

**GENERAL LAWS**  
**OF THE**  
**STATE OF IDAHO**



**PASSED BY**  
**THE FIRST REGULAR SESSION OF THE**  
**SIXTY-SECOND IDAHO LEGISLATURE**

**Convened January 7, 2013**  
**Adjourned April 4, 2013**

---

**Volume 1**

---

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

**PUBLISHED BY AUTHORITY OF THE**  
**SECRETARY OF STATE**

**BEN YSURSA**  
Secretary of State  
Boise, Idaho

---



CHAPTER 1  
(H.B. No. 1)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3004, IDAHO CODE, TO UPDATE REFERENCES TO THE INTERNAL REVENUE CODE; DECLARING AN EMERGENCY, PROVIDING RETROACTIVE APPLICATION AND PROVIDING DIFFERENT APPLICATION TO CERTAIN REFUND CLAIMS.

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

SECTION 1. That Section 63-3004, Idaho Code, be, and the same is hereby amended to read as follows:

63-3004. INTERNAL REVENUE CODE. (a) The term "Internal Revenue Code" means the Internal Revenue Code of 1986 of the United States, as amended, and in effect on the first day of January, 2012<sup>3</sup>.

(b) Provisions of the Internal Revenue Code amended, deleted, or added prior to the effective date of the latest amendment to this section shall be applicable for Idaho income tax purposes on the effective date provided for such amendments, deletions, or additions, including retroactive provisions.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2013; provided however, refund claims arising under Section 1106 of the FAA Modernization and Reform Act (P.L. 112-95) may be filed on or before the later of the date permitted in Section 63-3072, Idaho Code, or April 15, 2013.

Approved February 4, 2013.

CHAPTER 2  
(H.B. No. 2)

AN ACT

RELATING TO INCOME TAXES; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3022R, IDAHO CODE, TO ALLOW A DEDUCTION FOR CERTAIN RECOVERY AMOUNTS INCLUDED IN FEDERAL INCOME IF NO BENEFIT WAS PREVIOUSLY ALLOWED FOR IDAHO INCOME TAX PURPOSES; AMENDING SECTION 63-3022, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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 63-3022R, Idaho Code, and to read as follows:

63-3022R. CERTAIN LOSS RECOVERIES. If taxable income includes recovered amounts previously deducted from taxable income that were not allowed or allowable as a deduction from Idaho taxable income except as provided by this section, a deduction equal to the recovered amount shall be allowed in determining Idaho taxable income.

SECTION 2. 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 63-3022QR, 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 from income in the two (2) preceding years may be subtracted from income 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 or passive 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 or passive 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 carry-back of a net operating loss provided for in subsection (c) of this section or a capital loss or passive 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 contributions to the Idaho individual trust account or savings account by the account owner that were deducted on the account owner's income tax return for the year of the transfer and the prior taxable year.

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, 2013.

Approved February 12, 2013.

CHAPTER 3  
(H.B. No. 3)

AN ACT

RELATING TO TAXES; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3077F, IDAHO CODE, TO PROVIDE THAT THE STATE TAX COMMISSION MAY RELEASE CERTAIN TAX INFORMATION IN CASES OF IDENTITY THEFT.

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 63-3077F, Idaho Code, and to read as follows:

63-3077F. INFORMATION FURNISHED TO CERTAIN INDIVIDUALS. In the case of suspected identity theft involving the use of a social security number or other tax identification number, the state tax commission may disclose to the true owner of a social security number or other tax identification number any tax return or tax return information that identifies the individual using the true owner's stolen social security number or other tax identification number.

A disclosure shall be made only after receipt of a valid written information request from the victim of identity theft and would include only information to allow the victim to identify the individual using the stolen social security number or other tax identification number. Any disclosure to the true owner shall not include financial information on the tax returns or other tax information.

Approved February 12, 2013.

CHAPTER 4  
(H.B. No. 4)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3022, IDAHO CODE, TO REVISE CERTAIN ADJUSTMENTS TO TAXABLE INCOME REGARDING STATE AND LOCAL TAXES; AMENDING SECTION 63-3022A, IDAHO CODE, TO PROVIDE THAT DEDUCTIONS APPLY TO WIDOWERS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 63-3022B, IDAHO CODE, TO PROVIDE THAT THE RESIDENCE MUST BE THE PRIMARY RESIDENCE AND LOCATED IN THE STATE OF IDAHO; AMENDING SECTION 63-3022J, IDAHO CODE, TO PROVIDE THAT A DEDUCTION FOR TECHNOLOGICAL EQUIPMENT DONATIONS CANNOT EXCEED THE TAXPAYER'S COST OF THE TECHNOLOGICAL EQUIPMENT DONATED NOR REDUCE IDAHO TAXABLE INCOME TO LESS THAN ZERO; AMENDING SECTION 63-3072, IDAHO CODE, TO PROVIDE APPLICATIONS TO AMOUNTS PAID AS BACKUP WITHHOLDING; DECLARING AN EMERGENCY, PROVIDING RETROACTIVE APPLICATION AND PROVIDING EFFECTIVE DATES.

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, that are measured by net income, or for which a credit is allowable under section 63-3029, Idaho Code, and 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 from income in the two (2) preceding years may be subtracted from income 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 or passive 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 or passive 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 carry-back of a net operating loss provided for in subsection (c) of this section or a capital loss or passive 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 contributions to the Idaho individual trust account or savings account by the account owner that were deducted on the account owner's income tax return for the year of the transfer and the prior taxable year.

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

63-3022A. DEDUCTION OF CERTAIN RETIREMENT BENEFITS. (a) An amount specified by subsection (b) of this section of the following retirement benefits may be deducted by an individual from taxable income if such individual has either attained age sixty-five (65) years, or has attained age sixty-two (62) years and is classified as disabled:

(1) Retirement annuities paid by the United States of America to a retired civil service employee or the unremarried widow or widower of a retired civil service employee.

(2) Retirement benefits paid from the firemen's retirement fund of the state of Idaho to a retired fireman or the unremarried widow or widower of a retired fireman.

(3) Retirement benefits paid to a retired Idaho city police officer:

(i) By a city or its agent in regard to a policeman's retirement fund that no longer admits new members and on January 1, 2012, was administered by a city in this state; or

(ii) In regard to a policeman's retirement fund that no longer admits new members and on January 1, 2012, was administered by the public employee retirement system of Idaho; or

(iii) By the public employee retirement system of Idaho to a retired police officer in regard to Idaho employment not included in the federal social security retirement system; or

(iv) An unremarried widow or widower of a person described in subparagraph (i), (ii) or (iii) of this paragraph.

(4) Retirement benefits paid by the United States of America to a retired member of the military services of the United States or the unremarried widow or widower of such member.

(b) The amount of retirement benefits that may be deducted from taxable income shall be an amount not in excess of maximum retirement benefits under the social security act, as amended, on the date on which this act is passed and approved, including adjustments to be made based upon consumer price index adjustments provided in section 215 of the social security act. The state tax commission shall ascertain benefit changes made in accordance with the social security act and publish the appropriate deduction amounts provided by this section reflecting such changes annually. Maximum retirement benefits under the social security act shall mean:

(1) In the case of a taxpayer who files a joint return with his spouse for the tax year, an amount equal to the maximum social security benefits payable for the tax year to a person attaining full retirement age in the tax year who has earned the maximum earnings creditable under social security for the years used in the computation of his benefits, and whose spouse has no social security benefits except those payable on his record of earnings.

(2) In the case of a taxpayer who is not married, an amount equal to maximum social security benefits payable for the tax year to a person attaining full retirement age in the tax year who has earned the maximum earnings creditable under social security for the years used in the computation of his benefits.

(3) In the case of an unremarried widow or widower, an amount equal to the maximum social security benefits payable for the tax year to a widow

or widower attaining full retirement age in the tax year who has no social security benefits except those to which he or she is entitled on his or her deceased husband's spouse's record and whose husband spouse had received no reduced retirement benefits prior to his or her death and whose husband spouse had earned the maximum earnings creditable under social security for the years used in the computation of his or her benefits under social security.

(4) Maximum retirement benefits shall, in every case, take into consideration and be adjusted to reflect adjustments that would be made to such amounts had they been received as social security benefits as the result of the receipt of earnings in excess of earnings limitations. The terms in this paragraph are those defined in the social security act.

(5) Taxpayers not described in paragraphs (1), (2), (3) and (4) of this subsection may not deduct any amount of retirement benefits under this section.

(c) The total deduction under this section may not exceed the total amount of retirement benefits or annuities which are described in subsection (a) of this section and which are included in the taxpayer's gross income in the tax year. If the taxpayer or the taxpayer's spouse receives retirement benefits under the federal railroad retirement act or the federal social security act in the tax year, then the amount of any retirement annuities computed under subsection (b) of this section shall be reduced by the amount of such federal railroad retirement act and federal social security act retirement benefits received by either the taxpayer or the taxpayer's spouse, and the lesser of the amount so computed or the total amount of retirement benefits or annuities which are described in subsection (a) of this section and which are included in the taxpayer's gross income shall constitute the allowable deduction. Furthermore, the allowable deduction as calculated under this section may be subject to additional limitations under section 63-3026A(6), Idaho Code, and the rules promulgated thereunder.

(d) As used in this section, the word "disabled" shall mean an individual who is a disabled person described in section 63-701, Idaho Code, or an individual who qualifies as a person with a "permanent disability" under section 49-117(7) (b) (iv), Idaho Code.

SECTION 3. That Section 63-3022B, Idaho Code, be, and the same is hereby amended to read as follows:

63-3022B. DEDUCTION FOR ENERGY EFFICIENCY UPGRADES. (1) An individual taxpayer may deduct from taxable income an amount actually paid or accrued by the individual taxpayer during the taxable year for the actual installation of energy efficiency upgrade measures within any existing residence. As used in this section, "existing residence" means any residence in the state of Idaho that serves as the primary place of residence of the individual taxpayer in being, under construction, or subject to an outstanding legal building permit on or before January 1, 2002.

(2) As used in this section:

(a) "Energy efficiency upgrade measure" means an energy efficiency improvement to the building envelope or duct system that meets or exceeds the minimum value for the improved component established by the version of the international energy conservation code (IECC) in effect in Idaho during the taxable year in which the improvement is made or accrued.

(b) "Energy efficiency upgrade measure" includes:

- (i) Insulation that shall be added to existing insulation not in replacement of existing insulation;
- (ii) Windows that may replace less efficient existing windows;
- (iii) Storm windows;
- (iv) Weather stripping and caulking; and

(v) Duct sealing and insulation. Duct sealing requires mechanical fastening of joints and mastic sealant.

