy;

(c) The determination and issuance of standards for recognition and approval of schools and colleges of pharmacy whose graduates shall be eligible for licensure in this state, and the specification and enforcement of requirements for practical training, including internship;

(d) The enforcement of the provisions of this act relating to the conduct or competence of pharmacists practicing in this state, and the suspension, revocation or restriction of licenses to practice pharmacy;

(e) The regulation of the training, qualifications and employment of pharmacy interns.

(2) The board of pharmacy shall require all applicants for original licensure or registration and for reinstatement of licenses or registrations to submit to a fingerprint-based criminal history check of the Idaho central

criminal history database and the federal bureau of investigation criminal history database. Each applicant for original licensure or registration or for reinstatement of licensure or registration shall submit a completed ten (10) finger fingerprint card or scan to the board of pharmacy at the time of application and shall pay the cost of the criminal history check.

Approved March 18, 2010.

CHAPTER 64
(H.B. No. 481)

AN ACT

RELATING TO PHARMACISTS; AMENDING SECTION 54-1734, IDAHO CODE, TO EXTEND THE LENGTH OF TIME IN WHICH VETERINARIANS ARE REQUIRED TO PROVIDE WRITTEN CONFIRMATION OF ORAL DRUG ORDERS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 54-1734, Idaho Code, be, and the same is hereby amended to read as follows:

54-1734. EXCEPTIONS. The provisions of this chapter pertaining to the sale of prescription drugs are not applicable:

(1) To the sale of legend drugs to persons included in any of the classes named in ~~clauses~~ paragraphs (a) through (f) in subsection (2) of this section, or to the agents or employees of such persons, for use in the usual and lawful course of their business or practice or in the performance of their lawful official duties, as the case may be; or

(2) To the possession of legend drugs by such persons or their agents or employees for such use:

(a) Pharmacists;

(b) Practitioners;

(c) Persons who procure legend drugs for handling by or under the supervision of pharmacists or practitioners employed by them, or for the purpose of lawful research, teaching, or testing, and not for resale;

(d) Hospitals and other institutions which procure legend drugs for lawful administration by practitioners;

(e) Manufacturers and wholesalers;

(f) Carriers and warehousemen.

(3) To the sale by a business not licensed as a pharmacy of legend drugs (excluding controlled substances) designated for veterinary use which require a prescription, provided that:

(a) The business is registered and licensed with the board of pharmacy.

(b) The sale is authorized by a written or oral order from a veterinarian licensed in this or another state.

1. Prior to dispensing an order from an out-of-state veterinarian, the seller must confirm and document that the veterinarian is properly licensed in his state.

2. Oral orders must be confirmed by the veterinarian in writing no later than seven~~ty-two~~ (7~~2~~) ~~hours~~ days after the seller receives the order.

(c) The written order or confirmation of an oral order must be retained on the premises of the business for at least two (2) years after the original date of the order.

Approved March 18, 2010.

CHAPTER 65
(H.B. No. 468)

AN ACT
RELATING TO THE STATE BOARD OF OPTOMETRY; AMENDING SECTION 54-1508, IDAHO CODE, TO REVISE BOARD MEMBER COMPENSATION.

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

SECTION 1. That Section 54-1508, Idaho Code, be, and the same is hereby amended to read as follows:

54-1508. STATE BOARD OF OPTOMETRY -- ORGANIZATION -- MEETINGS -- EXPENSES. The board of optometry shall meet on or before September 15 of each year and select from its members a chairman and a secretary who shall serve at the pleasure of the board. The secretary shall keep the minutes of the meetings of the board, maintain the files and records of the board, maintain a roster of all persons licensed as optometrists under this act and on or before October 1 of each year, forward to the bureau of occupational licenses a certified list of those persons who have paid the fees required by this act.

The board of optometry may meet at stated times and places and shall meet upon the call of its chairman or upon written request of a majority of its members. Three (3) members shall constitute a quorum and a majority of the members present at a meeting at which a quorum is present shall determine the action of the board. Each member of the board shall be notified of any meeting called for any purpose.

Out of the moneys appropriated to the bureau from fees paid under section 54-1506(2), Idaho Code, or otherwise appropriated from fees paid under section 54-1506(2), Idaho Code, and deposited in the occupational license account established by section 67-2605, Idaho Code, the members of the board of optometry shall be compensated as provided by section 59-509(~~h~~n), Idaho Code.

~~The members of the board of optometry shall be compensated as provided by section 59-509(h), Idaho Code.~~

Approved March 18, 2010.

CHAPTER 66
(H.B. No. 410)

AN ACT
RELATING TO FOREST PROTECTIVE ASSOCIATIONS; AMENDING SECTION 38-111, IDAHO CODE, TO REVISE PROVISIONS RELATING TO REQUIREMENTS FOR BUDGET SUBMISSIONS TO THE STATE BOARD OF LAND COMMISSIONERS.

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

SECTION 1. That Section 38-111, Idaho Code, be, and the same is hereby amended to read as follows:

38-111. PROTECTION BY OWNER -- ASSESSMENTS -- BUDGET OF PROTECTIVE DISTRICTS. Every owner of forest lands in the state shall furnish or provide therefor, throughout the closed season, protection against the starting, existence or spread of fires thereon, or therefrom, in conformity with reasonable rules and standards for adequate protection, to be established by the state board of land commissioners. An owner of forest lands who maintains a membership in good standing in a forest protective association

operating under agreement with the state board of land commissioners, which association maintains a standard of protection approved by said board and who pays the assessments to the association in the amounts required in this section, shall be deemed to have fully complied herewith. In the event the owner of any forest land shall neglect or fail to furnish the protection required in this section, the director of the department of lands shall provide such patrol and protection therefor at actual cost to the owner of forest lands. For private owners of forest lands whose total acres of forest lands are twenty-six (26) acres or more, the state board of land commissioners shall establish this cost not to exceed sixty-five cents (65¢) an acre per year. For private owners of forest lands whose total acres of forest lands are twenty-five (25) acres or fewer, the minimum assessment per year shall be equal to the per acre cost multiplied by twenty-five (25).

In addition to any other assessment prescribed in this chapter, the state board of land commissioners shall establish a surcharge to be levied and assessed in an amount not to exceed forty dollars ($40.00) for each improved lot or parcel to offset costs associated with wildfire preparedness.

There is hereby established in the state treasury a wildfire equipment replacement fund for the replacement of capital wildfire equipment. The department of lands shall determine reimbursement rates for all capital fire equipment used for activities other than fire preparedness. Reimbursement revenues shall be deposited in the wildfire equipment replacement fund. Additional moneys may be deposited into the wildfire equipment replacement fund from any other source.

In the event an assessment is made in an amount less than the maximum hereinbefore provided, and an actual loss occurs which exceeds the amount budgeted and for which assessments have been made, the director of the department of lands, with the approval of the board, may require an additional assessment to be made and paid, which together with the original assessment shall not exceed the maximum assessment set forth in this section. Such additional assessment shall be levied and collected in the same manner as herein provided for the collection of such original assessments. The liability provided in this section shall be calculated for each forest protection district or association separately, and shall be calculated solely upon the charges assignable to fire control or presuppression of fires within each district or association.

Each forest protective association actively engaged in forest protection under agreement with the state board of land commissioners shall each year prepare in detail, a budget of all estimated operating costs for the next ~~calendar~~ fiscal year and shall submit this budget to the board for approval before ~~June 30~~ August 31 of the current year.

Except for the provisions of section 38-122, Idaho Code, and cases of proven negligence by the landowner or his agent, no other charges or assessments for fire protection shall be made or assessed or collected from those forest landowners participating as provided herein.

Approved March 18, 2010.

CHAPTER 67
(H.B. No. 409)

AN ACT

RELATING TO THE IDAHO GEOLOGICAL SURVEY; AMENDING SECTION 47-201, IDAHO CODE, TO PROVIDE THAT DESIGNATED REPRESENTATIVES OF THE STATE BOARD OF LAND COMMISSIONERS MAY SERVE AS MEMBERS OF THE ADVISORY BOARD FOR THE IDAHO GEOLOGICAL SURVEY.

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

SECTION 1. That Section 47-201, Idaho Code, be, and the same is hereby amended to read as follows:

47-201. GEOLOGICAL SURVEY CREATED -- PURPOSE -- ADVISORY BOARD. There is hereby created the Idaho geological survey, to be administered as a special program at the university of Idaho under the authority of the board of regents of the university of Idaho. The survey shall be the lead state agency for the collection, interpretation, and dissemination of geologic and mineral data for Idaho. Such information is to be acquired through field and laboratory investigations by the staff of the survey and through cooperative programs with other governmental and private agencies. There is hereby established an advisory board for the survey, consisting of the following members: The director of the survey and board chairperson (nonvoting); the chair of the department of geosciences at Boise state university; the chair of the department of geosciences at Idaho state university; the chair of the department of geological sciences at the university of Idaho; a representative from the mining and mineral processing industry selected by the director; the governor of the state of Idaho or his designated representative; a member of the board of land commissioners ~~designated by the state land board~~ or their designated representative; the president or his designee of the Idaho association of professional geologists; and two (2) members at large selected by the director from other state or federal organizations, or from the private sector with a direct interest in the survey's programs, both serving two (2) year staggered terms; all of whom shall serve as members of the said board and shall be compensated as provided by section 59-509(b), Idaho Code.

Approved March 18, 2010.

CHAPTER 68
(H.B. No. 472)

AN ACT

RELATING TO THE UNIFORM PROBATE CODE; AMENDING CHAPTER 1, TITLE 15, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 15-1-501, IDAHO CODE, TO PROVIDE FOR CONSTRUCTION OF CERTAIN FORMULA CLAUSES; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Chapter 1, 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 15-1-501, Idaho Code, and to read as follows:

15-1-501. CONSTRUCTION OF CERTAIN FORMULA CLAUSES. (1) A will or trust of a decedent who dies after December 31, 2009, and before January 1, 2011, that contains a formula referring to the "unified credit," "estate tax exemption," "applicable exemption amount," "applicable credit amount," "applicable exclusion amount," "generation-skipping transfer tax exemption," "GST exemption," "marital deduction," "maximum marital deduction" or "unlimited marital deduction," or that measures a share of an estate or trust based on the amount that can pass free of federal estate taxes or the amount that can pass free of federal generation-skipping transfer taxes, or that is otherwise based on a similar provision of federal estate tax or generation-skipping transfer tax law, shall be deemed to refer to the federal estate and generation-skipping transfer tax laws as they applied with respect to estates of decedents dying on December 31, 2009. This subsection shall not apply with respect to a will or trust that is executed or amended after December

31, 2009, or that manifests an intent that a contrary rule shall apply if the decedent dies on a date on which there is no then-applicable federal estate or generation-skipping transfer tax. The reference to January 1, 2011, in this subsection shall, if the federal estate and generation-skipping transfer tax becomes effective before that date, refer instead to the first date on which such tax shall become legally effective.

(2) The personal representative, trustee or any affected beneficiary under the will or trust may bring a proceeding to determine whether the decedent intended that the references under subsection (1) of this section be construed with respect to the law as it existed after December 31, 2009. Such a proceeding must be commenced within twelve (12) months following the death of the testator or grantor, and not thereafter.

(3) This section shall apply to all proceedings pending before the courts of this state on the effective date of this act.

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, 2010.

Approved March 18, 2010.

CHAPTER 69
(H.B. No. 544)

AN ACT

RELATING TO THE HIGHER EDUCATION STABILIZATION FUND; AMENDING CHAPTER 37, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-3726, IDAHO CODE, TO CREATE THE HIGHER EDUCATION STABILIZATION FUND, TO CREATE THE STRATEGIC INTEREST ACCOUNT, TO PROVIDE MONEYS FOR THE STRATEGIC INTEREST ACCOUNT, TO CREATE SURPLUS STABILIZATION ACCOUNTS, TO PROVIDE MONEYS FOR THE SURPLUS STABILIZATION ACCOUNTS AND TO PROVIDE THAT EXPENDITURES FROM SUCH ACCOUNTS SHALL BE SUBJECT TO LEGISLATIVE APPROPRIATION.

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

SECTION 1. That Chapter 37, 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 33-3726, Idaho Code, and to read as follows:

33-3726. HIGHER EDUCATION STABILIZATION FUND. There is hereby created in the state treasury a fund to be known as the higher education stabilization fund. The higher education stabilization fund shall consist of three (3) separate accounts as follows:

(1) An account designated the strategic interest account shall consist of interest earnings from the investment of moneys deposited with the state treasurer into unrestricted current fund 0650-00, as designated by the state controller in the statewide accounting and reporting system. Annually on July 1, or as soon thereafter as is practicable, the state controller shall transfer such interest earnings to the strategic interest account. All moneys so transferred shall be expended for the maintenance, use and support of institutions that have deposited moneys into unrestricted current fund 0650-00. All such expenditures shall be subject to legislative appropriation. Institutions shall receive a pro rata share of a legislative appropriation based upon the amount of moneys any such institution has deposited into unrestricted current fund 0650-00 in the current fiscal year compared to the total amount deposited by all institutions in the current fiscal year.

Interest earned from the investment of moneys in the strategic interest account shall be retained in the strategic interest account.

(2) An account designated the surplus stabilization account shall consist of any other moneys made available through legislative transfers, appropriations or otherwise provided by law, or from any other governmental source. All such moneys shall be expended for the maintenance, use and support of institutions named in section 33-3803, Idaho Code. Such expenditures shall be made subject to legislative appropriation to the state board of education for college and universities. Distribution of such moneys to institutions shall be based upon the state board of education's established practices for the allocation of moneys to such institutions. Interest earned from the investment of moneys in this surplus stabilization account shall be retained in this surplus stabilization account.

(3) An account designated the surplus stabilization account for Eastern Idaho Technical College, North Idaho College, College of Southern Idaho and College of Western Idaho shall consist of any other moneys made available through legislative transfers, appropriations or otherwise provided by law, or from any other governmental source. All such moneys shall be expended for the maintenance, use and support of Eastern Idaho Technical College, North Idaho College, College of Southern Idaho and College of Western Idaho. Such expenditures shall be made subject to legislative appropriation to Eastern Idaho Technical College, through the appropriation to the division of professional-technical education, and to the community colleges. Distribution of such moneys shall be based upon established practices for the allocation of moneys to Eastern Idaho Technical College through the division of professional-technical education, or the state board of education's established practices for the allocation of moneys to the community colleges. Interest earned from the investment of moneys in this surplus stabilization account shall be retained in this surplus stabilization account.

Approved March 22, 2010.

CHAPTER 70
(S.B. No. 1392)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF INSURANCE FOR FISCAL YEAR 2011; 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 Insurance the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. INSURANCE REGULATION:					
FROM:					
Self-Governing Operating Fund	$3,633,000	$2,180,200	$69,600		$5,882,800
Federal Grant Fund	152,300	80,900		$8,000	241,200
TOTAL	$3,785,300	$2,261,100	$69,600	$8,000	$6,124,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. STATE FIRE MARSHAL:					
FROM:					
Self-Governing State Fire Marshal Fund	$664,700	$350,800	$11,000		$1,026,500
GRAND TOTAL	$4,450,000	$2,611,900	$80,600	$8,000	$7,150,500

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Insurance is authorized no more than seventy-two (72) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, 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 24, 2010.

CHAPTER 71
(S.B. No. 1329)

AN ACT

RELATING TO IDAHO SAFE BOATING ACT; AMENDING SECTION 67-7027, IDAHO CODE, TO REVISE NOTICE AND REPORTING REQUIREMENTS RELATING TO COLLISIONS, ACCIDENTS AND CASUALTIES.

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

SECTION 1. That Section 67-7027, Idaho Code, be, and the same is hereby amended to read as follows:

67-7027. COLLISIONS, ACCIDENTS AND CASUALTIES -- REPORTS. (1) It shall be unlawful for the operator of any vessel on the water of this state to fail to report any accident or casualty occasioned by the operation of a vessel and as herein provided.

(2) It shall be the duty of the operator of any vessel involved in a collision, accident or other casualty, so far as he can do so without serious danger to his own vessel, crew, passengers and guests to render aid to other persons affected by the collision, accident or other casualty and also to give his name, address and identification of his vessel in writing to any person injured and to the owner of any property damaged in the collision, accident or other casualty.

(3) It shall be the duty of the operator of any vessel involved in a collision, accident or other casualty resulting in death or injury to a person or damage to property in excess of <u>one thousand</u> five hundred dollars ($<u>1,</u>500):

(a) To immediately, by the quickest means of communication, give notice of the accident to the sheriff of the county in which the accident occurred; and

(b) To file with the sheriff of the county in which the accident occurred, a boating accident report within forty-eight (48) hours of the occurrence if a person dies within twenty-four (24) hours of the occur-

rence, or in the case of an incapacitating injury or if a person disappears from the vessel. A report shall be filed within ten (10) days of the occurrence or death if an earlier report is not required by this paragraph. The report shall be made on forms provided by the department, but shall not be referred to in any way as evidence in any judicial proceeding. A copy of such report shall also be readily transmitted by the sheriff to the designated state boating safety coordinator.

(4) If the operator of the vessel involved in a collision, accident, or other casualty is incapacitated, and there is another person in the vessel at the time of the accident capable of giving immediate notice of an accident as required herein, the person shall give or cause to be given the notice not given by the operator.

(5) If the operator of the vessel involved in a collision, accident, or other casualty is incapacitated, the investigating law enforcement officer shall file the required form as prescribed by the director.

Approved March 24, 2010.

CHAPTER 72
(S.B. No. 1247)

AN ACT

RELATING TO THE STATE PERSONNEL SYSTEM AND VACATION TIME; AMENDING SECTION 67-5334, IDAHO CODE, TO REVISE A PROVISION RELATING TO THE TRANSFER OF ACCRUED VACATION TIME; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. 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 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," "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~~ eighty (~~4~~80) 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.

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, 2010.

Approved March 24, 2010.

CHAPTER 73
(S.B. No. 1396)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE GOVERNOR FOR THE OFFICE OF ENERGY RESOURCES FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED FUND BALANCES.

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

SECTION 1. There is hereby appropriated to the Office of the Governor for the Office of Energy Resources the following amounts to be expended from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Indirect Cost Recovery Fund	$271,800	$207,300		$479,100
Renewable Energy Resources Fund	283,700	75,700	$1,800	361,200
Miscellaneous Revenue Fund	83,900	582,000		665,900
Petroleum Price Violation Fund	116,800	33,700		150,500
Federal Grant Fund	466,300	722,000	2,000	1,190,300
TOTAL	$1,222,500	$1,620,700	$3,800	$2,847,000

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Office of Energy Resources is authorized no more than eighteen (18) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. There is hereby reappropriated to the Office of Energy Resources the unexpended and unencumbered balance of any American Reinvestment Fund moneys and any stimulus-related Indirect Cost Recovery Fund money appropriated for fiscal year 2010, to be used for nonrecurring expenditures, for the period July 1, 2010, through June 30, 2011.

Approved March 24, 2010.

CHAPTER 74
(S.B. No. 1395)

AN ACT

APPROPRIATING MONEYS TO THE ENDOWMENT FUND INVESTMENT BOARD FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; PROVIDING A CONTINUOUS APPROPRIATION FOR CERTAIN COSTS; AND EXPRESSING LEGISLATIVE INTENT REGARDING THE TRANSFER OF MONEYS FROM THE EARNINGS RESERVE FUNDS TO THE INCOME FUNDS.

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

SECTION 1. There is hereby appropriated to the Endowment Fund Investment Board the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Miscellaneous Revenue Fund	$104,400	$43,300	$1,400	$149,100
Endowment Administrative Fund	280,300	166,900	3,700	450,900
TOTAL	$384,700	$210,200	$5,100	$600,000

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Endowment Fund Investment Board is authorized no more than four (4) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. The Endowment Fund Investment Board is hereby granted continuous appropriation authority for moneys in the Endowment Administrative Fund for consulting fees, bank custodial fees and portfolio-related external costs for the period July 1, 2010, through June 30, 2011.

SECTION 4. LEGISLATIVE INTENT. It is the intent of the Legislature that for fiscal year 2011, the Endowment Fund Investment Board transfer $67,786,600 as follows: $53,292,400 from the Public School Earnings Reserve Fund to the Public School Income Fund; $850,800 from the Agricultural College Earnings Reserve Fund to the Agricultural College Income Fund; $2,964,600 from the Charitable Institutions Earnings Reserve Fund to the Charitable Institutions Income Fund; $2,661,600 from the Normal School Earnings Reserve Fund to the Normal School Income Fund; $1,040,400 from the Penitentiary Earnings Reserve Fund to the Penitentiary Income Fund; $2,984,400 from the Scientific School Earnings Reserve Fund to the Scientific School Income Fund; $1,663,200 from the Mental Hospital Earnings Reserve Fund to the Mental Hospital Income Fund; and $2,329,200 from the University Earnings Reserve Fund to the University Income Fund.

Approved March 24, 2010.

CHAPTER 75
(S.B. No. 1394)

AN ACT

APPROPRIATING MONEYS TO THE LAVA HOT SPRINGS FOUNDATION FOR FISCAL YEAR 2011; 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 Lava Hot Springs Foundation the following amounts to be expended according to the designated expense classes from the listed fund for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Lava Hot Springs Foundation Fund	$807,000	$1,248,400	$105,600	$2,161,000

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Lava Hot Springs Foundation is authorized no more than thirteen and eight-tenths (13.8) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, 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 24, 2010.

CHAPTER 76
(S.B. No. 1393)

AN ACT

APPROPRIATING MONEYS TO THE INDUSTRIAL COMMISSION FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING LEGISLATIVE INTENT ON OFFICE CONSOLIDATION.

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

SECTION 1. There is hereby appropriated to the Industrial Commission 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, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. COMPENSATION:					
FROM:					
Industrial Administration Fund	$2,710,400	$1,268,000	$97,600	$1,103,100	$5,179,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Peace Officer and Detention Officer Temporary Disability Fund	22,700	3,800		160,000	186,500
Miscellaneous Revenue Fund		35,500			35,500
Federal Grant Fund	2,700	2,400			5,100
TOTAL	$2,735,800	$1,309,700	$97,600	$1,263,100	$5,406,200
II. REHABILITATION:					
FROM:					
Industrial Administration Fund	$2,767,500	$739,300	$67,000		$3,573,800
III. CRIME VICTIMS COMPENSATION:					
FROM:					
Crime Victims Compensation Fund	$657,900	$271,600	$600	$3,717,900	$4,648,000
Federal Grant Fund				1,258,700	1,258,700
TOTAL	$657,900	$271,600	$600	$4,976,600	$5,906,700
IV. ADJUDICATION:					
FROM:					
Industrial Administration Fund	$1,549,500	$565,100	$1,100		$2,115,700
GRAND TOTAL	$7,710,700	$2,885,700	$166,300	$6,239,700	$17,002,400

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Industrial Commission is authorized no more than one hundred thirty-eight (138) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, 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. LEGISLATIVE INTENT. It is the intent of the Legislature that the Idaho Industrial Commission explore the possibility of sharing office space around the state with the Division of Vocational Rehabilitation, and the Commission for the Blind and Visually Impaired during fiscal year 2011. The Idaho Industrial Commission shall report its findings to the Joint Finance-Appropriations Committee during its 2011 budget hearing. The report shall include, but is not limited to, the following four areas: feasibility, cost savings, added visibility in communities, and the value of having these services in one building in the community.

Approved March 24, 2010.

CHAPTER 77
(S.B. No. 1367)

AN ACT
RELATING TO EDUCATION; AMENDING SECTION 33-3717B, IDAHO CODE, TO PROVIDE RESIDENT STUDENT STATUS TO CERTAIN VETERANS AND CERTAIN OF THEIR DEPENDENTS.

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

SECTION 1. 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, and the parent, parents or guardians provide at least fifty percent (50%) of the student's support. Domicile, as used in this section, 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 twelve (12) months 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 and who has continuously resided and maintained a bona fide domicile in the state of Idaho primarily for purposes other than educational for twelve (12) months next preceding the opening day of the term during which the student proposes to attend the college or university.

(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.

(h) 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, or who moves to Idaho for the purpose of establishing domicile; provided however, to maintain status as a resident student, such person must actively establish domicile in Idaho within one (1) year of matriculation in a public institution of higher educa-

tion in Idaho. The dependent of a person who qualifies as a resident student under this paragraph and who receives at least fifty percent (50%) support from such person shall also be a resident student.

(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 thirty (30) months and has not established legal residence elsewhere provided a twelve (12) month period of continuous residence has been established immediately prior to departure; provided however, time spent away from the state while enrolled in a postsecondary education program shall not be included in the thirty (30) months. Such time spent away from the state while enrolled shall include normal academic year breaks, such as summer breaks or breaks between semesters or quarters, that occur prior to the receipt of the postsecondary degree.

(j) 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. A student who is enrolled for more than eight (8) hours in any semester or quarter during a twelve (12) month period shall be presumed to be in Idaho for primarily educational purposes. Such period of enrollment shall not be counted toward the establishment of a bona fide domicile in this state unless the student proves, in fact, establishment of a bona fide domicile in this state primarily for purposes other than educational. 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) Any of the following, if done for at least twelve (12) months before the term in which the student proposes to enroll as a resident student, proves the establishment and maintenance of domicile in Idaho for purposes other than educational and supports classification of a student as an Idaho resident:

(i) Filing of Idaho state income tax returns covering a period of at least twelve (12) months before the term in which the student proposes to enroll as a resident student;

(ii) Permanent full-time employment or the hourly equivalent thereof in the state of Idaho; or

(iii) Ownership by the student of the student's living quarters.

(b) The following, if done for at least twelve (12) months before the term in which the student proposes to enroll as a resident student, lend support to domiciliary intent and the absence of which indicates a lack of domiciliary intent. By themselves, the following do not constitute sufficient evidence of the establishment and maintenance of a domicile in Idaho for purposes other than educational:

(i) 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;

(ii) Registration to vote for state elected officials in Idaho at a general election;

(iii) Holding an Idaho driver's license;

(iv) Evidence of abandonment of a previous domicile;

(v) Presence of household goods in Idaho;

(vi) Establishment of accounts with Idaho financial institutions; and

(vii) Other similar factors indicating intent to be domiciled in Idaho and the maintenance of such domicile.

(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 24, 2010.

CHAPTER 78
(S.B. No. 1315)

AN ACT

RELATING TO VITAL STATISTICS; AMENDING SECTION 39-250, IDAHO CODE, TO PROVIDE THAT AN APPLICANT HAS THE RIGHT TO PETITION A COURT FOR AN ORDER ESTABLISHING CERTAIN FACTS FOR AMENDING A VITAL RECORD UNDER CERTAIN CIRCUMSTANCES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-267, IDAHO CODE, TO PROVIDE THAT AN ORDER ENTERED FOLLOWING CERTAIN PROCEDURE SHALL BE ACCEPTABLE EVIDENCE FOR ESTABLISHING A DELAYED CERTIFI-

CATE OF BIRTH OR DEATH AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 2, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-278, IDAHO CODE, TO PROVIDE PROCEDURE FOR A COURT ORDER FOR DELAYED REGISTRATION OR AMENDMENT OF VITAL RECORD.

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

SECTION 1. That Section 39-250, Idaho Code, be, and the same is hereby amended to read as follows:

39-250. COMPLETION AND CORRECTION OF CERTIFICATES -- PROCEDURE -- OTHER ALTERATIONS PROHIBITED. A certificate of any event shall be completed, corrected, amended or otherwise altered after being filed with the vital statistics unit only in accordance with this chapter and rules promulgated by the board.

(~~a~~1) A certificate that is amended under the provisions of this section shall be marked "amended," except as otherwise provided in this section. The date of amendment and a summary description of the evidence submitted in support of the amendment shall be filed with or made a part of the record. The department shall prescribe by rule the conditions under which additions or minor corrections may be made to certificates or records within one (1) year after the date of the event without the certificate being marked "amended."

(~~b~~2) Upon receipt of a notarized voluntary acknowledgment of paternity, the state registrar shall amend the certificate of birth to show such paternity if paternity is not already shown on the certificate of birth, and change the child's surname to that of the father, if both parents so request. Such certificate shall not be marked "amended."

(~~c~~3) Upon receipt of both a notarized affidavit of nonpaternity signed by the husband attesting that he is not the father, and a notarized acknowledgment of paternity signed by the mother and the alleged father attesting that the alleged father is the father, the state registrar shall amend the certificate of birth to show such paternity, and change the child's name, if so requested by the mother and the alleged father. Such certificate shall not be marked "amended."

(~~d~~4) Upon receipt of a certified copy of an order of a court of competent jurisdiction changing the name of a person born in this state and upon request of such person or the parent(s), guardian, or legal representative, the state registrar shall amend the certificate of birth to show the new name.

(~~e~~5) When an applicant does not submit the minimum documentation required in the rules for amending a vital record in a manner otherwise permitted by rule, or when the state registrar has reasonable cause to question the validity or adequacy of the applicant's sworn statements or the documentary evidence, and if the deficiencies are not corrected, the state registrar shall not amend the vital record and shall advise the applicant of the reason for this action and shall further advise the applicant of the right to ~~appeal to~~ petition a court of competent jurisdiction for an order establishing the facts necessary to make the requested amendment.

(~~f~~6) If an acknowledgment of paternity or affidavit of nonpaternity is rescinded pursuant to section 7-1106, Idaho Code, and the certificate of birth had been prepared or amended in accordance with the acknowledgment, the state registrar shall not release any copies of the certificate of birth except as required for a legal proceeding until a court order determining paternity has been provided to the state registrar. If the mother was married at the time of either conception or birth, or between conception and birth, the court shall also determine if the husband is the father of the child.

SECTION 2. That Section 39-267, Idaho Code, be, and the same is hereby amended to read as follows:

39-267. DELAYED REGISTRATION. Any certificate required to be filed under this chapter accepted for filing after the time prescribed by the board shall be filed in accordance with the minimum standards prescribed by the national agency in charge of vital statistics.

(~~a~~1) If a delayed certificate of birth is rejected under the provisions prescribed, a petition signed and sworn to by the petitioner may be filed with a court of competent jurisdiction for an order establishing a record of the date and place of birth and the parentage of the person whose birth is to be registered. ~~Such~~ An order entered following the procedure established in section 39-278, Idaho Code, shall be acceptable evidence for establishing a delayed certificate of birth in the vital statistics unit.

(~~b~~2) If a delayed certificate of death is rejected under the provisions prescribed, a petition signed and sworn to by the petitioner may be filed with a court of competent jurisdiction for an order establishing a record of the date and place of death. ~~Such~~ An order entered following the procedure established in section 39-278, Idaho Code, shall be acceptable evidence for establishing a delayed certificate of death.

SECTION 3. That Chapter 2, 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 39-278, Idaho Code, and to read as follows:

39-278. PROCEDURE FOR DELAYED REGISTRATION OR AMENDMENT OF VITAL RECORD. (1) Following exhaustion of any administrative procedures or remedies provided by this chapter or by department rule, if an applicant has been denied a request to amend a vital record as provided by section 39-250(5), Idaho Code, or because the item for which an amendment is sought has already been once administratively denied, or if a delayed registration is rejected, including as provided in section 39-267, Idaho Code, the applicant may petition a court of competent jurisdiction of this state for an order establishing the facts necessary to establish or amend a vital record as provided in this section.

(2) The petition must be verified and must allege at least:

(a) If the petition is for a delayed registration of birth:

(i) That the person for whom the delayed certificate is requested was born in this state;

(ii) That the person's birth is not registered in another state or country;

(iii) That a record for the person's birth cannot be found in the state's vital records;

(iv) That despite diligent efforts the petitioner was unable to obtain the information and evidentiary documents required for the creation and registration of a delayed certificate of birth;

(v) That the state registrar has issued a final rejection of the application for a delayed certificate of birth; and

(vi) The following information:

1. The original full name and sex of the registrant;

2. The date of birth and place of birth, including the:

(A) Facility;

(B) City, town or location;

(C) County; and

3. The full maiden name of the mother; and

4. The full name of the father, unless the registrant was born out of wedlock.

(b) If the petition is for a delayed registration of death or stillbirth:

(i) That the person for whom the delayed certificate is requested died in this state;

(ii) That the person's death is not registered in another state or country;
(iii) That a record for the person's death cannot be found in the state's vital records;
(iv) That despite diligent efforts the petitioner was unable to obtain the information and evidentiary documents required for the creation and registration of a delayed certificate of death;
(v) That the state registrar has issued a final rejection of the application for a delayed certificate of death; and
(vi) The following information:
1. The full name and sex of the deceased;
2. The date and place of death, including the:
(A) Facility;
(B) City, town or location;
(C) County; and
3. For a stillbirth:
(A) The full maiden name of the mother; and
(B) The full name of the father, unless the mother was not married.

(c) If the petition is for another amendment to a vital record, in a manner otherwise permitted by department rule:
(i) The identity of the record registered with the state registrar and the item in the record the petitioner requests to be amended;
(ii) The change requested and the purpose of the amendment;
(iii) The rule under which the amendment is otherwise permitted; and
(iv) That the state registrar has issued a final rejection of the application for the requested amendment and the reason for the rejection.

(3) The petitioner must attach all evidentiary documents presented to the registrar and the written final letter of denial or rejection from the registrar.

(4) The petitioner must provide a complete copy of the petition, together with notice of the date, time and place of the hearing, by mailing a copy thereof at least fourteen (14) days before the time set for the hearing, by certified, registered or ordinary first class mail, to the state registrar at the address given in the written final letter of denial or rejection. The state registrar or an authorized representative may appear and present evidence at the hearing.

(5) If the court finds from the evidence presented that:

(a) The person for whom a delayed certificate of birth is requested was born in this state, it shall make findings as to:
(i) The original full name and sex of the registrant;
(ii) The date of birth and place of birth, including the:
1. Facility;
2. City, town or location;
3. County; and
(iii) The full maiden name of the mother; and
(iv) The full name of the father, unless the registrant was born out of wedlock.

(b) The person for whom a delayed certificate of death is requested died in this state, it shall make findings as to:
(i) The full name and sex of the deceased; and
(ii) The date and place of death, including the:
1. Facility;
2. City, town or location; and
3. County.

(c) The person requesting any other amendment to a vital record in a manner otherwise permitted by department rule has established the facts necessary for the amendment and the amendment is otherwise appropriate, it shall make an order amending the item in the vital record as requested.

(6) The order of the court shall include a description of the evidence presented and the date of the court's action.

(7) The order of the court shall not alter the fees otherwise required by the registrar for the requested amendment, or the time frames otherwise provided for the registrar to administratively establish or make the amendment requested.

Approved March 24, 2010.

CHAPTER 79
(S.B. No. 1299)

AN ACT

RELATING TO CODIFIER'S CORRECTIONS IN STATUTES; AMENDING SECTION 6-1904, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 18-8308, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING THE HEADING FOR CHAPTER 2, TITLE 20, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 22-103, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 23-207, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 23-311, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 23-610, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-109, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 33-2406, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-5205, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; REPEALING SECTION 34-1902, IDAHO CODE, RELATING TO THE FIRST CONGRESSIONAL DISTRICT; REPEALING SECTION 34-1903, IDAHO CODE, RELATING TO THE SECOND CONGRESSIONAL DISTRICT; AMENDING SECTION 37-2744B, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 39-4109, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 39-4116, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 45-1302, IDAHO CODE, TO DELETE REFERENCE TO AN ARCHAIC CODE SECTION; AMENDING SECTION 49-420H, IDAHO CODE, AS ADDED BY SECTION 2, CHAPTER 196, LAWS OF 2009, TO REDESIGNATE THE SECTION RELATING TO EARTH SCIENCES AND LAPIDARY PLATES; AMENDING SECTION 50-334, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-1761, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING THE HEADING FOR CHAPTER 54, TITLE 54, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 65, LAWS OF 2009, TO REDESIGNATE THE CHAPTER; AMENDING SECTIONS 54-5401 THROUGH 54-5413, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 65, LAWS OF 2009, TO REDESIGNATE THE SECTIONS RELATING TO MIDWIFERY, TO PROVIDE CORRECT CODE REFERENCES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 56-1011, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 57-202, IDAHO CODE, TO DELETE REFERENCE TO ARCHAIC CODE CHAPTERS, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-2601, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; AND PROVIDING SUNSET DATES.

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

SECTION 1. That Section 6-1904, Idaho Code, be, and the same is hereby amended to read as follows:

6-1904. IMMUNITY FROM LIABILITY. (1) No professional disciplinary procedure, no monetary liability and no cause of action may arise against any mental health care professional for failure to predict or take precautions to provide protection from a patient's violent behavior, other than the duty to warn provided in section 6-1902, Idaho Code, unless the mental health care professional failed to exercise that reasonable degree of skill, knowledge, and care ordinarily possessed and exercised by members of his professional specialty under similar circumstances.

(2) No professional disciplinary procedure, no monetary liability and no cause of action may arise against any mental health professional, who has a reasonable basis for believing that he has a duty to warn pursuant to section ~~6-1602~~ 6-1902, Idaho Code, for disclosing confidential or privileged information in an effort to discharge such duty.

(3) The provisions of this section do not modify any duty to take precautions to prevent harm by a patient that may arise if the patient is within the custodial responsibility of a hospital or other facility or is being discharged therefrom.

(4) Except as provided in section 6-1902, Idaho Code, the provisions of this section do not modify the provisions of sections 6-1001 through 6-1013, Idaho Code.

SECTION 2. That Section 18-8308, Idaho Code, be, and the same is hereby amended to read as follows:

18-8308. VERIFICATION OF ADDRESS AND ELECTRONIC MONITORING OF VIOLENT SEXUAL PREDATORS. (1) The address or physical residence of an offender designated as a violent sexual predator shall be verified by the department between registrations.

(a) The procedure for verification shall be as follows:

(i) The department shall mail a nonforwardable notice of address verification every thirty (30) days between registrations, to each offender designated as a violent sexual predator.

(ii) Each offender designated as a violent sexual predator shall complete, sign and return the notice of address verification form to the department within seven (7) days of the mailing date of the notice. If the notice of address verification is returned to the department as not delivered, the department shall, within five (5) days, notify the sheriff with whom the offender designated as a violent sexual predator last registered.

(iii) The sheriff shall verify the address of the offender by visiting the offender's residence once every six (6) months or, if the offender fails to comply with the provisions of paragraph (a)(ii) of this subsection, at any reasonable time to verify the address provided at registration.

(2) The address or physical residence of any sex offender not designated as a violent sexual predator shall be verified by the department between registrations.

(a) The procedure for verification shall be as follows:

(i) The department shall mail a nonforwardable notice of address verification every four (4) months between annual registrations.

(ii) Each offender shall complete, sign and return the notice of address verification form to the department within seven (7) days of the mailing date of the notice. If the notice of address verification is returned as not delivered, the department shall notify the sheriff within five (5) days and the sheriff shall visit the residence of the registered offender at any reasonable time to verify the address provided at registration.

(3) Any individual designated as a violent sexual predator shall be monitored with electronic monitoring technology for the duration of the

individual's probation or parole period as set forth in section 20-219(2), Idaho Code. Any person who, without authority, intentionally alters, tampers with, damages or destroys any electronic monitoring equipment required to be worn or used by a violent sexual predator shall be guilty of a felony.

(~~3~~4) A sexual offender who does not provide a physical residence address at the time of registration shall report, in person, once every seven (7) days to the sheriff of the county in which he resides. Each time the offender reports to the sheriff, he shall complete a form provided by the department that includes the offender's name, date of birth, social security number and a detailed description of the location where he is residing. The sheriff shall visit the described location at least once each month to verify the location of the offender.

SECTION 3. That the Heading for Chapter 2, Title 20, Idaho Code, be, and the same is hereby amended to read as follows:

CHAPTER 2
STATE BOARD OF CORRECTION~~S~~

SECTION 4. That Section 22-103, Idaho Code, be, and the same is hereby amended to read as follows:

22-103. DUTIES OF DIRECTOR. The director of the department of agriculture shall execute the powers and discharge the duties vested by law in him or in the department, including, but not limited to, the following:

(1) Pursuant to chapter 53, title 67, Idaho Code, hire, assign duties and evaluate the performance of all employees of the department.

(2) Designate employees for special assignment, office or function as the needs of the department may require.

(3) Acquire, generate, develop and disseminate information and data concerning agricultural pursuits, productivity and product quality.

(4) Encourage and promote in every practical manner, the interests of agriculture, horticulture, apiculture, aquaculture, the livestock industries, poultry and fowl raising, wool and fur-bearing animals and their allied industries.

(5) Assist, encourage and promote the organization of farmers' institutes, agricultural, horticultural, management or cooperative societies and organizations for the benefit of agricultural pursuits in this state.

(6) Promote improved methods of production, storage, sales and marketing of agricultural industries.

(7) Establish and promulgate standards of construction, use and sanitation of open and closed receptacles for farm products, and standards for grade or other classification of farm products.

(8) Prescribe and promulgate rules governing marks, brands and labels, and the registration thereof, for use upon receptacles for farm products.

(9) Promote, in the interest of the public, economical and efficient use of products and commodities used in the production of agricultural, horticultural, meats and other products and farm commodities and their distribution.

(10) Cooperate with producers, processors and consumers in devising and maintaining economical and efficient systems of distribution, and to assist in the reduction of waste and expense incidental to the marketing of agricultural products.

(11) Support a market news service to gather and diffuse timely information and statistics concerning supply, demand, prevailing prices and commercial movement of agricultural products.

(12) Cooperate with the secretary, colleges and universities, experiment stations, and other agencies which cooperate in devising, research and

development and utilization of improved agricultural production and other activities.

(13) Investigate the practices, methods of factors, management techniques of commission merchants, track buyers and others who receive, solicit, buy, sell, handle on commission or otherwise, or deal in grains, eggs, livestock, vegetables or other products used as human foods, to the end that distribution of such commodities through such factors, commission merchants, track buyers and others be efficiently and economically accomplished without hardship, waste or fraud.

(14) Enter and inspect any right-of-way of any irrigation canal, railway, public highway, field, orchard, nursery, fruit or vegetable packing house, store room, sales room, storage facility, depot or other place where fruits and vegetables are grown or stored and to inspect fruits, trees, plants, vines, shrubs or other articles within the state, and if such places or articles are infested with pests, insects or their eggs or larvae, or with any contagious or transmittable diseases injurious to plant life, to abate or eradicate the same as a nuisance.

(15) Provide treatment for and prevent the spread of infectious or communicable diseases among bees, livestock, fur-bearing animals or domestic animals through the systematic and periodic inspection, testing or treatment of such bees and animals at the expense of the owner thereof.

(16) Protect the livestock interests of the state from losses due to disease or hazards to animal health and communicable to humans through agricultural products. The director is authorized to regulate, as deemed necessary, commercial livestock truck washing facilities. This includes permitting for the treatment or disposal, at any location, of any wash water generated by the facility. This subsection preempts Idaho department of environmental quality's authority to issue land application permits and to do plan and specification reviews under section 39-118, Idaho Code, for livestock truck wash facilities, but does not affect any other authority of the Idaho department of environmental quality.

(17) Maintain recording of earmarks, eartags or other identifying marks not covered under any other provisions of law.

(18) Purchase, lease, hold, sell, and dispose of real and personal property of the department when, in the judgment of the director, such transactions promote the purposes for which the department is established.

(19) Contract with any state agency, federal agency or agency of another state concerning any matter, program or cooperative effort within the scope and jurisdiction of its authority pursuant to law.

(20) Assist in the improvement of country life, farm occupations and to cooperate in effectuating equality of opportunity of those employed in agricultural pursuits in the state of Idaho.

(21) Investigate diseases, contamination of livestock and poultry, agricultural, horticultural, and farm products, suspected to be infected or contaminated by bacterial, viral, protozoal, parasitic, chemical, nuclear, botanical or other disease-producing agents, or carrying a residue of any such disease-producing agent or chemical in excess of any tolerance established by federal or state law or regulation and to examine, conduct tests, and issue "hold orders" on any livestock, poultry, agricultural, horticultural or farm products as deemed necessary to effectuate a diagnosis of disease, contamination or chemical level to safeguard and protect animal and man. And additionally, authorize and implement a predator control program on state and private lands using any kind of toxic material or substance suitable for such purpose. Any toxic material or substance shall be approved for use by the director. In order to carry out the provisions of this subsection (21), the director shall prescribe and promulgate rules pursuant to chapter 52, title 67, Idaho Code.

(22) Prescribe by rule an interest charge which may be assessed on all accounts which are thirty (30) days past due from the initial billing date or

the assessment due date. The interest rate charged shall not exceed twelve percent (12%) per annum.

(23) To take all steps that are deemed necessary to prevent and control damage or conflicts on federal, state, or other public or private lands caused by predatory animals, rodents, or birds, including threatened or endangered wildlife within the state of Idaho as are established by federal or state law, federal or state regulation, or county ordinance, that are injurious to animal husbandry, agriculture, horticulture, forestry, wildlife and human health and safety.

(2~~5~~4) Administer a range program to provide support, coordination and expertise to Idaho rangeland livestock producers and land and wildlife management agencies for the planning and management of vegetation, grazing permits and other rangeland resources that are of importance to the livestock industry. The program shall also provide technical expertise and support to state and industry entities in reviewing various federal environmental impact statements, federal environmental assessments and other state and federal proposals that impact grazing, vegetation management or other rangeland resources or uses important to the livestock industry.

(2~~4~~5) To administer oaths, certify to all official acts and subpoena any person in this state as a witness; to compel through subpoena the production of books, papers, and records; and to take the testimony of any person on deposition in the same manner as prescribed by law in the procedure before the courts of this state. A subpoena issued by the director shall extend to all parts of the state and may be served by any person authorized to do so. All powers of the director enumerated in this subsection (2~~4~~5) with respect to administering oaths, power of subpoena, and other powers in hearings on complaints shall likewise be applicable to hearings held on applications for the issuance or renewal of licenses.

(2~~5~~6) To appoint, as necessary, committees for the purpose of advising the director on any and all matters relating to agricultural programs within the Idaho department of agriculture.

(2~~6~~7) Cooperate with producers, industry and technology groups, and other agencies to encourage the growth of technology within the state's agricultural industries while protecting, as necessary, the integrity of existing agriculture and agricultural marketing channels.

SECTION 5. That Section 23-207, Idaho Code, be, and the same is hereby amended to read as follows:

23-207. SPECIFIC RULES AND REGULATIONS. Without attempting or intending to limit the general powers of the director of the division contained in section 23-206, Idaho Code, such powers shall extend to and include the following:

(a) To prescribe the duties of the secretary, and to supervise his conduct while in the discharge of his duties.

(b) Subject to the provisions of chapter 53, title 67, Idaho Code, to prescribe the qualifications of and to select clerks, accountants, agents, vendors, inspectors, servants, legal counsel, and other personnel to conduct its business and perform its functions; to require that those holding positions of trust be bonded to the state of Idaho in the time, form and manner prescribed by chapter 8, title 59, Idaho Code; to fix the compensation of all appointees and employees, assign their duties, and to discharge them.

(c) To regulate the management, operation, bookkeeping, reporting, equipment, records, and merchandise of state liquor stores and distribution stations and warehouses.

(d) To regulate the importation, purchase, transportation, and storage of alcoholic liquor and the furnishing of alcoholic liquor to state liquor stores, distribution stations, and warehouses established under this act.

(e) To determine the classes, varieties, and brands of alcoholic liquors to be kept in state warehouses and for sale at state liquor stores and distribution stations.

(f) To determine the nature, form, and capacity of packages containing liquor kept or sold.

(g) To prescribe the kinds and character of official seals or labels to be attached to packages of liquor sold to a licensed premises. No official seals or labels shall be required to be attached to packages of liquor sold to the general public, at a liquor store or a distributing station, which is not a licensed premises through liquor stores or distributing stations.

(h) From time to time to fix the sale prices, which shall be uniform throughout the state, of the different classes, varieties, or brands of alcoholic liquor, and to issue and distribute price lists thereof.

(i)~~)~~ To prescribe, prepare, and furnish printed forms and information blanks necessary or convenient for administering this act, and printed copies of the regulations made thereunder. To contract for the printing thereof and of all necessary records and reports.

(j) To regulate the issuance, suspension and revocation of permits and licenses to purchase, manufacture and handle or traffic in alcoholic liquor.

(k) To prescribe the conditions and qualifications necessary for obtaining permits and licenses, and the conditions of use of privileges under them; and to provide for the inspection of the records and the conduct of use of permittees and licensees.

(l) To prescribe the kind, quality, and character of alcoholic liquors which may be purchased or sold under any and all licenses and permits, including the quantity which may be purchased or sold at any one (1) time or within any specified period of time.

SECTION 6. That Section 23-311, Idaho Code, be, and the same is hereby amended to read as follows:

23-311. CONTAINERS. No alcoholic liquor shall be sold to any purchaser, which is not a licensed premises, except in a sealed container ~~division~~ and no such container shall be opened upon the premises of any state warehouse, store, or distributing station. No alcoholic liquor shall be sold to a licensed premises except in a sealed container with the official seal or label prescribed by the ~~dispensary~~ division.

SECTION 7. That Section 23-610, Idaho Code, be, and the same is hereby amended to read as follows:

23-610. POSSESSION OF LIQUOR NOT SUBJECT TO REGULATION BY ~~DISPENSARY~~ DIVISION -- ILLEGAL -- EXCEPTIONS. It shall be unlawful for any person, which is not a licensed premises, to possess more than two (2) quarts of alcoholic liquor that has not been subjected to regulation by the division, except public carriers transporting alcoholic liquor for the division. All licensed premises shall have liquor to which is affixed the official seal or label prescribed by the liquor ~~dispensary~~ division.

SECTION 8. That Section 33-109, Idaho Code, be, and the same is hereby amended to read as follows:

33-109. ANNUAL REPORT. The state board shall cause to be prepared a report of its actions and expenditures for each year ending on the thirtieth day of June with such recommendations as it shall deem proper for the good of the state educational institutions and public schools of the state. Such report shall be prepared in the form and number, and filed at the time, provided by section~~s 59-608 and 59-609~~ 67-3502, Idaho Code.

SECTION 9. That Section 33-2406, Idaho Code, be, and the same is hereby amended to read as follows:

33-2406. SURETY BOND. As a condition of registration, a proprietary school shall obtain a surety bond issued by an insurer duly authorized to do business in this state in favor of the state of Idaho for the indemnification of any student for any loss suffered as a result of a failure by such proprietary school to satisfy its obligations pursuant to the terms and conditions of any contract for tuition or other instructional fees entered into between the ~~propriety~~ proprietary school and a student, or as a result of any violation of this chapter or the rules promulgated pursuant to this chapter. The term of the bond shall extend over the period of registration, and shall be in such amount as is established in rule by the board.

The board or its designee may submit a demand upon the surety on the bond on behalf of a student or students when it is reasonably believed that a loss has occurred due to a failure by such proprietary school to satisfy its obligations pursuant to the terms and conditions of any contract for tuition or other instructional fees entered into between the proprietary school and a student, or as a result of any violation of the provisions of this chapter or the rules promulgated pursuant to this chapter.

Neither the principal nor surety on the bond may terminate the coverage of the bond, except upon giving one hundred twenty (120) days' prior written notice to the board.

SECTION 10. 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. ~~In the case of a petition for a non-virtual public charter school submitted to the public charter school commission, the board of the district in which the proposed public charter school will be physically located, shall be notified of the hearing in writing, by the public charter school commission, no less than thirty (30) days prior to the public hearing.~~

In the case of a petition for a public virtual charter school, if the primary attendance area described in the petition of a proposed public virtual charter school extends within the boundaries of five (5) or fewer local school districts, the public charter school commission shall provide notice in writing of the public hearing no less than thirty (30) days prior to such public hearing to those local school districts. Such public hearing shall include any oral or written comments that an authorized representative of the local school districts may provide regarding the merits of the petition and any potential impacts on the school districts.

In the case of a petition for a non-virtual public charter school submitted to the public charter school commission, the board of the district in which the proposed public charter school will be physically located, shall be notified of the hearing in writing, by the public charter school commission, no less than thirty (30) days prior to the public hearing. Such public hearing shall 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. The hearing shall include any oral or written comments that petitioners may provide regarding any potential impacts on such school district. If the school district chooses not to provide any oral or written comments as provided for in this subsection (2), such school district shall notify the public charter school commission of such decision. Following review of any petition and any public hearing provided for in this section, 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 so stated in its petition, a new public charter school may include the children of full-time employees of the public charter school within the first priority group subject to the limitations therein. Otherwise, such children shall be included in the third priority group. 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. If so stated in its petition, a public charter school may include the following children within the second priority group subject to the limitations therein:

(i) The children of full-time employees of the public charter school;

(ii) Children who previously attended the public charter school within the previous three (3) school years, but who withdrew as a result of the relocation of a parent or guardian due to an academic sabbatical, employer or military transfer or reassignment.

Otherwise, such children shall be included in the fourth priority group.

(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.

(6) 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.

SECTION 11. That Section 34-1902, Idaho Code, be, and the same is hereby repealed.

SECTION 12. That Section 34-1903, Idaho Code, be, and the same is hereby repealed.

SECTION 13. That Section 37-2744B, Idaho Code, be, and the same is hereby amended to read as follows:

37-2744B. AUTHORIZATION TO RECEIVE AND ADMINISTER FEDERAL FORFEITURES AND PRIVATE DONATIONS. The director of the Idaho state police is authorized to receive and dispose of any real or personal property which has been seized by a federal drug enforcement agency, or any donations from private citizens, the proceeds of which shall be placed in the drug

and driving while under the influence enforcement donation fund created in section 57-816, Idaho Code.

SECTION 14. That Section 39-4109, Idaho Code, be, and the same is hereby amended to read as follows:

39-4109. APPLICATION OF CODES. (1) The following codes are hereby adopted for the state of Idaho division of building safety and shall only be applied by local governments as prescribed by section 39-4116, Idaho Code:

(a) The 2006 International Building Code shall be in effect, until such time as a subsequent version is adopted by the Idaho building code board, at which time the subsequent versions of the International Building Code as adopted and amended by the Idaho building code board through the negotiated rulemaking process as established in section 67-5221, Idaho Code, and as further provided in subsection (5) of this section and in accordance with subsections (2) and (3) herein shall be in effect:

(i) Including appendices thereto pertaining to building accessibility;

(ii) Excluding the incorporated electrical codes, mechanical code, fuel gas code, plumbing codes, fire codes or property maintenance codes other than specifically referenced subjects or sections of the International Fire Code; and

(iii) Including the incorporated International Residential Code, parts I, II, III, IV and IX; International Energy Conservation Code; and rules promulgated by the board to provide equivalency with the provisions of the Americans with disabilities act accessibility guidelines and the fair housing act accessibility guidelines shall be included. ~~(iv) 6~~

(b) The 2006 International Residential Code as published by the International Code Council, except for parts V, VI, VII and VIII as they pertain to mechanical, fuel gas, plumbing and electrical requirements shall be in effect, until such time as a subsequent version is adopted by the Idaho building code board, at which time the subsequent versions of the International Residential Code as adopted and amended by the Idaho building code board through the negotiated rulemaking process provided in this section shall be in effect;

(c) The 2006 International Energy Conservation Code as published by the International Code Council shall be in effect, until such time as a subsequent version is adopted by the Idaho building code board, at which time the subsequent versions of the International Energy Conservation Code as adopted and amended by the Idaho building code board through the negotiated rulemaking process provided in this section shall be in effect; and

(d) The 2006 International Existing Building Code as published by the International Code Council shall be in effect, until such time as a subsequent version is adopted by the Idaho building code board, at which time the subsequent versions of the International Existing Building Code as adopted and amended by the Idaho building code board through the negotiated rulemaking process provided in this section shall be in effect.

(2) No amendments to the accessibility guidelines shall be made by the Idaho building code board that provide for lower standards of accessibility than those published by the International Code Council.

(3) No amendments to the International Residential Building Code shall be made by the Idaho building code board that provide for standards that are more restrictive than those published by the International Code Council.

(4) Any edition of the building codes adopted by the board will take effect on January 1 of the year following its adoption.

(5) In addition to the negotiated rulemaking process set forth in section 67-5221, Idaho Code, the board shall conduct a minimum of two (2) public hearings, not less than sixty (60) days apart. Express written notice of such public hearings shall be given by the board to each of the following entities not less than five (5) days prior to such hearing: associated general contractors of America, associated builders and contractors, association of Idaho cities, Idaho association of building officials, Idaho association of counties, Idaho association of REALTORS®, Idaho building contractors association, American institute of architects Idaho chapter, Idaho fire chiefs association, Idaho society of professional engineers, Idaho state independent living council, southwest Idaho building trades, Idaho building trades, and any other entity that, through electronic or written communication received by the administrator not less than twenty (20) days prior to such scheduled meeting, requests written notification of such public hearings.

SECTION 15. That Section 39-4116, Idaho Code, be, and the same is hereby amended to read as follows:

39-4116. LOCAL GOVERNMENT ADOPTION AND ENFORCEMENT OF BUILDING CODES. (1) Local governments enforcing building codes shall do so only in compliance with the provisions of this section. Local governments that have not previously instituted and implemented a code enforcement program prior to the effective date of this act may elect to implement a building code enforcement program by passing an ordinance evidencing the intent to do so. Local governments may contract with a public or private entity to administer their building code enforcement program.

(2) Local governments that issue building permits and perform building code enforcement activities shall, by ordinance effective January 1 of the year following the adoption by the Idaho building code board, adopt the following codes as published by the International Code Council together with any amendments or revisions set forth in section 39-4109, Idaho Code, including subsequent versions of the International Building Code as adopted and amended by the Idaho building code board through the negotiated rulemaking process provided in this chapter:

(a) International Building Code, including all rules promulgated by the board to provide equivalency with the provisions of the Americans with disabilities act accessibility guidelines and the federal fair housing act accessibility guidelines;

(b) International Residential Code, parts I-IV and IX; and

(c) International Energy Conservation Code.

Local governments are not required by this chapter to adopt the other referenced codes in the International Building Code.

(3) All single family homes and multiple family dwellings up to two (2) units are hereby exempted from the provisions of the International Fire Code, the International Building Code and the International Residential Code that require such dwellings to have automatic fire sprinkler systems installed. Nothing in this section shall prevent any person from voluntarily installing an automatic fire sprinkler system in any residential dwelling.

(4) Local governments may amend by ordinance the adopted codes or provisions of referenced codes to reflect local concerns, provided such amendments establish at least an equivalent level of protection to that of the adopted building code. A local jurisdiction shall not have the authority to amend any accessibility provision pursuant to section 39-4109, Idaho Code, except as provided in ~~subsection (3)~~ paragraphs (a) and (b) of this subsection.

(a) A local jurisdiction shall not have the authority to amend any accessibility provision pursuant to section 39-4109, Idaho Code.

(b) A local jurisdiction shall not adopt any provision of the International Building Code or International Residential Code or appendices thereto, that has not been adopted or that has been expressly rejected or exempted from the adopted version of those codes by the Idaho building code board through the negotiated rulemaking process as provided in section 39-4109, Idaho Code. Provided however, that, after a finding by the local jurisdiction that good cause exists for such an amendment to such codes and that such amendment is reasonably necessary, a local jurisdiction may adopt such provision by ordinance in accordance with the provisions of chapter 9, title 50, Idaho Code, and provided further that such local jurisdiction shall conduct a public hearing and, provided further, that notice of the time and place of the public hearing shall be published in the official newspaper or paper of general circulation within the jurisdiction and written notice of each of such public hearing and the proposed language shall be given by the local jurisdiction to the local chapters of the entities identified in section 39-4109(5), Idaho Code, not less than thirty (30) days prior to such hearing. In the event that there are no local chapters of such entities identified in section 39-4109(5), Idaho Code, within the local jurisdiction holding the hearings, the notice shall be provided to the state associations of the respective entities.

(5) Local governments shall exempt agricultural buildings from the requirements of the codes enumerated in this chapter and the rules promulgated by the board. A county may issue permits for farm buildings to assure compliance with road setbacks and utility easements, provided that the cost for such permits shall not exceed the actual cost, to the county, of issuing the permits.

(6) Permits shall be governed by the laws in effect at the time the permit application is received.

(7) The division shall retain jurisdiction for in-plant inspections and installation standards for manufactured or mobile homes and for in-plant inspections and enforcement of construction standards for modular buildings and commercial coaches.

SECTION 16. That Section 45-1302, Idaho Code, be, and the same is hereby amended to read as follows:

45-1302. DETERMINATION OF ALL RIGHTS UPON FORECLOSURE PROCEEDINGS. In any suit brought to foreclose a mortgage or lien upon real property or a lien on or security interest in personal property, the plaintiff, cross-complainant or plaintiff in intervention may make as party defendant in the same cause of action, any person~~, including parties mentioned in section 5-325,~~ having, claiming or appearing to have or to claim any title, estate, or interest in or to any part of the real or personal property involved therein, and the court shall, in addition to granting relief in the foreclosure action, determine the title, estate or interest of all parties thereto in the same manner and to the same extent and effect as in the action to quiet title.

SECTION 17. That Section 49-420H, Idaho Code, as added by Section 2, Chapter 196, Laws of 2009, be, and the same is hereby amended to read as follows:

49-420~~H~~I. EARTH SCIENCES AND LAPIDARY PLATES. (1) On and after January 1, 2010, 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 earth sciences and lapidary 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 earth sciences and lapidary 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. Thirteen dollars ($13.00) of the initial fee and thirteen dollars ($13.00) 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-two dollars ($22.00) of each initial fee and twelve dollars ($12.00) of each renewal fee shall be transferred by the state treasurer for deposit to the Idaho gem club, an Idaho nonprofit organization, and shall be used to provide classes for kindergarten through grade 6 to promote understanding about earth sciences and lapidary.

(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 earth sciences and lapidary 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 gem club 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 gem club.

(5) Sample earth sciences and lapidary license plates may be purchased for a fee of thirty dollars ($30.00), thirteen dollars ($13.00) of which shall be deposited in the state highway account and seventeen dollars ($17.00) of which shall be transferred for deposit to the Idaho gem club, and shall be used to provide classes for kindergarten through grade 6 to promote understanding about the earth sciences and lapidary.

SECTION 18. That Section 50-334, Idaho Code, be, and the same is hereby amended to read as follows:

50-334. ABATEMENT OF NUISANCES. Cities are empowered to declare what shall be deemed nuisances, to prevent, remove and abate nuisances at the expense of the parties creating, causing, committing or maintaining the same, to levy a special assessment as provided in section 50-10~~12~~08, Idaho Code, on the land or premises whereon the nuisance is situated to defray the cost or to reimburse the city for the cost of abating the same, and this power shall extend three (3) miles beyond the city limits, provided however, that the expense of declaring, preventing, removing and abating nuisances outside the city limits shall rest with the city when the nuisance comes within the three (3) mile area by reason of expansion of city boundaries.

SECTION 19. That Section 54-1761, Idaho Code, be, and the same is hereby amended to read as follows:

54-1761. DEFINITIONS. As used in sections 54-1760 through 54-1765, Idaho Code:

(1) "Donating entity" means pharmacies, hospitals, nursing homes, drug manufacturers and wholesale distributors.

(2) "Legend drug" has the same meaning as provided in section 54-1705(~~28~~30), Idaho Code.

(3) "Medically indigent" means any person who is in need of a legend drug and who is not eligible for medicaid or medicare, who cannot afford pri-

vate prescription drug insurance or who does not have income and other resources available sufficient to pay for the legend drug.

(4) "Qualifying charitable clinic or center" means a community health center as defined in section 39-3203, Idaho Code, and means a free medical clinic as defined in section 39-7702, Idaho Code.

SECTION 20. That the Heading for Chapter 54, Title 54, Idaho Code, as added by Section 1, Chapter 65, Laws of 2009, be, and the same is hereby amended to read as follows:

CHAPTER 5~~4~~5
MIDWIFERY

SECTION 21. That Section 54-5401, Idaho Code, as added by Section 1, Chapter 65, Laws of 2009, be, and the same is hereby amended to read as follows:

54-~~5401~~5501. LEGISLATIVE PURPOSE AND INTENT. The legislature finds and declares that the practice of midwifery has been a part of the culture and tradition of Idaho since before pioneer days and that for personal, religious and economic reasons some Idaho citizens choose midwifery care. The purpose of this chapter is to preserve the rights of families to deliver their children in a setting of their choice, to provide additional maternity care options for Idaho's families, to protect the public health, safety and welfare and to provide a mechanism to assure quality care.

SECTION 22. That Section 54-5402, Idaho Code, as added by Section 1, Chapter 65, Laws of 2009, be, and the same is hereby amended to read as follows:

54-~~5402~~5502. DEFINITIONS. As used in this chapter:

(1) "Board" means the Idaho state board of midwifery.

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

(3) "Certified professional midwife" or "CPM" means a person who is certified by the North American registry of midwives or any successor organization.

(4) "Client" means a woman under the care of a licensed midwife, as well as her fetus and newborn child.

(5) "Idaho midwifery council" or "IMC" means the professional organization representing midwives in Idaho.

(6) "Idahoans for midwives" or "IFM" means the Idaho consumer organization that promotes and supports midwifery care in Idaho.

(7) "Licensed midwife" means a person who holds a current license issued by the board pursuant to the provisions of this chapter to engage in the practice of midwifery, who shall be designated "L.M."

(8) "Midwifery education accreditation council" or "MEAC" means the organization established in 1991 and recognized by the U.S. department of education as an accrediting agency for midwifery education programs and institutions.

(9) "National association of certified professional midwives" or "NACPM" means the national organization for certified professional midwives.

(10) "NACPM essential documents" means the documents adopted by NACPM that identify the nature of and standards of practice for responsible midwifery practice.

(11) "North American registry of midwives" or "NARM" means the international certification agency that establishes and administers certification for the CPM credential.

(12) "Practice of midwifery" means providing maternity care for women and their newborns during the antepartum, intrapartum and postpartum peri-

ods. The postpartum period for both maternal and newborn care may not exceed six (6) weeks from the date of delivery.

SECTION 23. That Section 54-5403, Idaho Code, as added by Section 1, Chapter 65, Laws of 2009, be, and the same is hereby amended to read as follows:

54-~~5403~~5503. BOARD OF MIDWIFERY CREATED. (1) There is hereby established in the department of self-governing agencies, bureau of occupational licenses, a board of midwifery.

(2) The board shall consist of five (5) members appointed by the governor, three (3) of whom shall be licensed pursuant to this chapter, one (1) of whom shall be a licensed physician who is board certified in either obstetrics/gynecology or family medicine, maintains current hospital privileges and has provided primary maternity care for at least twenty (20) births in the twelve (12) months prior to the appointment and one (1) of whom shall be a member of the public with an interest in the rights of consumers of midwifery services.

(3) One (1) member of the initial board shall be appointed for a one (1) year term of office, one (1) member of the initial board shall be appointed for a two (2) year term of office, one (1) member of the initial board shall be appointed for a three (3) year term of office, one (1) member shall be appointed for a four (4) year term of office and one (1) member of the initial board shall be appointed for a five (5) year term of office. Thereafter, the term of office for each board member shall be five (5) years.

(4) In making appointments to the board, the governor's selection shall not be limited to nominations he receives; however, consideration shall be given to recommendations made by the Idaho midwifery council and Idahoans for midwives.

(5) The initial three (3) licensed midwife board members shall have at least three (3) years of experience in the practice of midwifery, shall hold current CPM certification and shall be eligible to become licensed pursuant to this chapter.

(6) The three (3) board members who are licensed midwives shall be licensed pursuant to this chapter, shall actively practice midwifery in the state of Idaho for the duration of their appointment and shall have been a practicing midwife in the state of Idaho for at least three (3) years immediately preceding their appointment.

(7) In the event of the death, resignation or removal of any board member before the expiration of the term to which he is appointed, the vacancy shall be filled for the unexpired portion of the term in the same manner as the original appointment.

(8) Board members shall serve at the pleasure of the governor.

(9) Within thirty (30) days after its appointment, the initial board shall hold a meeting and elect a chairperson. The board shall meet at least annually thereafter, and may hold additional meetings at the call of the chairperson or at the written request of any two (2) members of the board. A majority of the board shall constitute a quorum. The vote of a majority of members present at a meeting wherein a quorum is present shall determine the action of the board.

SECTION 24. That Section 54-5404, Idaho Code, as added by Section 1, Chapter 65, Laws of 2009, be, and the same is hereby amended to read as follows:

54-~~5404~~5504. BOARD OF MIDWIFERY -- POWERS AND DUTIES. The board shall have the authority and the responsibility to:

(1) Receive applications for licensure, determine the qualifications of persons applying for licensure, provide licenses to applicants qualified under this chapter and renew, suspend, revoke and reinstate licenses;

(2) Establish and collect fees for examination of applicants, for licensure and for renewal of licenses;

(3) Establish the minimum amount and type of continuing education to be required for each licensed midwife seeking renewal of the midwife's license;

(4) Investigate complaints against persons who are licensed under this chapter;

(5) Undertake, when appropriate, disciplinary proceedings and disciplinary action against persons licensed under this chapter;

(6) Promulgate and adopt rules, pursuant to chapter 52, title 67, Idaho Code, necessary to administer this chapter. To the degree they are consistent with this chapter, rules shall be consistent with the current job description for the profession published by NARM and consistent with standards regarding the practice of midwifery established by the NACPM or a successor organization;

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

(8) Provide such other services and perform such other functions as are consistent with this chapter and necessary to fulfill its responsibilities.

SECTION 25. That Section 54-5405, Idaho Code, as added by Section 1, Chapter 65, Laws of 2009, be, and the same is hereby amended to read as follows:

54-~~5405~~5505. RULEMAKING. (1) The rules adopted by the board shall:

(a) Allow a midwife to obtain and administer, during the practice of midwifery, the following:

(i) Oxygen;

(ii) Oxytocin as a postpartum antihemorrhagic agent;

(iii) Injectable local anesthetic for the repair of lacerations that are no more extensive than second degree;

(iv) Antibiotics for group b streptococcus prophylaxis consistent with guidelines of the United States centers for disease control and prevention;

(v) Epinephrine administered via a metered dose auto-injector;

(vi) Intravenous fluids for stabilization of the woman;

(vii) Rho(d)immune globulin;

(viii) Vitamin K; and

(ix) Eye prophylactics to the baby.

(b) Prohibit the use of other legend drugs, except those of a similar nature and character as determined by the board to be consistent with the practice of midwifery; provided that, at least one hundred twenty (120) days' advance notice of the proposal to allow the use of such drugs is given to the board of pharmacy and the board of medicine and neither board objects to the addition of such drugs to the midwifery formulary;

(c) Define a protocol for use by licensed midwives of drugs approved in paragraphs (a) and (b) of this subsection that shall include methods of obtaining, storing and disposing of such drugs and an indication for use, dosage, route of administration and duration of treatment;

(d) Define a protocol for medical waste disposal; and

(e) Establish scope and practice standards for antepartum, intrapartum, postpartum and newborn care that shall, at a minimum:

(i) Prohibit a licensed midwife from providing care for a client with a history of disorders, diagnoses, conditions or symptoms that include:

1. Placental abnormality;

2. Multiple gestation;

3. Noncephalic presentation at the onset of labor or rupture of membranes, whichever occurs first;
4. Birth under thirty-seven (37) weeks and after forty-two (42) completed weeks' gestational age;
5. A history of more than one (1) prior cesarean section, a cesarean section within eighteen (18) months of the current delivery or any cesarean section that was surgically closed with a classical or vertical uterine incision;
6. Rh or other blood group or platelet sensitization, hematological or coagulation disorders;
7. A body mass index of forty (40.0) or higher at the time of conception;
8. Prior chemotherapy and/or radiation treatment for a malignancy;
9. Previous pre-eclampsia resulting in premature delivery;
10. Cervical insufficiency; or
11. HIV positive status.

(ii) Prohibit a licensed midwife from providing care for a client with a history of the following disorders, diagnoses, conditions or symptoms unless such disorders, diagnoses, conditions or symptoms are being treated, monitored or managed by a physician licensed pursuant to chapter 18, title 54, Idaho Code:
1. Diabetes;
2. Thyroid disease;
3. Epilepsy;
4. Hypertension;
5. Cardiac disease;
6. Pulmonary disease;
7. Renal disease;
8. Gastrointestinal disorders;
9. Previous major surgery of the pulmonary system, cardiovascular system, urinary tract or gastrointestinal tract;
10. Abnormal cervical cytology;
11. Sleep apnea;
12. Previous bariatric surgery;
13. Hepatitis; or
14. History of illegal drug use or excessive prescription drug use.

(iii) Require a licensed midwife to recommend that a client see a physician licensed under chapter 18, title 54, Idaho Code, and to document and maintain a record as required by section 54-~~5411~~5511, Idaho Code, if such client has a history of disorders, diagnoses, conditions or symptoms that include:
1. Previous complicated pregnancy;
2. Previous cesarean section;
3. Previous pregnancy loss in second or third trimester;
4. Previous spontaneous premature labor;
5. Previous pre-term rupture of membranes;
6. Previous pre-eclampsia;
7. Previous hypertensive disease of pregnancy;
8. Parvo;
9. Toxo;
10. CMV;
11. HSV;
12. Previous maternal/newborn group b streptococcus infection;
13. A body mass index of at least thirty-five (35.0) but less than forty (40.0) at the time of conception;

14. Underlying family genetic disorders with potential for transmission; or

15. Psychosocial situations that may complicate pregnancy.

(iv) Require that a licensed midwife shall facilitate the immediate transfer to a hospital for emergency care for disorders, diagnoses, conditions or symptoms that include:

1. Maternal fever in labor;

2. Suggestion of fetal jeopardy such as bleeding or meconium or abnormal fetal heart tones;

3. Noncephalic presentation at the onset of labor or rupture of membranes, whichever occurs first;

4. Second stage labor after two (2) hours of initiation of pushing when the mother has had a previous cesarean section;

5. Current spontaneous premature labor;

6. Current pre-term premature rupture of membranes;

7. Current pre-eclampsia;

8. Current hypertensive disease of pregnancy;

9. Continuous uncontrolled bleeding;

10. Bleeding which necessitates the administration of more than two (2) doses of oxytocin or other antihemorrhagic agent;

11. Delivery injuries to the bladder or bowel;

12. Grand mal seizure;

13. Uncontrolled vomiting;

14. Coughing or vomiting of blood;

15. Severe chest pain; or

16. Sudden onset of shortness of breath and associated labored breathing.

A transfer of care shall be accompanied by the client's medical record, the licensed midwife's assessment of the client's current condition and a description of the care provided by the licensed midwife prior to transfer;

(v) Establish a written plan for the emergency transfer and transport required in subparagraph (iv) of this paragraph and for notifying the hospital to which a client will be transferred in the case of an emergency. If a client is transferred in an emergency, the licensed midwife shall notify the hospital when the transfer is initiated and accompany the client to the hospital if feasible, or communicate by telephone with the hospital if unable to be present personally, and shall provide the client's medical record. The record shall include the client's name, address, list of diagnosed medical conditions, list of prescription or over the counter medications regularly taken, history of previous allergic reactions to medications, if feasible the client's current medical condition and description of the care provided by the midwife and next of kin contact information.

(f) Establish and operate a system of peer review for licensed midwives that shall include, but not be limited to, the appropriateness, quality, utilization and the ethical performance of midwifery care.

(2) The rules adopted by the board may not:

(a) Require a licensed midwife to have a nursing degree or diploma;

(b) Except as a condition imposed by disciplinary proceedings by the board, require a licensed midwife to practice midwifery under the supervision of another health care provider;

(c) Except as a condition imposed in disciplinary proceedings by the board, require a licensed midwife to enter into an agreement, written or otherwise, with another health care provider;

(d) Limit the location where a licensed midwife may practice midwifery;

(e) Allow a licensed midwife to use vacuum extraction or forceps as an aid in the delivery of a newborn;

(f) Grant a licensed midwife prescriptive privilege;

(g) Allow a licensed midwife to perform abortions.

SECTION 26. That Section 54-5406, Idaho Code, as added by Section 1, Chapter 65, Laws of 2009, be, and the same is hereby amended to read as follows:

54-~~5406~~5506. LICENSURE -- PENALTY. (1) The board shall grant a license to any person who submits a completed application, pays the required license fee as established by the board and meets the qualifications set forth in section 54-~~5407~~5507, Idaho Code.

(2) All licenses issued under this chapter shall be for a term of one (1) year and shall expire on the birthday of the licensee unless renewed in the manner prescribed by rule. Except as set forth in this chapter, rules governing procedures and conditions for license renewal and reinstatement shall be in accordance with section 67-2614, Idaho Code.

(3) It is a misdemeanor for any person to assume or use the title or designation "licensed midwife," "L.M." or any other title, designation, words, letters, abbreviations, sign, card or device to indicate to the public that such person is licensed to practice midwifery pursuant to this chapter unless such person is so licensed. Any person who pleads guilty to or is found guilty of a second or subsequent offense under this subsection (3) shall be guilty of a felony.

(4) Except as provided in section 54-~~5408~~5508, Idaho Code, on and after July 1, 2010, it shall be a misdemeanor for any person to engage in the practice of midwifery without a license. Any person who pleads guilty to or is found guilty of a second or subsequent offense under this subsection (4) shall be guilty of a felony.

SECTION 27. That Section 54-5407, Idaho Code, as added by Section 1, Chapter 65, Laws of 2009, be, and the same is hereby amended to read as follows:

54-~~5407~~5507. QUALIFICATIONS FOR LICENSURE. (1) A person shall be eligible to be licensed as a midwife if the person:

(a) Provides proof of current certification as a CPM by NARM or a successor organization;

(b) Files a board approved application for licensure and pays the required fees; and

(c) Provides documentation of successful completion of board approved MEAC accredited courses in pharmacology, the treatment of shock/IV therapy and suturing specific to midwives.

(2) For any midwife who has been continuously practicing midwifery in Idaho for at least five (5) years prior to July 1, 2009, the qualifications for licensure in subsection (1)(a) of this section may be waived by the board if such midwife provides the following documentation to the board:

(a) Primary attendance at seventy-five (75) births within the past ten (10) years, ten (10) of which occurred in the two (2) years immediately preceding the application for licensure; and

(b) In addition to the completion of the courses listed in subsection (1)(c) of this section, successful completion of board approved courses in CPR and neonatal resuscitation; and

(c) Complete practice data for the two (2) years preceding the application for licensure, on a form provided by the board.

(3) Any midwife who wishes to qualify for the waiver provided in subsection (2) of this section shall apply for licensure and provide the required documentation before July 1, 2010.

SECTION 28. That Section 54-5408, Idaho Code, as added by Section 1, Chapter 65, Laws of 2009, be, and the same is hereby amended to read as follows:

54-~~5408~~5508. EXEMPTIONS. This chapter shall not apply to any of the following:

(1) Certified nurse midwives authorized under the board of nursing to practice in Idaho, unless a certified nurse midwife chooses to become a licensed midwife. Certified nurse midwives who are licensed midwives shall be subject to the provisions of chapter 14, title 54, Idaho Code, as well as to the provisions of this chapter;

(2) Student midwives in training under the direct supervision of licensed midwives as required by NARM;

(3) A person, in good faith, engaged in the practice of the religious tenets of any church or religious act where no fee is contemplated, charged or received, whose license to practice midwifery has not been revoked and who has not plead guilty to or been found guilty of a felony for a violation of the provisions of section 54-~~5406~~5506, Idaho Code;

(4) A person administering a remedy, diagnostic procedure or advice as specifically directed by a physician;

(5) A person rendering aid in an emergency where no fee for the service is contemplated, charged or received;

(6) A person administering care to a member of such person's family;

(7) The practice of a profession by individuals who are licensed, certified or registered under other laws of this state and are performing services within the authorized scope of practice.

SECTION 29. That Section 54-5409, Idaho Code, as added by Section 1, Chapter 65, Laws of 2009, be, and the same is hereby amended to read as follows:

54-~~5409~~5509. FEES. (1) All fees received under the provisions of this chapter shall be paid to the department of self-governing agencies, bureau of occupational licenses and deposited in the state treasury to the credit of the occupational licenses fund. All costs and expenses incurred under the provisions of this chapter shall be a charge against and paid from said fund. In no case may any salary, expense or other obligation of the board be charged against the general fund.

(2) The fee for licensure may not exceed one thousand dollars ($1,000).

SECTION 30. That Section 54-5410, Idaho Code, as added by Section 1, Chapter 65, Laws of 2009, be, and the same is hereby amended to read as follows:

54-~~5410~~5510. CLIENT PROTECTION -- UNPROFESSIONAL CONDUCT. A licensed midwife or applicant for licensure, renewal or reinstatement may not:

(1) Disregard a client's dignity or right to privacy as to her person, condition, possessions or medical record;

(2) Breach any legal requirement of confidentiality with respect to a client, unless ordered by a court of law;

(3) Submit a birth certificate known by the person to be false or fraudulent, or willfully make or file false or incomplete reports or records in the practice of midwifery;

(4) Fail to provide information sufficient to allow a client to give fully informed consent;

(5) Engage in the practice of midwifery while impaired because of the use of alcoholic beverages or drugs; and

(6) Violate any other standards of conduct as determined by the board in rules adopted for the regulation of the practice of midwifery.

SECTION 31. That Section 54-5411, Idaho Code, as added by Section 1, Chapter 65, Laws of 2009, be, and the same is hereby amended to read as follows:

54-~~5411~~5511. DISCLOSURE AND ~~RECORD KEEPING~~ RECORDKEEPING -- LICENSE RENEWAL. (1) Before initiating care, a licensed midwife shall obtain a signed informed consent agreement from each client, acknowledging receipt, at minimum, of the following:

(a) The licensed midwife's training and experience;

(b) Instructions for obtaining a copy of the rules adopted by the board pursuant to this chapter;

(c) Instructions for obtaining a copy of the NACPM essential documents and NARM job description;

(d) Instructions for filing complaints with the board;

(e) Notice of whether or not the licensed midwife has professional liability insurance coverage;

(f) A written protocol for emergencies, including hospital transport that is specific to each individual client;

(g) A description of the procedures, benefits and risks of home birth, primarily those conditions that may arise during delivery; and

(h) Any other information required by board rule.

(2) All licensed midwives shall maintain a record of all signed informed consent agreements for each client for a minimum of nine (9) years after the last day of care for such client.

(3) Before providing care for a client who has a history of disorders, diagnoses, conditions or symptoms identified in section 54-~~5405~~5505(1)(e)(ii), Idaho Code, the licensed midwife shall provide written notice to the client that the client shall obtain care from a physician licensed pursuant to chapter 18, title 54, Idaho Code, as a condition to her eligibility to obtain maternity care from the licensed midwife. Before providing care for a client who has a history of disorders, diagnoses, conditions or symptoms identified in section 54-~~5405~~5505(1)(e)(iii), Idaho Code, or who has had a previous cesarean section, the licensed midwife shall provide written notice to the client that the client is advised to consult with a physician licensed pursuant to chapter 18, title 54, Idaho Code, during her pregnancy. The midwife shall obtain the client's signed acknowledgment of receipt of said notice.

(4) Any licensed midwife submitting an application to renew a license shall compile and submit to the board complete practice data for the twelve (12) months immediately preceding the date of the application. Such information shall be provided in form and content as prescribed by rule of the board and shall include, but not be limited to:

(a) The number of clients to whom care has been provided by the licensed midwife;

(b) The number of deliveries performed by the licensed midwife;

(c) The apgar scores of the infants delivered by the licensed midwife;

(d) The number of prenatal transfers;

(e) The number of transfers during labor, delivery and immediately following birth;

(f) Any perinatal deaths; and

(g) Other morbidity statistics as required by the board.

SECTION 32. That Section 54-5412, Idaho Code, as added by Section 1, Chapter 65, Laws of 2009, be, and the same is hereby amended to read as follows:

54-~~5412~~5512. IMMUNE FROM VICARIOUS LIABILITY. No physician, hospital, emergency room personnel, emergency medical technician or ambulance personnel shall be liable in any civil action arising out of any injury

resulting from an act or omission of a licensed midwife, even if the health care provider has consulted with or accepted a referral from the licensed midwife. A physician who consults with a licensed midwife but who does not examine or treat a client of the midwife shall not be deemed to have created a physician-patient relationship with such client.

SECTION 33. That Section 54-5413, Idaho Code, as added by Section 1, Chapter 65, Laws of 2009, be, and the same is hereby amended to read as follows:

54-~~5413~~5513. SEVERABILITY. The provisions of this chapter are hereby declared to be severable and if any provision of this chapter or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this chapter.

SECTION 34. That Section 56-1011, Idaho Code, be, and the same is hereby amended to read as follows:

56-1011. EMERGENCY MEDICAL SERVICES -- STATEMENT OF INTENT. It is the purpose of the legislature of the state of Idaho in the adoption of sections 56-1011 through 56-1023, Idaho Code, to recognize the importance of the delivery of emergency medical services and to provide reasonable regulation of the same. For this purpose, the provisions of section 54-180~~3~~4, Idaho Code, shall not be so construed as to prohibit or penalize emergency medical services rendered by a person authorized to render emergency medical services by sections 56-1011 through 56-1023, Idaho Code, if such emergency medical service is rendered under the responsible supervision and control of a licensed physician.

SECTION 35. That Section 57-202, Idaho Code, be, and the same is hereby amended to read as follows:

57-202. APPLICATION OF ACT -- DEFINITIONS. All bonds, including funding and refunding bonds, hereafter issued, under lawful authority, by any county, city, village or highway district of the state of Idaho, excepting local street and sewer improvement bonds issued under the provisions of chapter 41, title 42 and chapter~~s~~ 31, ~~32, and 35~~ ~~of~~ title 50, shall be issued in the form and manner, and be registered, disposed of and redeemed, in accordance with the provisions of this act.

The following expressions are used in this act with the following designated meanings:

(a~~.~~) "Governing board" or "governing body," as meaning the board of county commissioners ~~(~~of a county~~)~~, and/or the board of highway district commissioners ~~(~~of a highway district~~)~~ and/or the council and mayor ~~(~~of a city~~) and/or the board of trustees and chairman of such board of trustees (of a village)~~.

(b~~.~~) "Issuer," "issuing corporation" and "corporation," as meaning each or all of said municipal corporations and bodies corporate named hereinbefore.

(c~~.~~) Any provision that any action or thing shall be authorized, taken, or done by "ordinance or resolution," shall be taken to mean that any such governing body shall proceed by ordinance or by resolution as required or permitted by law or by the customary mode of proceeding by each such governing body, respectively, not forbidden by law.

SECTION 36. 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; the certified shorthand reporters board, as provided by chapter 31, title 54, Idaho Code; the driving businesses licensure board, as provided by chapter 54, title 54, Idaho Code; the board of drinking

water and wastewater professionals, as provided by chapter 24, title 54, Idaho Code; and the board of midwifery, as provided by chapter 5~~4~~5, 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 housing board, chapter 21, title 44, Idaho Code; electrical board, chapter 10, title 54, Idaho Code; public works contractors license 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; the heating, ventilation and air conditioning board, chapter 50, title 54, Idaho Code; and modular building advisory board, chapter 43, title 39, Idaho Code.

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

(f) The board of library commissioners, pursuant to section 33-2502, Idaho Code.

(~~f~~g) The Idaho state historical society, pursuant to section 67-4123, Idaho Code.

(3) The bureau of occupational licenses is hereby created within the department of self-governing agencies.

SECTION 37. The provisions of Sections 20 and 21 of this act shall be null, void and of no force and effect on and after July 1, 2014.

Approved March 24, 2010.

CHAPTER 80
(S.B. No. 1252, As Amended)

AN ACT

RELATING TO THE DIVISION OF HUMAN RESOURCES; AMENDING SECTION 67-5309, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A RULE.

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

SECTION 1. That Section 67-5309, Idaho Code, be, and the same is hereby amended to read as follows:

67-5309. RULES OF THE DIVISION OF HUMAN RESOURCES AND THE PERSONNEL COMMISSION. The administrator of the division of human resources shall have the power and authority to adopt, amend, or rescind such rules as may be necessary for proper administration of this chapter. Such rules shall include:

(a) A rule requiring the administrator, after consulting with each department to develop, adopt, and make effective, a job classification system for positions covered by this chapter, based upon an analysis of the duties and responsibilities of the positions. The job classification shall include an appropriate title for each class, and a description of duties and responsibilities of positions in the classes and the requirements of minimum training, experience and other qualifications, suitable for the performance of duties of the position.

(b) A rule describing the relevant labor markets and benchmark job classifications used in the administrator's salary surveys.

(c) A rule requiring that all classes of positions which are common to the departments concerned shall have the same titles, minimum requirements and compensation ranges.

(d) A rule providing for review by the administrator of the personnel system including classifications and compensation policies and procedures.

(e) A rule that, notwithstanding the procedure for examination and ranking of eligibles on a register provided in subsection (f) of this section, an agency may appoint an individual directly into an entrance or promotional probation if the division of vocational rehabilitation, Idaho commission for the blind and visually impaired or the industrial commission certifies, with the concurrence of division of human resources staff, that the individual (1) has a disability or handicap as defined under state or federal law; (2) is qualified to perform the essential functions of a particular classified position with or without reasonable accommodation; and (3) lacks competitiveness in the examination process due to the disability or handicap. The probationary period as provided in subsection (j) of this section shall be the sole examination for such individuals.

(f) A rule requiring fair and impartial selection of appointees to all positions other than those defined as nonclassified in this chapter, on the basis of open competitive merit examinations or evaluations. An application for an examination will be accepted after the closing date of the examination from a person who was serving in the armed forces, or undergoing service-connected hospitalization up to one (1) year following discharge. The application must be submitted within one hundred twenty (120) days of separation from the armed forces or hospitalization and prior to the expiration of the register established as a result of the examination. A disabled veteran may file an application at any time up until a selection has been made for any position for which the division maintains a register as a source for future job openings or for which a register is about to be established, provided he or she has not already been examined twice for the same position and grade for which application is made, does not have current eligibility on that register, or is not serving in a competitive position in the same grade for which application is made. Examinations may be assembled or unassembled and may include various examining techniques such as rating of training and experience, written tests, oral interviews, recognition of professional licensing, performance tests, investigations and any other measure of ability to perform the duties of the position. Examinations shall be scored objectively. Five (5) percentage points shall be added to the earned rating of any veteran as defined in section 65-502, Idaho Code, and the widow or widower of any veteran as defined in section 65-502, Idaho Code, as long as he or she remains unmarried. Pursuant to section 65-504, Idaho Code, ten (10) percentage points shall be added to the earned rating of any disabled veteran as defined in section 65-502, Idaho Code, the widow or widower of any disabled veteran as long as he or she remains unmarried or the spouse of any eligible disabled veteran who cannot qualify for any public employment because of a service-connected disability. Employment registers shall be established in order of final score except that the names of all five (5) and ten (10) percentage point preference eligibles resulting from any merit system or civil service examination shall be placed on the register in accordance with their augmented rating. Certification of eligibility for appointment to vacancies shall be in accordance with a formula which limits selection by the hiring department from among the ~~ten~~ twenty-five (~~10~~25) top ranking available eligibles plus the names of all individuals with scores identical to the ~~tenth~~ twenty-fifth ranking eligible on the register. A register with at least five (5) eligibles shall be adequate. Selective certification shall be permitted when justified by the hiring department, under rules to be made by the division defining adequate justification based on

the duties and requirements of the positions. Such examinations need not be held until after the rules have been adopted, the service classified and a pay plan established, but shall be held not later than one (1) year after departments commence participation in the personnel system.

(g) A rule that, whenever practicable, a vacancy in a classified position shall be filled by the promotion of a qualified employee of the agency in which the vacancy occurs. An interagency promotion shall be made through competitive examination and all qualified state employees shall have the opportunity to compete for such promotions. If an employee's name appears within certifiable range on a current register for a higher class of position, he shall be eligible for a transfer and promotion.

(h) A rule for development and maintenance of a system of service ratings and the use of such ratings by all departments in connection with promotions, demotions, retentions, separations and reassignments. The rule shall require that an evaluation of each classified employee shall be made after each two thousand eighty (2,080) hour period of credited state service, and that a copy of the evaluation shall be filed with the division.

(i) A rule prohibiting disqualification of any person from taking an examination, from appointment to a position, from promotion, or from holding a position because of race or national origin, color, sex, age, political or religious opinions or affiliations, and providing for right of appeal.

(j) A rule establishing a probation period not to exceed one thousand forty (1,040) hours of credited state service for all appointments and promotions, except that peace officers as defined in section 19-5101, Idaho Code, shall be subject to a probation period of two thousand eighty (2,080) hours of credited state service, and for the appointing authority to provide the employee and the administrator a performance evaluation indicating satisfactory or unsatisfactory performance not later than thirty (30) days after the expiration of the probationary period. The rule shall provide that if the appointing authority fails to provide a performance evaluation within thirty (30) days after the expiration of the probationary period, the employee shall be deemed to have satisfactorily completed the probation unless the appointing authority receives approval from the administrator to extend the probationary period for good cause for an additional specified period not to exceed one thousand forty (1,040) hours of credited state service. If an employee is performing in an unsatisfactory manner during the entrance probationary period, the appointing authority shall ask the employee to resign, and if no resignation is submitted, shall terminate the employment of such employee without the right of grievance or appeal.

(k) A rule concerning provisional appointments.

(l) A rule concerning temporary appointments.

(m) A rule governing the employment of consultants and persons retained under independent contract.

(n) A rule for the disciplinary dismissal, demotion, suspension or other discipline of employees only for cause with reasons given in writing. Such rule shall provide that any of the following reasons shall be proper cause for the disciplinary dismissal, demotion or suspension of any employee in the state classified service:

1. Failure to perform the duties and carry out the obligations imposed by the state constitution, state statutes and rules of the employee's department, or rules of the administrator or the division.

2. Inefficiency, incompetency, or negligence in the performance of duties, or job performance that fails to meet established performance standards.

3. Physical or mental incapability for performing assigned duties.

4. Refusal to accept a reasonable and proper assignment from an authorized supervisor.

5. Insubordination or conduct unbecoming a state employee or conduct detrimental to good order and discipline in the employee's department.

6. Intoxication on duty.

7. Careless, negligent, or improper use or unlawful conversion of state property, equipment or funds.

8. Use of any influence which violates the principles of the merit system in an attempt to secure a promotion or privileges for individual advantage.

9. Conviction of official misconduct in office, or conviction of any felony, or conviction of any other crime involving moral turpitude.

10. Acceptance of gifts in exchange for influence or favors given in the employee's official capacity.

11. Habitual pattern of failure to report for duty at the assigned place and time.

12. Habitual improper use of sick leave privileges.

13. Unauthorized disclosure of confidential information from official records.

14. Absence without leave.

15. Misstatement or deception in the application for the position.

16. Failure to obtain or maintain a current license or certificate lawfully required as a condition for performing the duties of the job.

17. Prohibited participation in political activities.

(o) A rule to establish procedures for maintenance of a record of the employment history and appropriate information relating to performance of all employees under the personnel system. For the purposes of this rule, the state shall be considered one (1) employer.

(p) Rules to provide for recruitment programs in cooperation with department heads and the employment security agency in keeping with current employment conditions and labor market trends.

(q) Rules to establish procedures for examinations as necessary for the purpose of maintaining current registers from which to fill employment vacancies.

(r) Other rules not inconsistent with the foregoing provisions of this section as may be necessary and proper for the administration and enforcement of this chapter.

(s) A rule concerning "project exempt" appointments.

(t) Rules relating to leave for state employees from official duties including, but not limited to, sick leave, military leave, jury duty, leaves of absence without compensation and such other forms of absence from performance of duties in the course of state employment as may be necessary.

(u) A rule providing up to twenty-five percent (25%) shift differential pay based on local market practices.

(v) A rule to establish guidelines for awarding employee suggestion awards set forth in sections 59-1603 and 67-5309D, Idaho Code.

(w) A rule to establish the reimbursement of moving expenses for a current or newly-hired state employee.

(x) A rule to allow, at the request of the hiring agency, temporary and acting appointment service time to count toward fulfilling entrance probationary requirements as established in section 67-5309(j), Idaho Code.

Approved March 24, 2010.

CHAPTER 81
(H.B. No. 513)

AN ACT

RELATING TO TAXES; AMENDING SECTION 63-3622FF, IDAHO CODE, TO DELETE UNNECESSARY VERBIAGE AND TO PROVIDE THAT PURCHASES MADE WITH COUPONS ISSUED UNDER THE FEDERAL FOOD, CONSERVATION, AND ENERGY ACT OF 2008 ARE EXEMPT FROM SPECIFIED TAXES; AND DECLARING AN EMERGENCY

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

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

63-3622FF. PURCHASES MADE WITH FEDERAL FOOD STAMPS -- FEDERAL FOOD, CONSERVATION AND ENERGY ACT COUPONS. ~~Commencing October 1, 1987, p~~Purchases of food made with coupons issued under the federal food stamp act of 1977 and the food security act of 1985, and purchases of food made with coupons issued under the federal food, conservation, and energy act of 2008 (P. L. 110-246, 122 Stat. 1651 (2008), also known as the Farm Bill of 2008), are exempt from the taxes imposed by chapter 36, title 63, Idaho Code, and are exempt from the taxes that may be imposed on such purchases under the provisions of sections 50-1043 through 50-1049, 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 25, 2010.

CHAPTER 82
(S.B. No. 1286)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-201, IDAHO CODE, TO PROVIDE THAT RACCOONS SHALL BE CLASSIFIED AS PREDATORY WILDLIFE.

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

SECTION 1. That Section 36-201, Idaho Code, be, and the same is hereby amended to read as follows:

36-201. FISH AND GAME COMMISSION AUTHORIZED TO CLASSIFY WILDLIFE. With the exception of predatory animals, the Idaho fish and game commission is hereby authorized to define by classification or reclassification all wildlife in the state of Idaho. Such definitions and classifications shall include:

(a) Game animals
(b) Game birds
(c) Game fish
(d) Fur-bearing animals
(e) Migratory birds
(f) Threatened or endangered wildlife
(g) Protected nongame species
(h) Unprotected wildlife

Predatory wildlife shall include:

1. Coyote
2. Jackrabbit
3. Skunk
4. Weasel
5. Starling
6. Raccoon

Notwithstanding the classification assigned to wolves, all methods of take including, but not limited to, all methods utilized by the United States fish and wildlife service and the United States department of agriculture wildlife services, shall be authorized for the management of wolves in accordance with existing laws or approved management plans.

Approved March 25, 2010.

CHAPTER 83
(S.B. No. 1328)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-502, IDAHO CODE, TO PROVIDE FOR THE RELEASE OF CERTAIN CAPTURED WILDLIFE AND TO PROVIDE FOR WRITTEN CONSENT.

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

SECTION 1. That Section 36-502, Idaho Code, be, and the same is hereby amended to read as follows:

36-502. POSSESSION -- TRANSPORTATION -- SHIPMENT OF WILDLIFE -- RESTRICTIONS -- EXCEPTIONS -- RELEASE OF CAPTURED WILDLIFE. No person shall possess, transport or ship in any manner, or accept for transportation or shipment any wildlife except as hereinafter provided.

(a) Possession and Transportation.

1. The possession and transportation of any legally taken wildlife shall be lawful when the same is in the possession of or is being transported by the taker of said wildlife and is accompanied by the appropriate licenses, tags, and/or permits attached and/or validated in the manner prescribed by the provisions of sections 36-409(d) and 36-410(a), Idaho Code.

2. Possession or transportation of any legally taken wildlife by any person other than the taker shall be lawful when such wildlife is accompanied by a written statement prepared and signed by the taker showing the number, kind, and date taken and the name, address and license number of the taker and other such information as may be specified by the commission. In addition to such statements said wildlife shall be accompanied by the appropriate validated tag therefor and/or such permits as may be required under the provisions of this title except, for anadromous fish, the permit need not accompany the fish so long as the permit number is written on the proxy statement. Provided, however, that no person may lawfully claim, be granted or assume ownership of more game animals, game birds, or game fish taken within the state than allowed by possession limits established by the commission.

3. It shall be lawful for a person to ship or a common carrier to accept for shipment any legally taken wildlife provided that all packages containing such wildlife shall be plainly labeled designating numbers, sex and species of wildlife contained therein and the name and address of the consignor and consignee.

4. No person shall give another person wildlife to possess or transport unless they also give the transporter a proxy statement as provided in subsection 2. of this section.

(b) Unlawful Possession. No person shall have in his possession any wildlife or parts thereof protected by the provisions of this title and the taking or killing of which is unlawful.

(c) Release of Captured Wildlife. Any native wildlife, classified as predatory wildlife or unprotected wildlife, captured as the result of activity deleterious to human activity, may be released on private lands in the county of origin or on private lands in adjacent counties to the county of origin, with the written consent of the landowner of the property where the release occurs. The written consent shall include the date and the number of each species to be released.

Approved March 25, 2010.

CHAPTER 84
(S.B. No. 1339)

AN ACT

RELATING TO HOSPITAL LICENSES AND INSPECTION; AMENDING SECTION 39-1301, IDAHO CODE, TO DEFINE A TERM; AMENDING CHAPTER 13, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-1301C, IDAHO CODE, TO PROVIDE FOR DEEMED STATUS OF A HOSPICE AGENCY AND ITS HOSPICE HOME AND TO REQUIRE NO IDAHO LICENSE OR CERTIFICATION.

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

SECTION 1. That Section 39-1301, Idaho Code, be, and the same is hereby amended to read as follows:

39-1301. DEFINITIONS. For purposes of this chapter the following definitions will apply:

(a) "Hospital" means a facility which:

(1) Is primarily engaged in providing, by or under the supervision of physicians,

(a) concentrated medical and nursing care on a twenty-four (24) hour basis to inpatients experiencing acute illness; and

(b) diagnostic and therapeutic services for medical diagnosis and treatment, psychiatric diagnosis and treatment, and care of injured, disabled, or sick persons; and

(c) rehabilitation services for injured, disabled, or sick persons; and

(d) obstetrical care.

(2) Provides for care of two (2) or more individuals for twenty-four (24) or more consecutive hours.

(3) Is staffed to provide professional nursing care on a twenty-four (24) hour basis.

(b) "Nursing facility" (nursing home) means a facility whose design and function shall provide area, space and equipment to meet the health needs of two (2) or more individuals who, at a minimum, require inpatient care and services for twenty-four (24) or more consecutive hours for unstable chronic health problems requiring daily professional nursing supervision and licensed nursing care on a twenty-four (24) hour basis, restorative, rehabilitative care, and assistance in meeting daily living needs. Medical supervision is necessary on a regular, but not daily, basis.

(c) "Intermediate care facility for the mentally retarded (ICFMR)" means a nonnursing home facility, designed and operated to meet the unique

educational, training, habilitative and medical needs of the developmentally disabled through the provision of active treatment.

(d) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof.

(e) "Government unit" means the state, or any county, municipality, or other political subdivision, or any department, division, board or other agency thereof.

(f) "Licensing agency" means the department of health and welfare.

(g) "Board" means the board of health and welfare.

(h) "Physician" means an individual licensed to practice medicine and surgery by the Idaho state board of medicine or the Idaho state board of podiatry.

(i) "Authorized provider" means an individual who is a nurse practitioner or clinical nurse specialist, licensed to practice in Idaho in accordance with the Idaho nurse practice act; or a physician's assistant, licensed by the Idaho state board of medicine.

(j) "Hospice house" means a facility that is owned and operated by a medicare certified hospice agency for the purpose of providing inpatient hospice services consistent with 42 CFR 418.110.

SECTION 2. That Chapter 13, 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 39-1301C, Idaho Code, and to read as follows:

39-1301C. DEEMED STATUS OF HOSPICE AGENCY AND ITS HOSPICE HOME -- NO IDAHO LICENSE OR CERTIFICATION REQUIRED. (1) A hospice house and its owner and operator medicare certified hospice agency must have and maintain deemed status through a centers for medicare & medicaid services recognized accrediting organization.

(2) Neither a medicare certified hospice agency nor its hospice home is required to be licensed or certified by the state of Idaho.

Approved March 25, 2010.

CHAPTER 85
(S.B. No. 1342)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-603, IDAHO CODE, TO AUTHORIZE THE DEPARTMENT OF FISH AND GAME TO REQUIRE SPECIFIED LICENSEES TO MAINTAIN CERTAIN RECORDS, TO PROVIDE THAT LICENSEES PURCHASING RAW BLACK BEAR SKINS, RAW COUGAR SKINS OR PARTS OF BLACK BEARS OR COUGARS MAY BE REQUIRED TO MAINTAIN CERTAIN RECORDS AND TO PROVIDE THAT THE DEPARTMENT MAY REQUIRE LICENSEES TO SUBMIT CERTAIN FORMS OR RECORDS TO THE DEPARTMENT RELATING TO BLACK BEARS AND COUGARS.

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

SECTION 1. That Section 36-603, Idaho Code, be, and the same is hereby amended to read as follows:

36-603. RECORDS. The department may require a~~A~~ny person licensed under the provisions of this chapter ~~shall~~ to keep a record for two (2) years last past of wildlife received for mounting or preserving, ~~and~~ fur bearers purchased or raw black bear skins, raw cougar skins or parts of black bears or cougars purchased. Records may be written or may be retained on media other than paper, provided that the form or medium complies with the standards set

forth in section 9-328, Idaho Code. The record shall be made upon a form provided by the department which sets forth such information as may be required by the director and shall be subject to his inspection at any time. In addition, the department may require licensees to submit forms or records, as determined by the department, to the department relating to the purchase of black bears and cougars, skins, or parts thereof.

Approved March 25, 2010.

CHAPTER 86
(S.B. No. 1371)

AN ACT

RELATING TO PRODUCER LICENSING; AMENDING SECTION 41-1037, IDAHO CODE, TO PROVIDE LEGISLATIVE FINDINGS AND PURPOSE RELATING TO BAIL AGENTS; AMENDING SECTION 41-1038, IDAHO CODE, TO PROVIDE DEFINITIONS AND TO FURTHER DEFINE TERMS; AMENDING SECTION 41-1039, IDAHO CODE, TO REVISE REQUIREMENTS AND AUTHORITY RELATING TO THE LICENSING OF BAIL AGENTS; AMENDING CHAPTER 10, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-1039A, IDAHO CODE, TO PROVIDE NOTICE REQUIREMENTS; AMENDING SECTION 41-1040, IDAHO CODE, TO CLARIFY THE DEPARTMENT OF INSURANCE'S RESPONSIBILITY RELATING TO A SURETY PERFORMANCE BOND; AND AMENDING SECTION 19-2918, IDAHO CODE, TO PROVIDE A PROCEDURE TO STAY A CERTAIN OBLIGATION, TO GRANT THE ADMINISTRATIVE DISTRICT JUDGE AUTHORITY TO ORDER THE SHERIFFS AND CLERKS OF CERTAIN COUNTIES NOT TO ACCEPT THE POSTING OF NEW BAIL BONDS FROM CERTAIN SURETY INSURANCE COMPANIES AND TO PROVIDE A PROCESS AND REQUIREMENTS FOR ADDRESSING A POTENTIAL SUSPENSION OF A BAIL AGENT'S LICENSE.

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

SECTION 1. That Section 41-1037, Idaho Code, be, and the same is hereby amended to read as follows:

41-1037. REQUIREMENTS FOR BAIL AGENTS -- FINDINGS -- PURPOSE. (1) Sections 41-1037 through 41-1045, Idaho Code, provide requirements for the regulation of bail agents in this state in addition to the requirements generally applicable to producers under this chapter.

(2) The legislature finds that:

(a) Bail agents provide an important local retail service to the retail consumers of bail bonds;

(b) Retail consumers of bail bonds and bail agents require a uniform and consistent regulatory framework that governs retail bail practices; and

(c) There is a need to provide consumer protection from unscrupulous and unfair practices.

(3) The purpose of this chapter is to provide that the department shall uniformly and exclusively license bail agents throughout the state of Idaho and that the department shall regulate such agents and bail transactions, provided the supreme court shall retain its inherent authority to regulate the transaction of bail with the court, including promulgating rules and uniform guidelines.

SECTION 2. That Section 41-1038, Idaho Code, be, and the same is hereby amended to read as follows:

41-1038. DEFINITIONS. As used in sections 41-1037 through 41-1045, Idaho Code:

(1) "Bail" means a monetary amount required by the court to release the defendant from custody and to ensure his appearance in court as ordered.

(2) "Bail agent" means a person who is a licensed producer in the line of surety insurance that is authorized by an insurer to execute or countersign undertakings of bail in connection with judicial proceedings.

(3) "Bail bond" means a financial guarantee, posted by a bail agent and underwritten by a surety insurance company, that the defendant will appear as ordered.

(~~2~~4) "Collateral" means property of any kind given as security to obtain a bail bond.

(~~3~~5) "Department" means the department of insurance.

(~~4~~6) "Director" means the director of the department of insurance.

(7) "Person" means an individual or a business entity.

(8) "Retail consumers of bail bonds" means a defendant and any person who provides collateral to obtain any portion of a bail bond.

(9) "Surety" or "surety insurance company" means an admitted insurer authorized in the line of surety pursuant to title 41, Idaho Code.

SECTION 3. That Section 41-1039, Idaho Code, be, and the same is hereby amended to read as follows:

41-1039. LICENSE REQUIRED. (1) No person shall hold himself out to be a bail agent or sell, solicit, negotiate, advise or consult regarding the terms of bail bond contracts in this state unless that person is licensed as a producer in the line of surety insurance. The director is vested with the exclusive authority to license bail agents and the authority to regulate the solicitation, negotiation and transaction of bail with retail consumers of bail bonds, provided however, that a court retains the authority to refuse to accept bail bonds from a surety or a bail agent pursuant to its inherent authority, pursuant to Idaho Code, or as provided by supreme court rules, guidelines or appellate decisions.

(2) A bail agent is authorized to execute and countersign undertakings of bail, including bail bonds, in connection with any judicial proceedings in each of the judicial districts of the state. Any sheriff or clerk of the district court shall accept bail bonds only from a bail agent, unless otherwise ordered by the court pursuant to subsection (1) of this section.

(3) A bail agent's license filed with the clerk of the district court is deemed proof that such bail agent is licensed pursuant to this chapter.

(4) In addition to the authority to revoke, suspend or refuse to issue a bail agent's license pursuant to section 41-1016, Idaho Code, the director shall suspend a license for a period not to exceed six (6) months, after mailing notice to the last known address of the bail agent but prior to a hearing, if such bail agent:

(a) Has been convicted or has entered a guilty plea to any felony or to a misdemeanor which evidences bad moral character, dishonesty, a lack of integrity and financial responsibility, or an unfitness and inability to provide acceptable service to the consuming public; or

(b) Intentionally and fraudulently makes a false statement to a court in connection with a bail transaction.

(5) In addition to the provisions of subsection (4) of this section, the director may also suspend a license for a period not to exceed six (6) months, after mailing notice to the last known address of the bail agent but prior to a hearing, for reasons set forth in the rules of the department.

SECTION 4. That Chapter 10, 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 41-1039A, Idaho Code, and to read as follows:

41-1039A. NOTICE. In the event that the director revokes or suspends a bail agent's license or a surety's certificate of authority, or lifts such revocation or suspension, the director shall immediately notify all judicial district trial court administrators and all sureties with whom the agent is appointed of the effective date of such revocation or suspension or of the lifting of such revocation or suspension.

SECTION 5. That Section 41-1040, Idaho Code, be, and the same is hereby amended to read as follows:

41-1040. BOND REQUIRED. After January 1, 2004, a producer shall not act as a bail agent unless the producer first files with the department and thereafter maintains in force a surety performance bond, executed by an authorized surety insurer, in favor of the director in the amount of fifteen thousand dollars ($15,000). Such bond shall be held in trust for the benefit and protection of the public against a judicial or administrative determination <u>by the department</u> of loss by acts of fraud or dishonesty by the bail agent.

SECTION 6. That Section 19-2918, Idaho Code, be, and the same is hereby amended to read as follows:

19-2918. REMITTANCE OF FORFEITURE -- PAYMENT OF BAIL. (1) The person posting bail shall pay to the clerk of the court the amount of bail ordered within five (5) business days after the expiration of the one hundred eighty (180) day period following the order of forfeiture of bail unless:

(a) The order of forfeiture has been set aside by the court;

(b) The bail has been exonerated by the court; or

(c) A motion to set aside the order of forfeiture or a motion to exonerate bail has been timely filed, together with a request for hearing, and has not been decided by the court. If the motion is decided and denied by the court more than one hundred eighty (180) days after the order of forfeiture, then the person posting bail shall pay the amount of bail to the clerk of the court within five (5) business days after the entry of the court's order denying the motion. <u>A timely filed notice of appeal and motion to stay the forfeiture stays the obligation to remit payment until five (5) business days after the entry of the court's order denying the motion to stay or, in the event such motion is granted, five (5) business days following the final determination of the appeal.</u>

(2) If cash is deposited in lieu of bail, the clerk of the court shall pay the cash deposit to the county treasurer. If the person posting a bail bond or property bond that has been forfeited does not pay the amount of bail within the time provided in this section, then the order of forfeiture shall become a judgment against the person posting the bail bond or property bond.

<u>(3) After the notice required by section 19-2915, Idaho Code, in the event that a surety insurance company fails to pay the amount of any bail forfeited within the time required by this section, the administrative district judge may order the sheriffs and clerks of all counties in the judicial district not to accept the posting of any new bail bonds from such company until the amount of bail forfeited has been paid. An administrative district judge in another district may also order the sheriffs and clerks of all counties in his district not to accept the posting of any new bail bonds from such company until the amount of bail forfeited has been paid.</u>

<u>(4) If the administrative district judge has reasonable cause to believe that a bail agent has committed any of the actions that could form the basis for a suspension of the bail agent's license pursuant to section 41-1039(4), Idaho Code, the court shall immediately refer the matter to the director of the department of insurance for appropriate disciplinary action pursuant to sections 41-1016 and 41-1039, Idaho Code, and may enter an</u>

order that the sheriffs and clerks of all counties in the judicial district shall not accept bail bonds submitted by that bail agent until the director has rendered a decision as to whether to suspend the bail agent's license pursuant to section 41-1039(4), Idaho Code. The director shall immediately notify all judicial district trial court administrators of such decision.

Approved March 25, 2010.

CHAPTER 87
(S.B. No. 1379)

AN ACT

RELATING TO THE COUNTY OPTION KITCHEN AND TABLE WINE ACT; AMENDING SECTION 23-1307, IDAHO CODE, TO PROVIDE THAT LICENSED WINERIES SHALL NOT BE REQUIRED TO POSSESS A RETAIL BEER LICENSE AS A PREREQUISITE TO A SEPARATE RETAIL WINE LICENSE OR WINE BY THE DRINK LICENSE FOR SALES AT LOCATIONS OTHER THAN THE WINERY'S ORIGINAL LICENSED PREMISES AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 23-1307, Idaho Code, be, and the same is hereby amended to read as follows:

23-1307. QUALIFICATIONS FOR RETAIL WINE LICENSE, WINE BY THE DRINK LICENSE, AND DISTRIBUTOR'S LICENSE. (1) No retail wine license, wine by the drink license, or wine distributor's license shall be issued to an applicant who at the time of making the application:

(a) If a corporation, has not qualified as required by law to do business in the state of Idaho;

(b) Has had a wine distributor's license, retail wine license, wine by the drink license, or wine importer's license~~,~~ revoked by the director within three (3) years from the date of making such application;

(c) Has been convicted of a violation of the laws of this state or of the United States governing the sale of alcoholic beverages, wine, or beer, within three (3) years from the date of making such application;

(d) Has been convicted of a felony or been granted a withheld judgment following an adjudication of guilt of a felony within five (5) years from the date of making such application;

(e) If an individual or partnership, either the individual or at least one (1) of the partners of a partnership is not nineteen (19) years of age or older;

(f) If the application is for a retail wine license or wine by the drink license, the director finds that the applicant does not possess a retail beer license issued by the director, except that licensed wineries ~~which do not sell wine by the drink~~ shall not be required to possess a retail beer license as a prerequisite to a separate retail wine license or wine by the drink license for sales at locations other than the winery's original licensed premises.

(2) To determine qualification for a license, the director shall also cause an investigation which shall include a fingerprint-based criminal history check of the Idaho central criminal history database and the federal bureau of investigation criminal history database. Each person listed as an applicant on an initial application shall submit a full set of fingerprints and the fee to cover the cost of the criminal history background check for such person with the application.

Approved March 25, 2010.

CHAPTER 88
(S.B. No. 1313)

AN ACT
RELATING TO PHYSICIANS AND SURGEONS; AMENDING SECTION 54-1806, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE BOARD'S POWERS.

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

SECTION 1. That Section 54-1806, Idaho Code, be, and the same is hereby amended to read as follows:

54-1806. POWERS AND DUTIES. The board shall have the authority to:

(1) Hire or appoint employees, including an executive director, investigators, attorneys, consultants and independent hearing examiners.

(2) Establish pursuant to the administrative procedure act rules for administration of this chapter, including rules governing all activities of persons employed as physician's assistants by persons licensed to practice medicine in this state. The board shall adopt rules pursuant to the administrative procedure act establishing procedures for the receipt of complaints and for the investigation and disposition thereof. Such rules shall provide for notice to a person when the board has authorized the committee to investigate that person and shall provide an opportunity for a person under investigation to meet with the committee or its staff before the initiation of formal disciplinary proceedings by the board.

(3) Conduct investigations and examinations and hold hearings as authorized by this section and by section 54-1806A, Idaho Code.

(4) The board shall have the power in any investigation or disciplinary proceeding pursuant to this chapter to administer oaths, take depositions of witnesses within or without the state in the manner consistent with rules adopted by the board pursuant to the administrative procedure act, and upon a determination that there is good cause the board shall have power throughout the state of Idaho to require the attendance of such witnesses and the production of such books, records, and papers as it may deem appropriate ~~at~~ for any investigation, deposition or hearing. For that purpose the board may issue a subpoena for any witnesses or a subpoena duces tecum to compel the production of any books, records or papers, directed to the sheriff of any county of the state of Idaho, where such witness resides, or may be found, which shall be served and returned in the same manner as a subpoena in a criminal case is served and returned. The fees and mileage of the witnesses shall be the same as that allowed in the district courts in criminal cases, which fees and mileage shall be paid from any funds in the state treasury 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 the district court of any county in this state in which such disobedience, neglect or refusal occurs, or any judge thereof, 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 licensed person accused in such ~~proceedings~~ formal contested case shall have the same right of subpoena upon making application to the board therefor.

(5) Seek injunctive relief prohibiting the unlawful practice of medicine.

(6) Make and enter into contracts.

(7) Operate, manage, superintend and control the licensure of physicians.

(8) Develop and submit a proposed budget setting forth the amount necessary to perform its functions.

(9) Perform such other duties as set forth in the laws of this state.

(10) Provide such other services and perform such other functions as are necessary to fulfill its responsibilities.

(11) Provide for reasonable fees through rules for administrative costs and assess costs reasonably and necessarily incurred in the enforcement of this chapter when a licensee has been found to be in violation of this chapter.

(12) Prepare an annual report.

Approved March 25, 2010.

CHAPTER 89
(S.B. No. 1314)

AN ACT

RELATING TO PHYSICIANS AND SURGEONS; AMENDING SECTION 54-1803, IDAHO CODE, TO REVISE A DEFINITION, TO DEFINE TERMS, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1807, IDAHO CODE, TO REMOVE LICENSURE REQUIREMENTS FOR PHYSICIAN ASSISTANTS AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING CHAPTER 18, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-1807A, IDAHO CODE, TO PROVIDE REQUIREMENTS RELATING TO PHYSICIAN ASSISTANTS, SUPERVISING PHYSICIANS AND ALTERNATE SUPERVISING PHYSICIANS AND TO ESTABLISH THE PHYSICIAN ASSISTANT ADVISORY COMMITTEE.

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

SECTION 1. That Section 54-1803, Idaho Code, be, and the same is hereby amended to read as follows:

54-1803. DEFINITIONS. (1) The "practice of medicine" means:

(a) To investigate, diagnose, treat, correct~~,~~ or prescribe for any human disease, ailment, injury, infirmity, deformity~~,~~ or other condition, physical or mental, by any means or instrumentality~~, or~~ ;

(b) To apply principles or techniques of medical science in the prevention of any of the conditions listed in ~~subsection~~ paragraph (a) of this subsection~~,~~; or

(c) To offer, undertake, attempt to do or hold oneself out as able to do any of the acts described in ~~subsections~~ paragraphs (a) and (b) of this subsection.

(2) The word "board" means the state board of medicine.

(3) The term "physician" means any person who holds a license to practice medicine and surgery, osteopathic medicine and surgery, or osteopathic medicine, provided further, that others authorized by law to practice any of the healing arts shall not be considered physicians for the purposes of this chapter.

(4) "Alternate supervising physician" means a physician who is registered with the board as set forth in board rule and who is responsible for supervising a physician assistant or graduate physician assistant in the temporary absence of the supervising physician.

(5) "Supervising physician" means a physician who is registered with the board as set forth in board rule and who is responsible for the direction and supervision of the activities of and patient services provided by a physician assistant or graduate physician assistant.

(6) A "license to practice medicine and surgery" means a license issued by the board to a person who ~~was~~ has graduated from an acceptable school of medicine and who has fulfilled the licensing requirements of this chapter.

(~~5~~7) A "license to practice osteopathic medicine and surgery" means a license issued by the board to a person who either graduated from an acceptable osteopathic school of medicine subsequent to January 1, 1963, or who has been licensed by endorsement of a license issued by another state where a composite examining board exists and where physicians licensed to practice medicine and surgery and osteopathic physicians take the same examination and hold equal licenses, and who has fulfilled the licensing requirements of this chapter.

(~~6~~8) A "license to practice osteopathic medicine" means a license issued by the state board of medicine to a person who graduated from an acceptable osteopathic school of medicine and who prior to January 1, 1963, has fulfilled the licensing requirements of this chapter.

(~~7~~9) The word "person," the word "he" and the word "his" mean~~s~~ a natural person.

(~~8~~10) An "acceptable school of medicine" means any school of medicine or school of osteopathic medicine ~~which~~ that meets the standards or requirements of a national medical school accrediting organization acceptable to the board.

(~~9~~11) The word "extern" means a bona fide student enrolled in an acceptable school of medicine who has not received his degree.

(1~~0~~2) The word "intern" or "resident" means any person who has completed a course of study at an acceptable school of medicine and who is enrolled in a ~~post-graduate~~ postgraduate medical training program.

(1~~1~~3) The term "physician assistant" means any person who is a graduate of an acceptable training program and who is qualified by ~~general~~ specialized education, training, experience and personal character and who has been licensed by the board to render patient services under the direction of a supervising and alternate supervising physician. Nothing in this ~~act~~ chapter shall be construed to authorize physician assistants to perform those specific functions and duties specifically delegated by law to those persons licensed as pharmacists under chapter 17, title 54, Idaho Code, as dentists or dental hygienists under chapter 9, title 54, Idaho Code, or as optometrists under chapter 15, title 54, Idaho Code.

(14) "Graduate physician assistant" means a person who is a graduate of an approved program for the education and training of physician assistants and who meets all of the requirements in this chapter for licensure, but who:

(a) Has not yet taken and passed the certification examination and who has been authorized by the board to render patient services under the direction of a supervising physician for a period of six (6) months; or

(b) Has passed the certification examination but who has not yet obtained a college baccalaureate degree and who has been authorized by the board to render patient services under the direction of a supervising physician for a period of not more than five (5) years.

SECTION 2. That Section 54-1807, Idaho Code, be, and the same is hereby amended to read as follows:

54-1807. STATE BOARD OF MEDICINE -- REGISTRATION. ~~(1)~~ Externs, interns and residents must register with the board prior to the commencement of any activities constituting the practice of medicine in this state. Registration shall include disclosure of the applicant's prior education and training, the program or course of study the extern, intern or resident intends to follow, the physicians or group of physicians who will supervise the program or course of study~~,~~ and such other information as the board deems relevant. The board shall reserve the right to approve any such program or course of study and shall require registration by the supervising physician.

A registration fee shall be fixed by the board~~,~~ and registration must be renewed annually.

~~(2) Physician assistants must be licensed by the board prior to the commencement of activities which may involve the practice of medicine in this state. The licensure requirements shall include passage of an examination acceptable to the board. The board shall determine and limit the scope of activities of physician assistants on the basis of completed courses of study or programs of instruction they have received. Upon completion of licensure, the board shall authorize physician assistants to assist a physician or group of physicians who are qualified and approved by the board to supervise physician assistants to engage in activities as limited by the board. The board shall fix a license fee, and the license must be renewed annually.~~

SECTION 3. That Chapter 18, 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 54-1807A, Idaho Code, and to read as follows:

54-1807A. PHYSICIAN ASSISTANTS -- SUPERVISING PHYSICIANS -- PHYSICIAN ASSISTANT ADVISORY COMMITTEE. (1) Physician assistants must be licensed by the board prior to the commencement of activities which may involve the practice of medicine in this state. The licensure requirements for physician assistants shall include passage of an examination acceptable to the board and submission of a completed application to the board on forms furnished by the board. All applicants for original licensure as a physician assistant shall 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 shall submit a full set of the applicant's fingerprints on forms supplied by the board which shall be forwarded by the board to the Idaho department of law enforcement and to the federal bureau of investigation identification division. The board shall determine and limit the scope of activities of each physician assistant on the basis of completed courses of study or programs of instruction received. Upon licensure, the board shall authorize each physician assistant to assist a physician or group of physicians who are qualified and approved by the board to supervise physician assistants to engage in activities as limited by the board. The board shall fix a license fee. All physician assistants shall renew their licenses annually.

(2) After a supervising physician or alternate supervising physician receives board approval to supervise a physician assistant, the physician may delegate medical services to the physician assistant as set forth in the delegation of services agreement on forms approved by and filed with the board. The physician assistant may perform delegated medical services in any setting authorized by the supervising physician or alternate supervising physician and the board, including clinics, hospitals, ambulatory surgical centers, patient homes, nursing homes and other health care institutions.

(3) The supervising physician and alternate supervising physician are responsible for all aspects of the performance of a physician assistant whether or not the supervising physician or alternate supervising physician actually pays the physician assistant a salary. The supervising physician and alternate supervising physician are responsible for supervising the physician assistant and ensuring that the medical services performed by the physician assistant are within the physician assistant's scope of training and experience and have been properly delegated by the supervising physician or alternate supervising physician.

(4) Supervision by a supervising physician or alternate supervising physician shall be continuous but shall not be construed as necessarily requiring the constant physical presence of the supervising physician or

alternate supervising physician at the time and place where medical services are performed by the physician assistant.

(5) A supervising physician or alternate supervising physician shall not delegate to a physician assistant the performance of any medical services for which the supervising physician or alternate supervising physician does not have training or experience and does not perform.

(6) A physician assistant or a group of physician assistants may independently own a medical practice in this state provided that the supervising physician, alternate supervising physician and each physician assistant comply with all requirements of this section and board rules. Each physician assistant must be licensed, registered or certified as a physician assistant in any state, territory or jurisdiction of the United States for at least two (2) years before the physician assistant may independently own a practice in this state.

(7) A physician assistant advisory committee is hereby established as follows:

(a) The physician assistant advisory committee shall consist of three (3) members appointed by the board. In making appointments to fill a vacancy created by the expiration of a term, the board shall give consideration to recommendations made by professional organizations of physician assistants and physicians. The board shall send notice to such professional organizations requesting recommendations. If recommendations from such professional organizations are not received by the board within sixty (60) days of notification, the board may appoint any qualified individual without consideration of any such recommendations. In the event of a vacancy in any unexpired term, the professional organizations may recommend, as soon as practical, at least two (2) and not more than three (3) persons to fill that vacancy. As soon as practical, the board shall appoint one (1) person to complete the unexpired term. If such professional organizations do not provide recommendations, the board shall appoint a person to complete the unexpired term without consideration of any such recommendations. The board may remove any committee member for misconduct, incompetency or neglect of duty after giving the member a written statement of the charges and an opportunity to be heard thereon. The executive director of the Idaho state board of medicine shall serve as the executive director to the physician assistant advisory committee.

(b) Each member of the physician assistant advisory committee shall be currently licensed as a physician assistant in Idaho and shall have actively practiced as a physician assistant in Idaho for three (3) years immediately preceding appointment. Members will serve a term of three (3) years and terms will be staggered. Members may serve two (2) successive terms. The committee shall elect a chairman from its membership. The committee shall meet as often as necessary to fulfill its responsibilities. Members will be compensated according to section 59-509(h), Idaho Code.

(c) The physician assistant advisory committee shall not have authority to revoke licenses or impose limitations or conditions on licenses issued pursuant to this chapter. The committee has authority to make recommendations to the board. The board shall make all final decisions with respect thereto.

(d) The physician assistant advisory committee shall work in the following areas in conjunction with and make recommendations to the board and shall perform other duties and functions assigned to it by the board, including:

(i) Evaluating the qualifications of applicants for licensure and registration;

(ii) Performing investigations of misconduct and making recommendations regarding discipline;

(iii) Maintaining a list of currently licensed physician assistants and graduate physician assistants in this state; and
(iv) Advising the board on rule changes necessary to license and regulate physician assistants and graduate physician assistants in this state.

Approved March 25, 2010.

CHAPTER 90
(S.B. No. 1321)

AN ACT

RELATING TO PUBLIC ASSISTANCE; AMENDING CHAPTER 8, TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 55-819, IDAHO CODE, TO PROVIDE REQUIREMENTS REGARDING A REQUEST FOR NOTICE OF TRANSFER OR ENCUMBRANCE AND TO PROVIDE FOR RULEMAKING; AMENDING CHAPTER 2, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-225, IDAHO CODE, TO PROVIDE FOR A REQUEST FOR NOTICE OF TRANSFER OR ENCUMBRANCE OF REAL PROPERTY AND TO PROVIDE FOR RULEMAKING.

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

SECTION 1. That Chapter 8, 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 55-819, Idaho Code, and to read as follows:

55-819. REQUIREMENTS REGARDING A REQUEST FOR NOTICE OF TRANSFER OR ENCUMBRANCE -- RULEMAKING. (1) If the department of health and welfare has recorded a request for notice of transfer or encumbrance pursuant to section 56-225, Idaho Code:

(a) When a title insurance company or agent discovers the presence of a request for notice of transfer or encumbrance recorded in the real property records in the county in which the property described in such notice is located while performing a title search on such property and any individual identified in such notice is the record owner of such property, the title insurance company or agent shall disclose the presence of the request for notice of transfer or encumbrance in any commitment to offer to issue a title insurance product to insure title to such real property; and

(b) If, after the date of the recording the request for notice of transfer or encumbrance described in subsection (1)(a) of this section, the individual identified in such request for notice transfers or encumbers real property described in such filing, such individual, his agent or family member shall provide the department of health and welfare with a notice of transfer or encumbrance within ten (10) days after the date of the transfer or encumbrance. For the purposes of this subsection (1)(b), a title insurance company or agent shall not be deemed or appointed an agent of the individual identified in the request for notice of transfer or encumbrance. The department of health and welfare shall adopt by rule a model form for notice of transfer or encumbrance to be used by said individual when notifying the department.

(2) If the department of health and welfare has caused to be recorded a termination of request for notice of transfer or encumbrance in the grants and conveyances records pursuant to section 56-225, Idaho Code, or if no individual identified in the request for notice of transfer or encumbrance is the record owner of the real property described therein, the title insurance company or agent is not required to disclose the notice of transfer or encumbrance as required by subsection (1)(a) of this section, and an individual

transferring or encumbering the real property after the date of such recording is not required to provide the notice of transfer or encumbrance required by subsection (1)(b) of this section.

(3) The notice of transfer or encumbrance described in subsection (1)(a) of this section is personal to the individual named therein and shall not constitute a lien or encumbrance on, or prevent the transfer or encumbrance of, the property described therein. A title insurance company or agent shall have no liability to the department of health and welfare or any person or entity for failing to discover, or for disclosing, the request for notice of transfer or encumbrance as required by subsection (1)(a) of this section.

SECTION 2. That Chapter 2, Title 56, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 56-225, Idaho Code, and to read as follows:

56-225. REQUEST FOR NOTICE OF TRANSFER OR ENCUMBRANCE OF REAL PROPERTY -- RULEMAKING. (1) When an individual receives medical assistance subject to recovery under this chapter and the individual is the holder of record title to real property or the purchaser under a land sale contract, the department of health and welfare may present to the county recorder for recording in the grants and conveyances records of a county a request for notice of transfer or encumbrance of the real property. The department shall adopt a rule providing prior notice and hearing rights to the record titleholder or purchaser under a land sale contract.

(2) The department shall present to the county recorder for recording a termination of request for notice of transfer or encumbrance when, in the judgment of the department, it is no longer necessary or appropriate for the department to monitor transfers or encumbrances related to the real property.

(3) The department shall adopt by rule a form for the request for notice of transfer or encumbrance and the termination of request for notice of transfer or encumbrance that, at a minimum:

(a) Contains the name of the public assistance recipient, and the spouse of such public assistance recipient, if any, and a departmental case identifier or other appropriate information that links the individual who is the holder of record title to real property or the purchaser under a land sale contract to the individual's public assistance records;

(b) Contains the legal description of the real property;

(c) Contains a mailing address for the department to receive the notice of transfer or encumbrance; and

(d) Complies with the requirements for recording in section 55-805, Idaho Code, for those forms intended to be recorded.

(4) The request for notice of transfer or encumbrance described in this section does not affect title to real property and is not a lien on, encumbrance of, or other interest in, the real property.

Approved March 25, 2010.

CHAPTER 91
(S.B. No. 1355)

AN ACT

RELATING TO FOREST PRODUCTS; AMENDING SECTION 38-1209, IDAHO CODE, TO PROVIDE THAT CERTAIN ASSESSMENTS SHALL NOT BE LEVIED MORE THAN ONCE UNLESS EXPRESSLY PROVIDED BY SPECIFIED LAW, TO PROVIDE THAT CERTAIN

ASSESSMENTS SHALL BE LEVIED AGAINST AND PAID BY BOTH THE TIMBER OWNER AND THE TIMBER PURCHASER, TO PROVIDE AN EXCEPTION, TO PROVIDE THAT ASSESSMENTS SHALL BE LEVIED TWICE IN AN EQUAL AMOUNT, TO PROVIDE THAT CERTAIN ASSESSMENTS SHALL NOT BE LEVIED AGAINST THE STATE OF IDAHO, TO PROVIDE THAT THE TIMBER PURCHASER SHALL WITHHOLD ASSESSED MONEY OWED BY THE TIMBER OWNER, TO PROVIDE FOR PAYMENT TO THE BOARD AND TO PROVIDE FOR TRANSMITTAL OF ASSESSMENT MONEY BY THE TIMBER PURCHASER.

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

SECTION 1. That Section 38-1209, Idaho Code, be, and the same is hereby amended to read as follows:

38-1209. LEVY OF ASSESSMENT -- BUDGET -- HEARING -- FUNDS -- BOND OF SECRETARY -- SALARY. (a) The board is hereby authorized and directed to levy an assessment on the scale of all forest products harvested within the state of Idaho in an amount not to exceed twenty cents (20¢) per thousand (1,000) board feet or twelve cents (12¢) per cunit, ~~provided that~~ and no such assessment shall be levied more than once on any forest product except as herein expressly provided. The board shall set times and places for its meetings and shall hold not less than two (2) meetings in each calendar year. The board shall designate a meeting date on which a budget shall be adopted and assessment shall be levied. Notice of such meeting shall be given thirty (30) days prior thereto in a newspaper of general circulation throughout the state. The board shall designate and levy an assessment as herein provided to raise moneys necessary to fund operations of the board and the state scaling program established by this chapter based upon the budget adopted and notice of such levy shall be given in the notice of the budget. The budget and assessment shall become effective upon adoption by the board. In the event a written request is made therefor by any interested person within thirty (30) days after notice of the budget and assessment has been published, the board shall set a time and place for a hearing at which any person may submit recommendations for changes in the budget and the assessment. Thereafter the board shall either confirm or modify the budget and assessment and cause notice of such action to be published in a newspaper of general circulation throughout the state within ten (10) days after such action. If the budget or the assessment is modified, the modification shall become effective upon publication. Such hearing shall be held not later than thirty (30) days after receipt of a written request therefor.

(b) The assessment herein provided shall be levied against, and paid by both, the timber owner and the timber purchaser, provided that no assessment shall be levied against the timber owner on forest products harvested from lands owned by the United States of America or the state of Idaho. Said assessment shall be levied twice in an equal amount, once against the timber owner and once against the timber purchaser. The term "purchaser" as used herein shall also include the owner of the timber where the owner processes or utilizes the forest products in its operations or where the owner sells forest products outside the state of Idaho and the forest products are scaled within the state of Idaho, provided that the assessment provided in this chapter shall not be levied against the United States of America, nor the state of Idaho, nor any unit nor agency thereof. The timber purchaser shall withhold any assessment money owed by the timber owner and said money so withheld shall be paid to the board. All assessment money shall be transmitted by the timber purchaser to the board on or before the twentieth day of each month for all timber harvested during the previous month.

(c) The secretary of the board shall receive and account for all moneys derived under the provisions of this act, and shall pay the same monthly to the state treasurer, who shall keep such moneys in a separate account to be known as the "state scaling account," which is hereby created in the state

treasury. Such account shall be kept separate and apart from all other moneys in the treasury, and shall be paid out only on approval of the board. All moneys in the "state scaling account" are hereby continually appropriated for the use of the board. The board may establish, maintain and use a rotary fund as provided by state law. The secretary of the board shall give a surety bond to the state in such sum as the board may determine. The premium on said bond shall be regarded as a proper and necessary expense of the board, and shall be paid out of the "state scaling account." The secretary of the board shall receive such salary as the board shall determine in addition to the compensation and expenses provided in section 38-1205, Idaho Code. The board may employ such clerical or other assistants as are necessary for the proper performance of its work, and may make expenditures of this account for any purpose which in the opinion of the board is reasonably necessary for the proper performance of its duties under this act. All warrants on said "state scaling account" shall be drawn by the state controller on vouchers by the board and the state board of examiners.

Approved March 25, 2010.

CHAPTER 92
(H.B. No. 415)

AN ACT
RELATING TO FISH AND GAME; AMENDING SECTION 36-410, IDAHO CODE, TO REVISE PERMIT PROVISIONS RELATING TO STEELHEAD TROUT AND ANADROMOUS SALMON.

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

SECTION 1. That Section 36-410, Idaho Code, be, and the same is hereby amended to read as follows:

36-410. STEELHEAD TROUT -- ANADROMOUS SALMON PERMITS. No person shall fish for steelhead trout or anadromous salmon except as herein provided:

(a) Permits Required -- Fee. Any person holding a valid fishing or combined fishing and hunting license of a class and kind mentioned in section 36-406 or in subsections (b) and (i) of section 36-407, Idaho Code, may purchase, ~~one (1)~~ in accordance with the rules promulgated by the commission, steelhead trout permits and/or ~~one (1)~~ anadromous salmon permits at a fee as specified in section 36-416, Idaho Code, for each kind of permit. The person to whom such permits are issued shall then be entitled to fish for and take steelhead trout and/or anadromous salmon subject to the limitations prescribed in this title and rules promulgated by the commission. Permits shall be valid only during the period of time that the corresponding basic license is valid.

(b) Unlicensed Resident. Bona fide residents of Idaho who are expressly exempt from license requirements to fish in the public waters of the state may choose one (1) of the following options:

1. Purchase and use such permits as an individual; or
2. May fish for and take steelhead trout and/or anadromous salmon without having permits therefor if accompanied by a properly licensed permit holder, provided that any such fish caught shall be included in the daily, seasonal and possession limit of the accompanying licensed permit holder.

(c) Unlicensed Nonresident Children. Unlicensed nonresident children under the age of fourteen (14) years shall not be eligible to obtain a steelhead trout or anadromous salmon permit, but may take such fish if accompanied by a holder of a valid license and permit, provided that any steelhead trout

or anadromous salmon caught by such children shall be included in the daily, seasonal and possession limit of the accompanying licensed permit holder.

Approved March 25, 2010.

CHAPTER 93
(H.B. No. 416)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-1202, IDAHO CODE, TO PROVIDE THAT IT SHALL BE UNLAWFUL TO WASTE EDIBLE PORTIONS OF ANY GAME ANIMAL, TO PROVIDE EXCEPTIONS, TO DEFINE TERMS, TO DELETE REFERENCE TO ALL CARNIVORES BUT BLACK BEAR AND TO REVISE PRIMA FACIE EVIDENCE PROVISIONS.

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

SECTION 1. That Section 36-1202, Idaho Code, be, and the same is hereby amended to read as follows:

36-1202. WASTEFUL DESTRUCTION OF WILDLIFE OR MUTILATION UNLAWFUL. It ~~is a misdemeanor for any person~~ shall be unlawful to:

(a) Waste. Through carelessness, neglect or otherwise, to allow or cause the waste of edible portions of any game ~~bird, game animal or game fish or any portion thereof usually eaten by humans~~ animal, except for mountain lion, black bear or gray wolf. "Edible portions" are defined as follows:

1. Game birds. Breasts;
2. Big game animals. Hind quarters, front quarters, loins and tenderloins;
3. Game fish. Fillets of fish, hind legs of bullfrogs and tails of crayfish;
4. Upland game animals. Hind legs, front legs and loins of rabbits and hares.

(b) Destruction -- Mutilation. Capture or kill any game animal~~, except all carnivores but black bear,~~ and detach or remove from the carcass only the head, hide, antlers, horns or tusks and leave the ~~carcass~~ edible portions to waste, except mountain lion, black bear or gray wolf.

(c) Prima Facie. It shall be prima facie evidence of a violation of the provisions of this section:

1. To fail to properly dress and care for any game animal ~~except all carnivores but black bear~~ killed by him, except mountain lion, black bear or gray wolf; and
2. I~~i~~f the ~~carcass is~~ edible portions described in subsection (a) of this section are reasonably accessible~~; failure~~, to fail to take or transport same to his camp within twenty-four (24) hours ~~shall be prima facie evidence of a violation of the provisions of this section~~.

(d) Livestock owners, their employees, agents and animal damage control personnel in protecting livestock as provided in subsection (b) of section 36-1107, Idaho Code, are exempt from subsections (b) and (c) of this section.

(e) For purposes of this section, the term "game animal" shall mean game birds, big game animals, upland game animals and game fish.

Approved March 25, 2010.

CHAPTER 94
(H.B. No. 417)

AN ACT
RELATING TO FISH AND GAME; AMENDING SECTION 36-416, IDAHO CODE, TO PROVIDE FOR THREE DAY SMALL GAME HUNTING LICENSES.

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

SECTION 1. That Section 36-416, Idaho Code, be, and the same is hereby amended to read as follows:

36-416. SCHEDULE OF LICENSE FEES.

(a) Sport Licenses

License	Resident	Non-Resident
Combination License	$ 31.75	$ 238.25
Hunting License	11.00	153.00
Fishing License	24.00	96.50
Sr. Combination License (65 and Older)	10.00	N/A
Sportsman's Pak License	108.50	N/A
Jr. Combination License	15.75	N/A
Jr. Hunting License	5.50	N/A
Jr. Mentored Hunting License	N/A	30.00
Youth Small Game License	5.50	18.25
Youth Hunter Education Graduate Hunting License	3.25	3.25
Jr. Fishing License	12.00	20.00
Disabled Combination License	3.25	N/A
Disabled Fishing License	3.25	N/A
Military Furlough Combination License	15.75	N/A
Military Furlough Fishing License	15.75	N/A
Small Game Hunting License	N/A	96.00
3 Day Small Game Hunting License	N/A	33.75
Daily Fishing (1st-day) License	9.75	11.00
Consecutive Day Fishing License	5.00	6.00
3 Day Fishing with Salmon/Steelhead Permit	N/A	35.75
Nongame Hunting License	N/A	33.75

(b) Sport Tags

Deer Tag	$ 18.00	$ 300.00
Controlled Hunt Deer Tag	18.00	300.00
Jr. or Sr. or Disabled American Veteran Deer Tag	9.00	N/A
Jr. Mentored Deer Tag	N/A	22.00
Elk A Tag	29.00	415.00

Elk B Tag	29.00	415.00
Controlled Hunt Elk Tag	29.00	415.00
Jr. or Sr. or Disabled		
American Veteran Elk Tag	14.75	N/A
Jr. Mentored Elk Tag	N/A	38.00
Bear Tag	9.75	184.25
Jr. or Sr. or Disabled		
American Veteran Bear Tag	5.00	N/A
Jr. Mentored Bear Tag	N/A	22.00
Turkey Tag	18.00	78.25
Jr. or Sr. or Disabled		
American Veteran Turkey Tag	9.00	N/A
Jr. Mentored Turkey Tag	N/A	18.00
Mountain Lion Tag	9.75	184.25
Gray Wolf Tag	9.75	184.25
Antelope Tag	29.50	310.00
Moose Tag	165.00	2,100.00
Sheep Tag	165.00	2,100.00
Goat Tag	165.00	2,100.00
Sandhill Crane Tag	18.00	65.75
(c) Sport Permits		
Bear Baiting Permit	$ 11.00	$ 30.00
Hound Hunter Permit	11.00	168.00
WMA Upland Game Bird Permit	22.00	50.00
Archery Permit	16.50	18.25
Muzzleloader Permit	16.50	18.25
Salmon Permit	11.00	24.00
Steelhead Permit	11.00	24.00
Federal Migratory Bird Harvest		
Info. Permit	0.00	3.00
Disabled		
Archery Permit	0.00	0.00
2-Pole Fishing Permit	12.00	13.75
Turkey Controlled Hunt Permit	6.00	6.00
Sage/Sharptail Grouse Permit	3.00	3.00
Disabled Hunt Motor		
Vehicle Permit	0.00	0.00
(d) Commercial Licenses and Permits		
Raptor Captive Breeding Permit	$ 65.75	$ 78.75
Falconry Permit	27.25	N/A
Falconry Capture Permit	N/A	168.00
Jr. Trapping License	5.50	N/A
Trapping License	25.00	300.00

Taxidermist-Fur Buyer License		
5 year license	175.00	N/A
1 year license	38.25	168.25
Shooting Preserve Permit	329.75	N/A
Commercial Wildlife Farm License	137.50	N/A
Commercial Fishing License	110.00	265.00
Wholesale Steelhead License	165.00	198.25
Retail Steelhead Trout Buyer's License	33.00	39.25
(e) Commercial Tags		
Bobcat Tag	$ 3.00	$ 3.00
Otter Tag	3.00	3.00
Net Tag	55.00	65.75
Crayfish/Minnow Tag	1.25	3.00
(f) Miscellaneous-Other Licenses		
Duplicate License	$ 5.50	$ 6.50
Shooting Preserve License	11.00	22.00
Captive Wolf License	22.00	N/A
(g) Miscellaneous-Other Tags		
Duplicate Tag	$ 5.50	$ 6.50
Wild Bird Shooting Preserve Tag	5.50	6.50
(h) Miscellaneous-Other Permits-Points-Fees		
Falconry In-State Transfer Permit	$ 5.50	$ N/A
Falconry Meet Permit	N/A	26.25
Rehab Permit	3.00	3.00
Educational Fishing Permit	0.00	0.00
Live Fish Importation Permit	3.00	3.00
Sport Dog and Falconry Training Permit	3.00	3.00
Wildlife Transport Permit	3.00	3.00
Scientific Collection Permit	50.00	50.00
Private Park Permit	21.75	26.25
Wildlife Import Permit	21.75	26.25
Wildlife Export Permit	11.00	13.25
Wildlife Release Permit	11.00	13.25
Captive Wildlife Permit	21.75	26.25
Fishing Tournament Permit	21.75	25.00
Dog Field Trial Permit	33.00	40.00
Live Fish Transport Permit	21.75	26.25
Controlled Hunt Application Fee	4.50	13.00

Fee for Application for the Purchase of Controlled Hunt Bonus or Preference Points	4.50	4.50
Nursing Home Fishing Permit	33.00	N/A

Approved March 25, 2010.

CHAPTER 95
(H.B. No. 424)

AN ACT

RELATING TO THE INSURANCE CONTRACT; REPEALING SECTION 41-1830, IDAHO CODE, RELATING TO A LIFE POLICY AS SEPARATE PROPERTY OF A MARRIED WOMAN.

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

SECTION 1. That Section 41-1830, Idaho Code, be, and the same is hereby repealed.

Approved March 25, 2010.

CHAPTER 96
(H.B. No. 431)

AN ACT

RELATING TO INSURANCE RECORDS; AMENDING SECTION 41-2710, IDAHO CODE, TO CLARIFY THAT TITLE AGENTS MAY BE EXAMINED ON CERTAIN ISSUES, TO PROVIDE THAT THE DIRECTOR PREPARE AN EXAMINATION REPORT, TO PROVIDE THAT TITLE AGENT EXAMINATION REPORTS AND ANY RESPONSE DESIGNATED AS PUBLIC BY THE TITLE AGENT ARE NONEXEMPT PUBLIC RECORDS, TO MAKE TECHNICAL CORRECTIONS AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 41-4011, IDAHO CODE, TO PROVIDE THAT CERTAIN ANNUAL AND QUARTERLY REPORTS ARE PUBLIC RECORDS AVAILABLE TO THE PUBLIC AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 41-4111, IDAHO CODE, TO PROVIDE THAT CERTAIN ANNUAL AND QUARTERLY REPORTS ARE PUBLIC RECORDS AVAILABLE TO THE PUBLIC.

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

SECTION 1. That Section 41-2710, Idaho Code, be, and the same is hereby amended to read as follows:

41-2710. REQUIREMENTS FOR AGENTS. (1) A title insurance agent is a person owning or leasing separately or with another licensed agent a complete set of tract indexes and abstract records of each county for which policies are written and authorized in writing by a title insurer to solicit insurance, issue or countersign policies, or otherwise engage in the title insurance business. A title insurer shall not allow or permit any person, firm, association or corporation to act as its agent in relation to the issuance of any certificate, title insurance policy, or other underwriting contract unless such person, firm, association or corporation shall first have obtained a title insurance agent's license for each county for which policies are to be written from the director of the department of insurance. No person, firm, association or corporation shall act within this state as such agent for any title insurer without first having obtained a license from

the director of insurance and filed a bond or cash deposit in lieu thereof as required herein.

(2) A separate agent's license for each county shall be issued by the director of the department of insurance upon due showing filed by the applicant upon forms to be provided by the director of the department of insurance and payment of a fee of fifty dollars ($50.00), upon oath, that such applicant if an individual, is a bona fide resident of Idaho, if a firm or association is composed wholly of Idaho residents, or if a corporation is duly authorized or qualified to do business in the state, that the individual agent (or if a corporation or association, its managerial personnel who are going to exercise the license privilege) has reasonable experience or instruction in the field of title examinations and title insurance and the insurance laws of Idaho, that the applicant owns or leases, separately or with another, and maintains an adequate, complete set of tract indexes and abstract records of each county wherein he proposed to do business, and such application shall be ~~indorsed~~ endorsed by the title insurer with whom he proposed to do business that the proposed agent is known to have a good reputation and is worthy of public trust and that such title insurer knows of no fact or condition that would disqualify the agent from receiving the permit. An agent's license shall continue from the date issued until the first day of January of each year and shall be automatically renewed thereon upon the payment of the annual fee of fifty dollars ($50.00) by the agent, unless terminated as herein provided by the director of the department of insurance for cause. If the filing fee is not promptly paid, the applicant shall be subject to a late filing fee of two dollars ($2.00) a day up to a maximum of one hundred dollars ($100).

(3) Upon the termination of any agency by a title insurer or by the agent terminating, the title insurer shall immediately notify the director of the department of insurance in writing and a title insurance agent shall forthwith notify the director of the department of insurance of the name of a new title insurer with whom he proposes to do business, with the new title insurer's ~~indorsement~~ endorsement upon said notification. No title insurer shall allow the license of an agent for which it has vouched to continue unless all of the foregoing conditions have been complied with.

(4) The license of any title insurance agent may be denied, or the license suspended, revoked or renewal thereof refused, by the director of the department of insurance after notice and hearing if he finds that such license holder has:

(~~1~~a) ~~Wilfully~~ Willfully violated any provisions of title 41, Idaho Code, or the ~~regulations~~ rules issued thereunder; ~~or~~

(~~2~~b) Has intentionally made a material misstatement in the application for such license; ~~or~~

(~~3~~c) Has obtained or attempted to obtain such license by fraud or misrepresentation; ~~or~~

(~~4~~d) Has misappropriated or converted to his own use or illegally withheld money belonging to a title insurance company, an insured or any other person; ~~or~~

(~~5~~e) Has demonstrated his lack of trustworthiness or competence to act as such agent or been guilty of fraudulent or dishonest practices; ~~or~~

(~~6~~f) Has materially misrepresented the terms and conditions of a title insurance policy or contract, or the condition of the title represented thereby; or

(~~7~~g) Has failed to maintain a separate and distinct accounting of escrowed funds~~,~~ and has failed to maintain an escrow bank account or account separate and apart from all other accounts.

(5) Before any license is denied, suspended or revoked or renewal refused, the director shall give thirty (30) days' written notice by registered mail to the licensee or applicant and the title insurer represented by the agent, and if said agent or title insurer desires, to set a date of hear-

ing and to allow the production of evidence by said parties~~,~~ or any other interested person as to the matter. The right and remedies of the parties shall be as set forth in chapter 52, title 67, Idaho Code. Any decision of the director of the department of insurance shall be made in writing and filed in his office and mailed to the title insurer and agent involved.

(6) As a condition of obtaining said license, the individual to be licensed for himself~~,~~ or the entity to be licensed for each employee escrow officer shall obtain, file and pay for a surety bond as provided for an escrow officer.

(7) Regular examination of the tract indexes, ~~and~~ abstract records, and any other records to ascertain compliance with title 41, Idaho Code, and related rules, of a title agent after the first examination thereof by the director shall be limited to not more than every fifth year, unless the agent otherwise requests or the director has cause to believe the same does not comply with this chapter or the ~~regulations~~ rules thereunder. The director shall prepare an examination report following each examination and shall provide such report to the title agent being examined affording the person up to twenty-eight (28) days within which to review, comment and request a hearing. Unless a hearing is requested in accordance with chapter 2, title 41, Idaho Code, the examination report shall be deemed available to the public notwithstanding the exemptions from disclosure provided in chapter 3, title 9, Idaho Code. In addition, if the title agency affirmatively requests, any reply to the examination report shall be deemed available to the public notwithstanding the exemptions from disclosure provided in chapter 3, title 9, Idaho Code. However, all working papers and other records produced by, obtained by or disclosed to the director or any other person in the course of an examination hereunder shall be made available to the person or company which was the subject of the examination in any proceeding pursuant to chapter 2, title 41, Idaho Code, but shall otherwise be held by the director as an exempt record not required to be made public.

SECTION 2. That Section 41-4011, Idaho Code, be, and the same is hereby amended to read as follows:

41-4011. RECORDS AND ACCOUNTS -- ANNUAL STATEMENT. (1) The trustees of a self-funded plan shall cause full and accurate records and accounts to be entered and maintained covering all financial transactions and affairs of the trust fund.

(2) Within ninety (90) days after close of a fiscal year of the plan, the trustee shall make an annual statement in writing summarizing the financial transactions of the trust fund for such fiscal year and its financial condition at the end of such year in accordance with this chapter and generally accepted and applicable accounting principles. The statement shall otherwise be in form and require information as prescribed by the director~~,~~ and the financial information therein shall be certified by the accountant by whom such information was prepared or audited. The trustee shall promptly deliver a copy of the statement to each employer participating in the plan~~,~~ and keep a copy thereof on file in the business office of the plan where it shall be available at all reasonable times for a period of not less than three (3) years for review by any beneficiary.

(3) On or before expiration of such ninety (90) day period the trustee shall cause an original of the annual statement to be filed with the director. The trustee shall pay a filing fee as provided for by rule. The director may grant a thirty (30) day extension of the time for filing the annual statement.

(4) The trustee shall also file quarterly supplemental unaudited financial reports in a form and at the times prescribed by the director.

(5) The director shall transmit and account for all fees received by him hereunder as provided in section 41-406, Idaho Code.

(6) The annual and quarterly reports required under this section are public records and are available to the public, notwithstanding the exemptions from disclosure provided in chapter 3, title 9, Idaho Code.

SECTION 3. That Section 41-4111, Idaho Code, be, and the same is hereby amended to read as follows:

41-4111. RECORDS AND ACCOUNTS -- ANNUAL STATEMENT. (1) The board of a joint public agency self-funded plan shall cause full and accurate records and accounts to be entered and maintained covering all financial transactions and affairs of the trust fund.

(2) Within ninety (90) days after the close of a fiscal year of the plan, the board shall make an annual statement in writing summarizing the financial transactions of the trust fund for such fiscal year and its financial condition at the end of such year in accordance with this chapter and generally accepted and applicable accounting principles. The statement shall be in the form as prescribed by the director and the financial information therein shall be certified by an independent public accountant by whom such information was prepared. The board shall keep a copy thereof on file in the business office of the plan where it shall be available at all reasonable times for a period of not less than three (3) years for review by any beneficiary and shall deliver a copy of a financial summary to each participating employer.

(3) On or before expiration of such ninety (90) day period the board shall cause an original of the annual statement to be filed with the director. The joint public agency self-funded plan shall not be subject to any filing fees provided for by rule. The director may grant a thirty (30) day extension of the time for filing the annual statement.

(4) The board shall also file quarterly supplemental financial reports in a form and at the times prescribed by the director.

(5) The annual and quarterly reports required under this section ~~shall be~~ are public records and are available to the public, notwithstanding the exemptions from disclosure provided in chapter 3, title 9, Idaho Code.

Approved March 25, 2010.

CHAPTER 97
(H.B. No. 444, As Amended)

AN ACT

RELATING TO FIREARMS, EXPLOSIVES AND OTHER DEADLY WEAPONS; AMENDING SECTION 18-3302, IDAHO CODE, TO REVISE APPLICATION REQUIREMENTS FOR A LICENSE TO CARRY CONCEALED WEAPONS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 18-3302, Idaho Code, be, and the same is hereby amended to read as follows:

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

(a) Is ineligible to own, possess or receive a firearm under the provisions of state or federal law; ~~or~~
(b) Is formally charged with a crime punishable by imprisonment for a term exceeding one (1) year; ~~or~~
(c) Has been adjudicated guilty in any court of a crime punishable by imprisonment for a term exceeding one (1) year; ~~or~~
(d) Is a fugitive from justice; ~~or~~
(e) Is an unlawful user of, or addicted to, marijuana or any depressant, stimulant~~,~~ or narcotic drug, or any other controlled substance as defined in 21 U.S.C. 802; ~~or~~
(f) Is currently suffering or has been adjudicated as follows, based on substantial evidence:

(i) Lacking mental capacity as defined in section 18-210, Idaho Code; ~~or~~
(ii) Mentally ill as defined in section 66-317, Idaho Code; ~~or~~
(iii) Gravely disabled as defined in section 66-317, Idaho Code; or
(iv) An incapacitated person as defined in section 15-5-101(a), Idaho Code~~; or~~.

(g) Is or has been discharged from the armed forces under dishonorable conditions; ~~or~~
(h) Is or has been adjudicated guilty of or received a withheld judgment or suspended sentence for one (1) or more crimes of violence constituting a misdemeanor, unless three (3) years ~~has~~ have elapsed since disposition or pardon has occurred prior to the date on which the application is submitted; ~~or~~
(i) Has had entry of a withheld judgment for a criminal offense which would disqualify him from obtaining a concealed weapon license; ~~or~~
(j) Is an alien illegally in the United States; ~~or~~
(k) Is a person who having been a citizen of the United States, has renounced his or her citizenship; ~~or~~
(l) Is under twenty-one (21) years of age; ~~or~~
(m) Is free on bond or personal recognizance pending trial, appeal or sentencing for a crime which would disqualify him from obtaining a concealed weapon license; or
(n) Is subject to a protection order issued under chapter 63, title 39, Idaho Code, that restrains the person from harassing, stalking or threatening an intimate partner of the person or child of the intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child.

The license application shall be in ~~triplicate, in~~ a form to be prescribed by the director of the Idaho state police, and shall ask the name, address, description and signature of the licensee, date of birth, place of birth, social security number, military status, citizenship and the driver's license number or state identification card number of the licensee if used for identification in applying for the license. The application shall indicate that provision of the social security number is optional. The license application shall contain a warning substantially as follows:
CAUTION: Federal law and state law on the possession of weapons and firearms differ. If you are prohibited by federal law from possessing a weapon or a firearm, you may be prosecuted in federal court. A state permit is not a defense to a federal prosecution.

The sheriff shall require any person who is applying for original issuance of a license to submit his fingerprints in addition to the other information required in this subsection. Within five (5) days after the filing of an application, the sheriff shall forward the application and fingerprints to the Idaho state police for a records check of state and

national files. The Idaho state police shall conduct a national fingerprint-based records check and return the results to the sheriff within seventy-five (75) days. The sheriff shall not issue a license before receiving the results of the records check and must deny a license if the applicant is disqualified under any of the criteria listed in paragraphs (a) through (n) of this subsection ~~(1) of this section~~.

The license will be in a form substantially similar to that of the Idaho driver's license. It will bear the signature, name, address, date of birth, picture of the licensee, expiration date and the driver's license number or state identification card number of the licensee if used for identification in applying for the license. Upon issuing a license under the provisions of this section, the sheriff will notify the Idaho state police on a form or in a manner prescribed by the state police. Information relating to an applicant or licensee received or maintained pursuant to this section by the sheriff or Idaho state police is confidential and exempt from disclosure under section 9-338, Idaho Code.

(2) The fee for original issuance of a license shall be twenty dollars ($20.00) paid to the sheriff for the purpose of enforcing the provisions of this chapter. The sheriff may collect any additional fees necessary to cover the cost of processing fingerprints lawfully required by any state or federal agency or department, and the cost of materials for the license lawfully required by any state agency or department, which costs shall be paid to the state.

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

(4) Every license that is not, as provided by law, suspended, revoked or disqualified in this state shall be renewable at any time during the ninety (90) day period before its expiration or within ninety (90) days after the expiration date. Renewal notices shall be mailed out ninety (90) days prior to the expiration date of the license. The sheriff shall require the licensee applying for renewal to complete an application. The sheriff shall submit the application to the Idaho state police for a records check of state and national databases. The Idaho state police shall conduct the records check and return the results to the sheriff within thirty (30) days. The sheriff shall not issue a renewal before receiving the results of the records check and must deny a license if the applicant is disqualified under any of the criteria listed in subsection (1), paragraphs (a) through (n) of this section. A renewal license shall be valid for a period of five (5) years. A license so renewed shall take effect on the expiration date of the prior license. A licensee renewing ninety-one (91) days or more after the expiration date of the license shall pay a late renewal penalty of ten dollars ($10.00) in addition to the renewal fee. The fee shall be paid to the sheriff for the purpose of enforcing the provisions of this chapter.

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

(6) A city, county or other political subdivision of this state shall not modify the requirements of this section, nor may a political subdivision ask the applicant to voluntarily submit any information not required in this section. A civil action may be brought to enjoin a wrongful refusal to issue a license or a wrongful modification of the requirements of this section. The civil action may be brought in the county in which the application

was made or in Ada county at the discretion of the petitioner. Any person who prevails against a public agency in any action in the courts for a violation of subsections (1) through (5) of this section, shall be awarded costs, including reasonable attorney's fees incurred in connection with the legal action.

(7) Except in the person's place of abode or fixed place of business, or on property in which the person has any ownership or leasehold interest, a person shall not carry a concealed weapon without a license to carry a concealed weapon. For the purposes of this section, a concealed weapon means any dirk, dirk knife, bowie knife, dagger, pistol, revolver~~,~~ or any other deadly or dangerous weapon. The provisions of this section shall not apply to any lawfully possessed shotgun or rifle.

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

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

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

(11) The sheriff of a county may issue a license to carry a concealed weapon to those individuals between the ages of eighteen (18) and twenty-one (21) years who in the judgment of the sheriff warrant the issuance of the license to carry a concealed weapon. Such issuance shall be subject to limitations which the issuing authority deems appropriate. Licenses issued to individuals between the ages of eighteen (18) and twenty-one (21) years shall be easily distinguishable from regular licenses.

(12) The requirement to secure a license to carry a concealed weapon under this section shall not apply to the following persons:

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

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

(c) Criminal investigators of the attorney general's office, criminal investigators of a prosecuting attorney's office, prosecutors and their deputies;

(d) Any person outside the limits of or confines of any city while engaged in lawful hunting, fishing, trapping or other lawful outdoor activity;

(e) Any publicly elected Idaho official;

(f) Retired peace officers or detention deputies with at least ten (10) years of service with the state or a political subdivision as a peace officer or detention deputy and who have been certified by the peace officer standards and training council;

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

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

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

(b) Completion of any national rifle association firearms safety or training course~~,~~ or any national rifle association hunter education course; ~~or~~

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

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

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

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

(g) Completion of any firearms training or training or safety course or class conducted by a state certified or national rifle association certified firearms instructor.

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

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

(a) Fraud or intentional misrepresentation in the obtaining of a license; ~~or~~

(b) Misuse of a license, including lending or giving a license to another person, ~~or~~ duplicating a license~~,~~ or using a license with the intent to unlawfully cause harm to a person or property; ~~or~~

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

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

(e) The applicant is adjudicated guilty of or receives a withheld judgment for a crime which would have disqualified him from initially receiving a license.

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

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

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

Approved March 25, 2010.

CHAPTER 98
(H.B. No. 445)

AN ACT

RELATING TO VEHICLE TITLES; AMENDING SECTION 49-509, IDAHO CODE, TO REVISE REQUIREMENTS FOR REPORTING STOLEN VEHICLES.

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

SECTION 1. That Section 49-509, Idaho Code, be, and the same is hereby amended to read as follows:

49-509. STOLEN VEHICLES -- REPORTING BY OFFICERS ~~-- PUBLICATION OF LISTS -- RECOVERED CARS -- NOTICE~~. ~~(1)~~ It shall be the duty of every sheriff, chief of police, ~~constable,~~ officer of the Idaho state police, or officer having ~~knowledge~~ taken a report of a stolen vehicle, to immediately ~~furnish the Idaho state police with full information in connection therewith, and it shall be the duty of the Idaho state police whenever it shall receive a report of the theft or conversion of a vehicle, whether the same has been registered or not, and whether owned in this state or any other state, to make a distinctive record of it together with the make and manufacturer's serial number, and file the same in numerical order of the manufacturer's serial number with the index records of the vehicles of the same make~~ enter the information regarding the stolen vehicle into the national crime information center stolen vehicle file.

~~(2) The Idaho state police shall prepare a report listing vehicles stolen and recovered as disclosed by reports submitted to it, and the report shall be distributed as deemed advisable. At least once each month the Idaho state police shall furnish reports of stolen and recovered vehicles to every county sheriff and the police department in every municipality of over three thousand (3,000) population within this state, and shall transmit copies of the reports to the motor vehicle departments of other states. In the event of the receipt by the Idaho state police of a certificate of title to a stolen vehicle, the Idaho state police shall immediately notify the owner, and if upon investigation it appears that the certificate of title was improperly issued, the transportation department shall immediately cancel it. In the event of the recovery of a stolen or converted vehicle the owner shall immediately notify the Idaho state police, which shall cause the record of the theft or conversion to be removed from its file.~~

Approved March 25, 2010.

CHAPTER 99
(H.B. No. 449)

AN ACT

RELATING TO THE UNIFORM ENVIRONMENTAL COVENANTS ACT; AMENDING SECTION 39-7205, IDAHO CODE, TO PROVIDE THAT CERTAIN INSTITUTIONAL CONTROLS PROPOSED AS PART OF A VOLUNTARY REMEDIATION WORK PLAN SHALL COMPLY WITH THE UNIFORM ENVIRONMENTAL COVENANTS ACT AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 39-7415, IDAHO CODE, TO PROVIDE THAT CERTAIN DEED NOTATIONS AND REMOVAL OF DEED NOTATIONS SHALL COMPLY WITH THE UNIFORM ENVIRONMENTAL COVENANTS ACT AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 39-7205, Idaho Code, be, and the same is hereby amended to read as follows:

39-7205. WORK PLANS. (1) If the department determines an application is eligible under this chapter, the person may submit a proposed voluntary remediation work plan to the department. Before the department evaluates a proposed voluntary remediation work plan, the person who submitted the work plan and the department must enter into a voluntary remediation agreement that sets forth the terms and conditions of the evaluation and the implementation of the work plan.

(a) A voluntary remediation agreement must include the following:

(i) An estimation of costs the department may incur under this chapter;

(ii) A payment schedule of all reasonable costs estimated to be incurred by the department in the review and oversight of the work plan;

(iii) A provision for the department's oversight including access to site and pertinent site records;

(iv) A timetable for the department to do the following:

1. ~~r~~Reasonably review and evaluate the adequacy of the work plan~~,~~; or

2. ~~m~~Make a determination concerning the approval or rejection of the work plan;

(v) A provision to modify the voluntary remediation agreement and voluntary remediation work plan based upon unanticipated site conditions;

(vi) Any other conditions considered necessary by the department or the person concerning the effective and efficient implementation of this chapter.

(b) A proposed voluntary remediation work plan must include a proposed statement of work and schedule to accomplish the remediation in accordance with rules established by the board. Any institutional control proposed as part of a work plan that requires activity and/or use limitations shall comply with the uniform environmental covenants act, chapter 30, title 55, Idaho Code.

(2) If a voluntary remediation agreement is not reached between a person and the department within a reasonable time after good faith negotiations have begun, the person or the department may withdraw from the negotiations.

SECTION 2. That Section 39-7415, Idaho Code, be, and the same is hereby amended to read as follows:

39-7415. STANDARDS FOR CLOSURE. (1) Applicability. These standards apply to all MSWLF units that receive wastes on or after October 9, 1993, except as provided by 40 CFR 258. MSWLF units that accept waste after October 9, 1991, but cease to accept waste prior to October 9, 1993, shall at a minimum comply with subsections (2)(a) and (3) of this section in addition to the "sanitary landfill closure guidance" criteria as adopted by the health district.

(2) Cover designs. Owners or operators of MSWLF units shall install one (1) of the following final cover systems:

(a) A cover as provided under 40 CFR 258.60(a); or

(b) The cover material must be fine-grained with intrinsic permeability no greater than 1 X 10-3 cm/sec and a minimum thickness of twenty-four (24) inches; and

(i) ~~h~~Have capillary holding capacity greater than the projected maximum accumulated volume of water as determined by utilization

of accepted water balance methodology based on local or regional twenty-five (25) year climatic records;

(ii) ~~a~~Annual precipitation is less than twenty-five (25) inches with net evaporative losses greater than thirty (30) inches annually;

(iii) ~~t~~The top six (6) inches of the cover shall be capable of sustaining shallow rooted native plant growth; and

(iv) ~~t~~This design shall demonstrate consideration of site specific factors as provided in 40 CFR 258.60(b); or~~:~~

(c) As provided in 40 CFR 258.60(b).

(3) The final grade of slopes shall be greater than two ~~per cent~~ percent (2%) unless otherwise supported by the post closure plan and uses approved by the health district, and the grade of side slopes not more than thirty-three ~~per cent~~ percent (33%).

(4) Closure plan preparation, placement in operating record, notice of intent to close, time requirements for commencement and completion of closure activities, certification, deed notation and removal of deed notation shall be conducted as provided in 40 CFR 258.60(c) through (j), inclusive. The deed notation and removal of deed notation shall comply with the uniform environmental covenants act, chapter 30, title 55, Idaho Code.

Approved March 25, 2010.

CHAPTER 100
(H.B. No. 456)

AN ACT

RELATING TO THE SEED INDEMNITY FUND; AMENDING SECTION 22-5102, IDAHO CODE, TO DEFINE TERMS, TO REVISE A DEFINITION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 22-5103, IDAHO CODE, TO REQUIRE ADDITIONAL CONDITIONS THAT MUST BE MET BY APPLICANTS PRIOR TO ISSUANCE OF INITIAL SEED BUYER LICENSES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-5104, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 22-5121, IDAHO CODE, TO PROVIDE THAT THERE ARE NO INDEMNITY FUND ASSESSMENTS ON SEED CROPS DEPOSITED FOR SERVICE; AND AMENDING SECTION 22-5125, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR OF THE IDAHO STATE DEPARTMENT OF AGRICULTURE SHALL NOT APPROVE OR PAY ANY CLAIM BASED ON LOSSES RESULTING FROM UNINSURABLE PERILS.

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

SECTION 1. That Section 22-5102, Idaho Code, be, and the same is hereby amended to read as follows:

22-5102. DEFINITIONS. As used in this chapter:

(1) "Contract" means an agreement which may include, but is not limited to, those contracts commonly referred to as production, credit sale, bailment, deferred payment, deferred or price later contracts.

(2) "Delivery voucher" means a form, other than a receipt or scale weight ticket, authorized by rules of the department evidencing delivery of a producer's seed crop to a seed buyer.

(3) "Department" means the Idaho state department of agriculture.

(4) "Deposit for service" means the transfer of a seed crop to a seed buyer or a person not licensed under this chapter for the purpose of cleaning, mixing, conditioning or other services related to the seed crop, provided such services are not offered in conjunction with a stored for withdrawal agreement.

(5) "Director" means the director of the Idaho state department of agriculture.

(~~5~~6) "Failure" means the date that one (1) or more of the following events occurred, as determined by the director:

(a) An inability to financially satisfy producers;

(b) A declaration of insolvency;

(c) A revocation of license and the leaving of an outstanding indebtedness to a producer;

(d) A failure to redeliver any seed crop stored for withdrawal or to pay producers for seed crop pursuant to the terms of an agreement; or

(e) A denial of the application for a license renewal.

(~~6~~7) "Person" means any individual, firm, association, corporation, partnership or limited liability company.

(~~7~~8) "Producer" means the owner, tenant or operator of land in this state who has an interest in the proceeds from the sale of seed crops grown on that same land. Producer does not include growers of seed crop who deposit their seed crop in a seed facility in which they have a financial or management interest, except members of a cooperative marketing association qualified under chapter 26, title 22, Idaho Code.

(~~8~~9) "Production summary" means records that include, but are not limited to, the kind and type of seed crop, producer name and address, location and number of acres, clean seed per acre, value per pound and, when applicable, the contract number and lot identity.

(~~9~~10) "Receipt" means a warehouse receipt.

(1~~0~~1) "Scale weight ticket" means a load slip, other than a receipt, given to a producer by a seed buyer~~,~~ for transfer of the seed crop to the seed buyer. Each scale weight ticket shall be sequentially numbered, shall be recorded in triplicate and shall set forth the following:

(a) Name and address of seed buyer;

(b) Date of weighing;

(c) Producer of seed crop weighed;

(d) Kind or variety of seed crop weighed;

(e) Gross delivery weight;

(f) Tare;

(g) Net delivery weight; and

(h) Full signature of weigher or name of supervisor of scale.

(1~~1~~2) "Seed buyer" means any person having a commercial operation, its agents and employees, together with its elevators, mills, buildings, or other structures who owes or has any financial obligation to the producer for seed crop grown by that producer and transferred to the seed buyer.

(1~~2~~3) "Seed crops" means any seed crop regulated by chapter 4, title 22, Idaho Code.

(1~~3~~4) "Seed facility" means:

(a) That portion of the commercial operation of a seed buyer where seed crop transferred to it from an unpaid producer is stored; or

(b) Where seed crop is stored for withdrawal.

(1~~4~~5) "Stored for withdrawal" means the deposit of seed crop with a seed facility by the producer for the subsequent withdrawal by that producer of the same seed crop or similar seed crop, as agreed to by the parties.

(1~~5~~6) "Transfer" means, unless otherwise defined by the parties in writing, the event when a producer or his agent delivers seed crop to the seed buyer who then gives the producer or his agent a scale weight ticket, receipt, or other written evidence of transfer.

(17) "Uninsurable peril" means an event or situation for which insurance coverage cannot be purchased, or for which premiums are economically prohibitive including, but not limited to, catastrophic destruction and damage that occurs gradually. Catastrophic destruction includes, but is not limited to, earthquakes, acts of terrorism and floods. Destruction

that occurs gradually includes, but is not limited to, insect and rodent infestation, and mold.

(1~~6~~8) "Written evidence of transfer" means:

(a) A delivery voucher;

(b) A receipt; or

(c) A scale weight ticket.

SECTION 2. That Section 22-5103, Idaho Code, be, and the same is hereby amended to read as follows:

22-5103. LICENSES. (1) Prior to beginning operation, a person intending to operate as a seed buyer shall first procure a license from the department. Each license issued pursuant to this chapter~~,~~ shall be issued for a period of one (1) year and the license or legible copy thereof shall be prominently displayed in each place of business.

(2) A seed facility endorsement showing the location of each seed facility in Idaho shall be attached to the seed buyer's license.

(3) The department is authorized to issue or renew a seed buyer license in accordance with this chapter, and the rules promulgated by the department ~~providing~~ provided each applicant meets the following conditions:

(a) Pay an application fee of up to five hundred dollars ($500) pursuant to criteria established by rule, with the exception of those persons holding a license issued pursuant to chapter 4, title 22, Idaho Code;

(b) Submit a completed application form provided by the department, with required exhibits. The application shall include:

(i) The name of the applicant;

(ii) The names of the officers and directors if the applicant is a corporation or association;

(iii) The names of the partners if the applicant is a partnership or a limited liability company;

(iv) The location of the principal place of business;

(v) Information relating to any judgment against the applicants; and

(vi) Any other reasonable information the department finds necessary to carry out the provisions and purposes of this chapter.

(c) Provide a sufficient and valid bond as required by this chapter;

(d) Provide a current, sufficient policy of insurance covering losses as required by this chapter;

(e) Provide the location of its seed facilities in Idaho;

(f) Provide a written schedule of conditioning, bagging and testing charges; ~~and~~

(g) Have on file a test report pursuant to sections 71-113 and 71-117, Idaho Code, from the Idaho state department of agriculture bureau of weights and measures showing approved status for any scales used for weighing received seed crops and any scales used for weighing clean weight of seed crops; and

(h) Provide with the initial license application an audited or reviewed financial statement prepared by an independent certified public accountant or licensed public accountant showing that the applicant has and does maintain a balance sheet with current assets not less than current liabilities, a statement of profit or loss, a statement of net worth and a statement of cash flows, all of which have been prepared according to generally accepted accounting principles not more than twelve (12) months prior to the date of the initial license application and additional financial information as determined by the director.

(4) All fees collected, pursuant to this chapter, for license application and renewal shall be deposited in the seed indemnity fund.

(5) All materials required for renewal of a license shall be received by the department prior to the expiration date of the current license. A li-

cense which has expired may be reinstated by the department upon receipt of all necessary licensing materials required by the provisions of this chapter and a reinstatement fee in an amount up to one thousand dollars ($1,000) pursuant to criteria established by rule, providing that this material is filed within thirty (30) days from the date of expiration of the current license.

(6) A delivery of seed crop between producers, none of whom are seed buyers, shall be exempt from the provisions of this chapter.

SECTION 3. That Section 22-5104, Idaho Code, be, and the same is hereby amended to read as follows:

22-5104. BONDS -- IRREVOCABLE LETTERS OF CREDIT -- CERTIFICATES OF DEPOSIT -- SINGLE BOND. Every person applying for a license shall execute and file with the department a good and sufficient bond issued by an insurer authorized to transact such insurance in this state. The bond shall be in favor of the seed indemnity fund to secure the faithful performance of the applicant's obligations under this chapter, and of such additional unpaid obligations assumed under agreements with producers of seed crops transferred to or deposited with the applicant. Said bond shall be in such form and amount, shall have such surety or sureties, and shall contain such terms and conditions as the department may prescribe to carry out the purposes of this chapter. Whenever the department determines that a previously approved bond is insufficient, it may require an additional bond or bonds conforming with the requirements of this chapter. Unless the additional bond is given within the time fixed by a written demand therefor, the license may be suspended or revoked.

At the discretion of the director, any person required to submit a bond to the department may give to the department an irrevocable letter of credit or certificate of deposit payable to the seed indemnity fund in lieu of the bond required herein. A certificate of deposit shall be submitted with an audited or reviewed financial statement prepared in accordance with the rules of the department by an independent Idaho certified public accountant or Idaho licensed public accountant. The principal amount of the letter of credit or certificate of deposit shall be the same as that required for a surety bond pursuant to this chapter. The letter of credit or certificate of deposit shall remain on file with the department until it is released, canceled or discharged by the director or until the director is notified ninety (90) days in advance, by registered or certified mail, return receipt requested, that the letter of credit or certificate of deposit is renewed, canceled or amended. Failure to notify the director may result in the suspension or revocation of the seed buyer license. The provisions of this chapter that apply to a bond apply to each letter of credit or certificate of deposit given in lieu of such bond. Under the provisions of this chapter, an irrevocable letter of credit or certificate of deposit shall not be accepted unless it is issued by a national bank or federal thrift institution in Idaho or by a state-chartered bank or thrift institution authorized to conduct business in Idaho and insured by the federal deposit insurance corporation.

If a seed buyer is also licensed pursuant to either chapter 2 or 5, title 69, Idaho Code, that seed buyer may obtain a single bond, certificate of deposit or irrevocable letter of credit as surety for both chapter 51, title 22, Idaho Code, and chapter 2 or 5, title 69, Idaho Code. The bond, certificate of deposit or irrevocable letter of credit shall be made out in favor of the commodity indemnity fund and the seed indemnity fund. In the event a seed buyer fails as defined in section 22-5102(~~5~~6), Idaho Code, and a single bond, certificate of deposit or irrevocable letter of credit is written in favor of the commodity indemnity fund and seed indemnity fund, the proceeds of the bond, certificate of deposit or irrevocable letter of credit will be allocated based on the dollar amount of the verified claims approved pursuant to chapter 51, title 22, Idaho Code, and chapter 2, title 69, Idaho Code.

SECTION 4. That Section 22-5121, Idaho Code, be, and the same is hereby amended to read as follows:

22-5121. ASSESSMENTS. Every producer shall pay an assessment for deposit in the seed indemnity fund according to the provisions of this chapter and rules promulgated by the department. A delivery of seed crop between producers, none of whom are seed buyers, is exempt from the collection and payment of assessments. Assessments shall be collected on the gross dollar amount, without any deduction, owed to, or paid, or to be paid, on behalf of the producer of the seed crop.

(1) The initial rate of the assessment shall be five-tenths of one percent (.5%). Changes in the rate will be established by criteria in the rules of the department. However, the producer's annual assessment shall not exceed five-tenths of one percent (.5%).

(2) If seed crop is stored for withdrawal, the assessment shall not exceed one-half cent (1/2¢) per pound, based on clean weight or, if not available, estimated clean weight, per twelve (12) month period, payable at time of withdrawal.

(3) There are no indemnity fund assessments on seed crops deposited for service.

SECTION 5. That Section 22-5125, Idaho Code, be, and the same is hereby amended to read as follows:

22-5125. PROOF OF CLAIMS -- PROCEDURE -- HEARING. After the director has declared a failure, the department shall process the claims of producers having paid or owing assessments who: (a) produce written evidence of transfer together with the amounts of their unpaid claims, and (b) have "stored for withdrawal" and provide written evidence of deposit.

(1) The department shall give written notice to and provide a reasonable time of not less than thirty (30) days and not more than sixty (60) days for producers to file their written verified claims, including any written evidence, with the department.

(2) The department shall investigate each claim and shall notify in writing each claimant, the seed buyer and the advisory committee of the department's determination as to the validity and amount of each claim. A claimant or seed buyer may request a hearing on the department's determination within twenty (20) days of receipt of written notification of the determination pursuant to chapter 52, title 67, Idaho Code. Upon determining the amount and validity of the claim, the director shall pay to the claimant an amount equal to ninety percent (90%) of the approved claim from the seed indemnity fund. Prior to any payment from the fund to a claimant, the claimant shall be required to subrogate and assign to the department his right to any recovery from any other source. The claimant shall be entitled to seek recovery of the remaining ten percent (10%), which was not assigned to the department. The procedure to determine the value of any claim will be established by rules.

(3) In the event of a shortage or inability to meet financial obligations, the department shall determine each producer's pro rata share of available seed crops and any deficiency shall be the claims of the producers. Each type of seed crop shall be treated separately for the purpose of determining shortages.

(4) The director shall not approve or pay any claim based on losses resulting from transactions with persons unlicensed pursuant to this chapter. The director shall not approve or pay any claim made on the seed indemnity fund if the claim is for the payment of interest, attorney's fees, ancillary costs, or punitive damages. The director shall not approve or pay any claim based on losses resulting from uninsurable perils.

(5) If a producer's claim reveals that the assessment has not been paid or collected, and the claim is otherwise valid, the amount of the assessment shall be deducted from the claim payment.

Approved March 25, 2010.

CHAPTER 101
(H.B. No. 458)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING CHAPTER 13, TITLE 59, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 59-1354A, IDAHO CODE, TO PROVIDE PROVISIONS WHEN A RETIRED MEMBER RECEIVING A DISABILITY RETIREMENT ALLOWANCE MAY RETURN TO WORK, TO PROVIDE PROCEDURES AND TO DEFINE THE TERM "RETURN TO WORK."

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

SECTION 1. That Chapter 13, Title 59, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 59-1354A, Idaho Code, and to read as follows:

59-1354A. MEMBERS RECEIVING A DISABILITY RETIREMENT RETURNING TO WORK. (1) A retired member receiving a disability retirement allowance may return to work under the following conditions:

(a) The retired member must notify the executive director in writing in advance of the return to work; and

(b) The disability retirement allowance shall terminate upon such notification.

(2) The disability retirement allowance of a retired member who returns to work under subsection (1) of this section shall resume if:

(a) The retired member terminates his return to work within one hundred fifty (150) days from the date of the notification required in subsection (1)(a) of this section;

(b) The retired member makes a written request to the board; and

(c) The board determines that the member is disabled, as defined in section 59-1302(12), Idaho Code, and that the member could not successfully return to work because of the same disability on which his disability retirement was based.

(3) In making its decision, the board may require the member to submit medical records in support of his request and may require the member to submit to a medical examination. The refusal to submit such records or to submit to such examination shall constitute proof that the member is not disabled. If the board requires a medical examination, any costs associated with such examination must be paid by the member. A disability retirement allowance that is resumed under this section shall be payable the first of the month after the board makes the determination described herein.

(4) If a retired member receiving a disability retirement allowance who returns to work again meets the definition of employee as defined in section 59-1302(14)(A), Idaho Code, eligibility for disability retirement shall be determined in accordance with sections 59-1302(12), 59-1352 and 59-1354, Idaho Code.

(5) For the purposes of this section, "return to work" means being engaged in any activity for which compensation is normally paid.

Approved March 25, 2010.

CHAPTER 102
(H.B. No. 463)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-409, IDAHO CODE, TO PROVIDE THAT THE COMMISSION MAY PROMULGATE RULES TO ALLOW NONRESIDENT DEER OR ELK TAGS TO BE USED TO HUNT AND KILL BEAR, WOLF OR MOUNTAIN LION DURING OPEN SEASON FOR DEER OR ELK.

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

SECTION 1. That Section 36-409, Idaho Code, be, and the same is hereby amended to read as follows:

36-409. GAME TAGS -- PERMITS -- FEES -- PENALTY. (a) Resident Game Tags. A resident who has obtained a permit to hunt, as provided in section 36-401, Idaho Code, or has purchased or obtained a license to hunt, as provided in section 36-406, Idaho Code, upon payment of the fees provided herein shall be eligible to receive a resident game tag to hunt and kill a moose, bighorn sheep, mountain goat, elk, deer, antelope, mountain lion, bear, wolf, sandhill crane or turkey in accordance with the laws of this state and rules promulgated by the commission; provided further, that any person who holds a senior resident combination license or any person who holds a junior combination or hunting license or any disabled American veteran who holds a disabled combination license, may be issued a bear, deer, elk, or turkey tag for a fee as specified in section 36-416, Idaho Code; provided further, that resident game tags may be issued only to those persons who meet residency requirements of subsection (s) of section 36-202, Idaho Code. In the event an emergency is declared to open a season to protect private property as provided in section 36-106(e)6.(B), Idaho Code, the affected landowner or his designee shall be eligible to receive a resident deer, elk or antelope tag without charge; provided further, that resident game tags may be issued only to persons who qualify as residents pursuant to section 36-202, Idaho Code.

(b) Nonresident Game Tags. A nonresident who has purchased a license to hunt, as provided in section 36-407(a) or (k), Idaho Code, or has obtained a license to hunt, as provided in section 36-406(e), Idaho Code, or a resident who has purchased or obtained a license to hunt, as provided in section 36-406, Idaho Code, upon payment of the fees provided herein, shall be eligible to receive a nonresident tag to hunt and kill a moose, bighorn sheep, mountain goat, elk, deer, antelope, mountain lion, bear, wolf, sandhill crane or turkey in accordance with the laws of this state and rules promulgated by the commission; provided further that a nonresident who has purchased a license to hunt, as provided in section 36-407(k), Idaho Code, shall be eligible to receive a junior mentored deer, elk, bear, or turkey tag for a fee as specified in section 36-416, Idaho Code.

(c) Game Tags Required. The appropriate tag must be had for the hunting or taking of each and every one of the aforementioned wildlife. Provided, however, that the requirements for a wolf tag, a mountain lion tag or a bear tag, as to different periods of time and areas of the state, shall be determined and specified by the commission. Provided further, that the commission may promulgate rules to allow a nonresident deer <u>or elk</u> tag to be used to hunt and kill either a bear<u>, wolf</u> or a mountain lion during the open season for deer <u>or elk</u> in that area, unit or zone as may be specified by the commission. All of said tags are to bear and have serial numbers.

(d) Game Tag to Be Validated and Attached to Carcass. As soon as any person kills any wildlife for which a tag is required, said tag, belonging to

him, must be validated and attached to said wildlife in a manner provided by commission rule.

(e) Archery Permits. In addition to meeting the license and tag requirements provided in this chapter, any person participating in any controlled or general game season which has been specifically designated as an archery hunt must have in his possession an archery hunt permit which may be purchased for a fee as specified in section 36-416, Idaho Code.

(f) Muzzleloader Permit. In addition to meeting the license and tag requirements provided in this chapter, any person participating in any controlled or general game season which has been specifically designated as a muzzleloader hunt must have in his possession a muzzleloader permit which may be purchased for a fee as specified in section 36-416, Idaho Code.

(g) Hound Hunter Permit -- Resident -- Nonresident. Any person using a dog for the purpose of hunting or for taking, as defined in section 36-202, Idaho Code, big game or furbearing animals must have in his possession a valid hound hunter permit which may be purchased by resident and nonresident license holders for a fee as specified in section 36-416, Idaho Code.

(h) Nonresident Bird of Prey Capture Permit. The commission may, under rules as it may prescribe, issue a nonresident bird of prey capture permit. This capture permit may be purchased by any licensed, nonresident falconer for capturing birds of prey in Idaho. The fee for the permit shall be as specified in section 36-416, Idaho Code, and the permit shall be issued under the condition that the nonresident's home state allows reciprocal raptor capturing privileges for Idaho falconers.

(i) Wildlife Management Area (WMA) Upland Game Bird Permit. The commission may, under rules as it may prescribe, issue a wildlife management area upland game bird permit that must be purchased by all persons over sixteen (16) years of age prior to hunting stocked upland game birds on state wildlife management areas designated by the commission. The fee for the permit shall be as specified in section 36-416, Idaho Code.

(j) Bear Baiting Permit. The commission may, under rules as it may prescribe, issue a bear baiting permit. Any person placing or using bait as may be allowed by rule for the purpose of attracting bear must have in his possession a valid bear baiting permit which may be purchased by a license holder for a fee as specified in section 36-416, Idaho Code.

(k) Migratory Bird Harvest Information Program Permit. The commission may, as provided by federal laws or regulations and under rules as it may prescribe, issue a migratory bird harvest information program permit that must be purchased by all persons prior to hunting migratory game birds as required by federal law or regulations. The fee for the permit shall be as specified in section 36-416, Idaho Code.

(l) Dog Field Trial Permit. The commission may, under rules as it may prescribe, issue a dog field trial permit to any person using birds for dog field trials or training as may be allowed by rule. The permit may be purchased for a fee as specified in section 36-416, Idaho Code.

(m) Idaho Nursing Home Facility Resident Fishing Permit. The commission may, under rules as it may prescribe, issue an Idaho nursing home facility resident fishing permit that must be purchased by an Idaho nursing home facility to allow residents of its facility to fish during the open season. Facilities eligible to purchase this permit are: intermediate care facilities providing twenty-four (24) hour skilled nursing care, assisted living facilities providing twenty-four (24) hour extensive assistance and skilled nursing facilities providing twenty-four (24) hour skilled nursing. By purchasing this permit the facility assumes full responsibility for and control over the facility residents while using the permit. All laws, rules and proclamations apply to the use of this permit and it is the responsibility of the facility to assure compliance with all laws, rules and proclamations. In case of a violation the facility shall be held accountable and any cita-

tions shall be issued to the facility. The permit may be purchased for a fee as specified in section 36-416, Idaho Code.

Approved March 25, 2010.

CHAPTER 103
(H.B. No. 464)

AN ACT

RELATING TO VETERINARIANS; AMENDING SECTION 54-2107, IDAHO CODE, TO REMOVE REFERENCE TO AN UNLIMITED TIME LIMIT IN WHICH CERTAIN EXAMINATIONS MAY BE TAKEN AND PASSED BY APPLICANTS FOR LICENSURE.

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

SECTION 1. That Section 54-2107, Idaho Code, be, and the same is hereby amended to read as follows:

54-2107. LICENSE APPLICATION -- CONTENTS -- FEE. Any person desiring a license to practice veterinary medicine in this state shall make written application to the board and shall bear the burden of substantiating to the board the license application requirements. To apply for a veterinary license, the applicant shall complete the "application for licensure to practice veterinary medicine and surgery" available from the board office. A completed application shall contain the applicant's notarized signature and shall include:

(1) A copy of a birth certificate or current passport proving that the applicant is twenty-one (21) years of age or more.

(2) Notarized affidavits issued during the year preceding licensure from two (2) veterinarians currently licensed and in good standing in any state attesting to the fact that the applicant is of good moral character.

(3) A certified copy of a veterinary school diploma or transcript from an accredited or approved school of veterinary medicine or a letter from an accredited or approved school of veterinary medicine verifying satisfactory graduation by the applicant 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 the ECFVG certificate or by 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, and as approved and outlined by the rules of the board.

(4) Passing scores on the national examinations developed by the national board examination committee, its designee or any other examination committee or organization approved by the board, including, but not limited to: the national board examination (NBE) and the clinical competency test (CCT), or the north American veterinary licensing examination (NAVLE), which may be taken in any state ~~at any time (no time limit)~~.

(5) After November 1, 2000, applicants who have taken their national examinations prior to this date and have not taken and passed the clinical competency test (CCT) may, in lieu of a passing score on the CCT, provide the following documentation from the licensing board in the state in which they are currently actively practicing or from the veterinary information verifying agency of the American association of veterinary state boards:

(a) Verification of seven (7) years of continuous, active practice in the same state or states where they have practiced for the past seven (7) years immediately preceding application for licensure in this state, and provided that the requirements for licensure in the state or states are similar to those in Idaho; and

(b) Verification of no disciplinary action taken against the applicant's license to practice veterinary medicine during the same seven

(7) year period immediately preceding application for a veterinary license in this state.

(c) The practice of applicants licensed under this provision will be limited to the same fields of veterinary medicine as they have practiced in another state or states during the seven (7) year period immediately preceding application for a veterinary license in this state.

(6) A passing score of at least ninety percent (90%) correct on the Idaho jurisprudence examination.

(7) Written verification of license in good standing from the licensing organization in any state or states in which the applicant has held a license or as provided by the veterinary information verifying agency of the American association of veterinary state boards.

(8) The license application fee and first year's license fee in the amount established in the rules adopted by the board.

(9) Any additional information that the board may request.

(10) Application materials will be valid and maintained at the board office for a period of one (1) year.

The board will review applications and issue licenses in January and June of each year. Applicants shall have their completed applications at the board office by the first day of January or June, except as specified in other sections of this chapter or by board rule. If an applicant is found not qualified, the board shall immediately notify the applicant in writing of such finding and the grounds therefor. An applicant denied licensure may request a hearing pursuant to the procedures set forth in chapter 52, title 67, Idaho Code. Any applicant who is denied licensure shall be allowed the return of the license fee portion of the application fee.

Any applicant taking and passing the Idaho jurisprudence examination and not wanting to be licensed at the next review by the board, shall be allowed the return of the license fee portion of the application fee only.

Approved March 25, 2010.

CHAPTER 104
(H.B. No. 465)

AN ACT

RELATING TO VETERINARIANS; AMENDING SECTION 54-2118, IDAHO CODE, TO REVISE PROVISIONS RELATING TO REMEDIES AND PENALTIES FOR VIOLATION OF THE IDAHO VETERINARY PRACTICE ACT, TO PROVIDE FOR ADMINISTRATIVE ACTIONS, TO PROVIDE FOR FINES, TO PROVIDE FOR CIVIL PENALTIES IN LIEU OF CERTAIN DISCIPLINARY PROCEEDINGS, TO PROVIDE TERMS AND CONDITIONS, TO PROVIDE FOR TREATMENT OF CERTAIN VIOLATIONS AND DOCUMENTS AND RECORDS RELATED TO THOSE VIOLATIONS UPON SUCCESSFUL COMPLETION OF SPECIFIED TERMS AND CONDITIONS, TO PROVIDE FOR SPECIFIED CIVIL COURT PROCEEDINGS, TO PROVIDE FOR CRIMINAL ACTIONS, TO REMOVE REFERENCE TO CERTAIN CIVIL PROCEEDINGS, TO PROVIDE THAT CERTAIN REMEDIES ARE NOT MUTUALLY EXCLUSIVE AND SUCCESSFUL ACTION ON ONE REMEDY DOES NOT PRECLUDE ACTION ON OTHER REMEDIES; AND AMENDING SECTION 9-340C, IDAHO CODE, TO PROVIDE THAT DOCUMENTS AND RECORDS RELATED TO CERTAIN VIOLATIONS SHALL BE EXEMPT FROM DISCLOSURE.

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

SECTION 1. That Section 54-2118, Idaho Code, be, and the same is hereby amended to read as follows:

54-2118. VIOLATIONS OF CHAPTER -- REMEDIES AND PENALTIES. In addition to the disciplinary actions set forth in section 54-2115, Idaho Code:

(1) <u>Administrative actions.</u>

(a) Any person violating the provisions of this chapter, or violating a rule promulgated by the board to implement the provisions of this chapter may be ~~assessed a civil penalty~~ fined by the board or its duly authorized agent ~~of~~ not more than five thousand dollars ($5,000) for each offense and shall be liable for investigatory expenses and reasonable paralegal and attorney's fees, and provided that each act on each day of violation shall constitute a separate offense. ~~Assessment~~ Imposition of a ~~civil penalty~~ fine may be made in conjunction with any other board administrative action. No ~~civil penalty~~ fine may be assessed unless the person charged was given notice and opportunity for a hearing pursuant to the Idaho administrative procedure act. If ~~the board is unable to collect the civil penalty~~ a person fined fails to fully pay the fine, investigatory expenses or reasonable paralegal and attorney's fees, ~~or if any person fails to pay all of a set portion of the civil penalty as determined by~~ the board~~, it~~ may recover such amount by action in the appropriate district court. ~~Any person against whom the board has assessed a civil penalty under this section may, within twenty-eight (28) days of the final agency action making the assessment, appeal the assessment to the district court of the county in which the board took action.~~

(b) Notwithstanding the provisions of subsection (1)(a) of this section, any person who has violated the recordkeeping or continuing education requirements imposed by this chapter or the rules of the board may, in lieu of disciplinary proceedings under this chapter or the Idaho administrative procedure act, elect to pay the board a civil penalty to be determined by the board, or its authorized agent, in an amount between five hundred dollars ($500) and one thousand dollars ($1,000), under the following terms and conditions:

(i) The person must not have been disciplined by the board for any reason within the past five (5) years;

(ii) The person must not have previously elected to pay a penalty under this section;

(iii) The person is not currently on probation by the board;

(iv) The person is not currently under investigation by the board for an offense other than the recordkeeping or continuing education violation; and

(v) The person must fully comply with the board's instructions on remedying the recordkeeping or continuing education violation.

Upon successful completion of the above terms and conditions and payment of the civil penalty, the violation shall not be considered "discipline," shall not be reported to any national disciplinary database, and documents and records related to the violation shall be exempt from disclosure under chapter 3, title 9, Idaho Code.

(2) Civil court proceedings. The board, the attorney general's office, a county prosecuting attorney or any citizen of this state may bring an action in the district court of either Ada county or any county where a violation is occurring, to enjoin any person from practicing veterinary medicine or practicing as a certified veterinary technician, certified euthanasia technician or any agency operating as a certified euthanasia agency without a currently valid, active license, certification, temporary permit or temporary certification. If the court finds that the person is violating the provisions of this chapter, it shall enter an injunction restraining that person from such unlawful acts.

(3) Criminal actions. Any person who practices veterinary medicine, any person practicing as a certified veterinary technician, a certified euthanasia technician or any agency operating as a certified euthanasia agency without a currently valid, active license, certification, temporary permit or temporary certification shall be guilty of a misdemeanor and upon conviction or withheld judgment shall be fined not less than one hundred dollars ($100), nor more than ten thousand dollars ($10,000), or incarcerated for no

more than one hundred eighty (180) days, or both fined and incarcerated, and provided that each act of such unlawful practice shall constitute a distinct and separate offense.

~~(3) The board, the attorney general's office, any district court or county attorney, or any citizen of this state may bring an action to enjoin any person from practicing veterinary medicine or practicing as a certified veterinary technician, certified euthanasia technician, or any agency operating as a certified euthanasia agency without a currently valid, active license, certification, temporary permit, or temporary certification. If the court finds that the person is violating the provisions of this chapter, it shall enter an injunction restraining that individual from such unlawful acts.~~

(4) The ~~successful maintenance of an action based on any one (1) of the~~ remedies set forth in this section ~~shall in no way prohibit the prosecution of an~~ are not mutually exclusive and a successful action ~~based~~ on any one (1) remedy does not preclude action on some or all of the other ~~of the~~ remedies.

SECTION 2. 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, except that 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 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 materi-

als, 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 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.

(27) Records in an address confidentiality program participant's file as provided for in chapter 57, title 19, Idaho Code, other than the address designated by the secretary of state, except under the following circumstances:

(a) If requested by a law enforcement agency, to the law enforcement agency; or

(b) If directed by a court order, to a person identified in the order.

(28) Documents and records related to continuing education and recordkeeping violations that are maintained by the Idaho board of veterinary medicine under the provisions of section 54-2118(1)(b), Idaho Code, provided the requirements set forth therein are met.

Approved March 25, 2010.

CHAPTER 105
(H.B. No. 466)

AN ACT

RELATING TO VETERINARIANS; AMENDING SECTION 54-2103, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 54-2104, IDAHO CODE, TO REVISE PROVISIONS RELATING TO ACTIVITIES NOT PROHIBITED BY SPECIFIED PROVISIONS OF LAW; AND AMENDING SECTION 54-2115, IDAHO CODE, TO REVISE PROVISIONS RELATING TO GROUNDS FOR DISCIPLINE.

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

SECTION 1. That Section 54-2103, Idaho Code, be, and the same is hereby amended to read as follows:

54-2103. DEFINITIONS. As used in this chapter:

(1) "Accredited continuing education activity" means a provider and course, seminar, scientific program or any other activity approved by the board or its designees for continuing education credit.

(2) "Accredited or approved school of veterinary medicine" means any veterinary college or division of a university or college inside or outside the United States or Canada that offers the degree of doctor of veterinary medicine, veterinary medicine doctor, or its equivalent and is accredited or approved by the council on education of the American veterinary medical association or other accrediting agency or association approved by the board.

(3) "Allied health professional" means a person holding a current active license, in good standing, in any state to practice one (1) of the healing arts including, but not limited to medicine, dentistry, osteopathy, chiropractic, acupuncture and podiatry.

(4) "Anesthetized" means any condition of general anesthesia, caused by the administration of a drug or combination of drugs in sufficient quantity to produce a state of unconsciousness or disassociation and blocked response to a given pain or alarm stimulus.

(5) "Animal" means any animal other than man and includes fowl, birds, fish and reptiles, wild or domestic, living or dead.

(6) "Assistant" means any individual, other than a certified veterinary technician or a licensed veterinarian, who is ~~employed~~ utilized by ~~an actively~~ a licensed veterinarian to ~~perform~~ assist in the performance of acts pertaining to the practice of veterinary medicine ~~and receives compensation for such acts from the employing veterinarian but is not a certified veterinary technician or licensed veterinarian~~.

(7) "Board" means the state board of veterinary medicine.

(8) "Certified euthanasia agency" or "CEA" means a law enforcement agency, an animal control agency or a society for the prevention of cruelty to animals, which has been inspected and certified by the euthanasia task force or the board.

(9) "Certified euthanasia technician" or "CET" means:

(a) A person employed by a certified euthanasia agency but not to include an individual employed as a technician by animal research laboratories, who is instructed and certified by the euthanasia task force or the board as defined in the rules of the board.

(b) Any person who is trained prior to December 31, 1992, in euthanasia methods, in a course approved by the board, may be certified upon presentation of evidence of such training to either the euthanasia task force or the board.

(10) "Certified veterinary technician" means a person who has fulfilled the certification requirements prescribed by board rule and has been certified by the board to practice veterinary technology in this state.

(11) "Consultation" means a deliberation between two (2) or more veterinarians concerning the diagnosis of a disease or the proper management of the case.

(12) "Credit hour" means fifty (50) minutes of participation in an accredited continuing education activity.

(13) "Dentistry" is the practice of veterinary medicine and means the application or use of any instrument or device to any portion of an animal's tooth, gum or any related tissue for the prevention, cure or relief of any wound, fracture, injury, disease or other condition of an animal's tooth, gum or related tissue. Dentistry includes, but is not limited to:

(a) "Preventive dental procedures" including, but not limited to, the removal of calculus, soft deposits, plaque, stains, and floating to shape the teeth above the gum line or the smoothing, filing or polishing of tooth surfaces above the gum line; and

(b) "Operative dentistry/oral surgery" or any other dental procedure that invades the hard or soft oral tissue including a procedure that alters the structure of one (1) or more teeth, or repairs damaged and diseased teeth, or the deliberate extraction of one (1) or more teeth.

(14) "Direct supervision" means the ~~supervisor~~ supervising veterinarian is on the premises where the animal is being treated, is quickly and easily available and the animal has been examined by the supervising veterinarian as acceptable veterinary medical practice requires.

(15) "Discipline" means board action including, but not limited to:

(a) Refusing to issue, renew or reinstate a license, permit or certification to practice as a licensed veterinarian, a certified veterinary technician, a certified euthanasia agency or a certified euthanasia technician;

(b) Denial, revocation, suspension, sanction, probation or voluntary surrender of a license, permit or certification to practice as a licensed veterinarian, a certified veterinary technician, a certified euthanasia agency or a certified euthanasia technician;

(c) The ability to enter into consent agreements and negotiated settlements with licensed veterinarians, certified veterinary technicians, certified euthanasia agencies and certified euthanasia technicians;

(d) The ability to bring an administrative or civil action against any person in or outside of this state who practices veterinary medicine, veterinary technology or who performs euthanasia within this state.

(16) "Emergency" means that the animal has been placed in a life-threatening condition where immediate treatment is necessary to sustain life.

(17) "Emergency veterinary facility" means any facility with the primary function of receiving, treating, and monitoring emergency patients during its specified hours of operation or that displays to the public any sign, card, or advertisement that indicates it is an emergency veterinary clinic or hospital. An emergency veterinary facility may be an independent after-hours service, an independent twenty-four (24) hour service, or it may be part of a full-service veterinary medical facility.

(18) "Euthanasia task force" means a task force established by the board for the purposes of training, examining, certifying and inspecting certified euthanasia agencies and certified euthanasia technicians.

(19) "Extra label use" means the actual or intended use of a human or veterinary drug in an animal in a manner that is not in accordance with the drug's labeling.

(20) "Floating" means shaping the posterior (cheek) teeth and the incisors (cutting teeth) in horses, mules and donkeys through the use of hand floats, rasps, burs, mechanical files or other file-like instruments to restore balance, allow more efficient mastication, and reduce pain and trauma to the periodontal tissues.

(21) "Herd, litter or flock" of animals means animals managed as a group for purposes including, but not limited to, breeding, sale, show or food production.

(22) "Immediate supervision" means the ~~supervisor~~ supervising veterinarian is in the immediate area, in audible and visual range of the animal patient and the person treating the patient and the animal has been examined by the supervising veterinarian as acceptable veterinary medical practice requires.

(23) "In good standing" means, when used in reference to an applicant for licensure or certification, that an applicant:

(a) Has not been the recipient of any administrative penalties regarding his practice of veterinary medicine including, but not limited to, fines, formal reprimands, license suspensions or revocations (except for license revocations for nonpayment of license renewal fees) or probationary limitations, or has not entered into any consent agreement or negotiated settlement that contains conditions placed by a board on his professional conduct and practice, including any voluntary surrender of a license; and

(b) Has never had his United States drug enforcement administration privileges restricted or revoked; and

(c) Is not currently under investigation by another veterinary licensing authority for acts which would provide a basis for disciplinary action in this state, as determined by the board; and

(d) Has no physical or mental impairment related to drugs, alcohol, or a finding of mental incompetence by a physician that would limit the applicant's ability to undertake the practice of veterinary medicine in a manner consistent with the safety of a patient or the public; and

(e) Has not been convicted of a felony as defined in chapter 1, title 18, Idaho Code; and

(f) Has no criminal conviction record or pending criminal charge relating to an offense the circumstances of which substantially relate to the practice of veterinary medicine. Applicants who have criminal conviction records or pending criminal charges shall require appropriate authorities to provide information about the record or charge directly to the board in sufficient detail to enable the board to make a determination whether the record or charge is substantially related to the practice of veterinary medicine.

(24) "Indirect supervision" means the ~~supervisor~~ supervising veterinarian is not on the premises but is available for immediate contact by telephone, radio or other means, has given either written or oral instructions for treatment of the animal patient, the animal has been examined by the supervising veterinarian as acceptable veterinary medical practice requires, and the animal, if previously anesthetized, has recovered to the point of being conscious and sternal.

(25) "Legend/Prescription drug" means any drug which, under federal law, regulation or rule, is required, prior to being distributed or delivered, to be labeled with one (1) of the following statements: "Caution: Federal law restricts this drug to be used by or on the order of a licensed veterinarian," or "Caution: Federal law prohibits dispensing without a prescription," or "RX Only," or a drug which is required by any applicable state or federal law, rule or regulation to be distributed or dispensed pursuant to a prescription only, or is restricted to use by licensed practitioners only.

(26) "Licensed veterinarian" means a person who is validly and currently licensed to practice veterinary medicine in this state.

(27) "Malpractice" means, but is not limited to:

(a) Treatment in a manner contrary to accepted veterinary practices and with injurious results; or

(b) Any professional misconduct or unreasonable lack of professional skill or fidelity in the performance of the professional practice of veterinary medicine; or

(c) Failure to provide adequate supervision, except in an emergency situation; or

(d) Allowing an unqualified individual to perform a procedure that is part of the practice of veterinary medicine; or

(e) The negligent practice of veterinary medicine, as determined by the standard of practice for the area, that results in injury, unnecessary suffering or death.

(28) "Medical incompetence" means lacking in sufficient medical knowledge or skills or both to a degree likely to endanger the health of patients.

(29) "Mobile clinic" means a vehicle including, but not limited to, a camper, motor home, trailer or mobile home, used as a veterinary medical facility. A mobile clinic is not required for house calls or farm calls.

(30) "On-call emergency service" means a veterinary medical facility that is available to provide emergency veterinary services as requested if a veterinarian is available.

(31) "Owner/Ownership" means ownership as defined by the laws of property and ownership, chapter 1, title 55, Idaho Code, and chapter 1, title 73, Idaho Code.

(32) "Person" means any individual, firm, partnership, association, joint venture, cooperative and corporation, or any other group or combination acting in concert; and whether or not acting as principal, trustee, fiduciary, receiver, or as any other kind of legal or personal representative, or as the successor in interest, assignee, agent, factor, servant, employee, director, officer, or any other representative of such person.

(33) "Physical or mental incompetence" means the veterinarian's ability to practice veterinary medicine with reasonable skill and safety is impaired by reason of illness, excessive use of alcohol, drugs, narcotics, chemicals or any other substance, or as a result of any mental or physical disability.

(34) "Practice of veterinary medicine" in this state, through telephonic, electronic or other means, regardless of the location of the veterinarian, includes veterinary surgery, obstetrics, dentistry, and all other branches or specialties of veterinary medicine and means:

(a) To directly or indirectly diagnose, treat, correct, change, relieve or prevent animal disease, deformity, defect, injury or other physical or mental conditions; including the prescription or administration of any drug, medicine, biologic, apparatus application, anesthetic or other therapeutic or diagnostic substance or technique, or the use of any obstetrical procedure or any manual or mechanical procedure for artificial insemination, for testing or examining for pregnancy, fertility evaluation, embryo transplant, grading of fresh semen, or to render advice or recommendation with regard to any of the above.

(b) To represent, directly or indirectly, publicly or privately, an ability and willingness to do any act described in subsection (34)(a) of this section.

(c) To use any title, words, abbreviations or letter in a manner or under circumstances which induce the belief that the person using them is qualified to do any act described in subsection (34)(a) of this section, except where such person is a licensed veterinarian.

(35) "Professional supervision" means the ~~supervisor~~ supervising veterinarian is in daily contact by telephone, radio or other means with the temporary licensee.

(36) "Referral" means the transfer of responsibility for diagnosis and treatment from the referring veterinarian to the receiving veterinarian, or

from the referring veterinarian to the board-certified specialist, or from the referring veterinarian to an allied health professional.

(37) "Regular employee" means a person who performs services for the animal's owner other than, or in addition to, feeding, boarding, castrating and dehorning, but does not include independent contractors or agents.

(38) "Supervision" means the action or process of a supervising veterinarian in directing activities or a course of action~~, and pertains to any and all employees of the veterinarian~~ for those individuals to whom activities or functions have been assigned or delegated.

(39) "~~Supervisor~~Supervising veterinarian" means ~~an actively~~ a licensed veterinarian ~~employing and~~ utilizing the services of a temporary licensee, certified veterinary technician, veterinary technician, veterinary technician with a temporary certification, veterinary assistant, certified euthanasia technician, or as provided by rule. A ~~supervisor~~ supervising veterinarian shall be individually responsible and liable, regardless of the supervision provided, for all damages arising out of his own acts or omissions ~~or~~ and for the performance of any acts and omissions pertaining to the practice of veterinary medicine that are delegated to the temporary licensee, certified veterinary technician, veterinary technician, veterinary assistant or certified euthanasia technician. Nothing herein shall be construed to deprive the board of its disciplinary authority with respect to the temporary licensees, certified veterinary technicians, veterinary technicians, veterinary assistants or certified euthanasia technicians.