SECTION 4. That Section 63-3022J, Idaho Code, be, and the same is hereby amended to read as follows:

63-3022J. DEDUCTION OF VALUE FOR TECHNOLOGICAL EQUIPMENT. (1) ~~For taxable years commencing on and after January 1, 1985, a~~Any individual or corporation may deduct from taxable income an amount equal to the fair market value of technological equipment donated to public elementary or public secondary schools, private elementary or private secondary schools, public universities, private universities, public colleges, private colleges, public community colleges, private community colleges, public technical colleges or private technical colleges, or public libraries and library districts located within the state of Idaho, except that the amount of the deduction shall not exceed the amount of the taxpayer's cost of the technological equipment donated nor reduce Idaho taxable income to less than zero. The deduction allowed pursuant to this section shall be in addition to any other deduction allowed pursuant to this chapter. In order to take the deduction pursuant to this section, the taxpayer shall receive a written statement from the donee in which the donee agrees to accept the technological equipment donated.

(2) For the purposes of this section, "technological equipment" means a computer, computer software, scientific equipment or apparatus to be used by the university, college, community college, technical college, school or library directly or indirectly in the education program of the university, college, community college, technical college, school or library and which is donated to the university, college, community college, technical college, school or library no later than five (5) years after its manufacture has been substantially completed.

(3) For the purposes of this section, a public elementary or public secondary school means one that is located within this state and receives funding pursuant to chapter 10, title 33, Idaho Code.

(4) For purposes of this section, a private elementary or private secondary school means one that is located within this state and is operated on a nonprofit basis.

(5) For the purposes of this section, a public library or library district means one that is located within this state and receives funding pursuant to chapters 26 and 27, title 33, Idaho Code.

(6) For purposes of this section, a public university, public college, public community college or public technical college means one that is located within this state and receives an appropriation from the legislature.

(7) For purposes of this section, a private university, private college, private community college or private technical college means one that is located within this state and is operated on a nonprofit basis.

(8) The state tax commission shall promulgate rules to administer the provisions of this section. The rules shall be promulgated in compliance with chapter 52, title 67, Idaho Code.

SECTION 5. That Section 63-3072, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

(c) With regard to amounts withheld as provided in section 63-3035, 63-3035A or 63-3036, Idaho Code, or amounts paid as estimated payments under section 63-3036A, Idaho Code, or amounts paid as backup withholding under section 63-3036B, Idaho Code, a claim for credit or refund shall be made within three (3) years from the due date of the return, without regard to extensions, for the taxable year in respect to which the tax was withheld or paid. However, with regard to an individual who is entitled to an extension of time as provided in section 7508 of the Internal Revenue Code, the three (3) year period provided in this subsection for claiming a credit or refund shall be extended by the number of days disregarded under section 7508 of the Internal Revenue Code.

(d) Notwithstanding any other provisions of this section, when Idaho taxable income and/or tax credits for any taxable year have been adjusted as a result of a final federal determination, the period of limitations for claiming a refund or credit of tax, penalties, or interest shall be reopened and shall not expire until the later of one (1) year from the date of delivery of the final federal determination to the taxpayer by the internal revenue service, three (3) years from the due date of the return, without regard to extensions, or three (3) years from the date the return was filed. For purposes of this subsection, the term "final federal determination" shall mean the final resolution of all issues which were adjusted by the internal revenue service. When the final federal determination is submitted, the taxpayer shall also submit copies of all schedules and written explanations provided by the internal revenue service. Upon the expiration of the period of limitations as provided in subsections (b) and (h) of this section, only those specific items of income, deductions, gains, losses or credits which were adjusted in the final federal determination shall be subject to adjustment for purposes of recomputing Idaho income, deductions, gains, losses, credits, and the effect of such adjustments on Idaho allocations and apportionments.

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

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

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

(h) Prior to the expiration of the time prescribed in this section for credit or refund of any tax imposed by the provisions of this chapter, both

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

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

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

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

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1, 2, 4 and 5 of this act shall be in full force and effect on and after passage and approval, and retroactively to January 1, 2013. Section 3 of this act shall be in full force and effect on and after passage and approval, and retroactively to January 1, 2012.

Approved February 12, 2013.

CHAPTER 5  
(H.B. No. 5)

AN ACT

RELATING TO CIGARETTE AND TOBACCO PRODUCT TAXES; AMENDING SECTION 63-2503, IDAHO CODE, TO CLARIFY PERMITTING REQUIREMENTS FOR PERSONS ACTIVELY ENGAGED IN MAKING WHOLESALE SALES OF CIGARETTES AND TO MAKE A TECHNICAL CORRECTION.

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

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

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

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

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

(4) Whenever any person fails to comply with any provision of this chapter relating to the purchase, sale or offering for sale or distribution of

cigarettes or any rules of the state tax commission relating to the cigarette tax prescribed and adopted under this chapter, the state tax commission may revoke or suspend any permit held by the person or may deny a new permit to such person.

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

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

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

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

Approved February 19, 2013.

CHAPTER 6  
(H.B. No. 16)

AN ACT

RELATING TO PRESCRIPTION TRACKING; AMENDING SECTION 37-2730A, IDAHO CODE,  
TO CLARIFY THAT PHARMACISTS AND PRACTITIONERS MAY SHARE INFORMATION.

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

SECTION 1. That Section 37-2730A, Idaho Code, be, and the same is hereby amended to read as follows:

37-2730A. PRESCRIPTION TRACKING PROGRAM. (1) The board shall maintain a program to track the prescriptions for controlled substances that are filed with the board under section 37-2726, Idaho Code, for the purpose of assisting in identifying illegal activity related to the dispensing of controlled substances and for the purpose of assisting the board in providing information to patients, practitioners and pharmacists to assist in avoiding inappropriate use of controlled substances. The tracking program and any data created thereby shall be administered by the board.

(2) The board shall use the information obtained through the tracking program in identifying activity it reasonably suspects may be in violation of this chapter or medical assistance law. The board shall report this information to the individuals and persons set forth in section 37-2726(2), Idaho Code. The board may release unsolicited information to pharmacists and practitioners when the release of information may be of assistance in preventing or avoiding inappropriate use of controlled substances. The board may provide the appropriate law enforcement agency, medicaid or medicare agency or licensing board with the relevant information in the board's possession, including information obtained from the tracking program, for further investigation, or other appropriate law enforcement or administrative enforcement use.

(3) Information, which does not identify individual patients, practitioners or dispensing pharmacists or pharmacies, may be released by the board for educational, research or public information purposes.

(4) Nothing herein shall prevent a pharmacist or practitioner from furnishing another pharmacist or practitioner information obtained pursuant to and in compliance with this chapter.

(5) Unless there is shown malice or criminal intent or gross negligence or reckless, willful and wanton conduct as defined in section 6-904C, Idaho Code, the state of Idaho, the board, any other state agency, or any person, or entity in proper possession of information as herein provided shall not be subject to any liability or action for money damages or other legal or equitable relief by reason of any of the following:

(a) The furnishing of information under the conditions herein provided;

(b) The receiving and use of, or reliance on, such information;

(c) The fact that any such information was not furnished; or

(d) The fact that such information was factually incorrect or was released by the board to the wrong person or entity.

(56) The board may apply for any available grants and accept any gifts, grants or donations to assist in developing and maintaining the program required by this section.

Approved February 19, 2013.

CHAPTER 7  
(H.B. No. 14)

AN ACT

RELATING TO PROPERTY TAXATION; AMENDING SECTION 63-205A, IDAHO CODE, TO REVISE THE CALCULATION OF NET OPERATING INCOME OF LOW-INCOME HOUSING FOR PROPERTY TAXATION PURPOSES AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 63-205A, Idaho Code, be, and the same is hereby amended to read as follows:

63-205A. ASSESSMENT -- MARKET VALUE FOR ASSESSMENT PURPOSES OF SECTION 42 LOW-INCOME PROPERTIES. (1) Section 42 of the Internal Revenue Code and related regulations govern the housing tax credit established under the 1986 tax reform act, as amended, and provides an incentive for developers to provide safe and sanitary housing for individuals and families earning no more than sixty percent (60%) of the area median income as determined by the U.S. department of housing and urban development (HUD), which income and rent restrictions remain in place as provided for in the tax credit regulatory agreement between the owner and the Idaho housing and finance association.

(2) The market value for assessment purposes of section 42 low-income properties shall be determined by the county assessor using the following criteria:

(a) The sales comparison approach using similar rent restricted properties, the cost approach, and the income approach, shall be considered in valuing section 42 low-income properties. The cost approach shall include an economic obsolescence factor associated with the income and rent restrictions provided with each development's tax credit regulatory agreement with the Idaho housing and finance association. The three (3) approaches will be reconciled into a single property value.

(b) Net operating income to be capitalized in the income approach shall not include the amount of housing tax credits. However, the amount of such credits shall be added to the capitalized net operating income using one (1) of the following procedures:

(i) Except as provided in subsection (2) (b) (ii), of this section, for properties for which housing tax credits have been received prior to January 1, 2009, and for properties subject to new regulatory agreements on or after January 1, 2009, the total dollar amount of such credits shall be divided by the total number of years in the regulatory agreement;

(ii) For properties for which housing tax credits originally were received, but which are no longer receiving such credits as of January 1, 2009, no amount shall be added; or

(iii) For properties previously receiving housing tax credits, but subject to a new regulatory agreement on or after January 1, 2009, the total amount of housing tax credits pursuant to the new agreement shall be divided by the number of years in the new regulatory agreement. This amount shall supersede and be substituted for any amount previously calculated.

Net operating income shall be capitalized into value using a market derived capitalization rate. To determine tThe net operating income, effective gross income shall be reduced by costs customary to section 42 operations, including normalized operating expenses plus all compliance, audit, asset management and other fees, but not general partner fees, as well as those costs set forth in each development's tax credit regulatory agreement with the Idaho housing and finance association.

(c) The Idaho state tax commission shall gather market data to determine market derived capitalization rates for section 42 low-income properties from section 42 property sales. Determination of the market derived capitalization rates for section 42 low-income property sales shall include both actual net operating income and calculated tax credit income consistent with the formula in subsection (2) (b) of this section. The Idaho state tax commission shall then make the information available to each county assessor. If fewer than three (3) comparable sales of section 42 low-income properties are available, then a capitalization rate derived from properties with no federal project based assistance shall be used. As used in this section, "comparable" shall mean section 42 low-income properties with no federal project based assistance. A sale of a section 42 low-income property shall not be considered as a comparable sale if the buyer of that property receives a new allocation of section 42 tax credits from the Idaho housing and finance association.

(d) Beginning in 2010, the owners of properties described in this section shall provide to the Idaho state tax commission no later than April 1 of each year, such financial statements from the prior year as are customarily prepared in the ownership and operation of any section 42 property. For 2009, said financial statements shall be provided no later than May 1. In addition, no later than May 1 of 2009 or, for new developments with housing tax credits or new allocations, by April 1 of the first year of any tax credit regulatory agreement, the Idaho housing and finance association shall provide to the Idaho state tax commission statements ascertaining the dollar amounts of housing tax credits that have been allocated to each section 42 property, the year such credits were first paid, and the total number of years in the regulatory agreement. The Idaho state tax commission shall then make the financial statements and tax credit information required under this section available to each county assessor. If such information is not made available to the Idaho state tax commission and county assessors, each

county shall substitute market rent apartment derived expenses and income for section 42 low-income properties.

(e) The Idaho state tax commission shall have the authority to promulgate rules dealing with the enactment and enforcement of this section.

(f) If the use of the income approach as described in subsection (2) (b) of this section results in an assessed value lower than would be obtained if the income approach in subsection (2) (b) of this section were not used, the difference will be exempt.

Approved February 20, 2013.

CHAPTER 8  
(H.B. No. 15)

AN ACT

RELATING TO THE SALES AND USE TAX; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3607A, IDAHO CODE, TO DEFINE THE TERM "PRIMARY" OR "PRIMARILY" WITH RESPECT TO THE USE OF TANGIBLE PERSONAL PROPERTY FOR SALES AND USE TAX PURPOSES.

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

SECTION 1. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3607A, Idaho Code, and to read as follows:

63-3607A. PRIMARY OR PRIMARILY. (1) With respect to the use of tangible personal property, "primary" or "primarily" means the predominant or greatest use of the property.

(2) In determining the primary use of tangible personal property, all uses of the property shall be aggregated into total taxable uses and total nontaxable uses pursuant to the provisions of this chapter. The primary use shall be the greater of the total taxable use or total nontaxable use.

(3) The use of tangible personal property shall be measured in terms of hours, miles, gallons or other measure commonly or customarily used to measure or determine use of the property.

Approved February 20, 2013.

CHAPTER 9  
(H.B. No. 22)

AN ACT

RELATING TO INCOME TAXATION; AMENDING SECTION 63-3035, IDAHO CODE, TO REVISE THE REPORTING AND PAYING PERIODS FOR IDAHO INCOME TAX WITHHELD BY CERTAIN EMPLOYERS; PROVIDING AN EFFECTIVE DATE AND PROVIDING APPLICATION.

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

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

63-3035. STATE WITHHOLDING TAX ON PERCENTAGE BASIS -- WITHHOLDING, COLLECTION AND PAYMENT OF TAX. (a) Every employer who is required under the provisions of the Internal Revenue Code to withhold, collect and pay income tax on wages or salaries paid by such employer to any employee (other than employees specified in Internal Revenue Code section 3401(a)(2)) shall, at

the time of such payment of wages, salary, bonus or other emolument to such employee, deduct and retain therefrom an amount substantially equivalent to the tax reasonably calculated by the state tax commission to be due from the employee under this chapter. The state tax commission shall prepare tables showing amounts to be withheld, and shall supply same to each employer subject to this section. In the event that an employer can demonstrate administrative inconvenience in complying with the exact requirements set forth in these tables, he may, with the consent of the state tax commission and upon application to it, use a different method which will produce substantially the same amount of taxes withheld. Every employer making payments of wages or salaries earned in Idaho, regardless of the place where such payment is made:

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

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

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

(4) Must, notwithstanding the provisions of paragraphs (1) and (2) of this subsection, if the amount of withholding of such employer for the preceding twelve (12) month period equals or exceeds two hundred forty thousand dollars (\$240,000) per annum or an average of twenty thousand dollars (\$20,000) per month per annum, pay to the state tax commission on the basis of two (2) withholding periods which begin on the 16th day of the month and end on the 15th day of the following month, and payment shall be made not later than five (5) days after the end of the withholding period. The first of which shall begin on the first day of the month and end on the fifteenth day of the same month and payment shall be made not later than the twentieth day of the same month. The second period shall begin on the sixteenth day of the same month and end on the last day of the same month, and payment shall be made not later than the fifth day of the following month.

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

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

thereafter until again adjusted by the commission. The tax commission shall determine subsequent adjustments in the same manner, in each case using the year of the last adjustment as the base year.

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

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

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

(2) Every employer making a declaration of withholding as provided herein shall furnish to the employees annually, but not later than thirty (30) days after the end of the calendar year, a record of the amount of tax withheld from such employee on forms to be prescribed, prepared and furnished by the state tax commission.

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

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

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

(e) Amounts deducted from wages of an employee during any calendar year in accordance with the provisions of this section shall be considered to be in part payment of the tax imposed on such employee for his tax year which begins within such calendar year and the return made by the employer under this subsection (e) shall be accepted by the state tax commission as evidence in favor of the employee of the amount so deducted from his wages. Where the to-

tal amount so deducted exceeds the amount of tax on the employee, based on his Idaho taxable income, or where his income is not taxable under this chapter, the state tax commission shall, after examining the annual return filed by the employee in accordance with this chapter, but not later than sixty (60) days after the filing of each return, refund the amount of the excess deducted.

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

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

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

SECTION 2. This act shall be in full force and effect on and after January 1, 2014, and shall be effective for withholding periods beginning on or after January 1, 2014.

Approved February 20, 2013.

CHAPTER 10  
(H.B. No. 23)

AN ACT

RELATING TO THE TAXATION OF BEER; AMENDING SECTION 23-1008, IDAHO CODE, TO REMOVE LANGUAGE STATING IT IS THE STATE TAX COMMISSION'S DUTY TO PRESCRIBE RULES REGARDING REPORTING OF THE TAX ON BEER AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 23-1008, Idaho Code, be, and the same is hereby amended to read as follows:

23-1008. TAX -- DISTRIBUTION -- RULES -- REPORTS. (1) A tax of four dollars and sixty-five cents (\$4.65) per barrel of thirty-one (31) gallons, and a like rate for any other quantity or fraction thereof, is hereby levied and imposed upon each and every barrel of beer sold for use within the state of Idaho.

Any wholesaler who shall sell beer, upon which the tax herein imposed has not been paid and any person who shall purchase, receive, transport, store or sell any beer upon which the tax herein imposed has not been paid,

shall be guilty of a misdemeanor, and any beer so purchased, received, transported, stored or possessed or sold shall be subject to seizure by the commission, any inspector or investigator of the commission, or by any sheriff, constable or other police officer, and the same may be removed and kept for evidence. Upon conviction of any person for violation of the provisions of this section, the said beer, and all barrels, kegs, cases, cartons and cans containing the same shall be forfeited to the state of Idaho, and, in addition, the person so convicted shall be subject to the other penalties in this act chapter prescribed.

Beer and all barrels, kegs, cases, cartons or cans so forfeited to the state of Idaho shall be sold by the commission at public auction to any brewer, wholesaler or retailer, licensed under the provisions of this act chapter, making the highest bid. Such sale shall be held at such place and time as may be designated by the commission after reasonable notice thereof given in such manner and for such time as the commission may by rule prescribe. From the purchase price received upon such sale, the commission shall first deduct an amount sufficient to pay the tax due on such beer, and to pay all costs incurred in connection with such sale. The commission shall deposit the balance remaining with the state treasurer, who shall place the same in the general account fund of the state of Idaho, and it shall become a part thereof.

(2) The revenues received from the taxes, interest, penalties, or deficiency payments imposed by this section shall be distributed as follows:

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

(b) The balance remaining after distributing the amount in paragraph (a) of this subsection shall be distributed as follows:

(i) Twenty percent (20%) shall be distributed to the substance abuse treatment fund which is created in section 23-408, Idaho Code;

(ii) Thirty-three percent (33%) shall be distributed to the permanent building account fund; and

(iii) The remainder shall be distributed to the general account fund.

(3) ~~The commission is empowered, and it shall be the commission's duty~~ to prescribe rules:

(a) For reports by carriers for hire and also all other carriers owned and/or employed, directly or indirectly, by out-of-state brewers, dealers or other persons, of all deliveries of beer in and into the state of Idaho, stating especially the origin and destination of the beer, the quantity thereof, and also the names and addresses, respectively, of the consignors and consignees.

(b) For reports by out-of-state brewers and manufacturers of beer, of all shipments by them of beer into the state of Idaho, stating especially the matters mentioned in paragraph (a) of this subsection.

Approved February 20, 2013.

CHAPTER 11  
(H.B. No. 19)

AN ACT

RELATING TO AIRPORTS; REPEALING SECTION 21-115, IDAHO CODE, RELATING TO STATE DESIGNATION OF AIRPORTS.

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

SECTION 1. That Section 21-115, Idaho Code, be, and the same is hereby repealed.

Approved February 20, 2013.

CHAPTER 12  
(H.B. No. 21)

AN ACT

RELATING TO MUNICIPAL AIRPORTS; AMENDING SECTION 21-105, IDAHO CODE, TO REMOVE LANGUAGE RELATING TO CERTAIN PREAPPLICATION APPROVAL BY THE IDAHO TRANSPORTATION DEPARTMENT.

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

SECTION 1. That Section 21-105, Idaho Code, be, and the same is hereby amended to read as follows:

21-105. MUNICIPAL AIRPORTS. (a) Technical Services of the Department. The department may, insofar as is reasonably possible, make available its engineering and other technical services, with or without charge, to any municipality or person desiring them in connection with the planning, acquisition, construction, improvement, maintenance or operation of airports or air navigation facilities.

(b) State Financial Assistance. The department may render financial assistance by grant or loan or both to any municipality or municipalities acting jointly, in the planning, acquisition, construction, improvement, maintenance, or operation of an airport owned or controlled, or to be owned or controlled by such municipality or municipalities, out of appropriations made by the legislature for such purposes. Such financial assistance may be furnished in connection with federal or other financial aid for the same purposes.

(c) Federal Aid. The department is authorized to act as agent of any municipality or municipalities acting jointly, upon the request of such municipality or municipalities, in accepting, receiving, receipting for and disbursing federal moneys, and other moneys public or private, made available to finance, in whole or part, the planning, acquisition, construction, improvement, maintenance, or operation of a municipal airport or air navigation facility; and if requested by such municipality or municipalities may act as its or their agent in contracting for and supervising such planning, acquisition, construction, improvement, maintenance or operation; and all municipalities are authorized to designate the department their agent for the foregoing purposes. The department, as principal on behalf of the state, and any municipality, on its own behalf, may enter into any contracts, with each other or with the United States or with any person, which may be required in connection with a grant or loan of federal moneys for municipal airport or air navigation facility purposes. All federal moneys accepted under this

section shall be accepted and transferred or expended by the department upon such terms and conditions as are prescribed by the United States. All moneys received by the department pursuant to this section shall be deposited in the state treasury, and, unless otherwise prescribed by the authority from which such moneys were received, shall be kept in separate funds designated according to the purposes for which the moneys were made available, and held by the state in trust for such purposes. All such moneys are hereby appropriated for the purposes for which the same were made available, to be disbursed or expended in accordance with the terms and conditions upon which they were made available.