(40) "Unethical or unprofessional conduct" means to knowingly engage in conduct of a character likely to deceive or defraud the public, false or misleading advertising or solicitation, obtaining any fee or compensation by fraud or misrepresentation, sharing office space and working in conjunction with any person illegally practicing veterinary medicine, employing either indirectly or directly an unlicensed or uncertified person to perform acts pertaining to the practice of veterinary medicine, except as provided by law or rule, or the violation of any law or rules adopted by the board pertaining to unethical or unprofessional conduct, or that provide a code of professional conduct to be followed and carried out by persons licensed or certified by the board.

(41) "Unlicensed practice" means:

(a) The practice of veterinary medicine in this state, through telephonic, electronic or other means, regardless of the location of the veterinarian, without a valid, unexpired, unrevoked, and unsuspended active license or certification in this state to do so, except as provided by law or rule; or

(b) Representing one's self through offerings, advertisements or use of professional titles or designations as being qualified to practice veterinary medicine.

(42) "Veterinarian" means a person who has received a doctor's degree in veterinary medicine from an accredited or approved school of veterinary medicine or as otherwise provided by law or rule.

(43) "Veterinarian on call" means a veterinarian is not present at the veterinary medical facility, but is able to respond within a reasonable time to requests for emergency veterinary services.

(44) "Veterinarian on premises" means a veterinarian is present at the veterinary medical facility and is prepared and qualified to render veterinary services.

(45) "Veterinary medical facility" means any premises, office, unit, structure, mobile unit, or area utilized for the practice of veterinary medicine other than the premises of an owner when used for treatment of the owner's animal.

(46) "Veterinary technician" means a person who has graduated from a veterinary technology program accredited or approved by the council on education of the American veterinary medical association, or other accred-

iting agency approved by the board, or a person who has received equivalent training as set forth in the rules of the board.

(47) "Veterinary technology" means the performance of services within the practice of veterinary medicine by a person ~~employed by~~ working under the direction of a ~~licensed~~ supervising veterinarian to perform duties that require an understanding of veterinary medicine in order to carry out the orders of the veterinarian. Veterinary technology does not include prognosis, diagnosis, operative dentistry, deliberate tooth extraction procedures or the prescribing of treatment or performing surgery of any kind.

SECTION 2. That Section 54-2104, 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 practice of the deceased for a period of not more than three (3) years following death. 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 3. That Section 54-2115, Idaho Code, be, and the same is hereby amended to read as follows:

54-2115. GROUNDS FOR DISCIPLINE. The board may refuse to issue, renew or reinstate the license of a veterinarian, or may deny, revoke, suspend, sanction, reprimand, restrict, limit, place on probation or require voluntary surrender of, the license of a veterinarian, and may fine and impose other forms of discipline and enter into consent agreements and negotiated settlements with any licensed veterinarian pursuant to the procedures set forth in chapter 52, title 67, Idaho Code, for any or all of the following reasons:

(1) The employment of fraud, misrepresentation of a material fact or deception by an applicant or licensee in:

(a) Securing or attempting to secure the issuance or renewal of a license; or

(b) Statements regarding the veterinarian's skills or efficacy or value of any treatment provided or to be provided or using any false, fraudulent, misleading or deceptive statement connected with the

practice of veterinary medicine including, but not limited to, false or misleading advertising.

(2) Unethical or unprofessional conduct, as defined by section 54-2103, Idaho Code, the rules of the board, and the code of professional conduct established by the rules of the board.

(3) Being found guilty, convicted, placed on probation, having entered a guilty plea that is accepted by the court, forfeiture of bail, bond or collateral deposited to secure a defendant's appearance, or having received a withheld judgment or suspended sentence by a court of competent jurisdiction in this state or any other state of one (1) or more of the following:

(a) Any felony as defined in chapter 1, title 18, Idaho Code;

(b) Any other criminal act which in any way is related to the practice of veterinary medicine as defined by section 54-2103, Idaho Code; or

(c) Any violation of any federal or state statute, rule or regulation regulating narcotics, dangerous drugs or controlled substances.

(4) Medical incompetence in the practice of veterinary medicine, as defined by section 54-2103, Idaho Code.

(5) Physical or mental incompetence, in the practice of veterinary medicine, as defined in section 54-2103, Idaho Code.

(6) Malpractice or negligence, in the practice of veterinary medicine, as defined in section 54-2103, Idaho Code.

(7) Aiding or abetting an unlicensed or uncertified person to practice veterinary medicine or veterinary technology or employing or holding such unlicensed person out as being able to practice veterinary medicine or veterinary technology.

(8) Fraud, dishonesty, failure to report, or gross negligence in the inspection of animals and animal products intended for human consumption, issuance of health or inspection certificates, in the application, vaccination, treatment or reporting of any test for disease in animals, and in reporting any contagious or infectious disease.

(9) Failure to comply with the veterinary standards of practice, as established by board rule.

(10) Failure to comply with the recordkeeping requirements, as established by the rules of the board.

(11) Cruelty to animals including, but not limited to, the intentional and malicious infliction of pain, physical suffering, injury or death, performance of experimental treatments without the owner's consent, deprivation of necessary sustenance, withholding of appropriate pain medications or levels of pain medications, or the administration of unnecessary procedures and treatment.

(12) Infliction of pain on any animal in self-defense, or to prevent physical harm to others, or in accordance with local custom and culture in moving, handling, treating, dehorning, castrating or performing other procedures on livestock, shall not be considered cruel or physically abusive unless done in an unnecessary or intentionally malicious manner. This provision does not alter section 25-3514, Idaho Code.

(13) Revocation, suspension, disciplinary sanction, other adverse action, or failure to report any such adverse action to the board, including voluntary surrender of a license or certificate by virtue of which one is licensed to practice veterinary medicine in that jurisdiction or country on grounds other than nonpayment of renewal fees.

(14) Falsifying or failing to fulfill the continuing education requirements, as established by the rules of the board.

(15) The use, prescription or sale of any controlled substance, veterinary legend/prescription drug or prescription of an extra-label use for any human or veterinary drug without a valid veterinarian/client/patient relationship.

(16) Charging for services which were not rendered, charging for services that were not documented in the patient's records, or charging for ser-

vices that were not consented to by the owner of the patient or the owner's agent.

(17) Failure to timely furnish details of a patient's medical record to another veterinarian, hospital, clinic, owner or owner's agent.

(18) Failure of any applicant or licensee to cooperate with the board during any investigation, even if such investigation does not personally concern the applicant or licensee.

(19) Failure to comply with the terms of any order, negotiated settlement or probationary agreement of the board or to pay the costs assessed in a disciplinary matter pursuant to section 54-2105, Idaho Code.

(20) Failure to comply with the terms for renewal or to timely pay license, certification or registration renewal fees, as specified by section 54-2112, Idaho Code, and the rules of the board.

(21) Failure of a licensed veterinarian to exercise proper supervision, as defined by the rules of the board, when supervising a temporary licensee or holder of a temporary certification, a certified veterinary technician, a veterinary technician, a veterinary assistant, a certified euthanasia technician or other ~~employee~~ person, except in an emergency situation as defined in section 54-2103, Idaho Code.

(22) Delegation of an act pertaining to the practice of veterinary medicine or veterinary technology to an unqualified ~~employee~~ person, regardless of the supervision provided.

(23) Aiding or abetting or violating any of the provisions of this chapter or any lawful rule or order of the board.

Approved March 25, 2010.

CHAPTER 106
(H.B. No. 469)

AN ACT

RELATING TO THE OCCUPATIONAL THERAPY PRACTICE ACT; AMENDING SECTION 54-3714, IDAHO CODE, TO REVISE BOARD MEMBER COMPENSATION; AMENDING SECTION 54-3719, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE DISPOSITION OF RECEIPTS AND EXPENSES; AND REPEALING SECTION 54-3721, IDAHO CODE, RELATING TO THE OCCUPATIONAL THERAPY LICENSURE FUND.

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

SECTION 1. That Section 54-3714, Idaho Code, be, and the same is hereby amended to read as follows:

54-3714. LICENSURE BOARD. (1) The occupational therapy licensure board of Idaho shall consist of five (5) members appointed by the governor, three (3) of whom shall be appointed from recommendations of licensees submitted by the association, except the first licensure board appointments whose members shall be registered occupational therapists (OTR's) or certified occupational therapy assistants (COTA's) eligible to become licensed under this chapter, all of whom shall be residents of Idaho at the time of their appointment. If recommendations are not made within sixty (60) days of notification and request, the governor may make appointments of any qualified individual. The persons appointed to the licensure board who are required to be licensed under this chapter shall have been engaged in rendering occupational therapy services to the public, teaching, or research in occupational therapy for at least five (5) years immediately preceding their appointments. At least three (3) licensure board members shall be occupational therapists and one (1) of those members may be an occupational therapy assistant. These members shall at all times be holders of valid licenses for the practice of occupational therapy in Idaho, except for the members of the first board, all of whom shall fulfill the requirements for licensure of this chapter. The remaining members shall be members of health

professions or members of the public with an interest in the rights of the consumers of health services.

(2) The governor, within sixty (60) days following the effective date of this chapter, shall appoint two (2) licensure board members for a term of one (1) year; two (2) for a term of two (2) years; and one (1) for a term of three (3) years. Appointments made thereafter shall be for three (3) year terms, but no person shall be appointed to serve more than two (2) consecutive terms. Terms shall begin on the first day of the calendar year and end on the last day of the calendar year or until successors are appointed, except for the first appointed members who shall serve through the last calendar day of the year in which they are appointed, before commencing the terms prescribed in this section.

(3) Within thirty (30) days after the effective date of this chapter, and annually thereafter, the association may submit at least three (3) and not more than five (5) names for each of the five (5) board positions. In the event of a vacancy in one (1) of the positions the association may recommend, as soon as practical, at least two (2) and not more than three (3) persons to fill that vacancy. The governor shall appoint, as soon as practical, one (1) person, who shall fill the unexpired term. If the association does not provide a recommendation, the governor shall appoint a person to the unexpired term. The governor may remove any licensure board member for misconduct, incompetency, or neglect of duty after giving the board member a written statement of the charges and an opportunity to be heard thereon.

(4) The licensure board shall within sixty (60) days after the effective date of this chapter, and annually thereafter, hold a meeting and elect a chairman who shall preside at meetings of the licensure board. In the event the chairman is not present at any licensure board meeting, the licensure board may by majority vote of the members present appoint a temporary chairman. A majority of the members of the licensure board shall constitute a quorum. Other meetings may be convened at the call of the chairman or the written request of any two (2) licensure board members.

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

SECTION 2. That Section 54-3719, Idaho Code, be, and the same is hereby amended to read as follows:

54-3719. DISPOSITION OF RECEIPTS -- EXPENSES. (1) All fees received under the provisions of this chapter shall be paid to the bureau of occupational licenses and deposited in the state treasury to the credit of the occupational ~~therapy licensure fund~~ licenses account and all costs and expenses incurred ~~by the licensure board~~ under the provisions of this chapter shall be a charge against and paid from said fund ~~for such purposes, and the funds collected hereunder shall be immediately available for the administration of this chapter. In no instance shall the occupational therapy licensure fund be obligated to pay any claims which in aggregate with claims already allowed exceed the income to the occupational therapy licensure fund which has been derived from the application of this chapter.~~

~~(2) Money paid into the occupational therapy licensure fund pursuant to this chapter is hereby continuously appropriated to the licensure board for expenditure in the manner prescribed herein to defray the expenses of the licensure board in carrying out and enforcing the provisions of this chapter~~.

SECTION 3. That Section 54-3721, Idaho Code, be, and the same is hereby repealed.

Approved March 25, 2010.

CHAPTER 107
(H.B. No. 470)

AN ACT

RELATING TO THE PRACTICE OF PHYSICAL THERAPY; AMENDING SECTION 54-2212, IDAHO CODE, TO REQUIRE THAT CERTAIN FOREIGN-EDUCATED PHYSICAL THERAPISTS PROVIDE PROOF OF PASSING SCORES ON STANDARDIZED ENGLISH PROFICIENCY EXAMINATIONS AS A QUALIFICATION FOR LICENSURE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 54-2212, Idaho Code, be, and the same is hereby amended to read as follows:

54-2212. QUALIFICATIONS FOR LICENSURE OF FOREIGN-EDUCATED PHYSICAL THERAPISTS. (1) An applicant for licensure as a physical therapist or physical therapist assistant who has been educated outside of the United States shall:

(a) Be of good moral character; ~~and~~

(b) Submit a completed written application to the board on forms furnished by the board which shall require proof of graduation from a school for physical therapists or physical therapist assistants with a curriculum acceptable to the board; ~~and~~

(c) Have his or her education credentials evaluated by a board approved credential evaluation agency and provide satisfactory evidence that his or her education is substantially equivalent to the requirements of physical therapists or physical therapist assistants educated in accredited educational programs as determined by the board. If the board determines that a foreign-educated applicant's education is not substantially equivalent, it may require successful completion of additional coursework before proceeding with the application process;

(d) Provide written proof that the school of physical therapy education is recognized by its own ministry of education and that such education would qualify the person for a license to practice physical therapy without limitation in that country;

(e) If the applicant has actually practiced as a physical therapist or physical therapist assistant abroad, the applicant shall provide written proof of authorization to practice as a physical therapist without limitation in the country where the professional education occurred;

(f) Provide proof of legal authorization to reside and seek employment in the United States or its territories;

(g) <u>Provide proof of passing scores on standardized English proficiency examinations as approved by the board if English is not the applicant's native language; and</u>

<u>(h)</u> Have successfully passed ~~an~~ <u>competency</u> examination<u>s</u> authorized by the board.

(2) Notwithstanding the provisions of this section, if the foreign-educated physical therapist or physical therapist assistant applicant is a graduate of a professional physical therapy education program accredited by an agency approved by the board, requirements in subsections (1)(c) and (1)(d) of this section shall be waived.

Approved March 25, 2010.

CHAPTER 108
(H.B. No. 471)

AN ACT

RELATING TO INCOME TAX; AMENDING SECTION 63-3026A, IDAHO CODE, TO PROVIDE FOR CONSTITUTING CERTAIN INCOME DISTRIBUTED TO BENEFICIARIES OF AN ESTATE OR TRUST AS IDAHO SOURCE INCOME; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

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

63-3026A. COMPUTING IDAHO TAXABLE INCOME OF PART-YEAR OR NONRESIDENT INDIVIDUALS, TRUSTS AND ESTATES. (1) For nonresident individuals, trusts, or estates the term "Idaho taxable income" includes only those components of Idaho taxable income as computed for a resident which are derived from or related to sources within Idaho. This is to be computed without the deductions for either the standard deduction or itemized deductions or personal exemptions except as provided in subsection (4) of this section.

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

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

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

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

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

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

(iv) A resident estate or trust; <u>provided however, that income distributed to beneficiaries of an estate or trust shall constitute income from sources within this state only to the extent the income would be Idaho source income if such income had been received directly by a nonresident individual;</u>

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

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

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

(b) Notwithstanding the provisions of subsection (3)(a) of this section, transactions and investments made, placed or directed by Idaho resident registered broker-dealers and investment advisers or institutions exempt from registration under the Idaho securities act in securities listed with or through the New York Stock Exchange, the American Stock Exchange or any other stock exchange registered with the United States securities and exchange commission and approved by the director of the department of finance which generate dividends, interest, capital gains or similar profits or returns for nonresidents not otherwise subject to Idaho income taxation shall not result in the intangible property being deemed to have a situs outside the domicile of the owner.

(c) Nonresident individuals shall not be taxable on investment income from a qualified investment partnership. For purposes of this paragraph, a "qualified investment partnership" means a partnership, as defined in section 63-3006B, Idaho Code, that derives at least ninety percent (90%) of its gross income from investments that produce income that would not be taxable to a nonresident individual if the investment were held by that individual.

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

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

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

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

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

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

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

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

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

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

(iv) Income earned within the original exterior boundaries of any federally created Indian reservation by an enrolled Indian in a

federally recognized Indian tribe on a federally recognized Indian reservation shall be added if not otherwise included.

(5) An adjustment may be made to eliminate distortions in the amount of net income attributable to a taxpayer's activities within the state of Idaho. Such deductions shall be limited to circumstances involving itemized deductions as referred to in subsection (4) of this section and which reflect:

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

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

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

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

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

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

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2010, and shall apply to all proceedings pending before the State Tax Commission, Board of Tax Appeals or the courts of this state on the effective date of this act.

Approved March 25, 2010.

CHAPTER 109
(H.B. No. 474)

AN ACT

RELATING TO PLUMBING SYSTEMS; AMENDING SECTION 54-2604, IDAHO CODE, TO REVISE A DEFINITION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 54-2604, Idaho Code, be, and the same is hereby amended to read as follows:

54-2604. PLUMBING SYSTEMS. (1) A plumbing system, public or private, means and includes:

(a) ~~p~~Plumbing fixtures, interconnecting system pipes and traps;

(b) ~~s~~Soil, waste and vent pipes;

(c) ~~b~~Building drains and building sewers;

(d) ~~s~~Sanitary and storm water drainage facilities;

(e) ~~l~~Liquid waste and sewerage facilities;

(f) ~~w~~Water supply systems and distribution and disposal pipes of any premises;

(g) ~~w~~Water treating and water using equipment attached to a plumbing system except for water conditioning equipment; ~~and~~

(h) ~~a~~All the respective connections, devices and appurtenances of any plumbing system, public or private, within or adjacent to any building, residence, manufactured housing, or structure to and including a connection with any point of a public or private supply, distribution or disposal system or other acceptable terminal; and

(i) Water heaters and all associated venting dedicated exclusively thereto.

(2) As used in this section, "water conditioning equipment" shall mean those devices necessary to remove impurities and sediment from water.

(3) A plumbing system does not include a single service integrated fire sprinkler system as defined in section 41-254, Idaho Code.

(4) It shall be unlawful for any person, firm, copartnership, association or corporation to do, or cause to be done, whether acting as a principal, agent, or employee, any construction, installation, improvement, extension or alteration of any plumbing system or water conditioning equipment in any residence, building, or structure, or service lines thereto, in the state of Idaho, without complying with the bonding provisions as provided by section 54-2602, Idaho Code.

Approved March 25, 2010.

CHAPTER 110
(H.B. No. 476)

AN ACT

RELATING TO THE PLUMBING BOARD FUND; AMENDING SECTION 54-2630, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE PAYMENT OF CERTAIN MONEYS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 54-2630, Idaho Code, be, and the same is hereby amended to read as follows:

54-2630. PLUMBING BOARD FUND CREATED. All money received by the board or the division of building safety, under the terms and provisions of this ~~act~~ chapter, shall be paid into the state treasury ~~monthly~~ as directed by the provisions of section 59-1014, Idaho Code, and shall be, by the state treasurer, placed to the credit of the Idaho plumbing board fund, which is hereby created as a dedicated fund. All such moneys, hereafter placed in said fund, are hereby set aside and perpetually appropriated to the division of building safety to carry into effect the provisions of this ~~act~~ chapter.

Approved March 25, 2010.

CHAPTER 111
(H.B. No. 478)

AN ACT

RELATING TO ENGINEERS AND SURVEYORS; AMENDING SECTION 54-1212, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 54-1213, IDAHO CODE, TO REMOVE PROVISIONS REQUIRING AN APPLICANT FOR CERTIFICATION AS AN ENGINEER INTERN OR LAND SURVEYOR INTERN TO PROVIDE CERTAIN REFERENCES, TO REMOVE PROVISIONS RELATING TO FEES FOR LICENSURE BY EXAMINATION AND TO

MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-1214, IDAHO CODE, TO REVISE REQUIREMENTS RELATING TO WRITTEN EXAMINATIONS; AMENDING SECTION 54-1216, IDAHO CODE, TO REVISE RENEWAL REQUIREMENTS AND EXPIRATION DAYS FOR CERTIFICATES OF AUTHORIZATION ISSUED TO BUSINESS ENTITIES; AMENDING SECTION 54-1220, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY RELATING TO ADMINISTRATIVE PROCEEDINGS; AND AMENDING SECTION 54-1223, IDAHO CODE, TO PROVIDE FOR THE DUTY OF RESPONSIBLE CHARGE OF A PROJECT WHEN A LICENSEE IS NOT AVAILABLE TO SEAL, SIGN AND DATE FINAL DOCUMENTS.

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

SECTION 1. That Section 54-1212, Idaho Code, be, and the same is hereby amended to read as follows:

54-1212. GENERAL REQUIREMENTS FOR EXAMINATION AND LICENSE. Except as herein otherwise expressly provided, no license as a professional engineer or professional land surveyor, or certification as an engineer intern or land surveyor intern, shall be issued until an applicant has successfully passed an examination given by or under the supervision of the board, nor shall a license as a professional engineer or professional land surveyor, or certification as an engineer intern or land surveyor intern, be issued to an applicant having habits or character that would justify revocation or suspension of his license or certificate, as provided in section 54-1220, Idaho Code. The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for assignment to an examination:

(1) As a professional engineer:

(a) Graduation from an approved engineering ~~curriculum~~ program of four (4) years or more in a school or college approved by the board as being of satisfactory standing, passage of an examination on the fundamentals of engineering acceptable to the board, and a specific record, after graduation, of an additional four (4) years or more of progressive experience in engineering work of a grade and character satisfactory to the board, and indicating that the applicant is competent to practice professional engineering; or

(b) Graduation with a bachelor's degree in a related science from a school or college approved by the board, and evidence satisfactory to the board that the applicant possesses knowledge and skill approximating that attained through graduation from an approved four (4) year engineering ~~curriculum~~ program, passage of an examination on the fundamentals of engineering acceptable to the board, and a specific record, after graduation, of four (4) years or more of progressive experience in engineering work of a grade and character satisfactory to the board and indicating that the applicant is competent to practice professional engineering.

(2) As a professional land surveyor:

(a) Graduation from an approved surveying ~~curriculum~~ program of four (4) years or more in a school or college approved by the board as being of satisfactory standing, passage of an examination on the fundamentals of surveying acceptable to the board, and a specific record of an additional four (4) years or more of progressive combined office and field experience in land surveying work of a grade and character satisfactory to the board and indicating that the applicant is competent to practice professional land surveying; or

(b) Graduation with a bachelor's degree in a related science from a school or college approved by the board as being of satisfactory standing, and evidence satisfactory to the board that the applicant possesses knowledge and skill approximating that attained through graduation from an approved four (4) year surveying ~~curriculum~~ program, passage of an examination on the fundamentals of surveying acceptable

to the board, and a specific record of an additional four (4) years or more of progressive combined office and field experience in land surveying work of a grade and character satisfactory to the board and indicating that the applicant is competent to practice land surveying.

(3) As an engineer intern:

(a) Graduation from or in the last two (2) semesters of an approved engineering ~~curriculum~~ program of four (4) years or more in a school or college approved by the board as being of satisfactory standing and indicating that the applicant is competent to enroll as an engineer intern; or

(b) Graduation with a bachelor's degree in a related science from a school or college approved by the board, and evidence satisfactory to the board that the applicant possesses knowledge and skill approximating that attained through graduation from an approved four (4) year engineering ~~curriculum~~ program, and indicating that the applicant is competent to be enrolled as an engineer intern.

(c) In the event the applicant qualifies for assignment to the examination during the last two (2) semesters of college under the provisions of section 54-1212(3)(a), Idaho Code, and a passing grade is attained, a certificate will be issued only after the applicant graduates.

(4) As a land surveyor intern:

(a) Graduation from, or in the last two (2) semesters of, an approved surveying ~~curriculum~~ program of four (4) years or more in a school or college approved by the board as being of satisfactory standing and indicating that the applicant is competent to be enrolled as a land surveyor intern; or

(b) Graduation with a bachelor's degree in a related science from a school or college approved by the board, evidence satisfactory to the board that the applicant possesses knowledge and skill approximating that attained through graduation from an approved four (4) year surveying ~~curriculum~~ program, and indicating that the applicant is competent to be enrolled as a land surveyor intern.

(c) In the event the applicant qualifies for assignment to the examination during the last two (2) semesters of college under the provisions of subsection (4)(a) of this section, and attains a passing grade, a certificate shall be issued only after the applicant graduates.

In counting years of experience for assignment to the professional engineer or professional land surveyor examination, the board may, at its discretion, give credit, not in excess of one (1) year, for satisfactory graduate study toward a master's degree and not in excess of an additional one (1) year for satisfactory graduate study toward a doctorate degree. In the event an applicant obtains a doctorate degree without first obtaining a master's degree, the board may, at its discretion, give credit, not in excess of two (2) years.

In considering the combined education and experience qualifications of applicants, the board shall consider engineering teaching, land surveying teaching, each year of satisfactory completion of undergraduate college education, advanced degrees in engineering and advanced degrees in land surveying in establishing the applicants' minimum composite knowledge and skill.

The mere execution, as a contractor, of work designed by a professional engineer, or the supervision of the construction of such work as a foreman or superintendent, shall not be deemed to be the practice of engineering, but if such experience, in the opinion of the board, has involved responsible supervision of a character that will tend to expand the engineering knowledge and skill of the applicant the board may in its discretion give such credit therefor as it may deem proper.

Any person having the necessary qualifications prescribed in this chapter to entitle him to assignment to an examination for licensure or certifi-

cation shall be eligible for such assignment although he may not be practicing his profession at the time of making his application.

SECTION 2. That Section 54-1213, Idaho Code, be, and the same is hereby amended to read as follows:

54-1213. APPLICATIONS AND FEES. Applications for licensure as a professional engineer or professional land surveyor, or certification as an engineer intern or land surveyor intern, shall be on forms prescribed and furnished by the board. The application shall be made under oath, and shall show the applicant's education and a detailed summary of his engineering or land surveying experience. An applicant for licensure as a professional engineer or professional land surveyor shall furnish not less than five (5) references, of whom three (3) or more should be professional engineers or professional land surveyors, as applicable, having personal knowledge of the applicant's engineering or land surveying experience. ~~An applicant for certification as an engineer intern or land surveyor intern shall furnish not less than three (3) references of whom at least one (1) should be a professional engineer or professional land surveyor, as applicable, having personal knowledge of the applicant's engineering or land surveying experience.~~ Applications for certificates of authorization shall be made in accordance with section 54-1235, Idaho Code.

The maximum application fee for professional engineers or professional land surveyors seeking to be licensed by ~~an eight (8) hour or longer~~ examination shall not exceed one hundred dollars ($100). The application fee shall accompany the application. The examination fee, which shall be separate from the application fee, shall be paid by the applicant directly to the entity designated by the board.

The maximum application fee for an applicant who seeks a certificate as an engineer intern or land surveyor intern shall not exceed fifty dollars ($50.00). The application fee shall accompany the application. The examination fee, which shall be separate from the application fee, shall be paid by the applicant directly to the entity designated by the board.

The maximum application fee for business entities seeking a certificate of authorization shall be two hundred dollars ($200). The application fee shall accompany the application.

The amount of the license fee or certificate fee shall be fixed by the board prior to June 30~~th~~ of any year and shall continue in force until changed.

Should the board deny the issuance of a certificate or license to any applicant, the application fee paid shall be retained as a processing fee.

SECTION 3. That Section 54-1214, Idaho Code, be, and the same is hereby amended to read as follows:

54-1214. EXAMINATIONS. (1) Examinations will be held at such times and places as the board directs. The board shall determine the acceptable grade on examinations.

(2) Written examinations ~~will be given in two (2) sections and~~ may be taken only after the applicant has met the other minimum requirements as given in section 54-1212, Idaho Code, and has been approved by the board for admission to the examinations as follows:

(a) Fundamentals of Engineering -- The examination consists of ~~an eight (8) hour~~ a test on the fundamentals of engineering acceptable to the board. Passing this examination qualifies the examinee for an engineer intern certificate, provided he has met all other requirements of certification required by this chapter.

(b) Principles and Practice of Engineering -- The examination consists of a ~~minimum of an eight (8) hour~~ test on applied engineering accept-

able to the board. Passing this examination qualifies the examinee for licensure as a professional engineer, provided he has met the other requirements for licensure required by this chapter.

(c) Fundamentals of Surveying -- The examination consists of ~~an eight (8) hour~~ a test on the fundamentals of surveying acceptable to the board. Passing this examination qualifies the examinee for a land surveyor intern certificate, provided he has met all other requirements for certification required by this chapter.

(d) Principles and Practice of Surveying -- The examination consists of a ~~minimum of an eight (8) hour~~ test on applied surveying acceptable to the board. Passing this examination qualifies the examinee for licensure as a professional land surveyor, provided he has met the other requirements for licensure required by this chapter.

(3) A candidate failing all or part of an examination for the first time may apply for reexamination, which may be granted upon payment of an application fee equal to the application fee for the required examination plus a separate examination fee paid by the applicant directly to the entity designated by the board. In the event of a second failure, the examinee shall be required to obtain a minimum of one (1) additional year of experience, acceptable to the board, from the date of the second examination failure, and submit evidence of having completed an additional eight (8) semester credits of college level academic education relating to the examination, before the board will consider that he has acquired the necessary additional knowledge to warrant assignment to a third examination. The separate application and examination fees shall be as set forth herein. In the event of a third or subsequent failure, the examinee shall be required to obtain a minimum of three (3) additional years of experience, acceptable to the board, from the date of the third or subsequent examination failure, and submit evidence of having completed an additional twelve (12) semester credits of college level academic education relating to the examination, before the board will consider that he has acquired the necessary additional knowledge to warrant assignment to a subsequent examination. The separate application and examination fees shall be as set forth herein.

(4) The board may prepare and adopt specifications for the written examinations in engineering and land surveying.

SECTION 4. That Section 54-1216, Idaho Code, be, and the same is hereby amended to read as follows:

54-1216. EXPIRATIONS AND RENEWALS -- FEES. Following issuance or renewal of licenses for professional engineers and professional land surveyors, expiration shall be on the last day of the month during which the licensee was born, in even-numbered state of Idaho fiscal years for those born in even-numbered calendar years and in odd-numbered state of Idaho fiscal years for those born in odd-numbered calendar years, and shall become invalid on that date unless renewed. On or after July 1, 2010, the executive director of the board shall send renewal notices to business entities that have been issued a certificate of authorization. The renewal fee amount shall be for a period of one (1) year plus a prorated annual renewal fee amount for the number of months from and including August to and including the month in which the certificate of authorization was originally issued. Thereafter, c~~C~~ertificates of authorization for business entities shall expire on the last day of the month ~~of July following issuance or renewal~~ in which the certificates were initially issued and shall become invalid on that date unless renewed. It shall be the duty of the board to notify every person licensed and every business entity certified under this chapter, of the date of the expiration of said license or certificate of authorization and the amount of the fee that shall be required for its renewal. Such notice shall be mailed to the last known address of the licensee or business

entity at least one (1) month in advance of the date of the expiration of said license or certificate of authorization. Renewal shall be effective at any time in the appropriate year during the month in which the licensee was born or during the month ~~of July~~ in which the certificates were initially issued in the case of business entities, by the payment of a renewal fee to be fixed by the board at not more than one hundred fifty dollars ($150). The failure on the part of any licensee or certificate holder to renew his or its license or certificate biennially in the month in which they were born or in the month ~~of July~~ in which the certificates were initially issued in the case of business entities, as required above shall not deprive such person or business entity of the right of renewal, but the fee to be paid for the renewal of a license or certificate after the month in which it is due 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 renewal cycle delinquent, but in no event more than three hundred dollars ($300). Any work performed after a license or certificate of authorization has expired, but before delayed renewal has been effected, shall become valid upon delayed renewal as if the license or certificate of authorization had not expired, but the licensee or certificate holder may be subject to disciplinary action by the board for practice on an expired license or such other action as provided pursuant to this chapter.

Following issuance or renewal of certificates for engineer interns and land surveyor interns, expiration shall be on the last day of the month during which the certificate holder was born, in even-numbered state of Idaho fiscal years for those born in even-numbered calendar years and in odd-numbered state of Idaho fiscal years for those born in odd-numbered calendar years. The notification to holders of certificates shall be processed as prescribed above for licensees except that the biennial renewal fee shall not be more than thirty dollars ($30.00). The failure on the part of any holder of a certificate to effect renewal shall not invalidate his status as an engineer intern or land surveyor intern, but his name shall be removed from the board's mailing list.

SECTION 5. That Section 54-1220, Idaho Code, be, and the same is hereby amended to read as follows:

54-1220. DISCIPLINARY ACTION -- PROCEDURES. (1) Any affected party may prefer charges of fraud, deceit, gross negligence, incompetence, misconduct or violation of any provision of this chapter, or violation of any of the rules promulgated by the board against any individual licensee or certificate holder or against any business entity holding a certificate of authorization or against a person applying for a license or against a business entity applying for a certificate of authorization. Repeated acts of negligence may be considered as a gross act for disciplinary action. Such charges shall be in writing, and shall be sworn to by the person or persons making them and shall be filed with the executive director of the board. The executive director of the board shall be considered an affected party and may be the person making and filing the charges.

(2) All charges, unless dismissed by the board as unfounded or trivial, or unless settled informally, shall be heard by the board within six (6) months after the date they were received at the board office unless such time is extended by the board for justifiable cause.

(3) ~~Hearing~~ Administrative proceedings shall be governed by the provisions of chapter 52, title 67, Idaho Code.

(4) If, after ~~such~~ an administrative hearing, the board votes in favor of sustaining the charges, the board may, in its discretion, impose an administrative penalty, not to exceed five thousand dollars ($5,000) for deposit in the general fund of the state of Idaho. In addition, the board, in

its discretion, may admonish, reprimand, suspend, revoke, refuse to renew, refuse to grant, or any combination thereof, the individual's license or certificate or a business entity's certificate of authorization. The board may also, in its discretion, require the individual to practice under the supervision of another licensee, or require the individual to successfully complete continuing education courses as may be prescribed by the board.

(5) The board shall have jurisdiction over licensees whose licenses are not current provided the action relates to services performed when the license was current and valid.

SECTION 6. That Section 54-1223, Idaho Code, be, and the same is hereby amended to read as follows:

54-1223. SAVING CLAUSE -- EXEMPTIONS. (1) This chapter shall not be construed to affect:

(a) The practice of any other profession or trade for which a license is required under any law of this state or the United States.

(b) The work of an employee or a subordinate of a person holding a license under this chapter, provided such work does not include final engineering design or land surveying decisions and is done under the direct responsibility, checking, and supervision of, and verified by, a person holding a license under this chapter.

(c) Any individual teaching upper division engineering subjects that are classified as engineering design for any college or university in this state as of July 1, 1988, and any such individual employed after July 1, 1988, for a period of five (5) years from the date of employment with any college or university in this state.

(d) An individual doing surveying work for himself, or through a business entity, on property owned or leased by the individual or business entity, or in which the individual or business entity has an interest, estate or possessory right and which affects exclusively the property or interests of the individual or business entity; provided, that all land surveying maps, plats or plans filed with any county recorder's office in the state of Idaho for the purpose of illustrating or defining boundaries of property ownership, shall be made by a licensed professional land surveyor as provided in this chapter.

(e) An individual doing survey work for himself, or through a business entity with respect to the location, amendment, or relocation of a mining claim.

(f) The practice of engineering by employees of a business entity as long as the services provided by them are for internal business entity use only.

(2) The board, at its discretion, may exempt an exceptional individual who has twelve (12) or more years of appropriate experience in engineering from the requirement for satisfactory completion of an examination in the fundamentals of engineering.

(3) An applicant for licensure as a professional engineer either by examination or by comity who has earned a bachelor degree in engineering from an approved engineering program and has, in addition, earned a doctorate degree in engineering from a college or university which offers an approved undergraduate program in the same discipline as the doctorate degree earned, shall be exempt from the requirement for satisfactory completion of an examination in the fundamentals of engineering. Honorary doctorate degrees are not considered earned degrees for purposes of this subsection.

(4) In addition to, and notwithstanding other provisions of this chapter, in circumstances of emergency creating conditions of imminent and substantial danger to the public health, safety or environment through the provision of engineering services, the prosecuting attorney or the attorney

general may institute a civil action for an immediate injunction to halt the provision of engineering services.

(5) A professional engineer licensed in Idaho may review the work of a professional engineer who is licensed in another jurisdiction of the United States or a foreign country on a project that is a site adaptation of a standard design plan to determine that the standard design plan meets the standard of care and is applicable to the intended circumstance, with or without modification. The Idaho professional engineer shall demonstrate responsible charge, as defined in this chapter, by performing professional services related to his assignment including developing or obtaining a complete design record with design criteria and calculations, performing necessary code research and developing any necessary and appropriate changes to the standard design plan necessary to properly apply the standard design to the intended circumstance. The nonprofessional services, such as drafting, need not be redone by the Idaho professional engineer, but must clearly and accurately reflect the Idaho professional engineer's work. The burden is on the Idaho professional engineer to show such compliance. The Idaho professional engineer shall have control of and responsibility for the entire work product, shall seal, sign and date it as required in this chapter, and shall be in possession of all original documents or certified copies of documents related to the professional engineer's work for the project.

(6) In the event a licensee in responsible charge of a project leaves employment, is transferred, is promoted, becomes incapacitated, dies or is otherwise not available to seal, sign and date final documents, the duty of responsible charge of the project shall be accomplished by the successor licensee by becoming familiar with and reviewing, in detail, and retaining the project documents to date. Subsequent work on the project must clearly and accurately reflect the successor licensee's responsible charge. The successor licensee shall seal, sign and date all work product in conformance with section 54-1215, Idaho Code.

Approved March 25, 2010.

CHAPTER 112
(H.B. No. 480, As Amended)

AN ACT

RELATING TO PHARMACISTS; AMENDING SECTION 54-1733, IDAHO CODE, TO PROVIDE REQUIREMENTS FOR REQUESTING A REFILL OF AN EXISTING PRESCRIPTION DRUG ORDER BY FACSIMILE TRANSMITTAL AND TO PROVIDE CORRECT TERMINOLOGY.

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

SECTION 1. That Section 54-1733, Idaho Code, be, and the same is hereby amended to read as follows:

54-1733. VALIDITY OF PRESCRIPTION DRUG ORDERS. (1) A prescription ~~or~~ drug order for a legend drug is not valid unless it is issued for a legitimate medical purpose arising from a prescriber-patient relationship which includes a documented patient evaluation adequate to establish diagnoses and identify underlying conditions and/or contraindications to the treatment. Treatment, including issuing a prescription ~~or~~ drug order, based solely on an online questionnaire or consultation outside of an ongoing clinical relationship does not constitute a legitimate medical purpose. A prescription ~~or~~ drug order may be issued either:

(a) By a practitioner acting in the usual course of his profession; or

(b) By a physician, dentist, veterinarian, scientific investigator or other person, other than a pharmacist, who is licensed in a jurisdiction other than the state of Idaho and is permitted by such license to dispense, conduct research with respect to or administer the prescribed legend drugs in the course of his professional practice or research in such jurisdiction, so long as the individual is acting within the jurisdiction, scope and authority of his license when issuing the prescription ~~or~~ drug order.

(c) The prescription drug order may be signed and sent electronically pursuant to chapter 50, title 28, Idaho Code.

(d) Transmission of prescription drug order. In addition to delivery of the original signed written prescription drug order to a licensed pharmacy:

(i) A prescription drug order that has been signed by the practitioner may be received by a licensed pharmacy for dispensing purposes through a facsimile transmission from the prescribing practitioner or the practitioner's agent, or from a health care facility for a patient or resident in such facility;

(ii) A prescription drug order may also be received by a licensed pharmacist verbally from the practitioner, the practitioner's agent or from a licensed practical nurse or licensed professional nurse in a health care facility for a patient or resident in such facility;

(iii) A prescription drug order received verbally from the practitioner by a licensed practical nurse or licensed professional nurse in a licensed health care facility for a patient or resident in such facility may also be sent by facsimile transmission from the health care facility to a licensed pharmacy for dispensing purposes provided the transmitted document includes the name of the prescriber issuing the prescription drug order, the name of the nurse who transcribed the order and the name of the person who sent the facsimile.

(e) In the event that there are no refills remaining on an existing prescription drug order, and the pharmacist requests a new prescription drug order from the practitioner, the practitioner's agent, after obtaining practitioner authorization, may sign and return the request via facsimile so long as:

(i) The request is generated from the pharmacy;

(ii) The request is for medication that the patient is currently taking;

(iii) There are no changes to the type of drug, its strength or directions for the continuation of therapy;

(iv) The practitioner's agent's transmission is received via facsimile from the practitioner's office; and

(v) The request, which is subsequently transmitted back to the requesting pharmacy by the practitioner's agent, contains all components of a valid prescription drug order.

(2) It is unlawful for a practitioner to knowingly issue an invalid prescription ~~or~~ drug order for a legend drug.

(3) It is unlawful for a pharmacist or veterinarian to knowingly fill an invalid prescription ~~or~~ drug order for a legend drug.

Approved March 25, 2010.

CHAPTER 113
(H.B. No. 482)

AN ACT

RELATING TO PHARMACISTS; AMENDING SECTION 54-1732, IDAHO CODE, TO ALLOW CERTAIN PERSONS TO DELIVER A LAWFULLY OBTAINED LEGEND DRUG TO AN AUTHORIZED PERSON FOR PURPOSES OF DISPOSAL, TO MAKE TECHNICAL CORRECTIONS AND TO PROVIDE CORRECT TERMINOLOGY.

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

SECTION 1. That Section 54-1732, Idaho Code, be, and the same is hereby amended to read as follows:

54-1732. VIOLATIONS AND PENALTIES. (1) No drug outlet designated in section 54-1729, Idaho Code, shall be operated until a certificate of registration has been issued to said facility by the board. Upon the finding of a violation of this subsection, the board may impose one (1) or more of the penalties enumerated in section 54-1728, Idaho Code.

(2) Reinstatement of a certificate that has been suspended, revoked or restricted by the board may be granted in accordance with the procedures specified in section 54-1728(2), Idaho Code.

(3) The following acts, or the failure to act, and the causing of any such act or failure are unlawful;

(a) The sale, delivery or administration of any prescription drug or legend drug unless:

~~1.~~(i) Such legend drug is dispensed or delivered by a pharmacist upon an original prescription, drug order or prescription drug order by a practitioner in good faith in the course of his practice. Any person violating the provisions of this ~~subsection~~ subparagraph shall be guilty of a felony, and on conviction thereof shall be imprisoned in the state penitentiary for a term not to exceed three (3) years, or punished by a fine of not more than five thousand dollars ($5,000) or by both such fine and imprisonment.

~~2.~~(ii) There is affixed, in the case of a legend drug dispensed or delivered by a pharmacist, to the immediate container in which such drug is delivered a label bearing the name, address, and phone number of the establishment from which such drug was dispensed; the date on which the prescription for such drug was filled; the number of such prescription as filed in the prescription files of the pharmacist who filled the prescription; the name of the practitioner who prescribed such drug; the name of the patient, and if such drugs were prescribed for an animal, a statement of the species of the animal; and the directions for the use of the drug as contained in the prescription; or in the case of a legend drug delivered or administered by a practitioner in the course of his practice, the immediate container in which such drug is delivered bears a label on which appears the directions for use of such drug; the name and address of such practitioner; the name of the patient; and if such drug is prescribed for an animal, a statement of the species of the animal. Any person violating this ~~subsection~~ subparagraph shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars ($500). Nothing in this subparagraph prohibits a practitioner from delivering professional samples of legend drugs in their original containers in the course of his practice when oral directions for use are given at the time of such delivery.

(b) The refilling of any prescription or drug order for a legend drug except as designated on the prescription or drug order, or by the authorization of the practitioner. Any person guilty of violating this ~~section~~ paragraph shall be guilty of a misdemeanor and upon conviction thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or punished by a fine of not more than one thousand dollars ($1,000) or by both such fine and incarceration.

(c) The possession or use of a legend drug or a precursor by any person unless such person obtains such drug on the prescription or drug order of a practitioner. Any person guilty of violating this ~~section~~ paragraph shall be guilty of a misdemeanor and upon conviction thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or punished by a fine of not more than one thousand dollars ($1,000) or by both such fine and incarceration.

(d) The failure to keep records as required by the board. Any person guilty of violating this ~~section~~ paragraph shall be guilty of a misdemeanor and upon conviction thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or punished by a fine of not more than one thousand dollars ($1,000) or by both such fine and incarceration.

(e) The refusal to make available and to accord full opportunity to check any record, as required by the board. Any person guilty of violating this ~~section~~ paragraph shall be guilty of a misdemeanor and upon conviction thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or punished by a fine of not more than one thousand dollars ($1,000) or by both such fine and incarceration.

(f) It is unlawful to:

~~1.~~(i) Obtain or attempt to obtain a legend drug or procure or attempt to procure the administration of a legend drug by fraud, deceit, misrepresentation or subterfuge; by the forgery or alteration of a prescription, drug order, or of any written order; by the concealment of a material fact; or by the use of a false name or the giving of a false address.

~~2.~~(ii) Communicate information to a physician in an effort unlawfully to procure a legend drug, or unlawfully to procure the administration of any such drug. Any such communication shall not be deemed a privileged communication.

~~3.~~(iii) Intentionally make a false statement in any prescription, drug order, order, report or record required by this chapter.

~~4.~~(iv) For the purpose of obtaining a legend drug to falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist, physician, dentist, veterinarian or other person.

~~5.~~(v) Make or utter any false or forged prescription or false drug order or forged written order.

~~6.~~(vi) Affix any false or forged label to a package or receptacle containing legend drugs. This subparagraph does not apply to law enforcement agencies or their representatives while engaged in enforcing state and federal drug laws.

~~7.~~(vii) ~~To w~~Wholesale or retail any prescription or legend drug to any person in this state not entitled by law to deliver such drug to another.

(4) Provided~~,~~ however, that a veterinarian may dispense or deliver a legend drug prescribed for an animal upon the prescription, drug order, or prescription drug order of another veterinarian. The label shall comply with the provisions of subsection (3)(a)~~2.~~(ii) of this section, and penalties for violations of the provisions of this subsection shall be as provided in this section for like violations by a pharmacist.

(5) The ultimate user of a legend drug who has lawfully obtained such legend drug may deliver, without being registered, the legend drug to another person for the purpose of disposal of the legend drug if the person receiving the legend drug for purposes of disposal is authorized under a state or federal law or regulation to engage in such activity.

Every violation of ~~subsections 1, 2, 3, 4, 5 and 6 of~~ subsection (3)(f)(i) through (vi) of this section shall be a misdemeanor and any person convicted thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or fined not more than one thousand dollars ($1,000), or punished by both such fine and imprisonment. Any person violating subsection ~~7 of subsection~~ (3)(f)(vii) of this section is guilty of a felony, and on conviction thereof shall be imprisoned in the state penitentiary for a term not to exceed three (3) years, or punished by a fine of not more than five thousand dollars ($5,000), or by both such fine and imprisonment.

Approved March 25, 2010.

CHAPTER 114
(H.B. No. 510)

AN ACT

RELATING TO THE EMPLOYMENT SECURITY LAW; AMENDING CHAPTER 13, TITLE 72, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 72-1318A, IDAHO CODE, TO DEFINE "DECISION"; AMENDING CHAPTER 13, TITLE 72, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 72-1318B, IDAHO CODE, TO DEFINE "DETERMINATION," "REVISED DETERMINATION," "REDETERMINATION" OR "SPECIAL REDETERMINATION"; AMENDING SECTION 72-1346, IDAHO CODE, TO ALLOW THE DIRECTOR TO DETERMINE THE METHOD OF PAYING BENEFITS AND REFUNDS; AMENDING SECTION 72-1349, IDAHO CODE, TO PROVIDE LIMITATIONS OF ACTIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 72-1368, IDAHO CODE, TO REVISE APPELLATE PROCEDURE; AMENDING SECTION 72-1369, IDAHO CODE, TO ALLOW THE DIRECTOR OF THE DEPARTMENT OF LABOR TO COMPROMISE OVERPAYMENTS, PENALTIES, INTEREST AND DISQUALIFICATION PERIODS; AND DECLARING AN EMERGENCY.

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

SECTION 1. 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 72-1318A, Idaho Code, and to read as follows:

72-1318A. DECISION. "Decision" means any written ruling made by the department's appeals bureau pursuant to section 72-1368(6), Idaho Code, or the commission pursuant to section 72-1368(7), 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 72-1318B, Idaho Code, and to read as follows:

72-1318B. DETERMINATION, REVISED DETERMINATION, REDETERMINATION OR SPECIAL REDETERMINATION. Except for determinations made pursuant to section 72-1349A(3), Idaho Code, and section 72-1382, Idaho Code, "determination," "revised determination," "redetermination" or "special redetermination" are written rulings by the department that include notice of appeal rights.

SECTION 3. That Section 72-1346, Idaho Code, be, and the same is hereby amended to read as follows:

72-1346. EMPLOYMENT SECURITY FUND. (1) Establishment and Control. There is established in the state treasury, separate and apart from all other funds of this state, an "Employment Security Fund," which shall be perpetually appropriated to the director to be administered pursuant to the provisions of this chapter and the social security act. This fund shall consist of all contributions collected pursuant to this chapter, payments in lieu of contributions, interest earned upon any moneys in the fund, any property or securities acquired through the use of moneys belonging to the fund, all earnings of such property or securities, moneys temporarily deposited in the clearing account, and all other moneys received for the fund from any other source.

(2) Accounts and Deposits. The state controller shall maintain within the fund three (3) separate accounts: (i) a clearing account, (ii) an unemployment trust fund account, and (iii) a benefit account. Upon receipt by the director, all moneys payable to the fund shall be promptly forwarded to the state treasurer for immediate deposit in the clearing account. After clearance, all moneys in the clearing account shall, except as otherwise provided, be deposited promptly with the secretary of the treasury of the United States to the credit of this state's account in the federal unemployment trust fund established and maintained pursuant to section 904 of the social security act (42 U.S.C. 1104), any provisions of law in this state to the contrary notwithstanding. The benefit account shall consist of all moneys requisitioned for the payment of benefits from this state's account in the federal unemployment trust fund. Moneys in the clearing and benefit accounts may be deposited by the state treasurer under the direction of the director in any depository bank in which general funds of the state may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund. Moneys in the clearing and benefit accounts shall not be commingled with other state funds and shall be maintained in separate accounts on the books of the depository bank. Such moneys shall be secured by the depository bank in the same manner as required by the general public depository law of this state and collateral pledged for this purpose shall be kept separate and distinct from collateral pledged to secure other funds of the state. The state treasurer shall be liable on his official bond for the faithful performance of his duties in connection with the employment security fund.

(3) Withdrawals. Moneys requisitioned by the director through the treasurer from this state's account in the federal unemployment trust fund shall be used exclusively for the payment of benefits and for refunds pursuant to section 72-1357, Idaho Code, except that Reed act moneys credited to this state's account pursuant to section 903 of the social security act (42 U.S.C. 1103), shall be used exclusively as provided in subsection (4) of this section. The director through the treasurer shall requisition from the federal unemployment trust fund such amounts, not exceeding the amounts standing to this state's account therein, as he deems necessary for the payment of benefits and refunds for a reasonable period. Upon receipt, such moneys shall be deposited in the benefit account. Expenditures of moneys in the benefit and clearing accounts shall not require the approval of the board of examiners or be subject to any provisions of law requiring specific appropriations or other formal release by state officers of money in their custody. The residual daily balance in the benefit account may be invested in accordance with the cash management improvement act of 1990, and earnings on those investments may be used to pay the related banking costs of maintaining the benefit account. Any earnings in excess of the related banking costs shall be returned to the state's account in the federal unemployment trust fund annually. All warrants issued for the payment of benefits and refunds shall bear the signature of the director. Upon agreement between the director and state controller, amounts in the benefit account may be transferred to a revolving account established and maintained in a depository bank from which the director may ~~issue checks~~ provide for the

payment of benefits and refunds. Moneys so transferred shall be deposited subject to the same requirements as provided with respect to moneys in the clearing and benefit accounts in subsection (2) of this section. Any balance of moneys requisitioned from the federal unemployment trust fund which remains unclaimed or unpaid in the benefit account or revolving account after the expiration of the period for which such sums were requisitioned, may be utilized for the payment of benefits and refunds during succeeding periods, or, in the discretion of the director, shall be redeposited with the secretary of the treasury of the United States to the credit of this state's account in the federal unemployment trust fund.

(4) Reed Act Moneys. Reed act moneys credited to this state's account in the federal unemployment trust fund by the secretary of the treasury of the United States pursuant to section 903 of the social security act (42 U.S.C. 1103) may be requisitioned and used for the payment of benefits and for the payment of expenses incurred for the administration of this chapter. Moneys may only be requisitioned and used for the payment of expenses incurred for the administration of this chapter if the expenses are incurred and the money is requisitioned after the enactment of a specific appropriation by the legislature which specifies the purposes for which such money is appropriated and the amounts appropriated therefor. Such appropriation is subject to the following conditions:

(a) Such money may not be obligated after the close of the two (2) year period which began on the date of the enactment of the appropriation law; and

(b) The amount which may be obligated at any time may not exceed the amount by which the aggregate of the amounts transferred to the account of this state pursuant to section 903 of the social security act (42 U.S.C. 1103) exceeds the aggregate of the amounts used by this state and charged against the amounts transferred to the account of this state. For the purposes of this subsection, amounts obligated for administrative purposes pursuant to an appropriation shall be chargeable against transferred amounts at the exact time the obligation is entered into.

(5) Reed act moneys requisitioned for the payment of benefits shall be deposited in the benefit account established in this section. Reed act moneys requisitioned for the payment of administrative expenses pursuant to a specific appropriation shall be deposited in the employment security administration fund, section 72-1347, Idaho Code, except that moneys appropriated for the purchase of lands and buildings shall be deposited in the state employment security administrative and reimbursement fund in accordance with section 72-1348, Idaho Code. Money so deposited shall, until expended, remain part of the employment security fund and, if not expended, shall be promptly returned to this state's account in the federal unemployment trust fund.

SECTION 4. That Section 72-1349, Idaho Code, be, and the same is hereby amended to read as follows:

72-1349. PAYMENT OF CONTRIBUTIONS -- LIMITATION OF ACTIONS. (1) Contributions shall be reported and paid to the department on taxable wages for each calendar year equal to the amount determined in accordance with section 72-1350, Idaho Code. Contributions on wages paid to an individual under another state unemployment insurance law, or paid by an employer's predecessor during the calendar year, shall be counted in complying with this provision.

(2) Contributions shall accrue and become reportable and payable to the department by each covered employer for each calendar quarter with respect to wages for covered employment. Such contributions shall become due and be paid by each covered employer to the director for the employment security fund and shall not be deducted from the wages of individuals employed by such employer. All moneys required to be paid by a covered employer pursuant to

this chapter shall immediately, upon becoming due and payable, become or be deemed money belonging to the state, and every covered employer shall hold or be deemed to hold said money separately, aside, or in trust from any other funds, moneys or accounts, for the state of Idaho for payment in the manner and at the times provided by law.

(3) The contributions reportable and payable to the department by each covered employer, with respect to covered employment, accruing in each calendar quarter, shall be reported and paid to the department on or before the last day of the month following the close of said calendar quarter.

(4) The director may, for good cause shown by a covered employer, extend the time for payment of his contributions or any part thereof, but no such extension of time shall postpone the due date more than sixty (60) days. Contributions with respect to which an extension of time for payment has been granted shall be paid on or before the last day of the period of the extension.

(5) Whenever it appears to be essential to the proper administration of this chapter that collection of the contributions of a covered employer must be made more often than quarterly, the director shall have authority to demand payment of the contributions forthwith.

(6) In accordance with rules the director may prescribe, any person or persons entering into a formal contract with the state, any county, city, town, school or irrigation district, or any quasi-public corporation of the state, for the construction, alteration, or repair of any public building or public work, the contract price of which exceeds the sum of one thousand dollars ($1,000) may be required before commencing such work, to execute a surety bond in an amount sufficient to cover contributions when due. If the director, who shall approve said bond, determines that said bond has become insufficient, he may require that a new bond be provided in the amount he directs. Failure on the part of the employer covered by the bond to pay the full amount of his contributions when due shall render the surety liable on said bond as though the surety was the employer and subject to the other provisions of this chapter.

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

(8) The director may commence administrative proceedings to enforce the provisions of this section by issuing a determination at any time within five (5) years of the due date of a quarterly report or the date a quarterly report is filed, whichever is later. The limitation period of this subsection (8) is tolled during any period in which the employer absconds from the state, during any period of the employer's concealment, or during any period when the department's ability to commence administrative proceedings to enforce the provisions of this section is stayed by legal proceedings.

SECTION 5. That Section 72-1368, Idaho Code, be, and the same is hereby amended to read as follows:

72-1368. CLAIMS FOR BENEFITS ~~AND~~ -- APPELLATE PROCEDURE -- LIMITATION OF ACTIONS. (1) Claims for benefits shall be made in accordance with such rules as the director may prescribe.

(2) Each employer shall post and maintain in places readily accessible to individuals performing services for him printed statements concerning benefit rights under this chapter which shall be provided by the department without cost to the employer.

(3) (a) ~~A representative of the department hereinafter referred to as a claims examiner shall examine~~ Following the filing of a claim ~~filed~~ pursuant to subsection (1) of this section ~~and, on the basis of the facts found by him, shall determine whether the claimant is eligible for benefits and, if eligible,~~ the department shall:

(i) Verify the claimant's monetary eligibility pursuant to the requirements of section 72-1367, Idaho Code, and issue a determination. If monetarily eligible, the department shall establish the date ~~his~~ the claimant's benefit year begins, the weekly benefit amount, the total benefit amount, the base period wages, and the base period covered employers.

(ii) If a claimant is monetarily eligible, the department shall verify, based on information provided by the claimant, whether the week claimed is a compensable week as defined in section 72-1312, Idaho Code. To receive benefits, a claimant must certify that each week claimed is a compensable week. In the event ~~of a denial of~~ the week claimed is not a compensable week, the department shall issue a determination denying benefits~~, the determination~~ and shall include the reasons for the ineligibility.

(b) If the department has reason to believe at any time within five (5) years from the week ending date for any week in which benefits were paid that a claimant was not eligible for benefits, the department may investigate the claim and on the basis of facts found issue a determination denying or allowing benefits for the week(s) in question. If the department determines a claimant was not entitled to benefits received, the department shall issue a determination requiring repayment of the overpaid benefits, and assess any applicable penalties and interest.

(c) Before ~~the~~ a determination provided for in subsection (3) of this section becomes final or an appeal is filed, the ~~claims examiner~~ department, on ~~his~~ its own motion, may issue a revised determination. The determination or revised determination shall become final unless, within fourteen (14) days after notice, as provided in subsection (5) of this section, an appeal is filed by an interested party with the department.

(4) (a) Upon appeal of a determination or revised determination, the director shall transfer the appeal directly to an appeals examiner pursuant to subsection (6) of this section, unless the director finds, in his sole discretion, that a redetermination should be issued affirming, reversing or modifying the determination or revised determination. The redetermination shall become final unless, within fourteen (14) days after notice as provided in subsection (5) of this section, an appeal is filed by an interested party with the department in accordance with the department's rules.

(b) The director may, in his sole discretion, make a special redetermination whenever he finds that a departmental error has occurred in connection with a determination, revised determination or redetermination that has become final, or that additional wages of the claimant or other facts pertinent to such final determination, revised determination or redetermination have become available or have been newly discovered, or that benefits have been allowed or denied or the amount of benefits fixed on the basis of nondisclosure or misrepresentation of fact. The special redetermination must be made within one (1) year from the date ~~of~~ the ~~original~~ determination, revised determination or redetermination became final, except that a special redetermination involving a finding that benefits have been allowed or denied or the amount of benefits fixed on the basis of nondisclosures or misrepresentations of fact may be made within two (2) years from the date ~~of~~ the ~~original~~ determination, revised determination or redetermination became final. ~~Subject to the same limitations and for the same reasons, the director may make a special redetermination in any case in which the final decision has been rendered by an appeals examiner, the commission, or a court and may apply to the appeal tribunal which rendered such final decision to issue a revised decision. In the event that an appeal involving an original determination is pending as of the date a special redetermination is is-~~

~~sued, the appeal, unless withdrawn, shall be treated as an appeal from the special redetermination.~~

(5) All interested parties shall be entitled to prompt service of notice of determinations, revised determinations, redeterminations, special redeterminations and decisions. A notice shall be deemed served if delivered to the person being served, ~~or~~ if mailed to his last known address~~;~~ or if electronically transmitted to him at his request and with the department's approval. S~~s~~ervice by mail shall be deemed complete on the date of mailing. Service by electronic transmission shall be deemed complete on the date notice is electronically transmitted.

(6) To hear and decide appeals from determinations ~~and~~, revised determinations, redeterminations, and special redeterminations, the director shall appoint appeals examiners. Unless the appeal is withdrawn, the appeals examiner shall affirm, modify, set aside or reverse the determination ~~or~~, revised determination, redetermination, or special redetermination involved, after affording the interested parties reasonable opportunity for a fair hearing, or may refer a matter back to the ~~claims examiner~~ department for further action. The appeals examiner shall notify the interested parties of his decision by serving notice in the same manner as provided in subsection (5) of this section. The decision shall set forth findings of fact and conclusions of law. The appeals examiner may, either upon application for rehearing by an interested party or on his own motion, rehear, affirm, modify, set aside or reverse any prior decision on the basis of the evidence previously submitted or on the basis of additional evidence; provided, that such application or motion be made within ten (10) days after the date of service of the decision. A complete record shall be kept of all proceedings in connection with an appealed claim. All testimony at any hearing shall be recorded. If a claim for review of the appeals examiner's decision is filed with the commission, the testimony shall be transcribed if ordered by the commission. Witnesses subpoenaed by the appeals examiner shall be allowed fees at a rate prescribed by the director. If any interested party to a hearing formally requests the appeals examiner to issue a subpoena for a witness whose evidence is deemed necessary, the appeals examiner shall promptly issue the subpoena, unless such request is determined to be unreasonable. Unless an interested party shall within fourteen (14) days after service of the decision of the appeals examiner file with the commission a claim for review or unless an application or motion is made for a rehearing of such decision, the decision of the appeals examiner shall become final.

(7) The commission shall decide all claims for review filed by any interested party in accordance with its own rules of procedure not in conflict herewith. The record before the commission shall consist of the record of proceedings before the appeals examiner, unless it appears to the commission that the interests of justice require that the interested parties be permitted to present additional evidence. In that event, the commission may, in its sole discretion, conduct a hearing or may remand the matter back to the appeals examiner for an additional hearing and decision. On the basis of the record of proceedings before the appeals examiner as well as additional evidence, if allowed, the commission shall affirm, reverse, modify, set aside or revise the decision of the appeals examiner or may refer the matter back to the appeals examiner for further proceedings. The commission shall file its decision and shall promptly serve notice of its decision to all interested parties. A decision of the commission shall be final and conclusive as to all matters adjudicated by the commission upon filing the decision in the office of the commission; provided, within twenty (20) days from the date of filing the decision, any party may move for reconsideration of the decision or the commission may rehear or reconsider its decision on its own initiative. The decision shall be final upon denial of a motion for rehearing or reconsideration or the filing of the decision on reconsideration.

(8) No person acting on behalf of the director or any member of the commission shall participate in any case in which he has a direct or indirect personal interest.

(9) An appeal may be made to the Supreme Court from decisions and orders of the commission within the times and in the manner prescribed by rule of the Supreme Court.

(10) (a) Benefits shall be paid promptly in accordance with any decision allowing benefits, regardless of:

(i) The pendency of a time period for filing an appeal or petitioning for commission review; or

(ii) The pendency of an appeal or petition for review.

(b) Such payments shall not be withheld until a subsequent appeals examiner decision or commission decision modifies or reverses the previous decision, in which event benefits shall be paid or denied in accordance with such decision.

(11) (a) Any right, fact, or matter in issue, directly based upon or necessarily involved in a determination, redetermination, decision of the appeals examiner or decision of the commission which has become final, shall be conclusive for all the purposes of this chapter as between the interested parties who had notice of such determination, redetermination or decision. Subject to appeal proceedings and judicial review by the Supreme Court as set forth in this section, any determination, redetermination or decision as to rights to benefits shall be conclusive for all purposes of this chapter and shall not be subject to collateral attack irrespective of notice.

(b) No finding of fact or conclusion of law contained in a decision or determination rendered pursuant to this chapter by an appeals examiner, the industrial commission, a court, or any other person authorized to make such determinations shall have preclusive effect in any other action or proceeding, except proceedings that are brought (i) pursuant to this chapter, (ii) to collect unemployment insurance contributions, (iii) to recover overpayments of unemployment insurance benefits, or (iv) to challenge the constitutionality of provisions of this chapter or administrative proceedings under this chapter.

(12) The provisions of the Idaho administrative procedure act, chapter 52, title 67, Idaho Code, regarding contested cases and judicial review of contested cases are inapplicable to proceedings involving claimants under the provisions of this chapter.

SECTION 6. That Section 72-1369, Idaho Code, be, and the same is hereby amended to read as follows:

72-1369. OVERPAYMENTS, CIVIL PENALTIES AND INTEREST -- COLLECTION AND WAIVER. (1) Any person who received benefits to which he was not entitled under the provisions of this chapter or under an unemployment insurance law of any state or of the federal government shall be liable to repay the benefits and the benefits shall, for the purpose of this chapter, be considered to be overpayments.

(2) Civil penalties. The director shall assess the following monetary penalties for each determination in which the claimant is found to have made a false statement, misrepresentation, or failed to report a material fact to the department:

(a) Twenty-five percent (25%) of any resulting overpayment for the first determination;

(b) Fifty percent (50%) of any resulting overpayment for the second determination; and

(c) One hundred percent (100%) of any resulting overpayment for the third and any subsequent determination.

(3) Any overpayment, civil penalty and/or interest which has not been repaid may, in addition to or alternatively to any other method of collection prescribed in this chapter, including the creation of a lien as provided by section 72-1360, Idaho Code, be collected with interest thereon at the rate prescribed in section 72-1360(2), Idaho Code. The director may also file a civil action in the name of the state of Idaho. In bringing such civil actions for the collection of overpayments, penalties and interest, the director shall have all the rights and remedies provided by the laws of this state, and any person adjudged liable in such civil action for any overpayments shall pay the costs of such action. A civil action filed pursuant to this subsection (3) shall be commenced within five (5) years from the date of the final determination establishing liability to repay. Any judgment obtained pursuant to this section shall, upon compliance with the requirements of chapter 19, title 45, Idaho Code, become a lien of the same type, duration and priority as if it were created pursuant to section 72-1360, Idaho Code.

(4) Collection of overpayments.

(a) Overpayments, other than those resulting from a false statement, misrepresentation, or failure to report a material fact by the claimant, which have not been repaid or collected, may, at the discretion of the director, be deducted from any future benefits payable to the claimant under the provisions of this chapter. Such overpayments not recovered within five (5) years from the date of the final determination establishing liability to repay may be deemed uncollectible.

(b) Overpayments resulting from a false statement, misrepresentation, or failure to report a material fact by the claimant which have not been recovered within eight (8) years from the date of the final determination establishing liability to repay may be deemed uncollectible.

(5) The director may waive the requirement to repay an overpayment, other than one resulting from a false statement, misrepresentation, or failure to report a material fact by the claimant, and interest thereon, if:

(a) The benefit payments were made solely as a result of department error or inadvertence and made to a claimant who could not reasonably have been expected to recognize the error; or

(b) Such payments were made solely as a result of an employer misreporting wages earned in a claimant's base period and made to a claimant who could not reasonably have been expected to recognize an error in the wages reported. ~~The director, in his sole discretion, may also compromise a civil penalty assessed under subsection (2) of this section and/or interest.~~

(6) Neither the director nor any of his agents or employees shall be liable for benefits paid to persons not entitled to the same under the provisions of this chapter if it appears that such payments have been made in good faith and that ordinary care and diligence have been used in the determination of the validity of the claim or claims under which such benefits have been paid.

(7) The director may, in his sole discretion, compromise any or all of an overpayment, civil penalty, interest or fifty-two (52) week disqualification assessed under subsections (1) and (2) of this section and section 72-1366(12), Idaho Code, when the director finds it is in the best interest of the department.

SECTION 7. 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 25, 2010.

CHAPTER 115
(H.B. No. 516)

AN ACT

RELATING TO WARRANTS OF DISTRAINT; AMENDING SECTION 63-1013, IDAHO CODE, TO PROVIDE THAT FEES ALLOWED FOR ISSUING WARRANTS OF DISTRAINT, COLLECTION, LEVY AND RETURN OF THE SAME SHALL BE SET BY ORDINANCE BY THE BOARD OF COUNTY COMMISSIONERS.

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

SECTION 1. That Section 63-1013, Idaho Code, be, and the same is hereby amended to read as follows:

63-1013. WARRANTS OF DISTRAINT -- SERVICE AND EXECUTION. (1) All warrants of distraint issued by the tax collector shall be served and executed by the sheriff in the manner provided by law for the services of executions by levy upon personal property and he shall make return of the same to the tax collector of the county within ninety (90) days from the date of his receipt thereof with an endorsement thereon showing that the delinquency therein described, together with interest, late charges and costs, as provided by law, have been collected, or that, no property can be found to seize under the warrant. For making a false return the sheriff shall be liable to the county for double the amount of the property taxes, with interest and costs.

(2) Fees allowed for issuing warrants of distraint, collection, levy and return of the same, shall be ~~ten dollars ($10.00) for issuing each warrant~~ set by ordinance by the board of county commissioners. When levying on a warrant of distraint, the provisions of section 31-3203, Idaho Code, shall apply in determining service fees.

(3) If the sheriff returns the warrant of distraint showing that no property can be found upon which a levy can be made to collect the delinquency, he shall note in the return the county, if any, in this state to which the delinquent taxpayer may have moved together with his mailing address and the date of his departure shall also be noted on the returns. Upon the filing of the sheriff's return showing that any delinquent taxpayer has moved to another county in this state, it shall be the duty of the tax collector to immediately issue and mail another warrant of distraint to the sheriff of the county to which the delinquent taxpayer is so shown to have moved, or in which personal property belonging to him may be found, and the sheriff to whom the other warrant of distraint is issued shall serve and return the warrant in the manner provided for the service and return of original warrants of distraint, making return of fees and commissions earned by him to the county auditor of his county, and paying any delinquency and fees collected, shown by the other warrant of distraint to be due, to the tax collector issuing the other warrant. Should a sheriff to whom the other warrant of distraint is issued be unable to find any property out of which the delinquency may be collected, he shall so return to the tax collector issuing the warrant.

Approved March 25, 2010.

CHAPTER 116
(H.B. No. 517)

AN ACT

RELATING TO PHARMACISTS; AMENDING SECTION 54-1723A, IDAHO CODE, TO REVISE THE ANNUAL REGISTRATION RENEWAL DATE TO ENGAGE IN THE PRACTICE OF PHARMACY ACROSS STATE LINES; AND AMENDING SECTION 54-1724, IDAHO CODE, TO REVISE THE ANNUAL LICENSE RENEWAL DATE TO ENGAGE IN THE PRACTICE OF PHARMACY.

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

SECTION 1. That Section 54-1723A, Idaho Code, be, and the same is hereby amended to read as follows:

54-1723A. REGISTRATION TO ENGAGE IN THE PRACTICE OF TELEPHARMACY ACROSS STATE LINES. (1) No pharmacist who is not licensed to practice pharmacy within the state of Idaho may engage in the practice of telepharmacy across state lines unless registered by the board pursuant to this section.

(2) To obtain registration to engage in the practice of telepharmacy across state lines, the applicant shall:

(a) Present to the board proof of licensure in another state and proof that such license is in good standing;

(b) Submit a written application in the form prescribed by the board;

(c) Pay the fee(s) specified by the board for the issuance of the registration; and

(d) Comply with all other requirements of the board.

(3) The application required under this section shall request from the applicant, at a minimum, the following information:

(a) Name, address and current pharmacist licensure information in all other states, including each state of licensure and each license number;

(b) Name, address, telephone number and state of licensure or registration and license or registration number of the facility from which the applicant will be engaged in the practice of telepharmacy across state lines; and

(c) A statement attesting that the applicant will abide by the pharmacy laws and rules of the state of Idaho.

(4) A successful applicant for registration under this section shall be subject to the disciplinary provisions of section 54-1726, Idaho Code, the penalty provisions of section 54-1728, Idaho Code, and the rules of the board.

(5) Renewal of a registration to engage in the practice of pharmacy across state lines shall be annual. The application for renewal shall be submitted to the board no later than the ~~first~~ thirtieth day of June. The board shall renew the registration of a pharmacist who is qualified to engage in the practice of pharmacy across state lines as provided for in this section. The board shall specify by rule the procedures to be followed and the fees to be paid for renewal of registration.

SECTION 2. That Section 54-1724, Idaho Code, be, and the same is hereby amended to read as follows:

54-1724. RENEWAL OF LICENSES. (1) Each pharmacist shall apply for license renewal ~~of his license~~ annually no later than the ~~first~~ thirtieth day of June. The board shall renew the license of each pharmacist who is qualified to engage in the practice of pharmacy.

(2) The board shall specify by rule or regulation the procedures to be followed and the fees to be paid for renewal of licenses.

Approved March 25, 2010.

CHAPTER 117
(H.B. No. 518)

AN ACT

RELATING TO UNIFORM CONTROLLED SUBSTANCES; AMENDING SECTION 37-2705, IDAHO CODE, TO REVISE PROVISIONS RELATING TO SCHEDULE I CONTROLLED SUBSTANCES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 37-2707, IDAHO CODE, TO REVISE PROVISIONS RELATING TO SCHEDULE II DRUGS AND OTHER SUBSTANCES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 37-2709, IDAHO CODE, TO REVISE PROVISIONS RELATING TO SCHEDULE III DRUGS AND OTHER SUBSTANCES; AMENDING SECTION 37-2711, IDAHO CODE, TO REVISE PROVISIONS RELATING TO SCHEDULE IV DRUGS AND OTHER SUBSTANCES; AMENDING SECTION 37-2713, IDAHO CODE, TO REVISE PROVISIONS RELATING TO SCHEDULE V DRUGS AND OTHER SUBSTANCES; AND AMENDING SECTION 37-2732C, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE.

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

SECTION 1. That Section 37-2705, Idaho Code, be, and the same is hereby amended to read as follows:

37-2705. SCHEDULE I. (a) The controlled substances listed in this section are included in schedule I.

(b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

(1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);
(2) Acetylmethadol;
(3) Allylprodine;
(4) Alphacetylmethadol (except levo-alphacetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate or LAAM);
(5) Alphameprodine;
(6) Alphamethadol;
(7) Alpha-methylfentanyl;
(8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
(9) Benzethidine;
(10) Betacetylmethadol;
(11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide);
(12) Beta-hydroxy-3-methylfentanyl (N-(1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl)-N-phenylpropanamide);
(13) Betameprodine;
(14) Betamethadol;
(15) Betaprodine;
(16) Clonitazene;
(17) Dextromoramide;
(18) Diampromide;
(19) Diethylthiambutene;
(20) Difenoxin;
(21) Dimenoxadol;

(22) Dimepheptanol;
(23) Dimethylthiambutene;
(24) Dioxaphetyl butyrate;
(25) Dipipanone;
(26) Ethylmethylthiambutene;
(27) Etonitazene;
(28) Etoxeridine;
(29) Furethidine;
(30) Hydroxypethidine;
(31) Ketobemidone;
(32) Levomoramide;
(33) Levophenacylmorphan;
(34) 3-Methylfentanyl;
(35) 3-methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
(36) Morpheridine;
(37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
(38) Noracymethadol;
(39) Norlevorphanol;
(40) Normethadone;
(41) Norpipanone;
(42) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide);
(43) PEPAP (1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine);
(44) Phenadoxone;
(45) Phenampromide;
(46) Phenomorphan;
(47) Phenoperidine;
(48) Piritramide;
(49) Proheptazine;
(50) Properidine;
(51) Propiram;
(52) Racemoramide;
(53) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide);
(54) Tilidine;
(55) Trimeperidine.

(c) Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:
(1) Acetorphine;
(2) Acetyldihydrocodeine;
(3) Benzylmorphine;
(4) Codeine methylbromide;
(5) Codeine-N-Oxide;
(6) Cyprenorphine;
(7) Desomorphine;
(8) Dihydromorphine;
(9) Drotebanol;
(10) Etorphine (except hydrochloride salt);
(11) Heroin;
(12) Hydromorphinol;
(13) Methyldesorphine;
(14) Methyldihydromorphine;
(15) Morphine methylbromide;
(16) Morphine methylsulfonate;
(17) Morphine-N-Oxide;
(18) Myrophine;

(19) Nicocodeine;
(20) Nicomorphine;
(21) Normorphine;
(22) Pholcodine;
(23) Thebacon.

(d) Hallucinogenic substances. Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this paragraph only, the term "isomer" includes the optical, position and geometric isomers):

(1) 4-bromo-2,5-dimethoxy amphetamine;
(2) 2,5-dimethoxyamphetamine;
(3) 4-bromo-2,5-dimethoxyphenethylamine (some other names: alpha-desmethyl DOB, 2C-B);
(4) 2,5-dimethoxy-4-ethylamphetamine (another name: DOET);
(5) 2,5-dimethoxy-4-(n)-propylthiophenethylamine;
(6) 4-methoxyamphetamine (PMA);
(~~6~~7) 5-methoxy-3,4-methylenedioxy-amphetamine;
(8) 5-methoxy-N,N-diisopropyltryptamine;
(~~7~~9) 4-methyl-2,5-dimethoxy-amphetamine (DOM, STP);
(~~8~~10) 3,4-methylenedioxy amphetamine;
(~~9~~11) 3,4-methylenedioxymethamphetamine (MDMA);
(1~~0~~2) 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and N-ethyl MDA, MDE, MDEA);
(1~~1~~3) N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy) phenethylamine, and N-hydroxy MDA);
(1~~2~~4) 3,4,5-trimethoxy amphetamine;
(1~~3~~5) Alpha-ethyltryptamine (some other names: etryptamine, 3-(2-aminobutyl) indole);
(16) Alpha-methyltryptamine;
(1~~4~~7) Bufotenine;
(1~~5~~8) Diethyltryptamine (DET);
(1~~6~~9) Dimethyltryptamine (DMT);
(~~17~~20) Ibogaine;
(~~18~~21) Lysergic acid diethylamide;
(~~19~~22) Marihuana;
(2~~0~~3) Mescaline;
(2~~1~~4) Parahexyl;
(2~~2~~5) Peyote;
(2~~3~~6) N-ethyl-3-piperidyl benzilate;
(2~~4~~7) N-methyl-3-piperidyl benzilate;
(2~~5~~8) Psilocybin;
(2~~6~~9) Psilocyn;
(~~27~~30) Tetrahydrocannabinols. Synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

Δ^{1} cis or trans tetrahydrocannabinol, and their optical isomers, excluding dronabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the U.S. Food and Drug Administration.

Δ^{6} cis or trans tetrahydrocannabinol, and their optical isomers.

$\Delta^{3,4}$ cis or trans tetrahydrocannabinol, and its optical isomers. (Since nomenclature of these substances is not internationally stan-

dardized, compounds of these structures, regardless of numerical designation of atomic positions are covered.)

(~~28~~31) Ethylamine analog of phencyclidine (N-ethyl-1-phenylcyclohexylamine (1-phenylcyclohexyl) ethylamine; N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE;

(3~~2~~9) Pyrrolidine analog of phencyclidine: 1-(phenylcyclohexyl) -pyrrolidine, PCPy, PHP;

(3~~0~~3) Thiophene analog of phencyclidine 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienylanalog of phencyclidine, TPCP, TCP;

(3~~1~~4) 1-[1-(2-thienyl) cyclohexyl] pyrrolidine another name: TCPy;

(3~~2~~5) Spores or mycelium capable of producing mushrooms that contain psilocybin or psilocin.

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Gamma hydroxybutyric acid (some other names include GHB; gamma-hydroxybutyrate, 4-hydroxybutyrate; 4-hyroxybutanoic acid; sodium oxybate; sodium oxybutyrate);

(2) Flunitrazepam (also known as "R2," ~~"~~ "Rohypnol");

(3) Mecloqualone;

(4) Methaqualone.

(f) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(1) Aminorex (some other names: aminoxaphen, 2-amino-5-phenyl-2-oxazoline, or 4,5-dihydro-5-phenyl-2-oxazolamine);

(2) Cathinone (some other names: alpha-aminopropiophenone, 2-aminopropiophenone and norephedrone);

(3) Fenethylline;

(4) Methcathinone (some other names: 2-(methyl-amino)-propiophenone, alpha-(methylamino)-propiophenone, N-methylcathinone, AL-464, AL-422, AL-463 and UR1423);

(5) (~~t~~+/-)cis-4-methylaminorex [(+/-)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine];

(6) N-benzylpiperazine (also known as: BZP, 1-benzylpiperazine);

(7) N-ethylamphetamine;

(~~7~~8) N,N-dimethylamphetamine (also known as: N,N-alpha-trimethylbenzeneethanamine).

(g) Temporary listing of substances subject to emergency scheduling. Any material, compound, mixture or preparation which contains any quantity of the following substances:

(1) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl), its optical isomers, salts and salts of isomers.

(2) N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl), its optical isomers, salts and salts of isomers.

~~(3) 4-methylaminorex (also known as 2-amino-4-methyl-5-phenyl-2-oxazoline).~~

SECTION 2. That Section 37-2707, Idaho Code, be, and the same is hereby amended to read as follows:

37-2707. SCHEDULE II. (a) Schedule II shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(b) Substances, vegetable origin or chemical synthesis. Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, dextrorphan, nalbuphine, nalmefene, naloxone, naltrexone and their respective salts, but including the following:

1. Raw opium;
2. Opium extracts;
3. Opium fluid extracts;
4. Powdered opium;
5. Granulated opium;
6. Tincture of opium;
7. Codeine;
8. Dihydroetorphine;
9. Diprenorphine;
~~8~~10. Ethylmorphine;
~~9~~11. Etorphine hydrochloride;
1~~0~~2. Hydrocodone;
1~~1~~3. Hydromorphone;
1~~2~~4. Metopon;
1~~3~~5. Morphine;
16. Oripavine;
1~~4~~7. Oxycodone;
1~~5~~8. Oxymorphone;
19. Tapentadol;
~~16~~20. Thebaine.

(2) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (b) (1) of this section, except that these substances shall not include the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine.

(5) Benzoylecgonine.

(6) Methylbenzoylecgonine (Cocaine - its salts, optical isomers, and salts of optical isomers).

(~~6~~7) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrine alkaloids of the opium poppy).

(c) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation, unless specifically excepted or unless listed in another schedule:

(1) Alfentanil;
(2) Alphaprodine;
(3) Anileridine;
(4) Bezitramide;
(5) Bulk Dextropropoxyphene (nondosage forms);
(6) Carfentanil;
(7) Dihydrocodeine;
(8) Diphenoxylate;
(9) Fentanyl;

(10) Isomethadone;
(11) Levo-alphacetylmethadol (also known as levo-alpha-acetylmethadol, levomethadyl acetate, LAAM);
(12) Levomethorphan;
(13) Levorphanol;
(14) Metazocine;
(15) Methadone;
(16) Methadone -- Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
(17) Moramide -- Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl propane-carboxylic acid;
(18) Pethidine (meperidine);
(19) Pethidine -- Intermediate -- A, 4-cyano-1-methyl-4-phenylpiperidine;
(20) Pethidine -- Intermediate -- B, ethyl-4-phenylpiperidine-4-carboxylate;
(21) Pethidine -- Intermediate -- C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
(22) Phenazocine;
(23) Piminodine;
(24) Racemethorphan;
(25) Racemorphan;
(26) Remifentanil;
(27) Sufentanil.

(d) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:
(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
(2) Lisdexamfetamine;
(3) Methamphetamine, its salts, isomers, and salts of its isomers;
(~~3~~4) Phenmetrazine and its salts;
(~~4~~5) Methylphenidate.

(e) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
(1) Amobarbital;
(2) Glutethimide;
(3) Pentobarbital;
(4) Phencyclidine;
(5) Secobarbital.

(f) Hallucinogenic substances.
(1) ~~Nabiline~~ Nabilone ..... (another name for nabilone: (+/-)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one) (21 C.F.R. 1308.12 (f)).

(g) Immediate precursors. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:
(1) Immediate precursor to amphetamine and methamphetamine:
(a) Anthranilic acid;
(b) Ephedrine;
(c) Lead acetate;
(d) Methylamine;
(e) Methyl formamide;

(f) N-methylephedrine;
(g) Phenylacetic acid;
(h) Phenylacetone;
(i) Phenylpropanolamine;
(j) Pseudoephedrine.

Except that any combination or compound containing ephedrine, or any of its salts and isomers, or phenylpropanolamine or its salts and isomers, or pseudoephedrine, or any of its salts and isomers which is prepared for dispensing or over-the-counter distribution is not a controlled substance for the purpose of this section, unless such substance is possessed, delivered, or possessed with intent to deliver to another with the intent to manufacture methamphetamine, amphetamine or any other controlled substance in violation of section 37-2732, Idaho Code. For purposes of this provision, the requirements of the uniform controlled substances act shall not apply to a manufacturer, wholesaler or retailer of over-the-counter products containing the listed substances unless such person possesses, delivers, or possesses with intent to deliver to another the over-the-counter product with intent to manufacture a controlled substance.

(2) Immediate precursors to phencyclidine (PCP):
(a) 1-phenylcyclohexylamine;
(b) 1-piperidinocyclohexanecarbonitrile (PCC).

SECTION 3. That Section 37-2709, Idaho Code, be, and the same is hereby amended to read as follows:

37-2709. SCHEDULE III. (a) Schedule III shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(b) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, (whether optical or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in schedule II which compounds, mixtures, or preparations were listed on August 25, 1971, as excepted compounds under C.F.R. Sec. 308.32, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances.
(2) Benzphetamine;
(3) Chlorphentermine;
(4) Clortermine;
(5) Phendimetrazine.

(c) Depressants. Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

(1) Any compound, mixture or preparation containing:
i. Amobarbital;
ii. Secobarbital;
iii. Pentobarbital or any salt thereof and one (1) or more other active medicinal ingredients which are not listed in any schedule.
(2) Any suppository dosage form containing:
i. Amobarbital;
ii. Secobarbital;

iii. Pentobarbital or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository.

(3) Any substance which contains any quantity of a derivative of barbituric acid or any salt thereof, including, but not limited to:

i. Aprobarbital;

ii. Butabarbital (secbutabarbital);

iii. Butalbital;

iv. Butobarbital (butethal);

v. Talbutal;

vi. Thiamylal;

vii. Thiopental;

viii. Vinbarbital.

(4) Chlorhexadol;

(5) Embutramide;

(~~5~~6) Any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under section 505 of the federal food, drug, and cosmetic act;

(~~6~~7) Ketamine, its salts, isomers, and salts of isomers - 7285. (Some other names for ketamine: (+/-)-2-(2- chlorophenyl)-2-(methylamino)-cyclohexanone).

(~~7~~8) Lysergic acid;

(~~8~~9) Lysergic acid amide;

(~~9~~10) Methyprylon;

(1~~0~~1) Sulfondiethylmethane;

(1~~1~~2) Sulfonethylmethane;

(1~~2~~3) Sulfonmethane;

(1~~3~~4) Tiletamine and zolazepam or any salt thereof.

(d) Nalorphine.

(e) Narcotic drugs. ~~(1)~~ Unless specifically excepted or unless listed in another schedule~~,~~:

(1) A~~a~~ny material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(i) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(ii) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(iii) Not more than 300 milligrams of dihydrocodeinone, commonly known as hydrocodone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(iv) Not more than 300 milligrams of dihydrocodeinone, commonly known as hydrocodone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(v) Not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(vi) Not more than 300 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one (1) or more ingredients in recognized therapeutic amounts;

(vii) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(viii) Not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or per 100 grams with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(2) Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts, as set forth below:

(i) Buprenorphine.

(ii) [Reserved].

(f) Anabolic steroids and human growth hormones. Any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins and corticosteroids) that promotes muscle growth including any salt, ester or isomer of a drug or substance listed in this paragraph, if that salt, ester or isomer promotes muscle growth.

(1) 13beta-ethyl-17beta-hydroxygon-4-en-3-one;
(2) 17alpha-methyl-3alpha, 17beta-dihydroxy-5alpha-androstane;
(3) 17alpha-methyl-3beta, 17beta-dihydroxy-5alpha-androstane;
(4) 17alpha-methyl-3beta,17beta-dihydroxyandrost-4-ene;
(5) 17alpha-methyl-4-hydroxynandrolone;
(6) 17alpha-methyl-delta1-dihydrotestosterone;
(7) 19-nor-4-androstenediol;
(8) 19-nor-4-androstenedione;
(9) 19-nor-4,9(10)-androstadienedione;
(10) 19-nor-5-androstenediol;
(11) 19-nor-5-androstenedione;
(12) 1-androstenediol;
(13) 1-androstenedione;
(14) 3alpha,17beta-dihydroxy-5alpha-androstane;
(15) 3beta,17beta-dihydroxy-5alpha-androstane;
(16) 4-androstenediol;
(17) 4-androstenedione;
(18) 4-hydroxy-19-nortestosterone;
(19) 4-hydroxytestosterone;
(20) 5-androstenediol;
(21) 5-androstenedione;
(22) Androstenedione;
(23) Bolasterone;
(24) Boldenone;
(25) Boldione;
(26) Calusterone;
(27) Chlorotestosterone (4-chlorotestosterone);
(~~3~~28) Chorionic gonadotropin;
(~~4~~29) Clostebol;
(~~5~~30) Dehydrochlormethyltestosterone;
(31) Delta1-dihydrotestosterone;
(32) Desoxymethyltestosterone;
(~~6~~33) Dihydrotestosterone (4-dihydrotestosterone);
(~~7~~34) Drostanolone;
(~~8~~35) Ethylestrenol;
(~~9~~36) Fluoxymesterone;
(~~10~~37) Formebulone;
(38) Furazabol;
(~~11~~39) Human growth hormones;
(40) Mestanolone;
(~~12~~41) Mesterolone;
(~~13~~42) Methandienone;
(~~14~~3) Methandranone;

(~~15~~44) Methandriol;
(~~16~~45) Methandrostenolone;
(~~17~~46) Methenolone;
(47) Methyldienolone;
(~~1~~48) Methyltestosterone;
(49) Methyltrienolone;
(~~19~~50) Mibolerone;
(~~20~~51) Nandrolone;
(52) Norbolethone;
(53) Norclostebol;
(~~21~~54) Norethandrolone;
(55) Normethandrolone;
(~~22~~56) Oxandrolone;
(~~23~~57) Oxymesterone;
(~~24~~58) Oxymetholone;
(~~2~~59) Stanolone;
(~~2~~60) Stanozolol;
(61) Stenbolone;
(~~27~~62) Testolactone;
(~~28~~63) Testosterone;
(~~29~~64) Testosterone cypionate;
(~~30~~65) Testosterone enanthate;
(~~31~~66) Testosterone propionate;
(67) Tetrahydrogestrinone;
(~~32~~68) Trenbolone.

Anabolic steroids that are expressly intended for administration through implants to cattle or other nonhuman species, and that are approved by the federal Food and Drug Administration for such use, shall not be classified as controlled substances under this act and shall not be governed by its provisions.

In addition to the penalties prescribed in article IV of the uniform controlled substances act, any person shall be guilty of a felony who prescribes, dispenses, supplies, sells, delivers, manufactures or possesses with the intent to prescribe, dispense, supply, sell, deliver or manufacture anabolic steroids or any other human growth hormone for purposes of enhancing performance in an exercise, sport or game or hormonal manipulation intended to increase muscle mass, strength or weight without a medical necessity as determined by a physician.

(g) Hallucinogenic substances.

(1) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in the federal Food and Drug Administration approved product -- 7369. (Some other names for dronabinol: (6aR-trans) -6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo [b,d]pyran-1-ol or (-)-delta-9-(trans)-tetrahydrocannabinol).

(h) Other substances. Unless specifically excepted, or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substance, including its salts:

(1) Butorphanol.

(i) The board may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsections (b) and (c) of this section from the application of all or any part of this act if the compound, mixture, or preparation contains one (1) or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

SECTION 4. That Section 37-2711, Idaho Code, be, and the same is hereby amended to read as follows:

37-2711. SCHEDULE IV. (a) Schedule IV shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(b) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) No more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit;

(2) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane).

(c) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Alprazolam;
(2) Barbital;
(3) Bromazepam;
(4) Camazepam;
(5) Chloral betaine;
(6) Chloral hydrate;
(7) Chlordiazepoxide;
(8) Clobazam;
(9) Clonazepam;
(10) Clorazepate;
(11) Clotiazepam;
(12) Cloxazolam;
(13) Delorazepam;
(14) Diazepam;
(15) Dichloralphenazone;
(16) Estazolam;
(1~~6~~7) Ethchlorvynol;
(1~~7~~8) Ethinamate;
(1~~8~~9) Ethyl loflazepate;
(~~19~~20) Fludiazepam;
(2~~0~~1) Flurazepam;
(2~~1~~2) Halazepam;
(2~~2~~3) Haloxazolam;
(2~~3~~4) Ketazolam;
(2~~4~~5) Loprazolam;
(2~~5~~6) Lorazepam;
(2~~6~~7) Lormetazepam;
(2~~7~~8) Mebutamate;
(2~~8~~9) Medazepam;
(~~29~~30) Meprobamate;
(3~~0~~1) Methohexital;
(3~~1~~2) Methylphenobarbital (mephobarbital);
(3~~2~~3) Midazolam;
(3~~3~~4) Nimetazepam;
(3~~4~~5) Nitrazepam;
(3~~5~~6) Nordiazepam;
(3~~6~~7) Oxazepam;
(3~~7~~8) Oxazolam;
(3~~8~~9) Paraldehyde;
(~~39~~40) Petrichloral;

(4~~0~~1) Phenobarbital;
(4~~1~~2) Pinazepam;
(4~~2~~3) Prazepam;
(4~~3~~4) Temazepam;
(4~~4~~5) Tetrazepam;
(4~~5~~6) Triazolam;
(4~~6~~7) Quazepam;
(48) Zaleplon;
(4~~7~~9) Zolpidem;
(50) Zopiclone.

(d) Fenfluramine -- Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible:

(1) Dexfenfluramine;
(2) Fenfluramine.

(e) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Cathine ((+)-norpseudoephedrine);
(2) Diethylpropion;
(3) Fencamfamin;
(4) Fenproporex;
(5) Mazindol;
(6) Mefenorex;
(7) Modafinil;
(8) Pemoline (including organometallic complexes and chelates thereof);
(~~8~~9) Phentermine;
(~~9~~10) Pipradrol;
(1~~0~~1) Sibutramine;
(1~~1~~2) SPA ((-)-1-dimethylamino-1,2-diphenylethane).

(f) Other substances. Unless specifically excepted, or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances, including its salts:

(1) Pentazocine;
(2) Fospropofol.

(g) The board may except by rule any compound, mixture, or preparation containing any depressant substance listed in subsection (c) of this section from the application of all or any part of this act if the compound, mixture, or preparation contains one (1) or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

SECTION 5. That Section 37-2713, Idaho Code, be, and the same is hereby amended to read as follows:

37-2713. SCHEDULE V. (a) Schedule V shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(b) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs and their salts, as set forth below.

(c) Narcotic drugs containing nonnarcotic active medicinal ingredients. Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs or salts thereof, which shall include one (1) or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

(2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

(6) Not more than 0.5 milligrams difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(d) Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances, including its salts:

(1) Lacosamide;

(2) Pregabalin;

(3) Propylhexedrine (except as Benzedrex ~~TM~~™ inhaler);

(~~2~~4) Pyrovalerone.

SECTION 6. That Section 37-2732C, Idaho Code, be, and the same is hereby amended to read as follows:

37-2732C. USING OR BEING UNDER THE INFLUENCE -- PENALTIES. (a) Except as authorized in this chapter, it is unlawful for any person on a public roadway, on a public conveyance, on public property or on private property open to the public, to use or be under the influence of any controlled substance specified in subsection (b), (c), (d), (e) and (f) of section 37-2705, Idaho Code, or subsection (b), (c) and (d) of section 37-2707, Idaho Code, or subsection (c) (~~5~~6) of section 37-2709, Idaho Code, or any narcotic drug classified in schedule III, IV or V, except when administered by or under the direction of a person licensed by the state to dispense, prescribe, or administer controlled substances. It shall be the burden of the defense to show that it comes within this exception.

(b) Any person convicted of violating the provisions of subsection (a) of this section is guilty of a misdemeanor and is punishable by imprisonment in a county jail for not more than six (6) months, or by a fine not exceeding one thousand dollars ($1,000) or by both.

(c) Any person who is convicted of violating subsection (a) of this section, when the offense occurred within five (5) years of that person being convicted of two (2) or more separate violations of that subsection and who refuses to complete a licensed drug rehabilitation program offered by the court pursuant to subsection (d) shall be punished by imprisonment in the county jail for a mandatory minimum period of time of not less than one hundred twenty (120) days, nor more than one (1) year. The court may not reduce the mandatory minimum period of incarceration provided in this subsection.

(d) The court may, when it would be in the interest of justice, permit any person convicted of a violation of subsection (a) of this section, punishable under subsection (b) or (c) of this section, to complete a licensed drug rehabilitation program in lieu of part or all of the imprisonment in

the county jail. As a condition of sentencing, the court may require the offender to pay all or a portion of the drug rehabilitation program. In order to alleviate jail overcrowding and to provide recidivist offenders with a reasonable opportunity to seek rehabilitation pursuant to this subsection, counties are encouraged to include provisions to augment licensed drug rehabilitation programs in their substance abuse proposals and applications submitted to the state for federal and state drug abuse funds.

(e) Notwithstanding subsection (a), (b) or (c) of this section, or any other provision of law to the contrary, any person who is unlawfully under the influence of cocaine, cocaine base, methamphetamine, heroin, or phencyclidine while in the immediate personal possession of a loaded, operable firearm is guilty of a public offense and is punishable by imprisonment in the county jail or the state prison for not more than one (1) year. As used in this subsection, "immediate possession" includes, but is not limited to, the interior passenger compartment of a motor vehicle.

(f) Every person who violates subsection (e) of this section is punishable upon the second and each subsequent conviction by imprisonment in the state prison for a period of time not in excess of four (4) years.

(g) In addition to any fine assessed under this section and notwithstanding the provisions of section 19-4705, Idaho Code, the court may, upon conviction, assess an additional cost to the defendant in the way of restitution, an amount not to exceed two hundred dollars ($200) to the arresting and/or prosecuting agency or entity. These funds shall be remitted to the appropriate fund to offset the expense of toxicology testing.

Approved March 25, 2010.

CHAPTER 118
(H.B. No. 519)

AN ACT

RELATING TO UNIFORM CONTROLLED SUBSTANCES; AMENDING SECTION 18-1502C, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 37-2701, IDAHO CODE, TO DEFINE A TERM, TO PROVIDE CORRECT CODE REFERENCES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 37-2732, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 72-208, 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 18-1502C, Idaho Code, be, and the same is hereby amended to read as follows:

18-1502C. POSSESSION OF MARIJUANA OR DRUG PARAPHERNALIA BY A MINOR -- USE OF CONTROLLED SUBSTANCES -- FINES. (1) Any person under eighteen (18) years of age who shall have in his possession any marijuana as defined in section 37-2701(~~s~~t), Idaho Code, which would constitute a misdemeanor for an adult so charged, or who shall have in his possession any drug paraphernalia as defined in section 37-2701(n), Idaho Code, or who shall unlawfully use or be under the influence of controlled substances in violation of the provisions of section 37-2732C, Idaho Code, shall be guilty of a misdemeanor, and upon conviction, may be punished by a fine not in excess of one thousand dollars ($1,000) or by ninety (90) days in a juvenile detention facility or by both or may be subject to the provisions of chapter 5, title 20, Idaho Code. If the juvenile is adjudicated under the provisions of chapter 5, title 20, Idaho Code, for a violation of this section he shall be sentenced in accordance with the provisions of chapter 5, title 20, Idaho Code. The

juvenile shall be adjudicated under chapter 5, title 20, Idaho Code, for a violation of section 37-2732C, Idaho Code, unless the court finds that adjudication under chapter 5, title 20, Idaho Code, is not appropriate in the circumstances.

(2) A conviction under this section shall not be used as a factor or considered in any manner for the purpose of establishing rates of motor vehicle insurance charged by a casualty insurer, nor shall such conviction be grounds for nonrenewal of any insurance policy as provided in section 41-2507, Idaho Code.

(3) Any person who pleads guilty or is found guilty of possession of marijuana pursuant to this section, or any person under eighteen (18) years of age who pleads guilty or is found guilty of a violation of section 37-2732C, Idaho Code, then in addition to the penalty provided in subsection (1) of this section:

(a) The court shall suspend the person's driving privileges for a period of not more than one (1) year. The person may request restricted driving privileges during the period of suspension, which the court may allow, if the person shows by a preponderance of the evidence that driving privileges are necessary as deemed appropriate by the court.

(b) If the person's driving privileges have been previously suspended under this section, the court shall suspend the person's driving privileges for a period of not more than two (2) years. The person may request restricted driving privileges during the period of suspension, which the court may allow, if the person shows by a preponderance of the evidence that driving privileges are necessary as deemed appropriate by the court.

(c) The person shall surrender his license or permit to the court.

(d) The court shall notify the motor vehicle division of the Idaho transportation department of all orders of suspension it issues pursuant to this section.

(4) The court, in its discretion, may also order the person convicted of possession of marijuana under subsection (1) of this section, or a person under eighteen (18) years of age who has been convicted of using or being under the influence of a controlled substance in violation of section 37-2732C, Idaho Code, to undergo and complete a substance abuse evaluation and to complete a drug treatment program, as provided in section 37-2738, Idaho Code.

SECTION 2. That Section 37-2701, Idaho Code, be, and the same is hereby amended to read as follows:

37-2701. DEFINITIONS. As used in this act:

(a) "Administer" means the direct application of a controlled substance whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(1) A practitioner (or, in his presence, by his authorized agent)~~,~~; or

(2) The patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

(c) "Board" means the state board of pharmacy created in chapter 17, title 54, Idaho Code, or its successor agency.

(d) "Bureau" means the Bureau of Narcotic and Dangerous Drugs, United States Department of Justice, or its successor agency.

(e) "Controlled substance" means a drug, substance, or immediate precursor in schedules I through V of article II of this act.

(f) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark,

trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

(g) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one (1) person to another of a controlled substance, whether or not there is an agency relationship.

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

(i) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(j) "Dispenser" means a practitioner who dispenses.

(k) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(l) "Distributor" means a person who distributes.

(m) "Drug" means (1) substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; (2) substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals; (3) substances (other than food) intended to affect the structure or any function of the body of man or animals; and (4) substances intended for use as a component of any article specified in clause (1), (2), or (3) of this subsection. It does not include devices or their components, parts, or accessories.

(n) "Drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this act. It includes, but is not limited to:

(1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;

(3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;

(4) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;

(5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

(6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;

(7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;

(8) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;

(9) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;

(10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;

(11) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body;

(12) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

(~~a~~i) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(~~b~~ii) Water pipes;

(~~c~~iii) Carburetion tubes and devices;

(~~d~~iv) Smoking and carburetion masks;

(~~e~~v) Roach clips: meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

(~~f~~vi) Miniature cocaine spoons, and cocaine vials;

(~~g~~vii) Chamber pipes;

(~~h~~viii) Carburetor pipes;

(~~i~~ix) Electric pipes;

(~~j~~x) Air-driven pipes;

(~~k~~xi) Chillums;

(~~l~~xii) Bongs;

(~~m~~xiii) Ice pipes or chillers;

In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

1. Statements by an owner or by anyone in control of the object concerning its use;

2. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance;

3. The proximity of the object, in time and space, to a direct violation of this act;

4. The proximity of the object to controlled substances;

5. The existence of any residue of controlled substances on the object;

6. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of this act; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this act shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;

7. Instructions, oral or written, provided with the object concerning its use;

8. Descriptive materials accompanying the object which explain or depict its use;

9. National and local advertising concerning its use;

10. The manner in which the object is displayed for sale;

11. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

12. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;

13. The existence and scope of legitimate uses for the object in the community;

14. Expert testimony concerning its use.

(o) "Financial institution" means any bank, trust company, savings and loan association, savings bank, mutual savings bank, credit union, or loan company under the jurisdiction of the state or under the jurisdiction of an agency of the United States.

(p) "Immediate precursor" means a substance which the board has found to be and by rule designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

(q) "Isomer" means the optical isomer, except as used in section 37-2705(d), Idaho Code.

(r) "Law enforcement agency" means a governmental unit of one (1) or more persons employed full-time or part-time by the state or a political subdivision of the state for the purpose of preventing and detecting crime and enforcing state laws or local ordinances, employees of which unit are authorized to make arrests for crimes while acting within the scope of their authority.

(~~r~~s) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, and includes extraction, directly or indirectly, 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 controlled substance:

(1) By a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice~~,~~; or

(2) By a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for delivery.

(~~s~~t) "Marijuana" means all parts of the plant of the genus Cannabis, regardless of species, and whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin. It does not include the mature stalks of the plant unless the same are intermixed with prohibited parts thereof, fiber produced from the stalks, oil or cake made from the seeds or the achene of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom or where the same are intermixed with prohibited parts of such plant), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination. Evidence that any plant material or the resin or any derivative thereof, regardless of form, contains any of the chemical substances classified as tetrahydrocannabinols shall create a presumption that such material is "marijuana" as defined and prohibited herein.

(~~t~~u) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.

(2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause 1, but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(~~u~~v) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under section 37-2702, Idaho Code, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(~~v~~w) "Opium poppy" means the plant of the species Papaver somniferum L., except its seeds.

(~~w~~x) "Peace officer" means any duly appointed officer or agent of a law enforcement agency, as defined herein, including, but not limited to, a duly appointed investigator or agent of the Idaho state police, an officer or employee of the board of pharmacy, who is authorized by the board to enforce this act, an officer of the Idaho state police, a sheriff or deputy sheriff of a county, or a marshal or policeman of any city.

(~~x~~y) "Person" means individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(~~y~~z) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(~~z~~aa) "Practitioner" means:

(1) A physician, dentist, veterinarian, scientific investigator, or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of his professional practice or research in this state;

(2) A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of their professional practice or research in this state.

(~~aa~~bb) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(~~bb~~cc) "Simulated controlled substance" means a substance that is not a controlled substance, but which by appearance or representation would lead a reasonable person to believe that the substance is a controlled substance. Appearance includes, but is not limited to, color, shape, size, and markings of the dosage unit. Representation includes, but is not limited to, representations or factors of the following nature:

(1) Statements made by an owner or by anyone else in control of the substance concerning the nature of the substance, or its use or effect;

(2) Statements made to the recipient that the substance may be resold for inordinate profit; or

(3) Whether the substance is packaged in a manner normally used for illicit controlled substances.

(~~cc~~dd) "State," when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States of America.

(~~dd~~ee) "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household.

(~~ee~~ff) "Utility" means any person, association, partnership or corporation providing telephone and/or communication services, electricity, natural gas or water to the public.

SECTION 3. That Section 37-2732, Idaho Code, be, and the same is hereby amended to read as follows:

37-2732. PROHIBITED ACTS A -- PENALTIES. (a) Except as authorized by this chapter, it is unlawful for any person to manufacture or deliver, or possess with intent to manufacture or deliver, a controlled substance.