~~(d) No municipality, county, regional airport authority in this state, except airports serving regularly scheduled airlines certified by an agency of the federal government, whether acting alone or jointly with another local public entity or with the state, shall submit to any federal agency or department of the United States any project application under the provisions of any act of congress which provides airport planning funds, or airport construction and development funds for the expansion and improvement of the airport system, unless the pre-application for federal assistance has been first submitted to and approved by the Idaho transportation department.~~

Approved February 20, 2013.

CHAPTER 13  
(H.B. No. 32)

AN ACT

RELATING TO THE BOARD OF PSYCHOLOGIST EXAMINERS; AMENDING SECTION 54-2305, IDAHO CODE, TO PROVIDE THAT THE BOARD SHALL HAVE THE POWER TO ESTABLISH BY RULE THE STANDARDS AND REQUIREMENTS FOR THE USE OF COMMUNICATION TECHNOLOGY IN THE PRACTICE OF PSYCHOLOGY, INCLUDING SUPERVISION.

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

SECTION 1. That Section 54-2305, Idaho Code, be, and the same is hereby amended to read as follows:

54-2305. BOARD OF PSYCHOLOGIST EXAMINERS -- POWERS. The board of psychologist examiners shall have the following powers:

(1) To pass upon the qualifications and fitness of applicants for licenses and reciprocal licenses; and, at its option to adopt and revise rules requiring applicants to pass examinations relating to their qualifications as a prerequisite to the issuance of licenses.

(2) To adopt, and, from time to time, revise such rules in accordance with the provisions of chapter 52, title 67, Idaho Code, and not inconsistent with the law as may be necessary to carry into effect the provisions of this chapter. Such rules shall include, but need not be limited to, a code of ethics for psychologists in the state consistent with the current, and as future amended, ethical standards for psychologists of the American psychological association and the educational and professional qualifications of applicants for licensing under this chapter.

(3) To examine for, deny, approve, issue, revoke, suspend and renew the licenses of psychologists and psychologist applicants pursuant to this chapter, and to conduct hearings in connection therewith.

(4) To conduct hearings upon complaints concerning violations of the provisions of, and the rules adopted pursuant to, this chapter and cause the prosecution and joinder of all such violations.

(5) The board, or its duly appointed hearing officer, shall have the power in any disciplinary proceeding under this chapter, to administer

oaths, take depositions of witnesses within or without the state in the manner provided by law in civil cases, and may apply to any district court of this state for a subpoena to require the attendance of such witnesses and the production of such books, records, and papers as it deems necessary. The fees and mileage of the witnesses shall be the same as that allowed in district courts in criminal cases, which fees and mileage shall be paid in the same manner as other expenses of the board are paid. In any case of disobedience to, or neglect of, any subpoena or subpoena duces tecum served upon any person, or the refusal of any witness to testify to any matter regarding which he may be lawfully interrogated. It shall be the duty of any district court in this state, on application by the board, to compel compliance with the subpoena by proceedings for contempt, as in the case of disobedience of the requirements of the subpoena issued from such court for refusal to testify therein. The licensed person accused in such proceedings shall have the same right of subpoena.

(6) Proceedings before the board and judicial review of the action of the board shall be governed by the provisions of chapter 52, title 67, Idaho Code.

(7) To authorize, by written agreement, the bureau of occupational licenses as agent to act in its interest.

(8) To adopt a rule requiring continuing education as a condition of continued licensure.

(9) To adopt rules allowing for a temporary permit to individuals licensed as psychologists in another state authorizing such individuals to practice psychology in Idaho for a period not to exceed thirty (30) days pursuant to such terms and requirements as set forth in the rules.

(10) To establish by rule an inactive license status.

(11) To establish by rule the standards and requirements for the use of communication technology in the practice of psychology, including supervision.

Approved February 20, 2013.

CHAPTER 14  
(H.B. No. 33)

AN ACT

RELATING TO THE OCCUPATIONAL THERAPY LICENSING BOARD; AMENDING SECTION 54-3705, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A LIMITED PERMIT AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 54-3705, Idaho Code, be, and the same is hereby amended to read as follows:

54-3705. LIMITED PERMIT -- AND TEMPORARY LICENSE. (1) A limited permit may be granted to a graduate occupational therapist or a graduate occupational therapy assistant who has completed the education and experience requirements of this chapter for an occupational therapist or an occupational therapy assistant. The permit shall allow a person to practice occupational therapy under supervision as defined in section 54-3715, Idaho Code. This permit shall be valid until the person is issued a license under section 54-3710, Idaho Code, or until the results of the examination taken are available to the board. The board may renew a limited permit once for a period of six (6) months or as extended by the board.

(2) A temporary license may be issued by the board to an applicant who is currently licensed and in good standing to practice in another jurisdiction

and meets the requirements for licensure by endorsement of the other jurisdiction while the application is being processed by the board.

Approved February 20, 2013.

CHAPTER 15  
(H.B. No. 35)

AN ACT

RELATING TO THE BOARD OF SOCIAL WORK EXAMINERS; AMENDING SECTION 54-3204, IDAHO CODE, TO PROVIDE THAT THE BOARD MAY REVIEW THE PRACTICE OF A LICENSED SOCIAL WORKER WHO IS THE SUBJECT OF A CERTAIN COMPLAINT, TO ESTABLISH PROVISIONS RELATING TO SUCH REVIEW AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 54-3211, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE BOARD'S AUTHORITY TO REFUSE TO ISSUE A LICENSE, REFUSE TO RENEW A LICENSE OR TO TAKE OTHER DISCIPLINARY ACTION AND TO MAKE A TECHNICAL CORRECTION.

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

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

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

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

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

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

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

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

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

(7) To review the practice of a social worker licensed pursuant to this chapter who is the subject of a complaint regarding a potential violation of the provisions of this chapter. This review may include client records, notes of the license holder and other materials related to the practice. The review will remain subject to nondisclosure according to the provisions of chapter 3, title 9, Idaho Code, unless the written consent of the client is received by the board.

SECTION 2. That Section 54-3211, Idaho Code, be, and the same is hereby amended to read as follows:

54-3211. REFUSAL TO ISSUE, REFUSAL TO RENEW, SUSPENSION OR REVOCATION OF LICENSE -- UNPROFESSIONAL CONDUCT. The board may refuse to issue, refuse to renew, may suspend, or may revoke any license issued under this chapter, or take other disciplinary action, upon proof, after a hearing, that the person has engaged in "unprofessional conduct." The words "unprofessional conduct" as relating to persons licensed under this chapter are defined to include but are not limited to:

- (1) Conviction of a felony, or of any offense involving moral turpitude.
- (2) Habitual drunkenness or addiction to habit-forming drugs, either of which impairs the ability to perform his work without danger to himself or the public he serves.
- (3) Fraud or deceit in connection with services rendered as a social worker, masters social worker or clinical social worker or in establishing qualifications for licensure under this chapter.
- (4) Aiding or abetting any person not licensed under this chapter in the practice of social work in the state of Idaho.
- (5) Failing to be licensed or continuing to represent himself as licensed after the expiration of his license.
- (6) Being found guilty of unprofessional conduct by the rules established by the board.
- (7) Having had a license or registration to practice social work revoked, suspended or otherwise disciplined in any state, territory or county.
- (8) Failing to comply with a board order entered in a disciplinary action.
- (9) Failing to comply with any of the provisions of this chapter.

Approved February 20, 2013.

CHAPTER 16  
(H.B. No. 37)

AN ACT

RELATING TO THE WOOD AND MILL YARD DEBRIS COMMITTEE; AMENDING SECTION 39-173, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE APPOINTMENT OF THE WOOD AND MILL YARD DEBRIS COMMITTEE; AND AMENDING SECTION 39-174, IDAHO CODE, TO PROVIDE FOR MEETINGS OF THE COMMITTEE AND TO PROVIDE A PROCESS FOR SUCH MEETINGS.

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

SECTION 1. That Section 39-173, Idaho Code, be, and the same is hereby amended to read as follows:

39-173. COMMITTEE -- MEMBERS -- TERMS. As needed, to fulfill the duties described in section 39-174, Idaho Code, tThe director shall may appoint a committee to develop guidance on the use, storage, management and disposal of mill yard or wood debris. This committee shall that consists of seven (7) individuals and shall includes:

- (1) One (1) representative of the department of environmental quality, who will provide administrative and other support to the committee.
- (2) Two (2) representatives of the public health districts which have mill yard or wood debris within their districts.
- (3) Two (2) representatives from industries generating wood or mill yard debris.
- (4) Two (2) members with demonstrated technical knowledge important to the work of the committee.

Committee members shall be appointed to serve three (3) year terms. No member may serve more than two (2) full terms. Members serve at the pleasure of the director.

Members of the committee shall serve without compensation pursuant to section 59-509(a), Idaho Code.

SECTION 2. That Section 39-174, Idaho Code, be, and the same is hereby amended to read as follows:

39-174. COMMITTEE DUTIES -- MEETINGS. The committee's duties shall include:

(1) Developing a manual providing guidance for the use, storage, management and disposal of wood or mill yard debris to prevent public nuisances and minimize or prevent harmful environmental impacts. Guidance provided by the manual may be incorporated or adopted by reference in the rules of the department or other appropriate state agencies.

(2) Considering and developing specific solutions to unforeseen wood or mill yard debris use, storage, management or disposal as needed.

(3) Developing and sharing knowledge related to the use, storage, management and disposal of wood or mill yard debris including ways to constructively use or reclaim the debris.

(4) Making recommendations for any necessary permits, rules or legislation related to the use, storage, management or disposal of wood or mill yard debris.

The committee shall meet at least two (2) times a year at a time and place most convenient to the majority of members on an as needed basis to implement the purpose of sections 39-171 through 39-174, Idaho Code. A committee member or member of the public may request a meeting by sending a written request to the department describing the reason for the meeting, or the department may schedule a meeting at the discretion of the director. Upon receiving the request, the department shall contact all committee members and arrange a time and place most convenient to the majority of the members. Meetings may be conducted using telephonic devices or other methods that allow adequate communication among members.

Approved February 20, 2013.

CHAPTER 17  
(H.B. No. 39)

AN ACT

RELATING TO RECREATIONAL VEHICLES; AMENDING SECTION 49-445, IDAHO CODE, TO PROVIDE THAT INITIAL LICENSE FEES FOR RECREATIONAL VEHICLES SHALL BE PRORATED ON A MONTHLY BASIS FOR NEW OWNERS AND SUBSEQUENT RENEWALS OF ANNUAL LICENSES SHALL REQUIRE ANNUAL FEES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 49-445, Idaho Code, be, and the same is hereby amended to read as follows:

49-445. RECREATIONAL VEHICLE ANNUAL LICENSE. (1) There is levied and there shall be collected an annual license fee on each recreational vehicle in Idaho, except recreational vehicles in possession of a manufacturer or dealer and offered for sale or resale. If the recreational vehicle is registered as a motor vehicle under the provisions of this chapter, the annual license fee imposed in this section shall be in addition to and not in lieu of the motor vehicle registration fees. Initial license fees for recreational vehicles shall be prorated on a monthly basis for a new owner. Subsequent renewals of the annual license shall require annual fees regardless of the registration date.

(2) The annual license fee imposed upon each recreational vehicle shall be eight dollars and fifty cents (\$8.50) for a market value of one thousand dollars (\$1,000) or less, and an additional five dollars (\$5.00) for each additional one thousand dollars (\$1,000) or portion of it, of market value.

(3) Payment of the annual license fee shall license the recreational vehicle for a calendar year, irrespective of the month in which it is regis-

tered, change of ownership of the vehicle, or change of county of residence of the owner. The recreational vehicle annual license shall expire midnight December 31 of each year.

(4) The license sticker shall be placed on the rear of the recreational vehicle in a manner that is completely visible and shall be kept in a legible condition at all times.

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 20, 2013.

CHAPTER 18  
(H.B. No. 85)

AN ACT

RELATING TO SINGLE COUNTY-WIDE HIGHWAY DISTRICTS; AMENDING CHAPTER 14, TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-1404B, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO DETERMINING A VACANCY ON A SINGLE COUNTY-WIDE HIGHWAY DISTRICT BOARD, TO ESTABLISH PROVISIONS RELATING TO FILLING A VACANCY, TO ESTABLISH QUALIFICATIONS FOR A PERSON SELECTED TO FILL A VACANCY, TO ESTABLISH A TERM OF APPOINTMENT, TO PROVIDE THAT AN APPOINTMENT SHALL BE IN WRITING AND FILED AND TO PROVIDE THAT THE PERSON APPOINTED SHALL POSSESS CERTAIN RIGHTS AND POWERS AND SHALL BE SUBJECT TO CERTAIN LIABILITIES, DUTIES AND OBLIGATIONS.

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

SECTION 1. That Chapter 14, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 40-1404B, Idaho Code, and to read as follows:

40-1404B. VACANCIES -- FILLING A MID-TERM VACANCY. (1) Any vacancy occurring on the highway district board, other than by expiration of the term of office, shall be determined by the remaining highway district board using the criteria established in section 59-901, Idaho Code.

(2) If it is determined that a vacancy has occurred as provided in subsection (1) of this section, the remaining highway district board shall declare there is a vacancy and such vacancy shall be filled as herein provided:

(a) The remaining highway district board shall have thirty (30) days to appoint a person to fill the vacancy.

(b) If a majority of the remaining highway district board so constituted shall be unable to agree upon an appointment of a person to fill the vacancy before the expiration of the thirty (30) day period, the remaining highway district board shall submit a list of three (3) nominations to the governor within five (5) days.

(c) The governor shall fill the vacancy within ten (10) days by appointing a person having the qualifications set forth herein. In the event the remaining highway district board fails to submit a list of three (3) nominations as set forth in this section, the governor shall have an additional ten (10) days to fill the vacancy by appointing a person having the same qualifications at the time of the appointment as those provided by law for election to the office.

(3) The person selected shall be a person who possesses the same qualifications at the time of his appointment as those provided by law for election to the vacant office.

(4) The term of the appointment shall be for the balance of the term of the person replaced.

(5) Appointment pursuant to the provisions of this chapter shall be in writing and filed with the secretary of the highway district, the clerk of the county commissioners and the tax collector of the county.

(6) Any person appointed to fill a vacancy, after filing the official oath and qualifying for the official bond in accordance with the provisions of section 40-1405, Idaho Code, shall possess all the rights and powers, and is subject to all the liabilities, duties and obligations of the office filled.

Approved February 20, 2013.

CHAPTER 19  
(H.B. No. 20)

AN ACT

RELATING TO THE TAX ON MOTOR FUELS; AMENDING SECTION 63-2423, IDAHO CODE, TO CLARIFY THAT REFUNDS APPLY TO GASEOUS SPECIAL FUELS; AND AMENDING SECTION 63-2424, IDAHO CODE, TO PROVIDE THAT THE STATE TAX COMMISSION MAY SELL GASEOUS FUEL PERMITS.

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

SECTION 1. That Section 63-2423, Idaho Code, be, and the same is hereby amended to read as follows:

63-2423. CREDITS AND REFUNDS TO CONSUMERS. (1) Any person who has paid his special fuels tax directly to the distributor from whom it was purchased shall be refunded the amount of:

(a) Except as provided in subsection (2) of this section, any special fuels tax paid on special fuels used for purposes other than operation or propulsion of motor vehicles upon the highways in the state of Idaho;

(b) Any tax paid on special fuels used in motor vehicles owned or leased and operated by an instrumentality of the federal government or of the state of Idaho, including the state and all of its political subdivisions;

(c) Any tax paid on gaseous special fuels used in motor vehicles to which gaseous special fuel is delivered and which displays placed into the main supply tank of a vehicle displaying a valid gaseous special fuels permit under section 63-2424, Idaho Code;

(d) Any special fuels tax paid on special fuels exported for use outside the state of Idaho. Special fuels carried from the state in the fuel tank of a motor vehicle will not be deemed to be exported from the state unless it is subject to a like or similar tax in the jurisdiction to which it is taken and that tax is actually paid to the other jurisdiction; and

(e) Any tax, penalty or interest erroneously or illegally paid or collected.

(2) No refund of special fuels tax shall be paid on:

(a) Special fuels used in a recreational vehicle; or

(b) Special fuels used in noncommercial motor boats or in motor boats operated by a governmental entity; or

(c) Special fuels used while idling a registered motor vehicle, pursuant to the definition of "idling" as provided in section 63-2401, Idaho Code.

(3) Refunds authorized in this section shall be claimed in the same manner as applies to refunds of gasoline tax under section 63-2410, Idaho Code,

and shall be subject to interest computed pursuant to subsection (5) of that section.

SECTION 2. That Section 63-2424, Idaho Code, be, and the same is hereby amended to read as follows:

63-2424. GASEOUS FUELS. (1) In the case of special fuels which are in a gaseous form, the commission shall provide by rule the method to be used for converting the measurement of the fuel to the equivalent of gallons for the purpose of applying tax rates. The method provided shall cause the tax rate provided in section 63-2402, Idaho Code, to apply to an amount of gaseous fuels having energy equal to one (1) gallon of gasoline.

(2) As an alternative to the provisions of subsection (1) of this section, an annual fee in lieu of the excise tax may be collected on a vehicle powered by gaseous fuels. The rate of the fee shall be based on the following schedule for all types of gaseous fuels as adjusted by the formula for proration set out below. The permits shall be sold by the state tax commission and gaseous fuels distributors dispensing gaseous fuels into motor vehicles.

VEHICLE TONNAGE (GVW)	FEE
0 -- 8,000	\$ 60.00
8,001 -- 16,000	\$ 89.00
16,001 -- 26,000	\$179.00
26,001 and above	\$208.00

Permits for vehicles which are converted to gaseous fuels after the first of July in any year shall have the fee prorated for the appropriate number of months until renewal. The commission shall provide by rule the method to be used for converting the measurement of fuel to the equivalent of gallons for the purpose of applying increases in tax rates after this law becomes effective. A decal issued by the commission shall be displayed in any vehicle for which a permit is issued hereunder as evidence that the annual fee has been paid in lieu of the fuel tax. This decal shall be displayed in a conspicuous place.

Approved February 26, 2013.

CHAPTER 20  
(H.B. No. 24)

AN ACT

RELATING TO SALES TAX REVENUES USED FOR ELECTIONS; AMENDING SECTION 63-3638, IDAHO CODE, TO REVISE HOW THE INCREASE FOR INFLATION WILL BE DISTRIBUTED TO COUNTIES FOR COSTS INCURRED IN ADMINISTERING ELECTIONS AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 63-3638, Idaho Code, be, and the same is hereby amended to read as follows:

63-3638. SALES TAX -- DISTRIBUTION. All moneys collected under this chapter, except as may otherwise be required in sections 63-3203 and 63-3709, Idaho Code, shall be distributed by the tax commission as follows:

(1) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized under this

chapter by the commission shall be paid through the state refund account, and those moneys are continuously appropriated.

(2) Five million dollars (\$5,000,000) per year is continuously appropriated and shall be distributed to the permanent building fund, provided by section 57-1108, Idaho Code.

(3) Four million eight hundred thousand dollars (\$4,800,000) per year is continuously appropriated and shall be distributed to the water pollution control account established by section 39-3628, Idaho Code.

(4) An amount equal to the sum required to be certified by the chairman of the Idaho housing and finance association to the state tax commission pursuant to section 67-6211, Idaho Code, in each year is continuously appropriated and shall be paid to any capital reserve fund, established by the Idaho housing and finance association pursuant to section 67-6211, Idaho Code. Such amounts, if any, as may be appropriated hereunder to the capital reserve fund of the Idaho housing and finance association shall be repaid for distribution under the provisions of this section, subject to the provisions of section 67-6215, Idaho Code, by the Idaho housing and finance association, as soon as possible, from any moneys available therefor and in excess of the amounts which the association determines will keep it self-supporting.

(5) An amount equal to the sum required by the provisions of sections 63-709 and 63-717, Idaho Code, after allowance for the amount appropriated by section 63-718(3), Idaho Code, is continuously appropriated and shall be paid as provided by sections 63-709 and 63-717, Idaho Code.

(6) An amount required by the provisions of chapter 53, title 33, Idaho Code.

(7) An amount required by the provisions of chapter 87, title 67, Idaho Code.