(1) Any person who violates this subsection with respect to:

(A) ~~a~~A controlled substance classified in schedule I which is a narcotic drug or a controlled substance classified in schedule II, except as provided for in section 37-2732B(a)(3), Idaho Code, is guilty of a felony and upon conviction may be imprisoned for a term of years not to exceed life imprisonment, or fined not more than twenty-five thousand dollars ($25,000), or both;

(B) ~~a~~Any other controlled substance which is a nonnarcotic drug classified in schedule I, or a controlled substance classified in schedule III, is guilty of a felony and upon conviction may be imprisoned for not more than five (5) years, fined not more than fifteen thousand dollars ($15,000), or both;

(C) ~~a~~A substance classified in schedule IV, is guilty of a felony and upon conviction may be imprisoned for not more than three (3) years, fined not more than ten thousand dollars ($10,000), or both;

(D) ~~a~~A substance classified in schedules V and VI, is guilty of a misdemeanor and upon conviction may be imprisoned for not more than one (1) year, fined not more than five thousand dollars ($5,000), or both.

(b) Except as authorized by this chapter, it is unlawful for any person to create, deliver, or possess with intent to deliver, a counterfeit substance.

(1) Any person who violates this subsection with respect to:

(A) ~~a~~A counterfeit substance classified in schedule I which is a narcotic drug, or a counterfeit substance classified in schedule II, is guilty of a felony and upon conviction may be imprisoned for not more than fifteen (15) years, fined not more than twenty-five thousand dollars ($25,000), or both;

(B) ~~a~~Any other counterfeit substance classified in schedule I which is a nonnarcotic drug contained in schedule I or a counterfeit substance contained in schedule III, is guilty of a felony and upon conviction may be imprisoned for not more than five (5) years, fined not more than fifteen thousand dollars ($15,000), or both;

(C) ~~a~~A counterfeit substance classified in schedule IV, is guilty of a felony and upon conviction may be imprisoned for not more than three (3) years, fined not more than ten thousand dollars ($10,000), or both;

(D) ~~a~~A counterfeit substance classified in schedules V and VI or a noncontrolled counterfeit substance, is guilty of a misdemeanor and upon conviction may be imprisoned for not more than one (1) year, fined not more than five thousand dollars ($5,000), or both.

(c) It is unlawful for any person to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this chapter.

(1) Any person who violates this subsection and has in his possession a controlled substance classified in schedule I which is a narcotic drug or a controlled substance classified in schedule II, is guilty of

a felony and upon conviction may be imprisoned for not more than seven (7) years, or fined not more than fifteen thousand dollars ($15,000), or both.

(2) Any person who violates this subsection and has in his possession lysergic acid diethylamide is guilty of a felony and upon conviction may be imprisoned for not more than three (3) years, or fined not more than five thousand dollars ($5,000), or both.

(3) Any person who violates this subsection and has in his possession a controlled substance which is a nonnarcotic drug classified in schedule I except lysergic acid diethylamide, or a controlled substance classified in schedules III, IV, V and VI is guilty of a misdemeanor and upon conviction thereof may be imprisoned for not more than one (1) year, or fined not more than one thousand dollars ($1,000), or both.

(d) It shall be unlawful for any person to be present at or on premises of any place where he knows illegal controlled substances are being manufactured or cultivated, or are being held for distribution, transportation, delivery, administration, use, or to be given away. A violation of this section shall deem those persons guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than three hundred dollars ($300) and not more than ninety (90) days in the county jail, or both.

(e) If any person is found to possess marijuana, which for the purposes of this subsection shall be restricted to all parts of the plants of the genus Cannabis, including the extract or any preparation of cannabis which contains tetrahydrocannabinol, in an amount greater than three (3) ounces net weight, it shall be a felony and upon conviction may be imprisoned for not more than five (5) years, or fined not more than ten thousand dollars ($10,000), or both.

(f) If two (2) or more persons conspire to commit any offense defined in this act, said persons shall be punishable by a fine or imprisonment, or both, which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the conspiracy.

(g) (1) It is unlawful for any person to manufacture or distribute a "simulated controlled substance," or to possess with intent to distribute, a "simulated controlled substance." Any person who violates this subsection shall, upon conviction, be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one thousand dollars ($1,000) and not more than one (1) year in the county jail, or both.

(2) It is unlawful for any person to possess a "simulated controlled substance." Any person who violates this subsection shall, upon conviction, be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than three hundred dollars ($300) and not more than six (6) months in the county jail, or both.

(h) It is unlawful for any person to cause to be placed in any newspaper, magazine, handbill, or other publication, or to post or distribute in any public place, any advertisement or solicitation offering for sale simulated controlled substances. Any person who violates this subsection is guilty of a misdemeanor and shall be punished in the same manner as prescribed in subsection (g) of this section.

(i) No civil or criminal liability shall be imposed by virtue of this chapter on any person registered under the Uniform Controlled Substances Act who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or other use by a registered practitioner, as defined in section 37-2701(~~z~~aa), Idaho Code, in the course of professional practice or research.

(j) No prosecution under this chapter shall be dismissed solely by reason of the fact that the dosage units were contained in a bottle or other container with a label accurately describing the ingredients of the imitation

controlled substance dosage units. The good faith of the defendant shall be an issue of fact for the trier of fact.

(k) Upon conviction of a felony or misdemeanor violation under this chapter or upon conviction of a felony pursuant to the "racketeering act," section 18-7804, Idaho Code, or the money laundering and illegal investment provisions of section 18-8201, Idaho Code, the court may order restitution for costs incurred by law enforcement agencies in investigating the violation. Law enforcement agencies shall include, but not be limited to, the Idaho state police, county and city law enforcement agencies, the office of the attorney general and county and city prosecuting attorney offices. Costs shall include, but not be limited to, those incurred for the purchase of evidence, travel and per diem for law enforcement officers and witnesses throughout the course of the investigation, hearings and trials, and any other investigative or prosecution expenses actually incurred, including regular salaries of employees. In the case of reimbursement to the Idaho state police, those moneys shall be paid to the Idaho state police for deposit into the drug and driving while under the influence enforcement donation fund created in section 57-816, Idaho Code. In the case of reimbursement to the office of the attorney general, those moneys shall be paid to the general fund. A conviction for the purposes of this section means that the person has pled guilty or has been found guilty, notwithstanding the form of the judgment(s) or withheld judgment(s).

SECTION 4. That Section 72-208, Idaho Code, be, and the same is hereby amended to read as follows:

72-208. INJURIES NOT COVERED -- ~~WILFUL~~ WILLFUL INTENTION -- INTOXICATION. (1) No compensation shall be allowed to an employee for injury proximately caused by the employee's ~~wilful~~ willful intention to injure himself or to injure another.

(2) If intoxication is a reasonable and substantial cause of an injury, no income benefits shall be paid, except where the intoxicants causing the employee's intoxication were furnished by the employer or where the employer permits the employee to remain at work with knowledge by the employer or his supervising agent that the employee is intoxicated.

(3) "Intoxication" as used in this section means being under the influence of alcohol or of controlled substances, as defined in section 37-2701(~~d~~e), Idaho Code. Provided, however, that this definition shall not include an employee's use of a controlled substance for which a prescription has been issued authorizing such substance to be dispensed to the employee, or when such substance is dispensed directly by a physician to the employee, and where the employee's use of the controlled substance is in accordance with the instructions for use of the controlled substance.

Approved March 25, 2010.

CHAPTER 119
(H.B. No. 525)

AN ACT

RELATING TO THE FILM AND TELEVISION PRODUCTION BUSINESS REBATE FUND; AMENDING SECTION 67-4728, IDAHO CODE, TO CLARIFY THAT THE FILM AND TELEVISION PRODUCTION BUSINESS REBATE FUND MAY CONSIST OF GRANTS, FEDERAL MONEYS, DONATIONS OR FUNDS FROM ANY OTHER SOURCE.

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

SECTION 1. That Section 67-4728, Idaho Code, be, and the same is hereby amended to read as follows:

67-4728. FILM AND TELEVISION PRODUCTION BUSINESS REBATE FUND. (1) There is hereby created in the state treasury the film and television production business rebate fund to which shall be credited all moneys that may be appropriated, apportioned, allocated, paid back to the fund, grants, federal moneys, donations, funds from any other source or otherwise provided by law. The purpose of the fund is to stimulate new film and television production business expenditures in the state of Idaho. Moneys in the fund shall be used exclusively as provided for in this section.

(2) As used in this section:

(a) "Applicant" means a taxpayer that is a film or television production business that is operating a qualified production and that:

(i) Owns the copyrights in a qualified production throughout the Idaho production period; or

(ii) Has contracted directly with the person acting on behalf of the copyright owner to provide services for the production where the copyright owner is not an eligible production company.

(b) "Base investment" means the investment made and expended by a certified production in Idaho as production expenditures incurred in Idaho that are directly used in a certified production or productions.

(c) "Certified production" means a qualified production selected by the department for a rebate from the fund.

(d) "Department" means the Idaho department of commerce.

(e) "Director" means the director of the Idaho department of commerce.

(f) "Fund" means the film and television production business rebate fund.

(g) "Production expenses" means those expenses eligible for a rebate from the fund and includes expenses for all production goods and services including wages and salaries, construction, operations, editing, photography, sound synchronization, lighting, makeup, wardrobe and accessories, rental facilities and equipment, leasing of vehicles, food and lodging, digital or tape editing, film processing, sound mixing, special and visual effects, and music, if performed, composed or recorded by a musician who is a resident of Idaho and other reasonable in-state expenditures as defined in departmental rule. Production expenses do not include marketing and advertising costs, star salaries, producer and director salaries, script costs, any indirect costs, any amounts that are later reimbursed, any costs related to the transfer or rebates awarded under this section or any amounts that are paid to persons or entities as a result of their participation in profits from the production.

(h) "Qualified production" means a feature film, a television film, a commercial for a product or service, a documentary, a television pilot or each episode of a television series that spends a minimum of two hundred thousand dollars ($200,000) on Idaho goods and services. A qualified production does not include a production featuring any of the following: news, current events, weather and market reports, public access television programming, infomercials, talk shows, game shows, sports shows or events, award shows or other gala events, a production that solicits funds, a production containing obscene material or a production primarily for private, political, industrial, corporate or institutional purposes.

(3) 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 credited to the fund.

(4) Applicants may apply for a rebate from the fund by filling out an application and satisfying the department's criteria for a certified production prior to commencing work on the production. The rebate shall be calculated as a percentage of total base investment dollars certified by the department per project. The rebate shall be earned at the time expenditures are made by a film or television or commercial production business in a certified production.

(5) The director of the department may promulgate administrative rules in compliance with chapter 52, title 67, Idaho Code, to implement the provisions of this section.

(6) The following is required for all certified productions: Beginning on and after July 1, 2008, and ending June 30, 2010, certified productions shall ensure to the department that twenty percent (20%) of the crew working in Idaho on a certified production are Idaho residents as verified by a state certified driver's license or identification card. Beginning on and after July 1, 2010, and ending on June 30, 2011, certified productions shall ensure to the department that twenty-five percent (25%) of the crew working in Idaho on a certified production are Idaho residents as verified by a state certified driver's license or identification card. Beginning on and after July 1, 2011, and ending on June 30, 2012, certified productions shall ensure to the department that thirty percent (30%) of the crew working in Idaho on a certified production are Idaho residents as verified by a state certified driver's license or identification card. Beginning on and after July 1, 2012, and ending on June 30, 2013, certified productions shall ensure to the department that thirty-five percent (35%) of the crew working in Idaho on a certified production are Idaho residents as verified by a state certified driver's license or identification card.

(7) The total amount of any rebate granted pursuant to this section may not exceed five hundred thousand dollars ($500,000) nor twenty percent (20%) of a qualified production's expenses.

(8) Any rebate awarded from the fund shall be awarded pursuant to a written agreement between the applicant and the department.

(9) The department shall evaluate the economic impact of rebates awarded from the fund. The evaluation shall include an assessment of the effectiveness of the program in creating and retaining new jobs in Idaho and of the revenue impact of the fund, and may include a review of the practices and experiences of other states or nations with similar programs. Upon completion of this evaluation, the department shall determine the overall success of the fund and may make a recommendation to extend, modify or not extend the fund based on this evaluation. The department shall submit to the legislature during the 2014 regular legislative session a report that includes the following information:

(a) The economic impact of the rebate fund, including the number of jobs created and retained, including whether the job positions are entry level, management, talent related, vendor related or production related;

(b) The amount of film production spending brought to Idaho, including the amount of spending and type of Idaho vendors hired in connection with a certified production;

(c) Identification of each vendor that provided goods or services that were included in a certified production's Idaho spending; and

(d) The amount paid to each identified vendor by the certified production.

Approved March 25, 2010.

CHAPTER 120
(H.B. No. 533)

AN ACT

RELATING TO INVASIVE SPECIES; AMENDING SECTION 67-7008A, IDAHO CODE, TO PROVIDE THAT SAILBOATS SHALL BE ASSESSED A FEE, TO REVISE FEE PROVISIONS, TO PROVIDE FOR FEES FOR ADDITIONAL VESSELS IN EXCESS OF ONE HUNDRED VESSELS FOR LICENSED OUTFITTERS, TO PROVIDE FEE RATES FOR CERTAIN GROUPS EXEMPT FROM SPECIFIED LICENSING, TO PROVIDE FOR THE RETENTION OF CERTAIN FEES, TO PROVIDE FOR REPLACEMENT STICKERS, AND TO PROVIDE FOR STICKERS FOR THOSE ENGAGED IN THE MANUFACTURE AND SALE OF VESSELS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-7008A, Idaho Code, be, and the same is hereby amended to read as follows:

67-7008A. ADDITIONAL FEES -- DEPOSIT INTO INVASIVE SPECIES FUND. (1) In addition to any other moneys or fees collected pursuant to the provisions of section 67-7008, Idaho Code, or any other provision of chapter 70, title 67, Idaho Code, all vessels shall pay an additional fee each calendar year as follows:

(a) Motorized vessels and sailboats:

(i) Ten dollars ($10.00) per vessel registered in the state of Idaho prior to launch into the public waters of the state;

(ii) Twenty-two dollars ($2~~0~~2.00) per vessel documented through the United States coast guard or registered outside the state of Idaho prior to launch into the public waters of the state.

(b) Nonmotorized vessels: ~~Five~~ Seven dollars ($~~5~~7.00) per vessel prior to launch into the public waters of the state.

(c) ~~Commercial~~ Licensed outfitters, as defined in section 36-2102(b), Idaho Code, with nonmotorized fleets exceeding five (5) vessels shall be afforded a prorated group rate of thirty-two dollars ($3~~0~~2.00) for six (6) to ten (10) vessels; fifty-~~five~~seven dollars ($5~~5~~7.00) for eleven (11) to twenty (20) vessels; and one hundred two dollars ($10~~0~~2) for twenty-one (21) or more vessels up to a maximum of one hundred (100) vessels. The fee for any additional vessels shall be one dollar ($1.00) per vessel. The licensed outfitter group rates shall also be available for groups exempt from licensing pursuant to section 36-2103, Idaho Code.

(2) Upon payment of the fee as provided in this section, the payor shall be issued a protection against invasive species sticker that shall be displayed on the vessel in a manner as prescribed by the rules of the department. Stickers shall be considered in full force and effect through December 31 of the year of issue.

(3) Fees shall be collected by the department or authorized vendor.

(a) Vendors may retain one dollar and fifty cents ($1.50) of fees collected pursuant to this section except those collected pursuant to subsection (1)(a)(i) of this section.

(b) The department shall retain up to twenty percent (20%) of the fees for the actual costs of administering the sticker program.

(c) All remaining f~~F~~ees collected pursuant to this section shall be deposited in the invasive species fund established in section 22-1911, Idaho Code.

(d) For the purpose of this section, "vessel" is defined in section 67-7003(22), Idaho Code. All vessels are subject to the provisions of

this section, with the exception of small rafts and other inflatable vessels less than ten (10) feet in length.

(4) If the protection against invasive species sticker is lost, stolen or destroyed, any sticker remnants shall be returned to the department along with a three dollar ($3.00) fee for a duplicate sticker.

(5) A person engaged in the manufacture or sale of vessels may obtain a sticker to be used in the testing or demonstration only of vessels by temporary placement of the protection against invasive species sticker on the vessel tested or demonstrated.

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 25, 2010.

CHAPTER 121
(H.B. No. 538)

AN ACT

RELATING TO THE FREEDOM OF CHOICE OF DENTURES ACT; AMENDING SECTION 54-3308, IDAHO CODE, TO REVISE LAY BOARD MEMBER COMPENSATION; AND AMENDING SECTION 54-3312, IDAHO CODE, TO RAISE THE LICENSE RENEWAL FEE MAXIMUM.

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

SECTION 1. That Section 54-3308, Idaho Code, be, and the same is hereby amended to read as follows:

54-3308. OFFICERS -- MEETINGS -- VOTING -- RECORDS -- COMPENSATION -- FAIR PRACTICE COMMITTEE. (a) The board shall organize by the election of one (1) of its members as president, 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. Officers of the board shall be elected for terms of one (1) year at the annual meeting of the board, but the same person may not hold the office of president for more than three (3) years in succession.

(b) 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 or by request of two (2) or more members of the board.

(c) 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) The secretary of the board shall keep a complete record of all of its proceedings.

(e) Denturist members of the board shall be compensated as provided in section 59-509(b), Idaho Code, for attending meetings of the board or for performing duties prescribed by this chapter and approved by the board; provided, the lay members shall be compensated as provided in section 59-509(~~h~~n), Idaho Code.

(f) The board shall appoint a fair practice committee consisting of three (3) denturists selected from the membership of the association of Idaho denturists. This committee will meet as need arises and shall file a written report with the board on the decisions made.

SECTION 2. That Section 54-3312, Idaho Code, be, and the same is hereby amended to read as follows:

54-3312. FEES. The board shall be entitled to charge and collect the following fees subject to adjustment as prescribed by section 54-3309(c), Idaho Code:

(a) An application fee (which shall include the cost of an examination when required) of not to exceed three hundred dollars ($300);

(b) An initial license fee of not to exceed three hundred dollars ($300);

(c) A renewal fee of not to exceed ~~six hundred~~ one thousand dollars ($~~6~~1,000).

Approved March 25, 2010.

CHAPTER 122
(H.B. No. 553)

AN ACT

RELATING TO THE ELECTRICAL BOARD FUND; AMENDING SECTION 54-1015, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE PAYMENT OF CERTAIN MONEYS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 54-1015, Idaho Code, be, and the same is hereby amended to read as follows:

54-1015. ~~"~~ELECTRICAL BOARD FUND~~"~~ ESTABLISHED. All money received by the administrator, under the terms and provisions of this ~~act~~ chapter, shall be paid into the state treasury ~~monthly~~ as directed by the provisions of section 59-1014, Idaho Code, and shall be, by the state treasurer, placed to the credit of a dedicated fund to be known as the ~~"E~~electrical ~~B~~board ~~F~~fund~~,"~~ and all such moneys, hereafter placed in said fund, are hereby set aside and appropriated to the division of building safety to carry into effect the provisions of this ~~act~~ chapter.

Approved March 25, 2010.

CHAPTER 123
(H.B. No. 560)

AN ACT

RELATING TO PROCUREMENT REQUIREMENTS; AMENDING SECTION 67-2803, IDAHO CODE, TO PROVIDE AN EXCEPTION TO CERTAIN PROCUREMENT REQUIREMENTS FOR THE PROCUREMENT OF USED PERSONAL PROPERTY BY DRAINAGE DISTRICTS.

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

SECTION 1. That Section 67-2803, Idaho Code, be, and the same is hereby amended to read as follows:

67-2803. EXCLUSIONS. The procurement requirements established in this chapter shall not be applicable to:

(1) The acquisition of personal property when the procurement duplicates the price and substance of a contract for like goods or services that

has been competitively bid by the state of Idaho, one (1) of its political subdivisions, or an agency of the federal government;

(2) Contracts or purchases wherein expenditures are less than twenty-five thousand dollars ($25,000), provided such contracts or purchases shall be guided by the best interests of the political subdivision procuring the goods and services as determined by the governing board;

(3) Disbursement of wages or compensation to any employee, official or agent of a political subdivision for the performance of personal services for the political subdivision;

(4) Procurement of personal or professional services to be performed by an independent contractor for the political subdivision;

(5) Procurement of an interest in real property;

(6) Procurement of insurance;

(7) Costs of participation in a joint powers agreement with other units of government; or

(8) Procurement of used personal property by irrigation districts, drainage districts and their boards of control.

Approved March 25, 2010.

CHAPTER 124
(H.B. No. 561)

AN ACT

RELATING TO NAVIGATIONAL ENCROACHMENT; AMENDING SECTION 58-1305, IDAHO CODE, TO PROVIDE THAT A PERMIT IS NOT REQUIRED FOR REPLACING AN EXISTING NAVIGATIONAL ENCROACHMENT IF CERTAIN CONDITIONS ARE MET.

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

SECTION 1. That Section 58-1305, Idaho Code, be, and the same is hereby amended to read as follows:

58-1305. NONCOMMERCIAL NAVIGATIONAL ENCROACHMENTS -- PROCEDURES -- REPAIRS -- FORMS. (a) Applications for construction~~,~~ or enlargement ~~or replacement~~ of navigational encroachments not extending beyond the line of navigability nor intended primarily for commercial or community use shall be processed by the board with a minimum of procedural requirements and shall not be denied nor appearance required except in the most unusual of circumstances or if the proposed encroachment infringes upon or it appears it may infringe upon the riparian or littoral rights of an adjacent property owner.

(b) If the plans of the proposed encroachment indicate such infringement will or may occur, the board shall require that the applicant secure the consent of such adjacent owner or that he be given notice of the application by personal service or by certified or registered mail, return receipt requested, directed to him at his usual place of address, which, if not otherwise known, shall be the address shown on the records of the county treasurer or assessor, and such adjacent owner shall have ten (10) days from the date of personal service or receipt of certified or registered mail to file objection with the board. The application itself shall be deemed sufficient notice if the adjacent owner is the state of Idaho.

(c) In the event objection to the application is filed by an adjacent owner or if the board deems it advisable because of the existence of unusual circumstances, the board shall fix a time, no later than sixty (60) days from the date of filing application, and a place, for affording the applicant and the adjacent owner filing objection to appear and present evidence in support of or in opposition to the application and within forty-five (45) days

thereafter shall render a decision and give notice thereof to the parties concerned who may thereafter resort to appellate procedures prescribed in section 58-1306, Idaho Code.

(d) A permit shall not be required for repair of an existing navigational encroachment.

(e) A permit shall not be required for replacement of an existing navigational encroachment if all the following conditions are met:

(1) The existing encroachment is covered by a valid permit in good standing.

(2) The existing encroachment meets the current requirements for new encroachments.

(3) The location and orientation of the replacement do not change from the existing encroachment.

(4) The replacement will be the exact same size or smaller and the same shape as the existing encroachment.

(5) The replacement will not be located closer to adjacent littoral right lines than the existing encroachment.

(f) Applications submitted under this section shall be upon forms to be furnished by the board and shall be accompanied by plans of the proposed navigational encroachment containing information required by section 58-1302(k), Idaho Code, and such other information as the board may by rule require in conformance with the intent and purpose of this chapter.

(~~f~~g) If notice to an adjacent owner is not required or if the adjacent owner has consented to the proposed encroachment or has failed to file objection to the proposed encroachment within the time allowed following service of notice, the board shall act upon the application as expeditiously as possible but no later than sixty (60) days from receipt of the application and failure to act within such time shall constitute approval of the application.

(~~g~~h) All permits issued for noncommercial navigational encroachments shall be recorded in the records of the county in which the encroachment is located and shall be a condition of issuance of a permit. Proof of recordation shall be furnished to the department by the permittee before a permit becomes valid. Such recordation shall be at the expense of the permittee. Recordation of an issued permit serves only to provide constructive notice of the permit to the public and subsequent purchasers and mortgagees, but conveys no other right, title or interest on the permittee other than validation of said permit.

Approved March 25, 2010.

CHAPTER 125
(H.B. No. 579)

AN ACT

RELATING TO EDUCATION; AMENDING CHAPTER 5, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-512C, IDAHO CODE, TO PROVIDE FOR TRANSFERRING OF CERTAIN GRADES AND CREDITS TO A STUDENT'S HIGH SCHOOL TRANSCRIPT AND TO PROVIDE FOR NONAPPLICATION TO SENIOR PROJECTS.

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

SECTION 1. That Chapter 5, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-512C, Idaho Code, and to read as follows:

33-512C. ENCOURAGEMENT OF GIFTED STUDENTS. If a student completes any required high school course with a grade of C or higher before entering grade nine (9), if that course meets the same standards that are required in high school, if the course is taught by a properly certified teacher who meets the federal definition of being highly qualified for the course being taught and if the school providing the course is accredited as recognized by the state board, the student shall be given a grade for the successful completion of that course and such grade and the number of credit hours assigned to the course shall be transferred to the student's high school transcript. Two (2) semester credits of the required six (6) semester mathematics credits must be taken in the final year of high school. The provisions of this section do not apply to senior projects.

Approved March 25, 2010.

CHAPTER 126
(H.B. No. 529)

AN ACT

RELATING TO INSURANCE CONTRACTS WITH PROVIDERS OF DENTAL SERVICES; AMENDING CHAPTER 18, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-1849, IDAHO CODE, TO PROVIDE PROVISIONS FOR CONTRACTS WITH PROVIDERS OF DENTAL SERVICES, TO DEFINE "COVERED SERVICES" AND TO PROVIDE APPLICATION; AMENDING CHAPTER 34, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-3444, IDAHO CODE, TO PROVIDE PROVISIONS FOR CONTRACTS WITH PROVIDERS OF DENTAL SERVICES, TO DEFINE "COVERED SERVICES" AND TO PROVIDE APPLICATION.

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 41-1849, Idaho Code, and to read as follows:

41-1849. CONTRACTS WITH PROVIDERS OF DENTAL SERVICES. (1) No person contracting with dentists to provide coverage or reimbursement for dental services may require, as an element of any dental care provider participation contract, that any provider agree to adopt fees set by the person for services that are not covered services under the contract. "Covered services" as used in this section means services under the applicable dental plan, dental plan contract or plan benefits subject to such contractual limitations on benefits of the dental plan, dental plan contracts or plan benefits as may apply.

(2) This section shall apply to any contract with providers for dental services that is issued after January 1, 2011. Contracts that are in existence on January 1, 2011, shall be brought into compliance on the next anniversary date, renewal date, or the expiration date of the applicable collective bargaining contract, if any, whichever date is latest.

SECTION 2. That Chapter 34, 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 41-3444, Idaho Code, and to read as follows:

41-3444. CONTRACTS WITH PROVIDERS OF DENTAL SERVICES. (1) No person contracting with dentists to provide coverage or reimbursement for dental services may require, as an element of any dental care provider participation contract, that any provider agree to adopt fees set by the person for services that are not covered services under the contract. "Covered ser-

vices" as used in this section means services under the applicable dental plan, dental plan contract or plan benefits subject to such contractual limitations on benefits of the dental plan, dental plan contracts or plan benefits as may apply.

(2) This section shall apply to any contract with providers for dental services that is issued after January 1, 2011. Contracts that are in existence on January 1, 2011, shall be brought into compliance on the next anniversary date, renewal date, or the expiration date of the applicable collective bargaining contract, if any, whichever date is latest.

Approved March 26, 2010.

CHAPTER 127
(S.B. No. 1353)

AN ACT

RELATING TO ABORTION AND END OF LIFE CARE; AMENDING CHAPTER 6, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-611, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE FREEDOM OF CONSCIENCE FOR HEALTH CARE PROFESSIONALS, TO PROVIDE IMMUNITY FROM LIABILITY, TO PROVIDE AN EXCEPTION FOR EMERGENCIES AND TO PROHIBIT DISCRIMINATION; AND PROVIDING SEVERABILITY.

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

SECTION 1. That Chapter 6, 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 18-611, Idaho Code, and to read as follows:

18-611. FREEDOM OF CONSCIENCE FOR HEALTH CARE PROFESSIONALS. (1) As used in this section:

(a) "Abortifacient" means any drug that causes an abortion as defined in 18-604, Idaho Code, emergency contraception or any drug the primary purpose of which is to cause the destruction of an embryo or fetus.

(b) "Conscience" means the religious, moral or ethical principles sincerely held by any person.

(c) "Embryo" means the developing human life from fertilization until the end of the eighth week of gestation.

(d) "Fetus" means the developing human life from the start of the ninth week of gestation until birth.

(e) "Health care professional" means any person licensed, certified or registered by the state of Idaho to deliver health care.

(f) "Health care service" means an abortion, dispensation of an abortifacient drug, human embryonic stem cell research, treatment regimens utilizing human embryonic stem cells, human embryo cloning or end of life treatment and care.

(g) "Provide" means to counsel, advise, perform, dispense, assist in or refer for any health care service.

(h) "Religious, moral or ethical principles," "sincerely held," "reasonably accommodate" and "undue hardship" shall be construed consistently with Title VII of the federal civil rights act of 1964, as amended.

(2) No health care professional shall be required to provide any health care service that violates his or her conscience.

(3) Employers of health care professionals shall reasonably accommodate the conscience rights of their employees as provided in this section, upon advanced written notification by the employee. Such notice shall suffice without specification of the reason therefor. It shall be unlawful for

any employer to discriminate against any health care professional based upon his or her declining to provide a health care service that violates his or her conscience, unless the employer can demonstrate that such accommodation poses an undue hardship.

(4) No health care professional or employer of the health care professional shall be civilly, criminally or administratively liable for the health care professional declining to provide health care services that violate his or her conscience, except for life-threatening situations as provided for in subsection (6) of this section.

(5) The provisions of this section do not allow a health care professional or employer of the health care professional to refuse to provide health care services because of a patient's race, color, religion, sex, age, disability or national origin.

(6) If a health care professional invokes a conscience right in a life-threatening situation where no other health care professional capable of treating the emergency is available, such health care professional shall provide treatment and care until an alternate health care professional capable of treating the emergency is found.

(7) Nothing in this section shall affect the rights of conscience provided for in section 18-612, Idaho Code, to the extent that those rights are broader in scope than those provided for in this section.

SECTION 2. 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.

Law without signature.

CHAPTER 128
(H.B. No. 400, As Amended in the Senate)

AN ACT
RELATING TO THE STATE BOARD OF EDUCATION; AMENDING SECTION 33-107, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE DELEGATION OF CERTAIN POWERS AND DUTIES OF THE STATE BOARD AND TO PROVIDE PROVISIONS RELATING TO STATEMENTS OF AGENCY ACTION.

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

SECTION 1. That Section 33-107, Idaho Code, be, and the same is hereby amended to read as follows:

33-107. GENERAL POWERS AND DUTIES OF THE STATE BOARD. The state board shall have power to:

(1) Perform all duties prescribed for it by the school laws of the state;

(2) Acquire, hold and dispose of title, rights and interests in real and personal property;

(3) Have general supervision, through its executive departments and offices, of all entities of public education supported in whole or in part by state funds;

(4) <u>(a)</u> Delegate to its executive secretary, to its executive officer, or to such other administrators as the board may appoint, such powers as said officers require to carry out <u>and administer</u> the policies, orders and directives of the board;

(b) Delegate to its executive officer, if necessary to enhance effectiveness and efficiency, such powers as he requires to exercise discretionary authority and to perform duties vested in the state board related to the operation, control and management of Idaho's state universities and colleges and other agencies under the supervision and governance of the state board, and to perform duties and render decisions prescribed to the state board involving the exercise of judgment and discretion that affect the public schools in Idaho;

(c) Delegate to the presidents of Idaho's state universities and colleges, if necessary to enhance effectiveness and efficiency, such powers as said officers require to exercise discretionary authority and to perform duties vested in the state board related to the operation, control and management of Idaho's state universities and colleges;

(d) Delegate to its executive secretary, the superintendent of public instruction, if necessary to enhance effectiveness and efficiency, such powers as he requires to perform duties and render decisions prescribed to the state board involving the exercise of judgment and discretion that affect the public schools in Idaho;

(e) Delegations of powers under this subsection must be adopted as statements of agency action by the state board, as provided in section 33-105(2), Idaho Code, and pursuant to a process that provides for notice, opportunity for input and formal adoption by the state board;

(5) Through its executive departments and offices:

(a) Enforce the school laws of the state,

(b) Study the educational conditions and needs of the state and recommend to the legislature needed changes in existing laws or additional legislation;

(6) In addition to the powers conferred by chapter 24, title 33, Idaho Code:

(a) Maintain a register of postsecondary educational institutions approved to provide programs and courses that lead to a degree or which provide, offer and sell degrees in accordance with the procedures established in chapter 24, title 33, Idaho Code,

(b) Determine whether to accept academic credit at public postsecondary educational institutions in Idaho. Academic credit shall not be transferred into any Idaho public postsecondary institution from a postsecondary educational institution or other entity that is not accredited by an organization recognized by the board,

(c) Maintain a register of proprietary schools approved to conduct, provide, offer or sell a course or courses of study in accordance with the procedures established in chapter 24, title 33, Idaho Code;

(7) Prescribe the courses and programs of study to be offered at the public institutions of higher education, after consultation with the presidents of the affected institutions;

(8) Approve new courses and programs of study to be offered at community colleges organized pursuant to chapter 21, title 33, Idaho Code, when the courses or programs of study are academic in nature and the credits derived therefrom are intended to be transferable to other state institutions of higher education for credit toward a baccalaureate degree, and when the courses or programs of study have been authorized by the board of trustees of the community college.

Approved March 29, 2010.

CHAPTER 129
(H.B. No. 457)

AN ACT

RELATING TO FUEL TAX DISTRIBUTION; AMENDING SECTION 7, CHAPTER 333, LAWS OF 2009, TO DELAY CHANGES TO THE APPORTIONMENT OF THE HIGHWAY DISTRIBUTION ACCOUNT AND DISTRIBUTION OF REVENUES FROM THE TAX ON GASOLINE.

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

SECTION 1. That Section 7, Chapter 333, Laws of 2009, be, and the same is hereby amended to read as follows:

SECTION 7. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1, 5 and 6 of this act shall be in full force and effect on and after passage and approval. Sections 2, 3 and 4 of this act shall be in full force and effect on and after July 1, 201~~0~~1.

Approved March 29, 2010.

CHAPTER 130
(H.B. No. 467)

AN ACT

RELATING TO VETERINARIANS; AMENDING SECTION 54-2105, IDAHO CODE, TO PROVIDE FOR EMERGENCY PROCEEDINGS FOR LICENSE REVOCATION OR OTHER ACTION UNDER CERTAIN CONDITIONS.

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 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 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. Whenever it appears that grounds for discipline exist under this chapter and the board finds that there is an immediate danger to the public health, safety or welfare, the board is authorized to commence emergency proceedings for revocation or other action. Such proceedings shall be promptly instituted and processed under the applicable provisions of chapter 52, title 67, Idaho Code.

(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 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 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 ex-

ecutive 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 29, 2010.

CHAPTER 131
(H.B. No. 477)

AN ACT

RELATING TO INSURANCE; AMENDING SECTION 41-2653, IDAHO CODE, TO PROVIDE FOR A WAIVER, TO REVISE PROVISIONS RELATING TO INSTANCES WHERE THE INSURER SHALL ACCEPT NO NEW MORTGAGE GUARANTY INSURANCE RISKS, TO CORRECT CODIFIER'S ERRORS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 41-2653, Idaho Code, be, and the same is hereby amended to read as follows:

41-2653. LIMITS OF RISK. (1) The insurer shall limit its coverage to an amount not exceeding twenty-five ~~per cent~~ percent (25%) of the entire indebtedness to the insured, or in lieu thereof, the insurer may elect to pay the entire indebtedness to the insured, and acquire title to the authorized real property security.

(2) The insurer shall not retain risk as to any one (1) loan, or as to all loans secured by properties in a single housing tract or a contiguous tract, in an amount in excess of ten ~~per cent~~ percent (10%) of the insurer's ~~policy holders~~ policyholders surplus. In determining the amount of risk retained, applicable reinsurance in an assuming insurer authorized to transact insurance in this state or approved by the director shall be deducted from the total direct risk insured. For the purposes of this ~~provision~~ section "contiguous" means not separated by more than one-half (1/2) of a mile.

(3) The insurer shall not at any time have outstanding aggregate risk liability, net of applicable reinsurance, under mortgage guaranty insurance in amount in excess of twenty-five (25) times its policyholders surplus.

(4) The director may waive the requirement of subsection (3) of this section upon a written request of the insurer and finding that the insurer is in compliance with any requirements or conditions imposed by the insurer's state of domicile and the insurer's policyholder surplus is reasonable in relationship to the insurer's aggregate insured risk and adequate to its financial needs. In reviewing a written request for approval to exceed the twenty-five (25) times its policyholders surplus limitation, the director may retain outside experts to assist in the review. The insurer shall bear the cost of outside experts retained for the review.

(5) If at any time the insurer's outstanding risk liability as to mortgage guaranty insurance exceeds the limitations stated in subsection (3) and the insurer has not received a written waiver from the director, the insurer shall accept no new mortgage guaranty insurance risks while such excess exists.

(~~5~~6) The director may suspend or revoke the certificate of authority of an insurer which violates the provisions of this section.

Approved March 29, 2010.

CHAPTER 132
(H.B. No. 486)

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 49-419E, IDAHO CODE, TO ESTABLISH AN IDAHO MOUNTAIN BIKING 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 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, operated upon the public highways the annual fee shall be nine dollars ($9.00).

(4) For operation of an all-terrain vehicle, utility type vehicle or motorbike, excluding a motorbike with an engine displacement of fifty (50) cubic centimeters or less, on city, county or highway district roads or highways open to such use, a restricted vehicle license plate fee pursuant to section 49-450, Idaho Code, shall be paid. In addition, the registration fee specified in section 67-7122, Idaho Code, shall be paid as provided in section 67-7122, Idaho Code. The registration and restricted vehicle license plate exemption provided in section 49-426(2), Idaho Code, applies to all-terrain vehicles, utility type vehicles, motorbikes and motorcycles used for the purposes described in subsection (2) of section 49-426, Idaho Code. Nonresidents shall be allowed to purchase a restricted vehicle license plate and sticker for an all-terrain vehicle, utility type vehicle or motorbike.

(5) 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.

(6) Registration fees shall not be subject to refund.

(7) 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.

(8) A wrecker or towing business engaged in the process of towing motorized vehicles, which have been wrecked, abandoned, salvaged or may be disabled, may apply for a wrecker plate to be displayed on those vehicles being

towed, provided the power unit is properly registered under this chapter. The registration fees for wrecker 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 wrecker plate shall be issued on an annual basis by the department.

(9) 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, 49-417D, 49-417E, 49-418A, 49-418B, 49-418C, 49-418E, 49-419, 49-419A, 49-419B, 49-419C, 49-419D, 49-419E, 49-420, 49-420A, 49-420B, 49-420C, 49-420D, 49-420E, 49-420G, ~~and~~ 49-420H and 49-420I, 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.

(~~9~~10) 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 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 49-419E, Idaho Code, and to read as follows:

49-419E. IDAHO MOUNTAIN BIKING PLATES. (1) On and after January 1, 2011, 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 mountain biking 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 mountain biking 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 the plates and twenty-five dollars ($25.00) upon each succeeding annual registration. Thirteen dollars ($13.00) of the initial fee and thirteen dollars ($13.00) 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-two dollars ($22.00) of each initial fee and twelve dollars ($12.00) of each renewal fee shall be deposited by the state treasurer in a dedicated fund in the department of parks and recreation or any successor state agency or department thereto which fund shall be used by any such agency or department exclusively for the preservation, maintenance and expansion of recreational trails within the state of Idaho and on which mountain biking is permitted.

(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 a new registration from the department.

(4) The Idaho mountain biking 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 department of parks and recreation or any successor agency or department thereto, and shall be approved by the Idaho transportation department utilizing a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the Idaho mountain bike trail preservation association.

(5) Sample Idaho mountain biking license plates may be purchased for a fee of thirty dollars ($30.00), thirteen dollars ($13.00) of which shall be deposited in the state highway account and seventeen dollars ($17.00) of which shall be deposited in a dedicated fund within the department of parks and recreation or any successor state agency or department thereto and which fund shall be used by any such agency or department exclusively for the preservation, maintenance and expansion of recreational trails within the state of Idaho and on which mountain biking is permitted.

SECTION 3. This act shall be in full force and effect on and after January 1, 2011.

Approved March 29, 2010.

CHAPTER 133
(H.B. No. 490)

AN ACT

RELATING TO PROPERTY TAXATION; AMENDING SECTION 63-602, IDAHO CODE, TO PROVIDE THE ANNUAL APPROVAL PROVISION SHALL NOT APPLY TO A CERTAIN PROPERTY TAX EXEMPTION AS LONG AS CERTAIN CONDITIONS OCCUR AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 63-602NN, IDAHO CODE, TO REVISE THE DEFINITIONS OF "NEW PLANT AND BUILDING FACILITIES" AND "TAX INCENTIVE CRITERIA" AND TO PROVIDE THE EFFECT OF THE ANNUAL APPROVAL PROVISION; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

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

63-602. PROPERTY EXEMPT FROM TAXATION. (1) Property shall be exempt from taxation as provided in this chapter; provided, that no deduction shall be made in assessment of shares of capital stock of any corporation or association for exemptions claimed under this section, and provided further, that the term "full cash value" wherever used in this act shall mean the actual assessed value of the property as to which an exemption is claimed.

(2) The use of the words "exclusive" or "exclusively" in this chapter shall mean used exclusively for any one (1) or more, or any combination of, the exempt purposes provided hereunder and property used for more than one (1) exempt purpose, pursuant to the provisions of sections 63-602A through 63-602~~Z~~NN, Idaho Code, shall be exempt from taxation hereunder so long as the property is used exclusively for one (1) or more or any combination of the exempt purposes provided hereunder.

(3) All exemptions from property taxation claimed under this chapter shall be approved annually by the county board of equalization unless otherwise provided in this chapter.

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

63-602NN. PROPERTY EXEMPT FROM TAXATION -- CERTAIN BUSINESS PROPERTY. (1) During tax year 2008, and each year thereafter, a board of county commissioners may declare that all or a portion of the market value of a defined project based on investment in new plant and building facilities meeting tax incentive criteria as defined in subsection (2) of this section shall be exempt from property taxation.

(2) As used in this section:

(a) "Defined project" means a written plan presented to the county commissioners by a taxpayer outlining projected investment in new plant for new plant and building facilities during a project period and located at a project site.

(b) "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.

(~~b~~c) "New plant and building facilities" means a manufacturing facility or facilities and personal property related thereto, producing tangible personal property or intellectual property intended for ultimate sale at retail, including related parking facilities, food service facilities, business office facilities and other building facilities directly related to the manufacturing business.

(~~c~~d) "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 or contractors located in Idaho who are related to the activities at the project site, but no earlier than January 1, 2008.

(~~d~~e) "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 in subsection (2)(~~f~~h) of this section is made at one (1) of the areas.

~~The project site must be identified and described to the county commissioners by a taxpayer subject to tax under chapter 30, title 63, Idaho Code, in the form and manner prescribed by the commission.~~

(~~e~~f) "Qualified investment" shall be as defined in section 63-3029B, Idaho Code.

(~~f~~g) "Building or structural components of buildings" means real property improvements to land as defined in section 63-201(11), Idaho Code, which are owned or leased by the taxpayer and located in Idaho within the boundaries of the project site.

(h) "Tax incentive criteria" means a taxpayer at a project site meeting the requirements of subparagraphs (i)~~,~~ and (ii) ~~and (iii)~~ of this paragraph:

(i) During the project period, making capital investments in new plant of at least three million dollars ($3,000,000) at the project site;

(ii) ~~During a period of time beginning on January 1, 2008, and ending at the conclusion of the project period, the project is located in a rural development zone as defined by the United States~~

~~department of agriculture rural development's, business and industry loan program;~~

~~(iii)~~ The taxpayer can demonstrate to the county that significant economic benefits will accrue to the county.

(3) The board of county commissioners may grant the property tax exemption for all or a portion of the market value of the defined project for a period of up to five (5) years. The agreement shall be considered a contract arrangement between the county and the taxpayer for the exemption time period granted by the board of county commissioners and the annual approval provision contained in subsection (3) of section 63-602, Idaho Code, shall not apply to the exemption provided in this section as long as the contract enumerated in this section is valid and in force and effect.

(4) Property exempted under this section shall not be included on any new construction roll prepared by the county assessor in accordance with section 63-301A, Idaho Code, until the exemption ceases.

(5) The legislature declares this exemption necessary and just.

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, 2010.

Approved March 29, 2010.

CHAPTER 134
(H.B. No. 495, As Amended)

AN ACT

RELATING TO CHILDHOOD IMMUNIZATION; AMENDING CHAPTER 48, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-4805, IDAHO CODE, TO PROVIDE FOR THE CHILDHOOD IMMUNIZATION POLICY COMMISSION; AND PROVIDING A SUNSET DATE.

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

SECTION 1. That Chapter 48, 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 39-4805, Idaho Code, and to read as follows:

39-4805. IDAHO CHILDHOOD IMMUNIZATION POLICY COMMISSION. (1) There is hereby created in the department of health and welfare the Idaho childhood immunization policy commission. The purpose of the commission is to evaluate policies regarding childhood immunization in Idaho and make recommendations to the board of health and welfare on policy and to the Idaho legislature on legislative action to increase immunization rates.

(2) The commission shall be composed of eight (8) regular members and two (2) ex officio members:

(a) One (1) representative of the department of health and welfare, division of public health, appointed by the director of the department;

(b) One (1) representative of Idaho public health districts, appointed by the Idaho association of public health district directors;

(c) One (1) member appointed by the Idaho primary care association;

(d) One (1) member appointed by the Idaho hospital association;

(e) One (1) member appointed by the Idaho academy of family physicians;

(f) One (1) member appointed by the Idaho chapter of the American academy of pediatrics;

(g) One (1) member appointed by the Idaho immunization coalition;

(h) One (1) member appointed by the Idaho medical association;

(i) One (1) member of the Idaho senate who will serve as an ex officio member of the commission, appointed by the president pro tempore of the senate; and

(j) One (1) member of the Idaho house of representatives who will serve as an ex officio member of the commission, appointed by the speaker of the house of representatives.

Each member of the commission shall serve at the pleasure of the person responsible for the member's appointment. Members of the commission shall not be paid for their service or be entitled for reimbursement for travel expenses, except that members of the Idaho legislature serving as ex officio members of the commission shall be reimbursed for their vouched travel expenses associated with their service on the commission in a manner consistent with policy for other state officers and employees.

(3) The commission shall meet on or before October 1, 2010, and shall meet not less than once per each calendar year thereafter. At its initial meeting, the commission shall elect a chair, a vice chair and a secretary from among its members. These officers shall serve for terms of one (1) year and may be elected for successive terms. Meetings of the commission shall be held in Boise. Members may participate in meetings through electronic means.

(4) The department of health and welfare shall provide to the commission a suitable meeting location and reasonable clerical support.

(5) The duties and responsibilities of the commission are to:

(a) Review existing provisions of the Idaho Code and rules of the department of health and welfare regarding childhood immunization; and

(b) Make recommendations to the Idaho legislature for legislation and to the board of health and welfare for rulemaking on:

(i) Improving Idaho's childhood immunization rates;

(ii) The immunization requirements for children attending daycare and school;

(iii) The Idaho immunization reminder information system;

(iv) Public and private partnerships to improve immunization rates; and

(v) Other states best practices on improving immunization rates.

(c) Make recommendations to public agencies, health care providers and others regarding policies and practices that are designed to improve Idaho's childhood immunization rates.

SECTION 2. The provisions of this act shall be null, void and of no force and effect on and after July 1, 2014.

Approved March 29, 2010.

CHAPTER 135
(H.B. No. 498)

AN ACT

RELATING TO THE UNIFORM POST-CONVICTION PROCEDURE ACT; AMENDING SECTION 19-2719, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 19-4901, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AND AMENDING SECTION 19-4902, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A PETITION FOR THE PERFORMANCE OF CERTAIN FINGERPRINT OR DNA TESTING AND TO PROVIDE THAT PETITIONER MAY CHOOSE CERTAIN DNA TESTING LABORATORIES TO PERFORM DNA TESTING AND THAT SUCH TESTING SHALL BE AT PETITIONER'S EXPENSE.

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

SECTION 1. That Section 19-2719, Idaho Code, be, and the same is hereby amended to read as follows:

19-2719. SPECIAL APPELLATE AND POST-CONVICTION PROCEDURE FOR CAPITAL CASES -- AUTOMATIC STAY. The following special procedures shall be interpreted to accomplish the purpose of eliminating unnecessary delay in carrying out a valid death sentence.

(1) When the punishment of death is imposed the time for filing an appeal shall begin to run when the death warrant is filed.

(2) The death warrant shall not be filed until forty-two (42) days after the judgment imposing the death sentence has been filed, or, in the event a post-conviction challenge to the conviction or sentence is filed, until the order deciding such post-conviction challenge is filed.

(3) Within forty-two (42) days of the filing of the judgment imposing the punishment of death, and before the death warrant is filed, the defendant must file any legal or factual challenge to the sentence or conviction that is known or reasonably should be known.

(4) Any remedy available by post-conviction procedure, habeas corpus or any other provision of state law must be pursued according to the procedures set forth in this section and within the time limitations of subsection (3) of this section. The special procedures for fingerprint or forensic DNA testing set forth in sections 19-4901(a)(6) and 19-4902(b) through (~~f~~g), Idaho Code, are fully applicable in capital cases and are subject to the procedures set forth in this section, and must be pursued through a petition filed within the time limitations of subsection (3) of this section or by July 1, 2002, whichever is later.

(5) If the defendant fails to apply for relief as provided in this section and within the time limits specified, he shall be deemed to have waived such claims for relief as were known, or reasonably should have been known. The courts of Idaho shall have no power to consider any such claims for relief as have been so waived or grant any such relief.

(a) An allegation that a successive post-conviction petition may be heard because of the applicability of the exception herein for issues that were not known or could not reasonably have been known shall not be considered unless the applicant shows the existence of such issues by (i) a precise statement of the issue or issues asserted together with (ii) material facts stated under oath or affirmation by credible persons with first hand knowledge that would support the issue or issues asserted. A pleading that fails to make a showing of excepted issues supported by material facts, or which is not credible, must be summarily dismissed.

(b) A successive post-conviction pleading asserting the exception shall be deemed facially insufficient to the extent it alleges matters that are cumulative or impeaching or would not, even if the allegations were true, cast doubt on the reliability of the conviction or sentence.

(c) A successive post-conviction pleading asserting the exception shall be deemed facially insufficient to the extent it seeks retroactive application of new rules of law.

(6) In the event the defendant desires to appeal from any post-conviction order entered pursuant to this section, his appeal must be part of any appeal taken from the conviction or sentence. All issues relating to conviction, sentence and post-conviction challenge shall be considered in the same appellate proceeding.

(7) If post-conviction challenge is made under this section, questions raised thereby shall be heard and decided by the district court within ninety (90) days of the filing of any motion or petition for relief timely filed as provided by this section. The court shall give first priority to capital cases. In the event the district court fails to act within the time specified, the supreme court of Idaho shall, on its own motion or the motion of

any party, order the court to proceed forthwith, or if appropriate, reassign the case to another judge. When the supreme court intervenes as provided, it shall set a reasonable time limit for disposition of the issues before the district court.

(8) The time limit provided in subsection (7) of this section for disposition of post-conviction claims may be extended only upon a showing of extraordinary circumstances which would make it impossible to fairly consider defendant's claims in the time provided. Such showing must be made under oath and the district court's finding that extraordinary circumstances exist for extending the time shall be in writing and shall be immediately reported to the supreme court, which shall at once independently consider the sufficiency of the circumstances shown and determine whether an extension of time is warranted.

(9) When a judgment imposing the penalty of death is filed, the clerk and the reporter shall begin preparation of the transcripts of the trial, and other proceedings, and the clerk's transcript.

(10) When the procedures specified in this section and section 19-2827, Idaho Code, have been carried out and a remittitur issued, and an execution date set as provided by law, the defendant shall be deemed to have exhausted all state remedies.

(11) Any successive petition for post-conviction relief not within the exception of subsection (5) of this section shall be dismissed summarily. Notwithstanding any other statute or rule, the order of dismissal shall not be subject to any motion to alter, amend or reconsider. Such order shall not be subject to any requirement for the giving of notice of the court's intent to dismiss. The order of dismissal shall not be appealable.

(12) A stay of execution while the special appellate procedures specified herein are followed and during the pendency of automatic review of death sentences shall be automatically entered by the clerk of the supreme court at the time the district court transmits to the supreme court the report required by section 19-2827, Idaho Code. If the sentence is upheld, the clerk shall dissolve such stay when the remittitur is filed. Thereafter the district court shall set anew execution date.

SECTION 2. That Section 19-4901, Idaho Code, be, and the same is hereby amended to read as follows:

19-4901. REMEDY -- TO WHOM AVAILABLE -- CONDITIONS. (a) Any person who has been convicted of, or sentenced for, a crime and who claims:

(1) That the conviction or the sentence was in violation of the constitution of the United States or the constitution or laws of this state;

(2) That the court was without jurisdiction to impose sentence;

(3) That the sentence exceeds the maximum authorized by law;

(4) That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;

(5) That his sentence has expired, his probation, or conditional release was unlawfully revoked by the court in which he was convicted, or that he is otherwise unlawfully held in custody or other restraint;

(6) Subject to the provisions of section 19-4902(b) through (~~f~~g), Idaho Code, that the petitioner is innocent of the offense; or

(7) That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding, or remedy: may institute, without paying a filing fee, a proceeding under this act to secure relief.

(b) This remedy is not a substitute for nor does it affect any remedy incident to the proceedings in the trial court, or of an appeal from the sentence or conviction. Any issue which could have been raised on direct ap-

peal, but was not, is forfeited and may not be considered in post-conviction proceedings, unless it appears to the court, on the basis of a substantial factual showing by affidavit, deposition or otherwise, that the asserted basis for relief raises a substantial doubt about the reliability of the finding of guilt and could not, in the exercise of due diligence, have been presented earlier. Except as otherwise provided in this act, it comprehends and takes the place of all other common law, statutory, or other remedies heretofore available for challenging the validity of the conviction or sentence. It shall be used exclusively in place of them.

SECTION 3. That Section 19-4902, Idaho Code, be, and the same is hereby amended to read as follows:

19-4902. COMMENCEMENT OF PROCEEDINGS -- VERIFICATION -- FILING -- SERVICE -- DNA TESTING. (a) A proceeding is commenced by filing an application verified by the applicant with the clerk of the district court in which the conviction took place. An application may be filed at any time within one (1) year from the expiration of the time for appeal or from the determination of an appeal or from the determination of a proceeding following an appeal, whichever is later. Facts within the personal knowledge of the applicant and the authenticity of all documents and exhibits included in or attached to the application must be sworn to affirmatively as true and correct. The supreme court may prescribe the form of the application and verification. The clerk shall docket the application upon its receipt and promptly bring it to the attention of the court and deliver a copy to the prosecuting attorney.

(b) A petitioner may, at any time, file a petition before the trial court that entered the judgment of conviction in his or her case for the performance of fingerprint or forensic deoxyribonucleic acid (DNA) testing on evidence that was secured in relation to the trial which resulted in his or her conviction but which was not subject to the testing that is now requested because the technology for the testing was not available at the time of trial. ~~The petition must be filed by July 1, 2002, or within one (1) year after the filing of the judgment of conviction, whichever is later.~~ The clerk shall docket the application upon its receipt and promptly bring it to the attention of the court and deliver a copy to the prosecuting attorney.

(c) The petitioner must present a prima facie case that:

(1) Identity was an issue in the trial which resulted in his or her conviction; and

(2) The evidence to be tested has been subject to a chain of custody sufficient to establish that such evidence has not been substituted, tampered with, replaced or altered in any material aspect.

(d) A petitioner who pleaded guilty in the underlying case may file a petition under subsection (b) of this section.

(e) The trial court shall allow the testing under reasonable conditions designed to protect the state's interests in the integrity of the evidence and the testing process upon a determination that:

(1) The result of the testing has the scientific potential to produce new, noncumulative evidence that would show that it is more probable than not that the petitioner is innocent; and

(2) The testing method requested would likely produce admissible results under the Idaho rules of evidence.

(~~e~~f) In the event the fingerprint or forensic DNA test results demonstrate, in light of all admissible evidence, that the petitioner is not the person who committed the offense, the court shall order the appropriate relief.

(~~f~~g) The cost of the forensic DNA test shall be at the petitioner's expense, except to the extent the petitioner qualifies for the test at public expense pursuant to chapter 8, title 19, Idaho Code, in which case the fingerprint or forensic DNA test shall be performed by, and paid for by

funds allocated for, Idaho state police forensic services. The petitioner may choose an ISO/IEC 17025 or an American society of crime laboratory directors/laboratory accreditation board accredited DNA testing laboratory to perform the DNA testing. Such testing shall be at the petitioner's expense.

Approved March 29, 2010.

CHAPTER 136
(H.B. No. 508)

AN ACT

RELATING TO CRIME VICTIMS COMPENSATION; AMENDING CHAPTER 10, TITLE 72, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 72-1026, IDAHO CODE, TO PROVIDE FOR PAYMENTS TO MEDICAL PROVIDERS.

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

SECTION 1. That Chapter 10, 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 72-1026, Idaho Code, and to read as follows:

72-1026. PAYMENTS TO MEDICAL PROVIDERS. (1) The commission may adopt a fee schedule to determine the allowable payments to be made to medical providers under this chapter, including but not limited to, the fee schedule the commission has adopted to determine the allowable payments to be made to medical providers under the Idaho worker's compensation law.

(2) A medical provider who accepts the full allowable payment from the commission under this chapter for medical services provided to a victim or claimant shall be deemed to have agreed to accept those payments as payment in full for those medical services. Except as provided in subsection (3) herein, a medical provider who has received payment from the commission for medical services provided to a victim or claimant under this chapter may not attempt to collect any further payment from the victim or the claimant for those same services.

(3) In the event the commission, due to a lack of available funds or some other cause, is unable to pay the full allowable payment to a medical provider for medical services provided to a victim or claimant under the provisions of this chapter, the medical provider may collect the unpaid balance for those services from the victim or claimant, but in no event shall the total amount collected by the provider from the commission and the victim or claimant exceed the full allowable payment the provider would have received from the commission under the provisions of this chapter.

Approved March 29, 2010.

CHAPTER 137
(H.B. No. 521)

AN ACT

RELATING TO COUNTY RECORDER FEES; AMENDING SECTION 31-3205, IDAHO CODE, TO REVISE FEES THAT MAY BE CHARGED BY A COUNTY RECORDER TO THE PARTY PROCURING HIS SERVICES AND TO CLARIFY TERMS.

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~~ the first page ..... $ ~~3~~10.00

For each additional page $3.00

(b) For electronic copies (as defined in subsection (2) of this section) requested on a recurring basis, for each page or image ..... $.05

(c) For copies of any record or paper, for each page ..... $ 1.00

(~~c~~d) For each certificate under seal, when required ..... $ 1.00

(~~d~~e) 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~~f) For recording every town plat or map, for first one hundred (100) lots or less $11.00

And for each additional lot ..... $ .05

(~~f~~g) For taking acknowledgments, including seal ..... $ 1.00

(~~g~~h) 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~~i) 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~~j) For filing a survey, for each page ..... $ 5.00

(~~j~~k) For making a copy of a survey or highway right-of-way plat .. $ 4.00

(~~k~~l) 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~~m) For administering an oath, including jurat ..... $ 1.00

And certifying the same when required an additional sum of ..... $ 1.00

(~~m~~n) For comparing and certifying a prepared copy of a file or record in his office, for each page ..... $ .50

(~~n~~o) For each certificate under seal there shall be an additional fee of ..... $ 1.00

(2) Electronic copies shall include copies provided via internet download, on a compact disc, zip disc, floppy disc, or other electronic means. The county recorder shall provide electronic copies if the record is maintained in electronic form and if the person specifically requests an electronic copy.

(3) For duplication of recorded documents in paper, microfilm or microfiche format requested on a recurring basis 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~~ paper, microfilm or microfiche documents in excess of one hundred (100) pages 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~~4) 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~~5) 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~~6) 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 29, 2010.

CHAPTER 138
(H.B. No. 522)

AN ACT

RELATING TO ACTIONS IN PARTICULAR CASES; AMENDING TITLE 6, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 28, TITLE 6, IDAHO CODE, TO DEFINE TERMS AND TO PROVIDE PROVISIONS RELATING TO LIABILITY OF OUT-OF-STATE EMERGENCY RESPONDERS WHO ENTER THIS STATE IN RESPONSE TO AN EMERGENCY; AMENDING SECTION 49-623, IDAHO CODE, TO PROVIDE THAT PROVISIONS RELATING TO AUTHORIZED EMERGENCY AND POLICE VEHICLES SHALL APPLY TO CERTAIN DRIVERS OF AUTHORIZED EMERGENCY OR POLICE VEHICLES OF OTHER STATES; AMENDING SECTION 56-1014, IDAHO CODE, TO PROVIDE THAT LIABILITY PROVISIONS APPLY TO CERTAIN OUT-OF-STATE LICENSED PERSONNEL WHO ENTER THIS STATE IN RESPONSE TO AN EMERGENCY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Title 6, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 28, Title 6, Idaho Code, and to read as follows:

CHAPTER 28
LIABILITY OF OUT-OF-STATE EMERGENCY RESPONDER

6-2801. DEFINITIONS. As used in this chapter:

(1) "Emergency" means the occurrence or imminent threat of a condition threatening life or property which requires emergency assistance.

(2) "Emergency responder" means a person employed by or who is a bona fide member of a governmental entity of another state of the United States including, but not limited to, a legally organized law enforcement agency, a legally organized fire department or a licensed emergency medical service provider, and whose primary duty is to serve or protect the safety or life of any person or to protect property. Emergency responder includes, but is not limited to, peace officers, firefighters, ambulance attendants, emergency medical technicians, search and rescue personnel and park rangers.

6-2802. LIABILITY OF OUT-OF-STATE EMERGENCY RESPONDER. An emergency responder who enters this state in response to an emergency shall not be liable to another person for damages or injury arising from the conduct of the emergency responder in rendering services in response to an emergency unless it is shown that the emergency responder caused injury or damages to such person as a proximate result of his reckless, grossly negligent or intentional misconduct.

SECTION 2. That Section 49-623, Idaho Code, be, and the same is hereby amended to read as follows:

49-623. AUTHORIZED EMERGENCY OR POLICE VEHICLES. (1) The driver of an authorized emergency or police vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions stated.

(2) The driver of an authorized emergency or police vehicle may:

(a) Park or stand, irrespective of the parking or standing provisions of this title;

(b) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(c) Exceed the maximum speed limits so long as he does not endanger life or property;

(d) Disregard regulations governing direction of movement or turning in specified directions.

(3) The exemptions granted to an authorized emergency or police vehicle shall apply when necessary to warn and to make use of an audible signal having a decibel rating of at least one hundred (100) at a distance of ten (10) feet and/or is displaying a flashing light visible in a 360 degree arc at a distance of one thousand (1,000) feet under normal atmospheric conditions.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency or police vehicle from the duty to drive with due regard for the safety of all persons, nor shall these provisions protect the driver from the consequences of his reckless disregard for the safety of others.

(5) The foregoing provisions shall apply to the driver of an authorized emergency or police vehicle of another state of the United States who enters this state in response to an emergency call, or when in the fresh pursuit of a suspected felon as provided in section 19-701, Idaho Code, or when responding to but not upon returning from a fire alarm.

SECTION 3. That Section 56-1014, Idaho Code, be, and the same is hereby amended to read as follows:

56-1014. LIABILITY. (1) No act or omission of any person who is duly licensed under sections 56-1011 through 56-1023, Idaho Code, by the EMS bureau done or omitted in good faith while rendering emergency medical services to a person or persons who are perceived to need immediate care in order to prevent loss of life or aggravation of physiological or psychological illness or injury shall impose any liability upon those personnel, the supervising physician, the hospital, the organization providing the service, or upon a federal, state, county, city or other local governmental unit, or upon employees of such governmental unit, unless such provider of care or such personnel be shown to have caused injury and damages to such person or persons as a proximate result of his, her or their reckless or grossly negligent misconduct, which shall be the sole grounds for civil liability of such persons in the provision of care or assistance under sections 56-1011 through 56-1023, Idaho Code, regardless of the circumstance under which such care or assistance may be provided. This section shall not relieve the organization or agency operating the service from the duty of securing, maintaining and operating, the equipment and licensure designated for use in performing the emergency medical services.

(2) The provisions of subsection (1) of this section shall apply to licensed personnel of another state of the United States who enter this state in response to an emergency to render emergency medical services to a person who is perceived to need immediate care in order to prevent loss of life or aggravation of physiological or psychological illness or injury.

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 29, 2010.

CHAPTER 139
(H.B. No. 527)

AN ACT

RELATING TO THE INDUSTRIAL COMMISSION; AMENDING SECTION 72-528, IDAHO CODE, TO REVISE PROVISIONS RELATING TO REQUIRED STATISTICAL INFORMATION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 72-528, Idaho Code, be, and the same is hereby amended to read as follows:

72-528. STATISTICAL INFORMATION REQUIRED. (1) ~~Statistical information now provided to the industrial commission is inadequate and incomplete, making it impossible to compute the total cost of the workmen's compensation system, both to employers and the people of the state of Idaho.~~

~~(2)~~ In addition to all information that sureties, self-insurers, the state insurance fund, the industrial special indemnity fund and noninsured employers now supply to the industrial commission, they shall, upon request of the commission, be required to report to the industrial commission all litigation expenses paid by them in any case litigated before the industrial commission, and if appealed to a higher court, all costs expended on appeal. This reporting requirement shall include all fees paid to attorneys, all expenses charged by attorneys, charges for reports or testimony of witnesses, costs of any depositions taken, any costs for investigation made before or during the hearing, costs of research or legal briefs, and all filing fees paid on account of the litigation.

(~~3~~2) All attorneys engaged in representing any claimant in any litigated ~~workmen's~~ worker's compensation claim must, upon request of the commission, report to the industrial commission all attorney's fees and all expenses which were incurred in the litigation and charged to the claimant. This requirement shall extend to any appeal or appeals that may be taken to a higher court by or on behalf of the claimant.

~~(4) The industrial commission may expand the forms presently used by sureties or employers providing workmen's compensation coverage under the law by adding appropriate space or spaces to provide the additional information required in this section.~~

(~~5~~3) The industrial commission shall supply all attorneys representing claimants with a form upon which a report in compliance with this section can be made.

(~~6~~4) Reports ~~required~~ requested hereunder must be filed with the industrial commission not later than thirty (30) days following the date of the request, which will be subsequent to the time of entry of an award by the industrial commission; or in the event of an appeal to a higher court, ~~not later than thirty (30) days following~~ subsequent to a final ruling by the court.

(~~7~~5) The industrial commission may make such rules as are necessary to require compliance with the provisions of this section, including refusing to allow attorneys who fail to comply with the provisions of this section the right to appear before the industrial commission.

~~(8) The provisions of this section shall apply to all cases in which an application for hearing is filed with the industrial commission on or after July 1, 1988.~~

Approved March 29, 2010.

CHAPTER 140
(H.B. No. 540)

AN ACT

RELATING TO SPECIAL MOTOR VEHICLE LICENSE PLATES; AMENDING SECTION 49-402, IDAHO CODE, TO PROVIDE A CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-420J, IDAHO CODE, TO ESTABLISH THE SELWAY-BITTERROOT WILDERNESS 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 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, operated upon the public highways the annual fee shall be nine dollars ($9.00).

(4) For operation of an all-terrain vehicle, utility type vehicle or motorbike, excluding a motorbike with an engine displacement of fifty (50) cubic centimeters or less, on city, county or highway district roads or highways open to such use, a restricted vehicle license plate fee pursuant to section 49-450, Idaho Code, shall be paid. In addition, the registration fee specified in section 67-7122, Idaho Code, shall be paid as provided

in section 67-7122, Idaho Code. The registration and restricted vehicle license plate exemption provided in section 49-426(2), Idaho Code, applies to all-terrain vehicles, utility type vehicles, motorbikes and motorcycles used for the purposes described in subsection (2) of section 49-426, Idaho Code. Nonresidents shall be allowed to purchase a restricted vehicle license plate and sticker for an all-terrain vehicle, utility type vehicle or motorbike.

(5) 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.

(6) Registration fees shall not be subject to refund.

(7) 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.

(8) A wrecker or towing business engaged in the process of towing motorized vehicles, which have been wrecked, abandoned, salvaged or may be disabled, may apply for a wrecker plate to be displayed on those vehicles being towed, provided the power unit is properly registered under this chapter. The registration fees for wrecker 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 wrecker plate shall be issued on an annual basis by the department.

(9) 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, 49-417D, 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, 49-420G, ~~and~~ 49-420H, 49-420I and 49-420J, 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.

(~~9~~10) 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 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 49-420J, Idaho Code, and to read as follows:

49-420J. SELWAY-BITTERROOT WILDERNESS PLATES. (1) Any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, may apply for and upon department approval receive special Idaho Selway-Bitterroot wilderness 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 Selway-Bitterroot wilderness 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. Thirteen dollars ($13.00) of the initial fee and thirteen dollars ($13.00) 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-two dollars ($22.00) of each initial fee and twelve dollars ($12.00) of each renewal fee shall be transferred by the state treasurer to the Selway-Bitterroot Foundation, and shall be used by the foundation for the purpose of assisting in the stewardship of the Idaho Selway-Bitterroot wilderness and surrounding wildlands of north central Idaho.

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

(4) The license plate design shall be acceptable to the Selway-Bitterroot Foundation and shall be approved by the department and shall utilize a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the Selway-Bitterroot Foundation.

(5) Sample Idaho Selway-Bitterroot wilderness license plates may be purchased for a fee of thirty dollars ($30.00), thirteen dollars ($13.00) of which shall be deposited in the state highway account and seventeen dollars ($17.00) of which shall be transferred to the Selway-Bitterroot Foundation.

SECTION 3. This act shall be in full force and effect on and after January 1, 2011.

Approved March 29, 2010.

CHAPTER 141
(H.B. No. 556, As Amended)

AN ACT

RELATING TO FLOOD PROTECTION; AMENDING SECTION 46-1021, IDAHO CODE, TO REVISE THE DEFINITION OF "DEVELOPMENT"; AND AMENDING SECTION 46-1022, IDAHO CODE, TO PROVIDE THAT FLOODPLAIN ZONING ORDINANCES SHALL NOT REGULATE CERTAIN ACTIVITIES RELATING TO IRRIGATION AND DRAINAGE WORKS THAT ARE PERFORMED OR AUTHORIZED BY THE OWNER PURSUANT TO LAWFUL RIGHTS AND OBLIGATIONS.

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

SECTION 1. That Section 46-1021, Idaho Code, be, and the same is hereby amended to read as follows:

46-1021. DEFINITIONS. As used in this act:

(1) "Development" means any manmade change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures, or the construction of additions or substantial improvements to buildings, structures or accessory structures; the placement of mobile homes; mining, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or extraction of materials; specifically including the construction of dikes, berms and levees. The term "development" does not include the operation, cleaning, maintenance or repair of any ditch, canal, lateral, drain, diversion structure or other irrigation or drainage works that is performed or authorized by the owner thereof pursuant to lawful rights and obligations.

(2) "Flood" means a general or temporary condition of partial or complete inundation of normally dry land areas caused by the overflow or rise of river, ocean, streams or lakes, or the unusual and rapid accumulation or runoff of surface waters from any source.

(3) "Flood fringe" is that portion of the floodplain outside of the floodway covered by floodwaters during the regulatory flood.

(4) "Floodplain" is the land that has been or may be covered by floodwaters, or is surrounded by floodwater and inaccessible, during the occurrence of the regulatory flood. The riverine floodplain includes the floodway and the flood fringe.

(5) "Floodplain management" is the analysis and integration of the entire range of measures that can be used to prevent, reduce or mitigate flood damage in a given location, and that can protect and preserve the natural, environmental, historical, and cultural values of the floodplain.

(6) "Floodproofing" means the modifications of structures, their sites, building contents and water and sanitary facilities, to keep water out or reduce the effects of water entry.

(7) "Flood protection elevation" means an elevation that shall correspond to the elevation of the one percent (1%) chance flood (one hundred (100) year flood) plus any increased flood elevation due to floodway encroachment, plus any required freeboard.

(8) "Floodway" is the channel of the river or stream and those portions of the floodplain adjoining the channel required to discharge and store the floodwater or flood flows associated with the regulatory flood.

(9) "Freeboard" represents a factor of safety usually expressed in terms of a certain amount of feet above a calculated flood level. Freeboard shall compensate for the many unknown factors that contribute to flood heights greater than the height calculated. These unknown factors include, but are not limited to, ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of urbanization on the hydrology of the watershed, loss of flood storage areas due to development and the sedimentation of a river or stream bed.

(10) "Local government," in the context of this chapter, means any county or city having planning and zoning authority to regulate land use within its jurisdiction.

(11) "Mitigation" means any action taken which will reduce the impact, damage or cost of the next flood that occurs.

(12) "Person" means any individual, group of individuals, corporation, partnership, association, political subdivision, public or private agency or entity.

(13) "Regulatory flood" is a flood determined to be representative of large floods known to have occurred in Idaho and which may be expected to occur on a particular stream because of like physical characteristics. The regulatory flood is based upon a statistical analysis of stream flow records available for the watershed or an analysis of rainfall and runoff characteristics in the watershed. In inland areas, the flood frequency of the regulatory flood is once in every one hundred (100) years; this means that in any

given year there is a one percent (1%) chance that a regulatory flood may occur or be exceeded.

SECTION 2. That Section 46-1022, Idaho Code, be, and the same is hereby amended to read as follows:

46-1022. LOCAL GOVERNMENTS MAY ADOPT FLOODPLAIN ZONING ORDINANCES. Subject to the availability of adequate mapping and data to properly identify the floodplains, if any, within their jurisdiction, each local government is encouraged to adopt a floodplain map and floodplain management ordinance which identifies these floodplains and which requires, at a minimum, that any development in a floodplain must be constructed at a flood protection elevation and/or have adequate floodproofing. The local government may regulate all mapped and unmapped floodplains within their jurisdiction. Nothing in this act shall prohibit a local government from adopting more restrictive standards than those contained in this chapter. Floodplain zoning ordinances shall not regulate the operation, cleaning, maintenance or repair of any ditch, canal, lateral, drain, diversion structure or other irrigation or drainage works that is performed or authorized by the owner thereof pursuant to lawful rights and obligations.

Approved March 29, 2010.

CHAPTER 142
(H.B. No. 557)

AN ACT

RELATING TO IRRIGATION DISTRICTS; AMENDING SECTION 43-119, IDAHO CODE, TO PROVIDE FOR THE RIGHTS AND PRIVILEGES OF TRUSTS IN RELATION TO THE CONDUCT OF IRRIGATION DISTRICT BUSINESS AND TO SPECIFY CERTAIN REQUIREMENTS FOR TRUSTS AND TRUSTEES.

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

SECTION 1. That Section 43-119, Idaho Code, be, and the same is hereby amended to read as follows:

43-119. RIGHTS AND PRIVILEGES OF CORPORATIONS ~~AND~~ -- PARTNERSHIPS -- TRUSTS. A corporation, the stock of which is owned entirely by natural persons related by blood or affinity, ~~and~~ a partnership, in which all the partners are natural persons related by blood or affinity, and a trust, in which all of the beneficiaries are natural persons related by blood or affinity, shall have the same rights and privileges in the conduct of irrigation district business as do natural persons, including, but not limited to, voting in elections and signing petitions. A corporation, ~~or~~ partnership or trust shall vote or otherwise act by and through its majority stockholder, ~~or~~ majority partner~~,~~ or trustee and for voting purposes the residence of such majority stockholder, ~~or~~ partner or trustee shall establish the residence of the corporation, ~~or~~ partnership or trust. If the majority of the stock or partnership interest is owned by more than one (1) person, or if there is more than one (1) trustee, the corporation, ~~or~~ partnership or trust must furnish the irrigation district a written designation stating the name of the majority stockholder, ~~or~~ partner or trustee who is authorized to vote and otherwise act for the corporation, ~~or~~ partnership or trust. If the majority or designated stockholder, ~~or~~ partner or trustee is married, his or her spouse shall have the same rights and privileges in the conduct of irrigation district business as do the spouses of individual land owners in the district. A

person, or the spouse of a person, voting for a corporation, ~~or~~ partnership or trust shall not be entitled to vote again as an individual.

Approved March 29, 2010.

CHAPTER 143
(H.B. No. 558, As Amended)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1302, IDAHO CODE, TO PROVIDE THAT THE TERM "EMPLOYEE" DOES NOT INCLUDE ANY PERSON IN A POSITION WITH A CITY, COUNTY OR IRRIGATION DISTRICT THAT DOES NOT EXCEED EIGHT CONSECUTIVE MONTHS IN A CALENDAR YEAR IF THE CITY, COUNTY OR IRRIGATION DISTRICT CERTIFIES THAT THE POSITION IS SEASONAL OR CASUAL AND AFFECTED BY WEATHER AND THE GROWING SEASON AND TO PROVIDE FOR APPLICABILITY TO IRRIGATION POSITIONS.

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

SECTION 1. That Section 59-1302, Idaho Code, be, and the same is hereby amended to read as follows:

59-1302. DEFINITIONS. (1) As used in this chapter, each of the terms defined in this section shall have the meaning given in this section unless a different meaning is clearly required by the context.

(2) "Active member" means any employee who is not establishing the right to receive benefits through his or her employer's participation in any other retirement system established for Idaho public employees, if such participation is mandated by applicable Idaho statutes other than this chapter. In no case will an employee be entitled to any benefit under this chapter for public service if such employee is establishing retirement benefit entitlements by other Idaho statutes or federal statutes other than military service or social security for that same service.

(3) "Accumulated contributions" means the sum of amounts contributed by a member of the system, together with regular interest credit thereon.

(4) "Actuarial equivalent" means a benefit equal in value to another benefit, when computed upon the basis of the actuarial tables in use by the system.

(5) "Actuarial tables" means such tables as shall have been adopted by the board in accordance with recommendations of the actuary.

(5A) "Alternate payee" means a spouse or former spouse of a member who is recognized by an approved domestic retirement order as having a right to all or a portion of the accrued benefits in the retirement system with respect to such member.

(5B) "Approved domestic retirement order" means a domestic retirement order which creates or recognizes the existence of an alternate payee's right or assigns to an alternate payee the right to all or a portion of the accrued benefits of a member under the retirement system, which directs the system to establish a segregated account or disburse benefits to an alternate payee, and which the executive director of the retirement system has determined meets the requirements of sections 59-1319 and 59-1320, Idaho Code.

(5C) "Average monthly salary" means the member's average salary during the base period as calculated pursuant to rules adopted by the retirement board.

(5D) (a) "Base period" means the period of fifty-four (54) consecutive calendar months during which the member earned:

(i) The highest average salary; and

(ii) Membership service of at least one-half (1/2) the number of months in the period, excluding months of service attributable to:

A. Military service;

B. Service qualifying as minimum benefit pursuant to section 59-1342(5), Idaho Code; and

C. Worker's compensation income benefits.

(b) Effective October 1, 1993, the consecutive calendar months shall be forty-eight (48). Effective October 1, 1994, the consecutive calendar months shall be forty-two (42).

(c) Entitlement to a base period shall not vest until the effective date of that base period. The retirement benefits shall be calculated on the amounts, terms and conditions in effect at the date of the final contribution by the member.

(d) If no base period exists for a member, the member's average monthly salary shall be determined by the board, using standards not inconsistent with those established in this subsection.

(e) To assure equitable treatment for all members, salary increments inconsistent with usual compensation patterns may be disallowed by the board in determining average monthly salary and base period.

(6) "Beneficiary" means the person who is nominated by the written designation of a member, duly executed and filed with the board, to receive the death benefit.

(7) "Calendar year" means twelve (12) calendar months commencing on the first day of January.

(7A) "Contingent annuitant" means the person designated by a member under certain retirement options to receive benefit payments upon the death of the member. The person so designated must be born and living on the effective date of retirement.

(8) "Credited service" means the aggregate of membership service, prior service and disabled service.

(9) "Date of establishment" means July 1, 1965, or a later date established by the board or statute.

(10) "Death benefit" means the amount, if any, payable upon the death of a member.

(11) "Disability retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for disability retirement.

(12) "Disabled" means:

(a) That the member is prevented from engaging in any occupation or employment for remuneration or profit as a result of bodily injury or disease, either occupational or nonoccupational in cause, but excluding disabilities resulting from service in the armed forces of any country, or from an intentionally self-inflicted injury; and

(b) That the member will likely remain so disabled permanently and continuously during the remainder of the member's life.

It is not necessary that a person be absolutely helpless or entirely unable to do anything worthy of compensation to be considered disabled. If the person is so disabled that substantially all the avenues of employment are reasonably closed to the person, that condition is within the meaning of "disabled." In evaluating whether a person is disabled, medical factors and nonmedical factors including, but not limited to, education, economic and social environment, training and usable skills may be considered.

Refusal to submit to a medical examination ordered by the board before the commencement of a disability retirement allowance or at any reasonable time thereafter shall constitute proof that the member is not disabled. The board shall be empowered to select for such medical examination one (1) or more physicians or surgeons who are licensed to practice medicine and perform surgery. The fees and expenses of such examination shall be paid from the administration account of the fund. No member shall be required to un-

dergo such examination more often than once each year after he has received a disability retirement allowance continuously for two (2) years.

(12A) "Disabled service" means the total number of months elapsing from the first day of the month next succeeding the final contribution of a member prior to receiving a disability retirement allowance to the first day of the month following the date of termination of such disability retirement allowance. During such period, the member shall remain classified in the membership category held during the month of final contribution. The total number of months of disabled service credited for a person first becoming disabled after the effective date of this chapter shall not exceed the excess, if any, of three hundred sixty (360) over the total number of months of prior service and membership service.

(12B) "Domestic retirement order" means any judgment, decree, or order, including approval of a property settlement agreement which relates to the provision of marital property rights to a spouse or former spouse of a member, and is made pursuant to a domestic relations law, including the community property law of the state of Idaho or of another state.

(13) "Early retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for early retirement.

(14) (A) "Employee" means:

(a) Any person who normally works twenty (20) hours or more per week for an employer or a school teacher who works half-time or more for an employer and who receives salary for services rendered for such employer; or

(b) Elected officials or appointed officials of an employer who receive a salary; or

(c) A person who is separated from service with less than five (5) consecutive months of employment and who is reemployed or reinstated by the same employer within thirty (30) days.

(B) "Employee" does not include employment as:

(a) A person rendering service to an employer in the capacity of an independent business, trade or profession; or

(b) A person whose employment with any employer does not total five (5) consecutive months; or

(c) A person provided sheltered employment or made-work by a public employer in an employment or industries program maintained for the benefit of such person; or

(d) An inmate of a state institution, whether or not receiving compensation for services performed for the institution; or

(e) A student enrolled in an undergraduate, graduate, or professional-technical program at and employed by a state college, university, community college or professional-technical center when such employment is predicated on student status; or

(f) A person making contributions to the United States civil service commission under the United States Civil Service System Retirement Act except that a person who receives separate remuneration for work currently performed for an employer and the United States government may elect to be a member of the retirement system in accordance with rules of the board; or

(g) A person occupying a position that does not exceed eight (8) consecutive months in a calendar year with a city, ~~or~~ county or irrigation district when the city, ~~or~~ county or irrigation district has certified, in writing to the system, the position is (i) seasonal or casual; and (ii) affected by weather and the growing season, including parks, ~~and~~ golf course positions and irrigation positions; or

(h) A person in a position that (i) is eligible for participation in an optional retirement program established under section 33-107A or 33-107B, Idaho Code, or (ii) would be eligible for participation in

an optional retirement program established under section 33-107A or 33-107B, Idaho Code, if the person was not working less than half-time or less than twenty (20) hours per week.

(15) "Employer" means the state of Idaho, or any political subdivision or governmental entity, provided such subdivision or entity has elected to come into the system. Governmental entity means any organization composed of units of government of Idaho or organizations funded only by government or employee contributions or organizations who discharge governmental responsibilities or proprietary responsibilities that would otherwise be performed by government. All governmental entities are deemed to be political subdivisions for the purpose of this chapter.

(15A) "Final contribution" means the final contribution made by a member pursuant to sections 59-1331 through 59-1334, Idaho Code.

(16) "Firefighter" means an employee, including paid firefighters hired on or after October 1, 1980, whose primary occupation is that of preventing and extinguishing fires as determined by the rules of the board.

(17) "Fiscal year" means the period beginning on July 1 in any year and ending on June 30 of the next succeeding year.

(18) "Fund" means the public employee retirement fund established by this chapter.

(19) "Funding agent" means any bank or banks, trust company or trust companies, legal reserve life insurance company or legal reserve life insurance companies, or combinations thereof, any thrift institution or credit union or any investment management firm or individual investment manager selected by the board to hold and/or invest the employers' and members' contributions and pay certain benefits granted under this chapter.

(20) "Inactive member" means a former active member who is not an employee and is not receiving any form of retirement allowance, but for whom a separation benefit has not become payable.

(20A) "Lifetime annuity" means periodic monthly payments of income by the retirement system to an alternate payee.

(20B) "Lump sum distribution" means a payment by the retirement system of the entire balance in the alternate payee's segregated account, together with regular interest credited thereon.

(21) "Member" means an active member, inactive member or a retired member.

(22) "Membership service" means military service which occurs after the commencement of contributions payable under sections 59-1331 through 59-1334, Idaho Code, and service with respect to which contributions are payable under sections 59-1331 through 59-1334, Idaho Code, which, except for benefit calculations described in sections 59-1342 and 59-1353, Idaho Code, includes service transferred to a segregated account under an approved domestic retirement order.

(23) "Military service" means any period of active duty service in the armed forces of the United States including the national guard and reserves, under the provisions of title 10, title 32, and title 37, United States code, which commences less than ninety (90) days after the person ceases to be an employee and ends less than ninety (90) days before the person again becomes an employee. Provided, if a member fails to again become an employee due to being killed while in active duty service, the member shall be entitled to military service through the date of death. In no event shall military service include:

(a) Any period ended by dishonorable discharge or during which termination of such service is available but not accepted; or

(b) Any active duty service in excess of five (5) years if at the convenience of the United States government, or in excess of four (4) years if not at the convenience of the United States government, provided additional membership service may be purchased as provided in section 59-1362, Idaho Code.

(24) (a) "Police officer" for retirement purposes shall be as defined in section 59-1303, Idaho Code.

(b) "POST" means the Idaho peace officer standards and training council established in chapter 51, title 19, Idaho Code.

(25) "Prior service" means any period prior to July 1, 1965, of military service or of employment for the state of Idaho or any political subdivision or other employer of each employee who is an active member or in military service or on leave of absence on the date of establishment, provided, however, an employee who was not an active member or in military service or on leave of absence on the date of establishment shall receive credit for the member's service prior to July 1, 1965, on the basis of recognizing two (2) months of such service for each month of membership service. For the purpose of computing such service, no deduction shall be made for any continuous period of absence from service or military service of six (6) months or less.

(26) "Regular interest" means interest at the rate set from time to time by the board.

(27) "Retired member" means a former active member receiving a retirement allowance.

(28) "Retirement" means the acceptance of a retirement allowance under this chapter upon termination of employment.

(29) "Retirement board" or "board" means the board provided for in sections 59-1304 and 59-1305, Idaho Code, to administer the retirement system.

(30) "Retirement system" or "system" means the public employee retirement system of Idaho.

(31) (A) "Salary" means:

(a) The total salary or wages paid to a person who meets the definition of employee by an employer for personal services performed and reported by the employer for income tax purposes, including the cash value of all remuneration in any medium other than cash.

(b) The total amount of any voluntary reduction in salary agreed to by the member and employer where the reduction is used as an alternative form of remuneration to the member.

(B) Salary in excess of the compensation limitations set forth in section 401(a)(17) of the Internal Revenue Code shall be disregarded for any person who becomes a member of the system on or after July 1, 1996. The system had no limitations on compensation in effect on July 1, 1993. The compensation limitations set forth in section 401(a)(17) of the Internal Revenue Code shall not apply for an "eligible employee." For purposes of this subsection, "eligible employee" is an individual who was a member of the system before July 1, 1996.

(C) "Salary" does not include:

(a) Contributions by employers to employee held medical savings accounts, as those accounts are defined in section 63-3022K, Idaho Code.

(b) Lump sum payments inconsistent with usual compensation patterns made by the employer to the employee only upon termination from service including, but not limited to, vacation payoffs, sick leave payoffs, early retirement incentive payments and bonuses.

(31A) "Segregated account" means the account established by the retirement system for the alternate payee of a member who is not a retired member. It shall include the months of credited service and accumulated contributions transferred from the member's account.

(32) "Separation benefit" means the amount, if any, payable upon or subsequent to separation from service.

(33) "Service" means being shown on an employer's payroll as an employee receiving a salary. For each calendar month, service is credited only when a member is an employee as defined in subsection (14)(A) of this section and is employed for fifteen (15) days or more during the calendar month. Employment of fourteen (14) days or less during any calendar month shall not be cred-

ited. No more than one (1) month of service shall be credited for all service in any month.

(34) "Service retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for service retirement.

(35) "State" means the state of Idaho.

(36) "Vested member" means an active or inactive member who has at least five (5) years of credited service, except that a member, who at the time of his separation from service:

(a) Held an office to which he had been elected by popular vote or having a term fixed by the constitution, statute or charter or was appointed to such office by an elected official; or

(b) Was the head or director of a department, division, agency, statutory section or bureau of the state; or

(c) Was employed on or after July 1, 1965, by an elected official of the state of Idaho and occupied a position exempt from the provisions of chapter 53, title 67, Idaho Code; and

(d) Was not covered by a merit system for employees of the state of Idaho,

is vested without regard to the length of credited service.

(37) The masculine pronoun, wherever used, shall include the feminine pronoun.

Approved March 29, 2010.

CHAPTER 144
(H.B. No. 559)

AN ACT

RELATING TO PRESCRIPTIVE OVERFLOW EASEMENTS; AMENDING SECTION 5-246, IDAHO CODE, TO PROVIDE THAT SPECIFIED PROVISIONS RELATING TO PRESCRIPTIVE OVERFLOW EASEMENTS SHALL NOT BE CONSTRUED TO RESTRICT ANY USE OF THE UNDERLYING PROPERTY FOR ANY PURPOSE OTHERWISE CONSISTENT WITH OWNERSHIP EVEN IF THE USE REASONABLY INTERFERES WITH THE STORAGE OF WATER ON THE PROPERTY AND TO CLARIFY THAT THE USE SHALL NOT UNREASONABLY INTERFERE WITH THE STORAGE OF WATER ON THE PROPERTY.

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

SECTION 1. That Section 5-246, Idaho Code, be, and the same is hereby amended to read as follows:

5-246. PRESCRIPTIVE OVERFLOW EASEMENTS. In conformity with the limitations of actions time period set forth in sections 5-203 through 5-206, Idaho Code, the owner of a dam shall be deemed to have obtained a nonexclusive prescriptive overflow easement over real property which has been inundated or overflowed by the operations of the dam for at least a part of a year for any consecutive five (5) year period prior to commencement of an action by the property owner seeking relief inconsistent with such nonexclusive prescriptive overflow easement. Said dam owner shall be deemed to have not forfeited said nonexclusive prescriptive overflow easement if the reason for the failure to exercise the easement is a lack of water caused by drought or acts of God.

It is further provided that if a dam has inundated or overflowed real property for at least a part of a year for the five (5) consecutive years prior to the enactment of this section, then the owner of the dam shall be deemed to have obtained a nonexclusive prescriptive overflow easement hereunder over said real property one (1) year after the enactment of this sec-

tion, provided, no action seeking relief inconsistent with such nonexclusive prescriptive overflow easement has been commenced by the property owner within one (1) year of the enactment of this section. The provisions of this section shall not be construed to affect the riparian and littoral rights of property owners to have access to and use of waters in this state, or to restrict any use of the underlying property for any purpose otherwise consistent with ownership thereof, even if said use reasonably interferes with the storage of water on the property, but said use shall not unreasonably interfere with the storage of water on the property. Nothing herein shall be deemed to affect any prescriptive overflow easement that any dam owner may have previously acquired under common law. The provisions of this section shall not be construed to apply to the beds of navigable waters lying below the natural or ordinary high watermark as defined in subsection (c) of section 58-1302, Idaho Code, and subsection (9) of section 58-104, Idaho Code, or any other lands owned by the state of Idaho.

Approved March 29, 2010.

CHAPTER 145
(H.B. No. 564)

AN ACT

RELATING TO DRIVING BUSINESSES; AMENDING SECTION 54-5403, IDAHO CODE, TO REQUIRE THAT THE BOARD ADOPT RULES PROVIDING FOR CONTINUING EDUCATION; AMENDING SECTION 54-5405, IDAHO CODE, TO REQUIRE APPLICANTS FOR A PRIVATE DRIVER TRAINING BUSINESS LICENSE TO SUBMIT TO A FINGERPRINT-BASED CRIMINAL HISTORY CHECK AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 54-5406, IDAHO CODE, TO REVISE REQUIREMENTS FOR OBTAINING AND RENEWING A DRIVING INSTRUCTOR LICENSE; AMENDING SECTION 54-5408, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE DISCIPLINE OF LICENSEES AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 54-5403, Idaho Code, be, and the same is hereby amended to read as follows:

54-5403. BOARD -- TERMS OF MEMBERS -- QUALIFICATIONS -- POWERS AND DUTIES -- MEETINGS -- COMPENSATION. (1) A driving businesses licensure board is hereby established in the department of self-governing agencies whose duty it shall be to administer the provisions of this chapter.

(2) The board shall consist of five (5) members appointed by the governor. The governor may consider recommendations for appointment to the board from the Idaho association of professional driving businesses, any association of driving businesses or from any individual residing in this state. The board shall consist of four (4) members who have been in the driving business for at least five (5) years and one (1) member of the public who has been a customer of private driver education.

(3) Members shall begin their terms on July 1, 2009, and serve at the pleasure of the governor. Terms shall initially be staggered as follows: one (1) member whose term expires July 1, 2010; two (2) members whose terms expire July 1, 2011; and two (2) members whose terms expire July 1, 2012. Thereafter, each member of the board shall serve three (3) year terms. No member of the board may be appointed to more than two (2) consecutive terms. Members of the board shall hold office until the expiration of the term for which they were appointed and until their successors have been appointed and qualified. 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 of the board who are driving business owners shall be citizens of the United States and residents of this state, and they shall have been licensed driving business owners with a minimum of five (5) years of continuous licensing prior to being nominated, and shall never have been the subject of a disciplinary action under the provisions of section 54-5409, Idaho Code.

(5) The board shall:

(a) Enforce the minimum standards and requirements as provided in this chapter and by rule adopted by the board. The board may promulgate such rules, in compliance with chapter 52, title 67, Idaho Code, 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;

(b) Accept or reject applications for licensing, business and instruction, and establish the fees to be charged for original application and renewal, subject to the provisions of this chapter;

(c) Hold and attend public meetings, and furnish copies of information to those engaged in the business and to the public upon request;

(d) Review and approve instructor training curriculum and programs;

(e) Contract with the bureau of occupational licenses to provide administrative services; ~~and~~

(f) Include a link on the bureau of occupational licenses' website to current curriculum components offered by private driver education businesses; and

(g) Adopt rules providing for continuing education.

(6) The board shall have the authority to conduct inspections and audits of any licensed driving business or any licensed instructor to ensure compliance with the laws and rules of the board. Failure to cooperate with an inspection or audit may constitute grounds for disciplinary action.

(7) The board shall meet within thirty (30) days after the appointment of its members and thereafter at such times as may be expedient and necessary for the proper performance of its duties, but it shall not meet less than once per year.

(8) At the board's first meeting, the members shall elect one (1) of their number to be chairman and then shall elect a chairman annually thereafter. 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.

(9) A majority of the board shall constitute a quorum for the transaction of business.

(10) Each member of the board shall be compensated as provided by section 59-509(k), Idaho Code.

SECTION 2. That Section 54-5405, Idaho Code, be, and the same is hereby amended to read as follows:

54-5405. DRIVING BUSINESSES -- LICENSE REQUIREMENTS. (1) No private driver training business shall be established nor shall any existing business continue to operate unless the business applies for and obtains from the board a license which expires on the license issue date and must be renewed annually. The application for license shall include the name of the owner, a satisfactory fingerprint-based criminal history ~~background~~ check of the Idaho central criminal database and the federal bureau of investigation criminal history database, the location of the business, a certificate of occupancy, a certificate of automobile insurance, a list of ~~certified~~ licensed instructors, proof of an annual vehicle check, board approved cur-

riculum components and a course of instruction for students, which shall include the following:

(a) Not less than thirty (30) hours of classroom instruction;

(b) Not less than six (6) hours of behind-the-wheel practice driving; and

(c) Not less than six (6) hours of observation.

(2) Any private driver training business or driving instructor licensed pursuant to this chapter shall be exempt from the provisions of title 33, Idaho Code, that regulate driver education as long as such license is current and valid and the private driver training business or driving instructor is acting pursuant to activities that the license permits.

(3) Any driving business licensed pursuant to this chapter may contract with a public school to provide driver education. Any driving business that contracts with a public school to provide driver education may be allowed to use the services of any or all of the driving instructors of that driving business. Once a person has been licensed as a driving instructor, that person is authorized to teach in any approved driver education program.

(4) If the board granted any business a license without the satisfactory fingerprint-based criminal history check as provided in subsection (1) of this section, such licensee shall obtain and submit the required fingerprint-based criminal history check to the board on or before the date of the licensee's first renewal occurring after the effective date of this act.

SECTION 3. That Section 54-5406, Idaho Code, be, and the same is hereby amended to read as follows:

54-5406. DRIVING INSTRUCTORS -- REQUIREMENTS. (1) Each person applying for a driving instructor license must complete an application provided by the bureau of occupational licenses that requires the applicant to be at least twenty-one (21) years of age, have written evidence of graduation from a high school, an accredited college or university or a GED, a valid driver's license~~, a copy of~~ and a satisfactory driving record from the ~~Idaho transportation department,~~ jurisdiction from which the license was issued, a satisfactory fingerprint-based criminal history ~~background~~ check of the Idaho central criminal database and the federal bureau of investigation criminal history database, a medical certificate and ~~copies of~~ any required completed coursework ~~and the board approved apprenticeship training program~~. Licensees shall certify that they hold a current medical certificate at the time of license renewal.

(2) On and after July 1, 2010, every new applicant for a license pursuant to this chapter shall have completed a board approved apprenticeship training program of not less than sixty (60) hours of classroom instruction and one hundred eight (108) hours of behind-the-wheel training.

(3) If the board granted any instructor a license without the satisfactory fingerprint-based criminal history check as provided in subsection (1) of this section, such licensee shall obtain and submit the required fingerprint-based criminal history check to the board on or before the date of the licensee's first renewal occurring after the effective date of this act.

SECTION 4. That Section 54-5408, Idaho Code, be, and the same is hereby amended to read as follows:

54-5408. DISCIPLINE. (1) Grounds for discipline. The board shall have the power to deny any application for or renewal of a ~~driving instructor~~ license or to revoke, suspend or otherwise sanction any such license issued pursuant to this chapter and to limit or restrict the practice of any driving instructor or driving business upon a determination by the board that the person or business:

(a) Was convicted, found guilty, received a withheld judgment or suspended sentence in this or any other state, of any action constituting a felony or of a crime involving moral turpitude; ~~or~~

(b) Violated the provisions of this chapter or rules, standards of conduct and practice, or any ethical codes as may be adopted by the board; ~~or~~

(c) Is or has been negligent or reckless in the practice of driver education; or

(d) Has had any license, certificate or registration to work as a driving instructor or operate as a driving business 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.

(2) Every person or business subject to disciplinary proceedings shall be afforded an opportunity for hearing.

(a) 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.

(3) The board may, pursuant to an order of discipline, require the person or business to pay all or part of the costs and fees incurred by the board in proceedings upon which the order was entered.

(4) The board may, pursuant to an order of discipline, require the person or business to pay an administrative fine not to exceed one thousand dollars ($1,000) for each violation identified in the order.

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

Approved March 29, 2010.

CHAPTER 146
(H.B. No. 599)

AN ACT

RELATING TO SOLID WASTE LANDFILLS; AMENDING CHAPTER 74, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-7421, IDAHO CODE, TO PROVIDE FOR RESEARCH, DEVELOPMENT AND DEMONSTRATION PERMITS AND TO PROVIDE PROCEDURES.

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

SECTION 1. That Chapter 74, 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 39-7421, Idaho Code, and to read as follows:

39-7421. RESEARCH, DEVELOPMENT AND DEMONSTRATION PERMITS. (1) The provisions of 42 U.S.C. 6945(c)(1)(B) and 40 CFR 258 allow the administrator of the United States environmental protection agency to approve state research, development and demonstration permit programs.

(2) The director shall initiate the process outlined in 40 CFR 239 by which the state may receive authorization to issue research, development and demonstration (RDD) permits in compliance with 40 CFR 258.4 at such time as:

(a) The department receives a request from any individual who expresses an intent to apply for an RDD permit; and

(b) The department and requesting individual enter into a written agreement in which the requesting individual agrees to reimburse the

department for the reasonable and necessary cost to make such application.

(3) Upon receipt of state authorization to issue such permits, the director may issue an RDD permit for a new MSWLF unit, existing MSWLF unit, or lateral expansion for which the owner or operator proposes to utilize innovative and new methods which vary from either or both of the following criteria:

(a) The run-on control systems required by section 39-7412(7)(a), Idaho Code; and

(b) The liquid restrictions in section 39-7412(8), Idaho Code.

(4) Any permit issued under subsection (3) of this section shall include the following terms and conditions:

(a) The MSWLF unit shall have a leachate collection system designed and constructed to maintain less than a thirty (30) centimeter depth of leachate on the liner;

(b) Any liquids to be recirculated, injected or otherwise placed in the MSWLF unit shall be appropriate for the purposes of determining the efficacy and performance capabilities of the technology or process and shall be approved by the director;

(c) The MSWLF unit owner or operator shall install and operate a landfill gas collection and control system in accordance with emission control requirements as specified in 40 CFR part 60, and when collected in economically feasible volumes, landfill gas shall be used for energy generation.

(5) Upon receipt of state authorization to issue such permits, the director may issue an RDD permit for a new MSWLF unit, existing MSWLF unit, or lateral expansion, for which the owner or operator proposes to utilize innovative and new methods which vary from the final cover criteria of 40 CFR 258.60 (a)(1), (a)(2) and (b)(1) provided the landfill owner or operator demonstrates that the infiltration of liquid will not cause contamination of ground water or surface water, or cause leachate depth on the liner to exceed thirty (30) centimeters.

(6) Any permit issued under the provisions of this section shall include terms and conditions at least as protective as the criteria for MSWLFs to assure protection of human health and the environment. Such permits shall:

(a) Provide for the construction and operation of such facilities as necessary, for not longer than three (3) years, unless renewed as provided in subsection (8) of this section;

(b) Provide that the MSWLF unit must receive only those types and quantities of municipal solid waste and nonhazardous wastes which the director deems appropriate for the purposes of determining the efficacy and performance capabilities of the technology or process;

(c) Include such requirements as necessary to protect human health and the environment, including such requirements as necessary for testing and providing information to the director with respect to the operation of the facility;

(d) Require the owner or operator of a MSWLF unit permitted under this section to submit an annual report to the director showing whether and to what extent the site is progressing in attaining project goals. The report shall also include a summary of all monitoring and testing results, as well as any other operating information specified by the director in the permit. Annual reports shall be submitted to the director within three (3) months after the anniversary date of the approved permit or permit renewal; and

(e) Require compliance with all criteria in chapter 74, title 39, Idaho Code, except as permitted under this section.

(7) The director may order an immediate termination of all operations at the facility allowed under this section or other corrective measures at

any time the director determines that the overall goals of the project are not being attained including, but not limited to, protection of human health or the environment.

(8) Any permit issued under the provisions of this section shall not exceed three (3) years and each renewal of a permit shall not exceed three (3) years.

(a) The total term for a permit for a project, including renewals, shall not exceed twelve (12) years.

(b) During permit renewal, the applicant shall provide a detailed assessment of the project showing the status with respect to achieving project goals, a list of problems and status with respect to problem resolutions, and any other requirements that the director determines necessary for permit renewal.

(c) Owners or operators requesting permit renewal shall submit the permit renewal application to the director at least six (6) months prior to the existing permit expiration date.

(9) It shall be unlawful to begin construction to implement or otherwise utilize the exemptions provided in this section without first receiving a permit from the director. Permit applications will be processed in the following manner:

(a) The director shall review the RDD permit application and each subsequent permit renewal in the same manner as the director reviews requests for design approval pursuant to section 39-7411, Idaho Code. An applicant shall provide information in the permit application in sufficient detail to address design, operating, closure, postclosure and financial assurance requirements.

(b) Each permit application and permit renewal application shall require the owner or operator to certify to the director that the information contained in the application is, to the best of his or her knowledge, accurate and true, and the MSWLF unit is in compliance with applicable law.

(10) Permit review and oversight costs incurred by the department of environmental quality, or "department," and health district shall be reimbursed by the applicant or permittee. Reimbursable review and oversight costs shall include, but are not limited to:

(a) Reasonable costs associated with the director's review of a permit application submitted pursuant to this section, including department staff time and the cost of goods and services contracted by the department in performance of the activities described in this section;

(b) Reasonable costs associated with the health district's review of portions of a permit application submitted pursuant to this section when such review is delegated to the health district by statute, rule, or agreement with the director;

(c) Reasonable costs associated with the department's and health district's oversight of permitted RDD units, including inspections and the review of annual reports, monitoring, and testing results required pursuant to this section or required by permit, and the processing of permit amendments and terminations; and

(d) All other reasonable and necessary costs of actions taken by the department pursuant to this section.

(11) Reimbursable review and oversight costs incurred by the department and health district, as defined in subsection (10) of this section, shall be reimbursed as follows:

(a) Each permit application submitted to the director pursuant to this section shall be accompanied by a nonrefundable fee of two hundred fifty dollars ($250) and an estimation of reimbursable review and oversight costs the department and health district may incur associated with the review of the permit application and oversight of the permit. Each permit renewal application submitted to the director pursuant to this sec-

tion shall be accompanied by a nonrefundable fee of one hundred dollars ($100) and an estimation of reimbursable review and oversight costs the department and health district may incur associated with the review and oversight of the permit renewal.

(b) If the department, in consultation with the health district, determines that the applicant's estimation of reimbursable review and oversight costs is accurate, and the submission of such funds will adequately reimburse the department and the health district for the cost of all review and oversight activities associated with that permit application or renewal application, the department shall notify the applicant, and the applicant shall submit to the department the full amount, or an installment deposit in the amount required pursuant to this subsection.

(c) If the department, in consultation with the health district, determines that the applicant's estimation of reimbursable review and oversight costs is not accurate, and the submission of such funds will not adequately reimburse the department and the health district for the cost of all review and oversight activities associated with that permit application or renewal application, the department shall notify the applicant and the application shall be returned to the applicant.

(d) Upon receipt of funds in the amount estimated by the applicant and concurred to by the department and health district, or receipt of an installment deposit in the amount required under this subsection, the director shall initiate permit application review or permit renewal review.

(e) Once the department and the health district concur with an applicant's estimation of reimbursable review and oversight costs, and the department provides the applicant notice thereof, a permit applicant or permit renewal applicant may submit to the department the reimbursement funds in their entirety or an installment deposit of two thousand five hundred dollars ($2,500). Should funding be required for costs incurred in excess of the initial two thousand five hundred dollar ($2,500) deposit, the department shall notify the applicant of required successive deposits in the amount of two thousand five hundred dollars ($2,500). The department shall pass along funds collected on behalf of the health district for reimbursable review and oversight costs incurred by such district within sixty (60) days of receipt of such funds from the applicant, or within sixty (60) days of receipt of a certified request for such funds from the health district, whichever is later. Any unused portion of the reimbursement funds, deposit, or successive deposit shall be returned to the applicant within sixty (60) days of the director's final decision to issue or deny a permit or permit renewal pursuant to this section. If the applicant fails to submit a successive deposit, the department shall suspend review of the permit application or renewal application, and the director shall be relieved of any applicable statutory or regulatory permit application or renewal application review deadlines during the review suspension.