(8) For fiscal year 2011, and each fiscal year thereafter, four million one hundred thousand dollars (\$4,100,000), of which two million two hundred thousand dollars (\$2,200,000) shall be distributed to each of the forty-four (44) counties in equal amounts, and one million nine hundred thousand dollars (\$1,900,000) of which shall be distributed to the forty-four (44) counties in the proportion that the population of the county bears to the population of the state. For fiscal year 2012, and for each fiscal year thereafter, the amount distributed pursuant to this subsection (8), shall be adjusted annually by the tax commission in accordance with the consumer price index for all urban consumers (CPI-U) as published by the U.S. department of labor, bureau of labor statistics, but in no fiscal year shall the total amount allocated for counties under this subsection (8), be less than four million one hundred thousand dollars (\$4,100,000). Any increase resulting from the adjustment required in this section shall be distributed to each county in the proportion that the population of the county bears to the population of the state. Each county shall establish a special election fund to which shall be deposited all revenues received from the distribution pursuant to this subsection (8). All such revenues shall be used exclusively to defray the costs associated with conducting elections as required of county clerks by the provisions of section 34-1401, Idaho Code.

(9) One dollar (\$1.00) on each application for certificate of title or initial application for registration of a motor vehicle, snowmobile, all-terrain vehicle or other vehicle processed by the county assessor or the Idaho transportation department excepting those applications in which any sales or use taxes due have been previously collected by a retailer, shall be a fee for the services of the assessor of the county or the Idaho transportation department in collecting such taxes, and shall be paid into the current expense fund of the county or state highway account established in section 40-702, Idaho Code.

(10) Eleven and five-tenths percent (11.5%) is continuously appropriated and shall be distributed to the revenue sharing account which is created

in the state treasury, and the moneys in the revenue sharing account will be paid in installments each calendar quarter by the state tax commission as follows:

(a) Twenty-eight and two-tenths percent (28.2%) shall be paid to the various cities as follows:

(i) Fifty percent (50%) of such amount shall be paid to the various cities, and each city shall be entitled to an amount in the proportion that the population of that city bears to the population of all cities within the state; and

(ii) Fifty percent (50%) of such amount shall be paid to the various cities, and each city shall be entitled to an amount in the proportion that the preceding year's market value for assessment purposes for that city bears to the preceding year's market value for assessment purposes for all cities within the state.

(b) Twenty-eight and two-tenths percent (28.2%) shall be paid to the various counties as follows:

(i) One million three hundred twenty thousand dollars (\$1,320,000) annually shall be distributed one forty-fourth ( $1/44$ ) to each of the various counties; and

(ii) The balance of such amount shall be paid to the various counties, and each county shall be entitled to an amount in the proportion that the population of that county bears to the population of the state;

(c) Thirty-five and nine-tenths percent (35.9%) of the amount appropriated in this subsection (10) shall be paid to the several counties for distribution to the cities and counties as follows:

(i) Each city and county which received a payment under the provisions of section 63-3638(e), Idaho Code, during the fourth quarter of calendar year 1999, shall be entitled to a like amount during succeeding calendar quarters.

(ii) If the dollar amount of money available under this subsection (10) (c) in any quarter does not equal the amount paid in the fourth quarter of calendar year 1999, each city's and county's payment shall be reduced proportionately.

(iii) If the dollar amount of money available under this subsection (10) (c) in any quarter exceeds the amount paid in the fourth quarter of calendar year 1999, each city and county shall be entitled to a proportionately increased payment, but such increase shall not exceed one hundred five percent (105%) of the total payment made in the fourth quarter of calendar year 1999.

(iv) If the dollar amount of money available under this subsection (10) (c) in any quarter exceeds one hundred five percent (105%) of the total payment made in the fourth quarter of calendar year 1999, any amount over and above such one hundred five percent (105%) shall be paid fifty percent (50%) to the various cities in the proportion that the population of the city bears to the population of all cities within the state, and fifty percent (50%) to the various counties in the proportion that the population of a county bears to the population of the state; and

(d) Seven and seven-tenths percent (7.7%) of the amount appropriated in this subsection (10) shall be paid to the several counties for distribution to special purpose taxing districts as follows:

(i) Each such district which received a payment under the provisions of section 63-3638(e), Idaho Code, during the fourth quarter of calendar year 1999, shall be entitled to a like amount during succeeding calendar quarters.

(ii) If the dollar amount of money available under this subsection (10) (d) in any quarter does not equal the amount paid in the

fourth quarter of calendar year 1999, each special purpose taxing district's payment shall be reduced proportionately.

(iii) If the dollar amount of money available under this subsection (10) (d) in any quarter exceeds the amount distributed under paragraph (i) of this subsection (10) (d), each special purpose taxing district shall be entitled to a share of the excess based on the proportion each such district's current property tax budget bears to the sum of the current property tax budgets of all such districts in the state. The state tax commission shall calculate district current property tax budgets to include any unrecovered foregone amounts as determined under section 63-802(1) (e), Idaho Code. When a special purpose taxing district is situated in more than one (1) county, the tax commission shall determine the portion attributable to the special purpose taxing district from each county in which it is situated.

(iv) If special purpose taxing districts are consolidated, the resulting district is entitled to a base amount equal to the sum of the base amounts which were received in the last calendar quarter by each district prior to the consolidation.

(v) If a special purpose taxing district is dissolved or discontinued, the state tax commission shall continuously distribute to the board of county commissioners an amount equal to the last quarter's distribution prior to dissolution or discontinuation. The board of county commissioners shall determine any redistribution of moneys so received.

(vi) Taxing districts formed after January 1, 2001, are not entitled to a payment under the provisions of this subsection (10) (d).

(vii) For purposes of this subsection (10) (d), a special purpose taxing district is any taxing district which is not a city, a county or a school district.

(11) Amounts calculated in accordance with section 2, chapter 356, laws of 2001, for annual distribution to counties and other taxing districts beginning in October 2001 for replacement of property tax on farm machinery and equipment exempted pursuant to section 63-602EE, Idaho Code. For nonschool districts, the state tax commission shall distribute one-fourth (1/4) of this amount certified quarterly to each county. For school districts, the state tax commission shall distribute one-fourth (1/4) of the amount certified quarterly to each school district. For nonschool districts, the county auditor shall distribute to each district within thirty (30) calendar days from receipt of moneys from the state tax commission. Moneys received by each taxing district for replacement shall be utilized in the same manner and in the same proportions as revenues from property taxation. The moneys remitted to the county treasurer for replacement of property exempt from taxation pursuant to section 63-602EE, Idaho Code, may be considered by the counties and other taxing districts and budgeted at the same time, in the same manner and in the same year as revenues from taxation on personal property which these moneys replace. If taxing districts are consolidated, the resulting district is entitled to an amount equal to the sum of the amounts which were received in the last calendar quarter by each district pursuant to this subsection prior to the consolidation. If a taxing district is dissolved or discontinued, the state tax commission shall continuously distribute to the board of county commissioners an amount equal to the last quarter's distribution prior to dissolution or discontinuation. The board of county commissioners shall determine any redistribution of moneys so received. If a taxing district annexes territory, the distribution of moneys received pursuant to this subsection shall be unaffected. Taxing districts formed after January 1, 2001, are not entitled to a payment under the provisions of this subsection. School districts shall receive an amount determined by multiplying the sum of the year 2000 school district levy

minus .004 times the market value on December 31, 2000, in the district of the property exempt from taxation pursuant to section 63-602EE, Idaho Code, provided that the result of these calculations shall not be less than zero (0). The result of these school district calculations shall be further increased by six percent (6%). For purposes of the limitation provided by section 63-802, Idaho Code, moneys received pursuant to this section as property tax replacement for property exempt from taxation pursuant to section 63-602EE, Idaho Code, shall be treated as property tax revenues.

(12) Amounts necessary to pay refunds as provided in section 63-3641, Idaho Code, to a developer of a retail complex shall be remitted to the demonstration pilot project fund created in section 63-3641, Idaho Code.

(13) Amounts calculated in accordance with subsection (4) of section 63-602KK, Idaho Code, for annual distribution to counties and other taxing districts for replacement of property tax on personal property tax exemptions pursuant to subsection (1) of section 63-602KK, Idaho Code, which amounts are continuously appropriated unless the legislature enacts a different appropriation for a particular fiscal year.

(14) Any moneys remaining over and above those necessary to meet and reserve for payments under other subsections of this section shall be distributed to the general fund.

SECTION 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, 2013.

CHAPTER 21  
(H.B. No. 25)

AN ACT

RELATING TO PROPERTY TAX ADMINISTRATION; AMENDING SECTION 63-215, IDAHO CODE, TO REQUIRE THAT FILES INCLUDE CERTAIN CONTACT INFORMATION; AMENDING SECTION 63-317, IDAHO CODE, TO CONFORM THE EXTENDED DATE FOR THE HOMEOWNER'S EXEMPTION FOR OCCUPANCY TAX TO THAT ALLOWED FOR THE HOMEOWNER'S EXEMPTION FROM PROPERTY TAX; AMENDING SECTION 63-509, IDAHO CODE, TO REVISE REQUIREMENTS TO SHOW INCREMENT VALUES OF REVENUE ALLOCATION AREAS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 63-602G, IDAHO CODE, TO PROVIDE FOR APPEALS TO BE MADE TO THE COUNTY BOARD OF EQUALIZATION; AMENDING SECTION 63-706, IDAHO CODE, TO CLARIFY WHEN A CLAIM IS TIMELY IN THE EVENT OF WEEKENDS AND CERTAIN HOLIDAYS; AND AMENDING SECTION 63-810, IDAHO CODE, TO EXTEND THE TIME FOR MAKING CORRECTIONS OF ERRONEOUS PROPERTY TAX LEVIES AND TO MAKE A TECHNICAL CORRECTION.

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

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

63-215. LEGAL DESCRIPTION AND MAP OF BOUNDARIES TO BE RECORDED AND FILED. (1) Any taxing district which shall be formed or organized hereafter, or which shall change any existing boundaries hereafter, shall cause one (1) copy of the legal description and map prepared in a draftsmanlike manner which shall plainly and clearly designate the boundaries of such district or municipality as formed or organized, or as altered, to be recorded with the county recorder and filed with the county assessor in the counties within

which the unit is located and with the state tax commission within thirty (30) days following the effective date of such formation, organization or alteration but no later than the tenth day of January of the year following such formation, organization or alteration. In the case of fire protection districts, the board of county commissioners approving the boundaries shall be responsible for delivering to the assessor and recorder the map and legal description of the amended district boundaries. Formation, organization or alteration documents that are filed pursuant to this section shall include contact information that is current at the time of filing and that identifies an individual associated with the taxing district.

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

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

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

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

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

SECTION 2. That Section 63-317, Idaho Code, be, and the same is hereby amended to read as follows:

63-317. OCCUPANCY TAX -- PROCEDURES. (1) All real property subject to property taxation shall be valued and taxed based upon its status as of January 1 of each tax year. Improvements, other than additions to existing improvements, constructed upon real property shall not be subject to property taxation during the year of construction other than that portion actually in place as of January 1 of each calendar year; new manufactured housing shall not be subject to property taxation during the first year of occupancy if occupied after January 1. For the purposes of this section, "new manufactured housing" means manufactured housing, whether real or personal, never previously occupied.