(f) The director shall, as a condition of renewal, require renewal applicants to reimburse the department for previously uncaptured reimbursable permit review and oversight costs incurred by the department or health district during the prior permit term.

(g) Upon request, the department shall provide documentation to the applicant to aid in the development of the applicant's estimation of reimbursable review and oversight costs or to support the department's claims and any health district claims for such reimbursement.

(h) Funds submitted to the department pursuant to this section shall not be returned if a permit application is terminated, withdrawn, returned, or denied unless the funds, or some portion thereof, have not

been used by the department or health district as of the date of the termination, withdrawal, return, or denial.

(12) A permit issued pursuant to this section may be transferred only to a new owner or operator of the permitted MSWLF. The new owner or operator shall submit to the director in writing, a request for permit transfer. The request shall include a statement that the new owner or operator will comply with all terms and conditions of the permit. Upon transfer of the permit, the new owner or operator shall be responsible for compliance with all terms and conditions of the permit, and shall be subject to enforcement of such terms and conditions.

(13) The following MSWLF units are not eligible for a permit issued pursuant to this section:

(a) MSWLF units operating under an exemption set forth in section 39-7409(2)(c), Idaho Code.

(b) MSWLF units operating under an exemption set forth in 40 CFR 258.1(f).

(c) MSWLF units that dispose of twenty (20) tons of solid waste per day or less, based on an annual average, are not eligible for a variance from 40 CFR 258.60(b)(1), except in accordance with 40 CFR 258.60(b)(3).

(d) MSWLF units that have exceeded ground water protection standards at statistically significant levels as specified in section 39-7410(4)(a), Idaho Code, from any waste unit on site and have not implemented a remedy in accordance with section 39-7414, Idaho Code, prior to RDD permit application submittal.

(e) MSWLF units that have landfill gas concentration exceedances, as specified in section 39-7412(4), Idaho Code, from any waste unit on site and have not implemented a remedy in accordance with section 39-7412(4), Idaho Code, prior to RDD permit application submittal.

(14) Owners or operators of MSWLF units circulating leachate or gas condensate derived from the MSWLF unit in compliance with section 39-7412(8), Idaho Code, and 40 CFR 258.28, and not implementing or otherwise utilizing an exemption under this section, are not required to comply with the requirements of this section.

(15) An applicant or permittee may appeal any final decision made by the director under this section by filing a request for hearing in accordance with rules promulgated by the department governing contested cases, or in the absence of such rules, in accordance with the procedures in chapter 52, title 67, Idaho Code.

Approved March 29, 2010.

CHAPTER 147
(H.B. No. 610)

AN ACT

RELATING TO THE CHILD PROTECTIVE ACT; AMENDING SECTION 16-1602, IDAHO CODE, TO REVISE A DEFINITION, TO DEFINE A TERM AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-1624, IDAHO CODE, TO QUALIFY AN EXCEPTION TO JOINING THE DEPARTMENT AS A PARTY TO CERTAIN PETITIONS; AMENDING SECTION 16-1629, IDAHO CODE, TO REVISE THE ENVIRONMENT IN WHICH A CHILD IS TO BE PLACED, TO REMOVE CERTAIN DISCRETION OF THE DEPARTMENT IN CERTAIN CHILD PLACEMENTS, TO REQUIRE CERTAIN CONSIDERATIONS IN PLACEMENTS, TO PROVIDE A PRIORITY FOR PLACEMENTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-1202, IDAHO CODE, TO DEFINE A TERM; AND AMENDING CHAPTER 12, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-1211A, IDAHO CODE, TO REQUIRE A LICENSE FOR RELATIVE FOSTER CARE AND TO PROVIDE FOR A LIMITED VARIANCE OR WAIVER.

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

SECTION 1. That Section 16-1602, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

(a) Conduct or omission resulting in skin bruising, bleeding, malnutrition, burns, fracture of any bone, subdural hematoma, soft tissue swelling, failure to thrive or death, and such condition or death is not justifiably explained, or where the history given concerning such condition or death is at variance with the degree or type of such condition or death, or the circumstances indicate that such condition or death may not be the product of an accidental occurrence; or

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

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

(3) "Adaptive equipment" means any piece of equipment or any item that is used to increase, maintain or improve the parenting capabilities of a parent with a disability.

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

(a) Whether the child comes under the jurisdiction of the court pursuant to the provisions of this chapter;

(b) Whether continuation of the child in the home would be contrary to the child's welfare and whether the best interest~~s~~ of the child requires protective supervision or vesting legal custody of the child in an authorized agency;

(c) Whether aggravated circumstances as defined in section 16-1619, Idaho Code, exist.

(5) "Authorized agency" means the department, a local agency, a person, an organization, corporation, benevolent society or association licensed or approved by the department or the court to receive children for control, care, maintenance or placement.

(6) "Case plan hearing" means a hearing to:

(a) Review, approve, modify or reject the case plan; and

(b) Review reasonable efforts being made to rehabilitate the family; and

(c) Review reasonable efforts being made to reunify the children with a parent or guardian.

(7) "Child" means an individual who is under the age of eighteen (18) years.

(8) "Circumstances of the child" includes, but is not limited to, the joint legal custody or joint physical custody of the child.

(9) "Commit" means to transfer legal and physical custody.

(10) "Concurrent planning" means a planning model that prepares for and implements different outcomes at the same time.

(11) "Court" means district court or magistrate's division thereof, or if the context requires, a magistrate or judge thereof.

(12) "Custodian" means a person, other than a parent or legal guardian, to whom legal or joint legal custody of the child has been given by court order.

(13) "Department" means the department of health and welfare and its authorized representatives.

(14) "Disability" means, with respect to an individual, any mental or physical impairment which substantially limits one (1) or more major life activity of the individual including, but not limited to, self-care, manual tasks, walking, seeing, hearing, speaking, learning or working, or a record of such an impairment, or being regarded as having such an impairment. Disability shall not include transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, other sexual behavior disorders, or substance use disorders, compulsive gambling, kleptomania or pyromania. Sexual preference or orientation is not considered an impairment or disability. Whether an impairment substantially limits a major life activity shall be determined without consideration of the effect of corrective or mitigating measures used to reduce the effects of the impairment.

(15) "Family or household member" shall have the same meaning as in section 39-6303(6), Idaho Code.

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

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

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

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

(20) "Guardian ad litem program" means the program to recruit, train and coordinate volunteer persons to serve as guardians ad litem for abused, neglected or abandoned children.

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

(22) "Law enforcement agency" means a city police department, the prosecuting attorney of any county, state law enforcement officers, or the office of a sheriff of any county.

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

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

(b) To supply the child with food, clothing, shelter and incidental necessities.

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

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

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

(24) "Mental injury" means a substantial impairment in the intellectual or psychological ability of a child to function within a normal range of performance and/or behavior, for short or long terms.

(25) "Neglected" means a child:

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

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

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

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

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

(27) "Permanency plan" means a plan for a continuous residence and maintenance of nurturing relationships during the child's minority.

(28) "Protective order" means an order created by the court granting relief as delineated in section 39-6306, Idaho Code, and shall be for a period not to exceed three (3) months unless otherwise stated herein. Failure to comply with the order shall be a misdemeanor.

(29) "Protective supervision" means a legal status created by court order in neglect and abuse cases whereby the child is permitted to remain in his home under supervision by the department.

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

(31) "Residual parental rights and responsibilities" means those rights and responsibilities remaining with the parents after the transfer of legal custody including, but not necessarily limited to, the right of visitation, the right to consent to adoption, the right to determine religious affiliation, the right to family counseling when beneficial, and the responsibility for support.

(3~~1~~2) "Shelter care" means places designated by the department for temporary care of children pending court disposition or placement.

(3~~2~~3) "Supportive services," as used in this chapter, shall mean services which assist parents with a disability to compensate for those aspects of their disability which affect their ability to care for their child and which will enable them to discharge their parental responsibilities. The term includes specialized or adapted training, evaluations or assistance with effectively using adaptive equipment and accommodations which allow parents with a disability to benefit from other services including, but not limited to, Braille texts or sign language interpreters.

SECTION 2. That Section 16-1624, Idaho Code, be, and the same is hereby amended to read as follows:

16-1624. TERMINATION OF PARENT-CHILD RELATIONSHIP. If the child has been placed in the legal custody of the department or under its protective supervision pursuant to section 16-1619, Idaho Code, the department may petition the court for termination of the parent and child relationship in accordance with chapter 20, title 16, Idaho Code. Unless there are compelling reasons it would not be in the best interest of the child, the department shall be required to file a petition to terminate parental rights within sixty (60) days of a judicial determination that an infant has been

abandoned or that reasonable efforts are not required because the parent has subjected the child to aggravated circumstances as determined by the court pursuant to section 16-1619(6)(d), Idaho Code. The department shall join as a party to the petition if such a petition to terminate is filed by another party; as well as to concurrently identify, recruit, process and approve a qualified family for adoption unless it is determined that such actions would not be in the best interest of the child, or the child is placed with a fit and willing relative. If termination of parental rights is granted and the child is placed in the guardianship or legal custody of the department of health and welfare the court, upon petition, shall conduct a hearing as to the future status of the child within twelve (12) months of the order of termination of parental rights, and every twelve (12) months subsequently until the child is adopted or is in a placement sanctioned by the court. A petition to terminate parental rights shall be filed in the child protective act case.

SECTION 3. That Section 16-1629, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

(9) The department shall give to the court any information concerning the child that the court may at any time require, but in any event shall report the progress of the child under its custody at intervals of not to exceed six (6) months. The department shall file with the court at least five (5) days prior to the permanency hearing either under section 16-1622, Idaho Code, or, in the case of a finding of aggravated circumstances, section 16-1620, Idaho Code, the permanency plan and recommendations of the department. There shall be a rebuttable presumption that if a child is placed in the custody of the department and was also placed in out of the home care for a period not less than fifteen (15) out of the last twenty-two (22) months from the date the child entered shelter care, the department shall initiate a petition for termination of parental rights. This presumption may be rebutted by a finding of the court that the filing of a petition for termination of parental rights would not be in the best interest~~s~~ of the

child or reasonable efforts have not been provided to reunite the child with his family, or the child is placed permanently with a relative.

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

(11) At any time the department is considering a placement pursuant to this ~~act~~ chapter, the department shall make a reasonable effort to place the child in the least ~~disruptive~~ restrictive environment to the child and in so doing ~~may~~ shall consider, ~~without limitation~~ consistent with the best interest and special needs of the child, placement priority of the child ~~with related persons~~ in the following order:

(a) A fit and willing relative.

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

(c) Foster parents and other persons licensed in accordance with chapter 12, title 39, Idaho Code.

SECTION 4. That Section 39-1202, Idaho Code, be, and the same is hereby amended to read as follows:

39-1202. DEFINITIONS. For the purposes of this chapter:

(1) "Board" means the Idaho board of health and welfare.

(2) "Child care" means that care, control, supervision or maintenance of children for twenty-four (24) hours a day which is provided as an alternative to parental care.

(3) "Child" means an individual less than eighteen (18) years of age who is not enrolled in an institution of higher education.

(4) "Children's agency" means a person who operates a business for the placement of children in foster homes or for adoption in a permanent home and who does not provide child care as part of that business. Children's agency does not include a licensed attorney or physician assisting or providing natural and adoptive parents with legal services or medical services necessary to initiate and complete adoptive placements.

(5) "Children's camp" means a program of child care at a location away from the child's home which is primarily recreational and includes the overnight accommodation of the child and is not intended to provide treatment, therapy or rehabilitation for the child.

(6) "Children's institution" means a person who operates a residential facility for children not related to that person if that person is an individual, for the purpose of providing child care. Children's institutions include, but are not limited to, foster homes, maternity homes, children's therapeutic outdoor programs, or any facilities providing treatment, therapy or rehabilitation for children. Children's institutions do not include: (a) facilities which provide only day care as defined in chapter 11, title 39, Idaho Code; (b) facilities and agencies including hospitals, skilled nursing facilities, intermediate care facilities, and intermediate care facilities for the mentally retarded licensed pursuant to chapter 13, title 39, Idaho Code; (c) day schools; (d) individuals acting in an advisory capacity, counseling a child in a religious context, and providing no child care associated with the advice; (e) the occasional or irregular care of a neighbor's, relative's or friend's child or children by a person not ordinarily engaged in child care.

(7) "Children's residential care facility" means a children's institution, excluding:

(a) Foster homes;

(b) Residential schools;

(c) Children's camps.

No facility expressly excluded from the definition of a children's institution is included within the definition of a children's residential care facility.

(8) "Children's therapeutic outdoor program" is a program which is designed to provide behavioral, substance abuse, or mental health services to minors in an outdoor setting. This does not include children's camps, church camps, or other outdoor programs primarily designed to be educational or recreational, such as Boy Scouts, Girl Scouts, 4-H or sports camps.

(9) "Continued care" means the ongoing placement of an individual in a foster home, children's residential care facility, or transitional living placement who reaches the age of eighteen (18) years but is less than twenty-one (21) years of age.

(10) "Day school" means a public, private, parochial or secular facility offering an educational program in which the children leave the facility each day at the conclusion of the academic, vocational or school supervised activities.

(11) "Department" means the state department of health and welfare.

(12) "Director" means the director of the department of health and welfare.

(13) "Foster care" means child care by a person not related to the child, in lieu of parental care, in a foster home.

(14) "Foster home" means a home which accepts, for any period of time, with or without compensation, one (1) or more children who are not related to the foster parent as members of the household for the purpose of providing substitute parental care.

(15) "Group care" means foster care of a number of children for whom child care in a family setting is not available or appropriate, in a dormitory or cottage type setting, characterized by activities and discipline of a more regimented and less formal nature than found in a family setting.

(16) "Juvenile detention" is as defined in section 20-502(6), Idaho Code, of the juvenile corrections act.

(17) "Juvenile detention center" means a facility established pursuant to sections 20-517 and 20-518, Idaho Code.

(18) "Person" includes any individual, group of individuals, association, partnership, limited liability company or corporation.

(19) "Placement" means finding a suitable licensed foster home or suitable adoptive home for a child and completing the arrangements for a child to be accepted into and adjusted to such home.

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

(21) "Representative" means an employee of the state department of health and welfare.

(2~~1~~2) "Residential facility" means any facility where child care is provided, as defined in this section, and which provides day and night accommodation.

(2~~2~~3) "Residential school" means a residential facility for children which:

(a) Provides a planned, scheduled, regular, academic or vocational school program for students in the elementary, middle or secondary grades as defined in section 33-1001, Idaho Code; and

(b) Provides services substantially comparable to those provided in nonresidential public schools where the primary purpose is the education and academic pursuits of the students; and

(c) Does not seek, receive or enroll students for treatment of such special needs as substance abuse, mental illness, emotional disturbance, developmental disability or mental retardation; and

(d) Is not:

(i) A college or university; or

(ii) A children's camp as defined in this section; or

(iii) A public or private day school in which the children leave the facility each day at the conclusion of the academic, vocational and school supervised activities.

(2~~3~~4) "Transitional living" means living arrangements and aftercare services for children, or as continued care, to gain experience living on their own in a supportive and supervised environment prior to emancipation.

SECTION 5. That Chapter 12, 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 39-1211A, Idaho Code, and to read as follows:

39-1211A. RELATIVE FOSTER CARE -- LIMITED VARIANCE OR WAIVER. (1) A relative providing foster care for a related child pursuant to chapter 16, title 16, Idaho Code, must be licensed in accordance with this chapter.

(2) Notwithstanding the provisions of subsection (1) of this section, the department may expedite placement with a relative, issue a foster care license or grant a limited variance or waiver of a licensing standard or requirement if, in the department's judgment, the health and safety of the related child is not thereby endangered.

(3) If the department grants a limited variance or waiver of a licensing standard or requirement to the child's relative pursuant to this section, the department shall document the grounds for granting the limited variance or waiver and the reasons the limited variance or waiver will not compromise the related child's safety and health.

(4) A limited variance or waiver of a licensing standard or requirement granted to a child's relative pursuant to this section shall be reviewed by the department for continuing compliance, need, and approval at regular intervals, subject to the provisions of section 39-1113, Idaho Code.

(5) The board shall promulgate appropriate rules necessary to implement and enforce the provisions of this section.

Approved March 29, 2010.

CHAPTER 148
(H.B. No. 625)

AN ACT
APPROPRIATING MONEYS TO THE DEPARTMENT OF FINANCE FOR FISCAL YEAR 2011; 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, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
State Regulatory Fund	$3,946,600	$1,489,000	$78,600	$5,514,200
Securities Investor Training Fund	50,000	_____	_____	50,000
TOTAL	$3,996,600	$1,489,000	$78,600	$5,564,200

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Finance is authorized no more than fifty-four (54) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, 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 29, 2010.

CHAPTER 149
(H.B. No. 626)

AN ACT
APPROPRIATING MONEYS TO THE DIVISION OF BUILDING SAFETY FOR FISCAL YEAR 2011; 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 Division of Building Safety in the Department of Self-Governing Agencies the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
State Regulatory Fund	$8,034,500	$2,039,600	$191,000	$10,265,100
Miscellaneous Revenue/Industrial Safety Fund	586,400	98,900	16,000	701,300
Miscellaneous Revenue/Logging Fund	312,300	76,200		388,500
Federal Grant Fund	34,300	6,600		40,900
TOTAL	$8,967,500	$2,221,300	$207,000	$11,395,800

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Division of Building Safety in the Department of Self-Governing Agencies is authorized no more than one hundred forty-one(141) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, 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 29, 2010.

CHAPTER 150
(H.B. No. 641)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF FISH AND GAME FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE DEPARTMENT OF FISH AND GAME FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 299, Laws of 2009, there is hereby appropriated to the Department of Fish and Game the following amount to be expended for the Wildlife Program according to the designated expense class from the listed fund for the period July 1, 2009, through June 30, 2010:

FOR:

Capital Outlay	$500,000

FROM:

Fish and Game (Federal) Fund	$500,000

SECTION 2. There is hereby appropriated to the Department of Fish and Game the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
Fish and Game (Licenses) Fund	$3,381,900	$1,639,700	$3,752,400	$50,000	$8,824,000
Fish and Game (Other) Fund	446,100	107,300			553,400
Fish and Game Set-Aside (Licenses) Fund	200	36,000			36,200
Fish and Game Set-Aside (Other) Fund	16,600	20,900			37,500
Expendable Big Game Depredation Fund		2,900			2,900
Fish and Game Expendable Trust Fund		8,200			8,200
Fish and Game Nonexpendable Trust Fund		3,600			3,600
Fish and Game (Federal) Fund	3,577,900	2,799,700	30,200		6,407,800
TOTAL	$7,422,700	$4,618,300	$3,782,600	$50,000	$15,873,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. ENFORCEMENT:					
FROM:					
Fish and Game (Licenses) Fund	$6,970,200	$2,049,700	$162,900		$9,182,800
Fish and Game (Other) Fund	128,300	24,000			152,300
Fish and Game Set-Aside (Other) Fund		20,600			20,600
Fish and Game Expendable Trust Fund		26,400			26,400
TOTAL	$7,098,500	$2,120,700	$162,900		$9,382,100
III. FISHERIES:					
FROM:					
Fish and Game (Licenses) Fund	$3,255,700	$2,543,600	$198,100		$5,997,400
Fish and Game (Other) Fund	1,438,900	1,215,800	8,000		2,662,700
Fish and Game Set-Aside (Licenses) Fund	208,400	254,700			463,100
Fish and Game Set-Aside (Other) Fund	79,700	30,700			110,400
Fish and Game Expendable Trust Fund	101,000	34,200			135,200
Fish and Game Nonexpendable Trust Fund		33,400			33,400
Fish and Game (Federal) Fund	10,692,000	6,651,400	916,000		18,259,400
TOTAL	$15,775,700	$10,763,800	$1,122,100		$27,661,600
IV. WILDLIFE:					
FROM:					
Fish and Game (Licenses) Fund	$3,625,600	$3,882,700	$141,100	$174,800	$7,824,200
Fish and Game (Other) Fund	352,000	557,000			909,000
Fish and Game Set-Aside (Other) Fund	618,200	310,100			928,300
Fish and Game Expendable Trust Fund	378,600	300,200			678,800
Fish and Game Nonexpendable Trust Fund	10,600	2,300			12,900
Fish and Game (Federal) Fund	3,776,200	2,349,700			6,125,900
TOTAL	$8,761,200	$7,402,000	$141,100	$174,800	$16,479,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
V. COMMUNICATIONS:					
FROM:					
Fish and Game (Licenses) Fund	$1,466,100	$432,100	$36,300		$1,934,500
Fish and Game (Other) Fund	83,800	131,300	95,000		310,100
Fish and Game Set-Aside (Other) Fund	113,700	37,200			150,900
Fish and Game Expendable Trust Fund	28,000	6,100			34,100
Fish and Game (Federal) Fund	712,300	247,400			959,700
TOTAL	$2,403,900	$854,100	$131,300		$3,389,300
VI. ENGINEERING:					
FROM:					
Fish and Game (Licenses) Fund	$824,300	$72,800	$6,600		$903,700
VII. WINTER FEEDING AND HABITAT IMPROVEMENT:					
FROM:					
Fish and Game (Licenses) Fund	$591,600	$516,200	$11,700		$1,119,500
Fish and Game (Other) Fund	133,200	16,300			149,500
Fish and Game Set-Aside (Licenses) Fund	40,500	1,329,800	1,500		1,371,800
Fish and Game Set-Aside (Other) Fund	68,100	4,300			72,400
Expendable Big Game Depredation Fund				$600,000	600,000
Fish and Game (Federal) Fund	753,300	191,600			944,900
TOTAL	$1,586,700	$2,058,200	$13,200	$600,000	$4,258,100
GRAND TOTAL	$43,873,000	$27,889,900	$5,359,800	$824,800	$77,947,500

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Department of Fish and Game is authorized no more than five hundred sixty-seven (567) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, for the programs specified in Section 2 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved March 29, 2010.

CHAPTER 151
(H.B. No. 642)

AN ACT

REDUCING THE APPROPRIATION TO THE OFFICE OF SPECIES CONSERVATION FOR FISCAL YEAR 2010; APPROPRIATING ADDITIONAL MONEYS TO THE OFFICE OF SPECIES CONSERVATION FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE OFFICE OF SPECIES CONSERVATION FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; PROVIDING LEGISLATIVE INTENT; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 1, Chapter 296, Laws of 2009, to the Office of Species Conservation is hereby reduced by the following amount, according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

FOR:	
Personnel Costs	$29,700
Operating Expenditures	18,700
TOTAL	$48,400

SECTION 2. In addition to the appropriation made in Section 1, Chapter 296, Laws of 2009, there is hereby appropriated to the Office of Species Conservation the following amount to be expended according to the designated expense class from the listed fund for the period July 1, 2009, through June 30, 2010:

FOR:	
Personnel Costs	$8,400
FROM:	
Federal Grant Fund	$8,400

SECTION 3. There is hereby appropriated to the Office of Species Conservation the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General Fund	$399,900	$77,600		$477,500
Miscellaneous Revenue Fund		15,000		15,000
Federal Grant Fund	690,700	229,300	$21,534,600	22,454,600
TOTAL	$1,090,600	$321,900	$21,534,600	$22,947,100

SECTION 4. In accordance with Section 67-3519, Idaho Code, the Office of Species Conservation is authorized no more than twelve (12) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, for the program specified in Section 3 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 5. LEGISLATIVE INTENT. It is the intent of the Legislature that the four (4) new limited service positions added to this budget are for nonregulatory coordination, planning, and permitting of federally funded projects.

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1 and 2 of this act shall be in full force and effect on and after passage and approval.

Approved March 29, 2010.

CHAPTER 152
(H.B. No. 648)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO STATE LOTTERY FOR FISCAL YEAR 2011; 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, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
State Lottery Fund	$2,619,500	$8,241,700	$94,200	$10,955,400

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, 2010, through June 30, 2011, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. LEGISLATIVE INTENT. It is the intent of the Legislature 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 29, 2010.

CHAPTER 153
(H.B. No. 649)

AN ACT

APPROPRIATING MONEYS TO THE SELF-GOVERNING AGENCIES FOR THE MEDICAL BOARDS FOR FISCAL YEAR 2011; APPROPRIATING MONEYS TO THE SELF-GOVERNING AGENCIES FOR THE REGULATORY BOARDS FOR FISCAL YEAR 2011; 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 Self-Governing Agencies for the medical boards the following amounts to be expended for the designated programs from the listed funds for the period July 1, 2010, through June 30, 2011:

I. BOARD OF DENTISTRY:	
FROM:	
State Regulatory Fund	$390,500
II. BOARD OF MEDICINE:	
FROM:	
State Regulatory Fund	$1,416,800
III. BOARD OF NURSING:	
FROM:	
State Regulatory Fund	$984,200
IV. BOARD OF PHARMACY:	
FROM:	
State Regulatory Fund	$1,354,400
V. BOARD OF VETERINARY MEDICINE:	
FROM:	
State Regulatory Fund	$222,900
GRAND TOTAL	$4,368,800

SECTION 2. 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 from the listed funds for the period July 1, 2010, through June 30, 2011:

I. BOARD OF ACCOUNTANCY:	
FROM:	
State Regulatory Fund	$500,600
II. BOARD OF PROFESSIONAL ENGINEERS & LAND SURVEYORS:	
FROM:	
State Regulatory Fund	$562,700
III. BUREAU OF OCCUPATIONAL LICENSES:	
FROM:	
State Regulatory Fund	$3,074,700

IV. OUTFITTERS AND GUIDES LICENSING BOARD:

FROM:

State Regulatory Fund	$537,900

V. REAL ESTATE COMMISSION:

FROM:

State Regulatory Fund	$1,420,400
GRAND TOTAL	$6,096,300

SECTION 3. In accordance with Section 67-3519, Idaho Code, each of the programs in the Department of Self-Governing Agencies listed below is authorized no more than the number of full-time equivalent positions shown at any point during the period July 1, 2010, through June 30, 2011, for the programs specified in Sections 1 and 2 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Board of Dentistry ..... Three (3)
Board of Medicine ..... Thirteen and eight-tenths (13.8)
Board of Nursing ..... Eight and one-half (8.5)
Board of Pharmacy ..... Thirteen (13)
Board of Veterinary Medicine ..... Two (2)
Board of Accountancy ..... Four (4)
Board of Professional Engineers and Land Surveyors ..... Four (4)
Bureau of Occupational Licenses ..... Thirty-two (32)
Outfitters and Guides Licensing Board ..... Six (6)
Real Estate Commission ..... Sixteen (16)

Approved March 29, 2010.

CHAPTER 154
(H.B. No. 526)

AN ACT

RELATING TO SECURITY INTERESTS; AMENDING SECTION 28-9-310, IDAHO CODE, TO PROVIDE THAT FILING A FINANCING STATEMENT IS NOT NECESSARY TO PERFECT A SECURITY INTEREST IN TIMBER SOLD BY THE STATE OF IDAHO.

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

SECTION 1. That Section 28-9-310, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-310. WHEN FILING REQUIRED TO PERFECT SECURITY INTEREST OR AGRICULTURAL LIEN -- SECURITY INTERESTS AND AGRICULTURAL LIENS TO WHICH FILING PROVISIONS DO NOT APPLY. (a) Except as otherwise provided in subsection (b) of this section and section 28-9-312(b), a financing statement must be filed to perfect all security interests and agricultural liens.

(b) The filing of a financing statement is not necessary to perfect a security interest:

(1) That is perfected under section 28-9-308(d), (e), (f) or (g);

(2) That is perfected under section 28-9-309 when it attaches;

(3) In property subject to a statute, regulation or treaty described in section 28-9-311(a);

(4) In goods in possession of a bailee which is perfected under section 28-9-312(d)(1) or (2);
(5) In certificated securities, documents, goods or instruments which is perfected without filing, control, or possession under section 28-9-312(e), (f) or (g);
(6) In collateral in the secured party's possession under section 28-9-313;
(7) In a certificated security which is perfected by delivery of the security certificate to the secured party under section 28-9-313;
(8) In deposit accounts, electronic chattel paper, electronic documents, investment property, or letter of credit rights which is perfected by control under section 28-9-314;
(9) In proceeds which is perfected under section 28-9-315; ~~or~~
(10) That is perfected under section 28-9-316; or
(11) In timber sold by the state of Idaho.
(c) If a secured party assigns a perfected security interest or agricultural lien, a filing under this chapter is not required to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

Approved March 30, 2010.

CHAPTER 155
(H.B. No. 407, As Amended)

AN ACT
RELATING TO NAVIGATIONAL ENCROACHMENTS; AMENDING SECTION 58-1307, IDAHO CODE, TO REVISE PROVISIONS RELATING TO FEES FOR SPECIFIED PERMITS.

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

SECTION 1. That Section 58-1307, Idaho Code, be, and the same is hereby amended to read as follows:

58-1307. FEES FOR SPECIFIED PERMITS -- COSTS OF PUBLICATION. Application for a permit for any noncommercial navigational encroachment ~~or~~ shall be accompanied by a nonrefundable fee of up to five hundred dollars ($500). Application for a permit for any noncommercial nonnavigational encroachment for bank stabilization and erosion control or for fisheries and wildlife habitat improvements shall be accompanied by a nonrefundable fee of up to ~~two hundred fifty~~ one thousand dollars (~~$25~~1,000). Application for a permit for any other nonnavigational or commercial navigational encroachment or navigational encroachment which extends beyond the line of navigability shall be accompanied by a nonrefundable base fee, ~~of up to~~ not to exceed three thousand five hundred dollars ($3,500). Provided however, the board shall charge applicants for permits for commercial navigational encroachments the actual costs of processing the application in the event the actual costs exceed three thousand five hundred dollars ($3,500). In addition, the board shall charge the applicant with costs of publishing notice of the application which shall be refunded if such notice is not published. Any person or agency requesting a hearing upon the application shall deposit and pay to the board an amount sufficient to cover the cost of publishing notice of hearing.

Approved March 31, 2010.

CHAPTER 156
(H.B. No. 426)

AN ACT

RELATING TO THE STATE BOARD OF MORTICIANS; AMENDING SECTION 54-1105, IDAHO CODE, TO REVISE BOARD MEMBER COMPENSATION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 54-1105, Idaho Code, be, and the same is hereby amended to read as follows:

54-1105. BOARD OF MORTICIANS. There is hereby established in the department of self-governing agencies a state board of morticians to be composed of three (3) members appointed by the governor in the manner hereinafter set forth. Each member of the board shall be a duly licensed mortician under the laws of the state of Idaho and a resident of the state of Idaho for a period of at least five (5) years next preceding his appointment, during which time he shall have been continuously engaged in the practice as a mortician as defined in this ~~act~~ chapter. No person shall be eligible for appointment to the board of morticians who is financially interested, directly or indirectly, in any embalming college, wholesale funeral supply business, or casket ~~manufacture~~ manufacturing business.

The governor shall appoint the members of the board from a list of qualified morticians of triple the number of persons to be appointed, who shall be proposed and submitted to him by the Idaho ~~F~~funeral ~~S~~service ~~A~~association, or other statewide organization or association of licensed morticians whose membership is composed of a majority of all licensed morticians of the state~~; provided, however, all members of the board of embalming examiners existing as of the effective date of this act are hereby automatically appointed as members of the board of morticians to serve for the remainder of their appointed terms~~.

All members of the board of morticians shall be appointed to serve for a term of three (3) years, to expire on May 1 of the year of termination of their term, and until their successors have been appointed and qualified; provided~~,~~ however, the governor is hereby granted the power to alter the term of office of the members of the board first appointed hereunder so that the term of office of not more than one (1) member of the board shall terminate in any one (1) year. In case of a vacancy occurring on said board of morticians by reason of the death of any member, or his resignation, incapacity, neglect or refusal to act, or in any other way, the governor shall appoint a qualified member for the remainder of the unexpired term of the vacant office from a list of duly qualified morticians prepared and submitted in the manner prescribed herein for the initial appointment of members to the board. Any member of the board of morticians who ~~wilfully~~ willfully fails to properly discharge his duties may be removed by the governor.

The board shall meet, not less than annually, to elect a chairman, vice chairman and secretary and take official board action on pending matters by majority vote of all the members of the board of morticians, and in doing so a majority of the members of said board shall at all times constitute a quorum. Notice of any meeting shall be given by the chairman to all members of the board at least ten (10) days in advance of each meeting unless such notice is waived in writing by all of the members of the board.

Each member of the board of morticians shall be compensated as provided by section 59-509(~~g~~m), Idaho Code.

Approved March 31, 2010.

CHAPTER 157
(H.B. No. 428)

AN ACT

RELATING TO THE STATE BOARD OF DRINKING WATER AND WASTEWATER PROFESSIONALS; AMENDING SECTION 54-2405, IDAHO CODE, TO REVISE BOARD MEMBER COMPENSATION.

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

SECTION 1. That Section 54-2405, Idaho Code, be, and the same is hereby amended to read as follows:

54-2405. STATE BOARD PROCEDURES -- PAYMENT OF EXPENSES OF BOARD MEMBERS. (1) The members of the board shall, as soon as appointed, organize and at least annually thereafter elect from their number a chairman. The board shall hold at least two (2) meetings each year to transact such business as may be necessary to carry out the provisions of this chapter. Four (4) members of the board shall constitute a quorum and special meetings of the board shall be called by the chairman upon written request of any three (3) members; all meetings shall be open to the public.

(2) The members of the board shall be compensated as provided by section 59-509(~~g~~m), Idaho Code, subject to availability of funds collected under the provisions of this chapter.

Approved March 31, 2010.

CHAPTER 158
(H.B. No. 429)

AN ACT

RELATING TO THE LIQUEFIED PETROLEUM GAS SAFETY BOARD; AMENDING SECTION 54-5309, IDAHO CODE, TO REVISE BOARD MEMBER COMPENSATION.

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

SECTION 1. That Section 54-5309, Idaho Code, be, and the same is hereby amended to read as follows:

54-5309. IDAHO LIQUEFIED PETROLEUM GAS SAFETY BOARD. (1) There is hereby established in the department of self-governing agencies the Idaho liquefied petroleum gas safety board and the members thereof shall be appointed by the governor. In making appointments, the governor shall give consideration to recommendations submitted by the rocky mountain propane association and other such nominations as may be received. If recommendations are not made within sixty (60) days of notification and request, the governor may make appointments of any qualified individual.

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

(3) The members of the first board shall serve for the following terms: one (1) dealer member shall serve for one (1) year; one (1) firefighter member shall serve for two (2) years; one (1) dealer member shall serve for three

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

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

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

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

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

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

Approved March 31, 2010.

CHAPTER 159
(H.B. No. 461)

AN ACT

RELATING TO THE BUREAU OF OCCUPATIONAL LICENSES; AMENDING SECTION 67-2608, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE BUREAU CHIEF'S AUTHORITY TO COOPERATE WITH OTHER AGENCIES AND TO PROVIDE CORRECT TERMINOLOGY.

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

SECTION 1. That Section 67-2608, Idaho Code, be, and the same is hereby amended to read as follows:

67-2608. BUREAU CHIEF TO COOPERATE WITH OTHER AGENCIES. The chief of the bureau of occupational licenses ~~is hereby directed~~ may, in the administration of this ~~act~~ chapter, ~~to~~ share information and otherwise cooperate with ~~the other departments and agencies of the state of Idaho which have the responsibility of enforcing licensing, taxing and inspection laws~~ government regulatory and law enforcement agencies.

Approved March 31, 2010.

CHAPTER 160
(H.B. No. 502)

AN ACT

RELATING TO THE MODULAR BUILDING ADVISORY BOARD; AMENDING SECTION 39-4302, IDAHO CODE, TO PROVIDE FOR AN HONORARIUM.

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

SECTION 1. That Section 39-4302, Idaho Code, be, and the same is hereby amended to read as follows:

39-4302. MODULAR BUILDING ADVISORY BOARD. (1) A modular building advisory board is established in the division of building safety to advise the administrator in the administration and enforcement of the provisions of this chapter. The board shall consist of five (5) members, appointed by the governor, two (2) of whom shall represent manufacturers of modular buildings, two (2) of whom shall be dealers of modular buildings and one (1) of whom shall be a consumer who uses or has used a modular building. The board shall serve the following terms commencing July 1, 2007: two (2) members shall be appointed for a term of one (1) year, two (2) members shall be appointed for a term of two (2) years, and one (1) member shall be appointed for a term of three (3) years. The consumer member shall be a member appointed to a term beginning on July 1, 2007, or as soon thereafter as there is a vacancy on the board. Thereafter board members shall be appointed for a term of three (3) years. Not more than three (3) members shall at any time belong to the same political party. Whenever a vacancy occurs, the governor shall appoint a qualified person to fill the vacancy for the unexpired portion of the term. The members of the board shall be compensated as provided in section 59-509(~~f~~n), Idaho Code, for each day spent in attendance at meetings of the board. A majority of members shall constitute a quorum, and a quorum at any meeting called by the administrator shall have full and complete power to act upon and resolve in the name of the board any matter, thing or question referred to it by the administrator, or which by reason of any provision of this chapter, it has the power to determine.

(2) The board shall, on the first day of each July or as soon thereafter as practicable, elect a chairman, vice-chairman and secretary from among its members, and these officers shall hold office until their successors are elected. As soon as the board has elected its officers, the secretary shall certify the results of the election to the administrator. The chairman shall preside at all meetings of the board and the secretary shall make a record of the proceedings which shall be preserved in the offices of the division of building safety. If the chairman is absent from any meeting of the board, his duties shall be discharged by the vice-chairman. All members of the board present at a meeting shall be entitled to vote on any question, matter, or thing which properly comes before the board.

(3) The board shall have the authority to promulgate rules in accordance with chapter 52, title 67, Idaho Code, to implement the provisions of this chapter.

Approved March 31, 2010.

CHAPTER 161
(H.B. No. 537, As Amended)

AN ACT

RELATING TO THE SOCIAL WORK LICENSING ACT; AMENDING SECTION 54-3202, IDAHO CODE, TO REVISE DEFINITIONS; AND AMENDING SECTION 54-3206, IDAHO CODE, TO REVISE LICENSING QUALIFICATIONS.

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

SECTION 1. That Section 54-3202, Idaho Code, be, and the same is hereby amended to read as follows:

54-3202. DEFINITIONS. As used in this chapter, the terms defined in this section shall have the following meaning, unless the context clearly indicates another meaning.

(1) "Board" means the state board of social work examiners hereinafter provided in this chapter.

(2) "Social work" is defined as the professional activity of helping individuals, groups, families and communities enhance or restore their capacity for social functioning and creating societal conditions favorable to this goal. Social work practice consists of the professional application of social work values, principles~~,~~ and techniques. The practice of social work requires knowledge of human development and behavior of social, economic and cultural institutions and of the interaction of all these factors.

(3) "Clinical social worker" means an individual who ~~has a master's degree or doctorate in social work and two (2) years of postgraduate supervised clinical experience approved by the board and who~~ is licensed under this chapter and may be designated as a licensed clinical social worker (LCSW).

(4) "Masters social worker" means an individual who ~~has a doctorate or master's degree in social work from a college or university approved by the board and~~ is licensed under this chapter and may be designated as a licensed masters social worker (LMSW).

(5) "Social worker" means an individual who ~~has a baccalaureate degree in social work or related fields from a college or university approved by the board and~~ is licensed under this chapter and may be designated as a licensed social worker (LSW).

SECTION 2. That Section 54-3206, Idaho Code, be, and the same is hereby amended to read as follows:

54-3206. LICENSING -- QUALIFICATIONS. The board shall issue licenses to qualified applicants who~~, in addition to qualifications enumerated in section 54-3202, Idaho Code,~~ have passed an examination conducted or approved by the board, ~~and~~ are of good moral character~~.~~ and meet one (1) of the following:

(1) For a clinical social worker license possess a master's degree or doctorate in social work and two (2) years of postgraduate supervised clinical experience approved by the board;

(2) For a masters social worker license possess a master's degree or doctorate in social work from a college or university approved by the board; or

(3) For a social worker license possess a baccalaureate degree in social work from a college or university approved by the board.

Approved March 31, 2010.

CHAPTER 162
(H.B. No. 433, As Amended)

AN ACT

RELATING TO ELECTIONS; AMENDING SECTION 34-702A, IDAHO CODE, TO REVISE REQUIREMENTS FOR DECLARATION OF INTENT FOR WRITE-IN CANDIDATES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 34-702A, Idaho Code, be, and the same is hereby amended to read as follows:

34-702A. DECLARATION OF INTENT FOR WRITE-IN CANDIDATES. No write-in vote for any office in a primary, special, or general election shall be counted unless a declaration of intent has been filed indicating that the person desires the office and is legally qualified to assume the duties of said office if elected. The declaration of intent shall be filed with the secretary of state if for a federal, state, or legislative district office

and with the county clerk if for a county office. Such declaration of intent shall be filed not later than ~~fourteen~~ twenty-eight (~~14~~28) days before the day of election. The secretary of state shall prescribe the form for said declaration.

In those counties which utilize optical scan ballots an elector shall not place on the ballot a sticker bearing the name of a person, or use any other method or device, except writing, to vote for a person whose name is not printed on the ballot.

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 31, 2010.

CHAPTER 163
(H.B. No. 460)

AN ACT

RELATING TO ARCHITECTS; AMENDING SECTION 54-309, IDAHO CODE, TO REVISE A LICENSURE EXEMPTION.

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

SECTION 1. That Section 54-309, Idaho Code, be, and the same is hereby amended to read as follows:

54-309. DEFINITIONS -- LIMITATION ON APPLICATION. (1) Within the meaning and intent of this chapter, the following words shall be defined as follows:

(a) "Architect" means a person who engages in the practice of architecture as herein defined, and is licensed under the provisions of this chapter.

(b) "Building" is an enclosure including improvements related thereto, which has as its principal purpose the adaptation of space for occupancy, or habitation by human beings.

(c) "Practice of architecture" consists of rendering or offering those services hereinafter described, in connection with the design, construction, enlargement, or alteration of a building or a group of buildings. The services covered within this definition include architectural planning, advice and consultation; providing preliminary studies; architectural designs, drawings and specifications; technical submissions; and, administration of construction contracts.

(d) "Prototypical building" means any commercial building or space within a commercial building that is intended to be constructed in multiple locations and that in fact has been constructed in multiple locations, and which conveys an owner's intended uniform business program, plan or image.

(e) "Prototypical building documents" means technical submissions for prototypical buildings that:

(i) Are prepared by or under the responsible control of an architect then licensed in any jurisdiction and holding the certification issued by the national council of architectural registration boards;

(ii) Identify such architect together with the architect's license number, jurisdiction or license and national council of registration boards certification number; and

(iii) Are marked "Prototypical Design Documents Not For Construction." Prototypical building documents do not comprise a final, comprehensive set of design and construction documents because a prototypical building also requires adaptations for local conditions including site conditions and may require additional design as well.

(f) "Responsible control" means that amount of control over and detailed knowledge of the content of technical submissions during their preparation as is ordinarily exercised by registered architects applying the required professional standard of care. Reviewing, or reviewing and correcting, technical submissions after they have been prepared by others does not constitute the exercise of responsible control because the reviewer has neither control over nor detailed knowledge of the content of such submissions throughout their preparation.

(g) "Technical submissions" involving the practice of architecture, consist of designs, drawings, specifications, studies and other technical reports prepared in the course of practicing architecture.

(2) Nothing contained in this chapter shall be held or construed to have any application to, or to prevent or affect the following:

(a) The practice of engineering or any other profession or trade for which a license is required under any law of this state, or the practice of consultants, officers, and employees of the United States while engaged solely in the practice of architecture for said government.

(b) Draftsmen, students, clerks of work, project representatives, and others working under the supervision of those lawfully practicing as architects under the provisions of this chapter from acting under the instruction, control, or supervision of their supervisors, or to prevent the employment of clerks of work or inspectors of buildings paid by the owners from acting, if under the control or direction of a licensed architect who has prepared the drawings and specifications for the building.

(c) The rendering of any architectural service required in the erection, enlargement, alteration, or repair of any building, where such building is to be, or is used as a single or multiple family residence not exceeding three (3) units or ~~two~~ three (~~2~~3) stories in height, or as a farm building; or for the purpose of outbuildings or auxiliary buildings in connection with such residential or farm premises.

(d) The rendering of any architectural service required in the erection, enlargement, alteration, or repair of any building which does not involve the public health or safety.

(e) The preparation of shop drawings by persons other than architects for use in connection with the execution of their work; or the preparation of drawings of fixtures, or other appliances or equipment, or for any work necessary to provide for their installation.

(f) Expert consultation rendered to an architect by a consultant, whether licensed or not, employed by the architect to consult, advise, and assist as long as the architect approves, adopts and is responsible for the results of such consultation, advice and assistance.

(g) An intern working under the supervision of a licensed architect, including the use of the title "architectural intern," as may be established and limited by board rule.

(h) The use of the title "architect" by a person previously licensed as an architect in good standing whose license has lapsed based upon retirement, to identify the person's profession but not for the purpose of practicing architecture.

(i) The use of the title "architect" in this state by a person licensed as an architect and in good standing in another jurisdiction, to identify the person's profession in circumstances that would not lead a rea-

sonable person to believe that the person using the title "architect" is offering to perform any of the services within the practice of architecture in this state.

Approved March 31, 2010.

CHAPTER 164
(H.B. No. 462)

AN ACT

RELATING TO UNAUTHORIZED INSURERS AND SURPLUS LINES; AMENDING SECTION 41-1220, IDAHO CODE, TO REVISE REQUIREMENTS RELATING TO SURPLUS LINE CONTRACTS.

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

SECTION 1. That Section 41-1220, Idaho Code, be, and the same is hereby amended to read as follows:

41-1220. ENDORSEMENT OF CONTRACT. Every insurance contract procured and delivered as a surplus lines coverage pursuant to this law shall have stamped upon it, <u>either</u> in red ink with at least ten (10) point bold print <u>or in black ink with at least twelve (12) point bold print</u>, and bear the name of the surplus lines broker who procured it, the following:

"This surplus line contract is issued pursuant to the Idaho insurance laws by an insurer not licensed by the Idaho Department of Insurance. There is no coverage provided for surplus line insurance by either the Idaho Insurance Guaranty Association or by the Idaho Life and Health Insurance Guaranty Association."

Approved March 31, 2010.

CHAPTER 165
(H.B. No. 503)

AN ACT

RELATING TO THE DIVISION OF BUILDING SAFETY AND EXAMINATION FEES; AMENDING SECTION 67-2601A, IDAHO CODE, TO PROVIDE FOR A FEE.

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

SECTION 1. That Section 67-2601A, Idaho Code, be, and the same is hereby amended to read as follows:

67-2601A. DIVISION OF BUILDING SAFETY. (1) The division of building safety will be headed by an administrator appointed by and serving at the will of the governor. The division administrator, deputy administrators and bureau chiefs shall be nonclassified employees exempt from the provisions of chapter 53, title 67, Idaho Code.

(2) The administrator shall administer the following provisions and shall perform such additional duties as are imposed on him by law: chapter 41, title 39, Idaho Code, relating to the building code board; chapter 40, title 39, Idaho Code, relating to manufactured homes; chapter 41, title 39, Idaho Code, relating to modular buildings; chapter 21, title 44, Idaho Code, relating to manufactured home dealer and installer licensing; chapter 25, title 44, Idaho Code, relating to mobile home rehabilitation; chapter 10, title 54, Idaho Code, relating to electrical contractors and journeymen;

chapter 19, title 54, Idaho Code, relating to licensing of public works contractors; chapter 26, title 54, Idaho Code, relating to plumbing and plumbers; chapter 45, title 54, Idaho Code, relating to public works construction management licensing; chapter 50, title 54, Idaho Code, relating to heating, ventilation and air conditioning systems; chapter 80, title 39, Idaho Code, relating to school building safety; and chapter 86, title 39, Idaho Code, relating to elevator safety.

(3) The administrator shall cooperate with the industrial commission and aid and assist the commission in its administration of sections 72-720, 72-721 and 72-723, Idaho Code, and at the request of the commission shall make inspection of appliances, tools, equipment, machinery, practices or conditions, and shall make a written report to the commission. The administrator shall make recommendations to the commission to aid the commission in its administration of sections 72-720, 72-721 and 72-723, Idaho Code, provided however, that nothing herein shall be construed as transferring to the administrator any of the authority or powers now vested in the industrial commission.

(4) In administering the laws regulating professions, trades and occupations that are devolved for administration upon the division, and in addition to the authority granted to the administrator by the laws and rules of the agencies and entities within the division, the administrator may:

(a) Revise the operating structure of the division as needed to provide efficient and appropriate services to the various professions, trades, occupations and programs administered within the division;

(b) Conduct examinations to ascertain the qualifications and fitness of applicants to exercise the profession, trade or occupation for which an examination is held; pass upon the qualifications of applicants for reciprocal licenses, certificates and authorities; prescribe rules for a fair and impartial method of examination of candidates to exercise the respective professions, trades or occupations; ~~and~~ issue registrations, licenses and certificates; <u>and until fees are established in rule, the administrator shall charge a fee of seventy-five dollars ($75.00) for each examination administered;</u>

(c) Conduct hearings on proceedings to discipline, renew or reinstate licenses, certificates or authorities of persons exercising the respective professions, trades or occupations; appoint hearing officers, administer oaths, issue subpoenas, and compel the attendance of witnesses; revoke, suspend, refuse to renew, or take other disciplinary action against such licenses, certifications or authorities; and prescribe rules to recover costs and fees incurred in the investigation and prosecution of any certificate holder, licensee or registrant of the division, its boards, bureaus and programs, in accordance with the contested case provisions of chapter 52, title 67, Idaho Code, and the laws and rules of the boards, bureaus and programs the division administers;

(d) Assess civil penalties as authorized;

(e) Promulgate rules establishing: a coordinated system for the issuance, renewal, cancellation and reinstatement of licenses, certificates, registrations and permits; assessment of all related fees; the terms by which fees may be prorated, if any; and procedures for the replacement of lost or destroyed licenses, certificates or registrations; and

(f) Promulgate other rules as may be necessary for the orderly administration of the chapters specified in subsection (2) of this section and such rules as may otherwise be required by those chapters as well as rules for the standardization of operating procedures.

(5) Notwithstanding any law governing any specific board, bureau or program comprising the division of building safety, each board member shall hold office until a successor has been duly appointed and qualified.

(6) The administrator shall have the authority to employ individuals, make expenditures, enter into contracts, require reports, make investigations, travel, and take other actions deemed necessary.

Approved March 31, 2010.

CHAPTER 166
(H.B. No. 504)

AN ACT

RELATING TO THE UNIFORM SCHOOL BUILDING SAFETY ACT; AMENDING SECTION 39-8005, IDAHO CODE, TO REVISE MEMBERSHIP OF THE IDAHO UNIFORM SCHOOL BUILDING SAFETY CODE COMMITTEE; AMENDING SECTION 39-8007, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTAIN POWERS AND DUTIES; AMENDING SECTION 39-8008, IDAHO CODE, TO REVISE PROVISIONS RELATING TO DESIGNATING A LICENSED PROFESSIONAL, TO REVISE PROVISIONS RELATING TO AN EVALUATION, TO REVISE LANGUAGE RELATING TO A WRITTEN ORDER OR NOTICE, TO REMOVE LANGUAGE RELATING TO THE DEPARTMENT OF ADMINISTRATION AND TO REVISE LANGUAGE RELATING TO AN IMMINENT SAFETY HAZARD; AND AMENDING SECTION 39-8010, IDAHO CODE, TO REMOVE A REQUIREMENT TO NOTIFY THE DEPARTMENT OF ADMINISTRATION.

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

SECTION 1. That Section 39-8005, Idaho Code, be, and the same is hereby amended to read as follows:

39-8005. IDAHO UNIFORM SCHOOL BUILDING SAFETY CODE COMMITTEE CREATED -- APPOINTMENT -- TERMS -- QUORUM -- MEETINGS -- COMPENSATION. There is hereby created within the office of the superintendent of public instruction the Idaho uniform school building safety code committee, hereafter referred to as the committee. The committee shall consist of ~~nine~~ eight (~~9~~8) members and shall include one (1) representative from each of the following: the office of the superintendent of public instruction; the division of building safety; ~~the department of administration;~~ and the insurance industry, appointed by the department of insurance. The governor shall appoint three (3) members as follows: one (1) representative of local school boards; one (1) representative of school superintendents and a chairman, all of whom shall serve at his pleasure. The committee shall also include two (2) members of the Idaho legislature, one (1) appointed by the president pro tempore of the senate and one (1) appointed by the speaker of the house of representatives. A majority of the membership of the committee is a quorum. Upon completion of development of the Idaho uniform school safety code provided for in section 39-8006, Idaho Code, the committee shall meet at least annually to review and make any necessary revisions to the Idaho uniform school safety code. Each member of the committee shall be reimbursed for expenses as provided by section 59-509(b), Idaho Code, for each day spent in attendance at meetings of the committee.

SECTION 2. That Section 39-8007, Idaho Code, be, and the same is hereby amended to read as follows:

39-8007. POWERS AND DUTIES OF THE ADMINISTRATOR. (1) The administrator shall enforce the provisions of this chapter in cooperation with the superintendent of public instruction~~, the department of administration,~~ and the building code advisory board.

(2) The administrator shall promulgate rules necessary to carry out the provisions of this chapter. Such rules shall be promulgated pursuant to the provisions of chapter 52, title 67, Idaho Code.

(3) The administrator shall establish a program for the timely review of public school construction plans as required by section 39-4113(4)(e), Idaho Code.

(4) Upon request, the administrator shall provide training to school districts on the Idaho uniform school building safety code.

SECTION 3. That Section 39-8008, Idaho Code, be, and the same is hereby amended to read as follows:

39-8008. ADDITIONAL DUTIES OF ADMINISTRATOR -- RIGHT OF INSPECTION -- POSTING. (1) The administrator shall have authority under this section to enter all public school facilities covered by this chapter at reasonable times to inspect, on an annual basis, such facilities for compliance with the Idaho uniform school building safety code; provided however, that inspections shall take into account the age of the school facilities and the appropriate codes that would have been in effect at the time of the construction of such facilities; provided further, that regardless of the codes in effect at the time of construction, imminent safety hazards found in public school facilities shall be identified and the provisions of this chapter relating to such imminent safety hazards shall apply.

(2) If the administrator finds a violation of the Idaho uniform school building safety code that he concludes does not constitute an imminent safety hazard or serious safety hazard, he shall notify in writing the school district superintendent, principal, board member, or other person in charge. Such notification shall state, in bold print, that the citations for violations or nonconformances constitute recommendations only.

(3) If the administrator finds a violation of the Idaho uniform school building safety code that he concludes constitutes a serious safety hazard, he shall immediately issue a written order or notice requiring the school superintendent, principal, board of trustees or other person in charge to eliminate the condition without delay and within the time specified by the administrator in the notice or order, but not exceeding one (1) year. The administrator may also designate a licensed professional to independently evaluate the identified condition prior to issuing a written order to eliminate the condition.

(4) If the administrator finds a violation of the Idaho uniform school building safety code that he concludes constitutes an imminent safety hazard, he shall, ~~immediately notify the department of administration and request that the department of administration~~ within two (2) working days, designate a licensed professional to independently evaluate the identified condition prior to issuing any report under this chapter. ~~The department of administration shall, within two (2) working days, designate a licensed professional to independently evaluate the condition identified.~~ That licensed professional shall, within fourteen (14) days, complete its independent evaluation of the condition identified by the administrator and notify the ~~director of the department of administration~~ administrator of its conclusions. If the administrator determines that the condition constituting an imminent safety hazard could reasonably be expected to cause death or serious physical harm before the evaluation of the ~~department of administration~~ designated licensed professional can be completed and before the condition can be eliminated, he shall determine the extent of the area where such condition exists and thereupon shall issue a written order or notice requiring the school district superintendent, principal, board of trustees or other person in charge to cause all persons, except those necessary to eliminate the condition, to be withdrawn from, and to be restrained from entering, such area pending the evaluation of the ~~department~~

~~of administration~~ designated licensed professional. This order shall be withdrawn if the evaluation of the ~~department of administration~~ designated licensed professional does not concur with the administrator that the condition constitutes an imminent safety hazard as could reasonably be expected to cause death or serious physical harm before the condition can be eliminated.

(5) ~~If the department of administration agrees with the determination of the administrator that a condition identified constitutes an imminent safety hazard, the department of administration shall, within three (3) working days, so notify the administrator in writing.~~

~~(6)~~ If u~~U~~pon receipt of ~~such notification in writing~~ the findings of the designated licensed professional, the administrator concludes that any condition identified by such licensed professional constitutes an imminent safety hazard, the administrator shall immediately serve, or cause to be served, written notice or order upon the school district superintendent, principal, board of trustees or other person in charge describing the imminent safety hazard. The administrator shall also notify in writing the state superintendent of public instruction of such imminent safety hazard. Upon receipt of such written notice or order, the school district superintendent, principal, board of trustees, or other person in charge shall require all changes necessary to eliminate the imminent safety hazard be made, without delay and within the time specified by the administrator in the notice or order. If the condition presenting an imminent safety hazard is not corrected within the specified time, or if the administrator determines that the condition constituting such imminent safety hazard could reasonably be expected to cause death or serious physical harm before the condition can be eliminated, if he has not previously done so he shall determine the extent of the area where such condition exists and thereupon shall issue an order or notice requiring the school district superintendent, principal, board member, or other person in charge to cause all persons, except those necessary to eliminate the condition, to be withdrawn from, and to be restrained from entering, such area. The school district superintendent, principal, board member, or other person in charge shall assist the administrator as necessary to post such areas to prevent injury.

(~~7~~6) If the administrator finds a violation of the Idaho uniform school building safety code that he concludes constitutes a serious safety hazard and issues a written order or notice requiring the conditions to be eliminated in not more than one (1) year, and the school superintendent, principal, board of trustees, or other person in charge contests the administrator's finding that the condition is a serious safety hazard, then the school superintendent, principal, board of trustees, or other person in charge shall have fourteen (14) days from the date of the issuance of the administrator's written order or notice to request a hearing to initiate a contested case under chapter 52, title 67, Idaho Code. If a hearing is requested, the superintendent of public instruction shall appoint a hearing officer to consider the contested case. All administrative proceedings under this subsection shall be expedited as necessary to assure that serious safety hazards are eliminated as required by this section if the administrator's initial determination that there was a serious safety hazard is confirmed in the contested case proceedings.

(~~8~~7) The administrator shall monitor the school district's progress in addressing any identified imminent safety hazard or serious safety hazard to ensure that appropriate corrective action was taken. The administrator may extend the time for completing corrective action if he deems necessary.

(~~9~~8) Upon completion of corrective action and verification of such completion by the division of building safety and the department of administration, the administrator shall provide a report to the state superintendent of public instruction, the local superintendent of schools and the chair of the local school board.

(~~10~~9) Annual inspections of public school facilities conducted by the administrator under the provisions of this section shall be funded pursuant to legislative appropriation.

SECTION 4. That Section 39-8010, Idaho Code, be, and the same is hereby amended to read as follows:

39-8010. APPEAL TO BUILDING CODE ADVISORY BOARD. (1) The Idaho building code advisory board shall, within ten (10) days after receipt of notice for an appeal, hear such appeal brought before it by a school district affected by any finding pursuant to this chapter that there exists in a school building a violation of the uniform school building safety code, provided however, that an appeal brought pursuant to this section shall not affect the ability of the administrator to obtain an injunction pursuant to section 39-8009, Idaho Code. Such hearing shall be governed by the provisions of chapter 52, title 67, Idaho Code. Final decisions of the board, other than code interpretations, are subject to judicial review in accordance with the provisions of chapter 52, title 67, Idaho Code.

(2) The board shall provide reasonable interpretations of the codes enumerated in this chapter.

(3) Within ten (10) days of the conclusion of the hearing, the board shall render its findings and decisions in writing to the state superintendent of public instruction, ~~the director of the department of administration,~~ the administrator of the division of building safety and the appealing district.

Approved March 31, 2010.

CHAPTER 167
(H.B. No. 575)

AN ACT

RELATING TO THE JURISDICTION OF THE PUBLIC UTILITIES COMMISSION; AMENDING SECTION 61-113, IDAHO CODE, TO DELETE THE PUBLIC UTILITIES COMMISSION'S JURISDICTION OVER VESSELS ENGAGED IN THE TRANSPORTATION OF PERSONS AND PROPERTY IN IDAHO; REPEALING SECTIONS 61-126, 61-127 AND 61-128, IDAHO CODE, RELATING TO VESSELS, WHARFINGERS AND WAREHOUSEMEN; AND AMENDING SECTION 61-129, IDAHO CODE, TO DELETE REFERENCE TO WHARFINGER AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 61-113, Idaho Code, be, and the same is hereby amended to read as follows:

61-113. COMMON CARRIER. The term "common carrier" when used in this act includes~~:~~

~~1.~~ ~~E~~every railroad corporation, street railroad corporation, express corporation, dispatch, sleeping car, dining car, drawing room car, freight line, refrigerator, oil, stock, fruit, car loaning, car renting, car loading and every other car corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, operating for compensation within this state.

~~2. Every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever owning, controlling, operating or managing any vessel regularly engaged in the transportation of persons or property for compensation upon the waters of this state.~~

~~The term "common carrier" when hereafter used in this act, shall be construed to mean both classes in this section specified, unless otherwise stated.~~

SECTION 2. That Sections 61-126, 61-127 and 61-128, Idaho Code, be, and the same are hereby repealed.

SECTION 3. That Section 61-129, Idaho Code, be, and the same is hereby amended to read as follows:

61-129. PUBLIC UTILITY. The term "public utility" when used in this act includes every common carrier, ~~pipe line~~ pipeline corporation, gas corporation, electrical corporation, telephone corporation~~,~~ and water corporation~~, and wharfinger~~, as those terms are defined in this chapter and each thereof is hereby declared to be a public utility and to be subject to the jurisdiction, control and regulation of the commission and to the provisions of this act: provided, that the term "public utility" as used in this act shall cover cases both where the service is performed and the commodity delivered directly to the public or some portion thereof, and where the service is performed or the commodity delivered to any corporation or corporations, or any person or persons, who in turn, either directly or indirectly or mediately or immediately, performs the services or delivers such commodity to or for the public or some portion thereof.

Approved March 31, 2010.

CHAPTER 168
(H.B. No. 581)

AN ACT

RELATING TO THE MOBILE HOME PARK LANDLORD-TENANT ACT; AMENDING SECTION 55-2008, IDAHO CODE, TO PROVIDE AN EXCEPTION TO THE APPLICATION OF AN ADOPTED OR AMENDED RULE.

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

SECTION 1. That Section 55-2008, Idaho Code, be, and the same is hereby amended to read as follows:

55-2008. RULES. (1) A written rule of the park is enforceable against the tenant if it is part of the rental agreement signed by the tenant.

(2) A rule adopted or amended after the tenant enters into the rental agreement is not enforceable unless the tenant consents to it or is given ninety (90) days' notice in writing except as provided in section 55-2006(4), Idaho Code. A rule change restricting the type or size of a mobile home permitted in the park shall not apply to a tenant whose mobile home was in compliance with park rules prior to the adoption or amendment.

(3) Rules shall be fairly and uniformly enforced and contain the effective date.

Approved March 31, 2010.

CHAPTER 169
(H.B. No. 548, As Amended)

AN ACT
RELATING TO BRIBERY AND CORRUPTION; AMENDING SECTION 18-1351, IDAHO CODE, TO REVISE A DEFINITION.

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

SECTION 1. That Section 18-1351, Idaho Code, be, and the same is hereby amended to read as follows:

18-1351. BRIBERY AND CORRUPT PRACTICES -- DEFINITIONS. Unless a different meaning plainly is required in this chapter:

(1) "Benefit" means gain or advantage, or anything regarded by the beneficiary as gain or advantage, including benefit to any other person or entity in whose welfare he is interested, but not an advantage promised generally to a group or class of voters as a consequence of public measures which a candidate engages to support or oppose. "Benefit" does not include an award with economic significance of five hundred dollars ($500) or less given to a nonelected public servant by a nonprofit organization whose membership is limited to public servants as part of a public servant recognition program that is designed to recognize innovation and achievement in the workplace, provided that the organization discloses in advance on its website the nature of the program, the amount of the award, the names of any persons or entities that contributed to the award and the recipient of the award.

(2) "Confidential information" means knowledge gained through a public office, official duty or employment by a governmental entity which is not subject to disclosure to the general public and which, if utilized in financial transactions would provide the user with an advantage over those not having such information or result in harm to the governmental entity from which it was obtained.

(3) "Government" includes any branch, subdivision or agency of the government of the state or any locality within it and other political subdivisions including, but not limited to, highway districts, planning and zoning commissions and cemetery districts, and all other governmental districts, commissions or governmental bodies not specifically mentioned in this chapter.

(4) "Harm" means loss, disadvantage or injury, including loss, disadvantage or injury to any other person or entity in whose welfare he is interested.

(5) "Official proceeding" means a proceeding heard or which may be heard before any legislative, judicial, administrative or other governmental agency or official authorized to take evidence under oath, including any referee, hearing examiner, commissioner, notary or other person taking testimony or deposition in connection with any such proceeding.

(6) "Party official" means a person who holds an elective or appointive post in a political party in the United States by virtue of which he directs or conducts, or participates in directing or conducting party affairs at any level of responsibility.

(7) "Pecuniary benefit" is any benefit to a public official or member of his household in the form of money, property or commercial interests, the primary significance of which is economic gain.

(8) "Public servant" means any officer or employee of government, including legislators and judges, and any person participating as juror, advisor, consultant or otherwise, in performing a governmental function; but the term does not include witnesses.

(9) "Administrative proceeding" means any proceeding, other than a judicial proceeding, the outcome of which is required to be based on a record or documentation prescribed by law, or in which law or regulation is particularized in application to individuals.

Approved March 31, 2010.

CHAPTER 170
(H.B. No. 566)

AN ACT

RELATING TO DISCLOSURE OF PERSONAL INFORMATION; AMENDING SECTION 28-51-105, IDAHO CODE, TO PROVIDE FOR APPLICATION TO CITY, COUNTY AND STATE AGENCIES, TO PROVIDE FOR NOTICE TO AFFECTED IDAHO RESIDENTS BY AGENCIES, TO PROVIDE FOR NOTICE BY AGENCIES TO THE OFFICE OF THE IDAHO ATTORNEY GENERAL IN THE EVENT OF CERTAIN BREACHES OF SECURITY, TO CLARIFY THAT CERTAIN REPORTING REQUIREMENTS CONTINUE TO APPLY TO STATE AGENCIES AND TO PROVIDE FOR VIOLATIONS AND PENALTIES.

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

SECTION 1. That Section 28-51-105, Idaho Code, be, and the same is hereby amended to read as follows:

28-51-105. DISCLOSURE OF BREACH OF SECURITY OF COMPUTERIZED PERSONAL INFORMATION BY AN AGENCY, INDIVIDUAL OR A COMMERCIAL ENTITY. (1) ~~An agency~~ city, county or state agency, individual or a commercial entity that conducts business in Idaho and that owns or licenses computerized data that includes personal information about a resident of Idaho shall, when it becomes aware of a breach of the security of the system, conduct in good faith a reasonable and prompt investigation to determine the likelihood that personal information has been or will be misused. If the investigation determines that the misuse of information about an Idaho resident has occurred or is reasonably likely to occur, the agency, individual or the commercial entity shall give notice as soon as possible to the affected Idaho resident. Notice must be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement and consistent with any measures necessary to determine the scope of the breach, to identify the individuals affected, and to restore the reasonable integrity of the computerized data system.

When an agency becomes aware of a breach of the security of the system, it shall, within twenty-four (24) hours of such discovery, notify the office of the Idaho attorney general. Nothing contained herein relieves a state agency's responsibility to report a security breach to the office of the chief information officer within the department of administration, pursuant to the information technology resource management council policies.

Any governmental employee that intentionally discloses personal information not subject to disclosure otherwise allowed by law, is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than two thousand dollars ($2,000), or by imprisonment in the county jail for a period of not more than one (1) year, or both.

(2) An agency, individual or a commercial entity that maintains computerized data that includes personal information that the agency, individual or the commercial entity does not own or license shall give notice to and cooperate with the owner or licensee of the information of any breach of the security of the system immediately following discovery of a breach, if misuse of personal information about an Idaho resident occurred or is reasonably

likely to occur. Cooperation includes sharing with the owner or licensee information relevant to the breach.

(3) Notice required by this section may be delayed if a law enforcement agency advises the agency, individual or commercial entity that the notice will impede a criminal investigation. Notice required by this section must be made in good faith, without unreasonable delay and as soon as possible after the law enforcement agency advises the agency, individual or commercial entity that notification will no longer impede the investigation.

Approved March 31, 2010.

CHAPTER 171
(H.B. No. 586, As Amended)

AN ACT

RELATING TO MOTOR VEHICLES; AMENDING SECTION 49-106, IDAHO CODE, TO REVISE A DEFINITION; AMENDING THE HEADING FOR CHAPTER 18, TITLE 49, IDAHO CODE, TO PROVIDE FOR THE TOWING AND STORAGE OF MOTOR VEHICLES; AMENDING SECTION 49-1802, IDAHO CODE, TO PROVIDE A PRESUMPTION RELATING TO OWNERS OF VEHICLES REMOVED UNDER THE AUTHORITY OF SPECIFIED LAW; AMENDING SECTION 49-1803, IDAHO CODE, TO DELETE REFERENCE TO VEHICLES FOUND UNDER EMERGENCY CIRCUMSTANCES, TO DELETE REFERENCE TO VEHICLES INVOLVED IN ANY EXTRAORDINARY CIRCUMSTANCES AND TO PROVIDE FOR THE EXCLUSION OF WEEKENDS AND HOLIDAYS IN A TIME CALCULATION; AMENDING CHAPTER 18, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-1803A, IDAHO CODE, TO PROVIDE THAT AUTHORIZED OFFICERS MAY CAUSE CERTAIN VEHICLES TO BE PLACED IN THE CUSTODY OF TOW TRUCK OPERATORS, TO PROVIDE FOR EXPENSES, TO PROVIDE FOR NOTICE FORMS AND TO PROVIDE FOR NOTICES; AMENDING SECTION 49-1804, IDAHO CODE, TO PROVIDE FOR VEHICLES NOT WITHIN THE CLASS OF VEHICLES DEFINED UNDER EXTRAORDINARY CIRCUMSTANCES; AMENDING SECTION 49-1807, IDAHO CODE, TO DELETE REFERENCE TO VEHICLES FOUND UNDER EXTRAORDINARY CIRCUMSTANCES AND TO PROVIDE FOR VEHICLES TO BE TOWED AS PART OF AN INVESTIGATION; AMENDING SECTION 49-1807A, IDAHO CODE, TO PROVIDE FOR ITEMIZED STATEMENTS BY TOWING COMPANIES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-1808, IDAHO CODE, TO PROVIDE THAT REASONABLE EFFORTS SHALL BE MADE TO PREVENT DAMAGE TO STORED VEHICLES, TO DELETE REFERENCE TO DUTIES OF EMPLOYEES, TO REQUIRE OFFICERS TO COMPLETE CERTAIN FORMS, TO REQUIRE AVAILABILITY OF CERTAIN VEHICLES FOR PHYSICAL INSPECTION AND TO PROVIDE THAT CERTAIN VEHICLES MAY BE DECLARED AS ABANDONED AND PROCESSED FOR DISPOSAL; AMENDING SECTION 49-1809, IDAHO CODE, TO PROVIDE THAT POSSESSORY LIENHOLDERS MAY SATISFY CERTAIN LIENS, TO PROVIDE THAT POSSESSORY LIENHOLDERS SHALL NOT BE RESPONSIBLE FOR PROPERTY AFTER VEHICLE DISPOSAL AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-1811, IDAHO CODE, TO PROVIDE FOR UNCLAIMED VEHICLES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-1812, IDAHO CODE, TO DELETE REFERENCE TO ABANDONED VEHICLES AND TO PROVIDE THAT OWNERS AND LIENHOLDERS MAY TAKE POSSESSION OF CERTAIN VEHICLES; AMENDING SECTION 49-1813, IDAHO CODE, TO DELETE REFERENCE TO ABANDONED VEHICLES, TO PROHIBIT UNAUTHORIZED REMOVAL OF VEHICLES TOWED UNDER SPECIFIED LAW AND TO PROVIDE FOR RETURN TO STORAGE; AMENDING SECTION 49-1814, IDAHO CODE, TO INCREASE THE APPRAISED VALUE AMOUNT RELATING TO APPLICABILITY OF SPECIFIED PROVISIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-1815, IDAHO CODE, TO PROVIDE FOR REQUESTS BY POSSESSORY LIENHOLDERS RELATING TO STORAGE, TO REVISE THE TITLE OF A FORM AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-1816, IDAHO CODE, TO DELETE REFERENCE TO AUTOMOBILE PARTS DEALER, TO INCREASE THE VALUE OF VEHICLES SUBJECT TO DISPOSAL, TO PROVIDE THAT

CERTAIN VEHICLES MAY BE DISPOSED OF TO AUTOMOBILE PARTS DEALERS, TO REVISE THE TITLE OF A FORM AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING CHAPTER 18, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-1819, IDAHO CODE, TO PROVIDE THAT SPECIFIED PROVISIONS SHALL BE UNIFORM THROUGHOUT THE STATE.

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

SECTION 1. That Section 49-106, Idaho Code, be, and the same is hereby amended to read as follows:

49-106. DEFINITIONS -- E.

(1) "Electric personal assistive mobility device" means a self-balancing two (2) nontandem wheeled device designed to transport only one (1) person, with an electric propulsion system that limits the maximum speed of the device to fifteen (15) miles per hour or less.

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

(3) "Encumbrance." (See "Lien," section 49-113, Idaho Code)

(4) "EPA" means the environmental protection agency of the United States.

(5) "Essential parts" means all integral and body parts of a vehicle of a type required to be registered, the removal, alteration or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type or mode of operation.

(6) "Established place of business" means a place occupied either continuously or at regular periods by a dealer or manufacturer where his books and records are kept and a large share of his business is transacted.

(7) "Excessive" or "unusual noise" means any sound made by a passenger motor vehicle or a motorcycle at any time under any condition of grade, speed, acceleration or deceleration, which exceeds ninety-two (92) decibels, or any lower decibel level that is fixed by law or rules adopted by the board of health and welfare, on the "A" scale of a general radio company No. 1551-B sound level meter, or equivalent, stationed at a distance of not less than twenty (20) feet to the side of a vehicle or motorcycle as the vehicle or motorcycle passes the soundmeter or is stationed not less than twenty (20) feet from a stationary motor or engine.

(8) "Excessive speed" means any speed of fifteen (15) miles per hour or more above the posted speed limit, and is only for purposes of determining disqualification of commercial driving privileges.

(9) "Executive head," as used in chapter 20, title 49, Idaho Code, means the governor of the state of Idaho.

(10) "Explosives" means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in proportions, quantities or packing that an ignition by fire, by friction, by concussion, by percussion or by detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases with which the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb.

(11) "Extraordinary circumstances" means any situation where an emergency exists or public safety is endangered, or any situation in which a vehicle:

(a) Is blocking or impeding traffic; or

(b) Is causing a hazard; or

(c) Has the potential of impeding any emergency vehicle; or

(d) Is impeding any snow removal or other road maintenance operation; or

(e) Has been stolen but not yet reported as recovered; or

(f) Is not registered, or displays a license plate registration tag which has been expired; or

(g) Has been involved in an accident and remains on the highway; or

(h) The driver has been arrested.

SECTION 2. That the Heading for Chapter 18, Title 49, Idaho Code, be, and the same is hereby amended to read as follows:

CHAPTER 18

~~ABANDONED~~ TOWING AND STORAGE OF MOTOR VEHICLES

SECTION 3. That Section 49-1802, Idaho Code, be, and the same is hereby amended to read as follows:

49-1802. PRESUMPTION. (1) The abandonment of any vehicle shall create a prima facie presumption that the last registered owner of record is responsible for the abandonment and is thereby liable for the costs incurred in the removal, storage and disposition of the vehicle, less any amount received from the disposition of the vehicle.

(2) The owner of any vehicle removed under extraordinary circumstances, or under the authority of section 49-662, Idaho Code, is presumed responsible for the vehicle and is thereby liable for the costs incurred in the removal, storage and disposition of the vehicle, less any amounts received from the disposition of the vehicle.

(3) If a vehicle is found abandoned or under extraordinary circumstances and is removed at the direction of any authorized officer, and is not redeemed by the owner or lienholder within seven (7) days of the tow, the last registered owner of record is guilty of a traffic infraction, unless the owner has filed a release of liability with the department according to section 49-526, Idaho Code, in which case the transferee shown on the release of liability shall be guilty of a traffic infraction.

SECTION 4. That Section 49-1803, Idaho Code, be, and the same is hereby amended to read as follows:

49-1803. REMOVAL OF STOLEN VEHICLES ~~OR VEHICLES FOUND UNDER EMERGENCY CIRCUMSTANCES~~. (1) Any authorized officer, upon discovery of a vehicle reported as stolen and not recovered, ~~or any vehicle involved in any extraordinary circumstances,~~ may take the vehicle into custody and cause it to be taken to and stored in a suitable place, or may cause the vehicle to be placed in the custody of a tow truck operator, all expenses of towing and storage to be those of the vehicle owner unless otherwise determined according to the provisions of section 49-1805(5), Idaho Code.

(2) Within forty-eight (48) hours, excluding weekends and holidays, of the time that the vehicle is taken into custody and is stored pursuant to this chapter, the agency of which the officer is an agent shall give written notice by certified mail to the registered and legal owners of the vehicle, if known. The notice shall state:

(a) That the vehicle has been taken into custody and stored; and

(b) The location of storage of the vehicle.

(3) The public agency by which the officer is employed shall appraise the vehicle and shall include in the notice, identification of the officer; location of the vehicle; a description of the vehicle including make, year model, identification number, license number, state of registration and the statutory authority for storage.

SECTION 5. That Chapter 18, 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 49-1803A, Idaho Code, and to read as follows:

49-1803A. REMOVAL OF ACCIDENTS -- DRIVER ARRESTS -- VEHICLES FOUND UNDER EXTRAORDINARY CIRCUMSTANCES. (1) Any authorized officer directing the removal of a vehicle under the authority of this chapter, or the provisions of section 49-662, Idaho Code, as the result of an accident, the driver being arrested or extraordinary circumstances, may cause the vehicle to be placed in the custody of a tow truck operator, all expenses of towing and storage to be those of the registered owner, unless the registered owner has filed a release of liability according to the provisions of section 49-526, Idaho Code, in which case the purchaser or other transferee recorded on the release of liability statement shall be presumed responsible and liable.

(2) At the time of removal, the authorized officer shall complete a notice form containing, but not limited to, the following:

(a) Name and addresses of registered owner and lienholder;

(b) Complete vehicle description, including license plate number and vehicle identification number;

(c) Date, time and reason for tow;

(d) Law enforcement agency directing tow and case number assigned;

(e) Appraisal value of vehicle and daily storage rate;

(f) Authorized officer name or badge number;

(g) Name, address and telephone number of towing company;

(h) Signature of tow truck operator taking receipt of vehicle and contents.

(3) A copy of this notice shall be provided to the legal or registered owner at the scene, or may be mailed first class mail within ninety-six (96) hours, excluding weekends and holidays. This notification shall be in addition to all notices required for vehicle disposal procedures contained in this chapter.

SECTION 6. That Section 49-1804, Idaho Code, be, and the same is hereby amended to read as follows:

49-1804. REMOVAL OF ABANDONED VEHICLES BY AUTHORIZED OFFICER. Any authorized officer within the jurisdiction in which a vehicle is located, who has reasonable grounds to believe that the vehicle has been abandoned, may remove the vehicle from a highway or from public or private property to a garage or nearest place of safety.

Upon discovery of an abandoned vehicle which is not within the class of vehicles defined under "~~emergency~~extraordinary circumstances," an authorized officer shall attach on the vehicle, in plain view, a notice that this vehicle will be towed away at the expiration of forty-eight (48) hours as an abandoned vehicle. The notice shall contain the name of the officer who prepared the notice; the name of the agency employing the officer; the time and date of attaching the notice; the time and date after which the vehicle will be removed; the telephone number and address of the agency where further information can be obtained. A reasonable attempt shall be made to notify by telephone the owner of any vehicle which has current license plates and registration as shown on the records of the department, prior to the expiration of the forty-eight (48) hour notice period, of the location of the vehicle and the time and date of intent to remove the vehicle. The inability of an officer to notify the owner shall not preclude the removal of the vehicle at the expiration of the forty-eight (48) hour period.

Any vehicle which does not have current or any license plate attached may be immediately removed to a safe place of storage.

SECTION 7. That Section 49-1807, Idaho Code, be, and the same is hereby amended to read as follows:

49-1807. CHARGES NOT OTHERWISE PROVIDED FOR. Every towing firm, employee or agent in the process of towing, removing or impounding a vehicle as directed by an authorized officer, except vehicles ~~found under extraordinary circumstances~~ to be towed as part of an investigation or suspected stolen, shall upon request of the owner or his authorized agent, release the vehicle at the scene. If the vehicle is attached to the tow truck, or otherwise "in tow," the regular, scheduled tow fee may be charged. When the vehicle is not yet "in tow" at the time of request, the release must be made, and no charge may be assessed except a customary and reasonable charge for mileage one way from the towing firm's place of storage to the scene plus the usual fee for the tow truck operator. If the authorized fee is not tendered by the owner or his agent, the towing operator may complete the impoundment, towing or removal, as authorized.

SECTION 8. That Section 49-1807A, Idaho Code, be, and the same is hereby amended to read as follows:

49-1807A. UNAUTHORIZED REMOVAL OF VEHICLE -- REFUSAL TO RELEASE VEHICLE. (1) Any towing firm, employee or agent thereof called to the scene of an accident or disabled vehicle by an authorized officer and requested to remove a vehicle~~,~~ shall remove the vehicle and take it to the nearest garage or other place of safety as directed by the officer or, except as otherwise provided in this chapter, shall take the vehicle to such place as the owner or his authorized agent may reasonably request. The towing firm, employee or agent shall not be entitled to recover any storage, impound fees or other fees, except the scheduled tow fee, if the firm, employee or agent:

(~~1~~a) Removes the vehicle to a place other than as directed by the officer or as reasonably requested by the owner or his authorized agent; or

(~~2~~b) After removing the vehicle, refuses to release the vehicle to the owner or his authorized agent for any reason other than the refusal of the owner or authorized agent to pay the fees to which the towing firm is lawfully entitled. The refusal of the owner or his authorized agent to pay fees to which the towing firm, employee or agent is not entitled pursuant to this subsection~~,~~ shall not be cause for the towing firm, employee or agent to refuse to release the vehicle.

(2) Upon release of the vehicle to the legal or registered owner, authorized agent or insurance representative, the towing company shall provide an itemized statement containing the following:

(a) Location from which the vehicle was towed;
(b) Storage location of the vehicle;
(c) Name, address and telephone number of the tow company;
(d) Year, make and model of the vehicle towed;
(e) License plate number of the vehicle towed;
(f) Itemized cost of towing and recovery charges;
(g) Daily storage charge and number of days stored.

SECTION 9. That Section 49-1808, Idaho Code, be, and the same is hereby amended to read as follows:

49-1808. STORAGE OF VEHICLE. Whenever an authorized officer removes a vehicle from a highway, or from public or private property, he shall take, or cause to be taken, the vehicle to the nearest garage or other place of safety. Reasonable efforts shall be made to secure and prevent further damage to vehicles being stored. At the time of removal, the authorized officer ~~or employee shall record the mileage of the vehicle~~ shall complete a towed vehicle notice according to the provisions of section 49-1803A(2), Idaho Code.

(1) Any vehicle stored under the provisions of this chapter, except vehicles being stored as part of a law enforcement investigation, shall be made available for physical inspection by the legal or registered owner, autho-

rized agent or insurance representative during reasonable business hours at no additional charge.

(2) Any vehicle towed as a result of extraordinary circumstances, or under the authority of section 49-662, Idaho Code, and stored in excess of thirty (30) days, not being held as part of a law enforcement investigation, may be declared as abandoned and processed for disposal under the provisions of this chapter.

SECTION 10. That Section 49-1809, Idaho Code, be, and the same is hereby amended to read as follows:

49-1809. REQUEST BY POSSESSORY ~~LIEN HOLDER~~ LIENHOLDER FOR NAMES AND ADDRESSES OF INTERESTED PERSONS -- NOTICE OF SALE TO SATISFY LIEN. (1) After acquiring possession of a vehicle in any manner authorized by the provisions of this chapter, the possessory ~~lien holder~~ lienholder shall make a request to the department for the names and addresses of all persons having an interest in the vehicle as appears in the department records. The possessory ~~lien holder~~ lienholder shall, upon receipt of this information, notify all legal or registered owners in accordance with section 49-1805, Idaho Code, unless otherwise already complied with. Whenever a vehicle has been removed under the provisions of this chapter and the possessory ~~lien holder~~ lienholder has sent the notice as provided, the possessory ~~lien holder~~ lienholder shall have a lien dependent upon possession for his compensation for towage and for caring for and keeping safe the vehicle for a period not exceeding sixty (60) days. If the vehicle is not recovered by the owner within that period or the owner is unknown, the ~~keeper of the garage~~ possessory lienholder may satisfy his lien in the manner prescribed in this chapter. The lien shall not be assigned.

(2) No lien shall attach to any personal property in or on the vehicle. Personal property in or on the vehicle shall be given to the registered owner or owner's authorized agent upon demand. The ~~lien holder~~ possessory lienholder shall not be responsible for property after any vehicle has been disposed of pursuant to this chapter.

SECTION 11. That Section 49-1811, Idaho Code, be, and the same is hereby amended to read as follows:

49-1811. SALE OF UNCLAIMED VEHICLES. (1) If the owner of ~~an abandoned~~ a vehicle does not claim the vehicle before the day of sale or the owner or ~~lien holder~~ lienholder is unknown or cannot be located, the ~~abandoned~~ unclaimed vehicle shall be sold, pursuant to the notice of sale. Upon sale, the governmental entity conducting the sale shall apply for and the department shall issue a new certificate of title for the ~~abandoned~~ unclaimed vehicle. The new certificate of title shall be delivered to the new purchaser by the department. The application for the new certificate of title shall state that the ~~abandoned~~ unclaimed vehicle has been sold as abandoned and ownerless to the purchaser. The new certificate of title may thereafter be used by the purchaser to show ownership of the sold ~~abandoned~~ unclaimed vehicle.

(2) All sales of vehicles, pursuant to the provisions of this chapter, shall be under the direction of an appropriate governmental agency which shall prior to sale be satisfied that all prerequisites in this chapter have been satisfied.

SECTION 12. That Section 49-1812, Idaho Code, be, and the same is hereby amended to read as follows:

49-1812. CLAIMING OF ~~ABANDONED~~ VEHICLES. (1) The owner of ~~an abandoned~~ any vehicle ~~or any vehicle removed under extraordinary circumstances~~ removed under the provisions of this chapter except those vehicles impounded for investigation or suspected stolen, may take possession of the ~~abandoned~~ vehicle at any time prior to sale by proving ownership and paying the costs relative to towing and storing the vehicle and costs of advertising except as otherwise provided in section 49-1805, Idaho Code.

(2) A lienholder of ~~an abandoned vehicle or any vehicle removed under extraordinary circumstances~~ any vehicle removed under the provisions of this chapter except those vehicles impounded for investigation or suspected stolen, may take possession of the ~~abandoned~~ vehicle at any time prior to the sale by proving the presence of the lien and by paying the costs relative to towing and storing the vehicle and costs of advertising. The lienholder may also take possession of the ~~abandoned~~ vehicle by purchasing the vehicle at the sale. Nothing in this chapter shall be construed to abate any cause of action that a lienholder has against the owner of an abandoned vehicle.

SECTION 13. That Section 49-1813, Idaho Code, be, and the same is hereby amended to read as follows:

49-1813. REMOVAL WITHOUT PAYMENT PROHIBITED. Unauthorized removal of ~~an abandoned vehicle~~ any vehicle towed under the provisions of this chapter from the custody of the department, the sheriff, state police or police department, or from the custody of any person holding the ~~abandoned~~ vehicle for the department, the sheriff, state police or police department without payment in full of all charges and costs that have been incurred under the provisions of this chapter shall be a misdemeanor and the ~~abandoned~~ vehicle may be recovered and returned to the place of storage or disposed of by the department, the sheriff, state police or police department.

SECTION 14. That Section 49-1814, Idaho Code, be, and the same is hereby amended to read as follows:

49-1814. DISPOSITION OF LOW-VALUED VEHICLES. (1) If the vehicle is appraised at a value not exceeding ~~two~~ seven hundred fifty dollars ($~~20~~750), the provisions of sections 49-1809 through 49-1811, Idaho Code, shall not apply, and the person or public agency which removed the vehicle shall:

(a) Prepare a certificate containing a description of the vehicle stating the appraised value of the vehicle and indicating one (1) of the following:

1. The agency which requested the tow has submitted a certified statement that a declaration of opposition has not been received.

2. The registered and legal owners have signed a certified release disclaiming any interest, which release shall be included with the certificate.

3. The vehicle is in a condition that vehicle identification numbers are not available to determine owners of record.

(b) Upon completion of the certificate, execute and deliver a bill of sale, together with a copy of the certificate, ~~either~~ to the possessory lienholder, who shall endorse the bill of sale to an automobile parts dealer or to a scrap processor for disposal.

(2) Automobile parts dealers acquiring vehicles which are the subject of certificates prepared and forwarded pursuant to this section shall be excused from any fees which would otherwise be due to the department.

(3) A public agency may authorize, by contract, the removal or disposal of low-valued vehicles. The contract shall be issued to the lowest responsible bidder. Bills of sale shall then be executed and delivered, pursuant to subsection (1)(b) of this section, to the contractor.

(4) The following persons shall have the authority to make appraisals for purposes of this chapter:

(a) Any member of the Idaho state police;

(b) Any regularly employed and salaried deputy sheriff or other employee designated by the sheriff of any county;

(c) Any regularly employed and salaried peace officer or other employee designated by the chief of police of any city;

(d) Any officer or employee of the division of motor vehicles designated by the director;

(e) Any regularly salaried employee of a city, county, or city and county designated by a board of county commissioners or by a city council; or

(f) Any regularly employed and salaried peace officer or other employee of the department of parks and recreation designated by the director of that department.

(5) An appraiser, upon completion of an appraisal within the meaning of this chapter, shall notify the department of the appraisal and of the facts upon which the appraisal was based.

SECTION 15. That Section 49-1815, Idaho Code, be, and the same is hereby amended to read as follows:

49-1815. DISPOSITION OF LOW-VALUED VEHICLES -- PROCEDURE. The procedure for the disposition of low-valued vehicles is as follows:

(1) The person or agency which removes the vehicle shall, within fifteen (15) working days following the date of possession of the vehicle, make a request to the department for the names and addresses of all persons having an interest in the vehicle. No storage charge shall accrue beyond the fifteen (15) day period unless the possessory lienholder has made a request to the department as provided in this section.

(2) The person or agency which removes the vehicle shall immediately upon receipt of this information send, by certified mail with return receipt requested, the following prescribed forms and enclosures to the registered owner and legal owner at their addresses of record with the department, and to any other person known to have an interest in the vehicle:

(a) A completed form entitled "Notice of Intent to Dispose of a Vehicle Valued at $~~20~~750 or Less";

(b) A blank form entitled "Declaration of Opposition."~~.~~

(3) All notices to persons having an interest in the vehicle shall be signed under penalty of perjury and shall include all of the following:

(a) A description of the vehicle, including make, year, model, identification number, license number, and state of registration;

(b) The names and addresses of the registered and legal owners of the vehicle and any other person known to have an interest in the vehicle;

(c) The following statements and information:

1. The amount of the lien;

2. The facts concerning the claim which give rise to the lien;

3. The person has a right to a hearing in court;

4. If a hearing in court is desired, a declaration of opposition form shall be signed under penalty of perjury and returned to the agency which requested the tow within ten (10) days of the date the notice of intent to dispose of a vehicle valued at $~~20~~750 or less form was mailed; and

5. The declarant may be liable for court costs if a judgment is entered in favor of the possessory lienholder.

(d) A statement that the possessory lienholder may dispose of the vehicle to a certified automobile parts dealer if it is not redeemed or if a declaration of opposition form is not signed and mailed to the agency

which requested the tow within ten (10) days of the date the notice of intent to dispose of a vehicle valued at $~~20~~750 or less form was mailed.

(4) If the agency which requested the tow receives a completed declaration of opposition form within the time prescribed, the vehicle shall not be disposed of for an additional fifteen (15) day period during which time the individual filing the declaration of opposition must file an action with the appropriate court and cause the possessory lienholder to be served with the summons and complaint. The filing and service of the action will stay disposal of the vehicle pending decision by the court unless the declarant subsequently releases his interest in the vehicle.

SECTION 16. That Section 49-1816, Idaho Code, be, and the same is hereby amended to read as follows:

49-1816. DISPOSITION OF LOW-VALUED VEHICLE ~~-- AUTOMOBILE PARTS DEALER~~. (1) Any vehicle determined to have a value not exceeding ~~two~~ seven hundred fifty dollars ($~~20~~750) which was stored pursuant to this chapter, and which remains unclaimed, or for which reasonable towing and storage charges remain unpaid, ~~shall~~ may be disposed of ~~only~~ to an automobile parts dealer not earlier than fifteen (15) days after the date the notice of intent to dispose of a vehicle valued at ~~two~~ seven hundred fifty dollars ($~~20~~750) or less form was mailed, unless a declaration of opposition form has been signed and returned to the possessory ~~lien holder~~ lienholder.

(2) If the vehicle has been disposed of to an automobile parts dealer, the person or agency removing the vehicle shall forward the following forms and information to the department within five (5) days:

(a) A statement, signed under penalty of perjury, that a properly executed declaration of opposition form was not received;

(b) A copy of the notice sent to all interested parties;

(c) A certification from the public agency which made the determination of value pursuant to section 49-1814, Idaho Code;

(d) The proof of service or a copy of the court judgment;

(e) The name, address, and telephone number of the certified automobile parts dealer who received the vehicle; and

(f) The amount the person or agency removing the vehicle received for the vehicle.

SECTION 17. That Chapter 18, 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 49-1819, Idaho Code, and to read as follows:

49-1819. PROVISIONS OF SECTIONS UNIFORM THROUGHOUT STATE. The provisions of sections 49-1801 through 49-1818, Idaho Code, shall be applicable and uniform throughout the state and in all political subdivisions and no local authority shall enact or enforce any ordinance, rule or regulation in conflict with the provisions of these sections.

Approved March 31, 2010.

CHAPTER 172
(H.B. No. 588)

AN ACT

RELATING TO OFFICE HOURS; AMENDING SECTION 59-1007, IDAHO CODE, TO REVISE PROVISIONS RELATING TO OFFICE HOURS REQUIRED TO BE KEPT BY OFFICERS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 59-1007, Idaho Code, be, and the same is hereby amended to read as follows:

59-1007. OFFICE HOURS. Unless otherwise provided by law, every officer must keep his office open for transaction of business from eight o'clock a.m. until 5 o'clock p.m., each day except upon Saturdays, Sundays, ~~and~~ holidays and days upon which office closure is due to mandatory leave without pay.

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 31, 2010.

CHAPTER 173
(H.B. No. 604, As Amended)

AN ACT

RELATING TO THE STATE PERSONNEL SYSTEM; AMENDING CHAPTER 53, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5342A, IDAHO CODE, TO PROVIDE FOR APPLICATION OF LAW, TO PROVIDE THAT THE TERM "SEVERANCE PAY" SHALL INCLUDE CERTAIN PAYMENTS AND TO PROVIDE THAT NOTHING IN THIS SECTION SHALL CHANGE RIGHTS PROVIDED PURSUANT TO CERTAIN LAWS RELATING TO ACTIVE DUTY SERVICE.

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

SECTION 1. That Chapter 53, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-5342A, Idaho Code, and to read as follows:

67-5342A. SEVERANCE PAY -- PURCHASE OF MEMBERSHIP SERVICE PROHIBITED. The provisions of this section shall apply to classified or exempt state employees of the legislative and executive branches of government. For purposes of this chapter, the term "severance pay" as provided for in section 67-5342, Idaho Code, shall include any payment by an employer toward the purchase of membership service pursuant to section 59-1363, Idaho Code. Provided however, that nothing in this section shall change any rights provided pursuant to section 59-1362, Idaho Code, related to active duty service.

Approved March 31, 2010.

CHAPTER 174
(H.B. No. 601)

AN ACT

RELATING TO BUILDING CODES AND SCHOOLS; AMENDING SECTION 39-4113, IDAHO CODE, TO REVISE CRITERIA FOR PLAN REVIEWS AND FOR INSPECTIONS FOR PUBLIC SCHOOLS; AND AMENDING 39-8007, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE.

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

SECTION 1. That Section 39-4113, Idaho Code, be, and the same is hereby amended to read as follows:

39-4113. PLAN REVIEWS -- MAXIMUM FEES AND SCHOOL INSPECTIONS. (1) The administrator shall establish a program for plan reviews and permit issuance entirely within the division of building safety. Plan reviews shall be for the provisions of this chapter and chapter 10, title 54, Idaho Code, chapter 26, title 54, Idaho Code, chapter 50, title 54, Idaho Code, and chapter 86, title 39, Idaho Code, pertaining to construction, alteration or repair of buildings or structures within the scope of the division's jurisdiction pursuant to this chapter. Plans for schools reviewed by the division shall not include a review for compliance with the provisions of chapter 2, title 41, Idaho Code, or for local planning and zoning requirements.

(2) Plan review fees shall be established by rules promulgated by the board. Local governments elected by school districts to perform building plan reviews for public schools as provided for in this section shall not charge a fee for such review of building plans in excess of what the division has established by rule for building plan review services for public schools.

(3) Each manufacturer of commercial coaches and modular buildings shall submit the building plans for every model of such structure to the administrator for the purpose of review.

(4) (a) Public school building plans shall be approved by either the local government or the division of building safety, whichever the school district elects. Any city or county that has adopted by ordinance all the applicable codes pursuant to section 39-4109, Idaho Code, and the codes as permitted in chapter 10, title 54, Idaho Code, chapter 26, title 54, Idaho Code, and chapter 50, title 54, Idaho Code, shall be eligible to perform school plan reviews only if the following additional requirements are met: plans examiners performing building and energy code plan reviews shall hold current certification as a commercial building plans examiner by the International Code Council; examiners performing plumbing code plan reviews shall hold current certification as a plumbing inspector by the international association of plumbing and mechanical officials and shall be a licensed Idaho journeyman plumber; examiners performing electrical code plan reviews shall hold current certification as an electrical inspector by the national certification program for construction code inspectors and shall be a licensed Idaho journeyman electrician; and examiners performing mechanical code plan reviews shall hold current certification as a commercial mechanical inspector by the International Code Council.

(b) All plans examiners who perform ~~plan reviews shall be full-time employees of the division or the eligible local government in whose jurisdiction the public school facility is to be constructed~~ public school plan reviews shall be either an employee of the division, an employee of the local jurisdiction in which the school is to be constructed, or performing plan reviews under an interagency contract between local jurisdictions, and shall meet the eligibility requirements as provided in subsection (4)(a) of this section.

(c) An eligible local government may contract with the division for review of any portion of the plans for which the local government does not have a properly certified plans examiner. A county may be deemed eligible to perform plan review services only for those types of installations for which they have authority pursuant to this chapter and chapter 50, title 54, Idaho Code, to adopt an enforcement program. Where an eligible county performs the plan review services, the electrical and plumbing code plan reviews shall be performed by the division at the hourly rate as established in rule by the division. Any local govern-

ment elected to perform plan review services for public schools shall provide the division a copy of all approved plans.

(d) Wherein the proposed work is valued in excess of one hundred thousand dollars ($100,000), a school district may elect to utilize the school plan review services available from an eligible local government building code enforcement jurisdiction or from the division. Wherein the proposed work is valued at one hundred thousand dollars ($100,000) or less, a school district may elect to use a local government without regard to the eligibility requirements in subsection (4)(a) of this section. Election by a school district shall be made by submitting a written certification to both the division and the involved local government.

(e) Public school plan review services provided by either the division or an eligible local jurisdiction pursuant to this section shall include a review of the following disciplines: building (structural and nonstructural), mechanical, fuel gas, plumbing, electrical, accessibility, elevators, boilers, and energy conservation. At a minimum, plan review services shall include:

(i) A technical examination of all drawings and construction documents; and

(ii) The approval of such drawings and construction documents by determining whether such are in accord with the codes adopted pursuant to sections 39-4109, 54-1001, 54-2601 and 54-5001, Idaho Code, as well as in compliance with applicable provisions of section 72-722, Idaho Code; and

(iii) A determination that the drawings and construction documents are in compliance, or noncompliance, with the applicable codes, code interpretation, and the identification of approved modifications or alternative materials, design or methods; and

(iv) The identification of the reviewing official(s), the date upon which plans are approved, as well as a stamp or some other similar mark on the plans evidencing approval.

(f) If a school district elects to utilize the plan review services of the division, it shall submit to the division of building safety three (3) sets of working drawings and specifications for new public school buildings or facilities and additions or alterations to existing facilities. The division will review the plans submitted to it pursuant to this section for compliance with the current editions of the codes specified in this chapter or within rules promulgated pursuant to this chapter by the board and by section 39-8006, Idaho Code.

(5) Public school building plans must be approved by either the local government or the division before the school district may advertise for bids. Once plans are reviewed and approved pursuant to this section, no material change can be made to such plans without review and approval of such change by the jurisdiction performing the plan review. All school construction or remodeling governed by this chapter shall be inspected by building inspectors certified in accordance with section 39-4108, Idaho Code, or by Idaho licensed architects or engineers to determine compliance with this chapter and the Idaho uniform school building safety act, chapter 80, title 39, Idaho Code. Nothing in this section shall limit the authority of local governments to issue building permits, perform fire code or other zoning and land use related plan reviews or provide a full range of building code enforcement activities as they relate to inspections of school buildings or facilities sited within their jurisdiction regardless of the election exercised by the school district pursuant to this section.

SECTION 2. That Section 39-8007, Idaho Code, be, and the same is hereby amended to read as follows:

39-8007. POWERS AND DUTIES OF THE ADMINISTRATOR. (1) The administrator shall enforce the provisions of this chapter in cooperation with the superintendent of public instruction, the department of administration, and the building code advisory board.

(2) The administrator shall promulgate rules necessary to carry out the provisions of this chapter. Such rules shall be promulgated pursuant to the provisions of chapter 52, title 67, Idaho Code.

(3) The administrator shall establish a program for the timely review of public school construction plans as required by section 39-4113(4)(~~e~~f), Idaho Code.

(4) Upon request, the administrator shall provide training to school districts on the Idaho uniform school building safety code.

Approved March 31, 2010.

CHAPTER 175
(H.B. No. 605)

AN ACT

RELATING TO LOCAL LAND USE PLANNING; AMENDING SECTION 67-6519, IDAHO CODE, TO REVISE TERMINOLOGY, TO PROVIDE FOR THE TYPES OF APPLICATIONS FOR WHICH PROCEDURES ARE TO BE PROVIDED, TO REQUIRE CERTAIN NOTICE AND TO CLARIFY THE RIGHT OF JUDICIAL REVIEW REGARDING CERTAIN FINAL DECISIONS; AMENDING SECTION 67-6520, IDAHO CODE, TO INCLUDE ATTORNEYS AMONG THOSE PERSONS WHO MAY SERVE AS HEARING EXAMINERS, TO REVISE THE TYPES OF APPLICATIONS FOR WHICH A HEARING EXAMINER MAY BE APPOINTED, TO REVISE THE MATTERS TO BE INCLUDED IN A HEARING EXAMINER'S DECISION OR RECOMMENDATION, TO REQUIRE CERTAIN NOTICE, TO CLARIFY THE RIGHT OF JUDICIAL REVIEW REGARDING CERTAIN FINAL DECISIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-6521, IDAHO CODE, TO REVISE THE DEFINITION OF "AFFECTED PERSON," TO REVISE TERMINOLOGY, TO REVISE ACTION THAT MAY BE TAKEN BY A COMMISSION OR GOVERNING BOARD AFTER A HEARING, TO REQUIRE CERTAIN NOTICE, TO CLARIFY THE RIGHT OF JUDICIAL REVIEW REGARDING CERTAIN FINAL DECISIONS, AND TO REVISE THE BASIS OF THE CLAIM FOR WHICH AN AFFECTED PERSON IS MAKING CERTAIN CLAIMS; AMENDING SECTION 67-6535, IDAHO CODE, TO CLARIFY TERMINOLOGY, TO PROVIDE APPLICANTS JUDICIAL REVIEW FOR CERTAIN DENIED APPLICATIONS AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-6519, Idaho Code, be, and the same is hereby amended to read as follows:

67-6519. ~~PERMIT~~ APPLICATION GRANTING PROCESS. (1) As part of ordinances required or authorized under this chapter, a procedure shall be established for processing in a timely manner applications for zoning changes, subdivisions, variances, special use permits and such other similar applications required or authorized pursuant to this chapter for which a reasonable fee may be charged.

(2) Each application ~~for a permit~~ required or authorized under this chapter shall first be submitted to the zoning or planning and zoning commission for its recommendation or decision. The commission shall have a reasonable time fixed by the governing board to examine the application before the commission makes its decision on the ~~permit~~ application or makes its recommendation to the governing board. Each commission or governing board shall establish by rule a time period within which a recommendation or decision must be made. Provided however, any ~~permit~~ application which relates to a public school facility shall receive priority consideration and

shall be reviewed for approval, denial or recommendation by the commission or the governing board at the earliest reasonable time, regardless of the timing of its submission relative to other applications which are not related to public school facilities.

(3) When considering an ~~permit~~ application which relates to a public school facility, the commission shall specifically review the ~~permit~~ application for the effect it will have on increased vehicular, bicycle and pedestrian volumes on adjacent roads and highways. To ensure that the state highway system or the local highway system can satisfactorily accommodate the proposed school project, the commission shall request the assistance of the Idaho transportation department if state highways are affected, or the local highway district with jurisdiction if the affected roads are not state highways. The Idaho transportation department, the appropriate local highway jurisdiction, or both as determined by the commission, shall review the application and shall report to the commission on the following issues as appropriate: the land use master plan; school bus plan; access safety; pedestrian plan; crossing guard plan; barriers between highways and school; location of school zone; need for flashing beacon; need for traffic control signal; anticipated future improvements; speed on adjacent highways; traffic volumes on adjacent highways; effect upon the highway's level of service; need for acceleration or deceleration lanes; internal traffic circulation; anticipated development on surrounding undeveloped parcels; zoning in the vicinity; access control on adjacent highways; required striping and signing modifications; funding of highway improvements to accommodate development; proposed highway projects in the vicinity; and any other issues as may be considered appropriate to the particular application.

(4) Whenever a governing board or zoning or planning and zoning commission grants or denies an ~~permit~~ application, it shall specify:

(a) The ordinance and standards used in evaluating the application;

(b) The reasons for approval or denial; and

(c) The actions, if any, that the applicant could take to obtain ~~a permit~~ approval.

Every final decision rendered shall provide or be accompanied by notice to the applicant regarding the applicant's right to request a regulatory taking analysis pursuant to section 67-8003, Idaho Code. An applicant denied an ~~permit~~ application or aggrieved by a final decision concerning matters identified in section 67-6521(1)(a), Idaho Code, may within twenty-eight (28) days after all remedies have been exhausted under local ordinance seek judicial review under the procedures provided by chapter 52, title 67, Idaho Code.

SECTION 2. That Section 67-6520, Idaho Code, be, and the same is hereby amended to read as follows:

67-6520. HEARING EXAMINERS. (1) Hearing examiners include professionally trained or licensed staff planners, attorneys, engineers, or architects. If authorized by local ordinance adopted, amended, or repealed in accordance with the notice and hearing procedures provided in section 67-6509, Idaho Code, hearing examiners may be appointed by a governing board or zoning or planning and zoning commission for hearing applications for subdivisions, special use ~~and~~ permits, variances ~~permits~~ and requests for rezoning ~~district boundary changes~~ which are in accordance with the plan. Notice, hearing, and records before the examiner shall be as provided in this chapter for the zoning or planning and zoning commission. Whenever a hearing examiner hears an application, he may, pursuant to local ordinance, grant or deny the application or submit a recommendation to the governing board or zoning or planning and zoning commission. His decision or recommendation shall specify:

(a) ~~t~~The ordinance and standards used in evaluating the application;

(b) ~~t~~The reasons for the recommendation or decision; and

(c) ~~t~~The actions, if any, that the applicant could take to obtain an ~~permit or zoning district boundary change in accordance with the plan~~ approval.

(2) Every final decision shall provide or be accompanied by notice to the applicant regarding the applicant's right to request a regulatory taking analysis pursuant to section 67-8003, Idaho Code. An applicant denied an ~~permit~~ application or aggrieved by a final decision concerning matters identified in section 67-6521(1)(a), Idaho Code, may within twenty-eight (28) days after all appellate remedies have been exhausted under local ordinance seek judicial review as provided by chapter 52, title 67, Idaho Code.

SECTION 3. That Section 67-6521, Idaho Code, be, and the same is hereby amended to read as follows:

67-6521. ACTIONS BY AFFECTED PERSONS.

(1) (a) As used herein, an affected person shall mean one having a~~n~~ bona fide interest in real property which may be adversely affected by:

(i) T~~t~~he ~~issuance or~~ approval, denial ~~of a~~ or failure to act upon an application for a subdivision, variance, special use permit ~~authorizing the development~~ and such other similar applications required or authorized pursuant to this chapter;

(ii) The approval of an ordinance first establishing a zoning district upon annexation or the approval or denial of an application to change the zoning district applicable to specific parcels or sites pursuant to section 67-6511, Idaho Code; or

(iii) An approval or denial of an application for conditional rezoning pursuant to section 67-6511A, Idaho Code.

(b) Any affected person may at any time prior to final action on an ~~permit~~ application required or authorized under this chapter, if no hearing has been held on the application, petition the commission or governing board in writing to hold a hearing pursuant to section 67-6512, Idaho Code; provided~~,~~ however, that if twenty (20) affected persons petition for a hearing, the hearing shall be held.

(c) After a hearing, the commission or governing board may:

(i) Grant or deny an ~~permit~~ application; or

(ii) Delay such a decision for a definite period of time for further study or hearing. Each commission or governing board shall establish by ~~rule and regulation~~ ordinance or resolution a time period within which a recommendation or decision must be made.

(d) Every final decision rendered shall provide or be accompanied by notice to the applicant regarding the applicant's right to request a regulatory taking analysis pursuant to section 67-8003, Idaho Code. An affected person aggrieved by a final decision concerning matters identified in section 67-6521(1)(a), Idaho Code, may within twenty-eight (28) days after all remedies have been exhausted under local ordinances seek judicial review as provided by chapter 52, title 67, Idaho Code.

(2) (a) Authority to exercise the regulatory power of zoning in land use planning shall not simultaneously displace coexisting eminent domain authority granted under section 14, article I, of the constitution of the state of Idaho and chapter 7, title 7, Idaho Code.

(b) An affected person claiming "just compensation" for a perceived "taking," the basis of the claim being that a ~~specific zoning action or permitting~~ final action restricting private property development is actually a regulatory action by local government deemed "necessary to complete the development of the material resources of the state," or necessary for other public uses, may seek a judicial determination of whether the claim comes within defined provisions of section 14, article I, of the constitution of the state of Idaho relating to eminent

domain. Under these circumstances, the affected person is exempt from the provisions of subsection (1) of this section and may seek judicial review through an inverse condemnation action specifying neglect by local government to provide "just compensation" under the provisions of section 14, article I, of the constitution of the state of Idaho and chapter 7, title 7, Idaho Code.

SECTION 4. That Section 67-6535, Idaho Code, be, and the same is hereby amended to read as follows:

67-6535. APPROVAL OR DENIAL OF ANY APPLICATION TO BE BASED UPON STANDARDS AND TO BE IN WRITING. (~~a~~1) The approval or denial of any application ~~provided for in~~ required or authorized pursuant to this chapter shall be based upon standards and criteria which shall be set forth in the comprehensive plan, zoning ordinance or other appropriate ordinance or regulation of the city or county.

(~~b~~2) The approval or denial of any application ~~provided for in~~ required or authorized pursuant to this chapter shall be in writing and accompanied by a reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the decision based on the applicable provisions of the comprehensive plan, relevant ordinance and statutory provisions, pertinent constitutional principles and factual information contained in the record.

(~~c~~3) It is the intent of the legislature that decisions made pursuant to this chapter should be founded upon sound reason and practical application of recognized principles of law. In reviewing such decisions, the courts of the state are directed to consider the proceedings as a whole and to evaluate the adequacy of procedures and resultant decisions in light of practical considerations with an emphasis on fundamental fairness and the essentials of reasoned decision-making. Only those whose challenge to a decision demonstrates actual harm or violation of fundamental rights, not the mere possibility thereof, shall be entitled to a remedy or reversal of a decision. Every final decision rendered concerning a site-specific land use request shall provide or be accompanied by notice to the applicant regarding the applicant's right to request a regulatory taking analysis pursuant to section 67-8003, Idaho Code. An applicant denied an application or aggrieved by a final decision concerning matters identified in section 67-6521(1)(a), Idaho Code, may, within twenty-eight (28) days after all remedies have been exhausted under local ordinance, seek judicial review under the procedures provided by chapter 52, title 67, Idaho Code.

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

Approved March 31, 2010.

CHAPTER 176
(H.B. No. 607)

AN ACT

RELATING TO FIRE PROTECTION DISTRICTS; AMENDING SECTION 31-1412, IDAHO CODE, TO PROVIDE AN ADDITIONAL PROCESS FOR INITIATING PROCEEDINGS FOR ANNEXATION OF TERRITORY IN AN ADJOINING COUNTY, TO PROVIDE THAT WHEN CERTAIN CONDITIONS ARE CERTIFIED IN A PETITION, AN ELECTION ON THE QUESTION OF ANNEXATION IS NOT REQUIRED.

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

SECTION 1. That Section 31-1412, Idaho Code, be, and the same is hereby amended to read as follows:

31-1412. ANNEXATION OF TERRITORY IN ADJOINING COUNTY. After the organization of a fire protection district, additional territory, contiguous or noncontiguous thereto and located wholly within an adjoining county, may be added to the district and become a part thereof as hereinafter provided in this section. Noncontiguous territory annexed to an existing fire protection district shall consist of not less than forty (40) contiguous acres. The proceedings for annexation shall be the same as the proceedings for the creation and organization of a fire protection district with the following exceptions and modifications:

(1) Such proceeding may be initiated by:

(a) T~~t~~wo (2) or more of the holders of title or evidence of title to lands aggregating not less than one hundred (100) acres; or

(b) One hundred percent (100%) of the holders of title or evidence of title to lands aggregating not less than one hundred (100) acres.

(2) A petition, such as is required by section 31-1403, Idaho Code, shall be filed with the fire protection board of the fire protection district into which petitioners seek to be annexed. The petition shall accurately describe the boundaries of the territory and name and describe the fire protection district to which annexation is sought. The petition shall be accompanied by a map showing and distinguishing the boundaries of the original district and the boundaries of the territory proposed to be annexed, and showing the location of the intervening county line. An election is not required pursuant to subsection (5) of this section when the petition includes a certification as to the following: (a) that one hundred percent (100%) of the holders of title or evidence of title of the property proposed to be annexed have joined in the initial petition requesting annexation; and (b) that there is no electorate present in the property proposed to be annexed. The fire protection board shall follow the notice and public hearing requirements contained in section 31-1411, Idaho Code, and if it approves of the annexation proposal, it will issue a written resolution consenting to the proposed annexation. If the fire protection board issues such a resolution, the petitioners shall proceed in accordance with the steps outlined in this section.

(3) A petition, such as is required by section 31-1403, Idaho Code, shall be filed with the board of county commissioners of the county in which is situated the territory proposed to be annexed but shall accurately describe the boundaries of the territory, and name and describe the fire protection district to which annexation is sought, shall be accompanied by a map showing and distinguishing the boundaries of the original district and the boundaries of the territory proposed to be annexed, and showing the location of the intervening county line. An election is not required pursuant to subsection (5) of this section when the petition includes a certification as to the following: (a) that one hundred percent (100%) of the holders of title or evidence of title of the property proposed to be annexed have joined in the initial petition requesting annexation; and (b) that there is no electorate present in the property proposed to be annexed. The petition must be accompanied by a certified copy of the resolution of the board of fire protection commissioners consenting to the annexation.

(4) The notice of hearing on the petition shall state that certain territory described in the petition, is proposed to be annexed to a fire protection district named in the petition and that any taxpayer within the boundaries of the territory proposed to be annexed may offer objections at the time and place specified. The order entered by the local board of county commissioners on the petition shall, if the petition be granted, fix the boundaries of the annexed territory and direct that a map of it be prepared under the direction of the clerk of the board, and certified copies of the order and

map shall be transmitted to the clerk of the board of county commissioners of the county in which the original fire protection district is situated.

(5) An election shall be conducted by the county clerk or elections office in the county where the land sought to be annexed is situated, subject to the provisions of section 34-106, Idaho Code, in the territory proposed to be annexed for the purpose of voting upon the annexation and the notice shall accurately describe the boundaries of the territory proposed to be annexed, shall state the name of the district to which annexation is sought, and that a map showing the boundaries of the district and of the territory proposed to be annexed is on file in the office of the clerk of the local board of county commissioners. The notice shall prescribe the form of ballot to be cast, which shall contain the words "In favor of annexation to .... Fire Protection District" and "Against annexation to .... Fire Protection District," and shall direct that the voter indicate his choice thereon by a cross (X). An election pursuant to the provisions of this subsection shall accomplish no purpose and, therefore, shall not be required if the following conditions are certified in the petition(s) submitted in accordance with subsections (2) and (3) of this section: (a) that one hundred percent (100%) of the holders of title or evidence of title of the property proposed to be annexed have joined in the initial petition requesting annexation; and (b) that there is no electorate present in the property sought to be annexed.

(6) The territory proposed to be annexed shall constitute one (1) election precinct and there shall be added to the usual elector's oath, in case of challenge, the following words: "And I am a resident within the boundaries of the territory proposed to be annexed to .... Fire Protection District." The returns of the election shall be canvassed by the board of the county commissioners of the county in which the territory proposed to be annexed is situated, and if it shall appear from the canvass that more than one-half (1/2) of the voters are in favor of the annexation, the board shall, by order entered on its minutes, declare the territory a part of the fire protection district to which annexation is sought, and a certified copy of the order shall be transmitted to the fire protection board of the original district, and also to the board of the county commissioners of the county in which the original district is situated. A certified copy of the order shall also be filed in the office of the county recorder of the county in which the territory proposed to be annexed is situated. At the first meeting of the board of fire protection commissioners following the annexation of property from another county, the board shall resubdivide the expanded fire protection district into three (3) subdivisions, as nearly equal in population and area as practicable. Not more than one (1) fire protection district commissioner shall reside in each subdistrict. If, because of resubdistricting, two (2) or more commissioners reside in the same subdistrict, they shall draw lots to determine who shall remain in office. The remaining commissioners on the board shall appoint, as necessary, persons to fill vacancies created as a result of annexation pursuant to the provisions of section 31-1409, Idaho Code. An appointee shall serve the remainder of the term of office he or she is appointed to fill. Certified copies of appointments of secretary and treasurer of the district shall be filed with the clerk of the board of county commissioners and with the tax collector of each county in which any portion of the district is situated and all taxes levied by the district shall be certified to, and extended, collected and remitted by, the proper officers of the county in which is situated the property subject to the levy.

Approved March 31, 2010.

CHAPTER 177
(H.B. No. 609)

AN ACT

RELATING TO PROJECT CHOICE AND THE IDAHO STATE POLICE; AMENDING SECTION 49-454, IDAHO CODE, TO PROVIDE THAT CERTAIN PERSONNEL SHALL CONTINUE TO PARTICIPATE IN AND BENEFIT FROM USES OF THE PROJECT CHOICE FEE AND TO PROVIDE THAT BEGINNING JULY 1, 2010, THE USE OF THE PROJECT CHOICE FEE SHALL BE RESTRICTED TO CERTAIN PERSONNEL.

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

SECTION 1. That Section 49-454, Idaho Code, be, and the same is hereby amended to read as follows:

49-454. PROJECT CHOICE FEE. (1) A project choice program fee of three dollars ($3.00) shall be collected in addition to each registration fee assessed pursuant to section 49-402(1), (2) or (3), 49-411, 49-412 or 49-434(1), Idaho Code. Such fees shall be deposited to the Idaho law enforcement fund established in section 67-2914, Idaho Code.

(2) The project choice program fee shall be collected and deposited pursuant to subsection (1) of this section for registrations for calendar year 2007 and thereafter.

(3) The project choice fee shall be used, subject to appropriation, exclusively for the purposes of creating a career ladder within the Idaho state police and to provide salaries to encourage the hiring and retention of trained and qualified employees for Idaho state police positions. Idaho state police personnel who have participated in and benefited from the use of the project choice fee, as of July 1, 2010, shall continue to participate in and benefit from the project choice fee while employed by the Idaho state police. Provided however, that beginning July 1, 2010, the use of the project choice fee shall be restricted in the following manner: the project choice fee shall be used exclusively for the purposes of creating a career ladder for commissioned officers, dispatch personnel and forensic personnel within the Idaho state police; and to provide salaries to encourage the hiring and retention of trained and qualified commissioned officers, dispatch personnel and forensic personnel.

Approved March 31, 2010.

CHAPTER 178
(H.B. No. 611)

AN ACT

RELATING TO AUDITS; AMENDING CHAPTER 4, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-450D, IDAHO CODE, TO PROVIDE FOR MINIMUM AUDIT REQUIREMENTS FOR DESIGNATED ENTITIES, TO PROVIDE AN EXCEPTION, TO PROVIDE A PROCEDURE, TO PROVIDE FOR CERTAIN UNAUDITED ANNUAL STATEMENTS AND TO PROVIDE THAT THE STATE OF IDAHO RESERVES THE RIGHT TO AUDIT FUNDS OF DESIGNATED ENTITIES AT ANY TIME.

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

SECTION 1. That Chapter 4, 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 67-450D, Idaho Code, and to read as follows:

67-450D. INDEPENDENT FINANCIAL AUDITS -- DESIGNATED ENTITIES. (1) Notwithstanding any other provisions of the Idaho Code relating to audit requirements regarding the entities hereinafter designated, beginning on July 1, 2010, the requirements set forth in this section shall constitute the minimum audit requirements for the following entities:

Alfalfa and clover seed commission;
Idaho apple commission;
Idaho aquaculture commission;
Idaho barley commission;
Idaho bean commission;
Idaho beef council;
Idaho cherry commission;
Idaho dairy products commission;
Idaho food quality assurance institute;
Idaho forest products commission;
Idaho grape growers and wine producers commission;
Idaho honey advertising commission;
Idaho hop grower's commission;
Idaho mint commission;
Idaho oilseed commission;
Idaho pea and lentil commission;
Commission on pesticide management;
Idaho potato commission;
Idaho rangeland resources commission;
Soil conservation commission;
Idaho wheat commission.

(2) The minimum requirements for any audit performed under the provisions of this section are:

(a) Any entity whose annual expenditures (from all sources) exceed two hundred fifty thousand dollars ($250,000) shall cause a full and complete audit of its financial statements to be made each fiscal year.

(b) Any entity whose annual expenditures (from all sources) exceed one hundred thousand dollars ($100,000), but do not exceed two hundred fifty thousand dollars ($250,000), may elect to have its financial statements audited on a biennial basis and may continue biennial auditing cycles in subsequent years as long as the entity's annual expenditures do not exceed two hundred fifty thousand dollars ($250,000) during either year of any biennial period. Biennial audits shall include an audit of each fiscal year since the previous audit.

(c) Any entity whose annual expenditures (from all sources) do not exceed one hundred thousand dollars ($100,000) has no minimum audit requirements under the provisions of this section.

(d) Federal audit requirements applicable because of expenditure of federal assistance supersede the minimum audit requirements provided in this section.

(3) All moneys received or expended by the entities identified in subsection (1) of this section shall be audited as specified in subsection (2) of this section by a certified public accountant designated by the entity, who shall furnish a copy of such audit to the director of the legislative services office and to the senate agricultural affairs committee and the house agricultural affairs committee. The audit shall be completed within ninety (90) days following the close of the commission's fiscal year.

(4) Any entity identified in subsection (1) of this section that is not audited pursuant to the provisions of this section shall submit an unaudited annual statement of revenues, expenditures and fund balances to the director of the legislative services office, to the senate agricultural affairs committee and the house agricultural affairs committee, to the state controller and to the division of financial management.

(5) The right is reserved to the state of Idaho to audit the funds of the entities identified in this section at any time.

Approved March 31, 2010.

CHAPTER 179
(H.B. No. 617)

AN ACT

RELATING TO EMERGENCY RESPONSE; PROVIDING LEGISLATIVE INTENT; AMENDING CHAPTER 10, TITLE 46, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 46-1026, IDAHO CODE, TO DEFINE TERMS; AMENDING CHAPTER 10, TITLE 46, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 46-1027, IDAHO CODE, TO PROVIDE ADDITIONAL POWERS, DUTIES AND PROCEDURES TO THE MILITARY DIVISION AND THE BUREAU OF HOMELAND SECURITY AND TO PROVIDE FOR LIMITATIONS ON LIABILITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. LEGISLATIVE INTENT. It is the intent of the Legislature to recognize Idaho technical rescue teams, specialty rescue teams, and Idaho incident management and support teams to provide resources that would be unavailable to most communities in Idaho. These teams are local resources that would be available to the state under a disaster declaration. Furthermore, it is the intent of the Legislature that these teams are to work under the authority of the agency having jurisdiction over the area where a response incident occurs. The creation of these teams assists the state in meeting the Federal Emergency Management Agency's strategic goals for disaster preparedness.

SECTION 2. That Chapter 10, 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 46-1026, Idaho Code, and to read as follows:

46-1026. DEFINITIONS. As used in this section and section 46-1027, Idaho Code, the following terms shall have the following meanings:

(1) "Idaho technical rescue (ITR) teams" means a specialized team or group of teams formed pursuant to this section and section 46-1027, Idaho Code, organized with capabilities established under the federal emergency management agency national resource typing system in order to assist in the removal of trapped victims in emergency situations including, but not limited to, collapsed structures, confined spaces, trench excavations, elevated locations and other technical rescue situations.

(2) "Specialty rescue team (SRT)" means a specialized team, formed pursuant to this section and section 46-1027, Idaho Code, organized to provide technical rescue assistance to supplement and work under first responders and local incident commanders including, but not limited to, cave rescue, mine and tunnel rescue and vehicle/machinery extrication and swift water/flood teams. Such teams shall be aligned with one (1) or more of the categories within the federal emergency management agency's national resource typing system.

(3) "Idaho incident management and support teams (IIMAST)" means a type 3 incident management team, which is a multiagency/multijurisdiction team for extended incidents, formed and managed at the state, regional or metropolitan level deployed as a team of trained personnel to manage major and/or complex incidents requiring a significant number of local, regional and state resources and incidents that extend into multiple operational periods and require a written incident action plan (IAP) that may be utilized

at all hazard type incidents. These teams may initially manage larger, more complex incidents prior to arrival of and transition to a type 2 or type 1 incident management team (IMT) under the direction of the agency having the jurisdiction.

(4) "Person" shall have the definition ascribed to it in section 46-1021, Idaho Code.

SECTION 3. That Chapter 10, 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 46-1027, Idaho Code, and to read as follows:

46-1027. MILITARY DIVISION -- BUREAU OF HOMELAND SECURITY -- ADDITIONAL POWERS AND DUTIES. (1) The military division through the bureau of homeland security shall implement the provisions of this section and section 46-1026, Idaho Code, and in so doing, the military division may:

(a) Through the bureau of homeland security, in accordance with the laws of the state, hire, fix the compensation and prescribe the powers and duties of such other individuals including consultants, emergency teams and committees as may be necessary to carry out the provisions of this section and section 46-1026, Idaho Code.

(b) Identify and implement ITR and specialty rescue teams that have appropriately trained personnel and necessary equipment to respond to technical rescue incidents and emergency disaster events. The military division shall enter into a written joint exercise of powers agreement with each entity or person providing equipment or services to a designated ITR or specialty rescue team. The teams shall be available and may respond to technical rescue incidents at the direction of the military division or its designee. When responding solely at the direction of the local incident commander, no cost recovery from the state of Idaho shall be available to ITR teams.

(c) Identify and implement an Idaho incident management and support team (IIMAST) that has appropriately trained personnel to the type 3 level and necessary equipment to respond to all hazard incidents. The military division shall enter into a joint exercise of powers agreement with each entity or person providing equipment or services to a designated IIMAST member. The teams shall be available and may respond to all hazard incidents at the direction of the military division or its designee. When responding solely at the direction of the local incident commander, no cost recovery from the state of Idaho shall be available to IIMAST teams.

(d) Contract with persons to meet state emergency response needs for the teams and response authorities.

(e) Advise, consult and cooperate with agencies of the state and federal government, other states and their state agencies, cities, counties, tribal governments and other persons concerned with technical, rescue and all hazard incident disasters.

(f) Encourage, participate in or conduct studies, investigations, training, research and demonstrations for and with Idaho technical rescue (ITR) teams, specialty rescue teams (SRT), Idaho incident management and support teams (IIMAST), local emergency response authorities and other interested persons.

(g) Collect and disseminate information relating to emergency response to technical rescue related events and all hazards incident disasters.

(h) Accept and administer loans, grants or other funds or gifts, conditional or otherwise, made to the state for emergency response activities provided for in this section and section 46-1026, Idaho Code.

(i) Submit an annual report prior to February 1 to the governor and to the legislature concerning emergency response to technical rescue related events and disasters.

(2) The military division through the bureau of homeland security shall have authority to promulgate rules and provide procedures to:

(a) Govern reimbursement of claims pursuant to this section when a disaster has been declared pursuant to chapter 10, title 46, Idaho Code.

(b) Provide for credentialing of Idaho technical rescue (ITR) teams, specialty rescue teams (SRT), and Idaho incident management and support teams (IIMAST) and for the identification and operation of all teams established pursuant to this section and section 46-1026, Idaho Code, and in accordance with the national incident management system, the national response plan and nationally recognized standards.

(c) Establish a credentialing program to review and evaluate new and existing local and regional technical rescue capabilities and provide recommendations for capability enhancement in accordance with the national incident management system, the national response plan and nationally recognized standards.

(3) Consistent with the provisions of subsections (4) and (5) of this section the state of Idaho shall be liable for the acts or omissions of the Idaho technical rescue (ITR), specialty rescue teams (SRT) and Idaho incident management and support (IIMAST) teams responding to a technical rescue or all hazard incidents as a management team and the designating or requesting city or county shall be liable for the acts or omissions of a local emergency response authority responding to a technical rescue incident within its jurisdiction.

(4) Notwithstanding any other provision of law to the contrary, any Idaho technical rescue (ITR) team, speciality rescue team (SRT), Idaho incident management and support team (IIMAST), local emergency response authority or other person or group of persons who respond to a technical rescue incident or all hazard incidents as a management team at the request of an incident commander shall not be subject to civil liability for assistance or advice, except as provided in subsection (5) of this section.

(5) The exemption from civil liability provided in this section shall not apply to an act or omission that caused, in whole or in part, such technical rescue or all hazard incident management response to a person who may otherwise be liable therefor or any person who has acted in a grossly negligent, reckless or intentional manner.

(6) Nothing in this section shall be construed to abrogate the immunity granted to governmental entities pursuant to chapter 9, title 6, Idaho Code.

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

Approved March 31, 2010.

CHAPTER 180
(H.B. No. 624)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-519, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTAIN STUDENTS BEING EXCUSED FROM SCHOOL FOR A CERTAIN PERIOD FOR RELIGIOUS OR OTHER PURPOSES.

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

SECTION 1. That Section 33-519, Idaho Code, be, and the same is hereby amended to read as follows:

33-519. RELEASE FOR RELIGIOUS INSTRUCTION. Upon application of his parent or guardian, or, if the student has attained the age of eighteen (18) years, upon application of the student, a student attending a public school in grades nine (9) through twelve (12) may be excused from school for a period not exceeding five (5) periods in any week ~~and~~ or not exceeding one hundred sixty-five (165) hours per student during any one (1) school year for religious or other purposes. Release time pursuant to this section shall be scheduled by the board of trustees upon application as provided herein and the board shall have reasonable discretion over the scheduling and timing of the release time. Release time pursuant to this section shall not reduce the minimum graduation requirements for accredited Idaho high schools. The provisions of this section shall not be deemed to authorize the use of any public school facility for religious instruction. The board of trustees of a school district may not authorize the use of, and public school facilities, personnel or equipment may not be utilized, to maintain attendance records for the benefit of release time classes for religious instruction. No credit shall be awarded by the school or school district for completion of courses during release time for religious purposes. At the discretion of the board credit may be granted for other purposes.

Approved March 31, 2010.

CHAPTER 181
(H.B. No. 636)

AN ACT

RELATING TO EDUCATION AND INTERNET USE POLICY; AMENDING CHAPTER 1, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-131, IDAHO CODE, TO PROVIDE THAT EACH LOCAL SCHOOL DISTRICT SHALL FILE AN INTERNET USE POLICY, TO PROVIDE THAT THE POLICY SHALL BE APPROVED BY THE BOARD OF TRUSTEES, TO PROVIDE PROVISIONS OF SUCH POLICY, TO PROVIDE FOR POLICY TERMS, CONDITIONS AND REQUIREMENTS AND TO AUTHORIZE A DISTRICT'S SUPERINTENDENT TO TAKE REASONABLE MEASURES TO IMPLEMENT AND ENFORCE PROVISIONS OF LAW.

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

SECTION 1. That Chapter 1, 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 33-131, Idaho Code, and to read as follows:

33-131. LOCAL SCHOOL BOARDS -- INTERNET USE POLICY REQUIRED. (1) As a condition for receiving moneys from the state general fund, each local school district shall file an acceptable internet use policy with the state superintendent of public instruction no later than August 1, 2011, or within one (1) year after the creation of a new district, whichever is later, and every five (5) years thereafter. Such policy shall be approved by the district's board of trustees and shall contain, but not be limited to, provisions that:

(a) Prohibit and prevent the use of school computers and other school owned technology-related services from sending, receiving, viewing or downloading materials that are deemed to be harmful to minors, as defined by section 18-1514, Idaho Code; and

(b) Provide for the selection of technology for the local district's computers to filter or block internet access to obscene materials, materials harmful to minors and materials that depict the sexual exploitation of a minor, as defined in chapter 15, title 18, Idaho Code; and

(c) Establish appropriate disciplinary measures to be taken against persons violating the policy provided for in this section; and

(d) Include a component of internet safety for students that is integrated into the district's instructional program; and

(e) Inform the public that administrative procedures have been adopted to enforce the policy provided for in this section and to handle complaints about such enforcement, and that such procedures are available for review at the district office.

(2) The policy provided for in subsection (1) of this section may include terms, conditions and requirements deemed appropriate by the district's board of trustees including, but not limited to, requiring written parental authorization for internet use by minors or differentiating acceptable uses among elementary, middle and high school students.

(3) The district's superintendent is hereby authorized to take reasonable measures to implement and enforce the provisions of this section.

Approved March 31, 2010.

CHAPTER 182
(H.B. No. 644)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1302, IDAHO CODE, TO FURTHER DEFINE A TERM.

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

SECTION 1. That Section 59-1302, Idaho Code, be, and the same is hereby amended to read as follows:

59-1302. DEFINITIONS. (1) As used in this chapter, each of the terms defined in this section shall have the meaning given in this section unless a different meaning is clearly required by the context.

(2) "Active member" means any employee who is not establishing the right to receive benefits through his or her employer's participation in any other retirement system established for Idaho public employees, if such participation is mandated by applicable Idaho statutes other than this chapter. In no case will an employee be entitled to any benefit under this chapter for public service if such employee is establishing retirement benefit entitlements by other Idaho statutes or federal statutes other than military service or social security for that same service.

(3) "Accumulated contributions" means the sum of amounts contributed by a member of the system, together with regular interest credit thereon.

(4) "Actuarial equivalent" means a benefit equal in value to another benefit, when computed upon the basis of the actuarial tables in use by the system.

(5) "Actuarial tables" means such tables as shall have been adopted by the board in accordance with recommendations of the actuary.

(5A) "Alternate payee" means a spouse or former spouse of a member who is recognized by an approved domestic retirement order as having a right to all or a portion of the accrued benefits in the retirement system with respect to such member.

(5B) "Approved domestic retirement order" means a domestic retirement order which creates or recognizes the existence of an alternate payee's right or assigns to an alternate payee the right to all or a portion of the accrued benefits of a member under the retirement system, which directs the system to establish a segregated account or disburse benefits to an alternate payee, and which the executive director of the retirement system

has determined meets the requirements of sections 59-1319 and 59-1320, Idaho Code.

(5C) "Average monthly salary" means the member's average salary during the base period as calculated pursuant to rules adopted by the retirement board.

(5D) (a) "Base period" means the period of fifty-four (54) consecutive calendar months during which the member earned:

(i) The highest average salary; and

(ii) Membership service of at least one-half (1/2) the number of months in the period, excluding months of service attributable to:

A. Military service;

B. Service qualifying as minimum benefit pursuant to section 59-1342(5), Idaho Code; and

C. Worker's compensation income benefits.

(b) Effective October 1, 1993, the consecutive calendar months shall be forty-eight (48). Effective October 1, 1994, the consecutive calendar months shall be forty-two (42).

(c) Entitlement to a base period shall not vest until the effective date of that base period. The retirement benefits shall be calculated on the amounts, terms and conditions in effect at the date of the final contribution by the member.

(d) If no base period exists for a member, the member's average monthly salary shall be determined by the board, using standards not inconsistent with those established in this subsection.

(e) To assure equitable treatment for all members, salary increments inconsistent with usual compensation patterns may be disallowed by the board in determining average monthly salary and base period.

(6) "Beneficiary" means the person who is nominated by the written designation of a member, duly executed and filed with the board, to receive the death benefit.

(7) "Calendar year" means twelve (12) calendar months commencing on the first day of January.

(7A) "Contingent annuitant" means the person designated by a member under certain retirement options to receive benefit payments upon the death of the member. The person so designated must be born and living on the effective date of retirement.

(8) "Credited service" means the aggregate of membership service, prior service and disabled service.

(9) "Date of establishment" means July 1, 1965, or a later date established by the board or statute.

(10) "Death benefit" means the amount, if any, payable upon the death of a member.

(11) "Disability retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for disability retirement.

(12) "Disabled" means:

(a) That the member is prevented from engaging in any occupation or employment for remuneration or profit as a result of bodily injury or disease, either occupational or nonoccupational in cause, but excluding disabilities resulting from service in the armed forces of any country, or from an intentionally self-inflicted injury; and

(b) That the member will likely remain so disabled permanently and continuously during the remainder of the member's life.

It is not necessary that a person be absolutely helpless or entirely unable to do anything worthy of compensation to be considered disabled. If the person is so disabled that substantially all the avenues of employment are reasonably closed to the person, that condition is within the meaning of "disabled." In evaluating whether a person is disabled, medical factors and non-

medical factors including, but not limited to, education, economic and social environment, training and usable skills may be considered.

Refusal to submit to a medical examination ordered by the board before the commencement of a disability retirement allowance or at any reasonable time thereafter shall constitute proof that the member is not disabled. The board shall be empowered to select for such medical examination one (1) or more physicians or surgeons who are licensed to practice medicine and perform surgery. The fees and expenses of such examination shall be paid from the administration account of the fund. No member shall be required to undergo such examination more often than once each year after he has received a disability retirement allowance continuously for two (2) years.

(12A) "Disabled service" means the total number of months elapsing from the first day of the month next succeeding the final contribution of a member prior to receiving a disability retirement allowance to the first day of the month following the date of termination of such disability retirement allowance. During such period, the member shall remain classified in the membership category held during the month of final contribution. The total number of months of disabled service credited for a person first becoming disabled after the effective date of this chapter shall not exceed the excess, if any, of three hundred sixty (360) over the total number of months of prior service and membership service.

(12B) "Domestic retirement order" means any judgment, decree, or order, including approval of a property settlement agreement which relates to the provision of marital property rights to a spouse or former spouse of a member, and is made pursuant to a domestic relations law, including the community property law of the state of Idaho or of another state.

(13) "Early retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for early retirement.

(14) (A) "Employee" means:

(a) Any person who normally works twenty (20) hours or more per week for an employer or a school teacher who works half-time or more for an employer and who receives salary for services rendered for such employer; or

(b) Elected officials or appointed officials of an employer who receive a salary; or

(c) A person who is separated from service with less than five (5) consecutive months of employment and who is reemployed or reinstated by the same employer within thirty (30) days.

(B) "Employee" does not include employment as:

(a) A person rendering service to an employer in the capacity of an independent business, trade or profession; or

(b) A person whose employment with any employer does not total five (5) consecutive months; or

(c) A person provided sheltered employment or made-work by a public employer in an employment or industries program maintained for the benefit of such person; or

(d) An inmate of a state institution, whether or not receiving compensation for services performed for the institution; or

(e) A student enrolled in an undergraduate, graduate, or professional-technical program at and employed by a state college, university, community college or professional-technical center when such employment is predicated on student status; or

(f) A person making contributions to the United States civil service commission under the United States Civil Service System Retirement Act except that a person who receives separate remuneration for work currently performed for an employer and the United States government may elect to be a member of the retirement system in accordance with rules of the board; or

(g) A person not under contract with a school district or charter school, who on a day to day basis works as a substitute teacher replacing a contracted teacher and is paid a substitute wage as established by district policy or who, on a day to day basis works as a substitute assistant replacing a staff instruction assistant or a staff library assistant and is paid a substitute wage as established by district policy; or

(h) A person occupying a position that does not exceed eight (8) consecutive months in a calendar year with a city or county when the city or county has certified, in writing to the system, the position is (i) seasonal or casual; and (ii) affected by weather and the growing season, including parks and golf course positions; or

(~~h~~i) A person in a position that (i) is eligible for participation in an optional retirement program established under section 33-107A or 33-107B, Idaho Code, or (ii) would be eligible for participation in an optional retirement program established under section 33-107A or 33-107B, Idaho Code, if the person was not working less than half-time or less than twenty (20) hours per week.

(15) "Employer" means the state of Idaho, or any political subdivision or governmental entity, provided such subdivision or entity has elected to come into the system. Governmental entity means any organization composed of units of government of Idaho or organizations funded only by government or employee contributions or organizations who discharge governmental responsibilities or proprietary responsibilities that would otherwise be performed by government. All governmental entities are deemed to be political subdivisions for the purpose of this chapter.

(15A) "Final contribution" means the final contribution made by a member pursuant to sections 59-1331 through 59-1334, Idaho Code.

(16) "Firefighter" means an employee, including paid firefighters hired on or after October 1, 1980, whose primary occupation is that of preventing and extinguishing fires as determined by the rules of the board.

(17) "Fiscal year" means the period beginning on July 1 in any year and ending on June 30 of the next succeeding year.

(18) "Fund" means the public employee retirement fund established by this chapter.

(19) "Funding agent" means any bank or banks, trust company or trust companies, legal reserve life insurance company or legal reserve life insurance companies, or combinations thereof, any thrift institution or credit union or any investment management firm or individual investment manager selected by the board to hold and/or invest the employers' and members' contributions and pay certain benefits granted under this chapter.

(20) "Inactive member" means a former active member who is not an employee and is not receiving any form of retirement allowance, but for whom a separation benefit has not become payable.

(20A) "Lifetime annuity" means periodic monthly payments of income by the retirement system to an alternate payee.

(20B) "Lump sum distribution" means a payment by the retirement system of the entire balance in the alternate payee's segregated account, together with regular interest credited thereon.

(21) "Member" means an active member, inactive member or a retired member.

(22) "Membership service" means military service which occurs after the commencement of contributions payable under sections 59-1331 through 59-1334, Idaho Code, and service with respect to which contributions are payable under sections 59-1331 through 59-1334, Idaho Code, which, except for benefit calculations described in sections 59-1342 and 59-1353, Idaho Code, includes service transferred to a segregated account under an approved domestic retirement order.

(23) "Military service" means any period of active duty service in the armed forces of the United States including the national guard and reserves, under the provisions of title 10, title 32, and title 37, United States code, which commences less than ninety (90) days after the person ceases to be an employee and ends less than ninety (90) days before the person again becomes an employee. Provided, if a member fails to again become an employee due to being killed while in active duty service, the member shall be entitled to military service through the date of death. In no event shall military service include:

(a) Any period ended by dishonorable discharge or during which termination of such service is available but not accepted; or

(b) Any active duty service in excess of five (5) years if at the convenience of the United States government, or in excess of four (4) years if not at the convenience of the United States government, provided additional membership service may be purchased as provided in section 59-1362, Idaho Code.

(24) (a) "Police officer" for retirement purposes shall be as defined in section 59-1303, Idaho Code.

(b) "POST" means the Idaho peace officer standards and training council established in chapter 51, title 19, Idaho Code.

(25) "Prior service" means any period prior to July 1, 1965, of military service or of employment for the state of Idaho or any political subdivision or other employer of each employee who is an active member or in military service or on leave of absence on the date of establishment, provided, however, an employee who was not an active member or in military service or on leave of absence on the date of establishment shall receive credit for the member's service prior to July 1, 1965, on the basis of recognizing two (2) months of such service for each month of membership service. For the purpose of computing such service, no deduction shall be made for any continuous period of absence from service or military service of six (6) months or less.

(26) "Regular interest" means interest at the rate set from time to time by the board.

(27) "Retired member" means a former active member receiving a retirement allowance.

(28) "Retirement" means the acceptance of a retirement allowance under this chapter upon termination of employment.

(29) "Retirement board" or "board" means the board provided for in sections 59-1304 and 59-1305, Idaho Code, to administer the retirement system.

(30) "Retirement system" or "system" means the public employee retirement system of Idaho.

(31) (A) "Salary" means:

(a) The total salary or wages paid to a person who meets the definition of employee by an employer for personal services performed and reported by the employer for income tax purposes, including the cash value of all remuneration in any medium other than cash.

(b) The total amount of any voluntary reduction in salary agreed to by the member and employer where the reduction is used as an alternative form of remuneration to the member.

(B) Salary in excess of the compensation limitations set forth in section 401(a)(17) of the Internal Revenue Code shall be disregarded for any person who becomes a member of the system on or after July 1, 1996. The system had no limitations on compensation in effect on July 1, 1993. The compensation limitations set forth in section 401(a)(17) of the Internal Revenue Code shall not apply for an "eligible employee." For purposes of this subsection, "eligible employee" is an individual who was a member of the system before July 1, 1996.

(C) "Salary" does not include:

(a) Contributions by employers to employee held medical savings accounts, as those accounts are defined in section 63-3022K, Idaho Code.

(b) Lump sum payments inconsistent with usual compensation patterns made by the employer to the employee only upon termination from service including, but not limited to, vacation payoffs, sick leave payoffs, early retirement incentive payments and bonuses.

(31A) "Segregated account" means the account established by the retirement system for the alternate payee of a member who is not a retired member. It shall include the months of credited service and accumulated contributions transferred from the member's account.

(32) "Separation benefit" means the amount, if any, payable upon or subsequent to separation from service.

(33) "Service" means being shown on an employer's payroll as an employee receiving a salary. For each calendar month, service is credited only when a member is an employee as defined in subsection (14)(A) of this section and is employed for fifteen (15) days or more during the calendar month. Employment of fourteen (14) days or less during any calendar month shall not be credited. No more than one (1) month of service shall be credited for all service in any month.

(34) "Service retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for service retirement.

(35) "State" means the state of Idaho.

(36) "Vested member" means an active or inactive member who has at least five (5) years of credited service, except that a member, who at the time of his separation from service:

(a) Held an office to which he had been elected by popular vote or having a term fixed by the constitution, statute or charter or was appointed to such office by an elected official; or

(b) Was the head or director of a department, division, agency, statutory section or bureau of the state; or

(c) Was employed on or after July 1, 1965, by an elected official of the state of Idaho and occupied a position exempt from the provisions of chapter 53, title 67, Idaho Code; and

(d) Was not covered by a merit system for employees of the state of Idaho,

is vested without regard to the length of credited service.

(37) The masculine pronoun, wherever used, shall include the feminine pronoun.

Approved March 31, 2010.

CHAPTER 183
(H.B. No. 646, As Amended)

AN ACT

RELATING TO THE EMPLOYMENT SECURITY LAW; AMENDING SECTION 72-1312, IDAHO CODE, TO REDUCE THE AMOUNT OF BENEFITS PAID IN A COMPENSABLE WEEK BY THE AMOUNT EQUAL TO TEMPORARY DISABILITY BENEFITS RECEIVED UNDER A WORKER'S COMPENSATION LAW OF ANY STATE OR UNDER A SIMILAR LAW OF THE UNITED STATES AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 72-1351, IDAHO CODE, TO PROVIDE THAT NO CHARGE SHALL BE MADE TO A COVERED EMPLOYER'S ACCOUNT FOR BENEFITS PAID TO A WORKER WHO TURNS DOWN AN OFFER OF SUITABLE WORK BECAUSE OF PARTICIPATION IN AN APPROVED JOB TRAINING PROGRAM AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 72-1312, Idaho Code, be, and the same is hereby amended to read as follows:

72-1312. COMPENSABLE WEEK. "Compensable week" means a week of unemployment, all of which occurred within the benefit year, for which an eligible claimant is entitled to benefits and during which:

(1) The claimant had either no work or less than full-time work; and

(2) No benefits have been paid to the claimant; and

(3) The claimant complied with all of the personal eligibility conditions of section 72-1366, Idaho Code; and

(4) The total wages payable to the claimant for less than full-time work performed in such week amounted to less than one and one-half (1 1/2) times his weekly benefit amount; provided~~,~~ however, that any benefits which a claimant receives for any week shall be reduced by:

(a) ~~A~~an amount equal to the amount received as pension, retirement pay, annuity, or any other similar payment which is based on the previous work of such individual which is reasonably attributable to such week, if the payment is made under a plan maintained or contributed to by the base period employer and the claimant has made no contributions to the plan;

(b) An amount equal to temporary disability benefits received under a worker's compensation law of any state or under a similar law of the United States; and

(5) All of which occurred after a waiting week as defined in section 72-1329, Idaho Code.

SECTION 2. 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~~ was 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 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;

(f) If paid to a worker who turns down an offer of suitable work because of participation in a job training program pursuant to the requirements of section 72-1366(8), Idaho Code.

(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.

(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.

(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.

Approved March 31, 2010.

CHAPTER 184
(H.B. No. 647)

AN ACT

RELATING TO THE SMALL LAWSUIT RESOLUTION ACT; PROVIDING LEGISLATIVE INTENT; AMENDING SECTION 10, CHAPTER 29, LAWS OF 2003, TO DELETE A SUNSET CLAUSE; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. LEGISLATIVE INTENT. It is the intent of the Legislature that the Small Lawsuit Resolution Act enacted in 2002 and amended by Section 10, Chapter 29, Laws of 2003, continue in force and effect with the 2003 amendments added thereto.

SECTION 2. That Section 10, Chapter 29, Laws of 2003, be, and the same is hereby amended to read as follows:

SECTION 10. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and shall apply to all cases for which initial complaints are filed on or after January 1, 2003. ~~This act shall be null, void and of no force and effect on and after June 30, 2006, provided, however that the provisions of the act shall continue to apply to all applicable cases in which initial complaints are filed on or before June 30, 2006.~~

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2003, and shall apply to all cases for which initial complaints are filed on or after January 1, 2003.

Approved March 31, 2010.

CHAPTER 185
(H.B. No. 652)

AN ACT

RELATING TO CONSOLIDATION OF ELECTIONS; AMENDING SECTION 31-1410, IDAHO CODE, AS AMENDED BY SECTION 18, CHAPTER 341, LAWS OF 2009, TO REVISE PROVISIONS FOR ELECTION OF FIRE PROTECTION DISTRICT COMMISSIONERS; AMENDING SECTION 33-503A, IDAHO CODE, AS ADDED BY SECTION 41, CHAPTER 341, LAWS OF 2009, TO REVISE PROVISIONS RELATING TO TRANSITION OF SCHOOL TRUSTEE TERMS FROM THREE YEARS TO FOUR YEARS; REPEALING SECTION 50, CHAPTER 341, LAWS OF 2009, RELATING TO COMMUNITY COLLEGE DISTRICTS; AMENDING SECTION 33-2715, IDAHO CODE, AS AMENDED BY SECTION 52, CHAPTER 341, LAWS OF 2009, TO REVISE PROVISIONS FOR ELECTION OF BOARD OF TRUSTEES OF LIBRARY DISTRICTS; AMENDING SECTION 33-2718, IDAHO CODE, AS AMENDED BY SECTION 54, CHAPTER 341, LAWS OF 2009, TO REVISE PROVISIONS FOR ELECTION OF TRUSTEES FOR LIBRARY DISTRICTS; AMENDING SECTION 34-106, IDAHO CODE, AS AMENDED BY SECTION 55, CHAPTER 341, LAWS OF 2009, TO REVISE PROVISIONS RELATING TO LIMITATION UPON ELECTIONS; AMENDING SECTION 34-731, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE PRESIDENTIAL PREFERENCE VOTE; AMENDING SECTION 34-732, IDAHO CODE, TO REVISE PROVISIONS FOR SELECTION OF CANDIDATES FOR NOMINATION IN PRESIDENTIAL PRIMARY; AMENDING SECTION 34-1401, IDAHO CODE, AS AMENDED BY SECTION 59, CHAPTER 341, LAWS OF 2009, TO REVISE ELECTION ADMINISTRATION PROVISIONS; AMENDING SECTION 34-1404, IDAHO CODE, AS AMENDED BY SECTION 60, CHAPTER 341, LAWS OF 2009, TO REVISE DECLARATION OF CANDIDACY PROVISIONS; AMENDING SECTION 34-1408, IDAHO CODE, TO REVISE ABSENTEE BALLOT PROVISIONS; AMENDING SECTION 34-1410, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CANVASSING OF ELECTION RESULTS; AMENDING SECTION 40-1305, IDAHO CODE, AS AMENDED BY SECTION 75, CHAPTER 341, LAWS OF 2009, TO REVISE PROVISIONS FOR ELECTION OF HIGHWAY COMMISSIONERS; AMENDING SECTION 42-3207, IDAHO CODE, TO REVISE PROVISIONS FOR ELECTION AND ORGANIZATION OF A WATER AND SEWER DISTRICT AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 42-3211, IDAHO CODE, AS AMENDED BY SECTION 100, CHAPTER 341, LAWS OF 2009, TO REVISE PROVISIONS FOR ELECTIONS IN WATER AND SEWER DISTRICTS; AMENDING SECTION 161, CHAPTER 341, LAWS OF 2009, TO REVISE EFFECTIVE DATES; DECLARING AN EMERGENCY, PROVIDING RETROACTIVE APPLICATION AND PROVIDING EFFECTIVE DATES.AMENDING SECTION 34-1410, IDAHO CODE, AMENDING SECTION 34-1410, IDAHO CODE,

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

SECTION 1. That Section 31-1410, Idaho Code, as amended by Section 18, Chapter 341, Laws of 2009, be, and the same is hereby amended to read as follows:

31-1410. ELECTION OF COMMISSIONERS. (1) On the first Tuesday following the first Monday of November, of the next odd-numbered year, following the organization of a fire protection district, three (3) fire protection district commissioners shall be elected. Every odd-numbered year thereafter, ~~one (1) commissioner shall be elected, except for the fourth year when no election of a fire commissioner shall occur unless a fire protection district has voted to increase the size of its board in accordance with section 31-1410A, Idaho Code~~ an election shall be held for the election of fire district commissioners as described in this section. For commissioners whose offices expire in 2012 and in any even-numbered year, such commissioners shall remain in office until the next election in an odd-numbered year. The county clerk shall have power to make such regulations for the conduct of such election as are consistent with the statutory provisions of chapter 14, title 34, Idaho Code. ~~The county clerk~~ At their meeting next preceding such election, the board of fire district commissioners shall divide the district into three (3) subdistricts as nearly equal in population, area and mileage as practicable, to be known as fire protection commissioners subdistricts one, two and three. Thereafter, the ~~county clerk~~ board of fire district commissioners may revise subdistricts when ~~he~~ it deems it necessary due to significant shifts in population. Provided however, of the commissioners comprising the board, not more than one (1) commissioner shall be an elector of the same fire protection commissioners subdistrict. The revision of subdistricts shall not disqualify any elected commissioner from the completion of the term for which he or she has been duly elected. At the first election following organization of a fire protection district, the commissioner from fire protection subdistrict one shall be elected to a term of ~~one (1) year~~ two (2) years, the commissioner from subdistricts two and three shall be elected to a term of ~~two (2)~~ four (4) years~~, and the commissioner from fire protection subdistrict three shall be elected to a term of three (3) years~~; thereafter the term of office of all commissioners shall be four (4) years. Such elections and all other elections held under this law, shall be held in conformity with the general laws of the state including chapter 14, title 34, Idaho Code.

(2) ~~Upon the unanimous agreement of the existing board of commissioners, a~~ A fire protection district whose terms and elections were established by prior law ~~may elect to~~ shall convert to the election of commissioners as provided in subsection (1) of this section. ~~A fire district may adopt any conversion schedule reflecting the intent of the schedule provided in subsection (1) of this section, so long as one (1) commissioner is elected each year, except for the fourth year when no election shall be held. The conversion schedule shall not result in the extension of the term of office of any commissioner serving at the time of the conversion.~~

(3) In any election for fire protection district commissioner, if after the deadline for filing a declaration of intent as a write-in candidate, it appears that only one (1) qualified candidate has been nominated for a subdistrict to be filled, it shall not be necessary for the candidate of that subdistrict to stand for election, and the board of the fire protection district shall declare such candidate elected as commissioner, and the secretary of the district shall immediately make and deliver to such person a certificate of election.

The results of any election for fire protection district commissioner shall be certified by the county clerk of the county or counties of the district and the results reported to the district.

SECTION 2. That Section 33-503A, Idaho Code, as added by Section 41, Chapter 341, Laws of 2009, be, and the same is hereby amended to read as follows:

33-503A. TRANSITION OF SCHOOL TRUSTEE TERMS FROM THREE YEARS TO FOUR YEARS. In order to achieve an orderly transition to terms of four (4) years, and to hold trustee elections in the odd-numbered years, the following schedule shall be followed:

(1) For school districts with five (5) trustees:

(a) If two (2) trustees were elected to a regular trustee term in 2007, and one (1) trustee was elected to a regular term in 2008, then these three (3) trustees shall each serve a term that expires on July 1, 2011, and the trustees elected to a regular trustee term in 2009 shall each serve a term that expires on July 1, 2013.

(b) If two (2) trustees were elected to regular trustee terms in 2007, and two (2) trustees were elected to regular trustee terms in 2008, then those trustees elected in 2007 shall each serve a term that expires on July 1, 2011, and those elected in 2008 shall each serve a term that expires on July 1, 2013, and the trustee elected to a regular trustee term in 2009 shall serve a term that expires on July 1, 2013.

(c) If one (1) trustee was elected to a regular trustee term in 2007, the trustee shall serve a term that expires on July 1, 2011, and the trustees elected to a regular trustee term in 2008 shall each serve a term that expires on July 1, 201~~3~~1.

(2) For school districts with six (6) trustees, two (2) trustees elected to a regular term in 2007 shall each serve a term that expires on July 1, 2011, and two (2) trustees elected to a regular term in 2009 shall each serve a term that expires on July 1, 2013, and one (1) of the trustees elected to a regular term in 2008 shall serve until July 1, 2011, and one (1) of the trustees elected to a regular term in 2008 shall serve until July 1, 2013, which shall be determined by the toss of a coin.

(3) For school districts with seven (7) trustees, ~~three (3)~~ two (2) trustees elected to a regular term in 2008 or 2009 shall each serve until July 1, 2011, and any remainder of the trustees elected in 2008 or 2009 shall serve until July 1, 2013, which shall be determined by the toss of a coin; and trustees elected to a regular term in 20~~10~~07 shall serve until July 1, 2013.

(4) For elementary school districts with three (3) trustees, two (2) trustees elected to a regular term in 2007 and 2008 shall serve until July 1, 2011, and one (1) trustee elected to a regular term in 2009 shall serve until July 1, 2013.

SECTION 3. That Section 50, Chapter 341, Laws of 2009, be, and the same is hereby repealed.

SECTION 4. That Section 33-2715, Idaho Code, as amended by Section 52, Chapter 341, Laws of 2009, be, and the same is hereby amended to read as follows:

33-2715. BOARD OF TRUSTEES -- SELECTION -- NUMBER -- QUALIFICATIONS -- TERM -- OATH -- APPOINTMENT OF FIRST BOARD. (1) Each library district shall be governed by a board of trustees of five (5) members elected or appointed as provided by law, who at the time of their selection and during their terms of office shall be qualified electors of the district and if trustee zones have been established under section 33-2718, Idaho Code, shall be a resident of the trustee zone. Trustees shall be elected at each trustee election, held on the uniform election date in May. The regular term of a trustee shall be for six (6) years, or until his successor has been elected and qualified. Within ten (10) days after his appointment an appointed trustee shall qualify and assume the duties of his office. An elected trustee shall qualify and

assume the duties of his office at the annual meeting. All trustees qualify by taking the oath of office required of state officers, to be administered by one (1) of the present trustees or by a trustee retiring.

(2) Following the initial establishment of a library district, the board of county commissioners of the home county within five (5) days shall appoint the members of the first board of trustees, who shall serve until the next election of trustees held in an odd-numbered year or until their successors are elected and qualified in an odd-numbered year. The initial election of trustees shall be for terms of four (4) years for two (2) trustees and thereafter their terms shall be for six (6) years, terms of six (6) years for two (2) trustees and thereafter their terms shall be for six (6) years, and a term of two (2) years for one (1) trustee and thereafter the term shall be for six (6) years. Addition of new territory to an existing library district shall not be considered an initial establishment. The first board of trustees shall be sworn by a member of the board of county commissioners of the home county of the district.

(3) At its first meeting, and after each trustee election, the board shall organize and elect from its membership a chairman and other officers necessary to conduct the affairs of the district.

(4) Members of the board shall serve without salary but shall receive their actual and necessary expenses while engaged in business of the district.

(5) For the purpose of achieving an orderly transition to terms of six (6) years and to hold trustee elections in odd-numbered years, the following schedule shall be followed:

(a) For trustees elected in 2005, their terms shall expire in 2011 and the terms for each of those elected in 2011 shall each be six (6) years and thereafter those terms shall be for six (6) years;

(b) For trustees elected in 2006, their terms shall expire in 2011 and the terms for each of those elected in 2011 shall each be six (6) years and thereafter those terms shall be for six (6) years;

(c) For trustees elected in 2007, their terms shall expire in 2013 and the terms for each of those elected in 2013 shall each be six (6) years and thereafter those terms shall be for six (6) years;

(d) For trustees elected in 2008, their terms shall expire in 2013 and the terms for each of those elected in 2013 shall each be six (6) years and thereafter those terms shall be for six (6) years;

(e) For trustees elected in 2009, their terms shall expire in 2015 and the terms for each of those elected in 2015 shall each be six (6) years and thereafter those terms shall be for six (6) years;

(f) For trustees elected in 2010, their terms shall expire in 2015 and the terms for each of those elected in 2015 shall be six (6) years and thereafter those terms shall be for six (6) years.

SECTION 5. That Section 33-2718, Idaho Code, as amended by Section 54, Chapter 341, Laws of 2009, be, and the same is hereby amended to read as follows:

33-2718. CREATION OF TRUSTEE ZONES. (1) Each library district may be divided into five (5) trustee zones with each zone having approximately the same population. To the maximum extent possible, boundaries of trustee zones shall follow the existing boundaries of the electoral precincts of the county. They shall be revised, as necessary, to equalize population and to follow new electoral precinct boundaries following the publication of the report of each decennial census. In order for a library district to be divided into trustee zones, the board of trustees shall pass a motion declaring the district to be divided into trustee zones and providing a legal description of each trustee zone. The board of trustees shall transmit the motion along with the legal description of the trustee zones to the board or

boards of county commissioners in the county or counties where the library district is contained and to the board of library commissioners. The board or boards of county commissioners shall have forty-five (45) days from the receipt of the motion and legal description to reject, by adoption of a motion, the establishment of trustee zones proposed by formal motion of the board of trustees of the library district. If the board or boards of county commissioners do not reject the establishment of the trustee zones within the time limit specified, they shall be deemed to be in full force and effect. If a library district is contained in more than one (1) county, a motion of rejection adopted by one (1) board of county commissioners shall be sufficient to keep the trustee zone plan from going into effect. A board of county commissioners shall notify the library board of trustees in writing if a proposal is rejected.

(2) If a proposal for the establishment of trustee zones is rejected by a board of county commissioners, the boundaries of the trustee zones, if any, shall return to the dimensions they were before the rejection. Trustee zones may be redefined and changed, but not more than once every two (2) years after a new set of trustee zones are formally established and in full force and effect.

(3) At the next regular meeting of the board of trustees of the library district following the creation of trustee zones, the public library district board shall appoint from its membership or from other qualified electors resident in each trustee zone, a person from that zone to serve as a trustee until the next regularly scheduled trustee election from that zone, which election shall be held in an odd-numbered year. The initial election of trustees for the trustee zones shall be for terms of four (4) years for two (2) trustees and thereafter their terms shall be for six (6) years, terms of six (6) years for two (2) trustees and thereafter their terms shall be for six (6) years, and a term of two (2) years for one (1) trustee and thereafter the term shall be for six (6) years, with each zone being assigned an initial term length by a random drawing of the numbers one (1) through five (5).

(4) For the purpose of achieving an orderly transition to terms of six (6) years and hold trustee elections in odd-numbered years, the following schedule shall be followed:

(a) For trustees elected in 2005, their terms shall expire in 2011 and the terms for each of those elected in 2011 shall each be six (6) years and thereafter those terms shall be for six (6) years;

(b) For trustees elected in 2006, their terms shall expire in 2011 and the terms for each of those elected in 2011 shall each be six (6) years and thereafter those terms shall be for six (6) years;

(c) For trustees elected in 2007, their terms shall expire in 2013 and the terms for each of those elected in 2013 shall each be six (6) years and thereafter those terms shall be for six (6) years;

(d) For trustees elected in 2008, their terms shall expire in 2013 and the terms for each of those elected in 2013 shall each be six (6) years and thereafter those terms shall be for six (6) years;

(e) For trustees elected in 2009, their terms shall expire in 2015 and the terms for each of those elected in 2015 shall each be six (6) years and thereafter those terms shall be for six (6) years;

(f) For trustees elected in 2010, their terms shall expire in 2015 and the terms for each of those elected in 2015 shall be six (6) years and thereafter those terms shall be for six (6) years.

SECTION 6. That Section 34-106, Idaho Code, as amended by Section 55, Chapter 341, Laws of 2009, be, and the same is hereby amended to read as follows:

34-106. LIMITATION UPON ELECTIONS. On and after January 1, 2011, notwithstanding any other provisions of the law to the contrary, there shall be no more than two (2) elections conducted in any county in any calendar year, except as provided in this section, and except that elections to fill vacancies in the United States house of representatives shall be held as provided in the governor's proclamation.

(1) The dates on which elections may be conducted are:

(a) The third Tuesday in May of each year; and

(b) The Tuesday following the first Monday in November of each year.

(c) In addition to the elections specified in paragraphs (a) and (b) of this subsection (1), an emergency election may be called upon motion of the governing board of a political subdivision. An emergency exists when there is a great public calamity, such as an extraordinary fire, flood, storm, epidemic, or other disaster, or if it is necessary to do emergency work to prepare for a national or local defense, or it is necessary to do emergency work to safeguard life, health or property. Such a special election, if conducted by the county clerk, shall be conducted at the expense of the political subdivision submitting the question.

(2) Candidates for office elected in May shall take office on the date specified in the certificate of election but not more than sixty (60) days following the election.

(3) Candidates for office elected in November shall take office as provided in the constitution, or on January 1, next succeeding the November election.

(4) The governing board of each political subdivision subject to the provisions of this section, which, prior to January 1, 2011, conducted an election for members of that governing board on a date other than a date permitted in subsection (1) of this section, shall establish as the election date for that political subdivision the date authorized in subsection (1) of this section which falls nearest the date on which elections were previously conducted, unless another date is established by law.

(5) The secretary of state is authorized to provide such assistance as necessary, and to prescribe any needed rules or interpretations for the conduct of election authorized under the provisions of this section.

(6) Water districts governed by chapter 6, title 42, Idaho Code, are exempt from the provisions of this section.

(7) Community colleges governed by chapter 21, title 33, Idaho Code, and school districts are subject to the limitations specified in subsection (1) of this section, except that school districts may also hold an election on the second Tuesday in March of each year and on the last Tuesday in August of each year on bonded indebtedness and property tax levy questions.

(8) Initiative, referendum, recall, bond, levy and any other ballot question elections conducted by any political subdivision~~, except school districts,~~ shall be held on the nearest date authorized in subsections (1) and (7) of this section which falls more than forty-five (45) days after the clerk of the political subdivision orders that such election shall be held, unless otherwise provided by law.

(9) Recall elections may be held on a different date as authorized in subsections (1) and (7), and on the second Tuesday of March and the last Tuesday of August, as determined by the county clerk after receipt of necessary petitions.

(10) Irrigation districts governed by title 43, Idaho Code, are subject to the limitations specified in subsection (1) of this section, except that irrigation districts may also hold an election on the first Tuesday in February of each year and on the first Tuesday in August of each year on questions required to be voted upon by title 43, Idaho Code.

SECTION 7. That Section 34-731, Idaho Code, be, and the same is hereby amended to read as follows:

34-731. PRESIDENTIAL PREFERENCE VOTE. In years in which a president of the United States is to be nominated and elected, a presidential preference primary shall be held at which voters shall express their choice for candidates for nominations for president. The presidential preference primary shall be held in conjunction with the primary election, on the ~~fourth~~ third Tuesday in May of each presidential year.

SECTION 8. That Section 34-732, Idaho Code, be, and the same is hereby amended to read as follows:

34-732. SELECTION OF CANDIDATES FOR NOMINATION IN PRESIDENTIAL PRIMARY. Each qualified elector shall have the opportunity to vote on the official presidential preference primary ballot for one (1) person to be the candidate for nomination by a party for president of the United States. The name of any candidate for a political party nomination for president of the United States shall be printed on the ballots only:

(1) If the secretary of state shall have determined, in his sole discretion, that the person's candidacy is generally advocated or recognized in national news media throughout the United States. For the purpose of promoting the aspect of a regional primary in this regard, the secretary of state may consult with the chief election officers of neighboring states which conduct a presidential primary election on the ~~fourth~~ third Tuesday in May. The secretary of state shall publish the names of such persons determined by him to be such candidates, together with their party affiliation, not less than sixty (60) days prior to the date of the presidential preference primary; or

(2) Any candidate who was not placed upon the ballot by the secretary of state under the provisions of subsection (1) of this section shall be placed upon the ballot after filing a declaration of candidacy accompanied by a one thousand dollar ($1,000) filing fee. The declaration shall be filed with the secretary of state no later than the fiftieth day prior to the date of the presidential preference primary.

SECTION 9. That Section 34-1401, Idaho Code, as amended by Section 59, Chapter 341, Laws of 2009, be, and the same is hereby amended to read as follows:

34-1401. ELECTION ADMINISTRATION. Notwithstanding any provision to the contrary, the county clerk shall administer all elections on behalf of any political subdivision, subject to the provisions of this chapter, including all special district elections and elections of special questions submitted to the electors as provided in this chapter. Water districts governed by chapter 6, title 42, Idaho Code, recreational water and/or sewer districts as defined in section 42-3202A, Idaho Code, ground water recharge districts governed by chapter 42, title 42, Idaho Code, ground water management districts governed by chapter 51, title 42, Idaho Code, ground water districts governed by chapter 52, title 42, Idaho Code, and irrigation districts governed by title 43, Idaho Code, are exempt from the provisions of this chapter. All municipal, school district and highway district elections shall be conducted pursuant to the provisions of this chapter 14, title 34, Idaho Code. All highway district and school district elections shall be administered by the clerk of the county wherein the district lies. Elections in a joint school district or other political subdivisions that extend beyond the boundaries of a single county shall be conducted jointly by the clerks of the respective counties, and the clerk of the home county shall exercise such powers as are necessary to coordinate the election. "Home county" shall be defined as the county in which the business office for the district or political subdivision is located. For the purposes of achieving uniformity, the secretary of state shall, from time to time, provide di-

rectives and instructions to the various county clerks. Unless a specific exception is provided in this chapter, the provisions of this chapter shall govern in all questions regarding the conduct of elections on behalf of all political subdivisions. In all matters not specifically covered by this chapter, other provisions of title 34, Idaho Code, governing elections shall prevail over any special provision which conflicts therewith.

The county clerk shall conduct the elections for political subdivisions and shall perform all necessary duties of the election official of a political subdivision including, but not limited to, notice of the filing deadline, notice of the election, and preparation of the election calendar.

SECTION 10. That Section 34-1404, Idaho Code, as amended by Section 60, Chapter 341, Laws of 2009, be, and the same is hereby amended to read as follows:

34-1404. DECLARATION OF CANDIDACY. Candidates for election in any political subdivision shall be nominated by nominating petitions, each of which shall bear the name of the nominee, the office for which the nomination is made, the term for which nomination is made, bear the signature of not less than five (5) electors of the candidate's specific zone or district of the political subdivision, and be filed with the ~~election official~~ clerk of the political subdivision. The form of the nominating petition shall be as provided by the county clerk and shall be uniform for all political subdivisions. For an election to be held on the third Tuesday in May, in even-numbered years, the nomination petition shall be filed during the period specified in section 34-704, Idaho Code. The election official shall verify the qualifications of the nominees and shall, no more than seven (7) days after the close of filing, certify the nominees and any special questions placed by action of the governing board of the political subdivision. For an election to be held on the first Tuesday after the first Monday of November, in even-numbered years, the nomination shall be filed on or before September 1. The election official shall verify the qualifications of the nominees, and shall not later than seven (7) days after the close of filing, certify the nominees and any special questions placed by action of the governing board of the political subdivisions. For all other elections, the nomination shall be filed not later than 5:00 p.m. on the sixth Friday preceding the election for which the nomination is made. The election official shall verify the qualifications of the nominee, and shall not more than seven (7) days following the filing certify the nominees and any special questions, placed by action of the governing board of the political subdivisions, to be placed on the ballot of the political subdivision.

SECTION 11. That Section 34-1408, Idaho Code, be, and the same is hereby amended to read as follows:

34-1408. ABSENTEE BALLOTS. Any registered elector may vote at any election by absentee ballot as provided in chapter 10, title 34, Idaho Code. In the event of a written application to the county clerk for an absentee ballot, the application shall be deemed to be an application for all ballots to be voted in the election, and the county clerk shall ~~notify the election official of each political subdivision conducting an election at that date, and the election official shall~~ provide the ballot of the political subdivision to the elector.

SECTION 12. That Section 34-1410, Idaho Code, be, and the same is hereby amended to read as follows:

34-1410. CANVASSING OF ELECTION RESULTS ~~Each political subdivision~~ The board of county commissioners shall conduct the canvass of the election results, in the manner provided in chapter 12, title 34, Idaho Code. The county clerk shall certify the election results to the clerk of each political subdivision for which an election was held. Each political subdivision shall issue the appropriate certificates of election.

SECTION 13. That Section 40-1305, Idaho Code, as amended by Section 75, Chapter 341, Laws of 2009, be, and the same is hereby amended to read as follows:

40-1305. ELECTION OF HIGHWAY COMMISSIONERS -- TERM OF OFFICE. (1) On the third Tuesday of May of the next odd-numbered year following the appointment of the first highway district commissioners, commissioners from subdistricts one and two shall be elected for a term of two (2) years and the commissioner from subdistrict three shall be elected for a term of four (4) years. Thereafter the term of office of all commissioners shall be four (4) years.

(2) ~~Alternative election of highway commissioners -- Term of office.~~A highway district whose terms and election were established by prior law shall convert to the election of commissioners as provided in subsection (1) of this section.

~~(a) Notwithstanding subsection (1) of this section, highway district commissioners may, upon the unanimous agreement of the existing board of highway district commissioners, adopt an alternative term of office, whereby a single highway district commissioner shall be elected each year for three (3) years and in the fourth year no election shall be held.~~

~~(b) An election pursuant to paragraph (a) of this subsection shall be conducted in the following manner:~~

~~(i) The commissioner representing subdistrict one shall be elected for a term of four (4) years upon the expiration of the existing term;~~

~~(ii) The commissioner representing subdistrict two shall be elected for a term of five (5) years upon the expiration of the existing term; and~~

~~(iii) Each year thereafter, one (1) commissioner shall be elected, except for the fourth year when no election shall be held.~~

~~(c)~~ If an alternative election is held pursuant to this subsection, the highway district shall not revert to the former manner of elections and terms of office until eight (8) years after such election.

Each highway commissioner shall be elected on a districtwide basis.

SECTION 14. That Section 42-3207, Idaho Code, be, and the same is hereby amended to read as follows:

42-3207. HEARINGS ON PETITIONS -- ELECTION FOR ORGANIZATION AND DIRECTORS. On the day fixed for such hearing or at any adjournment thereof the court shall ascertain from the tax rolls of the county or counties in which the district is located or into which it extends, the total number of taxpayers within the proposed district, who pay a general tax on real property owned by him or her within the district.

If the court finds that no petition has been signed and presented in conformity with this chapter, or that the material facts are not as set forth in the petition filed, it shall dismiss said proceedings and adjudge the costs against the signers of the petition in such proportion as it shall deem just and equitable. No appeal or writ of error shall lie from an order dismissing said proceedings; but nothing herein shall be construed to prevent the filing of a subsequent petition or petitions for similar improvements or for

a similar district, and the right so to renew such proceedings is hereby expressly granted and authorized.

Any time after the filing of the petition for the organization of a district and before the day fixed for the hearing thereon, the owner or owners of any real property within the proposed district may file a petition with the court stating reasons why said property should not be included therein, why his land or any part thereof will not be benefited by the proposed district, or should not be embraced in said district and made liable to taxation therefor, and praying that said property be excluded therefrom. Such petition shall be duly verified and shall describe the property sought to be excluded. The court shall conduct a hearing on said petition and shall hear all objections to the inclusion in the district of any lands described in said petition. In case any owner of real estate included in said proposed district shall satisfy the court that his real estate, or any part thereof, has been wrongfully included therein or will not be benefited thereby then the court shall exclude such real estate as will not be benefited.

Upon said hearing, if it shall appear that a petition for the organization of a district has been signed and presented as hereinabove provided, in conformity with this chapter, and the allegations of the petition are true, the court shall, by order duly entered of record, direct that the question of the organization of the district shall be submitted to the qualified electors of the district ~~at an election to be held, subject to the provisions of section 34-106, Idaho Code, for that purpose, and such order shall appoint three (3) qualified electors of the district as judges of said election. The clerk of the court having jurisdiction shall give published notice of the time and place of an election to be held in the district in accordance with the provisions of section 34-1406, Idaho Code~~.

Such election shall be held ~~and conducted in the same manner as general elections~~ in conformity with the general election in this state, including chapter 14, title 34, Idaho Code, except that the court shall establish as many election precincts within such proposed district as are deemed necessary, and shall define the boundaries thereof, which precincts and boundaries may thereafter be changed by the ~~board of directors of such district if so organized. Such court, and thereafter the board of directors of such district, if so organized, shall appoint three (3) judges of election, one (1) of whom shall act as clerk for such election precinct~~ county commissioners if the district is organized.

At any time after the filing of the petition herein referred to and before the day fixed for hearing, nominees for the board of directors of the district may be nominated by the filing of a petition designating the name or names of the nominee or nominees, signed by at least five (5) qualified electors of the district. If upon the hearing as herein provided the court shall order an election for the creation of the district, the court shall also ascertain the names of persons nominated by the board of directors, and shall order that the names of persons whom the court finds to have been properly nominated shall be listed upon a ballot submitted to the electors at such election. In the event the court makes its order providing for such election, it shall prescribe the form of the question and ballot relating to the creation of the district, and also the form of the ballot relating to the election of the directors; provided that all matters may be contained upon one (1) ballot to be submitted to the voters.

At such election the voters shall vote for or against the organization of the district, and for five (5) qualified electors, who shall constitute the board of directors of the district, if organized, one (1) director to act until the first biennial election, two (2) until the second, and two (2) until the third biennial election.

The judges of election shall certify the returns of the election to the district court having jurisdiction. If a majority of the votes cast at said election are in favor of the organization, the district court shall declare

the district organized and give it a corporate name by which, in all proceedings, it shall thereafter be known, and designated the first board of directors elected, and thereupon the district shall be a governmental subdivision of the state of Idaho and a body corporate with all the powers of a public or quasi-municipal corporation.

If an order be entered establishing the district, such order shall be deemed final and no appeal or writ of error shall lie therefrom, and the entry of such order shall finally and conclusively establish the regular organization of the said district against all persons except the state of Idaho, in an action in the nature of a writ of quo warranto, commenced by the attorney general within thirty (30) days after said decree declaring such district organized as herein provided, and not otherwise. The organization of said district shall not be directly or collaterally questioned in any suit, action or proceeding except as herein expressly authorized.

SECTION 15. That Section 42-3211, Idaho Code, as amended by Section 100, Chapter 341, Laws of 2009, be, and the same is hereby amended to read as follows:

42-3211. ELECTIONS -- TERMS OF OFFICE. (1) On the third Tuesday in May, in the ~~second calendar~~ first odd-numbered year after the organization of any district, and on the third Tuesday in May every second year thereafter an election shall be held, which shall be known as the biennial election of the district.

(2) In districts created under section 42-3202B, Idaho Code, biennial elections shall be held on the third Tuesday in May.

(3) At the first biennial election in any district hereafter organized, and each sixth year thereafter, there shall be elected by the qualified electors of the district, one (1) member of the board to serve for a term of six (6) years; at the second biennial election and each sixth year thereafter, there shall be elected two (2) members of the board to serve for terms of six (6) years, and at the third biennial election, and each sixth year thereafter, there shall be elected two (2) members of the board to serve for terms of six (6) years.

Not later than 5:00 p.m. on the sixth Friday preceding the election, nominations may be filed with the secretary of the board and if a nominee does not withdraw his name before the first publication of the notice of election, his name shall be placed on the ballot. The county clerk shall conduct the election and shall appoint judges to conduct it. The returns of the election shall be certified to and shall be canvassed and declared as provided in chapter 14, title 34, Idaho Code. The candidate or candidates, according to the number of directors to be elected, receiving the most votes, shall be elected. Any new member of the board shall qualify in the same manner as members of the first board qualify.

In any election for director, if after the deadline for filing a declaration of intent as a write-in candidate, it appears that the number of qualified candidates who have been nominated is equal to the number of directors to be elected, it shall not be necessary for the candidates to stand for election, and the board of directors shall declare such candidates elected as directors, and the secretary of the district shall immediately make and deliver to such persons certificates of election signed by him and bearing the seal of the district.

SECTION 16. That Section 161, Chapter 341, Laws of 2009, be, and the same is hereby amended to read as follows:

SECTION 161. Section 1 of this act shall be in full force and effect on and after July 1, 2009. Sections 41, 42 and 145 of this act shall be in full force and effect on and after January 1, 2010. Sections 2 through 40, Sec-

tions 43 through 144 and Sections 146 through 160 of this act shall be in full force and effect on and after January 1, 2011. The Secretary of State and the Idaho Association of Counties shall concurrently submit a report to the Legislature of the actual costs incurred in operating the elections for calendar years 2011 and 2012, by March 1, 2013.

SECTION 17. An emergency existing therefor, which emergency is hereby declared to exist, Section 2 of this act shall be in full force and effect on and after passage and approval, and retroactively to January 1, 2010. The remaining sections of this act shall be in full force and effect on and after January 1, 2011.

Approved March 31, 2010.

CHAPTER 186
(H.B. No. 656)

AN ACT

RELATING TO THE IDAHO HOSPITAL ASSESSMENT ACT; AMENDING SECTION 56-1401, IDAHO CODE, TO REVISE LEGISLATIVE INTENT; AMENDING SECTION 56-1402, IDAHO CODE, TO DEFINE A TERM; AMENDING SECTION 56-1403, IDAHO CODE, TO REVISE THE APPROPRIATION STATUS OF THE HOSPITAL ASSESSMENT FUND AND TO PROVIDE ADDITIONAL PURPOSES FOR THE FUND; AMENDING SECTION 56-1404, IDAHO CODE, TO REVISE HOW ASSESSMENTS ARE TO BE DETERMINED FOR ALL HOSPITALS AND FOR PRIVATE IN-STATE HOSPITALS AND TO REVISE HOW THE ASSESSMENT BASE IS DETERMINED; AMENDING SECTION 56-1406, IDAHO CODE, TO REVISE TERMINOLOGY AND TO REVISE HOW THE UPPER PAYMENT LIMIT DISTRIBUTIONS ARE TO BE DETERMINED FOR CERTAIN YEARS; REPEALING SECTIONS 56-1401, 56-1402, 56-1403, 56-1404 AND 56-1406, IDAHO CODE, RELATING TO THE IDAHO HOSPITAL ASSESSMENT ACT; AMENDING CHAPTER 14, TITLE 56, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 56-1401, 56-1402, 56-1403, 56-1404 AND 56-1406, IDAHO CODE, TO PROVIDE A SHORT TITLE AND LEGISLATIVE INTENT, TO DEFINE TERMS, TO ESTABLISH AND PROVIDE FOR THE HOSPITAL ASSESSMENT FUND, TO PROVIDE FOR HOSPITAL ASSESSMENTS AND TO PROVIDE FOR INPATIENT AND OUTPATIENT ADJUSTMENT PAYMENTS; PROVIDING LEGISLATIVE INTENT; PROVIDING A SUNSET DATE; PROVIDING AN EFFECTIVE DATE; AND REPEALING SECTION 2, CHAPTER 91, LAWS OF 2008.

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

SECTION 1. That Section 56-1401, Idaho Code, be, and the same is hereby amended to read as follows:

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 and disproportionate share hospital programs and to maximize reimbursement for allowable costs available through the state medicaid plan.

(3) It is also the intent of the legislature to assess private hospitals to maintain adequate state trustee and benefit funds.

SECTION 2. That Section 56-1402, Idaho Code, be, and the same is hereby amended to read as follows:

56-1402. DEFINITIONS. As used in this chapter:

(1) "Allowable costs" means the costs actually incurred by the hospital that are reasonable in amount and necessary and proper to the efficient delivery of services. The allowability of costs is governed by the applicable medicare principles of reimbursement for provider costs as set forth in 42 CFR 413.

(2) "Department" means the department of health and welfare.

(~~2~~3) "Disproportionate share hospital" means a hospital that serves a disproportionate share of medicaid low-income patients as compared to other hospitals as determined by department rule.

(~~3~~4) "Governmental entity" means and includes the state and its political subdivisions.

(~~4~~5) "Hospital" is as defined in section 39-1301(a), Idaho Code.

(~~5~~6) "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.

(~~6~~7) "Private hospital" means a hospital that is not owned by a governmental entity.

(~~7~~8) "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.

SECTION 3. That Section 56-1403, Idaho Code, be, and the same is hereby amended to read as follows:

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, which are deemed to be perpetually appropriated, 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;

(g) Payments to hospitals that restore allowable costs; and

(h) Provide state matching funds for department medicaid trustee and benefit expenditures to the extent that a general fund shortfall exists or as limited by the maximum assessment as set forth in section 56-1404(4), whichever is less.

SECTION 4. That Section 56-1404, Idaho Code, be, and the same is hereby amended to read as follows:

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 each state fiscal year~~s 2009, 2010 and 2011,~~ in an amount calculated by multiplying the rate, as set forth in subsections (2)(b), ~~and~~ (3)(b) and (4)(b) of this section, by the assessment base, as set forth in subsection (~~5~~6) of this section.

(2) (a) 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.

(b) The department shall calculate the upper payment limit assessment rate for each state fiscal year~~s 2009, 2010 and 2011~~ to be the percentage that, when multiplied by the assessment base as defined in subsection (~~5~~6) of this section, equals the upper payment limit gap determined in paragraph (a) of this subsection.

(3) (a) The department shall calculate the disproportionate share allotment amount to be paid to private in-state hospitals.

(b) The department shall calculate the disproportionate share assessment rate for private in-state hospitals to be the percentage that, when multiplied by the assessment base as defined in subsection (~~5~~6) of this section, equals the amount of state funding necessary to pay the private in-state hospital disproportionate share allotment determined in paragraph (a) of this subsection.

(4) (a) The department shall calculate the restoration of costs amount and the amount to maintain adequate state trustee and benefit funds.

(b) The department shall calculate the assessment rate for restoring allowable costs to private in-state hospitals and to maintain adequate state trustee and benefit funds to be the percentage that, when multiplied by the assessment base as defined in subsection (6) of this sec-

tion, equals the amount of state funding necessary to pay the allowable costs and to maintain the state trustee and benefit funds determined in paragraph (a) of this subsection.

(5) For private in-state hospitals, the assessments calculated pursuant to subsections (2), ~~and~~ (3) and (4) of this section shall not be greater than two and one-half percent (2.5%) of the assessment base as defined in subsection (~~5~~6) of this section.

(~~5~~6) The assessment base shall be the hospital's net patient revenue for the applicable period. "Net patient revenue" for state fiscal year 2010~~9~~ shall be determined using the most recent data available from each hospital's fiscal year 2004~~5~~ medicare cost report on file with the department on June 30, 2008~~9~~, without regard to any subsequent adjustments or changes to such data. Net patient revenue for each state fiscal year ~~2010~~ thereafter shall be determined in the same manner using ~~the most recent data available~~ a rolling yearly schedule for each hospital's fiscal year ~~2005~~ medicare cost report on file with the department on June 30~~, 2009~~ of each subsequent year, 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.~~

SECTION 5. That Section 56-1406, Idaho Code, be, and the same is hereby amended to read as follows:

56-1406. INPATIENT AND OUTPATIENT ~~ADJUSTMENT~~ UPPER PAYMENTS LIMIT DISTRIBUTIONS. 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~~ distribution 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~~ upper payment limit distributions. For state fiscal years 2011, 2012 and 2013, calendar years 2009, 2010 and 2011 hospital medicaid inpatient days shall be utilized respectively to determine the hospital inpatient ~~adjustment~~ upper payment limit distributions. 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 upper payment ~~adjustments~~ limit distributions are maximized, financed entirely from hospital assessment funding, and do not exceed the Idaho inpatient upper payment limit for private hospitals. ~~Payments~~ Distributions shall be made no later than thirty (30) days after the receipt of the last deposit of 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~~ distribution 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~~ upper payment limit distribution. For state fiscal year 2011, calendar year 2009 hospital medicaid outpatient reimbursement shall be utilized to determine the outpatient hospital ~~adjustment~~ upper payment limit distributions. 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~~ Distributions shall be made no later than thirty (30) days after the receipt of the last deposit of the hospital assessments required in section 56-1404, Idaho Code.

SECTION 6. That Sections 56-1401, 56-1402, 56-1403, 56-1404 and 56-1406, Idaho Code, be, and the same are hereby repealed.

SECTION 7. That Chapter 14, Title 56, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 56-1401, 56-1402, 56-1403, 56-1404 and 56-1406, Idaho Code, and to read as follows:

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 and disproportionate share hospital programs available through the state medicaid plan.

56-1402. DEFINITIONS. As used in this chapter:

(1) "Department" means the department of health and welfare.

(2) "Disproportionate share hospital" means a hospital that serves a disproportionate share of medicaid low-income patients as compared to other hospitals as determined by department rule.

(3) "Governmental entity" means and includes the state and its political subdivisions.

(4) "Hospital" is as defined in section 39-1301(a), Idaho Code.

(5) "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.

(6) "Private hospital" means a hospital that is not owned by a governmental entity.

(7) "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 subsections (2)(b) and (3)(b) of this section, by the assessment base, as set forth in subsection (5) of this section.

(2) (a) 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.

(b) The department shall calculate the upper payment limit 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

(5) of this section, equals the upper payment limit gap determined in paragraph (a) of this subsection.

(3) (a) The department shall calculate the disproportionate share allotment amount to be paid to private in-state hospitals.

(b) The department shall calculate the disproportionate share assessment rate for private in-state hospitals to be the percentage that, when multiplied by the assessment base as defined in subsection (5) of this section, equals the amount of state funding necessary to pay the private in-state hospital disproportionate share allotment determined in paragraph (a) of this subsection.

(4) For private in-state hospitals, the assessments calculated pursuant to subsections (2) and (3) of this section shall not be greater than two and one-half percent (2.5%) of the assessment base as defined in subsection (5) of this section.

(5) 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.

56-1406. 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 thirty (30) days after the receipt of the last deposit of 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 thirty (30) days after the receipt of the last deposit of the hospital assessments required in section 56-1404, Idaho Code.

SECTION 8. LEGISLATIVE INTENT. It is the intent of the Legislature that Sections 1, 2, 3, 4, 5 and 8 of this act shall be exempt from any freeze on Medicaid price increases mandated by legislative intent language contained in the appropriation for the Department of Health and Welfare for Medical Assistance Services for fiscal year 2011 or by any other Idaho law. The authority and duties granted to the department in chapter 14, title 56, Idaho Code, and the rulemaking authority granted to the department setting hospital reimbursement rates shall not be affected by any such freeze.

SECTION 9. The provisions of Section 8 of this act shall be null, void and of no force and effect on and after July 1, 2012.

SECTION 10. Sections 6 and 7 of this act shall be in full force and effect on and after July 1, 2012.

SECTION 11. That Section 2, Chapter 91, Laws of 2008, be, and the same is hereby repealed.

Approved March 31, 2010.

CHAPTER 187
(H.B. No. 657)

AN ACT

RELATING TO IMMUNIZATION ASSESSMENTS; AMENDING SECTION 41-6002, IDAHO CODE, AS ADDED BY HOUSE BILL NO. 432, SECOND REGULAR SESSION OF THE SIXTIETH IDAHO LEGISLATURE, TO REVISE A DEFINITION; DECLARING AN EMERGENCY, PROVIDING RETROACTIVE APPLICATION AND PROVIDING A SUNSET DATE.

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

SECTION 1. That Section 41-6002, Idaho Code, as added by House Bill No. 432, Second Regular Session of the Sixtieth Idaho Legislature, be, and the same is hereby amended to read as follows:

41-6002. DEFINITIONS. As used in this chapter:

(1) "Board" means the Idaho immunization assessment board created by section 41-6003, Idaho Code.

(2) "Carrier" means: any entity ~~required~~ subject to ~~be licensed or registered in the state of Idaho~~ regulation by the department that provides ~~health insurance, health benefit plans,~~ or is authorized to provide health insurance or health benefit plans, or that administers health insurance or health benefit coverage or that otherwise provides a plan of health

insurance or health benefits; or a foreign insurer who provides health insurance coverage or benefits to residents of this state as certificate holders under a group policy issued or delivered outside of this state. For purposes of this chapter, the term "carrier" includes an insurance company, a hospital or professional service corporation, a fraternal benefit society, a managed care organization, entities that provide excess or stop-loss insurance, and persons or entities ~~acting as an administrator or third party administrator of health insurance or health benefits as defined by or~~ required to be registered with the director under chapter 9, title 41, Idaho Code. For the purposes of this chapter, the term "carrier" does not include an entity that only issues policies, certificates or subscriber contracts within the state of Idaho that are limited to a specific disease, hospital confinement indemnity, accident-only, credit, dental, vision, medicare supplement, long-term care, disability income insurance, student health benefits only coverage issued as a supplement to liability insurance, worker's compensation or similar insurance, automobile medical payment insurance, or nonrenewable short-term coverage issued for a period of twelve (12) months or less.

(3) "Director" means the director of the department of insurance of the state of Idaho.

(4) "Fund" means the Idaho immunization dedicated vaccine fund created in section 41-6007, Idaho Code.

(5) "Idaho immunization program" means that program administered by the Idaho department of health and welfare to provide vaccinations against diseases to Idaho children consistent with Idaho and federal law.

(6) "Plan of operation" means the plan of operation of the fund as established by the board.

(7) "Program-eligible child" means any child, natural or adopted, who is under nineteen (19) years of age, whose custodial parent or legal guardian resides in Idaho and who is not eligible for the federal vaccines for children program.

(8) "Vaccine" means any preparations of killed microorganisms, living attenuated organisms or living fully virulent organisms that are approved by the federal food and drug administration and recommended by the federal advisory committee on immunization practices of the centers for disease control and prevention.

(9) "Vaccines for children" program is that federally funded program that provides vaccines at no cost to eligible children pursuant to section 1928 of the social security act.

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 February 1, 2010.

SECTION 3. The provisions of Chapter 60, Title 41, Idaho Code, shall be null, void and of no force and effect on and after July 1, 2013.

Approved March 31, 2010.

CHAPTER 188
(H.B. No. 659)

AN ACT

APPROPRIATING MONEYS TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND CLARIFYING THE APPROPRIATION FOR THE PORTFOLIO INVESTMENT PROGRAM.

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

SECTION 1. There is hereby appropriated to the Public Employee Retirement System 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, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. RETIREMENT ADMINISTRATION:				
FROM:				
PERSI Administrative Fund	$3,240,600	$2,470,700	$1,000	$5,712,300
II. PORTFOLIO INVESTMENT:				
FROM:				
PERSI Special Fund	$568,500	$277,200	$11,600	$857,300
GRAND TOTAL	$3,809,100	$2,747,900	$12,600	$6,569,600

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Public Employee Retirement System is authorized no more than sixty-three (63) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, 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. Notwithstanding Section 59-1311(4)(d), Idaho Code, moneys appropriated in Section 1 of this act for the Portfolio Investment Program are for administrative costs of the Portfolio Investment Program as provided in Section 59-1311(3), Idaho Code. Amounts necessary to pay all other investment expenses related to the Portfolio Investment Program are perpetually appropriated to the Public Employee Retirement System Board as provided in Section 59-1311(4)(a), (b) and (c), Idaho Code.

Approved March 31, 2010.

CHAPTER 189
(H.B. No. 660)

AN ACT

APPROPRIATING MONEYS TO THE DIVISION OF HUMAN RESOURCES FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND DIRECTING THE PAYMENT FOR STATEWIDE MANAGEMENT AND HUMAN RESOURCES TRAINING TO THE DIVISION OF PROFESSIONAL-TECHNICAL EDUCATION.

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

SECTION 1. There is hereby appropriated to the Division of Human Resources the following amount to be expended according to the designated expense classes from the listed fund for the period July 1, 2010, through June 30, 2011:

FOR:	
Personnel Costs	$971,300
Operating Expenditures	636,300
TOTAL	$1,607,600
FROM:	
Division of Human Resources Fund	$1,607,600

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Division of Human Resources is authorized no more than thirteen (13) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. Of the amount appropriated in Section 1 of this act, the Division of Human Resources shall pay from operating expenditures, through the state interagency billing process, to the Division of Professional-Technical Education for the cost of providing statewide management and human resources training. The payment amount shall be equal to the Miscellaneous Revenue Fund appropriation within the Related Services Program of the Division of Professional-Technical Education.

Approved March 31, 2010.

CHAPTER 190
(H.B. No. 661)

AN ACT

REDUCING THE APPROPRIATION TO THE STATE CONTROLLER FOR FISCAL YEAR 2010; APPROPRIATING ADDITIONAL MONEYS TO THE STATE CONTROLLER FOR FISCAL YEAR 2010; AMENDING SECTIONS 3 AND 4, CHAPTER 231, LAWS OF 2009; APPROPRIATING MONEYS TO THE STATE CONTROLLER FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; PROVIDING FOR THE RECOVERY OF STATE CONTROLLER SERVICE COSTS TO THE GENERAL FUND; REAPPROPRIATING UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS FOR THE COMPUTER SERVICES

CENTER; EXEMPTING THE STATE CONTROLLER FROM CERTAIN APPROPRIATION TRANSFER LIMITATIONS FOR FISCAL YEAR 2011; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 1, Chapter 231, Laws of 2009, is hereby reduced by the following amount for the designated programs according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
I. ADMINISTRATION:			
FROM:			
General Fund	$30,300		$30,300
II. STATEWIDE ACCOUNTING:			
FROM:			
General Fund		$218,300	$218,300
III. STATEWIDE PAYROLL:			
FROM:			
General Fund		$203,700	$203,700
GRAND TOTAL	$30,300	$422,000	$452,300

SECTION 2. In addition to the appropriation made in Section 1, Chapter 231, Laws of 2009, there is hereby appropriated to the State Controller the following amount to be expended for the Statewide Payroll program according to the designated expense class from the listed fund for the period July 1, 2009, through June 30, 2010:

FOR:	
Operating Expenditures	$50,000
FROM:	
General Fund	$50,000

SECTION 3. That Sections 3 and 4, Chapter 231, Laws of 2009, be, and the same is hereby amended to read as follows:

SECTION 3. The moneys assessed by the Division of Financial Management in accordance with Section 67-3531, Idaho Code, for State Controller services shall be placed in the Indirect Cost Recovery Fund. On June 30, ~~2009~~2010, the State Controller shall transfer the amount assessed in the statewide cost allocation plan from the Indirect Cost Recovery Fund to the state General Fund.

SECTION 4. The Legislature directs the State Controller to collect ~~all moneys appropriated for health benefits for employees that participate in the state health insurance plan and are eligible to receive benefits but decline coverage. The State Controller shall accomplish this through the current payroll process~~ the employer share of health insurance premiums from agencies and other entities of state government participating in the state health insurance plan for each employee eligible to participate in the plan as defined by the Department of Administration, regardless of employee participation.

SECTION 4. There is hereby appropriated to the State Controller 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, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. ADMINISTRATION:				
FROM:				
General Fund	$382,100	$59,400		$441,500
II. STATEWIDE ACCOUNTING:				
FROM:				
General Fund	$1,501,100	$1,344,400		$2,845,500
Miscellaneous Revenue Fund		20,000		20,000
TOTAL	$1,501,100	$1,364,400		$2,865,500
III. STATEWIDE PAYROLL:				
FROM:				
General Fund	$1,252,100	$1,461,500		$2,713,600
Miscellaneous Revenue Fund		20,000		20,000
TOTAL	$1,252,100	$1,481,500		$2,733,600
IV. COMPUTER CENTER:				
FROM:				
Data Processing Services Fund	$3,959,000	$3,998,800	$19,100	$7,976,900
GRAND TOTAL	$7,094,300	$6,904,100	$19,100	$14,017,500

SECTION 5. In accordance with Section 67-3519, Idaho Code, the State Controller is authorized no more than ninety-six (96) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, for the programs specified in Section 4 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 6. The moneys assessed by the Division of Financial Management in accordance with Section 67-3531, Idaho Code, for State Controller services shall be placed in the Indirect Cost Recovery Fund. On June 30, 2011, the State Controller shall transfer the amount assessed in the statewide cost allocation plan from the Indirect Cost Recovery Fund to the state General Fund.

SECTION 7. There is hereby reappropriated to the State Controller, the unexpended and unencumbered cash balance of the appropriation made to the State Controller for fiscal year 2010 for the Computer Services Center, to be used for nonrecurring expenditures only for the period July 1, 2010, through June 30, 2011.

SECTION 8. EXEMPTIONS FROM CERTAIN APPROPRIATION TRANSFER LIMITATIONS. To provide maximum flexibility in dealing with reduced appropriations for fiscal year 2011, the State Controller is hereby exempted from the provisions of Section 67-3511, Idaho Code, for all moneys appropriated to it for the period July 1, 2010, through June 30, 2011. Legislative appropriations shall not be transferred from one fund to another fund, however, unless expressly approved by the Legislature.

SECTION 9. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1, 2 and 3 of this act shall be in full force and effect on and after passage and approval, and retroactively to July 1, 2009.

Approved March 31, 2010.

CHAPTER 191
(H.B. No. 662)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-1303, IDAHO CODE, TO DEFINE A TERM; AMENDING SECTION 33-1304, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-3402, IDAHO CODE, TO REVISE A DEFINITION; AMENDING SECTION 33-3407, IDAHO CODE, TO PROVIDE THAT THE IDAHO BUREAU OF EDUCATIONAL SERVICES FOR THE DEAF AND THE BLIND SHALL BE A GOVERNMENTAL ENTITY, TO PROVIDE THAT THE BUREAU, ITS EMPLOYEES AND ITS BOARD OF DIRECTORS ARE SUBJECT TO CERTAIN PROVISIONS, AND TO PROVIDE THAT THE IDAHO BUREAU OF EDUCATIONAL SERVICES FOR THE DEAF AND THE BLIND SHALL BE CONSIDERED A STATE DEPARTMENT FOR CERTAIN PURPOSES; AMENDING SECTION 33-3408, IDAHO CODE, TO PROVIDE THAT THE IDAHO BUREAU OF EDUCATIONAL SERVICES FOR THE DEAF AND THE BLIND SHALL SUBMIT ITS ANNUAL APPROPRIATION REQUEST IN THE BUDGET REQUEST OF THE EDUCATIONAL SUPPORT PROGRAM; AND AMENDING SECTION 33-3411, IDAHO CODE, TO PROVIDE THAT THE STATE BOARD OF EDUCATION MAY REQUEST MONEYS FROM THE PERMANENT BUILDING FUND FOR THE CONSTRUCTION AND MAINTENANCE OF BUILDINGS ON CERTAIN LAND USED BY THE IDAHO BUREAU OF EDUCATIONAL SERVICES FOR THE DEAF AND THE BLIND.

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

SECTION 1. That Section 33-1303, Idaho Code, be, and the same is hereby amended to read as follows:

33-1303. DEFINITIONS. The following words and phrases used in this chapter are defined as follows:

(1) "Board" means the state board of education.

(2) "Bureau" means the Idaho bureau of educational services for the deaf and the blind.

(3) "Deaf" means a person who is not able to process information aurally and whose primary means of communication is visual.

(~~3~~4) "Deaf-blind" means a person who is deaf or hard of hearing and who also has significant visual impairment or is legally blind.

(~~4~~5) "Educational interpreter" means a person employed in the Idaho public schools, kindergarten through grade twelve (12), to provide interpreting services to students who are deaf, hard of hearing or deaf-blind.

(~~5~~6) "Educational interpreter performance assessment" means a statistically valid and reliable assessment tool administered by the boys town national research hospital or its successor organization.

(~~6~~7) "Hard of hearing" means a person who has a hearing deficit, who is able to process information aurally with or without the use of a hearing aid or other device that enhances the ability of the person to hear, and whose primary means of communication may be visual.

(~~7~~8) "Interpreter education program" means a postsecondary degree program of at least two (2) years in duration that is accredited by the state board of education or an equivalent program accredited by another state, district or territory or by a professional accreditation body.

(~~8~~9) "Interpreting" means the process of providing accessible communication between and among persons who are deaf, hard of hearing or deaf-blind, and those who are hearing. The process includes, but is not limited to, communication between American sign language or other form of manual communication and English. The process may also involve various other modalities that involve visual, gestural and tactile methods.

SECTION 2. That Section 33-1304, Idaho Code, be, and the same is hereby amended to read as follows:

33-1304. QUALIFICATION OF EDUCATIONAL INTERPRETERS. (1) Except as provided in this section, no person shall act as an educational interpreter in an Idaho public school unless the person has been qualified to do so. The person shall be qualified if the person:

(a) Has achieved a score of 3.5 or higher on the educational interpreter performance assessment or has achieved a comparable score on an equivalent test as determined by the ~~board~~ bureau; or

(b) Is currently certified by:

(i) The registry of interpreters for the deaf;

(ii) The national association of the deaf at a level of III or higher;

(iii) The registry of interpreters for the deaf, oral transliteration for oral transliterators; or

(iv) The testing, evaluation, and certification unit for cued language transliterators.

(2) An educational interpreter currently employed in an Idaho public school may continue in the practice of educational interpreting without meeting the requirements of subsection (1) of this section, provided that such requirements are met on or before June 30, 2009.

(3) Effective July 1, 2009, newly-hired educational interpreters, who have not worked in an Idaho public school as an educational interpreter in kindergarten through grade twelve (12) prior to the enactment of this chapter, may apply in writing to the ~~board~~ bureau for emergency authorization to work as an educational interpreter for two (2) years before being required to meet the requirements of subsection (1) of this section. An educational interpreter who has received an emergency authorization under this subsection (3) may apply in writing to the ~~board~~ bureau for a one-time, one (1) year extension of the emergency authorization. The ~~board~~ bureau may grant such a one (1) year extension of the emergency authorization for good cause shown.

(4) A graduate of an interpreter education program may serve as an educational interpreter in Idaho public schools, kindergarten through grade twelve (12) before meeting the requirements of subsection (1) of this section for one (1) year following such graduation.

(5) Educational interpreters employed by an Idaho public school in kindergarten through grade twelve (12) must complete a minimum of eighty (80) hours of training in the areas of interpreting or transliterating every five (5) years. This training must be documented and may include home study coursework, seminars, workshops and mentoring programs.

(6) The board is authorized to promulgate rules necessary to implement this chapter.

SECTION 3. That Section 33-3402, Idaho Code, be, and the same is hereby amended to read as follows:

33-3402. DEFINITIONS. As used in this chapter:

(1) "Blind or visually impaired" means impacted by an impairment in vision that, even with correction, adversely affects a child's educational performance. The term includes both partial sight and blindness.

(2) "Board of directors" also referred to in this chapter as "the board" means the board of directors of the Idaho bureau of educational services for the deaf and the blind as such board is established in section 33-3404, Idaho Code.

(3) "Bureau" means the Idaho bureau of educational services for the deaf and the blind as created in section 33-3403, Idaho Code.

(4) "Deaf or hard of hearing" means impacted by an impairment in hearing, whether permanent or fluctuating, that adversely affects a child's educational performance, or impacted by a hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification that adversely affects a child's educational performance.

(5) "Idaho school for the deaf and the blind" means the campus program used to provide residential and day campus instruction and services to deaf or hard of hearing and/or blind or visually impaired students.

(6) "Outreach services" means off-campus statewide supplemental services provided by the Idaho bureau of educational services for the deaf and the blind to school districts, students and families.

(7) "Sensory impairment" means an impairment of vision or hearing, or both.

(8) "Specialized/certified personnel" means all personnel nationally certified and/or certified by the state of Idaho as required by applicable law to provide services and instruction to students who are deaf or hard of hearing and/or blind or visually impaired, including, but not limited to, certified teachers of the deaf, certified teachers of the visually impaired, certified interpreters, certified orientation and mobility specialists, speech language pathologists, and certified low vision therapists.

(9) "State board" means the Idaho state board of education.

(10) "Student" means an individual who is deaf or hard of hearing and/or blind or visually impaired and who qualifies for educational services as provided for in this chapter pursuant to eligibility criteria set forth in the Idaho standards for infants, toddlers, children, and youth who are deaf or hard of hearing as incorporated by reference in IDAPA 08.02.03.004.08 ~~and~~ or are blind or visually impaired as incorporated by reference in IDAPA 08.02.03.004.09, in effect on January 1, 2009.

(11) "Supplemental services" means services provided to deaf or hard of hearing and/or blind or visually impaired students and their families, in addition to and in support of services the student may receive from his or her school district. Such services may include assessment, consultation and direct instruction.

SECTION 4. That Section 33-3407, Idaho Code, be, and the same is hereby amended to read as follows:

33-3407. GOVERNMENTAL ENTITY -- LIABILITY -- INSURANCE. (1) The Idaho bureau of educational services for the deaf and the blind ~~shall be a governmental entity~~, as provided ~~in section 33-5502, Idaho Code~~ 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 provided for in section 67-2402, Idaho Code. It is legislative intent that the Idaho bureau of educational services for the deaf and

the blind 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. For the purposes of section 59-1302(15), Idaho Code, the Idaho bureau of educational services for the deaf and the blind created pursuant to this chapter shall be deemed a governmental entity. Pursuant to the provisions of section 63-3622O, Idaho Code, sales to or purchases by the Idaho bureau of educational services for the deaf and the blind are exempt from payment of the sales and use tax. The Idaho bureau of educational services for the deaf and the blind, its employees 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 bureau of educational services for the deaf and the blind, its employees and its board of directors are subject to the following provisions:

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

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

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

(~~i~~d) Section 33-1228, Idaho Code, on severance allowance at retirement, or the laws, rules and policies of the state of Idaho for severance allowance at retirement as provided for in section 67-5342, Idaho Code, as determined by the board.

(~~2~~3) The Idaho bureau of educational services for the deaf and the blind 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~~4) The Idaho bureau of educational services for the deaf and the blind shall~~secure insurance for liability and property loss~~ be considered a state department for purposes of risk management and group insurance pursuant to chapter 57, title 67, Idaho Code, and the department of administration shall treat the bureau as such.

(~~4~~5) 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 bureau of educational services for the deaf and the blind, 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 bureau of educational services for the deaf and the blind may accept and award contracts involving the Idaho bureau of educational services for the deaf and the blind 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 bureau of educational services for the deaf and the blind for deposit in any bank or trust company, or the lending of moneys by any bank or trust company to the Idaho bureau of educational services for the deaf and the blind, shall not be deemed to be a contract pertaining to the maintenance or conduct of the Idaho bureau of educational services for the deaf and the blind within the meaning of this section; nor shall the payment of compensation by the Idaho bureau of educational services for the deaf and the blind board of directors to any bank or trust company for services rendered in the transaction of any banking business with the Idaho bureau of educational services for the deaf and the blind 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 bureau of educational services for the deaf and the blind to enter into or execute any contract with the spouse of any member of such board, the terms of which said contract require, or shall require, the payment or delivery of any Idaho bureau of educational services for the deaf and the blind funds, moneys or property to such spouse, except as provided in section 18-1361 or 18-1361A, Idaho Code.

(~~5~~6) 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 bureau of educational services for the deaf and the blind, 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 Section 33-3408, Idaho Code, be, and the same is hereby amended to read as follows:

33-3408. EXPENDITURES -- BUDGET -- FUNDING. (1) There is hereby created in the state treasury the Idaho bureau of educational services for the deaf and the blind trust fund, which is hereby continuously appropriated to the Idaho bureau of educational services for the deaf and the blind. 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 shall be held at the time and place determined by the Idaho bureau of educational services for the deaf and the blind board, a budget meeting and public hearing upon the proposed budget of the Idaho bureau of educational services for the deaf and the blind. 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 bureau of educational services for the deaf and the blind 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 bureau of educational services for the deaf and the blind shall be agreed upon and approved by the majority of the Idaho bureau of educational services for the deaf and the blind board of directors.