(2) There is hereby levied an occupancy tax upon all newly constructed and occupied residential, commercial and industrial structures, including new manufactured housing, except additions to existing improvements or manufactured housing, prorated for the portion of the year for which the structure was occupied. The occupancy tax shall be upon those improvements or new manufactured housing for that portion of the calendar year in which first occupancy occurs. The occupancy tax does not apply to operating property. For the purposes of this section, the term "occupied" means:

(a) Use of the property by any person as a residence including occupancy of improvements or use in storage of vehicles, boats or household goods, provided such use is not solely related to construction or sale of the property; or

(b) Use of the property for any business or commercial purpose unrelated to the construction and sale of the property; or

(c) Any possessory use of the property for which the owner received any compensation or consideration.

(3) The owner of any newly constructed improvement or new manufactured housing, as described in this section, upon which no occupancy tax has been charged shall report to the county assessor that the improvement or new manufactured housing has been occupied. As soon as practical after receiving such a report, the county assessor shall appraise and determine the market value for assessment purposes.

(a) At the time the county assessor determines the market value for assessment purposes of any improvement, he shall allow as an offset against the market value of the improvement, the market value of any portion of that improvement which was existing on January 1 and placed upon the property roll.

(b) Upon completion of the appraisal, the county assessor shall notify the owner of the appraisal, and further shall notify the owner of their right to apply for the exemption provided in sections 63-602G and 63-602X, Idaho Code. If the owner applies for and meets the requirements for such exemption within thirty (30) days of the notification by the county assessor, the exemption shall be extended to the newly constructed and occupied residential structures in compliance with section 63-602G, Idaho Code, notwithstanding limitations requiring occupancy as of ~~January 1~~ April 15 of the tax year.

(c) In the event that the owner fails to report to the county assessor that the property is ready for occupancy, the assessor shall notify the county board of equalization, who may impose as penalty an additional amount equal to five percent (5%) of the tax for each month following the date of first occupancy during which the report is not made, to a maximum of twenty-five percent (25%) of the tax.

(4) Appeals of the market value for assessment purposes shall be resolved in the same manner as all other appeals of valuation by the board of equalization.

(5) The occupancy tax calculated upon the values set by the county assessor, and any penalty imposed by the board of equalization shall be collected in the same manner as all other property taxes.

(6) An occupancy tax lien shall be imposed in the manner provided in section 63-206, Idaho Code.

(7) Occupancy taxes shall be billed, collected and distributed in the same manner as all other property taxes.

SECTION 3. That Section 63-509, Idaho Code, be, and the same is hereby amended to read as follows:

63-509. DELIVERY OF ROLLS TO COUNTY AUDITOR -- ABSTRACTS OF ROLLS. (1) On or before the second Monday of July the board of equalization must deliver the property rolls, with all changes, corrections and additions and exemptions from taxation entered therein, to the county auditor. It shall be the duty of the county auditor to cause to be prepared the roll for delivery to the county tax collector on or before the first Monday of November. It shall be the duty of the county auditor to cause to be prepared a total of the amount and value of each category of property and prepare an abstract of all the property entered upon the roll in the manner and form required by the state tax commission. Such forms must show, but need not be limited to, the market value for assessment purposes of all property by categories, and

the exemptions from taxation allowed by categories. Any abstracts needed by and prepared for the state tax commission must be delivered by certified mail to the state tax commission by the fourth Monday of July. The abstracts will show the increment value as defined in section 50-2903, Idaho Code, in any revenue allocation area established pursuant to chapters 20 and 29, title 50, Idaho Code, and the value of exemptions will be shown and identified for exemptions granted pursuant to chapters 20 and 29, title 50, Idaho Code, for the value in excess of the equalized assessment valuation as shown on the base assessment roll in any revenue allocation area, and sections 63-602G, 63-602K, 63-602P, 63-602X, 63-602AA, 63-602X, 63-602BB and 63-602CC, Idaho Code, as well as the net taxable value for each of the categories. The abstracts shall be prepared and duly verified and must show a correct classification of all the property in accordance with the classification of such property upon the property roll, and all matters and things required to be shown upon the abstracts must be entered.

(2) The subsequent property roll shall be delivered to the county auditor as soon as possible after the first Monday in December. The county auditor shall deliver the subsequent property roll to the county tax collector without delay.

(3) The missed property roll shall be delivered to the county auditor as soon as possible, but no later than the first Monday in March of the succeeding year. The county auditor shall deliver the missed property roll to the county tax collector without delay.

(4) The county auditor must cause to be prepared abstracts of the combined subsequent and missed property rolls as prescribed in subsection (1) and submit the abstracts by certified mail to the state tax commission on or before the first Monday in March of the succeeding year.

SECTION 4. That Section 63-602G, Idaho Code, be, and the same is hereby amended to read as follows:

63-602G. PROPERTY EXEMPT FROM TAXATION -- HOMESTEAD. (1) During the tax year 2006 and each year thereafter, subject to annual adjustment as provided herein, the first seventy-five thousand dollars (\$75,000) of the market value for assessment purposes of the homestead as that term is defined in section 63-701, Idaho Code, or fifty percent (50%) of the market value for assessment purposes of the homestead as that term is defined in section 63-701, Idaho Code, whichever is the lesser, shall be exempt from property taxation. Beginning for tax year 2007, the state tax commission shall publish adjustments to the maximum amount subject to property tax exemption to reflect cost-of-living fluctuations. The adjustments shall effect changes in the amount subject to tax exemption by a percentage equal as near as practicable to the annual change in the Idaho housing price index as determined by the United States office of federal housing enterprise oversight. The state tax commission shall publish the adjustments required by this subsection each and every year the office of federal housing enterprise oversight announces a change in the Idaho housing price index. The adjustments shall be published no later than October 1 of each year and shall be effective for claims filed in and for the following property tax year. The publication of adjustments under this subsection shall be exempt from the provisions of chapter 52, title 67, Idaho Code, but shall be provided to each county and to members of the public upon request and without charge.

(2) The exemption allowed by this section may be granted only if:

(a) The homestead is owner-occupied and used as the primary dwelling place of the owner as of January 1, provided that in the event the homestead is owner-occupied after January 1 but before April 15, the owner of the property is entitled to the exemption. The homestead may consist of part of a multidwelling or multipurpose building and shall include all of such dwelling or building except any portion used exclusively for

anything other than the primary dwelling of the owner. The presence of an office in a homestead, which office is used for multiple purposes, including business and personal use, shall not prevent the owner from claiming the exemption provided in this section; and

(b) The tax commission has certified to the board of county commissioners that all properties in the county which are subject to appraisal by the county assessor have, in fact, been appraised uniformly so as to secure a just valuation for all property within the county; and

(c) The owner has certified to the county assessor by April 15 that:

(i) He is making application for the exemption allowed by this section;

(ii) That the homestead is his primary dwelling place; and

(iii) That he has not made application in any other county for the exemption, and has not made application for the exemption on any other homestead in the county.

(d) For the purpose of this section, the definition of "owner" shall be the same definition set forth in section 63-701(7), Idaho Code.

When an "owner," pursuant to the provisions of section 63-701(7), Idaho Code, is any person who is the beneficiary of a revocable or irrevocable trust, or who is a partner of a limited partnership, a member of a limited liability company, or shareholder of a corporation, he or she may provide proof of the trust, limited partnership, limited liability company, or corporation in the manner set forth in section 63-703(4), Idaho Code.

(e) Any owner may request in writing the return of all copies of any documents submitted with the affidavit set forth in section 63-703(4), Idaho Code, that are held by a county assessor, and the copies shall be returned by the county assessor upon submission of the affidavit in proper form.

(f) For the purpose of this section, the definition of "primary dwelling place" shall be the same definition set forth in section 63-701(8), Idaho Code.

(g) For the purpose of this section, the definition of "occupied" shall be the same definition set forth in section 63-701(6), Idaho Code.

(3) An owner need only make application for the exemption described in subsection (1) of this section once, as long as all of the following conditions are met:

(a) The owner has received the exemption during the previous year as a result of his making a valid application as defined in subsection (2) (c) of this section.

(b) The owner or beneficiary, partner, member or shareholder, as appropriate, still occupies the same homestead for which the owner made application.

(c) The homestead described in subsection (3) (b) of this section is owner-occupied or occupied by a beneficiary, partner, member or shareholder, as appropriate, and used as the primary dwelling place of the owner or beneficiary, partner, member or shareholder, as appropriate, as of January 1; provided however, that in the event the homestead is owner-occupied after January 1, but before April 15, the owner of the property is entitled to the exemption.

(4) The exemption allowed by this section must be taken before the reduction in taxes provided by sections 63-701 through 63-710, Idaho Code, is applied.

(5) Recovery of property tax exemptions allowed by this section but improperly claimed or approved:

(a) Upon discovery of evidence, facts or circumstances indicating any exemption allowed by this section was improperly claimed or approved, the county assessor shall decide whether the exemption claimed should have been allowed and if not, notify the taxpayer in writing, assess

a recovery of property tax and notify the county treasurer of this assessment. If the county assessor determined that an exemption was improperly approved as a result of county error, the county assessor shall present the discovered evidence, facts or circumstances from the improperly approved exemption to the board of county commissioners, at which time the board may waive a recovery of the property tax and notify such taxpayer in writing.

(b) When information indicating that an improper claim for the exemption allowed by this section is discovered by the state tax commission, the state tax commission may disclose this information to the appropriate county assessor, board of county commissioners and county treasurer. Information disclosed to county officials by the state tax commission under this subsection may be used to decide the validity of any entitlement to the exemption provided in this section and is not otherwise subject to public disclosure pursuant to chapter 3, title 9, Idaho Code.

(c) The assessment and collection of the recovery of property tax must begin within the seven (7) year period beginning the date the assessment notice reflecting the improperly claimed or approved exemption was required to be mailed to the taxpayer.

(d) The taxpayer may appeal to the county board of county commissioners equalization the decision by the county assessor to assess the recovery of property tax within thirty (30) days of the date the county assessor sent the notice to the taxpayer pursuant to this section. The board may waive the collection of all or part of any costs, late charges and interest, in order to facilitate the collection of the recovery of the property tax.

(e) For purposes of calculating the tax, the amount of the recovered property tax shall be for each year the exemption allowed by this section was improperly claimed or approved, up to a maximum of seven (7) years. The amount of the recovery of property tax shall be calculated using the product of the amount of exempted value for each year multiplied by the levy for that year plus costs, late charges and interest for each year at the rates equal to those provided for delinquent property taxes during that year.