(3) The Idaho bureau of educational services for the deaf and the blind shall submit its annual appropriation request to the state superintendent of public instruction, by no later than the first day of August, for the superintendent's review, approval, and inclusion in the budget request of the educational support program~~/division of children's programs~~. The state superintendent of public instruction shall disburse any funds appropriated to

the Idaho bureau of educational services for the deaf and the blind trust fund. The Idaho bureau of educational services for the deaf and the blind board of directors shall use such moneys to provide supplemental services to deaf or hard of hearing and blind or visually impaired students in the state of Idaho.

SECTION 6. That Section 33-3411, Idaho Code, be, and the same is hereby amended to read as follows:

33-3411. ACQUISITION OF AND TITLE TO PROPERTY. (1) All rights and title to property, real and personal, belonging to the state of Idaho and vested in the Idaho state board of education for use as a school for the deaf and the blind shall remain with the Idaho state board of education.

(2) The Idaho state board of education may request moneys from the permanent building fund for the construction and maintenance of buildings on land owned by the state of Idaho and used by the Idaho bureau of educational services for the deaf and the blind.

Approved March 31, 2010.

CHAPTER 192
(H.B. No. 664)

AN ACT

RELATING TO THE STATE TREASURER; AMENDING SECTION 67-1212, IDAHO CODE, TO REVISE PROCEDURES REGARDING UNPAID WARRANTS. TO ALLOW INTER-FUND TRANSFERS UNDER CERTAIN CIRCUMSTANCES AND FOLLOWING CERTAIN REQUIREMENTS AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-1212, Idaho Code, be, and the same is hereby amended to read as follows:

67-1212. UNPAID WARRANTS -- INTEREST -- RECORD. (1) All warrants drawn upon funds ~~the balance~~ in which the balance is insufficient to pay them must be ~~turned over~~ reported to the state treasurer by the state controller. All ~~of~~ such warrants shall be registered by the state treasurer as follows: he shall date and sign ~~such warrants on the back thereof underneath the words "Presented for payment and not paid for want of moneys"~~ the report and return the same to the state controller ~~for delivery to~~ who shall notify the respective payees. It is the duty of the state treasurer to keep a ~~register~~ report of all warrants not paid for want of moneys, in which ~~register~~ report such warrants shall be listed in numerical order, and when paid the treasurer shall note ~~on such register~~ the amount of interest paid and the date of payment. Any such warrants~~,~~ registered by the state treasurer~~,~~ shall from date of registration until paid bear interest at a rate to be fixed by the state treasurer.

(2) In lieu of registering warrants as provided in subsection (1) ~~above~~ of this section, the state treasurer shall have authority to:

(a) Pay such warrants out of any moneys available ~~if it appears that money sufficient to pay such warrants will, within thirty (30) days be available in the fund, or account in the case of accounts in the agency asset fund, rotary fund, or any other fund maintained on the account level, upon which such warrants are drawn~~ allowing the fund to remain negative for up to thirty (30) days; the state treasurer shall charge the fund or account for which such moneys are advanced ~~a service fee and~~ an amount of interest substantially equal to what could have been earned

had the advanced moneys been invested, and the amount of the ~~service fee and~~ interest shall constitute an appropriation from the fund or account for which the advancement was made~~; or~~. If moneys are not sufficient in the fund after thirty (30) days, unless otherwise excepted by law, the state treasurer shall make inter-fund transfers subject to the following requirements:

(i) All transfers shall be identified by: available funds from which moneys are borrowed, the fund to which the moneys are transferred, amount of transfer, the anticipated interest rate consistent with the available funds' current rate of return, if applicable, the anticipated repayment date and the reason for the transfer;

(ii) Interest, if applicable, shall be paid on any transfer, where required by law, under this provision;

(iii) The treasurer shall maintain an annual report of all such inter-fund transfers.

(b) Issue tax anticipation notes as provided by chapter 32, title 63, or section 57-1112, 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 31, 2010.

CHAPTER 193
(H.B. No. 668)

AN ACT

REDUCING THE APPROPRIATION TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS TO THE ENVIRONMENTAL REMEDIATION FUND; EXPRESSING LEGISLATIVE INTENT REGARDING THE ENVIRONMENTAL REMEDIATION FUND AND REQUIRING AN ANNUAL REPORT; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO USE OF THE WATER POLLUTION CONTROL FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 1, Chapter 234, Laws of 2009, to the Department of Environmental Quality is hereby reduced by the following amount for the designated programs according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TRUSTEE AND BENEFIT PAYMENTS FOR	TOTAL
I. ADMINISTRATION AND SUPPORT SERVICES:				
FROM:				
General Fund	$196,400			$196,400

II. AIR QUALITY:				
FROM:				
General Fund	$85,700	$12,000		$97,700
III. WATER QUALITY:				
FROM:				
General Fund	$285,500	$140,000	$550,000	$975,500
IV. COEUR D'ALENE BASIN COMMISSION:				
FROM:				
General Fund	$1,500			$1,500
V. WASTE MANAGEMENT AND REMEDIATION:				
FROM:				
General Fund	$114,000	$10,000		$124,000
VI. IDAHO NATIONAL LABORATORY OVERSIGHT:				
FROM:				
General Fund	$1,500			$1,500
GRAND TOTAL	$684,600	$162,000	$550,000	$1,396,600

SECTION 2. There is hereby appropriated to the Department of Environmental Quality 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, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION AND SUPPORT SERVICES:					
FROM:					
General Fund	$1,380,000	$1,411,100			$2,791,100
Air Quality Permitting Fund	190,800	186,700	$5,200		382,700
Public Water System Supervision Fund	314,700	50,000	4,600		369,300
Water Pollution Control Fund	63,900	18,000	1,400		83,300
Department of Environmental Quality (Receipts) Fund	223,400	97,500	2,600		323,500
American Reinvestment Fund	24,000	105,700			129,700
Department of Environmental Quality (Federal) Fund	1,860,800	1,650,300	40,800		3,551,900
TOTAL	$4,057,600	$3,519,300	$54,600		$7,631,500
II. AIR QUALITY:					
FROM:					
General Fund	$2,468,400	$247,600			$2,716,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Air Quality Permitting					
Fund	1,041,900	142,700		$40,000	1,224,600
Department of Environmental Quality (Receipts)					
Fund	255,300	243,000			498,300
American Reinvestment					
Fund	40,000	200,000			240,000
Department of Environmental Quality (Federal)					
Fund	1,158,900	674,200	$25,000	41,400	1,899,500
TOTAL	$4,964,500	$1,507,500	$25,000	$81,400	$6,578,400
III. WATER QUALITY:					
FROM:					
General					
Fund	$4,485,000	$1,153,200		$544,800	$6,183,000
Public Water System Supervision					
Fund	904,400	163,200		336,500	1,404,100
Water Pollution Control					
Fund	366,100	115,500		158,200	639,800
Department of Environmental Quality (Receipts)					
Fund	419,600	158,000		51,600	629,200
Department of Environmental Quality (Federal)					
Fund	3,645,500	1,599,500		2,683,200	7,928,200
TOTAL	$9,820,600	$3,189,400		$3,774,300	$16,784,300
IV. COEUR D'ALENE BASIN COMMISSION:					
FROM:					
General					
Fund	$92,700	$10,200			$102,900
Environmental Remediation (Basin)					
Fund	61,700	15,500			77,200
Department of Environmental Quality (Federal)					
Fund	14,200	253,400		$50,000	317,600
TOTAL	$168,600	$279,100		$50,000	$497,700
V. WASTE MANAGEMENT AND REMEDIATION:					
FROM:					
General					
Fund	$2,166,800	$102,700		$134,600	$2,404,100
Environmental Remediation (Box)					
Fund	24,900	76,500		150,500	251,900
Environmental Remediation (Basin)					
Fund	108,600	841,600			950,200
Department of Environmental Quality (Receipts)					
Fund	526,400	1,092,100		51,800	1,670,300
American Reinvestment					
Fund	328,900	10,655,800			10,984,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Bunker Hill Trust Fund		50,000		250,000	300,000
Department of Environmental Quality (Federal) Fund	3,038,500	16,753,400		15,500	19,807,400
TOTAL	$6,194,100	$29,572,100		$602,400	$36,368,600
VI. IDAHO NATIONAL LABORATORY OVERSIGHT:					
FROM:					
General Fund	$72,300	$8,700			$81,000
Department of Environmental Quality (Federal) Fund	820,000	318,800	$20,000	$596,900	1,755,700
TOTAL	$892,300	$327,500	$20,000	$596,900	$1,836,700
GRAND TOTAL	$26,097,700	$38,394,900	$99,600	$5,105,000	$69,697,200

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Department of Environmental Quality is authorized no more than three hundred seventy-six and five-hundredths (376.05) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, for the program specified in Section 2 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. Notwithstanding the provisions of Section 39-3630, Idaho Code, the State Controller is hereby directed to transfer $1,500,000 from the Water Pollution Control Fund to the Environmental Remediation (Basin) Fund for the period July 1, 2010, through June 30, 2011.

SECTION 5. LEGISLATIVE INTENT. It is the intent of the Legislature that moneys deposited into the Environmental Remediation (Basin) Fund are to be used for remediation of the Coeur d'Alene Basin in accordance with the Superfund contract with the Environmental Protection Agency. The Department of Environmental Quality shall file an annual report each year with the Governor, the Legislature, and the Coeur d'Alene Basin Environmental Improvement Project Commission on the remediation progress and the expenditures involved.

SECTION 6. LEGISLATIVE INTENT. It is the intent of the Legislature that the appropriation of moneys from the Water Pollution Control Fund in this act specifically supersedes the provisions of Section 39-3630, Idaho Code.

SECTION 7. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved March 31, 2010.

CHAPTER 194
(H.B. No. 669)

AN ACT

REDUCING THE APPROPRIATION TO THE DEPARTMENT OF LANDS FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE DEPARTMENT OF LANDS FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; EXEMPTING THE FOREST AND FIRE PROTECTION PROGRAM FROM THE OBJECT TRANSFER LIMITATION; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 1, Chapter 235, Laws of 2009, to the Department of Lands, is hereby reduced by the following amount for the designated programs according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

	FOR PERSONNEL COSTS	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. SUPPORT SERVICES:			
FROM:			
General Fund	$74,600		$74,600
II. FOREST RESOURCES MANAGEMENT:			
FROM:			
General Fund	$139,000		$139,000
III. LAND, RANGE, AND MINERAL RESOURCE MANAGEMENT:			
FROM:			
General Fund	$65,800		$65,800
IV. FOREST AND RANGE FIRE PROTECTION:			
FROM:			
General Fund	$52,600	$70,300	$122,900
GRAND TOTAL	$332,000	$70,300	$402,300

SECTION 2. There is hereby appropriated to the Department of Lands the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. SUPPORT SERVICES:					
FROM:					
General Fund	$361,000	$256,500			$617,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Department of Lands					
Fund	467,200	335,000	$68,500		870,700
Indirect Cost Recovery					
Fund	57,700	128,500			186,200
Endowment Administrative					
Fund	2,155,100	2,718,000	274,200		5,147,300
TOTAL	$3,041,000	$3,438,000	$342,700		$6,821,700
II. FOREST RESOURCES MANAGEMENT:					
FROM:					
General Fund	$698,400	$67,000			$765,400
Department of Lands					
Fund	585,600	341,300			926,900
Indirect Cost Recovery					
Fund	82,800	320,000			402,800
Endowment Administrative					
Fund	9,064,600	5,980,900	$252,900	$651,500	15,949,900
Community Forestry					
Fund		20,000		20,000	40,000
Federal Grant					
Fund	579,800	962,700	_____	1,306,300	2,848,800
TOTAL	$11,011,200	$7,691,900	$252,900	$1,977,800	$20,933,800
III. LAND, RANGE, AND MINERAL RESOURCE MANAGEMENT:					
FROM:					
General Fund	$758,500	$69,100			$827,600
Department of Lands					
Fund	149,800	1,144,600			1,294,400
Endowment Administrative					
Fund	1,648,700	1,682,200	$1,243,200	$20,600	4,594,700
TOTAL	$2,557,000	$2,895,900	$1,243,200	$20,600	$6,716,700
IV. FOREST AND RANGE FIRE PROTECTION:					
FROM:					
General Fund	$941,300	$271,200		$683,400	$1,895,900
Department of Lands					
Fund	2,265,700	996,100	$244,100	858,300	4,364,200
Fire Suppression Deficiency					
Fund	129,500	22,100			151,600
Federal Grant					
Fund	772,800	738,500	_____	2,059,100	3,570,400
TOTAL	$4,109,300	$2,027,900	$244,100	$3,600,800	$9,982,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
V. SCALING PRACTICES:					
FROM:					
Department of Lands					
Fund	$174,700	$47,300	$1,200		$223,200
GRAND TOTAL	$20,893,200	$16,101,000	$2,084,100	$5,599,200	$44,677,500

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Department of Lands is authorized no more than two hundred sixty-one and twenty-nine hundredths (261.29) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, for the programs specified in Section 2 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. The Department of Lands is hereby exempted from the object transfer provisions of Section 67-3511(1) and (3), Idaho Code, for all moneys appropriated for the Forest and Range Fire Protection Program for the period July 1, 2010, through June 30, 2011.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved March 31, 2010.

CHAPTER 195
(H.B. No. 670)

AN ACT

REDUCING THE APPROPRIATION TO THE SOIL CONSERVATION COMMISSION FOR FISCAL YEAR 2010; APPROPRIATING ADDITIONAL MONEYS TO THE SOIL CONSERVATION COMMISSION FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE SOIL CONSERVATION COMMISSION FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; EXEMPTING THE SOIL CONSERVATION COMMISSION FROM CERTAIN APPROPRIATION TRANSFER LIMITATIONS FOR FISCAL YEAR 2011; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 1, Chapter 307, Laws of 2009, is hereby reduced by the following amount for the Soil Conservation Commission, according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

FOR:	
Personnel Costs	$160,100
Operating Expenditures	70,800
Trustee and Benefit Payments	45,200
TOTAL	$276,100

FROM:

General Fund $276,100

SECTION 2. In addition to the appropriation made in Section 1, Chapter 307, Laws of 2009, there is hereby appropriated to the Soil Conservation Commission the following amount to be expended according to the designated expense class from the listed fund for the period July 1, 2009, through June 30, 2010:

FOR:

Personnel Costs $85,000

FROM:

Resource Conservation and Rangeland Development Fund $85,000

SECTION 3. There is hereby appropriated to the Soil Conservation Commission in the Department of Agriculture the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General Fund	$954,000	$273,200	$1,115,000	$2,342,200
Resource Conservation and Rangeland Development Fund	83,600	101,600		185,200
Clean Water Revolving Loan (SCC) Fund		30,000		30,000
TOTAL	$1,037,600	$404,800	$1,115,000	$2,557,400

SECTION 4. In accordance with Section 67-3519, Idaho Code, the Soil Conservation Commission is authorized no more than seventeen (17) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 5. To provide maximum flexibility with reduced appropriations for Fiscal Year 2011, the Soil Conservation Commission is hereby exempted from the provisions of Section 67-3511, Idaho Code, for all moneys appropriated to it for the period July 1, 2010, through June 30, 2011. Legislative appropriations shall not be transferred from one fund to another fund, however, unless expressly approved by the Legislature.

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1 and 2 of this act shall be in full force and effect on and after passage and approval.

Approved March 31, 2010.

CHAPTER 196
(H.B. No. 671)

AN ACT

REDUCING THE APPROPRIATION TO THE DEPARTMENT OF COMMERCE FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE DEPARTMENT OF COMMERCE FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made to the Department of Commerce in Section 1, Chapter 306, Laws of 2009, is hereby reduced by the following amount, according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

FOR:	
Personnel Costs	$81,900
Operating Expenditures	240,000
TOTAL	$321,900
FROM:	
General Fund	$321,900

SECTION 2. There is hereby appropriated to the Department of Commerce the following amounts from the listed funds to be expended according to the designated expense classes for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Fund	$2,130,900	$962,800		$1,050,000	$4,143,700
Tourism and Promotion Fund	638,300	3,915,600	$1,600	3,764,900	8,320,400
Miscellaneous Revenue Fund	121,700	157,500			279,200
Seminars and Publications Fund		378,400			378,400
Federal Grant Fund	473,400	255,200	1,600	15,620,800	16,351,000
TOTAL	$3,364,300	$5,669,500	$3,200	$20,435,700	$29,472,700

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Department of Commerce is authorized no more than fifty-three (53) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, for the program specified in Section 2 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved March 31, 2010.

CHAPTER 197
(H.B. No. 673)

AN ACT

RELATING TO CONSOLIDATION OF ELECTIONS; AMENDING SECTION 40-1305, IDAHO CODE, AS AMENDED BY SECTION 13, HOUSE BILL NO. 652, AS ENACTED BY THE SECOND REGULAR SESSION, SIXTIETH IDAHO LEGISLATURE, TO DELETE REFERENCE TO ALTERNATIVE ELECTIONS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 40-1305, Idaho Code, as amended by Section 13 of House Bill No. 652, as enacted by the Second Regular Session of the Sixtieth Idaho Legislature, be, and the same is hereby amended to read as follows:

40-1305. ELECTION OF HIGHWAY COMMISSIONERS -- TERM OF OFFICE. (1) On the third Tuesday of May of the next odd-numbered year following the appointment of the first highway district commissioners, commissioners from subdistricts one and two shall be elected for a term of two (2) years and the commissioner from subdistrict three shall be elected for a term of four (4) years. Thereafter the term of office of all commissioners shall be four (4) years.

(2) A highway district whose terms and election were established by prior law shall convert to the election of commissioners as provided in subsection (1) of this section.

~~If an alternative election is held pursuant to this subsection, the highway district shall not revert to the former manner of elections and terms of office until eight (8) years after such election.~~

Each highway commissioner shall be elected on a districtwide basis.

SECTION 2. This act shall be in full force and effect on and after January 1, 2011.

Approved March 31, 2010.

CHAPTER 198
(H.B. No. 674)

AN ACT

RELATING TO ADMINISTRATIVE RULES; CONTINUING CERTAIN RULES IN FULL FORCE AND EFFECT UNTIL JULY 1, 2011; CONTINUING RULES APPROVED OR EXTENDED BY ADOPTION OF A CONCURRENT RESOLUTION OF THE SECOND REGULAR SESSION OF THE SIXTIETH IDAHO LEGISLATURE IN FULL FORCE AND EFFECT UNTIL JULY 1, 2011, OR UNTIL SUCH TIME AS THEY SHALL EXPIRE; PROVIDING THAT RULES REJECTED BY CONCURRENT RESOLUTION SHALL BE NULL, VOID AND OF NO FORCE AND EFFECT; AUTHORIZING AGENCIES TO AMEND OR REPEAL CERTAIN RULES PURSUANT TO THE ADMINISTRATIVE PROCEDURE ACT AND DECLARING THE EFFECT OF THIS ACT UPON ADMINISTRATIVE RULES; AND PROVIDING SEVERABILITY.

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

SECTION 1. Except as provided in Sections 2, 3 and 4 of this act, every rule, as that term is defined in Section 67-5201, Idaho Code, that would expire on July 1, 2010, pursuant to the provisions of subsections (1) and (2) of Section 67-5292, Idaho Code, shall continue in full force and effect until July 1, 2011, at which time they shall expire as provided in Section 67-5292, Idaho Code.

SECTION 2. All rules, as that term is defined in Section 67-5201, Idaho Code, which have been affirmatively approved or extended by the adoption of a Concurrent Resolution by both the Senate and the House of Representatives in the Second Regular Session of the Sixtieth Idaho Legislature shall continue in full force and effect in such approved or extended language until July 1, 2011, at which time they shall expire as provided in Section 67-5292, Idaho Code, or until such earlier time as provided in the rule or as otherwise provided by statute, unless further extended by statute.

SECTION 3. All rules, as that term is defined in Section 67-5201, Idaho Code, which have been rejected by the adoption of a Concurrent Resolution by both the Senate and the House of Representatives in the Second Regular Session of the Sixtieth Idaho Legislature shall be null, void and of no force and effect as provided in Section 67-5291, Idaho Code.

SECTION 4. Nothing contained in this act shall be deemed to prohibit an agency, as that term is defined in Section 67-5201, Idaho Code, from amending or repealing rules which have been continued in full force and effect until July 1, 2011, pursuant to Sections 1 and 2 of this act, according to the procedures contained in Chapter 52, Title 67, Idaho Code, and subject to submission to the Legislature for approval. Nothing contained in this act shall endow any administrative rule continued in full force and effect under this act with any more legal stature than that of an administrative rule. Nothing contained in this act shall be deemed to be a legislative approval of any rule whose force and effect has been extended by this act, and nothing contained herein shall constitute a legislative finding that any of the rules whose force and effect have been extended hereunder are consistent with the legislative intent of the statute(s) pursuant to which they were promulgated.

SECTION 5. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

Approved March 31, 2010.

CHAPTER 199
(H.B. No. 677)

AN ACT

REDUCING THE APPROPRIATION TO THE STATE BOARD OF EDUCATION FOR THE SPECIAL PROGRAMS FOR FISCAL YEAR 2010; APPROPRIATING ADDITIONAL MONEYS TO THE STATE BOARD OF EDUCATION FOR THE SCHOLARSHIPS AND GRANTS PROGRAM FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION FOR THE SPECIAL PROGRAMS FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made to the Board of Regents of the University of Idaho and the State Board of Education for the Special Programs in Section 1, Chapter 255, Laws of 2009, is hereby reduced by the following amounts for the designated programs according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. FOREST UTILIZATION RESEARCH:				
FROM:				
General Fund	$31,500	$7,500		$39,000
II. GEOLOGICAL SURVEY:				
FROM:				
General Fund	$53,800			$53,800
III. SCHOLARSHIPS AND GRANTS:				
FROM:				
General Fund			$497,100	$497,100
IV. MUSEUM OF NATURAL HISTORY:				
FROM:				
General Fund	$34,800			$34,800
V. SMALL BUSINESS DEVELOPMENT CENTERS:				
FROM:				
General Fund	$19,300			$19,300
VI. IDAHO COUNCIL FOR ECONOMIC EDUCATION:				
FROM:				
General Fund		$3,500		$3,500
VII. TECHHELP:				
FROM:				
General Fund	$11,100			$11,100
GRAND TOTAL	$150,500	$11,000	$497,100	$658,600

SECTION 2. In addition to the appropriation made in Section 1, Chapter 255, Laws of 2009, there is hereby appropriated to the Board of Regents of the University of Idaho and the State Board of Education for the Scholarships and Grants Program the sum of $213,100 in trustee and benefit payments from the General Fund for the period July 1, 2009, through June 30, 2010.

SECTION 3. There is hereby appropriated to the Board of Regents of the University of Idaho and the State Board of Education for the Special Programs the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. FOREST UTILIZATION RESEARCH:				
FROM:				
General Fund	$463,100	$48,300		$511,400
II. GEOLOGICAL SURVEY:				
FROM:				
General Fund	$685,900	$15,200		$701,100
III. SCHOLARSHIPS AND GRANTS:				
FROM:				
General Fund			$6,633,300	$6,633,300
Federal Grant Fund			468,700	468,700
TOTAL			$7,102,000	$7,102,000
IV. MUSEUM OF NATURAL HISTORY:				
FROM:				
General Fund	$440,300	$13,800		$454,100
V. SMALL BUSINESS DEVELOPMENT CENTERS:				
FROM:				
General Fund	$246,300			$246,300
VI. TECHHELP:				
FROM:				
General Fund	$143,900			$143,900
GRAND TOTAL	$1,979,500	$77,300	$7,102,000	$9,158,800

SECTION 4. In accordance with Section 67-3519, Idaho Code, there is authorized no more than thirty and six-hundredths (30.06) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, for Forest Utilization Research, Idaho Geological Survey, the Idaho Museum of Natural History, Small Business Development Centers and TechHelp as specified in Section 3 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 5. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1 and 2 of this act shall be in full force and effect on and after passage and approval.

Approved March 31, 2010.

CHAPTER 200
(H.B. No. 678)

AN ACT

REDUCING THE APPROPRIATION TO THE IDAHO STATE POLICE FOR FISCAL YEAR 2010; APPROPRIATING ADDITIONAL MONEYS TO THE IDAHO STATE POLICE FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE IDAHO STATE POLICE FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; EXEMPTING THE DEPARTMENT FROM CERTAIN APPROPRIATION TRANSFER LIMITATIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 1, Chapter 337, Laws of 2009, to the Idaho State Police is hereby reduced by the following amounts for the designated programs according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
I. DIRECTOR'S OFFICE:			
FROM:			
General Fund	$82,400	$78,000	$160,400
II. EXECUTIVE PROTECTION:			
FROM:			
General Fund		$25,700	$25,700
III. INVESTIGATIONS:			
FROM:			
General Fund	$269,300	$151,700	$421,000
IV. PATROL:			
FROM:			
General Fund		$231,400	$231,400
V. LAW ENFORCEMENT PROGRAMS:			
FROM:			
General Fund	$33,400	$14,000	$47,400
VI. SUPPORT SERVICES:			
FROM:			
General Fund	$89,200	$49,600	$138,800
VII. FORENSIC SERVICES:			
FROM:			
General Fund		$200,000	$200,000
GRAND TOTAL	$474,300	$750,400	$1,224,700

SECTION 2. In addition to the appropriation made in Section 1, Chapter 337, Laws of 2009, there is hereby appropriated to the Idaho State Police for Forensic Services the sum of $150,000 for operating expenditures from the General Fund for the period July 1, 2009, through June 30, 2010.

SECTION 3. There is hereby appropriated to the Idaho State Police the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. BRAND INSPECTION:					
FROM:					
State Brand Board Fund	$2,023,900	$397,100	$85,500		$2,506,500
II. POLICE, DIVISION OF IDAHO STATE:					
A. DIRECTOR'S OFFICE:					
FROM:					
General Fund	$1,654,700	$370,200		$25,000	$2,049,900
Idaho Law Enforcement Fund	106,800				106,800
Idaho Law Enforcement (Project Choice) Fund	220,000	4,100			224,100
Peace Officers Fund	800				800
Miscellaneous Revenue Fund	33,700	56,400			90,100
Federal Grant Fund	100,400	18,100			118,500
TOTAL	$2,116,400	$448,800		$25,000	$2,590,200
B. EXECUTIVE PROTECTION:					
FROM:					
General Fund	$266,600	$67,800			$334,400
Idaho Law Enforcement (Project Choice) Fund	48,200	700			48,900
Miscellaneous Revenue Fund	74,000	12,700			86,700
TOTAL	$388,800	$81,200			$470,000
C. INVESTIGATIONS:					
FROM:					
General Fund	$4,855,400	$655,100			$5,510,500
Idaho Law Enforcement (Project Choice) Fund	650,600	11,000			661,600
Drug & DWUI Enforcement Donation Fund	200,000	399,700			599,700
Federal Grant Fund	283,700	813,100	$121,500	$153,500	1,371,800
TOTAL	$5,989,700	$1,878,900	$121,500	$153,500	$8,143,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
D. PATROL:					
FROM:					
General Fund	$233,000	$530,300			$763,300
Idaho Law Enforcement Fund	10,422,200	2,705,200	$2,642,800		15,770,200
Idaho Law Enforcement (Project Choice) Fund	7,788,500	34,700			7,823,200
Hazardous Materials/Waste Enforcement Fund	140,000	18,100		$69,100	227,200
American Reinvestment Fund	376,600	533,100	54,400	4,066,800	5,030,900
Miscellaneous Revenue Fund	18,000	2,000			20,000
Federal Grant Fund	2,350,400	1,287,300	176,100	3,805,300	7,619,100
TOTAL	$21,328,700	$5,110,700	$2,873,300	$7,941,200	$37,253,900
E. LAW ENFORCEMENT PROGRAMS:					
FROM:					
General Fund	$343,400	$268,100			$611,500
Idaho Law Enforcement (Project Choice) Fund	61,000	1,100			62,100
Miscellaneous Revenue Fund		12,500			12,500
Federal Grant Fund	46,600	30,600			77,200
TOTAL	$451,000	$312,300			$763,300
F. SUPPORT SERVICES:					
FROM:					
General Fund	$1,221,100	$581,800			$1,802,900
Idaho Law Enforcement Fund	91,200				91,200
Idaho Law Enforcement (Project Choice) Fund	228,900	6,400			235,300
Idaho Law Enforcement Telecommunications Fund	351,100	509,000			860,100
Miscellaneous Revenue Fund	909,000	1,515,500			2,424,500
Federal Grant Fund		35,800			35,800
TOTAL	$2,801,300	$2,648,500			$5,449,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
G. FORENSIC SERVICES:					
FROM:					
General Fund	$2,356,900	$234,500			$2,591,400
Idaho Law Enforcement (Project Choice) Fund	264,100	4,800			268,900
Drug & DWUI Enforcement Donation Fund		294,900	$105,100		400,000
Miscellaneous Revenue Fund	68,300	130,200			198,500
Federal Grant Fund	19,400	270,200			289,600
TOTAL	$2,708,700	$934,600	$105,100		$3,748,400
DIVISION TOTAL	$35,784,600	$11,415,000	$3,099,900	$8,119,700	$58,419,200
III. POST ACADEMY:					
FROM:					
Idaho Law Enforcement (Project Choice) Fund	$165,200	$3,900			$169,100
Peace Officers Fund	1,675,400	1,902,500	$126,800	$95,400	3,800,100
Miscellaneous Revenue Fund		209,000			209,000
Federal Grant Fund	75,000	221,200		38,600	334,800
TOTAL	$1,915,600	$2,336,600	$126,800	$134,000	$4,513,000
IV. RACING COMMISSION:					
FROM:					
Idaho State Racing Commission Fund	$389,100	$272,000			$661,100
Parimutuel Distributions Fund				$30,000	30,000
TOTAL	$389,100	$272,000		$30,000	$691,100
GRAND TOTAL	$40,113,200	$14,420,700	$3,312,200	$8,283,700	$66,129,800

SECTION 4. AUTHORIZED FULL-TIME EQUIVALENT POSITIONS. In accordance with Section 67-3519, Idaho Code, the Idaho State Police is authorized no more than five hundred thirty-three and seven-hundredths (533.07) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, for the programs specified in Section 3 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 5. EXEMPTIONS FROM CERTAIN APPROPRIATION TRANSFER LIMITATIONS. To provide maximum flexibility in dealing with reduced appropriations for Fiscal Year 2011, the Idaho State Police is hereby exempted from the provisions of Section 67-3511, Idaho Code, for all moneys appropriated to it for the period July 1, 2010, through June 30, 2011. Legislative appropriations shall not be transferred from one fund to another fund, however, unless expressly approved by the Legislature.

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1 and 2 of this act shall be in full force and effect on and after passage and approval.

Approved March 31, 2010.

CHAPTER 201
(H.B. No. 679)

AN ACT

REDUCING THE APPROPRIATION TO THE DEPARTMENT OF CORRECTION FOR FISCAL YEAR 2010; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF CORRECTION FOR FISCAL YEAR 2010; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF CORRECTION FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE DEPARTMENT OF CORRECTION FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; EXEMPTING THE DEPARTMENT FROM CERTAIN APPROPRIATION TRANSFER LIMITATIONS FOR FISCAL YEAR 2010; EXEMPTING THE DEPARTMENT FROM CERTAIN APPROPRIATION TRANSFER LIMITATIONS FOR FISCAL YEAR 2011; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 1, Chapter 338, Laws of 2009, to the Department of Correction is hereby reduced by the following amounts for the designated programs, according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. MANAGEMENT SERVICES:				
FROM:				
General Fund	$266,000	$437,400		$703,400
II. STATE PRISONS:				
A. PRISONS ADMINISTRATION:				
FROM:				
General Fund	$27,300	$27,800		$55,100
B. IDAHO STATE CORRECTIONAL INSTITUTION - BOISE:				
FROM:				
General Fund	$619,600	$858,900	$41,000	$1,519,500
C. IDAHO CORRECTIONAL INSTITUTION - OROFINO:				
FROM:				
General Fund	$184,600	$378,200		$562,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
D. NORTH IDAHO CORRECTIONAL INSTITUTION - COTTONWOOD:				
FROM:				
General Fund	$136,700	$236,600		$373,300
E. SOUTH IDAHO CORRECTIONAL INSTITUTION - BOISE:				
FROM:				
General Fund	$172,600	$335,700		$508,300
F. IDAHO MAXIMUM SECURITY INSTITUTION - BOISE:				
FROM:				
General Fund	$225,100	$469,000		$694,100
G. ST. ANTHONY WORK CAMP:				
FROM:				
General Fund	$56,000	$112,300		$168,300
H. POCATELLO WOMEN'S CORRECTIONAL CENTER:				
FROM:				
General Fund	$134,700	$239,300		$374,000
I. SOUTH BOISE WOMEN'S CORRECTIONAL CENTER:				
FROM:				
General Fund	$83,400	$153,600		$237,000
III. PRIVATE PRISONS:				
FROM:				
General Fund		$1,842,100		$1,842,100
IV. COUNTY & OUT-OF-STATE PLACEMENT:				
FROM:				
General Fund		$269,300		$269,300
V. CORRECTIONAL ALTERNATIVE PLACEMENT:				
FROM:				
General Fund		$175,900		$175,900
VI. COMMUNITY CORRECTIONS:				
A. COMMUNITY SUPERVISION:				
FROM:				
General Fund	$288,200	$635,600		$923,800
B. COMMUNITY WORK CENTERS:				
FROM:				
General Fund	$49,400	$187,300		$236,700
VII. EDUCATION & TREATMENT:				
FROM:				
General Fund	$49,700	$98,600		$148,300
VIII. MEDICAL SERVICES:				
FROM:				
General Fund		$1,600,600		$1,600,600
GRAND TOTAL	$2,293,300	$8,058,200	$41,000	$10,392,500

SECTION 2. In addition to the appropriation made in Section 1, Chapter 338, Laws of 2009, 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, 2009, through June 30, 2010:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
I. STATE PRISONS:			
A. PRISONS ADMINISTRATION:			
FROM:			
General Fund		$54,500	$54,500
B. IDAHO STATE CORRECTIONAL INSTITUTION - BOISE:			
FROM:			
General Fund	$112,100		$112,100
Miscellaneous Revenue Fund	100,000		100,000
TOTAL	$212,100		$212,100
II. PRIVATE PRISONS:			
FROM:			
General Fund		$2,677,900	$2,677,900
III. COUNTY & OUT-OF-STATE PLACEMENT:			
FROM:			
General Fund		$2,869,300	$2,869,300
Federal Grant Fund		400,000	400,000
TOTAL		$3,269,300	$3,269,300
IV. CORRECTIONAL ALTERNATIVE PLACEMENT:			
FROM:			
General Fund		$175,900	$175,900
V. COMMUNITY CORRECTIONS:			
A. COMMUNITY SUPERVISION:			
FROM:			
Drug and Mental Health Court Supervision Fund	$57,100		$57,100
B. COMMUNITY WORK CENTERS:			
FROM:			
Inmate Labor Fund	$57,600	$187,300	$244,900
VI. MEDICAL SERVICES:			
FROM:			
General Fund		$1,600,600	$1,600,600
GRAND TOTAL	$326,800	$7,965,500	$8,292,300

SECTION 3. In addition to the appropriation made in Section 1, Chapter 338, Laws of 2009, 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, 2009, through June 30, 2010:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. MANAGEMENT SERVICES:				
FROM:				
Miscellaneous Revenue Fund		$111,900	$45,200	$157,100
II. STATE PRISONS:				
A. PRISONS ADMINISTRATION:				
FROM:				
Federal Grant Fund			$72,300	$72,300
B. IDAHO STATE CORRECTIONAL INSTITUTION - BOISE:				
FROM:				
Miscellaneous Revenue Fund	$200,000	$580,600		$780,600
Penitentiary Endowment Income Fund		180,000		180,000
TOTAL	$200,000	$760,600		$960,600
C. NORTH IDAHO CORRECTIONAL INSTITUTION - COTTONWOOD:				
FROM:				
Miscellaneous Revenue Fund	$200,000			$200,000
III. COMMUNITY CORRECTIONS:				
A. COMMUNITY SUPERVISION:				
FROM:				
Drug and Mental Health Court Supervision Fund	$250,000			$250,000
Federal Grant Fund		$129,500		129,500
TOTAL	$250,000	$129,500		$379,500
IV. EDUCATION & TREATMENT:				
FROM:				
Federal Grant Fund	$150,000	$99,400		$249,400
VIII. MEDICAL SERVICES:				
FROM:				
Miscellaneous Revenue Fund		$90,000		$90,000
GRAND TOTAL	$800,000	$1,191,400	$117,500	$2,108,900

SECTION 4. There is hereby appropriated to the Department of Correction the following amount to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. MANAGEMENT SERVICES:				
FROM:				
General Fund	$6,477,800	$3,082,900		$9,560,700
Inmate Labor Fund	33,200			33,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
Parolee Supervision Fund	151,600	92,300		243,900
American Reinvestment Fund	276,600			276,600
Miscellaneous Revenue Fund	131,300	93,200		224,500
TOTAL	$7,070,500	$3,268,400		$10,338,900
II. STATE PRISONS:				
A. PRISONS ADMINISTRATION:				
FROM:				
General Fund	$669,700	$50,700		$720,400
American Reinvestment Fund	26,000			26,000
Miscellaneous Revenue Fund	156,600	56,900		213,500
TOTAL	$852,300	$107,600		$959,900
B. IDAHO STATE CORRECTIONAL INSTITUTION - BOISE:				
FROM:				
General Fund	$16,440,400	$3,076,100		$19,516,500
Inmate Labor Fund		47,200		47,200
American Reinvestment Fund	367,200			367,200
Miscellaneous Revenue Fund	510,700	137,900		648,600
Penitentiary Endowment Income Fund		728,500	$166,600	895,100
Federal Grant Fund	134,000			134,000
TOTAL	$17,452,300	$3,989,700	$166,600	$21,608,600
C. IDAHO CORRECTIONAL INSTITUTION - OROFINO:				
FROM:				
General Fund	$6,104,900	$1,259,500		$7,364,400
Inmate Labor Fund	848,100	688,700	$53,000	1,589,800
American Reinvestment Fund	123,200			123,200
Miscellaneous Revenue Fund	49,800	52,500		102,300
TOTAL	$7,126,000	$2,000,700	$53,000	$9,179,700
D. NORTH IDAHO CORRECTIONAL INSTITUTION - COTTONWOOD:				
FROM:				
General Fund	$3,759,400	$989,300		$4,748,700
Inmate Labor Fund		32,600		32,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
American Reinvestment Fund	116,400			116,400
Miscellaneous Revenue Fund	44,000	140,600		184,600
TOTAL	$3,919,800	$1,162,500		$5,082,300
E. SOUTH IDAHO CORRECTIONAL INSTITUTION - BOISE:				
FROM:				
General Fund	$5,089,400	$1,404,500		$6,493,900
Inmate Labor Fund	853,300	456,400	$98,500	1,408,200
American Reinvestment Fund	134,200			134,200
Miscellaneous Revenue Fund	85,100	47,100		132,200
Federal Grant Fund	54,000			54,000
TOTAL	$6,216,000	$1,908,000	$98,500	$8,222,500
F. IDAHO MAXIMUM SECURITY INSTITUTION - BOISE:				
FROM:				
General Fund	$7,350,500	$1,641,700		$8,992,200
Inmate Labor Fund		23,600		23,600
American Reinvestment Fund	155,600			155,600
Miscellaneous Revenue Fund	53,700	50,300		104,000
TOTAL	$7,559,800	$1,715,600		$9,275,400
G. ST. ANTHONY WORK CAMP:				
FROM:				
General Fund	$1,819,100	$377,800		$2,196,900
Inmate Labor Fund	756,000	514,800	$120,800	1,391,600
American Reinvestment Fund	38,200			38,200
Miscellaneous Revenue Fund		15,500		15,500
TOTAL	$2,613,300	$908,100	$120,800	$3,642,200
H. POCATELLO WOMEN'S CORRECTIONAL CENTER:				
FROM:				
General Fund	$4,131,200	$809,100		$4,940,300
Inmate Labor Fund	239,700	75,900		315,600
American Reinvestment Fund	105,200			105,200
Miscellaneous Revenue Fund	209,300	20,000		229,300
TOTAL	$4,685,400	$905,000		$5,590,400
I. SOUTH BOISE WOMEN'S CORRECTIONAL CENTER:				
FROM:				
General Fund	$2,427,900	$637,500		$3,065,400
American Reinvestment Fund	67,800			67,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
Miscellaneous Revenue Fund		5,200		5,200
TOTAL	$2,495,700	$642,700		$3,138,400
DIVISION TOTAL	$52,920,600	$13,339,900	$438,900	$66,699,400
III. PRIVATE PRISONS:				
FROM:				
General Fund		$26,800,300		$26,800,300
IV. COUNTY & OUT-OF-STATE PLACEMENT:				
FROM:				
General Fund		$6,578,400		$6,578,400
Federal Grant Fund		83,700		83,700
TOTAL		$6,662,100		$6,662,100
V. CORRECTIONAL ALTERNATIVE PLACEMENT:				
FROM:				
General Fund		$4,656,700	$683,200	$5,339,900
VI. COMMUNITY CORRECTIONS:				
A. COMMUNITY SUPERVISION:				
FROM:				
General Fund	$10,711,700	$1,472,600		$12,184,300
Parolee Supervision Fund	5,076,400	1,154,800	$424,800	6,656,000
Drug and Mental Health Court Supervision Fund	380,900	27,200		408,100
American Reinvestment Fund	462,200			462,200
TOTAL	$16,631,200	$2,654,600	$424,800	$19,710,600
B. COMMUNITY WORK CENTERS:				
FROM:				
General Fund	$2,998,900	$19,900		$3,018,800
Inmate Labor Fund	560,600	1,555,800	$327,700	2,444,100
American Reinvestment Fund	73,200			73,200
Miscellaneous Revenue Fund		29,700		29,700
TOTAL	$3,632,700	$1,605,400	$327,700	$5,565,800
DIVISION TOTAL	$20,263,900	$4,260,000	$752,500	$25,276,400
VII. EDUCATION & TREATMENT:				
FROM:				
General Fund	$1,327,100	$875,800		$2,202,900
Inmate Labor Fund		84,100		84,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
American Reinvestment Fund	54,200			54,200
Miscellaneous Revenue Fund	84,800	59,500		144,300
Federal Grant Fund	305,800	622,200		928,000
TOTAL	$1,771,900	$1,641,600		$3,413,500
VIII. MEDICAL SERVICES:				
FROM:				
General Fund		$22,048,800		$22,048,800
Miscellaneous Revenue Fund		81,000		81,000
TOTAL		$22,129,800		$22,129,800
GRAND TOTAL	$82,026,900	$82,758,800	$1,874,600	$166,660,300

SECTION 5. AUTHORIZED FULL-TIME EQUIVALENT POSITIONS. In accordance with Section 67-3519, Idaho Code, the Department of Correction is authorized no more than one thousand five hundred eighty-two and forty-three one hundredths (1,582.43) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, for the programs specified in Section 4 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 6. EXEMPTION FROM TRANSFER LIMITATIONS FOR FISCAL YEAR 2010. To provide maximum flexibility in dealing with reduced appropriations for Fiscal Year 2010, the Department of Correction is hereby exempted from the provisions of Section 67-3511, Idaho Code, for all moneys appropriated to it for the period July 1, 2009, through June 30, 2010. Legislative appropriations shall not be transferred from one fund to another fund, however, unless expressly approved by the Legislature.

SECTION 7. EXEMPTION FROM TRANSFER LIMITATIONS FOR FISCAL YEAR 2011. To provide maximum flexibility in dealing with reduced appropriations for Fiscal Year 2011, the Department of Correction is hereby exempted from the provisions of Section 67-3511, Idaho Code, for all moneys appropriated to it for the period July 1, 2010, through June 30, 2011. Legislative appropriations shall not be transferred from one fund to another fund, however, unless expressly approved by the Legislature.

SECTION 8. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1, 2, 3 and 6 of this act shall be in full force and effect on and after passage and approval.

Approved March 31, 2010.

CHAPTER 202
(H.B. No. 680)

AN ACT

RELATING TO THE UNCLAIMED PROPERTY LAW; AMENDING SECTION 14-501, IDAHO CODE, TO REVISE A DEFINITION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 14-518, IDAHO CODE, TO PROVIDE FOR NOTICE AND PUBLICATION OF LISTS OF ABANDONED PROPERTY TO BE ON A WEBSITE MAINTAINED BY THE STATE TREASURER; AMENDING SECTION 14-523, IDAHO CODE, TO PROVIDE FOR DISPOSITION OF MONEY RECEIVED BY THE STATE TREASURER; AMENDING SECTION 14-532, IDAHO CODE, TO PROVIDE TO THE STATE TREASURER POWERS, DUTIES AND ADMINISTRATIVE RULEMAKING AUTHORITY RELATED TO UNCLAIMED PROPERTY LAW FORMERLY GRANTED TO THE STATE TAX COMMISSION; AMENDING SECTION 14-534, IDAHO CODE, TO PROVIDE FOR THE STATE TREASURER TO DELIVER CERTAIN PROPERTY TO THE STATE HISTORICAL SOCIETY; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3077E, IDAHO CODE, TO PROVIDE FOR AGREEMENTS FOR EXCHANGE OF INFORMATION BETWEEN THE STATE TAX COMMISSION AND THE STATE TREASURER FOR ADMINISTERING THE UNCLAIMED PROPERTY ACT; AND PROVIDING AN EFFECTIVE DATE, PROVIDING FOR TRANSFER OF CERTAIN TANGIBLE PERSONAL PROPERTIES OF THE STATE TAX COMMISSION FOR ADMINISTERING THE UNCLAIMED PROPERTY LAW TO THE STATE TREASURER AND TO PROVIDE FOR THE TRANSFER AND EMPLOYMENT STATUS OF THOSE EMPLOYEES.

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

SECTION 1. That Section 14-501, Idaho Code, be, and the same is hereby amended to read as follows:

14-501. DEFINITIONS AND USE OF TERMS. As used in this chapter:

(1) "Administrator" means the state ~~tax commission~~ treasurer or ~~its~~ his or her duly authorized agents or employees.

(2) "Apparent owner" means the person whose name appears on the records of the holder as the person entitled to property held, issued, or owing by the holder.

(3) "Attorney general" means the chief legal officer of this state.

(4) "Banking organization" means a bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, or any organization defined by other law as a bank or banking organization.

(5) "Business association" means a nonpublic corporation, limited liability company, joint stock company, investment company, business trust, partnership, or association for business purposes of two (2) or more individuals, whether or not for profit, including, but not limited to, a banking organization, financial organization, insurance company, or utility.

(6) "Domicile" means the state of incorporation of a corporation and the state of the principal place of business of an unincorporated person.

(7) "Financial organization" means a savings and loan association, cooperative bank, building and loan association, investment company, or credit union.

(8) "Holder" means a person, wherever organized or domiciled, who is:

(a) In possession of property belonging to another;

(b) A trustee; or

(c) Indebted to another on an obligation.

(9) "Insurance company" means an association, corporation, fraternal or mutual benefit organization, whether or not for profit, which is engaged in providing insurance coverage, including accident, burial, casualty, credit life, contract performance, dental, fidelity, fire, health, hospitalization, illness, life, including endowments and annuities, malpractice, marine, mortgage, surety, and wage protection insurance.

(10) "Intangible property" includes:

(a) ~~Monies~~ Moneys, checks, drafts, deposits, interest, dividends, and income;

(b) Credit balances, customer overpayments, gift certificates, security deposits, refunds, credit memos, unpaid wages, unused airline tickets, and unidentified remittances;

(c) Stocks and other intangible ownership interests in business associations;

(d) Amounts paid for tickets, passes or vouchers to gain entrance to a scheduled event where the scheduled event was ~~cancelled~~ canceled and not rescheduled, and the owner of the tickets, passes or vouchers is entitled to a refund in cash, services or merchandise;

(e) ~~Monies~~ Moneys deposited to redeem stocks, bonds, coupons, and other securities, or to make distributions;

(f) Amounts due and payable under the terms of insurance policies;

(g) Amounts distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefits; and

(h) Any interest created by a judgment entered in any court of competent jurisdiction in favor of persons who are members of a class of persons defined by the court entering the judgment.

(11) "Last known address" means a description of the location of the apparent owner sufficient for the purpose of the delivery of mail.

(12) "Owner" means a depositor in the case of a deposit, a beneficiary in case of a trust other than a deposit in trust, a creditor, claimant, or payee in the case of other intangible property, or a person having a legal or equitable interest in property subject to this act or his legal representative.

(13) "Person" means an individual, business association, state or other government, governmental subdivision or agency, public corporation, public authority, estate, trust, two (2) or more persons having a joint or common interest, or any other legal or commercial entity.

(14) "State" means any state, district, commonwealth, territory, insular possession, or any other area subject to the legislative authority of the United States.

(15) "Utility" means a person who owns or operates for public use any plant, equipment, property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas.

SECTION 2. That Section 14-518, Idaho Code, be, and the same is hereby amended to read as follows:

14-518. NOTICE AND PUBLICATION OF LISTS OF ABANDONED PROPERTY. (1) The administrator shall establish, maintain and update at least quarterly a current list of all reported owners of abandoned property on a website that is connected to or that may be accessed from the website maintained by the state ~~tax commission~~ treasurer. At least one (1) week before each quarterly website posting of such list, the administrator shall publish a notice in the official newspaper of each Idaho county stating when and where the quarterly website listing of Idaho abandoned property will be accessible to citizens. Provided however, the names and addresses of owners located in a state which will receive the accounts because of reciprocal agreements as permitted by section 14-535, Idaho Code, need not be listed.

(2) The list maintained by the administrator must contain:

(a) The names, in alphabetical order, of persons listed in any report of abandoned property filed with the administrator and entitled to notice;

(b) A statement that information concerning the property may be obtained by any person possessing an interest in the property by addressing an inquiry to the administrator;

(c) A statement that the property is in the custody of the administrator and all claims must be directed to the administrator; and

(d) A statement that the property shall escheat to the state of Idaho and become the property of the state of Idaho if not claimed within ten (10) years after it is received by the administrator.

(3) The administrator is not required to list any items of less than one hundred dollars ($100) unless the administrator considers the inclusion of such property in the list to be in the public interest.

(4) This section is not applicable to sums payable on traveler's checks, money orders, and other written instruments presumed abandoned under section 14-504, Idaho Code.

SECTION 3. That Section 14-523, Idaho Code, be, and the same is hereby amended to read as follows:

14-523. DISPOSITION OF MONEY RECEIVED. (1) All money received under this chapter, including the proceeds from the sale of property under section 14-522, Idaho Code, shall be deposited in the unclaimed property account.

(2) An amount equal to the funds received from unclaimed shares and dividends of any corporation incorporated under the laws of the state of Idaho shall be transferred from the unclaimed property account to the public school permanent endowment fund created pursuant to section 4, article IX, of the constitution of the state of Idaho. In the event that any funds are required to refund any funds deposited in the public school permanent endowment fund under this section or under section 14-113 or 15-3-914, Idaho Code, the state ~~tax commission~~ treasurer shall offset the amount of such refund against future transfers to the public school permanent endowment fund. In the event that in one (1) fiscal year there are insufficient amounts to effect the offset, the balance shall be recaptured from the public school earnings reserve fund established under section 33-902A, Idaho Code.

(3) All other money in the unclaimed property account is hereby continuously appropriated to the state ~~tax commission~~ treasurer, without regard to fiscal years, for expenditure in accordance with law in carrying out and enforcing the provisions of this chapter, including, but not limited to, the following purposes:

(a) For payment of claims allowed by the state ~~tax commission~~ treasurer under the provisions of this chapter.

(b) For refund, to the person making such deposit of amounts, including overpayments, deposited in error in such account.

(c) For payment of the cost of appraisals incurred by the state ~~tax commission~~ treasurer covering property held in the name of the account.

(d) For payment of the cost incurred by the state ~~tax commission~~ treasurer for the purchase of lost instrument indemnity bonds, or for payment to the person entitled thereto, for any unpaid lawful charges or costs which arose from holding any specific property or any specific funds which were delivered or paid to the state ~~tax commission~~ treasurer, or which arose from complying with this chapter with respect to such property or funds.

(e) For payment of amounts required to be paid by the state as trustee, bailee, or successor in interest to the preceding owner.

(f) For payment of costs of official advertising in connection with the sale of property held in the name of the account.

(g) For transfer to the general fund as provided in subsection (4) of this section.

(h) For transfer to the inheritance tax account of the amount of any inheritance taxes determined to be due and payable to the state by any

claimant with respect to any property claimed by him under the provisions of this chapter.

(4) At the end of each month, or more often, if ~~it~~ he or she deems it advisable, the state ~~tax commission~~ treasurer shall transfer all money in the unclaimed property account in excess of two hundred fifty thousand dollars ($250,000) to the general fund. Within sixty (60) days of making this transfer, ~~it~~ he or she shall record the name and last known address, if available, of each person appearing from the holder's report to be entitled to the property. The record shall be available for public inspection at all reasonable business hours.

(5) All money received under this chapter, including the proceeds from the sale of property under section 14-522, Idaho Code, deposited in the general fund shall be retained by the state of Idaho for the purposes of this section and administered pursuant to this section for a period of ten (10) years. At the end of such period, those moneys which have not been claimed and paid over or delivered as an allowed claim under this section and section 14-524, Idaho Code, shall become due and payable by escheat to the state of Idaho and become the property of the state of Idaho without further action on the part of the administrator.

SECTION 4. That Section 14-532, Idaho Code, be, and the same is hereby amended to read as follows:

14-532. ENFORCEMENT -- ACTIONS TO ENFORCE UNCLAIMED PROPERTY LAW -- ADMINISTRATIVE RULES. (1) 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~~ treasurer 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.

(2) The powers and duties held by the state tax commission on June 30, 2010, pursuant to the provisions of subsection (1) of this section, shall for the purposes of this chapter and for the administration of the unclaimed property, be deemed to be powers and duties of the state treasurer on and after July 1, 2010.

(3) The administrative rules of the state tax commission in effect on June 30, 2010, for administering the provisions of this chapter shall remain in force and effect as if promulgated by the state treasurer until new rules are promulgated by the state treasurer and become effective pursuant to the provisions of section 67-5224, Idaho Code, at which time rules promulgated by the state tax commission shall be deemed repealed. The state treasurer shall have the power to promulgate administrative rules to implement the provisions of this chapter in compliance with chapter 52, title 67, Idaho Code.

SECTION 5. That Section 14-534, Idaho Code, be, and the same is hereby amended to read as follows:

14-534. STATE HISTORICAL SOCIETY USE OF PROPERTY. The director of the state historical society may examine any tangible personal property delivered to the state ~~tax commission~~ treasurer under this chapter for purposes of determining whether such property is of sufficient historical value that it should be preserved. If he so determines, the state ~~tax commission~~ treasurer may deliver such property to the state historical society for preservation

and display, until such time as the owner shall make claim for return of such property.

SECTION 6. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3077E, Idaho Code, and to read as follows:

63-3077E. AGREEMENTS FOR EXCHANGE OF INFORMATION WITH THE STATE TREASURER. The state tax commission and the state treasurer may enter into a written agreement for exchange of information relating to persons, firms, corporations, partnerships or associations who are or may be conducting business operations in this state or who may be the owners of unclaimed property reported to the state treasurer. Such information shall be confidential to the recipient and may be used only for purposes of administering the provisions of the unclaimed property act in chapter 5, title 14, Idaho Code. No such information shall be public information unless it is used in the course of a judicial proceeding arising under the laws of this state. The information provided by the tax commission may include the following:

(1) Names of and current addresses of businesses within this state.

(2) The names and current addresses of individuals or entities identified as owners or potential owners of unclaimed property in the custody of the state treasurer.

SECTION 7. This act shall be in full force and effect on and after July 1, 2010. All employees employed by the State Tax Commission on June 30, 2010, in administering the State Unclaimed Property Law, and all tangible personal property of the State Tax Commission for those employees used in administering the Unclaimed Property Law shall be transferred to the State Treasurer on July 1, 2010. Any employee who is a classified employee pursuant to chapter 53, title 67, Idaho Code, of the State Tax Commission and who is transferred to the State Treasurer may remain a classified employee if he or she chooses until such employee terminates, resigns or leaves the current position he or she holds. At that time, the position shall become a nonclassified position pursuant to chapter 16, title 59, Idaho Code.

Approved March 31, 2010.

CHAPTER 203
(H.B. No. 683)

AN ACT

REDUCING THE APPROPRIATION TO THE IDAHO STATE HISTORICAL SOCIETY FOR FISCAL YEAR 2010; APPROPRIATING ADDITIONAL MONEYS FOR THE IDAHO STATE HISTORICAL SOCIETY FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE IDAHO STATE HISTORICAL SOCIETY FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; PROVIDING LEGISLATIVE INTENT; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 2, Chapter 293, Laws of 2009, to the Idaho State Historical Society is hereby reduced by the following amount according to the designated expense class from the listed fund for the period July 1, 2009, through June 30, 2010:

FOR:	
Personnel Costs	$211,800
FROM:	
General Fund	$211,800

SECTION 2. In addition to the appropriation made in Section 2, Chapter 293, Laws of 2009, there is hereby appropriated to the Idaho State Historical Society the following amount to be expended according to the designated expense class from the listed funds for the period July 1, 2009, through June 30, 2010:

FOR:	
Personnel Costs	$184,200
FROM:	
Miscellaneous Revenue Fund	$84,200
Federal Grant Fund	100,000
TOTAL	$184,200

SECTION 3. There is hereby appropriated to the Idaho State Historical Society the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Fund	$1,379,200	$759,200		$31,600	$2,170,000
Miscellaneous Revenue Fund	467,600	628,200			1,095,800
Capitol Endowment Income Fund	56,200	48,500			104,700
Federal Grant Fund	894,900	326,500	$151,100	130,000	1,502,500
TOTAL	$2,797,900	$1,762,400	$151,100	$161,600	$4,873,000

SECTION 4. In accordance with Section 67-3519, Idaho Code, the Idaho State Historical Society is authorized no more than forty-seven and two hundredths(47.02) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 5. LEGISLATIVE INTENT. It is the intent of the Legislature to provide maximum flexibility in dealing with reduced appropriations for fiscal year 2011. The Idaho State Historical Society is hereby exempted from the provisions of Section 67-3511, Idaho Code, for all moneys appropriated to it for the period July 1, 2010, through June 30, 2011. Legislative appropriations shall not be transferred from one fund to another fund, however, unless expressly approved by the Legislature.

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1 and 2 of this act shall be in full force and effect on and after passage and approval.

Approved March 31, 2010.

CHAPTER 204
(H.B. No. 685)

AN ACT

REDUCING THE APPROPRIATION TO THE SUPREME COURT FOR FISCAL YEAR 2010; APPROPRIATING ADDITIONAL MONEYS TO THE SUPREME COURT FOR FISCAL YEAR 2010; TRANSFERRING MONEYS FROM THE GUARDIAN AD LITEM FUND TO THE GENERAL FUND FOR FISCAL YEAR 2010; APPROPRIATING AND DIRECTING THE TRANSFER OF MONEYS FROM THE GENERAL FUND TO THE GUARDIAN AD LITEM FUND FOR FISCAL YEAR 2011; APPROPRIATING MONEYS TO THE SUPREME COURT FOR FISCAL YEAR 2011; EXEMPTING THE SUPREME COURT FROM CERTAIN APPROPRIATION TRANSFER LIMITATIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 2, Chapter 232, Laws of 2009, to the Supreme Court is hereby reduced by the following amounts for the designated programs according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. SUPREME COURT:				
FROM:				
General Fund	$278,500	$31,000	$13,100	$322,600
II. LAW LIBRARY:				
FROM:				
General Fund	$12,800	$16,300		$29,100
III. DISTRICT COURTS:				
FROM:				
General Fund	$598,200	$42,400		$640,600
IV. MAGISTRATES DIVISION:				
FROM:				
General Fund	$863,100	$25,600		$888,700
V. JUDICIAL COUNCIL:				
FROM:				
General Fund	$100	$7,800		$7,900
VI. COURT OF APPEALS:				
FROM:				
General Fund	$103,800	$12,200		$116,000
VII. GUARDIAN AD LITEM ACCOUNT:				
FROM:				
General Fund			$45,200	$45,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
VIII. SNAKE RIVER BASIN ADJUDICATION:				
FROM:				
General Fund	$50,700	$12,000		$62,700
GRAND TOTAL	$1,907,200	$147,300	$58,300	$2,112,800

SECTION 2. In addition to the appropriation made in Section 2, Chapter 232, Laws of 2009, there is hereby appropriated to the Supreme Court the following amounts to be expended for the designated programs according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. SUPREME COURT:				
FROM:				
General Fund	$65,900	$7,400	$3,100	$76,400
II. LAW LIBRARY:				
FROM:				
General Fund	$3,000	$3,900		$6,900
III. DISTRICT COURTS:				
FROM:				
General Fund	$141,600	$10,000		$151,600
IV. MAGISTRATES DIVISION:				
FROM:				
General Fund	$204,200	$6,100		$210,300
V. JUDICIAL COUNCIL:				
FROM:				
General Fund		$1,800		$1,800
VI. COURT OF APPEALS:				
FROM:				
General Fund	$24,600	$2,900		$27,500
VII. GUARDIAN AD LITEM ACCOUNT:				
FROM:				
General Fund			$10,700	$10,700
VIII. SNAKE RIVER BASIN ADJUDICATION:				
FROM:				
General Fund	$12,000	$2,800		$14,800
GRAND TOTAL	$451,300	$34,900	$13,800	$500,000

SECTION 3. There is hereby appropriated and the State Controller shall transfer $34,500 from the Guardian Ad Litem Fund to be deposited in the General Fund for the period July 1, 2009, through June 30, 2010.

SECTION 4. There is hereby appropriated and the State Controller shall transfer $601,600 from the General Fund to the Guardian Ad Litem Fund for the period July 1, 2010, through June 30, 2011.

SECTION 5. There is hereby appropriated to the Supreme Court 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, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. SUPREME COURT:					
FROM:					
General Fund	$3,370,700	$370,400		$173,500	$3,914,600
Miscellaneous Revenue Fund		318,500			318,500
Federal Grant Fund	179,500	1,234,300			1,413,800
TOTAL	$3,550,200	$1,923,200		$173,500	$5,646,900
II. LAW LIBRARY:					
FROM:					
General Fund	$167,900	$216,500			$384,400
III. DISTRICT COURTS:					
FROM:					
General Fund	$8,078,900	$563,500			$8,642,400
ISTARS Technology Fund	758,000	2,049,700	$1,156,200		3,963,900
Drug Court, Mental Health and Family Court Services Fund	845,900	2,238,900			3,084,800
TOTAL	$9,682,800	$4,852,100	$1,156,200		$15,691,100
IV. MAGISTRATES DIVISION:					
FROM:					
General Fund	$11,344,600	$340,300			$11,684,900
Drug Court, Mental Health and Family Court Services Fund		1,557,600			1,557,600
Guardianship Pilot Project Fund		276,400			276,400
Senior Magistrate Judges Fund		510,000			510,000
Federal Grant Fund		110,000			110,000
TOTAL	$11,344,600	$2,794,300			$14,138,900

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
V. JUDICIAL COUNCIL:					
FROM:					
General Fund	$1,800	$103,600			$105,400
VI. COURT OF APPEALS:					
FROM:					
General Fund	$1,353,500	$162,700			$1,516,200
VII. GUARDIAN AD LITEM ACCOUNT:					
FROM:					
General Fund				$601,600	$601,600
Guardian Ad Litem Fund				10,200	10,200
TOTAL				$611,800	$611,800
VIII. SNAKE RIVER BASIN ADJUDICATION:					
FROM:					
General Fund	$698,400	$121,000			$819,400
GRAND TOTAL	$26,799,200	$10,173,400	$1,156,200	$785,300	$38,914,100

SECTION 6. EXEMPTIONS FROM CERTAIN APPROPRIATION TRANSFER LIMITATIONS. To provide maximum flexibility in dealing with reduced appropriations for Fiscal Years 2010 and 2011, the Supreme Court is hereby exempted from the provisions of Section 67-3511, Idaho Code, for all moneys appropriated to it for the period July 1, 2009, through June 30, 2011. Legislative appropriations shall not be transferred from one fund to another fund, however, unless expressly approved by the Legislature.

SECTION 7. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1, 2, 3 and 6 of this act shall be in full force and effect on and after passage and approval.

Approved March 31, 2010.

CHAPTER 205
(H.B. No. 687)

AN ACT

RELATING TO FEES; AMENDING SECTION 1-1623, IDAHO CODE, TO PROVIDE AN ADDITIONAL SOURCE OF MONEYS FOR THE IDAHO STATEWIDE TRIAL COURT AUTOMATED RECORDS SYSTEM TECHNOLOGY FUND; AMENDING SECTION 1-1625, IDAHO CODE, TO PROVIDE AN ADDITIONAL SOURCE OF MONEYS FOR THE DRUG COURT, MENTAL HEALTH COURT AND FAMILY COURT SERVICES FUND; AMENDING CHAPTER 32, TITLE 31,

IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-3201H, IDAHO CODE, TO ESTABLISH AN EMERGENCY SURCHARGE FEE AND TO REQUIRE THE DEPOSIT OF SUCH FEES INTO CERTAIN FUNDS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 1-1623, Idaho Code, be, and the same is hereby amended to read as follows:

1-1623. IDAHO STATEWIDE TRIAL COURT AUTOMATED RECORDS SYSTEM (ISTARS) TECHNOLOGY FUND. There is hereby created in the office of the state treasurer the ISTARS technology fund. Moneys deposited into the fund pursuant to sections 31-3201, 31-3201A, 31-3201H and 31-3221, Idaho Code, upon appropriation by the legislature, shall be used by the supreme court for the purpose of maintaining, replacing and enhancing the Idaho Statewide Trial Court Automated Records System (ISTARS) program, and other technologies that assist in the efficient management of the courts, including a system for payments by credit card or debit card as provided in section 31-3221, Idaho Code, or that improve access to the courts and court records. The ISTARS technology fund shall be separate and distinct from the state general fund, and expenditures from the ISTARS technology fund shall be solely dedicated to the purposes set forth in this section. Moneys deposited into the fund may be allowed to accumulate from year to year for designated maintenance, replacement, extension or enhancement of the ISTARS program and for other technologies that assist in the efficient management of the courts. Interest earned on the investment of idle moneys in the ISTARS technology fund shall be returned to the ISTARS technology fund.

SECTION 2. That Section 1-1625, Idaho Code, be, and the same is hereby amended to read as follows:

1-1625. DRUG COURT, MENTAL HEALTH COURT AND FAMILY COURT SERVICES FUND. There is hereby created in the office of the state treasurer a special fund to be known as the drug court, mental health court and family court services fund. Moneys deposited into the fund pursuant to sections 19-4705, ~~and~~ 23-217 and 31-3201H, Idaho Code, subject to appropriation by the legislature, shall be used by the supreme court for the operations of drug courts and mental health courts, including drug testing, substance abuse treatment and supervision, mental health assessment, treatment and supervision, and related court programs, as provided in chapter 56, title 19, Idaho Code, for the purpose of assisting children and families in the courts, as provided in chapter 14, title 32, Idaho Code, and for other court services as provided by statute.

SECTION 3. That Chapter 32, 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 31-3201H, Idaho Code, and to read as follows:

31-3201H. EMERGENCY SURCHARGE FEE. (1) The court shall charge an emergency surcharge fee to be paid by each defendant for each criminal offense or infraction, committed on or after April 15, 2010, and before or on June 30, 2013, for which the defendant is found or pleads guilty. Such fee shall be in addition to all other fines and fees levied.

(2) The amount of the emergency surcharge fee shall be as follows:

(a) For each felony, the fee shall be one hundred dollars ($100);

(b) For each misdemeanor, the fee shall be fifty dollars ($50.00); and

(c) For each infraction, the fee shall be ten dollars ($10.00).

(3) The fee shall be collected by the clerk of the district court and shall be paid to the county treasurer, who shall, within five (5) days after the end of the month, pay such fees to the state treasurer, who shall

deposit eighty percent (80%) of such fees in the drug court, mental health court and family court services fund created by section 1-1625, Idaho Code, and twenty percent (20%) of such fees in the Idaho statewide trial court automated records system (ISTARS) technology fund created by section 1-1623, Idaho Code.

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

Approved March 31, 2010.

CHAPTER 206
(H.B. No. 689)

AN ACT

REDUCING THE APPROPRIATION TO THE STATE TREASURER FOR FISCAL YEAR 2010; APPROPRIATING ADDITIONAL MONEYS TO THE STATE TREASURER FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE STATE TREASURER FOR FISCAL YEAR 2011; PROVIDING FOR THE RECOVERY OF BANKING SERVICES COSTS TO THE GENERAL FUND; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; REQUIRING THAT CERTAIN MONEYS BE EXPENDED FOR BANK SERVICE FEES; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the General Fund appropriation made in Section 1, Chapter 229, Laws of 2009, to the State Treasurer is hereby reduced by $105,100 in Personnel Costs for the period July 1, 2009, through June 30, 2010.

SECTION 2. In addition to the appropriation made in Section 1, Chapter 229, Laws of 2009, to the State Treasurer, there is hereby appropriated the following amounts to be expended according to the designated expense class from the listed funds for the period July 1, 2009, through June 30, 2010:

FOR:	
Personnel Costs	$105,100
FROM:	
State Treasurer LGIP Fund	$52,500
Treasurer's Office - Professional Services Fund	52,600
TOTAL	$105,100

SECTION 3. There is hereby appropriated to the State Treasurer the following amounts to be expended from the listed funds for the period July 1, 2010, through June 30, 2011:

FROM:	
General Fund	$1,378,400
State Treasurer LGIP Fund	428,100
Treasurer's Office - Professional Services Fund	446,200
TOTAL	$2,252,700

SECTION 4. The moneys assessed by the Division of Financial Management in accordance with Section 67-3531, Idaho Code, for State Treasurer banking services shall be placed in the Indirect Cost Recovery Fund. On June

30, 2011, the State Controller shall transfer the amount assessed in the statewide cost allocation plan from the Indirect Cost Recovery Fund to the General Fund.

SECTION 5. There is hereby reappropriated to the State Treasurer the unexpended and unencumbered balance of any appropriation made from the State Treasurer LGIP Fund for fiscal year 2010 to be used for nonrecurring expenditures only for the period July 1, 2010, through June 30, 2011. Provided however, that if said reappropriation exceeds the unencumbered cash balance in the State Treasurer LGIP Fund as of June 30, 2010, the reappropriation is hereby reduced to an amount equal to the unencumbered cash balance.

SECTION 6. In accordance with Section 67-3519, Idaho Code, the State Treasurer is authorized no more than eighteen (18) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, for the program specified in Section 3 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 7. Of the amount appropriated in Section 3 of this act, $435,200, or so much thereof as is necessary, is to be used solely and only for the payment of bank service fees for the period July 1, 2010, through June 30, 2011.

SECTION 8. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1 and 2 of this act shall be in full force and effect on and after passage and approval.

Approved March 31, 2010.

CHAPTER 207
(H.B. No. 690)

AN ACT

REDUCING THE APPROPRIATION TO THE OFFICE OF THE LIEUTENANT GOVERNOR FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE LIEUTENANT GOVERNOR FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the General Fund appropriation made in Section 1, Chapter 230, Laws of 2009, to the Office of the Lieutenant Governor is hereby reduced by $10,500 for the period July 1, 2009, through June 30, 2010.

SECTION 2. There is hereby appropriated $135,500 to the Office of the Lieutenant Governor from the General Fund for the period July 1, 2010, through June 30, 2011.

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Office of the Lieutenant Governor is authorized no more than three (3) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, for the program specified in Section 2 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved March 31, 2010.

CHAPTER 208
(H.B. No. 691)

AN ACT

RELATING TO AMBULANCE SERVICE; AMENDING SECTION 31-3908, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE AUTHORIZATION TO LEVY A SPECIAL TAX IN CERTAIN COUNTIES WHERE AN AMBULANCE SERVICE DISTRICT WAS CREATED; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 31-3908, Idaho Code, be, and the same is hereby amended to read as follows:

31-3908. AMBULANCE DISTRICT AUTHORIZED. (1) The county commissioners of any county shall, upon petition signed by not less than fifty (50) qualified electors of said county, or any portion thereof, which may exclude incorporated cities, undertake the following procedure to determine the advisability of resolving to establish and maintain an ambulance service district within the county as may be designated in the petition.

(a) A petition to form an ambulance service district shall be presented to the county clerk and recorder. The petition shall be signed by not less than fifty (50) of the resident real property holders within the proposed district. The petition shall designate the boundaries of the district.

(b) The petition shall be filed with the county clerk and recorder of the county in which the signers of the petition are located. Upon the filing of the petition the county clerk shall examine the petition and certify whether the required number of petitioners have signed the petition. If the number of petition signers is sufficient, the clerk shall transmit the petition to the board of county commissioners.

(c) Upon receipt of a duly certified petition the board of county commissioners shall cause the text of the petition to be published once a week for at least three (3) consecutive weeks in a newspaper of general circulation within the county. With the publication of the petition there shall be published a notice of the time of the meeting of the board of county commissioners when the petition will be considered stating that all persons interested may appear and be heard. No more than five (5) names attached to the petition shall appear in the publication and notice, but the number of signatures shall be stated.

At the time of filing the petition the sponsors thereof shall cause to be deposited with the county clerk a sufficient sum of money to cover the cost of publication of the petition and all necessary notices. If the petition and notices are not published the deposit shall be returned to whomever deposited the funds, and if there is any surplus remaining after paying for the publication as herein provided it shall be returned to the original depositors, and if a district is created the fees so expended are an obligation of the district and shall be repaid by the district to the depositors.

(d) At the time set for hearing the petition, the board of county commissioners shall hear all persons who desire to be heard relative to the creation of an ambulance service district. The board of county com-

missioners may, if they so desire and it appears desirable, adjourn the meeting for not to exceed thirty (30) days in time to further hear the petitioners and protestants, if any. After the hearing or hearings, the board of county commissioners shall adopt a resolution either creating the proposed ambulance service district or denying the petition. When the board of county commissioners creates an ambulance service district the board shall adopt a resolution describing the boundaries of the district.

(e) When the board of county commissioners adopts the resolution creating the ambulance service district, the board shall include in the resolution the name of the district, and file a copy of the order creating the district with the county clerk and recorder, for which the clerk shall receive a fee of three dollars ($3.00).

(f) Procedures for annexation, deannexation, or dissolution of a district created pursuant to this section shall be in substantial compliance with the provisions for public notice and hearing provided herein, and shall be by resolution adopted by the board of county commissioners.

(2) When the board of county commissioners has ordered the creation of an ambulance service district, pursuant to the provisions of this section, such district is hereby recognized as a legal taxing district, and providing ambulance service is a governmental function.

(3) The board of county commissioners shall be the governing board of an ambulance service district created pursuant to this section, and shall exercise the duties and responsibilities provided in chapter 39, title 31, Idaho Code.

(4) In any county where an ambulance service district is created as provided herein, the board of county commissioners is authorized to levy a special tax, not to exceed four-hundredths percent (.04%) of market value for assessment purposes, except as authorized by ~~subsection~~ paragraph (a) ~~below~~ of this subsection, upon all taxable property within the district for the purposes of the district, but the levy otherwise authorized in section 31-3901, Idaho Code, shall not be made on taxable property within the district.

(a) In any county where an ambulance service district:

(i) ~~has been~~ Was created as of January 1, 1976, ~~and~~

(ii) Had at the time of its creation a market value for assessment purposes of the district ~~is~~ of less than three hundred million dollars ($300,000,000), and

(iii) The service provided by the district is an advanced life support paramedic unit,

the board of county commissioners ~~is authorized to levy a special tax,~~ may submit to the electors within the district the question of whether the levy authorized in subsection (4) of this section may be increased to a levy not to exceed ~~ten~~ six-hundredths percent (.~~1~~06%) of market value for assessment purposes~~,~~ upon all taxable property within the district for the purposes of the district, if approved by a minimum of two-thirds (2/3) of the qualified electors of the district voting at an election called for that purpose and held on the May or November dates provided in section 34-106, Idaho Code, but the levy otherwise authorized in section 31-3901, Idaho Code, shall not be made on taxable property within the district.

(5) The board of county commissioners is authorized by resolution to create an ambulance district capital improvement account. The board may dedicate all or a portion of the fees and taxes collected pursuant to this chapter to the capital improvement account for the purpose of purchasing necessary buildings, land or equipment for the operation of the district. The board is further authorized to carry over and add to the funds in the account from year to year in order to make the purchases authorized by this subsection.

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 31, 2010.

CHAPTER 209
(H.B. No. 694)

AN ACT

REDUCING THE APPROPRIATION TO THE BOARD OF TAX APPEALS FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE BOARD OF TAX APPEALS FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 1, Chapter 180, Laws of 2009, to the Board of Tax Appeals is hereby reduced by the following amount according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

FOR:	
Personnel Costs	$37,600
Operating Expenditures	9,000
TOTAL	$46,600
FROM:	
General Fund	$46,600

SECTION 2. There is hereby appropriated to the Board of Tax Appeals in the Department of Revenue and Taxation the following amounts to be expended according to the designated expense classes from the listed fund for the period July 1, 2010, through June 30, 2011:

FOR:	
Personnel Costs	$395,400
Operating Expenditures	55,400
TOTAL	$450,800
FROM:	
General Fund	$450,800

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Board of Tax Appeals is authorized no more than six (6) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, for the program specified in Section 2 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved March 31, 2010.

CHAPTER 210
(H.B. No. 695)

AN ACT

REDUCING THE APPROPRIATION TO THE SECRETARY OF STATE FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE SECRETARY OF STATE FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 1, Chapter 313, Laws of 2009, to the Secretary of State is hereby reduced by the following amount according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

FOR:	
Personnel Costs	$82,300
Operating Expenditures	58,500
TOTAL	$140,800
FROM:	
General Fund	$140,800

SECTION 2. There is hereby appropriated to the Secretary of State 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, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
I. SECRETARY OF STATE:			
FROM:			
General Fund	$1,569,100	$260,700	$1,829,800
Budget Stabilization Fund		370,000	370,000
TOTAL	$1,569,100	$630,700	$2,199,800
II. COMMISSION ON UNIFORM LAWS:			
FROM:			
General Fund		$29,400	$29,400
GRAND TOTAL	$1,569,100	$660,100	$2,229,200

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Office of the Secretary of State is authorized no more than thirty (30) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, for the programs specified in Section 2 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved March 31, 2010.

CHAPTER 211
(H.B. No. 696)

AN ACT

REDUCING THE APPROPRIATION TO THE DEPARTMENT OF PARKS AND RECREATION FOR FISCAL YEAR 2010; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF PARKS AND RECREATION FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE DEPARTMENT OF PARKS AND RECREATION FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; REAPPROPRIATING CERTAIN FUNDS FOR CAPITAL OUTLAY; EXEMPTING THE DEPARTMENT FROM CERTAIN APPROPRIATION TRANSFER LIMITATIONS; PROVIDING AUTHORITY TO SPEND CERTAIN RECEIPTS; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 1, Chapter 297, Laws of 2009, to the Department of Parks and Recreation is hereby reduced by the following amount for the designated programs according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. MANAGEMENT SERVICES:				
FROM:				
General Fund	$120,400			$120,400
II. PARK OPERATIONS:				
FROM:				
General Fund	$343,700			$343,700
III. CAPITAL DEVELOPMENT:				
FROM:				
General Fund		$39,000	$111,000	$150,000
GRAND TOTAL	$464,100	$39,000	$111,000	$614,100

SECTION 2. In addition to the appropriation made in Section 1, Chapter 297, Laws of 2009, there is hereby appropriated to the Department of Parks and Recreation the following amount to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2009, through June 30, 2010:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MANAGEMENT SERVICES:				
FROM:				
Federal Grant Fund			$372,800	$372,800
II. PARK OPERATIONS:				
FROM:				
Parks and Recreation Fund	$75,000			$75,000
Miscellaneous Revenue Fund		$19,200		$19,200
TOTAL	$75,000	$19,200		$94,200
GRAND TOTAL	$75,000	$19,200	$372,800	$467,000

SECTION 3. 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, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MANAGEMENT SERVICES:					
FROM:					
General Fund	$266,800	$348,200			$615,000
Indirect Cost Recovery Fund	202,700	182,200			384,900
Parks and Recreation Fund	931,100	793,700		$455,000	2,179,800
Recreational Fuels Fund	445,700	88,900		2,245,000	2,779,600
Parks and Recreation Registration Fund	449,500	129,900		5,876,600	6,456,000
Miscellaneous Revenue Fund		17,600			17,600
Public Recreation Enterprise Fund	30,300				30,300
Federal Grant Fund		357,600		1,653,900	2,011,500
TOTAL	$2,326,100	$1,918,100		$10,230,500	$14,474,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. PARK OPERATIONS:					
FROM:					
General Fund	$219,700	$561,000			$780,700
Indirect Cost Recovery Fund		2,400			2,400
Parks and Recreation Fund	3,160,000	1,173,600			4,333,600
Recreational Fuels Fund	76,600	206,400	$936,000		1,219,000
Parks and Recreation Registration Fund	2,192,000	731,100	188,800	$215,000	3,326,900
Miscellaneous Revenue Fund		77,500			77,500
Public Recreation Enterprise Fund	647,900	1,063,800	94,400		1,806,100
Parks and Recreation Expendable Trust Fund	463,200	405,100	30,000		898,300
Federal Grant Fund	980,000	588,700	3,400	1,177,500	2,749,600
TOTAL	$7,739,400	$4,809,600	$1,252,600	$1,392,500	$15,194,100
III. CAPITAL DEVELOPMENT:					
FROM:					
Recreational Fuels Fund			$207,000		$207,000
Miscellaneous Revenue Fund			10,000		10,000
Public Recreation Enterprise Fund			75,000		75,000
Parks and Recreation Expendable Trust Fund			70,000		70,000
Federal Grant Fund			400,000		400,000
TOTAL			$762,000		$762,000
GRAND TOTAL	$10,065,500	$6,727,700	$2,014,600	$11,623,000	$30,430,800

SECTION 4. In accordance with Section 67-3519, Idaho Code, the Department of Parks and Recreation is authorized no more than one hundred thirty-nine and five-tenths (139.5) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, for the programs specified in Section 3 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 5. Unexpended and unencumbered capital outlay balances in the Capital Development Program for fiscal year 2010 are hereby reappropriated for capital outlay in that program for the period July 1, 2010, through June 30, 2011.

SECTION 6. EXEMPTIONS FROM CERTAIN APPROPRIATION TRANSFER LIMITATIONS. To provide maximum flexibility in dealing with reduced appropriations for fiscal year 2011, the Department of Parks and Recreation is hereby exempted from the provisions of Section 67-3511, Idaho Code, for all moneys appropriated to it for the period July 1, 2010, through June 30, 2011. Legislative appropriations shall not be transferred from one fund to another fund, however, unless expressly approved by the Legislature.

SECTION 7. EXPENDITURES OF CERTAIN RECEIPTS. Notwithstanding the provisions of Section 67-3516(2), Idaho Code, the Department of Parks and Recreation is hereby granted authority to expend all unanticipated donations received from private individuals and nongovernmental organizations for the purpose of park operations for the period July 1, 2010, through June 30, 2011.

SECTION 8. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1 and 2 of this act shall be in full force and effect on and after passage and approval.

Approved March 31, 2010.

CHAPTER 212
(S.B. No. 1248)

AN ACT

RELATING TO IDAHO REAL ESTATE LICENSE LAW; AMENDING SECTION 54-2012, IDAHO CODE, TO PROVIDE FOR AN EXEMPTION REVIEW PROCESS TO DETERMINE SUITABILITY FOR LICENSURE FOR CERTAIN REVOKED LICENSES, TO MAKE TECHNICAL CORRECTIONS AND TO PROVIDE CORRECT TERMINOLOGY; AND AMENDING SECTIONS 54-2015, 54-2026 AND 54-2033, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES.

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

SECTION 1. That Section 54-2012, Idaho Code, be, and the same is hereby amended to read as follows:

54-2012. MINIMUM REQUIREMENTS FOR AN INDIVIDUAL PRIMARY IDAHO LICENSE. (1) Requirements for all individual primary licenses. Unless a qualification is waived or modified by the commission for good cause and upon special consideration, and except as provided in section 54-2015, Idaho Code, each person seeking a primary Idaho real estate license as a salesperson, associate broker or designated broker shall meet all of the following minimum qualifications:

(a) Be an individual;

(b) Be eighteen (18) years of age or older;

(c) Furnish satisfactory proof that the applicant graduated from an accredited high school or its equivalent or holds a certificate of general education;

(d) Not have had a real estate or other professional or occupational license revoked, suspended~~,~~ or surrendered, or the renewal refused, for a disciplinary violation involving fraud, misrepresentation or dishonest or dishonorable dealing, in Idaho or any other jurisdiction, within

five (5) years immediately prior to the date the application for license is submitted to the commission;

(e) Not have had a real estate or other professional or occupational license revoked for a disciplinary violation involving fraud, misrepresentation or dishonest or dishonorable dealing, in Idaho or any other jurisdiction; provided that, after a period of five (5) years from the date the license was revoked, the applicant may make a written request to the commission for an exemption review to determine the applicant's suitability for licensure, which the commission shall determine in accordance with the following:

(i) The exemption review shall consist of a review of any documents relating to the disciplinary action that resulted in the license revocation and any supplemental information provided by the applicant bearing upon his suitability for licensure. The commission may, at its discretion, grant an interview of the applicant.

(ii) During the review, the commission shall consider the following factors and evidence:

1. The severity or nature of the disciplinary violation for which the applicant's license was revoked;

2. The period of time that has passed since the disciplinary violation occurred;

3. The existence, number and pattern of any other misconduct for which the applicant has been disciplined;

4. The circumstances surrounding the disciplinary violation that would help the commission determine the risk of repetition;

5. The relationship of the disciplinary violation to the licensed practice of real estate; and

6. The applicant's activities since the disciplinary violation under review, such as employment, education, participation in treatment, payment of restitution or any other factors that may be evidence of current rehabilitation.

(iii) The applicant shall bear the burden of establishing his current suitability for licensure.

(f) Not have been convicted or completed any sentence of confinement for or on account of any misdemeanor involving fraud, misrepresentation or dishonest or dishonorable dealing, in a state or federal court, within five (5) years immediately prior to the date the application for license is submitted to the commission;

(~~f~~g) Not have been convicted of any felony in a state or federal court or convicted by military general court-martial; provided that, after a period of five (5) years from the date the person was convicted or completed any term of probation, sentence or confinement or period of parole, whichever is later, the applicant may make written request to the commission for an exemption review to determine the applicant's suitability for licensure, which the commission shall determine in accordance with the following:

(i) The exemption review shall consist of a review of any documents relating to the felony and any supplemental information provided by the applicant bearing upon his suitability for licensure. The commission may, at its discretion, grant an interview of the applicant.

(ii) During the review, the commission shall consider the following factors or evidence:

1. The severity or nature of the felony;

2. The period of time that has passed since the felony under review;

3. The number or pattern of felonies or other similar incidents;

4. The circumstances surrounding the crime that would help determine the risk of repetition;

5. The relationship of the crime to the licensed practice of real estate; and

6. The applicant's activities since the crime under review, such as employment, education, participation in treatment, payment of restitution~~,~~ or any other factors ~~which~~ that may be evidence of current rehabilitation.

(iii) The applicant shall bear the burden of establishing his current suitability for licensure.

(~~g~~h) Complete all prelicense education requirements as provided for in section 54-2022, Idaho Code, for a salesperson's or broker's license;

(~~h~~i) Pass the commission-approved real estate licensing exam for a sales or broker license in the time and manner stated in section 54-2014, Idaho Code, and pay the required exam fees;

(~~i~~j) Be fingerprinted for the purpose of a national criminal history check to determine whether the applicant is qualified for licensure~~,~~ and pay all fees associated with the fingerprinting and background check services. If the fingerprints are returned to the commission as illegible the applicant shall, upon request from the commission, be fingerprinted again and file the new fingerprints with the commission;

(~~j~~k) Sign and file with the commission an irrevocable consent to service, appointing the commission's executive director to act as the licensee's agent upon whom all judicial and other process or legal notices directed to such licensee may be served, and consenting that any lawful process against the licensee that is served upon the executive director shall be of the same legal force and validity as if served upon the licensee and that the authority shall continue in force so long as any liability remains outstanding in this state. Upon receipt of any such process or notice, the executive director shall immediately mail a copy of the same by certified mail to the last known address of the licensee. All licensees shall provide the commission a full and current mailing address and shall notify the commission in writing of any change in mailing address within ten (10) business days of the change;

(~~k~~l) If licensing as an active salesperson or associate broker, provide the name and physical address of the main business location of the designated broker with whom the applicant will be licensed, and the signature of that broker; or, if licensing as a designated broker, provide the name and physical address of the main business location. No Idaho sales associate may be licensed under or associated with more than one (1) Idaho broker at a time;

(~~l~~m) Submit a properly completed application and all license, application and other fees listed in section 54-2020, Idaho Code, or as otherwise required by statute or rule; and

(~~m~~n) Provide satisfactory proof of meeting the mandatory errors and omissions insurance requirement for real estate licensees~~,~~ as stated in section 54-2013, Idaho Code.

(2) Additional requirements for broker and associate broker licenses. Applicants seeking a primary Idaho license as a broker or associate broker shall meet the additional following qualifications:

(a) Provide satisfactory evidence of having been actively engaged, on a full-time basis, for two (2) years as a licensed real estate salesperson within five (5) years immediately prior to the date upon which the individual makes application. Such evidence shall demonstrate the productiveness of the licensed activity to have been generally commensurate with that of other licensees practicing in a similar capacity. Listings, sales, options or other licensed activities may be considered by the commission in determining whether the applicant meets this qualification.

(i) A broker or associate broker applicant may be required to furnish a report of listings and sales accomplished by the applicant during two (2) or more years within the last five (5) years of licensure immediately prior to the application date;

(ii) This report shall be certified as correct by the broker or brokers with whom the applicant has been associated, provided however, that upon preapproval by the commission, the applicant may verify that the report is correct in an alternative manner;

(iii) The broker experience requirement may be modified or reduced, in whole or in part, at the discretion of the commission, based upon the applicant's educational background, or experience in related or affiliated business activities;

(iv) The commission in its discretion may make such additional investigation and inquiry relative to the applicant as it shall deem advisable;

(b) Designate a physical office location and a business name. The commission may refuse to issue a license to any person if the business name is the same as that of any person whose license has been suspended or revoked or is so similar as to be easily confused with another licensee's name by members of the general public. However, nothing in this ~~subsection~~ paragraph shall restrict an individual from obtaining a license in his or her own legal name.

(c) If currently licensed in Idaho as a salesperson and applying for a license as an Idaho broker or associate broker, the individual shall submit a new fingerprint card for processing and pay associated fees.

SECTION 2. That Section 54-2015, Idaho Code, be, and the same is hereby amended to read as follows:

54-2015. INDIVIDUALS ACTIVELY LICENSED IN ANOTHER STATE OR JURISDICTION SEEKING PRIMARY IDAHO LICENSURE. (1) An individual who is currently and actively licensed as a real estate broker or salesperson in another state or jurisdiction at the time of application for a primary Idaho real estate license shall meet all qualifications listed in section 54-2012, Idaho Code, for the type of license sought, except that the applicant shall not be required to furnish proof of the educational prerequisites described in subsection (1)(~~g~~h) of section 54-2012, Idaho Code; provided however, an individual applying to be licensed as a designated broker of a business entity or sole proprietorship, or as a branch office manager of a licensed branch office, shall comply with the requirements of section 54-2016, Idaho Code. In addition, such applicant shall provide a current, certified license history from the other licensing state or jurisdiction, which history shall indicate any disciplinary action taken against the applicant's license by the other licensing state or jurisdiction, and the status and standing of the applicant's license in the other state or jurisdiction.

(2) An individual who holds an active license in good standing in another state or jurisdiction may, upon written request to the commission, obtain a certificate of waiver of the national portion of the exam required for Idaho licensure. A request for waiver shall indicate the individual's mailing address to which the commission is to deliver the certificate of waiver. The certificate of waiver shall be submitted with the application for exam as provided in subsection (3) of section 54-2014, Idaho Code.

(3) An individual who is currently and actively licensed in another state or jurisdiction that administers a real estate exam may be issued a primary Idaho license without further exam or proof of educational prerequisites pursuant to written agreement between Idaho and the other state or jurisdiction, provided that such other state or jurisdiction allows the issuance of real estate licenses in substantially the same manner as set forth in this subsection; provided however, an individual applying to be

licensed as a designated broker of a business entity or sole proprietorship, or as a branch office manager of a licensed branch office, shall comply with the requirements of section 54-2016, Idaho Code, notwithstanding the terms of the agreement.

SECTION 3. That Section 54-2026, Idaho Code, be, and the same is hereby amended to read as follows:

54-2026. CERTIFICATION OF COURSE PROVIDERS. (1) Degree-granting institutions. Degree-granting, accredited colleges and universities in any state or jurisdiction shall be deemed to be approved course providers in Idaho. However, course content must still be approved for the real estate education course to receive credit toward prelicense or continuing education licensing requirements in Idaho.

(2) Other course providers. All other course providers desiring to offer real estate courses for credit toward Idaho prelicense or continuing education requirements must first meet the following qualifications and receive certification. Each applicant seeking certification as a course provider shall comply with the following:

(a) File an application for certification in the form and manner required by the commission, along with proper fees, at least two (2) months prior to contemplated date of opening or first accredited course offering;

(b) Designate a "director" or "individual in charge," who shall be responsible for the course provider's operation and its real estate courses, and with whom the commission may communicate. Unless this requirement is waived upon special review of the commission in the manner stated below, the individual in charge must not 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. The designated individual in charge must 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 a misdemeanor involving fraud, misrepresentation, or dishonest or dishonorable dealing in a court of proper jurisdiction. The failure of the provider to have in place a designated individual meeting the qualifications required by this subsection shall be grounds for the commission to withdraw or cancel the provider's certificate as provided in section 54-2025(3), Idaho Code;

(c) File a properly executed "irrevocable consent to service of process" in the manner and form prescribed by the commission and in substantial accordance with section 54-2012(1)(~~j~~k), Idaho Code. The commission, in its discretion, may make such additional investigation and inquiry relative to the applicant for provider certification as it deems advisable and, if good cause exists, may deny or accept the application for certification.

SECTION 4. 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~~k), 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 31, 2010.

CHAPTER 213
(S.B. No. 1250)

AN ACT

RELATING TO IDAHO REAL ESTATE LICENSE LAW; AMENDING SECTION 54-2011, IDAHO CODE, TO REMOVE REFERENCE TO A RECIPROCAL IDAHO REAL ESTATE LICENSE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-2016, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE RELATING TO SALESPERSONS ACTING AS BRANCH

MANAGERS ON JULY 1, 2005, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-2027, IDAHO CODE, TO REVISE REQUIREMENTS RELATING TO COURSE COMPLETION LISTS SUBMITTED TO THE COUNCIL OR COMMISSION BY A COURSE PROVIDER; AMENDING SECTION 54-2036, IDAHO CODE, TO REMOVE REFERENCE TO A NATIONAL ASSOCIATION OF REAL ESTATE LICENSE LAW OFFICIALS AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 54-2093, IDAHO CODE, TO REMOVE REFERENCE TO A SUBAGENT AND TO PROVIDE CORRECT TERMINOLOGY.

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

SECTION 1. That Section 54-2011, Idaho Code, be, and the same is hereby amended to read as follows:

54-2011. TYPES OF LICENSES. The commission may issue a primary ~~or reciprocal~~ Idaho real estate license to any individual, sole proprietorship or legal business entity in accordance with the requirements of this chapter. An individual may be licensed as a real estate salesperson, an associate broker~~,~~ or a designated broker acting for a sole proprietorship or legal business entity.

SECTION 2. That Section 54-2016, Idaho Code, be, and the same is hereby amended to read as follows:

54-2016. PRIMARY IDAHO LICENSES FOR LEGAL BUSINESS ENTITIES, SOLE PROPRIETORSHIPS AND BRANCH OFFICES -- ADDITIONAL REQUIREMENTS. (1) Legal business entities. Each legal business entity, as defined in section 54-2004, Idaho Code, shall be licensed by the Idaho real estate commission to engage in the real estate business in Idaho and shall make proper application, pay all required fees~~,~~ and meet all requirements listed below.

(a) Each legal business entity shall have a properly licensed individual designated broker~~,~~ who shall be held responsible for the activities of the licensed entity.

(b) The individual designated broker shall, within three (3) 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 three (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 three (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 3. 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. 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, in the form and manner designated by the 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 4. That Section 54-2036, Idaho Code, be, and the same is hereby amended to read as follows:

54-2036. CERTIFICATION OF COURSES AND COURSE CONTENT. Every real estate course offered for prelicense or continuing education credit for an Idaho real estate license shall first be certified and accredited by the Idaho real estate commission.

(1) An application for course certification must be submitted in the form and manner required by the commission, with the required fees, at least two (2) months prior to <u>the</u> contemplated date of the first course offering.

(2) Minimum requirements for course certification:

(a) Each course must be certified individually, offered only through a provider certified or approved in Idaho, and taught by an instructor certified or approved in Idaho in accordance with this chapter.

(b) Each prelicense course must contain at least twenty (20) classroom hours, and each continuing education course must contain at least two (2) classroom hours.

(c) Exam time shall not be included as approved classroom hours of instruction.

(d) A classroom hour is defined as a period of at least fifty (50) minutes of actual instruction.

(e) Distance learning courses. The design and delivery of each distance learning course shall be certified by the ~~national~~ association of real estate license law officials or by another institution whose certification standards are deemed equivalent by the commission. The credit hours for a certified distance learning course shall be based upon the same number of hours which would be credited for an equivalent live course, and must include a commission-approved final exam.

(f) Each prelicense course must include a commission-approved final exam requiring a minimum passing score of seventy percent (70%).

(g) Continuing education course exam.

(i) A licensee may receive continuing education course credit without having to take or pass an exam if the licensee personally attends the entire live presentation of an approved course.

(ii) The commission may substitute all or a portion of the continuing education coursework required when a licensee shows evidence of passing a commission-approved challenge exam.

(h) Exam retake policy. Each certified course provider may, at its option, allow students who complete a course and then fail the course exam one (1) opportunity to retake the approved course exam within the following time periods:

(i) Prelicense course exam retakes must occur within one (1) month of the original course exam;

(ii) Continuing education course exam retakes must occur within that course's certification period;

(iii) If a student fails the retake exam for any prelicense or continuing education course, the student must repeat the entire course and pass the final exam to receive credit;

(iv) A course provider shall not permit a student who takes and fails a challenge exam to retake the exam. A student who fails a challenge exam must take the entire course and pass the final exam to receive credit for the course.

(i) Challenge exams. Except where the prelicense requirements have been waived or modified by the commission pursuant to section 54-2022(6), Idaho Code, a student shall not earn credit for any prelicense course by challenging and passing the course exam without otherwise completing all course requirements.

(3) Approved topics. The commission shall establish specific, approved topics for course content for prelicense courses and continuing education courses as it deems appropriate to current real estate practices and laws.

SECTION 5. That Section 54-2093, Idaho Code, be, and the same is hereby amended to read as follows:

54-2093. VICARIOUS LIABILITY ABOLISHED. (1) A client, as defined in this ~~act~~ chapter, whether buyer or seller, shall not be liable for a wrongful act, error, omission or misrepresentation of his broker~~,~~ or his broker's licensees~~, or subagent~~ unless the client had actual knowledge of or reasonably should have known of the wrongful act, error, omission or misrepresentation.

(2) A licensee or brokerage engaged in representation of a client shall be entitled to rely upon representations made by a client and shall not be liable for a wrongful act, error, omission or misrepresentation made by the client or made by any subagent unless the licensee or brokerage had actual knowledge or reasonably should have known of the wrongful act, error, omission or misrepresentation.

(3) Nothing in this section shall be construed to diminish or limit any of the broker's or licensee's responsibilities under chapter 20, title 54, Idaho Code, or the rules promulgated thereunder.

Approved March 31, 2010.

CHAPTER 214
(S.B. No. 1251)

AN ACT

RELATING TO THE SUBDIVIDED LANDS DISPOSITION ACT; AMENDING SECTION 55-1801, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 55-1802, IDAHO CODE, TO REVISE DEFINITIONS, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 55-1803, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 55-1804, IDAHO CODE, TO REQUIRE THAT A CERTAIN STATEMENT BE DELIVERED TO A PURCHASER, A DATED AND SIGNED RECEIPT BE OBTAINED AND PURCHASER BE GIVEN AN OPPORTUNITY TO EXAMINE THE STATEMENT, TO SPECIFY WHEN AN OFFER IS MADE IN THIS STATE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 18, TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 55-1804A, IDAHO CODE, TO PROVIDE A RIGHT OF RESCISSION AND REQUIREMENTS FOR RESCISSION; AMENDING SECTION 55-1805, IDAHO CODE, TO REMOVE REFERENCE TO THE IDAHO COMMISSIONER OF FINANCE AND THE DIRECTOR OF THE DEPARTMENT OF FINANCE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 55-1806, IDAHO CODE, TO REVISE REQUIREMENTS RELATING TO AN APPLICATION FOR REGISTRATION OF SUBDIVIDED LANDS, TO REVISE BONDING REQUIREMENTS NECESSARY TO REGISTER ANY SUBDIVIDED LANDS, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 55-1807, IDAHO CODE, TO REVISE REQUIREMENTS RELATING TO THE PUBLIC OFFERING STATEMENT, TO REQUIRE THAT CERTAIN ADVERTISING MATERIAL BE SUBMITTED TO THE COMMISSION PRIOR TO ITS USE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 55-1808, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE COMMISSION'S EXAMINATION OF AN APPLICATION FOR REGISTRATION, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 55-1809, IDAHO CODE, TO REVISE PROVISIONS RELATING TO REGISTRATION AND RENEWAL FEES, TO INCREASE THE APPLICATION AND REGISTRATION MAXIMUM FEE AMOUNT, TO PROVIDE A REDUCTION IN THE MAXIMUM FEE AMOUNT FOR APPLICANTS WHO USE A CERTAIN WEB-BASED DOCUMENT MANAGEMENT SYSTEM, TO GRANT THE COMMISSION AUTHORITY TO PROMULGATE CERTAIN RULES, TO REVISE PROVISIONS RELATING TO THE REJECTION OF AN APPLICATION FOR REGISTRATION, TO REVISE RENEWAL REQUIREMENTS, TO PROVIDE THAT CERTAIN FACTS DO NOT CONSTITUTE COMMISSION FINDINGS, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 55-1810, IDAHO CODE, TO REQUIRE THAT SUBDIVIDERS FILE A RENEWAL REPORT, TO PROVIDE A DUTY TO REPORT CONVICTIONS AND JUDGMENTS, TO PROVIDE A RENEWAL EXAMINATION PROCESS AND TO GRANT THE COMMISSION AUTHORITY TO ISSUE A CEASE AND DESIST ORDER; AMENDING SECTION 55-1811, IDAHO CODE, TO REVISE THE COMMISSION'S GENERAL POWERS AND DUTIES, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 55-1812, IDAHO CODE, TO REMOVE REFERENCE TO THE PURCHASE OF SUBDIVIDED LANDS, TO PROVIDE CORRECT TERMINOLOGY

AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 55-1813, IDAHO CODE, TO REVISE PROVISIONS RELATING TO INVESTIGATIONS AND PROCEEDINGS, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 55-1814, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CEASE AND DESIST ORDERS, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 55-1815, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE REVOCATION OF A REGISTRATION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 55-1817, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 55-1818, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 55-1819, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 18, TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 55-1819A, IDAHO CODE, TO PROVIDE THAT ANY OFFER OR DISPOSITION MADE IN VIOLATION OF CHAPTER 18, TITLE 55, IDAHO CODE, CONSTITUTES AN UNFAIR AND DECEPTIVE ACT OR PRACTICE; AMENDING SECTION 55-1820, IDAHO CODE, TO PROVIDE THAT CERTAIN PERSONS HAVE SUBMITTED TO THE JURISDICTION OF THIS STATE AND OF THE ADMINISTRATIVE JURISDICTION OF THE COMMISSION, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 55-1821, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 55-1822, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 55-1823, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 55-1801, Idaho Code, be, and the same is hereby amended to read as follows:

55-1801. TITLE. This ~~act~~ chapter shall be known and may be cited as the "Subdivided Lands Disposition Act."

SECTION 2. That Section 55-1802, Idaho Code, be, and the same is hereby amended to read as follows:

55-1802. DEFINITIONS. When used in this ~~act~~ chapter, unless the context otherwise requires:

(1~~.~~) "Commission" means the Idaho real estate commission~~;~~.

(2~~.~~) "Disposition" includes sale, lease, assignment, award by lottery~~,~~ or any other transaction concerning a subdivision, if undertaken for gain or profit~~;~~.

(3~~.~~) "Offer" includes any inducement, solicitation~~,~~ or attempt to encourage a person to acquire an interest in land, if undertaken for gain or profit~~;~~.

(4~~.~~) "Person" means an individual, corporation, government, ~~or~~ governmental subdivision or agency, business trust, estate, trust, partnership, unincorporated association, two (2) or more of any of the foregoing having a joint or common interest~~,~~ or any other legal or commercial entity~~;~~.

(5~~.~~) "Purchaser" means a person who acquires or attempts to acquire or succeeds to an interest in land~~;~~.

(6~~.~~) "Subdivider" means any owner of subdivided land who offers it for disposition or the principal agent of an inactive owner~~; and~~.

(7~~.~~) ~~a.~~ "Subdivision" ~~and~~ or "subdivided lands" means and includes the following:

(a) A~~a~~ny land situated outside the state of Idaho ~~which~~ that is divided or is proposed to be divided for the purpose of disposition into five (5) or more lots, parcels, units~~,~~ or interests and also includes any land, whether contiguous or not, if five (5) or more lots, parcels, units~~,~~ or interests are offered as a part of a common promotional plan of advertising and sale~~.~~;

(b~~.~~) ~~In addition to the definition stated in subsection 7.a. above, "subdivision" and "subdivided lands" mean a~~Any time shared property located within or without this state ~~which~~ that is offered to purchasers or is proposed to be offered to purchasers.

(8~~.~~) "Time shared property" means any real property in which the use and occupancy rights are divided or proposed to be divided into more than thirteen (13) units, interests or parcels in accordance with a fixed or variable time schedule on a periodic basis that allocates the use or occupancy among the persons holding similar interests, whether such use or occupancy rights are granted by deed, contract or share certificate.

SECTION 3. That Section 55-1803, Idaho Code, be, and the same is hereby amended to read as follows:

55-1803. ADMINISTRATION OF ~~ACT~~ CHAPTER. This ~~act~~ chapter shall be administered by the Idaho real estate commission.

SECTION 4. That Section 55-1804, Idaho Code, be, and the same is hereby amended to read as follows:

55-1804. PROHIBITIONS ON DISPOSITIONS OF INTERESTS IN SUBDIVISIONS. Unless the subdivided lands or the transaction is exempt under section 55-1805, Idaho Code, it shall be unlawful for any person to make in this state:

(1~~.~~) ~~To~~ Any offer or ~~to dispose~~ disposition of any interest in subdivided lands located without this state prior to the time that the subdivided lands are registered in accordance with this ~~act;~~ chapter.

(2~~.~~) ~~To dispose of any interest in subdivided lands unless a current public offering statement is delivered to the purchaser and the purchaser is afforded a reasonable opportunity to examine the public offering statement prior to the disposition.~~

~~3.~~ ~~To~~ Any offer or ~~dispose~~ disposition of any interest in a time shared property located within or without this state prior to the time that the time shared property is registered in accordance with this ~~act~~ chapter.

(3) Any disposition of any interest in subdivided lands without delivering to the purchaser an effective current public offering statement, obtaining a dated and signed receipt and affording the purchaser a reasonable opportunity to examine the statement.

An offer is made in this state, whether or not the offeror or offeree is then present in this state, if the offer originates within this state or is directed by the offeror to a person or place in this state and received by the person or at the place to which it is directed.

SECTION 5. That Chapter 18, 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 55-1804A, Idaho Code, and to read as follows:

55-1804A. RIGHT OF RESCISSION. Any contract or agreement of disposition for an interest in subdivided lands may be rescinded by the purchaser without cause by personally delivering or sending by certified mail, a written notice of cancellation to the subdivider on or before 11:59 p.m. of the fifth calendar day after execution of the contract or agreement of disposition. The contract or agreement of disposition shall state this right and terms in boldface type on the signature page and shall include the address of the subdivider.

SECTION 6. That Section 55-1805, Idaho Code, be, and the same is hereby amended to read as follows:

55-1805. EXEMPTIONS. (1~~.~~) Unless the method of disposition is adopted for the purpose of evasion of this ~~act~~ chapter, the registration provisions of this ~~act~~ chapter do not apply to offers or dispositions of an interest in land:

(a~~.~~) By a purchaser of subdivided lands for his own account in a single or isolated transaction;

(b~~.~~) If fewer than five (5) separate lots, parcels, units~~,~~ or interests in subdivided lands are offered by a person in a period of twelve (12) months;

(c~~.~~) By any salaried employee in the normal course of his employment for an owner who is not in the business of making real estate sales when the transaction is incidental to the principal activities or business of the owner and where no added incentive such as a bonus or commission or other fee is paid to the employee for the transaction;

(d~~.~~) By any person holding a duly executed power of attorney from the owner or principal agent of an inactive owner when the power of attorney is executed for the performance of a specific real estate transaction;

(e~~.~~) To persons who are engaged in the business of construction of buildings for resale or to persons who acquire an interest in subdivided lands for the purpose of engaging, and do engage, in the business of construction of buildings for resale;

(f~~.~~) Pursuant to court order;

(g~~.~~) By any government or government agency; or

(h~~.~~) As cemetery lots or interests.

(2~~.~~) Unless the method of disposition is adopted for the purpose of evasion of this ~~act~~ chapter, the registration provisions of this ~~act~~ chapter do not apply to~~:~~

~~a. O~~offers and dispositions of securities currently registered with the Idaho ~~commissioner~~ department of finance~~; or~~

~~b. A subdivision as to which the commission has granted an exemption as provided in section 55-1811~~.

SECTION 7. That Section 55-1806, Idaho Code, be, and the same is hereby amended to read as follows:

55-1806. APPLICATION FOR REGISTRATION. (1~~.~~) The application for registration of subdivided lands shall be filed as prescribed by the commission and shall contain the following documents and information:

(a~~.~~) An irrevocable appointment of the commission to receive service of any lawful process in any noncriminal proceeding arising under this ~~act~~ chapter against the applicant or his personal representative;

(b~~.~~) A legal description of the subdivided lands offered for registration, together with a map showing the division proposed or made, the dimensions of the lots, parcels, units~~,~~ or interests, and the relation of the subdivided lands to existing streets, roads, waterways, schools, churches, shopping centers, public transportation facilities in existence or under construction~~,~~ and other off-site improvements, in existence or under construction;

(c~~.~~) The state or jurisdictions in which an application for registration or similar document has been filed, and any adverse order, judgment~~,~~ or decree entered in connection with the subdivided lands by the regulatory authorities in each jurisdiction or by any court;

(d~~.~~) The applicant's name, address, and the form, date~~,~~ and jurisdiction of organization~~;~~ and the address of each of its offices in this state;

(e~~.~~) If a corporation, partnership or other legal entity, t~~T~~he name, address~~,~~ and principal occupation for the past five (5) years of every director, ~~and~~ officer, ~~of the applicant~~ general partner, member, manager or person occupying a similar status or performing similar func-

tions; the extent and nature of his interest in the applicant or the subdivided lands as of a specified date within thirty (30) days of the filing of the application;

(f~~.~~) A statement indicating whether, within the past ten (10) years, the applicant, its individual directors, officers, general partners, members or managers have been:

(i) Convicted of a crime involving land dispositions or any aspect of the land sales business in this state, the United States or any other state or foreign country;

(ii) Adjudicated liable and had a civil judgment entered against him for making a false or misleading promotional plan involving land dispositions; or

(iii) Subject to any injunction or administrative order restraining a false or misleading promotional plan involving land dispositions.

(g) A statement, in a form acceptable to the commission, of the condition of the title to the subdivided lands including encumbrances as of a specified date within thirty (30) days of the date of application by a title opinion of a licensed attorney, not a salaried employee, officer~~,~~ or director of the applicant or owner, or by other evidence of title acceptable to the commission;

~~g.~~(h) Copies of the instruments which will be delivered to a purchaser to evidence his interest in the subdivided lands and of the contracts and other agreements ~~which~~ that a purchaser will be required to agree to or sign;

~~h.~~(i) Copies of the instruments by which the interest in the subdivided lands was acquired and a statement of any lien or encumbrance upon the title and copies of the instruments creating the lien or encumbrance, if any, with data as to recording;

~~i.~~(j) If there is a lien or encumbrance affecting more than one (1) lot, parcel, unit~~,~~ or interest, a statement of the consequences for a purchaser of failure to discharge the lien or encumbrance and the steps, if any, taken to protect the purchaser in case of this eventuality;

~~j.~~(k) Copies of instruments creating easements, restrictions~~,~~ or other encumbrances affecting the subdivided lands;

~~k.~~(l) A statement of the zoning and other governmental regulations affecting the use of the subdivided lands and also of any existing tax and existing or proposed special taxes or assessments ~~which~~ that affect the subdivided lands;

~~l.~~(m) A statement of the existing provisions for legal and physical access or, if none exists, a statement to that effect; a statement of the existing or proposed provisions for sewage disposal, water~~,~~ and other public utilities in the subdivision; a statement of the improvements to be installed, the schedule for their completion~~,~~ and a statement as to the provisions for improvement maintenance;

~~m.~~(n) A narrative description of the promotional plan for the disposition of the subdivided lands, including the range of selling prices or rents at which it is proposed to dispose of the lots in the subdivision, together with copies of all advertising material ~~which~~ that has been prepared for public distribution by any means of communication;

~~n.~~(o) A copy of its articles of incorporation, with all amendments thereto, if the subdivider is a corporation; copies of all instruments by which the trust is created or declared, if the subdivider is a trust; copies of its articles of partnership or association and all other papers pertaining to its organization, if the subdivider is a partnership, unincorporated association~~,~~ or any other legal or commercial entity; and if the purported holder of legal title is a person other than the subdivider, copies of the above documents for such person;

~~o.~~(p) The proposed public offering statement;

~~p.~~ (q) Such current financial statements, certified or otherwise, as the commission may require; and

~~q.~~ (r) Such other information and such other documents and certifications as the commission may require as being reasonably necessary or appropriate for the protection of purchasers.

(2~~.~~) If the subdivider registers additional subdivided lands to be offered for disposition, he may consolidate the subsequent registration with any earlier registration offering subdivided lands for disposition under the same promotional plan.

(3~~.~~) The subdivider shall immediately report to the commission any material changes in the information contained in an application for registration.

(4~~.~~) As a condition precedent to the registration of any subdivided lands, the commission shall require that the subdivider file a bond executed to the state of Idaho for the ~~use, benefit, and~~ protection of any person and conditioned for the faithful compliance by the subdivider, his agents~~,~~ and his employees with all of the provisions of this ~~act, as amended,~~ chapter and with all rules~~, regulations,~~ and orders made pursuant thereto and for the faithful performance and payment of all obligations of the subdivider, his agents~~,~~ and his employees in connection with the registration, including any order to pay the costs and attorney's fees incurred by the commission or by any other agency of this state, in an administrative or judicial proceeding to enforce the provisions of this chapter or the provisions of chapter 6, title 48, Idaho Code. The ~~indemnity~~ bond shall be of such type and in such form ~~and shall be in such amount~~ as the commission shall deem necessary to ~~protect purchasers when the volume of business of the subdivider and other relevant factors are taken into consideration, but in no event less than ten~~ comply with the provisions of this subsection and shall be in the amount of one hundred thousand dollars ($100,000). Any such bond shall have as surety thereon a surety company authorized to do business in this state. Such bond shall remain in effect for one (1) calendar year after the earlier to occur of the following:

(a) The subdivision is no longer required to be registered pursuant to this chapter;

(b) The subdivider elects to discontinue offering for disposition interests in the subdivision and therefor elects not to renew the registration of the subdivision pursuant to this chapter;

(c) The provisions of this chapter no longer require the subdivider to post any bond; or

(d) The subdivider deposits sufficient funds in an approved escrow account or trust fund in lieu of the bond; provided, the bond shall continue to insure any covered claim filed against the subdivider, and of which the commission received written notice during the time the bond was in effect and until the claim has been finally resolved, including any appeal process.

(5) In lieu of filing a bond, the commission may accept funds deposited by the subdivider into an escrow depository acceptable to the commission or into a trust account acceptable to the commission. The deposited funds shall be maintained for the same purposes and upon the same terms and conditions as set forth in subsection (4) of this section.

SECTION 8. That Section 55-1807, Idaho Code, be, and the same is hereby amended to read as follows:

55-1807. PUBLIC OFFERING STATEMENT. (1~~.~~) A public offering statement shall disclose fully and accurately the physical characteristics of the subdivided lands offered and shall make known to prospective purchasers all unusual and material circumstances or features affecting the subdivided

lands. The proposed public offering statement submitted to the commission shall be in a form prescribed by it and shall include the following:

(a~~.~~) The name and principal address of the subdivider;

(b~~.~~) A general description of the subdivided lands stating the total number of lots, parcels, units~~,~~ or interests in the offering;

(c~~.~~) The significant terms of any encumbrances, easements, liens~~,~~ and restrictions, including zoning and other regulations, affecting the subdivided lands and each unit or lot, and a statement of all existing taxes and existing or proposed special taxes or assessments ~~which~~ that affect the subdivided lands;

(d~~.~~) A statement of the use for which the property is offered;

(e~~.~~) Information concerning improvements in existence or under construction including streets, water supply, levees, drainage control systems, irrigation systems, sewage disposal facilities~~,~~ and customary utilities, and the estimated cost, date of completion~~,~~ and responsibility for construction and maintenance of existing and proposed improvements ~~which~~ that are referred to in connection with the offering or disposition of any interest in subdivided lands; and

(f~~.~~) Such of the information contained in the application for registration, and any amendments thereto, and such other information as the commission may require as being necessary or appropriate in the public interest or for the protection of purchasers.

(2~~.~~) The public offering statement shall disclose, in a prominent place and in bold type, the right of rescission as required in section 55-1804A, Idaho Code.

(3) The public offering statement shall not be used for any promotional purposes before registration of the subdivided lands and afterwards only if it is used in its entirety. No person may advertise or represent that the commission approves or recommends the subdivided lands or disposition thereof. No portion of the public offering statement may be underscored, italicized~~,~~ or printed in larger or heavier or different color type than the remainder of the statement ~~unless the commission requires it~~ except as required by statute or rule of the commission.

~~3.~~(4) The commission may require the subdivider to alter or amend the proposed public offering statement in order to assure full and fair disclosure to prospective purchasers, and no change in the substance of the promotional plan or plan of disposition or development of the subdivision may be made after registration without notifying the commission and without making appropriate amendment of the public offering statement. A public offering statement is not current unless all amendments are incorporated.

(5) All advertising material of any nature prepared for use in connection with the offer and disposition of any interests in subdivided lands registered under this chapter shall be submitted to the commission prior to its use.

SECTION 9. That Section 55-1808, Idaho Code, be, and the same is hereby amended to read as follows:

55-1808. ~~INQUIRY AND~~ EXAMINATION BY COMMISSION OF APPLICATION FOR REGISTRATION. Upon receipt of an application for registration in proper form, the commission shall forthwith initiate an examination of the application for registration to determine that:

(1~~.~~) The requirements of section 55-1806, Idaho Code, have been satisfied, the subdivider can convey or cause to be conveyed the interest in subdivided lands offered for disposition if the purchaser complies with the terms of the offer~~,~~ and, when appropriate, that release clauses, conveyances in trust, escrow and impoundage provisions~~,~~ and other safeguards have been provided;

(2~~.~~) There is reasonable assurance that all proposed improvements will be completed as represented;

(3~~.~~) ~~The advertising material and the general promotional plan are not false or misleading and comply with the standards prescribed by the commission in its rules and regulations and afford full and fair disclosure;~~

~~4. The subdivider has not, or if a corporation, its officers, directors, and principals have not been convicted of a crime involving land dispositions or any aspect of the land sales business in this state, the United States, or any other state or foreign country within the past ten (10) years and has not been subject to any injunction or administrative order within the past ten (10) years restraining a false or misleading promotional plan involving land dispositions;~~

~~5.~~ There is no evidence which would reasonably lead the commission to believe that the subdivider, or if a corporation, partnership or other legal entity, its individual officers, directors, general partners, members, managers or other such principals are contemplating a fraudulent or misleading sales promotion; and

~~6.~~(4) The public offering statement requirements of this ~~act~~ chapter have been satisfied.

SECTION 10. That Section 55-1809, Idaho Code, be, and the same is hereby amended to read as follows:

55-1809. NOTICE OF FILING -- REGISTRATION -- REJECTION OF APPLICATION -- FEES. (1~~.~~) Upon receipt of the application for registration in proper form and of a base registration fee of two hundred fifty dollars ($250), the commission shall issue a notice of filing to the applicant. In addition to the ~~application for~~ base registration fee, the following fees are payable prior to issuance of an order of registration; five dollars ($5.00) per lot, parcel, unit or interest numbering fifty (50) to two hundred fifty (250); four dollars ($4.00) per lot, parcel, unit or interest numbering two hundred fifty-one (251) to five hundred (500); three dollars ($3.00) per lot, parcel, unit or interest numbering five hundred one (501) to seven hundred fifty (750); and two dollars and fifty cents ($2.50) for each lot, parcel, unit or interest numbering in excess of seven hundred fifty (750). The ~~maximum~~ application and registration fees ~~is twenty-five hundred~~ shall not exceed a maximum fee of three thousand dollars ($~~2~~3,~~5~~000).

(2) If an applicant submits the required filings using the web-based document management system sponsored by the association of real estate license law officials, the fees prescribed in this section, including the maximum fee, shall be reduced by twenty-five percent (25%). The reduction does not apply to late fees. The commission may promulgate rules changing or eliminating the fee reduction.

(3) Within ninety (90) days from the date of the notice of filing, the commission shall enter an order registering the subdivided lands or rejecting the registration. If no order of rejection is entered within ninety (90) days from the date of notice of filing, the land shall be deemed registered unless the applicant has consented in writing to a delay.

~~2.~~(4) If the commission ~~affirmatively~~ determines~~, upon inquiry and examination,~~ that the requirements of sections 55-1806 through 55-1808, Idaho Code, have been met, it shall enter an order registering the subdivided lands and shall designate the form of the public offering statement.

~~3.~~(5) If the commission determines~~, upon inquiry and examination,~~ that any of the requirements of sections 55-1806 through 55-1808, Idaho Code, have not been met, the commission shall notify the applicant that the application for registration must be corrected in the particulars specified within ten (10) days or within the time otherwise allowed by the commission. If the requirements are not met within the time allowed, the commission shall enter an order rejecting the registration which shall ~~include the findings~~

~~of fact upon which the order is based~~ state the basis for the rejection and advise the applicant of his right to request a hearing before the commission. The order rejecting the registration shall not become effective for twenty (20) days after service of the order, during which time the applicant may ~~petition for reconsideration and shall be entitled to~~ make a written request for a hearing. If a hearing is not timely requested, the order shall become the final agency action subject to judicial review under chapter 52, title 67, Idaho Code.

~~4.~~(6) Registration under this ~~act~~ chapter shall be effective as of the date of the registration order for a period of one (1) year and may be renewed for additional periods of one (1) year by filing, not later than fifteen (15) days prior to the expiration of a registration, a renewal application in such form and containing such information as the commission shall prescribe, including the renewal report provided in section 55-1810, Idaho Code, together with the payment of a base renewal fee of two hundred fifty dollars ($250), plus one dollar ($1.00) for each lot, parcel, unit or interest. The total fees for a timely renewal application shall not exceed a maximum fee of three thousand dollars ($3,000). A late renewal fee of twenty-five dollars ($25.00) per day will be charged for each day the renewal application is late, with a maximum late fee of five hundred dollars ($500). A registration that is not renewed within twenty (20) days of expiration shall be deemed canceled and may not thereafter be renewed under the provisions of this section. Each amendment to the original registration requires a twenty-five dollar ($25.00) fee. The initial registration and any renewal fees ~~shall~~ may not be returned or refunded for any reason.

~~5.~~(7) All fees collected by the commission under this ~~act~~ chapter shall be deposited at least monthly with the state treasurer and said funds so deposited shall be deposited to the credit of the special real estate fund. All funds so deposited are hereby appropriated to the commission for the purpose of carrying out the provisions of this ~~act~~ chapter. All expenditures from said fund by the commission under the provisions of this ~~act~~ chapter shall be paid out on warrants drawn by the state controller upon presentation of proper vouchers approved by the commission. Such claims and supporting vouchers shall be examined by the state board of examiners in the same manner as other claims against the state of Idaho. For the purpose of carrying out the objects of this ~~act~~ chapter and in the exercise of the powers herein granted, the commission shall have powers to make orders concerning the disbursement of the moneys in said special real estate fund, including the payment of compensation and expenses of its members, clerks and employees and for the payment of printing and for such other expenses as deemed necessary.

(8) The fact that an application for registration and public offering statement have been filed, or the fact that an order of registration has been issued, does not constitute a finding by the commission that any document is true, complete and not misleading, nor does either fact mean that the commission has determined in any way the merits, qualifications of or given its approval or recommendation to any person or subdivision. It is unlawful for any person to make, or cause to be made, to any prospective purchaser any representation inconsistent with the provisions of this subsection.

SECTION 11. That Section 55-1810, Idaho Code, be, and the same is hereby amended to read as follows:

55-1810. ~~ANNUAL~~ RENEWAL REPORT -- DUTY TO REPORT CONVICTIONS AND JUDGMENTS. (1) ~~Within thirty (30) days after each annual anniversary date of an order registering subdivided lands, t~~The subdivider shall file a renewal report in the form prescribed by the commission. The renewal report shall reflect any material changes in information contained in the original application for registration. The renewal report must be filed with the renewal

application not later than fifteen (15) days before the registration expiration date.

(2) If at any time after filing an initial or renewal application, a subdivider or any of its individual directors, officers, general partners, members, managers or other such principals, is convicted, has a judgment entered against it or is found liable in any court or administrative tribunal for any conduct referenced in section 55-1806 or 55-1815, Idaho Code, the subdivider shall, within thirty (30) days, forward to the commission a copy of the judgment, order or other document evidencing the same.

(3) The commission may initiate a renewal examination of the kind provided in section 55-1808, Idaho Code. If the commission determines that any of the requirements of sections 55-1806 through 55-1808, Idaho Code, have not been met, it shall notify the subdivider that the deficiency must be corrected within twenty (20) days or such other time as allowed by the commission. If the requirements are not met within the time allowed, the commission may, notwithstanding the provisions of section 55-1814, Idaho Code, issue a cease and desist order according to the emergency procedures of chapter 52, title 67, Idaho Code, barring further sales of the subdivided lands.

SECTION 12. That Section 55-1811, Idaho Code, be, and the same is hereby amended to read as follows:

55-1811. GENERAL POWERS AND DUTIES. (1~~.~~) The commission shall have the authority to promulgate, to amend~~,~~ and to repeal reasonable rules ~~and regulations~~ for the administration and enforcement of this ~~act~~ chapter. Such rules ~~and regulations shall~~ may include~~, but not be limited to,~~ provisions for advertising standards to assure full and fair disclosure; provisions for bond, escrow or trust agreements or other means to assure that all improvements referred to in the application for registration and advertising will be completed and that purchasers will receive the interest in land for which they contracted; provisions for operating procedures; and such other rules ~~and regulations~~ as are necessary or proper to accomplish the purposes of this ~~act~~ chapter.

(2~~.~~) ~~All advertising material of any nature whatsoever prepared for use in connection with the offer and disposition of any interests in subdivided lands registered under this act shall be submitted to and approved by the commission prior to its use~~ The commission may revoke a registration ordered under the provisions of this chapter, issue a cease and desist order and assess costs and attorney's fees for the cost of any investigation and administrative or other proceedings against any person who is found to have violated any section of this chapter, the commission's administrative rules or any order of the commission. If any amounts assessed against a subdivider by final order of the commission become otherwise uncollectible or payment is in default, and only if all of the defendant's rights to appeal have passed, the commission may then proceed to district court and seek to enforce collection through judgment and execution, including an action against any bond filed or escrow or trust funds deposited pursuant to section 55-1806, Idaho Code.

(3~~.~~) Whenever it appears that a person has engaged or is about to engage in acts or practices ~~which~~ that constitute or will constitute a violation of the provisions of this ~~act~~ chapter or of a rule ~~or regulation~~ or order hereunder, the commission, with or without prior administrative proceedings, may bring an action in any district court to enjoin the acts or practices and to enforce compliance with this ~~act~~ chapter or any rule ~~or regulation~~ or order hereunder. Upon a proper showing, a permanent or temporary injunction or restraining order may be granted.

(4~~.~~) The commission may intervene in a suit involving subdivided lands. In any suit by or against a subdivider involving subdivided lands, the subdivider promptly shall furnish the commission notice of the suit and copies of all pleadings.

(5~~.~~) The commission may:

(a~~.~~) Accept registrations filed in other states or with the federal government;

(b~~.~~) Contract with the association of real estate license law officials to use its web-based file management system to accept registrations and related filings and to reduce the registration fees for applicants who use the web-based system to file registration documents;

(c) Contract with similar agencies in this state or other jurisdictions to perform investigative functions.

(6~~.~~) The commission shall cooperate with similar agencies in other jurisdictions to establish uniform filing procedures and forms, uniform public offering statements, advertising standards, rules~~, regulations,~~ and common administrative practices.

~~7. The commission may exempt a subdivision of ten (10) or fewer lots, parcels, units, or interests from the provisions of this act if it determines that the plan of promotion and disposition is primarily directed to persons in the local community in which the subdivision is located.~~

SECTION 13. That Section 55-1812, Idaho Code, be, and the same is hereby amended to read as follows:

55-1812. FRAUDULENT PRACTICES. It shall be a fraudulent practice~~,~~ and it shall be unlawful:

(1~~.~~) For any person knowingly to subscribe to or make or cause to be made any materially false statement or representation in any application, financial statement~~,~~ or other document or statement required to be filed under any provision of this ~~act~~ chapter, or to omit to state any material statement or fact in any such document or statement ~~which~~ that is necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading;

(2~~.~~) For any person, in connection with the offer~~,~~ or disposition~~, or purchase~~ of subdivided lands, directly or indirectly, to employ any device, scheme~~,~~ or artifice to defraud;

(3~~.~~) For any person, in connection with the offer~~,~~ or disposition~~, or purchase~~ of subdivided lands, directly or indirectly, to make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; or

(4~~.~~) For any person, in connection with the offer~~,~~ or disposition~~, or purchase~~ of subdivided lands, directly or indirectly, to engage in any act, practice~~,~~ or course of business ~~which~~ that operates or would operate as a fraud or deception upon purchasers or the public.

SECTION 14. That Section 55-1813, Idaho Code, be, and the same is hereby amended to read as follows:

55-1813. INVESTIGATIONS AND PROCEEDINGS. (1~~.~~) The commission ~~shall~~ may investigate any subdivision offered for disposition in this state and the actions of any person who makes any offer or disposition of subdivided lands requiring registration under this chapter. In the conduct of the investigation, the commission may:

(a~~.~~) Rely upon any relevant information concerning a subdivision obtained from the federal housing administration, the United States veterans administration~~,~~ or any other federal agency or any state agency having comparable duties in relation to subdivisions;

(b~~.~~) Require the applicant to submit reports prepared by competent engineers as to any hazard to which any subdivision offered for disposition is subject or any factor ~~which~~ that affects the utility of inter-

ests within the subdivision, and require evidence of compliance in removing or minimizing all hazards reflected in engineering reports;

(c~~.~~) Require an on-site inspection of the subdivision by a person or persons designated by it. All expenses incurred in connection with an on-site inspection shall be defrayed by the applicant, and the commission shall require a deposit sufficient to defray such expenses in advance;

(d~~.~~) Make public or private investigations within or outside this state to determine whether any person has violated or is about to violate the provisions of this ~~act~~ chapter or any rule~~, regulation~~ or order hereunder, or to aid in the enforcement of this ~~act~~ chapter or in prescribing rules ~~and regulations~~ and forms hereunder; and

(e~~.~~) Require or permit any person to file a statement in writing, under oath or otherwise as the commission determines, as to all the facts and circumstances concerning the matter to be investigated.

(2~~.~~) For the purpose of any investigation or proceeding under this ~~act~~ chapter, the commission or any person designated by it may administer oaths or affirmations, and upon its own motion or upon the request of any party the commission or any person designated by it shall have the power to administer oaths, take depositions of witnesses in and out of the state of Idaho in the manner of civil cases, require the attendance of such witnesses and the production of such books, records and papers as it may desire at any hearing before it or deposition authorized by it, pertaining in any manner to any matters of which it has authority to investigate and for that purpose the ~~board~~ commission may issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records or papers ~~directed to the sheriff of any county of the state of Idaho, where such witness resides, or may be found, which~~ that shall be served and returned in the same manner as a subpoena in a civil case is returned. The fees and mileage of witnesses shall be the same as that allowed in the district courts in civil cases. ~~In any cases 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 the district court, or any judge thereof, of any county in this state in which such disobedience, neglect or refusal occurs, upon application of the commission, to compel obedience in proceedings for contempt as in the case of disobedience of the requirements of any subpoena issued from such court or for refusal to testify therein. The person accused in such proceeding shall have the same right of subpoena upon making application to the commission as set out in this act.~~

~~Prior to the service of any subpoena authorized by this act, the commission or the accused person must secure an order authorizing the service of the subpoena from a district judge. Application to a district judge for authorization to serve a subpoena shall be on ex parte motion supported by an affidavit of a member of the commission, the accused person or his attorney, setting forth the reasons why the person applying for permission to serve the subpoena believes the testimony or evidence to be obtained will be pertinent to the investigation, inquiry or hearing. The order shall be filed with the commission.~~

(3~~.~~) The commission may permit a person registered with the commission whose conduct or actions may be under investigation to waive formal proceedings and enter into a consent proceeding whereby orders, rules~~,~~ or letters of censure or warning, whether formal or informal, may be entered against said person.

(4~~.~~) Except as otherwise provided in this ~~act~~ chapter, all proceedings under this ~~act~~ chapter shall be in accordance with chapter 52, title 67, Idaho Code, and IDAPA 33.01.02, rules of practice and procedure of the Idaho real estate commission governing contested cases.

SECTION 15. That Section 55-1814, Idaho Code, be, and the same is hereby amended to read as follows:

55-1814. CEASE AND DESIST ORDERS. (1~~.~~) If the commission determines after notice and hearing that a person has:

(a~~.~~) Violated any provision of this ~~act~~ chapter;

(b~~.~~) Directly or through an agent or employee knowingly engaged in any false, deceptive~~,~~ or misleading advertising, promotional~~,~~ or sales methods to offer or dispose of an interest in subdivided lands;

(c~~.~~) Made any substantial change in the plan of disposition and development of the subdivided lands subsequent to the order of registration without obtaining prior written approval from the commission;

(d~~.~~) Disposed of any subdivided lands ~~which~~ that have not been registered with the commission; or

(e~~.~~) Violated any lawful order or rule ~~or regulation~~ of the commission;

it may ~~file an action in the district court for~~ issue an order requiring the person to cease and desist from the unlawful practice and ~~to~~ may take such ~~affirmative~~ other action as ~~in the judgment of the district court will carry out the purposes of~~ authorized by this ~~act~~ chapter.

(2~~.~~) If the ~~district court~~ commission makes a finding of fact in writing that the public interest will be irreparably harmed by delay in issuing an order, such as in the case of the subdivider's failure to maintain the statutory requirements for registration, it may issue a temporary cease and desist order. Prior to issuing the temporary cease and desist order, the ~~district court may require that the~~ commission shall, whenever ~~possible~~ practicable, by telephone or otherwise, ~~has~~ give~~n~~ notice of the ~~proposal to apply~~ petition for a temporary cease and desist order to the person. Every temporary cease and desist order issued shall be promptly served upon the person ordered and shall include ~~in its terms~~ the reasons for the order and a provision that, ~~upon~~ if requested by the person within twenty (20) days of service, the matter will be scheduled for a hearing, which will be held ~~promptly~~ within a reasonable time to determine whether or not ~~it~~ the order becomes permanent.

SECTION 16. That Section 55-1815, Idaho Code, be, and the same is hereby amended to read as follows:

55-1815. REVOCATION. (1~~.~~) A registration may be revoked by the commission after notice and hearing upon a written finding of fact that the subdivider has:

(a~~.~~) Failed to maintain the requirements for continued registration;

(b) Failed to comply with the terms of a cease and desist order;

~~b.~~(c) In any court or administrative tribunal, b~~B~~een convicted, ~~or~~ found liable ~~in any court subsequent to the filing of the application for registration of~~ or had a registration revoked for a crime, ~~or~~ tort or other misconduct involving fraud, deception, false pretenses, misrepresentation, false advertising~~,~~ or dishonest dealing in ~~real estate transactions~~ land dispositions, including the offering or promotion of land disposition;

~~c.~~(d) Disposed of, concealed~~,~~ or diverted any funds or assets of any person so as to defeat the rights of subdivision purchasers;

~~d.~~(e) Failed faithfully to perform any stipulation or agreement made with the commission as an inducement to grant any registration, to reinstate any registration~~,~~ or to approve any promotional plan or public offering statement; or

~~e.~~(f) Made intentional misrepresentations or concealed material facts in an application for registration.

Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

(2~~.~~) If the ~~district court~~ commission finds after notice and hearing that the subdivider has ~~been guilty of~~ committed a violation for which revocation could be ordered, it may issue a cease and desist order instead.

SECTION 17. That Section 55-1817, Idaho Code, be, and the same is hereby amended to read as follows:

55-1817. REAL ESTATE LICENSE REQUIRED. No real estate broker or sales~~man~~person shall offer or dispose of subdivided lands within or from this state, except in dispositions and transactions exempt under section 55-1805, Idaho Code, unless said real estate broker or sales~~man~~person is licensed pursuant to chapter 20, title 54, Idaho Code.

SECTION 18. That Section 55-1818, Idaho Code, be, and the same is hereby amended to read as follows:

55-1818. EXTRADITION. In proceedings for extradition of a person charged with a crime under this ~~act~~ chapter, it need not be shown that the person whose surrender is demanded has fled from justice or at the time of the commission of the crime was in the demanding or other state.

SECTION 19. That Section 55-1819, Idaho Code, be, and the same is hereby amended to read as follows:

55-1819. CIVIL REMEDY. (1~~.~~) Every disposition made in violation of any of the provisions of this ~~act~~ chapter, or of any order issued by the commission under any of the provisions of this ~~act~~ chapter, shall be voidable at the election of the purchaser. The person making such disposition, and every director, officer, sales~~man,~~person or agent of or for such person who shall have participated or aided in any way in making such disposition, shall be jointly and severally liable to such purchaser in any action at law in any court of competent jurisdiction for the consideration paid for the lot, parcel, unit~~,~~ or interest, together with interest at the rate of six percent (6%) per year from the date of payment, property taxes and assessments paid, court costs~~,~~ and reasonable attorney's fees, less the amount of any income received from the subdivided lands, upon tender of appropriate instruments of reconveyance made at any time before the entry of judgment. If the purchaser no longer owns the lot, parcel, unit~~,~~ or interest in subdivided lands, he may recover the amount that would be recoverable upon a tender of a reconveyance less the value of the land when disposed of and less interest at the rate of six percent (6%) per year on that amount from the date of disposition.

(2~~.~~) No action shall be brought under this section for the recovery of the consideration paid after five (5) years from the date of such disposition.

(3~~.~~) Any stipulation or provision purporting to bind any person acquiring subdivided lands to waive compliance with this ~~act~~ chapter or any rule ~~or regulation~~ or order under it is void.

(4~~.~~) The rights and remedies provided by this ~~act~~ chapter shall be in addition to any and all other rights and remedies that may exist at law or in equity.

SECTION 20. That Chapter 18, 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 55-1819A, Idaho Code, and to read as follows:

55-1819A. NONCOMPLIANCE -- UNFAIR PRACTICE UNDER THE IDAHO CONSUMER PROTECTION ACT. Any offer or disposition made in violation of this chapter

constitutes an unfair and deceptive act or practice pursuant to chapter 6, title 48, Idaho Code.

SECTION 21. That Section 55-1820, Idaho Code, be, and the same is hereby amended to read as follows:

55-1820. JURISDICTION. (1) Dispositions of subdivided lands are subject to this ~~act~~ chapter, and the district courts of this state have jurisdiction in claims or causes of action arising under this ~~act~~ chapter if:

~~1.~~ (a) The subdivider's principal office is located in this state; or

~~2.~~ (b) Any offer or disposition of subdivided lands is made in this state, whether or not the offeror or offeree is then present in this state, if the offer originates within this state or is directed by the offeror to a person or place in this state and received by the person or at the place to which it is directed.

(2) Any person who makes a disposition of subdivided lands in this state, whether or not the subdivided lands are registered in this state, has thereby submitted to the jurisdiction of the state of Idaho and to the administrative jurisdiction of the commission and shall be subject to all penalties and remedies available under Idaho law for any violation of the provisions of this chapter.

SECTION 22. That Section 55-1821, Idaho Code, be, and the same is hereby amended to read as follows:

55-1821. SERVICE OF PROCESS. ~~1.~~ In addition to the methods of service provided for in the Idaho rules of civil procedure and Idaho statutes, service may be made on a person who has filed a consent to service of process by delivering a copy of the process to the office of the commission, but it is not effective unless the plaintiff (which may be the commission in a proceeding instituted by it):

~~a.~~ (1) Forthwith sends a copy of the process and of the pleading by certified or registered mail to the defendant or respondent at his last known address~~,~~; and

~~b.~~ (2) The plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any or within such further time as the court allows.

SECTION 23. That Section 55-1822, Idaho Code, be, and the same is hereby amended to read as follows:

55-1822. EVIDENTIARY MATTERS. (1~~.~~) In any action, civil or criminal, where a defense is based upon any exemption provided for in this ~~act~~ chapter, the burden of proving the existence of such exemption shall be upon the party raising such defense.

(2~~.~~) In any action, civil or criminal, a certificate signed and sealed by the commission stating compliance or noncompliance with the provisions of this ~~act~~ chapter shall be admissible in any such action.

SECTION 24. That Section 55-1823, Idaho Code, be, and the same is hereby amended to read as follows:

55-1823. PENALTIES. Any person who shall willfully violate any provision of this ~~act~~ chapter or who willfully violates any rule ~~or regulation~~ or order of the commission made and served upon said person pursuant to the provisions of this ~~act~~ chapter, or who shall willfully engage in any act, practice~~,~~ or transaction declared by any provision of this ~~act~~ chapter to be unlawful shall be guilty of a felony.

Approved March 31, 2010.

CHAPTER 215
(S.B. No. 1305, As Amended)

AN ACT

RELATING TO BOARDS OF TRUSTEES AND ANNEXATION OF TERRITORY; AMENDING SECTION 33-308, IDAHO CODE, AS AMENDED BY SECTION 24, CHAPTER 341, LAWS OF 2009, TO PROVIDE REQUIREMENTS RELATING TO LEGAL DESCRIPTIONS OF CERTAIN REAL PROPERTY AND TO CORRECT A CODIFIER'S ERROR; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 33-308, Idaho Code, as amended by Section 24, Chapter 341, Laws of 2009, be, and the same is hereby amended to read as follows:

33-308. EXCISION AND ANNEXATION OF TERRITORY. (1) A board of trustees of any school district including a specially chartered school district, or one-fourth (1/4) or more of the school district electors, residing in an area of not more than fifty (50) square miles within which there is no schoolhouse or facility necessary for the operation of a school district, may petition in writing proposing the annexation of the area to another and contiguous school district.

(2) Such petition shall be in duplicate, one (1) copy of which shall be presented to the board of trustees of the district from which the area is proposed to be excised, and the other to the board of trustees of the district to which the area is proposed to be annexed. The petition shall contain:

(a) The names and addresses of the petitioners;

(b) A legal description of the area proposed to be excised from one (1) district and annexed to another contiguous district. Such legal description shall be prepared by a licensed attorney, licensed professional land surveyor or licensed professional engineer professionally trained and experienced in legal descriptions of real property;

(c) Maps showing the boundaries of the districts as they presently appear and as they would appear should the excision and annexation be approved;

(d) The names of the school districts from and to which the area is proposed to be excised and annexed;

(e) A description of reasons for which the petition is being submitted; and

(f) An estimate of the number of children residing in the area described in the petition.

(3) The board of trustees of each school district, no later than ten (10) days after its first regular meeting held subsequent to receipt of the petition, shall transmit the petition, with recommendations, to the state department of education.

(4) The state board of education shall approve the proposal provided:

(a) The excision and annexation is in the best interests of the children residing in the area described in the petition; and

(b) The excision of the territory, as proposed, would not leave a school district with a bonded debt in excess of the limit then prescribed by law.

If either condition is not met, the state board shall disapprove the proposal. The approval or disapproval shall be expressed in writing to the board of trustees of each school district named in the petition.

(5) If the state board of education shall approve the proposal, it shall be submitted to the school district electors residing in the area described in the petition, at an election held in the manner provided in chapter 14, ti-

tle 34, Idaho Code. Such election shall be held on the date authorized in section 34-106, Idaho Code, which is nearest to sixty (60) days after the state board approves the proposal.

(6) At the election there shall be submitted to the electors having the qualifications of electors in a school district bond election and residing in the area proposed to be annexed:

(a) The question of whether the area described in the petition shall be excised from school district no. ( ) and annexed to contiguous school district no. ( ); and

(b) The question of assumption of the appropriate proportion of any bonded debt, and the interest thereon, of the proposed annexing school district.

(7) If a majority of the school district electors in the area described in the petition, voting in the election, shall vote in favor of the proposal to excise and annex the said area, and if in the area the electors voting on the question of the assumption of bonded debt and interest have approved such assumption by the proportion of votes cast as is required by section 3, article VIII, of the constitution of the state of Idaho, the proposal shall carry and be approved. Otherwise, it shall fail.

(8) If the proposal shall be approved by the electors in the manner prescribed, the board of canvassers shall thereupon promptly notify the state department of education and the affected school districts of such results. The superintendent of public instruction shall make an appropriate order for the boundaries of the affected school districts to be altered, and the legal descriptions of the school districts shall be altered, as prescribed in section 33-307, Idaho Code.

SECTION 2. This act shall be in full force and effect on and after January 1, 2011.

Approved March 31, 2010.

CHAPTER 216
(S.B. No. 1312)

AN ACT

RELATING TO THE CHILD PROTECTIVE ACT; AMENDING SECTION 16-1619, IDAHO CODE, TO PROVIDE THAT THE DEPARTMENT OF HEALTH AND WELFARE NEED NOT MAKE REASONABLE EFFORTS TO PREVENT THE PLACEMENT OF A CHILD INTO FOSTER CARE WHERE A PARENT HAS COMMITTED AN INJURY TO SUCH CHILD THAT RESULTS IN A SERIOUS OR GREAT BODILY INJURY.

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

SECTION 1. That Section 16-1619, Idaho Code, be, and the same is hereby amended to read as follows:

16-1619. ADJUDICATORY HEARING -- CONDUCT OF HEARING -- CONSOLIDATION. (1) When a petition has been filed, the court shall set an adjudicatory hearing to be held no later than thirty (30) days after the filing of the petition.

(2) A pretrial conference shall be held outside the presence of the court within three (3) to five (5) days before the adjudicatory hearing. Investigative reports required under section 16-1616, Idaho Code, shall be delivered to the court with copies to each of the parents and other legal custodians, guardian ad litem and attorney for the child prior to the pretrial conference.

(3) At the adjudicatory hearing, parents or guardians with disabilities shall have the right to introduce admissible evidence regarding how use of adaptive equipment or supportive services may enable the parent or guardian to carry out the responsibilities of parenting the child by addressing the reason for the removal of the child.

(4) If a preponderance of the evidence at the adjudicatory hearing shows that the child comes within the court's jurisdiction under this chapter upon the grounds set forth in section 16-1603, Idaho Code, the court shall so decree and in its decree shall make a finding on the record of the facts and conclusions of law upon which it exercises jurisdiction over the child.

(5) Upon entering its decree the court shall consider any information relevant to the disposition of the child but in any event shall:

(a) Place the child under protective supervision in his own home for an indeterminate period not to exceed the child's eighteenth birthday; or

(b) Vest legal custody in the department or other authorized agency subject to residual parental rights and subject to full judicial review by the court of all matters relating to the custody of the child by the department or other authorized agency.

(6) If the court vests legal custody in the department or other authorized agency, the court shall make detailed written findings based on facts in the record, that, in addition to the findings required in subsection (4) of this section, continuation of residence in the home would be contrary to the welfare of the child and that vesting legal custody with the department or other authorized agency would be in the best interests of the child. In addition the court shall make detailed written findings based on facts in the record as to whether the department made reasonable efforts to prevent the placement of the child in foster care, including findings, when appropriate, that:

(a) Reasonable efforts were made but were not successful in eliminating the need for foster care placement of the child;

(b) The department made reasonable efforts to prevent removal but was not able to safely provide preventive services;

(c) Reasonable efforts to temporarily place the child with related persons were made but were not successful; or

(d) Reasonable efforts were not required as the parent had subjected the child to aggravated circumstances as determined by the court including, but not limited to: abandonment; torture; chronic abuse; sexual abuse; committed murder; committed voluntary manslaughter of another child; aided or abetted, attempted, conspired or solicited to commit such a murder or voluntary manslaughter; committed a battery <u>or an injury to a child</u> that results in serious <u>or great</u> bodily injury to a child; or the parental rights of the parent to a sibling of the child have been terminated involuntarily and that as a result, a hearing to determine the permanent future plan for this child will be held within thirty (30) days of this determination.

(7) A decree vesting legal custody in the department shall be binding upon the department and may continue until the child's eighteenth birthday.

(8) A decree vesting legal custody in an authorized agency other than the department shall be for a period of time not to exceed the child's eighteenth birthday, and on such other terms as the court shall state in its decree to be in the best interests of the child and which the court finds to be acceptable to such authorized agency.

(9) In order to preserve the unity of the family system and to ensure the best interests of the child whether issuing an order of protective supervision or an order of legal custody, the court may consider extending or initiating a protective order as part of the decree. The protective order shall be determined as in the best interests of the child and upon a showing of contin-

uing danger to the child. The conditions and terms of the protective order shall be clearly stated in the decree.

(10) If the court does not find that the child comes within the jurisdiction of this chapter pursuant to subsection (4) of this section it shall dismiss the petition.

Approved March 31, 2010.

CHAPTER 217
(S.B. No. 1323)

AN ACT

RELATING TO IDAHO REAL ESTATE LICENSE LAW; AMENDING SECTION 54-2013, IDAHO CODE, TO REVISE REQUIREMENTS RELATING TO ERRORS AND OMISSIONS INSURANCE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-2018, IDAHO CODE, TO PROVIDE THAT A LICENSED SALESPERSON WHO OBTAINS A BROKER LICENSE SHALL RETAIN THE RENEWAL PERIOD AND EXPIRATION DATE OF HIS SALESPERSON LICENSE; AMENDING SECTION 54-2023, IDAHO CODE, TO REVISE CONTINUING EDUCATION REQUIREMENTS AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 54-2055, IDAHO CODE, TO REQUIRE THAT A LICENSEE MAKE A CERTAIN DISCLOSURE WITHIN A SPECIFIED AMOUNT OF TIME.

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

SECTION 1. That Section 54-2013, Idaho Code, be, and the same is hereby amended to read as follows:

54-2013. ERRORS AND OMISSIONS INSURANCE. (1) Each licensee who is actively licensed under this chapter shall, as a condition to licensing, carry and maintain errors and omissions insurance to cover all licensed activities under the provisions of this chapter.

(2) The commission shall make the insurance required under the provisions of this section available to each licensee by contracting with an insurance provider for errors and omissions insurance coverage for each licensee after competitive, sealed bidding in accordance with chapter 57, title 67, Idaho Code. The exact premium shall be set by the commission by motion.

(3) Any policy obtained by the commission shall be available to each licensee with no right on the part of the insurance provider to cancel coverage for any licensee.

(4) Each licensee shall have the option of obtaining errors and omissions insurance independently~~,~~ if the coverage contained in an independently obtained policy complies with the minimum requirements established by the commission.

(5) The commission shall determine the terms and conditions of coverage required under the provisions of this section including, but not limited to, the minimum limits of coverage, the permissible deductible and the permissible exemptions.

(6) A licensee seeking to obtain or renew an active license shall certify to the commission that he is in compliance with the insurance requirements of this section. A licensee who elects not to participate in the insurance program administered by the commission shall obtain a certificate of coverage, signed by an authorized agent or employee of the insurance carrier, reflecting proof of insurance meeting the requirements established by the commission. Upon request by the commission the licensee shall produce the certificate for inspection. Requests for certificates shall be sent by first class mail to the licensee's business or residence address as reflected by the commission's records and a copy of the request shall be sent

to the licensee's designated broker, if any. A licensee failing to produce a certificate of coverage within thirty (30) days of a request to do so may have his license inactivated by the commission and shall not be entitled to reactivate the license unless and until he provides to the commission a certificate of coverage reflecting proof of insurance meeting the requirements of the commission. Nothing in this subsection shall limit the ability of the commission to investigate or discipline a licensee for failing to maintain insurance while on active status in violation of subsection (1) of this section or for violating any other section of chapter 20, title 54, Idaho Code, or any rule of the commission.

(7) If the commission is unable to obtain errors and omissions insurance coverage to insure all licensees who choose to participate in the insurance program at a reasonable premium, not to exceed two hundred dollars ($200) per year, per licensee, the requirement of insurance coverage as provided in this section shall be void during the applicable contract period.

(8) The commission is also specifically empowered to charge and collect an administrative fee in addition to the premium paid from each licensee who obtains errors and omissions insurance through the commission contract, which fee shall not exceed ten dollars ($10.00) per licensee. This administrative fee shall be of an amount sufficient to raise that revenue required to administer the provisions of this section. The limit in subsection (7) of this section applies only to premium cost and not to any administrative fee charged.

SECTION 2. That Section 54-2018, Idaho Code, be, and the same is hereby amended to read as follows:

54-2018. LICENSE RENEWALS -- INACTIVE LICENSE STATUS -- PERSONAL CHANGES -- EFFECTIVE DATES -- FEES NONREFUNDABLE. (1) Initial license period. Each new license shall be for a period of one (1) year plus the months up to and including the next birth date of the licensee, not to exceed a period of two (2) years, and shall expire on the last day of the month of the birth date of the licensee. A salesperson licensed in this state who applies for and obtains a broker license shall retain the license renewal period and expiration date of his salesperson license. Corporations, partnerships, limited liability companies and other entities defined as "persons" in this chapter shall have established as the equivalent of a birth date, the birth date of its designated broker. Licensed branch offices shall have established as the equivalent of a birth date, the birth date of the designated broker for the branch office.

(2) License renewal. Each license shall be renewable for a period of two (2) years by timely submitting a completed application. Applications must be received at the commission office on or before 5 p.m. of the expiration date.

(a) If renewing an active license, the application shall include:

(i) Certification that the applicant has met the commission's continuing education requirements as set forth in section 54-2023, Idaho Code;

(ii) Certification that the applicant has met the mandatory errors and omissions insurance requirement for real estate licensees as set forth in section 54-2013, Idaho Code; and

(iii) Payment of all renewal fees established by this chapter or by the commission.

(b) If renewing an inactive license, the application shall include payment of all renewal fees established by this chapter or by the commission by rule.

(3) Late renewal. If the licensee fails to submit a completed application for renewal or pay the renewal fee on or before the expiration date, the commission may accept a later application or payment of the fee, subject to

such conditions as the commission may require including, but not limited to, the assessment of a late fee; provided that between the license expiration date and the date of renewal of the license, the rights of the licensee under such license shall be expired, and during such period of expiration it shall be unlawful for any licensee to do or attempt to offer to do any of the acts of the kind and nature described in the definitions of real estate broker or real estate salesperson in section 54-2004, Idaho Code, in consideration of compensation of any kind or expectation thereof. An expired license that is not renewed within one (1) year of the expiration date shall be automatically terminated by the commission and may not be renewed.

(4) Active and inactive license status. A licensee who is a designated broker or associated with a designated broker shall hold an active license. A licensee who has paid all applicable fees, who is not associated with a designated broker and who holds a current license that is not revoked, suspended or terminated shall hold his license on inactive status. A licensee seeking to change from active license status to inactive license status shall have the broker submit a change of status application to the commission in the form and manner approved by the commission. During the period that his license is inactive, the licensee shall not engage in the business or act in the capacity of real estate broker, associate broker or salesperson. However, an inactive licensee may receive a referral fee for any referral made during the period his license was active. A licensee may activate an inactive license by meeting each of the following:

(a) If activating as a sales associate, associating with a designated Idaho broker and having the broker submit an application in the form and manner approved by the commission;

(b) If activating as a designated broker, establishing an office in the manner required by this chapter and submitting an application in the form and manner approved by the commission;

(c) Paying any required fees;

(d) Obtaining and maintaining a policy of errors and omissions insurance as required by section 54-2013, Idaho Code, and in accordance with the rules of the commission and certifying the same; and

(e) Successfully completing any continuing education requirements, as prescribed in section 54-2023, Idaho Code, and certifying the same for the current license period.

(5) Continuing education. A licensee shall not submit an application to renew a license on active status or to activate an inactive license without having obtained the continuing education credit hours required by section 54-2023, Idaho Code. A licensee who violates this subsection (5) shall be subject to disciplinary action by the commission.

(6) Time required. The commission may request satisfactory proof of continuing education compliance from any licensee who has certified to the commission that he has completed the requirement. The request shall state the time within which the proof must be received at the commission office, which time shall not be less than ten (10) business days.

(7) Satisfactory proof. Upon request from the commission, the licensee shall submit satisfactory proof of having met the continuing education requirement set forth in section 54-2023, Idaho Code. "Satisfactory proof" shall, for each course, consist of documentation:

(a) Identifying the licensee, the title of the course or challenge exam, the course certification number, the course provider, the number of classroom hours, the completion date of the course or challenge exam, and including:

(i) A transcript of the course taken;

(ii) A letter from the provider verifying successful completion of the course; or

(iii) A course completion certificate; and

(b) Identifying the course certification approval number to establish that the course is approved for continuing education credit as provided by section 54-2023, Idaho Code. The commission may, in its sole discretion, accept alternative documentation establishing that the course is approved for credit.

(8) Failure to submit proof. A licensee failing to submit satisfactory proof of completing the continuing education requirement after being requested to do so by the commission may have his license inactivated by the commission and shall not be entitled to reactivate the license unless and until he provides to the commission satisfactory proof that he meets the continuing education requirements of section 54-2023, Idaho Code. Nothing in this section shall limit the ability of the commission to investigate or discipline a licensee for violating subsection (5) of this section or for violating any other section of this chapter.

(9) Change in personal information. An individual licensee, whether active or inactive, shall provide written notice to the commission, in the form and manner approved by the commission, of any change of his personal name, address of personal residence or personal telephone number. Notice shall be provided within ten (10) days of the change. If the licensee has changed his personal name, he shall also submit legal proof of the change and, if an active licensee, he shall have the broker submit the written notice of change to the commission.

(10) Issuance of the license and effective date. A real estate license shall be deemed issued, and any requested license changes shall become effective, when the completed application, attachments, and any required fees are received at and approved by the commission. An application that is incomplete or lacking the required fees shall be returned to the applicant and no license shall be issued until a completed application and all required fees are received at and actually approved by the commission. A brokerage is not required to obtain, display or possess a physical license certificate as evidence of the individual's active licensure; however, the commission may make license certificates available for a fee as authorized by this chapter. A brokerage shall not display or otherwise make available to the public a license certificate for any individual who does not hold an active license with the brokerage.

(11) Fees nonrefundable. No licensee shall be entitled to a refund of any fee after the license or license change has become effective.

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.

(c) Credits used to reactivate license. Continuing education credit hours applied to activate an inactive license are considered "spent" and may not thereafter be applied toward the continuing education requirements for subsequent license renewal.

(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 from the time the meeting is called to order until the meeting is adjourned or until the licensee is excused by the commission chairperson. 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 three (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; or

(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 54-2055, Idaho Code, be, and the same is hereby amended to read as follows:

54-2055. LICENSEES DEALING WITH THEIR OWN PROPERTY. (1) Any actively licensed Idaho broker, sales associate, or legal business entity shall comply with this entire chapter when that licensee is buying, selling or otherwise acquiring or disposing of the licensee's own interest in real property in a regulated real estate transaction.

(2) A licensee shall disclose in writing to any buyer or seller no later than at the time of presentation of the purchase and sale agreement that the licensee holds an active Idaho real estate license, if the licensee directly, indirectly, or through a third party, sells or purchases an interest in real property for personal use or any other purpose; or acquires or intends to acquire any interest in real property or any option to purchase real property.

(3) Each actively licensed person buying or selling real property or any interest therein, in a regulated real estate transaction, must conduct the transaction through the broker with whom he is licensed, whether or not the property is listed.

Approved March 31, 2010.

CHAPTER 218
(S.B. No. 1324)

AN ACT

RELATING TO STATE GOVERNMENT AND STATE AFFAIRS; AMENDING SECTION 67-2310, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTAIN LICENSURE REQUIREMENTS FOR SUBCONTRACTORS NAMED ON CERTAIN BIDS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 67-2310, Idaho Code, be, and the same is hereby amended to read as follows:

67-2310. SUBCONTRACTORS TO BE LISTED ON BID OF GENERAL CONTRACTOR -- EXCEPTIONS. (1) Hereafter, before the state of Idaho, the separate counties, cities, towns, villages or school districts within the state of Idaho shall let contracts for the construction, alteration or repair of any and all buildings, improvements or public works, and such construction, alteration or repair requires plumbing, HVAC work, or electrical work, the general contractor shall be required to include in his bid the name, or names and address, or addresses, of the subcontractors who shall, in the event the contractor secures the contract, subcontract the plumbing, HVAC work, and electrical work under the general contract. In the event that the general contractor intends to self-perform the plumbing, HVAC or electrical work, the general contractor must be properly licensed by the state of Idaho to perform such work. The general contractor shall demonstrate compliance with this requirement by listing the valid contractor's license number for the plumbing, HVAC or electrical work to be self-performed by the general contractor on the bid form.

(2) No general contractor shall name any subcontractor in his bid unless the general contractor has received communication from the subcontractor. For the purposes of this section, "communication" shall include telephone, mail, facsimile machine, in person, or by computer using the internet or a bid service.

(3) In the event a general contractor secures the contract, and if the general contractor and a named subcontractor cannot finalize the terms of agreement between them for any reason other than cost, the general contractor shall name another subcontractor by written notification within ten (10) days of being awarded the public works contract. The general contractor shall disclose to the public entity the cost for work to be performed by the substitute subcontractor. If the amount of the substitute subcontractor's bid is less than the original subcontractor's bid, the reduction in cost shall be passed through to the benefit of the public entity which awarded the contract.

(4) This act shall not apply to the construction, alteration or repair of public buildings under the jurisdiction of the board of regents of the ~~U~~university of Idaho.

(5) This act shall have no application to the preparation and submission of plans and specifications pursuant to statute or local ordinance.

(6) Failure to name subcontractors or list the valid contractor's license number for plumbing, HVAC or electrical work being self-performed by the general contractor as required by subsection (1) of this section shall render any bid submitted by a general contractor unresponsive and void.

(7) At the time subcontractors are named in accordance with the provisions of this section, they must possess the appropriate licenses or certificates of competency issued by the state of Idaho covering the contractor work classification in which each respective subcontractor is named. The provisions of this subsection (7) shall not apply in those cases where the public works contract is financed in whole or in part by federal aid funds, provided that, at or prior to the award and execution of any such contract by the state of Idaho or any other contracting authority mentioned in subsection (1) of this section, the successful bidder has secured a license as provided in this chapter.

Approved March 31, 2010.

CHAPTER 219
(S.B. No. 1325)

AN ACT

RELATING TO THE INTERNATIONAL FIRE CODE; AMENDING SECTION 41-253, IDAHO CODE, TO PROVIDE AN EXEMPTION, TO PROVIDE THAT COUNTIES MAY EXPAND THE EXEMPTION AND TO PROVIDE FOR NOTICE AND HEARING.

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

SECTION 1. That Section 41-253, Idaho Code, be, and the same is hereby amended to read as follows:

41-253. STATEMENT OF PURPOSE -- ADOPTION OF INTERNATIONAL FIRE CODE. (1) The purpose of sections 41-253 through 41-269, Idaho Code, is to protect human life from fire, and to prevent fires. These sections are intended to prescribe regulations consistent with nationally recognized good practice for the safeguarding of life and property from hazards of fire and explosion arising from the storage, handling and use of hazardous substances, materials, and devices, and from conditions hazardous to life or property in the use or occupancy of buildings or premises, and there is hereby adopted the "International Fire Code," 2000 edition, with appendices thereto, published by the International Code Council, Inc. and such later editions as may be so published and adopted by the state fire marshal, as the minimum standards for the protection of life and property from fire and explosions in the state of Idaho.

(2) A detached single family dwelling, to be constructed upon lands of five (5) acres or more outside an incorporated city and not within a designated area of city impact, shall be exempt from the water supply and access requirements of the adopted version of the International Fire Code unless a county land use or subdivision ordinance requires such compliance. A county adopted ordinance may expand the foregoing exemption applicable to detached single family dwellings by reducing the minimum parcel area requirement after first conducting a public hearing subject to public notice that complies with the requirements set forth in section 67-6509, Idaho Code, and after providing notice by mail to all fire agencies providing services to areas outside an incorporated city and not within a designated area of city impact that might be affected by any such proposal at least twenty-one (21) days prior to such public hearing.

(3) Assistants to the state fire marshal, as provided in section 41-256, Idaho Code, shall apply a reasonable interpretation to the International Fire Code as adopted by the state fire marshal, and rules of the state fire marshal, when undertaking any enforcement action.

(~~3~~4) For the purposes of sections 41-253 through 41-269, Idaho Code, the "International Fire Code" shall mean the publications as adopted under subsection (1) of this section.

Approved March 31, 2010.

CHAPTER 220
(S.B. No. 1354, As Amended in the House)

AN ACT

RELATING TO DEVELOPMENT OF THERMAL ENERGY SYSTEMS BY SCHOOL DISTRICTS; AMENDING CHAPTER 6, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-604, IDAHO CODE, TO AUTHORIZE SCHOOL DISTRICTS TO DEVELOP, OWN,

MAINTAIN, OPERATE AND CONTRACT FOR THE DEVELOPMENT OF THERMAL HEATING AND COOLING ENERGY GENERATION AND DISTRIBUTION SYSTEMS; AMENDING CHAPTER 6, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-605, IDAHO CODE, TO AUTHORIZE SCHOOL DISTRICTS TO SELL THERMAL ENERGY; AND AMENDING SECTION 33-1102, IDAHO CODE, TO AUTHORIZE THE ISSUANCE OF SCHOOL BONDS FOR THE PURPOSE OF ACQUIRING THERMAL ENERGY SYSTEMS AND TO NEGATE APPLICATION OF THE BOND LEVY EQUALIZATION PROGRAM.

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

SECTION 1. That Chapter 6, 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 33-604, Idaho Code, and to read as follows:

33-604. RENEWABLE THERMAL ENERGY. The board of trustees of each school district is empowered to establish, create, develop, own, maintain, operate and contract for the establishment, creation, development, ownership, maintenance and operation of thermal heating and cooling energy generation and distribution systems, including hot or chilled water systems, where thermal energy is generated from biomass, geothermal or solar renewable energy.

SECTION 2. That Chapter 6, 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 33-605, Idaho Code, and to read as follows:

33-605. SALES OF EXCESS ENERGY. The board of trustees of a school district which operates an energy system as described in section 33-604, Idaho Code, may use, sell or exchange excess thermal hot or chilled water not needed by the school district subject to the following conditions:

(1) Revenues from the sale of energy as described in section 33-604, Idaho Code, shall be used for the benefit of the school district.

(2) Sale of energy as described in section 33-604, Idaho Code, shall be pursuant to a school district written contract approved by resolution of the board of trustees of the school district, which resolution shall be forwarded to the state department of education.

SECTION 3. That Section 33-1102, Idaho Code, be, and the same is hereby amended to read as follows:

33-1102. PURPOSES FOR WHICH BONDS MAY BE ISSUED. The purposes for which bonds may be issued shall be: To acquire, purchase or improve a school site or school sites; to build a schoolhouse or schoolhouses or other building or buildings; to demolish or remove school buildings; to add to, remodel or repair any existing building; to furnish and equip any building or buildings, including all lighting, heating, ventilation and sanitation facilities and appliances necessary to maintain and operate the buildings of the district; ~~and~~ to purchase school buses and to acquire, develop or renovate school facilities to establish, create and develop renewable energy systems as described in section 33-604, Idaho Code. The provisions of section 33-906, Idaho Code, shall not apply to bonds or portions of bonds issued to acquire, develop or renovate school energy systems as authorized in section 33-604, Idaho Code, when the school district begins to sell thermal energy for revenue as authorized in section 33-605, Idaho Code.

Approved March 31, 2010.

CHAPTER 221
(S.B. No. 1359)

AN ACT

RELATING TO DEALERS AND SALESMEN LICENSING; AMENDING SECTION 49-1603, IDAHO CODE, TO INCREASE THE NUMBER OF VOTING MEMBERS ON THE DEALER ADVISORY BOARD AND TO PROVIDE FOR ONE NONVOTING MEMBER ON THE DEALER ADVISORY BOARD.

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

SECTION 1. That Section 49-1603, Idaho Code, be, and the same is hereby amended to read as follows:

49-1603. DEALER ADVISORY BOARD. (1) There shall be a dealer advisory board to consist of ~~eight~~ eleven (~~8~~11) members to assist and advise the department in the administration of the provisions of this chapter. Five (5) members shall be appointed from licensed dealers selling new vehicles, ~~two~~ four (~~2~~4) members appointed from licensed dealers selling used vehicles, ~~and~~ one (1) member shall be appointed from licensed dealers selling new recreational vehicles and one (1) nonvoting member shall be appointed to represent new and used motorcycle and ATV dealers. The governor shall appoint the board with consideration to recommendations of the board of directors of the Idaho Automobile Dealers Association, recommendations of the board of directors of the Recreational Vehicle Dealers Association of Idaho and recommendations of the Independent Dealer Association representing used vehicle dealers. The member who represents the new and used motorcycle and ATV dealers shall be a nonvoting member of the board and shall not have a vote on any question, matter or thing referred to the advisory board by the department. The term of office of each member shall be three (3) years. Vacancies occurring on the board other than by expiration of the term shall be filled for the unexpired term only, and each member of the board shall serve until his successor is appointed and qualified. Members of the advisory board shall be compensated as provided by section 59-509(b), Idaho Code, and payments of compensation shall be paid from the state highway account as part of the expenses of administering the provisions of this chapter. A majority of the members of the advisory board shall constitute a quorum, the presence of which at any meeting duly called by the department shall have full and complete power to act upon and resolve in the name of the advisory board any matter, thing or question referred to it by the department, or which by reason of any provisions of this chapter, it has power to determine.

(2) The advisory board on the first day of each July, or as soon thereafter as practicable, shall elect a chairman, vice-chairman and secretary from among its members, who shall hold office until their successors are elected. As soon as the board has elected its officers, the secretary shall certify the results of the election to the department. The chairman shall preside at all meetings of the advisory board and the secretary shall make a record of their proceedings. All members of the advisory board, except for the nonvoting member who represents the new and used motorcycle and ATV dealers, shall be entitled to vote on any question, matter, or thing which properly comes before it.

Approved March 31, 2010.

CHAPTER 222
(S.B. No. 1366, As Amended)

AN ACT

RELATING TO RECORDS EXEMPT FROM DISCLOSURE; AMENDING SECTION 9-340D, IDAHO CODE, TO EXEMPT CERTAIN FINANCIAL STATEMENTS SUBMITTED TO THE STATE BOARD OF EDUCATION, ITS DIRECTOR OR A REPRESENTATIVE THEREOF.

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

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

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

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

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

(b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

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

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

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

(5) Examination, operating or condition reports and all documents relating thereto, prepared by or supplied to any public agency or independent public body corporate and politic responsible for the regulation or supervision of financial institutions including, but not limited to, banks, savings and loan associations, regulated lenders, business and industrial development corporations, credit unions, and insurance companies, or for the regulation or supervision of the issuance of securities.

(6) Records gathered by a local agency or the Idaho department of commerce, as described in chapter 47, title 67, Idaho Code, for the specific purpose of assisting a person to locate, maintain, invest in, or expand business operations in the state of Idaho.

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

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

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

(26) 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.

(27) 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.

(28) Individual financial statements of a postsecondary educational institution or a proprietary school submitted to the state board of education, its director or a representative thereof, for the purpose of registering the postsecondary educational institution or proprietary school pursuant to section 33-2402 or 33-2403, Idaho Code, or provided pursuant to an administrative rule of the board adopted pursuant to such sections.

Approved March 31, 2010.

CHAPTER 223
(S.B. No. 1370)

AN ACT

RELATING TO EXEMPTIONS FROM ATTACHMENT; AMENDING SECTION 11-605, IDAHO CODE, TO PROVIDE ADDITIONAL EXEMPTIONS AND VALUE OF CERTAIN PERSONAL PROPERTY AND DISPOSABLE EARNINGS FROM ATTACHMENT; AND DECLARING AN EMERGENCY.

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 AND DISPOSABLE EARNINGS SUBJECT TO VALUE LIMITATIONS. (1) An individual is entitled to exemption of the following property to the extent of a value not exceeding ~~five~~ seven hundred fifty dollars ($750~~0~~) on any one (1) item of property and not to exceed a total value of ~~five~~ seven thousand five hundred dollars ($~~5,000~~7,500) 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~~ two thousand five hundred dollars ($~~1~~2,500) in aggregate value, of implements, professional books, business equipment and tools of the trade; and to an exemption of one (1) motor vehicle to the extent of a value not exceeding ~~five~~ seven thousand dollars ($~~5~~7,000).

(4) An individual is entitled to an exemption of provisions of food or water together with storage containers and shelving, sufficient for twelve (12) months for use of the individual or a dependent or dependents of the individual.

(5) 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~~6) 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~~7) 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~~8) An individual is entitled to exemption of one (1) firearm valued at ~~less than five~~ seven hundred fifty dollars ($750~~0~~), or less.

(~~8~~9) Any unmatured life insurance contract owned by an individual, other than a credit life insurance contract.

(~~9~~10) 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.

(1~~0~~1) An individual's aggregate interest in any tangible personal property, not to exceed the value of eight hundred dollars ($800).

(12) An individual is entitled to an exemption for his disposable earnings as defined in subsection 2. of section 11-206, Idaho Code, wages, salaries, and compensation for personal services rendered, to the extent such earnings, wages, salaries, and compensation have been earned but have not been paid to the individual, not to exceed one thousand five hundred dollars ($1,500) in a calendar year. This exemption shall not affect the application or operation of the garnishment restrictions set forth in section 11-207, 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 31, 2010.

CHAPTER 224
(S.B. No. 1376, As Amended in the House)

AN ACT

RELATING TO THE COMMISSION ON REAPPORTIONMENT; AMENDING SECTION 72-1504, IDAHO CODE, TO PROVIDE AN HONORARIUM TO MEMBERS OF THE REAPPORTIONMENT COMMISSION.

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

SECTION 1. That Section 72-1504, Idaho Code, be, and the same is hereby amended to read as follows:

72-1504. COMPENSATION. Members of the commission shall ~~be compensated at the rate established by the citizen's committee on compensation for members of the legislature who are engaged in legislative business while the legislature is not in session. In addition, they shall be entitled to expense reimbursement for actual travel expense, including transportation, food and lodging, when necessary for officially authorized commission business at the same rate as expense reimbursements are made for other state offices and employees~~ receive an honorarium of seventy-five dollars ($75.00) per day for each day spent in the performance of their official duties and shall be reimbursed for travel expenses and food and lodging, subject to the limits provided by the board of examiners in section 67-2008, Idaho Code. Payment of an honorarium as provided in this section shall not be considered salary as defined in section 59-1302(31), Idaho Code.

Approved March 31, 2010.

CHAPTER 225
(S.B. No. 1378, As Amended)

AN ACT

RELATING TO PUBLIC WRITINGS; AMENDING SECTION 9-340C, IDAHO CODE, TO REVISE A PUBLIC RECORDS EXEMPTION, TO PROVIDE A PUBLIC RECORDS EXEMPTION AND TO PROVIDE EXCEPTIONS; AMENDING TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 58, TITLE 19, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE THAT THE DISCLOSURE OF THE RESIDENTIAL STREET AND TELEPHONE NUMBER OF CERTAIN PERSONS IS PROHIBITED, TO PROVIDE EXCEPTIONS, TO PROVIDE A PROCESS FOR REQUESTING ADDRESS CONFIDENTIALITY AND ELIGIBILITY AND TO PROVIDE IMMUNITY FROM LIABILITY; AMENDING SECTION 49-306, IDAHO CODE, TO REVISE REQUIREMENTS RELATING TO THE CONTENTS OF A CERTAIN APPLICATION; AMENDING SECTION 49-315, IDAHO CODE, TO REVISE REQUIREMENTS RELATING TO THE CONTENT OF A DRIVER'S LICENSE; AMENDING SECTION 49-401B, IDAHO CODE, TO REVISE REQUIREMENTS RELATING TO THE CONTENT OF A CERTAIN APPLICATION; AMENDING SECTION 49-504, IDAHO CODE, TO REVISE REQUIREMENTS RELATING TO THE CONTENT OF A CERTAIN APPLICATION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-2444, IDAHO CODE, TO REVISE REQUIREMENTS RELATING TO THE CONTENT OF AN IDENTIFICATION CARD; AND PROVIDING AN EFFECTIVE DATE.

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

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

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

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

ministering 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, except that 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 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 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 a showing that the voter comes within the provisions of subsection (28) of this section or 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.

(27) Records in an address confidentiality program participant's file as provided for in chapter 57, title 19, Idaho Code, other than the address designated by the secretary of state, except under the following circumstances:

(a) If requested by a law enforcement agency, to the law enforcement agency; or

(b) If directed by a court order, to a person identified in the order.

(28) The Idaho residential street address and telephone number of an eligible law enforcement officer and such officer's residing household member(s) as provided for in chapter 58, title 19, Idaho Code, except under the following circumstances:

(a) If directed by a court order, to a person identified in the court order;

(b) If requested by a law enforcement agency, to the law enforcement agency;

(c) If requested by a financial institution or title company for business purposes, to the requesting financial institution or title company; or

(d) If the law enforcement officer provides written permission for disclosure of such information.

SECTION 2. That Title 19, 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 19, Idaho Code, and to read as follows:

CHAPTER 58
ADDRESS CONFIDENTIALITY FOR LAW ENFORCEMENT OFFICERS

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

(1) "Alternative Idaho mailing address" means the address of a law enforcement officer's employing entity.

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

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

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

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

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

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

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

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

(6) "Law enforcement officer" means any current federal officer, peace officer, parole officer, probation officer, correctional officer, county detention officer and any person who prosecutes criminal cases. The term "law enforcement officer" shall not include a person who holds an elected office.

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

(8) "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.

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

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

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

19-5802. DISCLOSURE OF RESIDENTIAL STREET ADDRESS AND TELEPHONE NUMBER PROHIBITED -- EXCEPTIONS. Notwithstanding any other provision of state law, a public agency shall not disclose to any person or entity the Idaho residential street address and telephone number of a law enforcement officer and such officer's residing household member(s) upon submission of an application and fee consistent with the provisions of section 19-5803, Idaho Code, except under any of the following circumstances:

(1) If directed by a court order, to a person identified in the court order;

(2) If requested by a law enforcement agency, to the law enforcement agency;

(3) If requested by a financial institution or title company for business purposes, to the requesting financial institution or title company; or

(4) If the law enforcement officer provides written permission for disclosure of such information.

19-5803. ADDRESS CONFIDENTIALITY -- ELIGIBILITY. (1) Law enforcement officers desiring that their Idaho residential street address and telephone number, and the Idaho residential street address and telephone number of their residing household member(s) be exempt from disclosure pursuant to this chapter and section 9-340C(28), Idaho Code, may submit an application and a fee, if any, to the custodian of the public record that contains such information. Upon receipt of an application and fee, the public agency shall comply with the provisions of this chapter for a period of four (4) years. Thereafter, law enforcement officers may renew the exemption by submitting a new application and fee, if any. The public agency may establish a fee schedule not to exceed the actual cost to the agency of complying with the provisions of this chapter.

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

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

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

19-5804. IMMUNITY FROM LIABILITY. Neither a public agency nor its employees, while acting within the course and scope of their employment and without malice or criminal intent, shall be liable under the Idaho tort claims act, chapter 9, title 6, Idaho Code, for any injury resulting from the release of confidential information under this chapter.

SECTION 3. 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 $40.00
(b) Class A, B, C (3-year) license with endorsements -- age 18 to 21 years $30.00
(c) Class A, B, C (1-year) license with endorsements -- age 20 years $15.00
(d) Class D (3-year) license -- under age 18 years $25.00
(e) Class D (3-year) license -- age 18 to 21 years $25.00
(f) Class D (1-year) license -- age 17 years or age 20 years $15.00
(g) Four-year Class D license -- age 21 years and older $30.00
(h) Eight-year Class D license -- age 21 to 63 years $55.00
(i) Class A, B, C instruction permit $29.00
(j) Class D instruction permit or supervised instruction permit $15.00
(k) Duplicate driver's license or permit issued under section 49-318, Idaho Code $15.00
(l) Driver's license extension issued under section 49-319, Idaho Code $10.00
(m) License classification change (upgrade) $25.00
(n) Endorsement addition $15.00
(o) Class A, B, C skills tests not more than $70.00
(p) Class D skills test $24.00
(q) Motorcycle endorsement skills test $10.00
(r) Knowledge test ..... $ 3.00
(s) Seasonal driver's license $39.00
(t) One time motorcycle "M" endorsement $15.00
(u) Motorcycle endorsement instruction permit $15.00
(v) Restricted driving permit or restricted school attendance driving permit $60.00

(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 social security administration. <u>If an applicant has submitted an application pursuant to the provisions of chapter 58, title 19, Idaho Code, then the applicant may state, in his or her application pursuant to this section, the applicant's alternative Idaho mailing address in place of his or her Idaho residence address and mailing address.</u>

(a) The requirement that an applicant provide a social security number as verified 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 ten dollars ($10.00) 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 ten dollar ($10.00) fee; and

(e) Remit the remainder to the state treasurer; and

(f) Deposit seventeen dollars and fifty cents ($17.50) 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 seventeen dollars and fifty cents ($17.50) 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) Twenty-eight dollars ($28.00) of each fee for a seasonal or class A, B or C driver's license, and nineteen dollars and fifty cents ($19.50) of each fee charged for a license pursuant to subsection (1)(b) of this section, and eight dollars and sixteen cents ($8.16) of each fee charged for a license pursuant to subsection (1)(c) of this section shall be deposited in the state highway account; and

(c) Twenty dollars ($20.00) 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 account; 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) Ten dollars ($10.00) 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 account; and

(f) Seven dollars and fifty cents ($7.50) of each fee for a motorcycle endorsement and motorcycle endorsement instruction permit shall be deposited in the state highway account; 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) Twelve dollars and seventy cents ($12.70) of each fee for a four-year class D driver's license, and twenty dollars and forty cents ($20.40) of each fee for an eight-year class D driver's license, and ten dollars and fifty cents ($10.50) of each fee charged for a license pursuant to subsections (1)(d) and (e) of this section, and six dollars and eighty-three cents ($6.83) 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) Seven dollars and forty cents ($7.40) 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) Ten dollars ($10.00) of each fee for a class A, B or C skills test shall be deposited in the state highway account; 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) Six dollars and fifty cents ($6.50) of each fee for a class D skills test shall be deposited into the state highway account.

(9) The contractor administering a class A, B or C skills test shall be entitled to not more than sixty dollars ($60.00) 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) Sixty dollars ($60.00) of each restricted driving permit and each restricted school attendance driving permit shall be deposited in the state highway account.

(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 4. That Section 49-315, Idaho Code, be, and the same is hereby amended to read as follows:

49-315. LICENSES ISSUED TO DRIVERS. (1) The department shall issue to every qualifying applicant a distinguishing driver's license as applied for, which shall bear a distinguishing number assigned to the licensee, the full name, date of birth, Idaho residence address, sex, weight, height, eye color, hair color, color photograph, name of this state, date of issuance, date of expiration, license class, endorsements, restrictions, and the applicant's signature. <u>If an applicant has submitted an application pursuant to the provisions of chapter 58, title 19, Idaho Code, then the applicant's driver's license shall contain his or her alternative Idaho mailing address</u>

in place of his or her Idaho residence address. Driver's licenses for persons under eighteen (18) years of age shall include a notation "under 18 until (month, day, year)," and driver's licenses for persons eighteen (18) years of age to twenty-one (21) years of age shall include a notation "under 21 until (month, day, year)." No driver's license shall be valid until it has been signed on the signature line of the license by the licensee.

(2) Every driver's license shall bear a color photograph of the licensee, which shall be taken by the examiner at the time the application is made. The photograph shall be taken without headgear or other clothing or device that disguises or otherwise conceals the face or head of the applicant. A waiver may be granted by the department allowing the applicant to wear headgear or other head covering for medical, religious or safety purposes so long as the face is not disguised or otherwise concealed. At the request of the applicant, a driver's license may contain a statement or indication of the medical condition of the licensee.

(3) The department shall notify the commercial driver license information system that a class A, B or C driver's license has been issued as required by 49 CFR parts 383 and 384.

(4) A licensee applying for a hazardous material endorsement on a driver's license shall have a security background records check and shall receive clearance from the federal transportation security administration before the endorsement can be issued, renewed or transferred as required by 49 CFR part 383, subject to procedures established by the federal transportation security administration.

(5) A licensee who desires to donate any or all organs or tissue in the event of death, and who has completed a document of gift pursuant to the provisions for donation of anatomical gifts as set forth in chapter 34, title 39, Idaho Code, may, at the option of the donor, indicate this desire on the driver's license by the imprinting of the word "donor" on the license. The provisions of this subsection shall apply to licensees 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 and the donor indicates this desire be placed on the license.

(6) A licensee who is a person with a permanent disability may request that the notation "permanently disabled" be imprinted on the driver's license, provided the licensee presents written certification from a licensed physician verifying that the licensee's stated impairment qualifies as a permanent disability according to the provisions of section 49-117, Idaho Code.

SECTION 5. That Section 49-401B, Idaho Code, be, and the same is hereby amended to read as follows:

49-401B. APPLICATION FOR REGISTRATION -- RECEIPT FOR FEE -- RECORD OF APPLICANTS. (1) Application for the registration of a vehicle required to be registered under the provisions of section 49-401A, Idaho Code, shall be made to the assessor or the department as specified in that section, by the owner upon the appropriate form. Every application shall contain the owner's Idaho driver's license number, Idaho identification card number, or social security number. In the case of a business, the employer tax identification number is required. Every application shall also contain the owner's true and full legal name. In the event that the owner does not possess a social security number, Idaho driver's license number, or Idaho identification card number, the owner shall present written documentation sufficient to the department to determine that no social security number has been issued. Such application must be signed by the owner and contain his residence address and a brief description of the vehicle to be registered, including the name of the maker, the type of fuel used, and the identification number. If an applicant has submitted an application pursuant to

the provisions of chapter 58, title 19, Idaho Code, then the applicant may state, in the application required pursuant to this section, the applicant's alternative Idaho mailing address in place of his or her residence address. Upon registration of a new vehicle, the application shall also show the date of sale by the manufacturer or dealer to the person first operating such vehicle. The application shall contain any other information as may be required by the department. The assessor shall issue to the applicant a receipt for any fee paid. Social security numbers collected shall not appear on certificates of registration, and all applications on file shall be exempt from disclosure, except as provided in sections 49-202, 49-203 and 49-203A, Idaho Code.

(2) The assessor shall record on a form prescribed and furnished by the department, the names of all owners of vehicles residing in the county who make application for registration, together with the amounts of the fees paid by such owners.

(3) When application for registration is made by any motor carrier, the assessor or the department shall require each such applicant to execute a certification of safety compliance.

(4) Vehicles registered under the proportional registration provisions of section 49-435, Idaho Code, shall be registered by the department.

(5) Every owner of a vehicle registered by a county assessor shall give his physical domicile residence address or the business' physical principal address to the assessor so that the proper county can be entered upon the registration. Failure to do so shall be unlawful. The department shall then attribute the registration, and all fees to be apportioned to the highway distribution account, to the county of residence regardless of the county in which the registration occurred. Fees imposed under the provisions of sections 40-827 and 40-1416, Idaho Code, shall be separately identified and accounted for, and paid to the highway district for which collected. For the purposes of vehicle registration, a person is an actual and permanent resident of the county in which he has his principal residence or domicile. A principal residence or domicile shall not be a person's workplace, vacation, or part-time residence.

(6) A violation of the provisions of this section shall be an infraction.

SECTION 6. That Section 49-504, Idaho Code, be, and the same is hereby amended to read as follows:

49-504. APPLICATIONS TO DEPARTMENT FOR CERTIFICATES -- PROCEDURE -- IDENTIFICATION NUMBERS. (1) Application for a certificate of title shall be made upon a form furnished by the department and shall contain the owner's Idaho driver's license number, Idaho identification card number or social security number. In the case of a business, the employer tax identification number is required. Every application shall also contain the owner's true and full legal name. In the event that the owner does not possess a social security number, Idaho driver's license number, or Idaho identification card number, the owner shall present written documentation sufficient to the department to determine that no social security number has been issued. The form must contain the owner's physical domicile address or in the case of a business, the business' physical address and any mailing address if different from the physical address. If the owner has submitted an application pursuant to the provisions of chapter 58, title 19, Idaho Code, then the owner may state, in the application required pursuant to this section, the applicant's alternative Idaho mailing address in place of his or her physical domicile address. Such application must be signed by the owner and contain a full description of the vehicle including the make, identification numbers, and the odometer reading at the time of sale or transfer, and whether the vehicle is new or used, together with a statement of the appli-

cant's title and of any liens or encumbrances upon the vehicle, and the name and address of the person to whom the certificate of title shall be delivered, and any other information as the department may require. The application shall be filed with the department, and if a certificate of title has previously been issued for that vehicle in this state, shall be accompanied by the certificate of title duly assigned, unless otherwise provided for in this chapter. The department may promulgate rules to provide for exceptions to the odometer requirement. Social security numbers collected shall not appear on certificates of title and all applications on file shall be exempt from disclosure, except as provided in sections 49-202, 49-203 and 49-203A, Idaho Code.

(2) If a certificate of title has not previously been issued for the vehicle in this state, the application, unless otherwise provided for in this chapter, shall be accompanied by a proper bill of sale or a duly certified copy thereof, or by a certificate of title, bill of sale or other evidence of ownership required by the law of any other state from which the vehicle was brought into this state, and a vehicle identification number inspection completed by any city, county or state peace officer or other special agent authorized by the department.

(3) In the case of a new vehicle being titled for the first time, no certificate of title or registration shall be issued unless the application is indorsed by a franchised new vehicle dealer licensed to sell a new vehicle. Each application shall be accompanied by a manufacturer's certificate of origin or manufacturer's statement of origin executed by the manufacturer and delivered to his agent or his franchised vehicle dealer. The certificate or statement of origin shall be in a form prescribed by the board and shall contain the year of manufacture or the model year of the vehicle, the manufacturer's vehicle identification number, the name of the manufacturer, the number of cylinders, a general description of the body, if any, and the type or model. Upon sale of a new vehicle, the manufacturer, his agent or franchised dealer shall execute and deliver to the purchaser an assignment of the certificate or statement, together with any lien or encumbrance to which the vehicle is subject.

(4) The department shall retain the evidence of title presented by the applicant and on which the certificate of title is issued. The department shall maintain an identification numbers index of registered vehicles, and upon receiving an application for a certificate of title, shall first check the identification number shown in the application against the index. The department, when satisfied that the applicant is the owner of the vehicle and that the application is in proper form, shall issue in the name of the owner of the vehicle a certificate of title bearing a title number, the date issued and a description of the vehicle as determined by the department, together with a statement of the owner's title and of all liens or encumbrances upon the vehicle, and whether possession is held by the owner under a lease, contract or conditional sale, or other like agreement.

(5) In all cases of transfer of vehicles the application for certificates of title shall be filed within thirty (30) calendar days after the delivery of the vehicles. Licensed dealers need not apply for certificate of title for vehicles in stock or when they are acquired for stock purposes.

(6) In the case of the sale of a vehicle by a dealer to a general purchaser or user, the certificate of title shall be obtained in the name of the purchaser by the dealer upon application signed by the purchaser. If a lien is to be recorded, the title documentation as required in this section shall be submitted to the department by the dealer or the lienholder upon application signed by the purchaser. A copy of this application shall be given to the purchaser to be used as a seventy-two (72) hour temporary permit. In all other cases the certificates shall be obtained by the purchaser and the seller's bill of sale shall serve as a seventy-two (72) hour permit. The seventy-two (72) hour time period for temporary permits shall be calculated ex-

cluding weekend days and legal holidays observed by the state of Idaho. This temporary permit allows operation of any noncommercial vehicle or unladened commercial vehicle or vehicle combination without license plates for the period of time specified in the permit. A ladened commercial vehicle or vehicle combination may also operate without license plates for the period of time specified in the temporary permit provided that the owner or operator has also obtained a permit issued under the provisions of section 49-432, Idaho Code.

(7) If the vehicle has no identification number, then the department shall designate an identification number for that vehicle at the time of issuance of the certificate of title. The identification number shall be permanently affixed to or indented upon the frame of the vehicle and legibly maintained by the owner at all times while a certificate of title to the vehicle shall be issued and outstanding.

SECTION 7. 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. <u>If an applicant has submitted an application pursuant to the provisions of chapter 58, title 19, Idaho Code, then the applicant's identification card shall contain his or her alternative Idaho mailing address in place of his or her Idaho residence address.</u> 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 ten dollars ($10.00) of which five dollars ($5.00) 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. The nonrefund-

able fee for identification cards issued to persons under twenty-one (21) years of age shall be ten dollars ($10.00), of which five dollars ($5.00) 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. The nonrefundable fee for an eight-year identification card shall be twenty dollars ($20.00) of which ten dollars ($10.00) shall be retained by the county and credited to the current expense fund, and ten dollars ($10.00) 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.

(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.

(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.

(7) In the case of a name change, the applicant shall provide legal documentation to verify the change in accordance with department rules.

(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.

(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.

(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.

(11) 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.

(12) 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 (8) of this section.

SECTION 8. This act shall be in full force and effect on and after January 1, 2011.

Approved March 31, 2010.

CHAPTER 226
(S.B. No. 1402)

AN ACT

REDUCING THE APPROPRIATION TO THE LEGISLATIVE COUNCIL FOR FISCAL YEAR 2010; PROVIDING THAT THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES SHALL DIRECT THE STATE CONTROLLER TO LIMIT THE FUNDS TRANSFER TO THE LEGISLATIVE FUND FOR FISCAL YEAR 2010; APPROPRIATING ADDITIONAL MONEYS TO THE LEGISLATIVE COUNCIL FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE LEGISLATIVE COUNCIL FOR FISCAL YEAR 2011; DIRECTING THE STATE CONTROLLER TO TRANSFER DEDICATED FUNDS; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; PROVIDING THAT THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES SHALL DIRECT THE STATE CONTROLLER TO LIMIT THE FUNDS TRANSFER TO THE LEGISLATIVE FUND FOR FISCAL YEAR 2011; AND DECLARING AN EMERGENCY FOR SECTIONS 1, 2 AND 3 OF THIS ACT.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the General Fund appropriation made in Section 1, Chapter 226, Laws of 2009, to the Legislative Council is hereby reduced by the following amounts ac-

cording to the designated programs for the period July 1, 2009, through June 30, 2010:

FOR:

I. LEGISLATIVE SERVICES OFFICE:	$342,500
II. LEGISLATIVE TECHNOLOGY:	9,700
III. OFFICE OF PERFORMANCE EVALUATIONS:	59,200
TOTAL	$411,400

SECTION 2. LEGISLATIVE TRANSFER FOR FISCAL YEAR 2010. Upon passage of this act, the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall direct the State Controller to limit the amount transferred from the General Fund to the Legislative Fund pursuant to Section 67-451(2), Idaho Code, to $5,905,100 for the period July 1, 2009, through June 30, 2010.

SECTION 3. In addition to the appropriation made in Section 1, Chapter 226, Laws of 2009, there is hereby appropriated $40,000 from the Miscellaneous Revenue Fund to the Legislative Council for the Legislative Services Office for the period July 1, 2009, through June 30, 2010.

SECTION 4. There is hereby appropriated to the Legislative Council the following amounts to be expended from the listed funds for the period July 1, 2010, through June 30, 2011:

I. LEGISLATIVE SERVICES OFFICE:

FROM:

General Fund	$4,049,100
Miscellaneous Revenue Fund	680,000
Permanent Building Fund	96,800
Professional Services Fund	1,190,500
TOTAL	$6,016,400

II. OFFICE OF PERFORMANCE EVALUATIONS:

FROM:

General Fund	$684,800

III. REDISTRICTING COMMISSION:

FROM:

Budget Stabilization Fund	$300,400
GRAND TOTAL	$7,001,600

SECTION 5. Notwithstanding the provisions of Sections 63-2520(5) and 57-1108, Idaho Code, on or about July 1, 2010, the State Controller is hereby directed to transfer $500,000 from the Permanent Building Fund dedicated for relocation to the Miscellaneous Revenue Fund for Capitol Services in the Legislative Services Office for the period July 1, 2010, through June 30, 2011.

SECTION 6. There is hereby reappropriated to the Legislative Council for the Legislative Services Office the unexpended and unencumbered appropriation balances of the Permanent Building Fund, the Miscellaneous Revenue Fund, and the Professional Services Fund, any appropriation or reapproriation contained in Sections 1, 2, 3 and 4, Chapter 226, and Section 19, Chapter 275, Laws of 2009, to be used for nonrecurring expenditures for the period July 1, 2010, through June 30, 2011.

SECTION 7. LEGISLATIVE TRANSFER FOR FISCAL YEAR 2011. On July 1, 2010, the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall direct the State Controller to limit the amount transferred from the General Fund to the Legislative Fund pursuant to Section 67-451(2), Idaho Code, to $5,905,100 for the period July 1, 2010, through June 30, 2011.

SECTION 8. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1, 2 and 3 of this act shall be in full force and effect on and after passage and approval.

Approved March 31, 2010.

CHAPTER 227
(S.B. No. 1404)

AN ACT

REDUCING THE APPROPRIATION TO THE ATTORNEY GENERAL FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE ATTORNEY GENERAL FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; EXEMPTING THE ATTORNEY GENERAL FROM CERTAIN APPROPRIATION TRANSFER LIMITATIONS FOR FISCAL YEAR 2011; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 1, Chapter 209, Laws of 2009, is hereby reduced by the following amounts for the designated programs, according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
I. STATE LEGAL SERVICES:			
FROM:			
General Fund	$1,113,000		$1,113,000
II. SPECIAL LITIGATION:			
FROM:			
General Fund		$100,000	$100,000
GRAND TOTAL	$1,113,000	$100,000	$1,213,000

SECTION 2. 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, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
I. STATE LEGAL SERVICES:			
FROM:			
General Fund	$14,219,600	$706,300	$14,925,900
American Reinvestment Fund		400,000	400,000
Consumer Protection Fund	300,100	119,900	420,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
Federal Grant Fund	601,100	346,600	947,700
TOTAL	$15,120,800	$1,572,800	$16,693,600
II. SPECIAL LITIGATION:			
FROM:			
General Fund		$851,600	$851,600
GRAND TOTAL	$15,120,800	$2,424,400	$17,545,200

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Attorney General is authorized no more than two hundred seven and fifteen-hundredths (207.15) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, for the programs specified in Section 2 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. To provide maximum flexibility in dealing with reduced appropriations for Fiscal Year 2011, the Attorney General is hereby exempted from the provisions of Section 67-3511, Idaho Code, for all moneys appropriated to it for the period July 1, 2010, through June 30, 2011. Legislative appropriations shall not be transferred from one fund to another fund, however, unless expressly approved by the Legislature.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved March 31, 2010.

CHAPTER 228
(S.B. No. 1405)

AN ACT

REDUCING THE APPROPRIATION TO THE MILITARY DIVISION FOR FISCAL YEAR 2010; APPROPRIATING MONEYS FOR THE MILITARY DIVISION FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; GRANTING A CONTINUOUS APPROPRIATION FOR THE BUREAU OF HOMELAND SECURITY'S MISCELLANEOUS REVENUE FUND FOR FISCAL YEAR 2011; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the General Fund appropriation made in Section 1, Chapter 305, Laws of 2009, is hereby reduced by the following amounts for the designated programs, according to the designated expense classes for the period July 1, 2009, through June 30, 2010:

I. MILITARY MANAGEMENT:

FOR:

Personnel Costs	$75,000
Trustee and Benefit Payments	122,200
TOTAL	$197,200

II. FEDERAL/STATE AGREEMENTS:

FOR:

Personnel Costs	$36,600

III. BUREAU OF HOMELAND SECURITY:

FOR:

Personnel Costs	$139,800
GRAND TOTAL	$373,600

SECTION 2. 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, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MILITARY MANAGEMENT:					
FROM:					
General Fund	$1,537,700	$341,200			$1,878,900
Indirect Cost Recovery Fund	114,100	220,700			334,800
Miscellaneous Revenue Fund		115,900			115,900
Federal Grant Fund		167,200			167,200
TOTAL	$1,651,800	$845,000			$2,496,800
II. FEDERAL/STATE AGREEMENTS:					
FROM:					
General Fund	$653,600	$837,600			$1,491,200
Federal Grant Fund	10,518,400	14,387,700			24,906,100
TOTAL	$11,172,000	$15,225,300			$26,397,300
III. BUREAU OF HOMELAND SECURITY:					
FROM:					
General Fund	$1,287,500	$204,200			$1,491,700
Administration and Accounting Services Fund	1,547,700	1,089,300	$238,800		2,875,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Federal Grant Fund	2,045,100	6,083,800	_____	$14,937,900	23,066,800
TOTAL	$4,880,300	$7,377,300	$238,800	$14,937,900	$27,434,300
GRAND TOTAL	$17,704,100	$23,447,600	$238,800	$14,937,900	$56,328,400

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Military Division is authorized no more than two hundred thirty-five and eight-tenths (235.8) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, for the programs specified in Section 2 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. The Military Division is hereby granted continuous appropriation authority for the Bureau of Homeland Security's Miscellaneous Revenue Fund for the period July 1, 2010, through June 30, 2011, 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, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved March 31, 2010.

CHAPTER 229
(S.B. No. 1406)

AN ACT

REDUCING THE APPROPRIATION TO THE OFFICE OF THE STATE APPELLATE PUBLIC DEFENDER FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE OFFICE OF THE STATE APPELLATE PUBLIC DEFENDER FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 1, Chapter 327, Laws of 2009, to the State Appellate Public Defender is hereby reduced by the following amount according to the designated expense class from the listed fund for the period July 1, 2009, through June 30, 2010:

FOR:

Operating Expenditures $159,300

FROM:

General Fund $159,300

SECTION 2. There is hereby appropriated to the Office of the State Appellate Public Defender the following amounts to be expended according to the designated expense classes from the listed fund for the period July 1, 2010, through June 30, 2011:

FOR:	
Personnel Costs	$1,613,700
Operating Expenditures	341,100
TOTAL	$1,954,800
FROM:	
General Fund	$1,954,800

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Office of the State Appellate Public Defender is authorized no more than twenty-two (22) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, for the program specified in Section 2 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved March 31, 2010.

CHAPTER 230
(S.B. No. 1412)

AN ACT

REDUCING THE APPROPRIATION TO THE DEPARTMENT OF AGRICULTURE FOR FISCAL YEAR 2010; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF AGRICULTURE FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE DEPARTMENT OF AGRICULTURE FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; DIRECTING THE STATE CONTROLLER TO TRANSFER FUNDS FROM THE RURAL ECONOMIC DEVELOPMENT INTEGRATED FREIGHT AND TRANSPORTATION FUND TO THE INVASIVE SPECIES FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 1, Chapter 268, Laws of 2009, to the Department of Agriculture is hereby reduced by the following amount for the designated programs according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
I. ADMINISTRATION:			
FROM:			
General Fund	$18,600	$40,000	$58,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
II. ANIMAL INDUSTRIES:			
FROM:			
General Fund	$115,000		$115,000
III. AGRICULTURAL RESOURCES:			
FROM:			
General Fund	$10,600	$100,000	$110,600
IV. PLANT INDUSTRIES:			
FROM:			
General Fund	$17,100	$5,000	$22,100
V. AGRICULTURAL INSPECTIONS:			
FROM:			
General Fund	$129,300	$28,400	$157,700
VI. MARKETING AND DEVELOPMENT:			
FROM:			
General Fund	$18,100	$30,000	$48,100
GRAND TOTAL	$308,700	$203,400	$512,100

SECTION 2. In addition to the appropriation made in Section 1, Chapter 268, Laws of 2009, there is hereby appropriated to the Department of Agriculture the following amount to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2009, through June 30, 2010:

FOR:	
Personnel Costs	$38,400
I. ADMINISTRATION:	
FROM:	
Administration and Accounting Services Fund	$10,000
II. ANIMAL INDUSTRIES:	
FROM:	
Agricultural Fees - Egg Inspection Fund	$10,000
III. AGRICULTURAL RESOURCES:	
FROM:	
Agricultural Fees - Pesticides Fund	$8,400
IV. PLANT INDUSTRIES:	
FROM:	
Agricultural Fees - Commercial Feed and Fertilizer Fund	$10,000
GRAND TOTAL	$38,400

SECTION 3. There is hereby appropriated to the Department of Agriculture the following amounts to be expended for the designated programs ac-

cording to the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
I. ADMINISTRATION:						
FROM:						
General Fund	$572,400	$431,000				$1,003,400
Administration and Accounting Services Fund	836,300	244,000	$115,500			1,195,800
Facilities Maintenance Fund	98,500	210,600				309,100
TOTAL	$1,507,200	$885,600	$115,500			$2,508,300
II. ANIMAL INDUSTRIES:						
FROM:						
General Fund	$1,276,400	$212,300				$1,488,700
Agricultural Inspection Fund	38,000	9,700				47,700
Agricultural Fees - Livestock Disease Control Fund	492,400	265,900	$32,700			791,000
Agricultural Fees - Dairy Inspection Fund	1,011,100	329,600	148,000			1,488,700
Agricultural Fees - Egg Inspection Fund	163,600	16,200	7,000			186,800
Agricultural Fees - Commercial Fisheries Fund	5,700	4,200				9,900
Seminars and Publications Fund		98,400				98,400
Federal Grant Fund	775,200	534,900		$333,200		1,643,300
TOTAL	$3,762,400	$1,471,200	$187,700	$333,200		$5,754,500
III. AGRICULTURAL RESOURCES:						
FROM:						
General Fund	$244,200	$131,700				$375,900
Agricultural Fees - Pesticides Fund	1,433,400	627,300	$121,200			2,181,900
Federal Grant Fund	435,900	173,700				609,600
TOTAL	$2,113,500	$932,700	$121,200			$3,167,400
IV. PLANT INDUSTRIES:						
FROM:						
General Fund	$823,100	$261,500		$1,053,000		$2,137,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
Agricultural Inspection						
Fund	994,100	283,400	$2,600	111,100		1,391,200
Invasive Species						
Fund		70,000		280,000	$1,515,000	1,865,000
Agricultural Fees - Commercial Feed and Fertilizer						
Fund	884,300	282,800	60,500			1,227,600
Agricultural Fees - Honey Advertising						
Fund	400	16,300				16,700
Quality Assurance Laboratory Services						
Fund	505,700	70,800	14,000			590,500
Federal Grant						
Fund	735,300	1,710,400	82,400	1,161,700		3,689,800
TOTAL	$3,942,900	$2,695,200	$159,500	$2,605,800	$1,515,000	$10,918,400
V. AGRICULTURAL INSPECTIONS:						
FROM:						
General						
Fund	$577,200	$154,700				$731,900
Agricultural Inspection						
Fund	43,400	12,000		$3,700		59,100
Weights and Measures Inspection						
Fund	223,900	51,600	$94,300			369,800
Agricultural Fees - Organic Food Products						
Fund	190,000	71,200	2,800			264,000
Agricultural Fees - Fresh Fruit and Vegetable Inspection						
Fund	7,322,500	725,500	98,700	371,100		8,517,800
TOTAL	$8,357,000	$1,015,000	$195,800	$374,800		$9,942,600
VI. MARKETING AND DEVELOPMENT:						
FROM:						
General						
Fund	$350,900	$334,500				$685,400
Agricultural Inspection						
Fund	23,500	70,300	$1,500			95,300
Miscellaneous Revenue						
Fund		125,000				125,000
Seminars and Publications						
Fund		245,700				245,700
USDA Publications						
Fund		64,900				64,900
Rural Economic Development Integrated Freight and Transportation						
Fund	9,300	20,000		$100,000		129,300
Revolving Loans						
Fund	12,300	15,300		5,200		32,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
Federal Grant Fund	57,000	75,500		42,500		175,000
TOTAL	$453,000	$951,200	$1,500	$147,700		$1,553,400
VII. ANIMAL DAMAGE CONTROL:						
FROM:						
General Fund				$138,800		$138,800
Animal Damage Control Fund				215,700		215,700
Agricultural Fees - Sheep Industry Regulation Fund		$200		167,200		167,400
Federal Grant Fund				150,000		150,000
TOTAL		$200		$671,700		$671,900
VIII. SHEEP COMMISSION:						
FROM:						
General Fund	$53,300					$53,300
Agricultural Fees - Sheep Industry Regulation Fund	62,200	$40,100				102,300
TOTAL	$115,500	$40,100				$155,600
GRAND TOTAL	$20,251,500	$7,991,200	$781,200	$4,133,200	$1,515,000	$34,672,100

SECTION 4. In accordance with Section 67-3519, Idaho Code, the Department of Agriculture is authorized no more than one hundred ninety-four and sixty-eight hundredths (194.68) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, for the programs specified in Section 3 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 5. There is hereby appropriated and the State Controller is hereby directed to transfer $350,000 from the Rural Economic Development Integrated Freight and Transportation Revolving Loan Account to the Invasive Species Fund on July 1, 2010, or as soon thereafter as possible. Such moneys shall be used for the purpose of managing aquatic weeds.

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1 and 2 of this act shall be in full force and effect on and after passage and approval.

Approved March 31, 2010.

CHAPTER 231
(S.B. No. 1413)

AN ACT

REDUCING THE APPROPRIATION FOR THE AGRICULTURAL RESEARCH AND COOPERATIVE EXTENSION SERVICE FOR FISCAL YEAR 2010; APPROPRIATING MONEYS FOR THE AGRICULTURAL RESEARCH AND COOPERATIVE EXTENSION SERVICE FOR FISCAL YEAR 2011; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made to the Board of Regents of the University of Idaho for the Agricultural Research and Cooperative Extension Service in Section 1, Chapter 339, Laws of 2009, is hereby reduced by the following amount for the period July 1, 2009, through June 30, 2010:

FROM:	
General Fund	$1,935,900

SECTION 2. There is hereby appropriated to the Board of Regents of the University of Idaho for the Agricultural Research and Cooperative Extension Service the following amounts from the listed funds for the period July 1, 2010, through June 30, 2011:

FROM:	
General Fund	$22,559,000
Equine Education Fund	50,000
TOTAL	$22,609,000

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved March 31, 2010.

CHAPTER 232
(S.B. No. 1415)

AN ACT

REDUCING THE APPROPRIATION TO THE STATE BOARD OF EDUCATION FOR COMMUNITY COLLEGES FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION FOR COMMUNITY COLLEGES FOR FISCAL YEAR 2011; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made to the State Board of Education for Community Colleges in Section 1, Chapter 254, Laws of 2009, is hereby reduced by the following amounts according to the designated expense class from the listed fund for the period July 1, 2009, through June 30, 2010:

FOR:

Trustee and Benefit Payments	$1,973,100

FROM:

General Fund	$1,973,100

SECTION 2. There is hereby appropriated to the State Board of Education for Community Colleges the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

FOR:

Trustee and Benefit Payments	$25,027,800

FROM:

General Fund	$23,966,800
American Reinvestment Fund	461,000
Community College Fund	600,000
TOTAL	$25,027,800

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved March 31, 2010.

CHAPTER 233
(S.B. No. 1416)

AN ACT

REDUCING THE APPROPRIATION TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION/STATE DEPARTMENT OF EDUCATION FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION/STATE DEPARTMENT OF EDUCATION FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO THE LONGITUDINAL DATA SYSTEM; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 1, Chapter 233, Laws of 2009, to the Superintendent of Public Instruction/State Department of Education is hereby reduced by the following amount according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

FOR:

Personnel Costs	$25,000
Operating Expenditures	452,700
Trustee and Benefit Payments	24,600
TOTAL	$502,300

FROM:

General Fund	$502,300

SECTION 2. There is hereby appropriated to the Superintendent of Public Instruction/State Department of Education the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Fund	$3,359,700	$3,173,800		$24,600	$6,558,100
Indirect Cost Recovery Fund	558,100	278,100			836,200
Driver's Training Fund	154,200	151,400	$3,900	2,113,300	2,422,800
Public Instruction Fund	606,200	829,000	10,500	11,400	1,457,100
Miscellaneous Revenue Fund	252,100	185,100	5,700		442,900
Federal Grant Fund	3,724,700	18,091,500	15,600	82,200	21,914,000
TOTAL	$8,655,000	$22,708,900	$35,700	$2,231,500	$33,631,100

SECTION 3. In accordance with Section 67-3519, Idaho Code, the State Department of Education is authorized no more than one hundred thirty (130) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. Notwithstanding the provisions of Section 33-1205, Idaho Code, and any other provisions of law to the contrary, the Superintendent of Public Instruction shall expend up to $120,000 of the moneys appropriated from the Public Instruction Fund for operating expenditures in Section 2 of this act, for system licensing costs associated with a K-12 longitudinal data system that tracks progress and fosters continuous improvement, as agreed under acceptance of funding provided by Title XIV of Division A of the American Recovery and Reinvestment Act of 2009.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved March 31, 2010.