(f) Any recovery of property tax shall be due and payable no later than the date provided for property taxes in section 63-903, Idaho Code, and if not timely paid, late charges and interest, beginning the first day of January in the year following the year the county assessor sent the notice to the taxpayer pursuant to this section, shall be calculated at the current rate provided for property taxes.

(g) Recovered property taxes shall be billed, collected and distributed in the same manner as property taxes, except each taxing district or unit shall be notified of the amount of any recovered property taxes included in any distribution.

(h) Thirty (30) days after the taxpayer is notified, as provided in subsection (5) (a) of this section, the assessor shall record a notice of intent to attach a lien. Upon the payment in full of such recovered property taxes prior to the attachment of the lien as provided in subsection (5) (i) of this section, or upon the successful appeal by the taxpayer, the county assessor shall record a rescission of the intent to attach a lien within seven (7) business days of receiving such payment or within seven (7) business days of the county ~~commissioners~~<sup>1</sup> board of equalization decision granting the appeal. If the real property is sold to a bona fide purchaser for value, prior to the recording of the notice of the intent to attach a lien, the county assessor and treasurer shall cease the recovery of such unpaid recovered property tax.

(i) Any unpaid recovered property taxes shall become a lien upon the real property in the same manner as provided for property taxes in sec-

tion 63-206, Idaho Code, except such lien shall attach as of the first day of January in the year following the year the county assessor sent the notice to the taxpayer pursuant to this section.

(j) For purposes of the limitation provided by section 63-802, Idaho Code, moneys received pursuant to this subsection as recovery of property tax shall be treated as property tax revenue.

(6) The legislature declares that this exemption is necessary and just.

(7) A homestead, having previously qualified for exemption under this section in the preceding year, shall not lose such qualification due to: the owner's, beneficiary's, partner's, member's or shareholder's absence in the current year by reason of active military service in a designated combat zone, as defined in section 112 of the Internal Revenue Code, or because the homestead has been leased because the owner, beneficiary, partner, member or shareholder is absent in the current year by reason of active military service in a designated combat zone, as defined in section 112 of the Internal Revenue Code. If an owner fails to timely apply for exemption as required in this section solely by reason of active duty in a designated combat zone by the owner, beneficiary, partner, member or shareholder, as appropriate, as defined in section 112 of the Internal Revenue Code, and such homestead would have otherwise qualified under this section, then the board of county commissioners of the county in which the homestead is located shall refund property taxes, if previously paid, in an amount equal to the exemption which would otherwise have applied.

(8) A homestead, having previously qualified for exemption under this section in the preceding year, shall not lose such qualification due to the owner's, beneficiary's, partner's, member's or shareholder's death during the year of the owner's, beneficiary's, partner's, member's or shareholder's death and the tax year immediately following such death provided that the homestead continues to be a part of the owner's, beneficiary's, partner's, member's or shareholder's estate. After such time the new owner shall reapply to receive the exemption pursuant to this section and shall meet the qualification criteria contained in this section.

SECTION 5. That Section 63-706, Idaho Code, be, and the same is hereby amended to read as follows:

63-706. TIME REQUIREMENTS FOR FILING CLAIM. Any claim for property tax reduction to be granted under the provisions of sections 63-701 through 63-710, Idaho Code, shall be filed in the office of the county assessor between January 1 and April 15 of each year. If April 15 is a weekend or a certain holiday recognized by the internal revenue service, such claims shall be considered timely filed if filed on the next business day.

SECTION 6. That Section 63-810, Idaho Code, be, and the same is hereby amended to read as follows:

63-810. ERRONEOUS LEVY -- CORRECTIVE ACTION. (1) Whenever the county commissioners have discovered that a levy has been made by unintentional clerical, mathematical or electronic error, in any levy certified by such board, the county commissioners on ~~its~~ their own motion may:

(a) If discovered prior to the fourth Monday of November of the year for which the levy is certified, order all necessary corrections made in all property tax records, if the corrected levy is otherwise within statutory limits.

(b) If discovered after the fourth Monday of November of the year for which the levy is certified, but before ~~January 30~~ February 15 of the succeeding year, order all necessary corrections made in all property tax records, if the corrected levy is otherwise within statutory limits. The corrected levy shall be applied to the taxable value within

each taxing district and the property taxes so applied shall be a perpetual lien on the property, and such property tax levy and tax charge shall supersede all previous incorrect levies and charges made for that year, except that the property tax computed using the corrected levy shall allow a credit for the amount of property taxes previously paid. If additional property tax is owed due to the corrected levy, the county tax collector shall, prior to the fourth Monday in May, mail to the last record owner of any property affected by such erroneous levy a notice of tax correction. The deadline for paying such property tax shall be no later than June 20 of that year. Late charges and interest will be added if full property tax is not paid by June 20 and interest will be calculated from January 1 as provided in section 63-1001, Idaho Code.

(c) Provided the levy correction is made after the fourth Monday of November or after tax notices have been mailed, the levy correction shall be considered at a hearing held by the county commissioners at which time any taxpayer may appear and be heard upon the issue. Notice of the date, time, place and purpose of such hearing shall be published in a newspaper published in the county, or if there is none, then in a newspaper of general circulation in the county. The notice shall be run once each week for the two (2) weeks preceding the hearing. The hearing shall be held not less than seven (7) days after the first notice is published.

(2) The county commissioners shall submit the corrected levy and a copy of the order to the state tax commission. The state tax commission shall review the corrected levy and take action as required in section 63-809, Idaho Code.

(3) For the purposes of sections 63-701 through 63-710, Idaho Code, and for the purposes of the distributions required in section 63-3638, Idaho Code, the state tax commission, county auditor, and the county commissioners shall use the corrected values and numbers allowed in this section to recompute and correct such distributions by adjusting future distributions to account for any difference. For the purposes of chapters 8 and 10, title 33, Idaho Code, the state department of education shall use the corrected values and numbers allowed in this section.

Approved February 26, 2013.

CHAPTER 22  
(H.B. No. 52)

AN ACT

RELATING TO THE CIRCUIT BREAKER PROPERTY TAX RELIEF PROGRAM; AMENDING SECTION 63-713, IDAHO CODE, TO DEFINE A TERM; AMENDING SECTION 63-714, IDAHO CODE, TO REVISE GROUNDS WHEN NO APPLICATION FOR DEFERRAL OF PROPERTY TAXES SHALL BE GRANTED; AMENDING SECTION 63-718, IDAHO CODE, TO REVISE PROVISIONS RELATING TO EVENTS TERMINATING DEFERRAL AND PAYMENT OF DEFERRED TAX AND INTEREST; AMENDING SECTION 63-720, IDAHO CODE, TO REVISE PROVISIONS RELATING TO RECOVERY OF ERRONEOUS AND OTHER IMPROPER DEFERRALS 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 63-713, Idaho Code, be, and the same is hereby amended to read as follows:

63-713. DEFINITIONS. In addition to the definitions in section 63-701, Idaho Code, the following definitions apply to sections 63-712 through 63-721, Idaho Code.

(1) "Qualified claimant" means:

(a) An individual who is a claimant who applies for and properly receives property tax relief under the provisions of sections 63-701 through 63-710, Idaho Code; or

(b) An individual who meets the definition of "claimant" under section 63-701, Idaho Code, and is otherwise eligible to file a claim under sections 63-701 through 63-710, Idaho Code, except by reason of exceeding the income limitations of section 63-705, Idaho Code, may nevertheless be a qualified claimant, provided his household income does not exceed forty thousand dollars (\$40,000) for the tax year 2007, which amount shall be increased by the annual cost-of-living percentage modification as determined by the secretary of health and human services pursuant to 42 U.S.C. section 415(i) beginning in 2009.

(2) "Qualified property" means property owned by a qualified claimant, provided that the property is the "homestead," as defined in section 63-701, Idaho Code, of the qualified claimant, is owned only by the qualified claimant and his or her spouse and is not subject to a trust or life estate or other ownership held by a person who is not the qualified claimant or his or her spouse.

(3) "Sufficient equity" means that:

(a) The property is not security for a reverse mortgage, a home equity loan or line of credit, or any similar loan or encumbrance; and

(b) The amount of all encumbrances of any nature on the property that are superior to any liens for deferral, plus the amount of property tax and interest previously deferred on the same property, does not exceed eighty percent (80%) of the current year's market value for assessment purposes.

SECTION 2. That Section 63-714, Idaho Code, be, and the same is hereby amended to read as follows:

63-714. APPLICATION -- DEFERRAL OF PROPERTY TAX. (1) A qualified claimant, as defined in section 63-713(1) (a), Idaho Code, may elect, upon the application for property tax relief filed under section 63-703, Idaho Code, to defer payment of any property tax due after application of all benefits available under section 63-704, Idaho Code. A qualified claimant, as defined in section 63-713(1) (b), Idaho Code, may apply for property tax deferral under sections 63-712 through 63-721, Idaho Code. The state tax commission shall prescribe the form and manner by which the election must be made and may require that the application include information establishing the outstanding balance of any encumbrances, proof of insurance of an amount adequate for the amount of deferred tax and interest, and such other information as the state tax commission reasonably determines to be necessary. The state tax commission may require written or other proof of the encumbrances or casualty insurance in such form as the state tax commission may determine.

(2) No application for deferral of property taxes shall be granted if:

(a) The application fails to show sufficient equity in that property ~~after consideration of encumbrances that are superior to any liens for deferral to secure the payment of all existing deferrals granted in the property; or~~

(b) The application fails to show proof of insurance of an amount adequate for the amount of the deferred tax and interest; ~~or~~

~~(c) The result would be to defer property taxes which, together with the amount of property tax and interest previously deferred on the same property, would exceed fifty percent (50%) of the qualified claimant's proportional share of the market value of the qualified property.~~

SECTION 3. That Section 63-718, Idaho Code, be, and the same is hereby amended to read as follows:

63-718. EVENTS TERMINATING DEFERRAL -- PAYMENT OF DEFERRED TAX AND INTEREST. (1) A deferral of property tax payments shall terminate on the earlier of:

- (a) Voluntary payment of the full amount of deferred tax and interest to the state tax commission;
- (b) The death of the qualified claimant. ~~In the case of or if there is more than one (1) qualified claimant, the death of the last surviving qualified claimant;~~
- (c) A sale or other transfer of title to the property or any part of the property except a transfer of title to a surviving spouse of a deceased qualified claimant;
- (d) The property no longer qualifies for the exemption provided in section 63-602G, Idaho Code, for residential improvements;
- (e) A determination by the state tax commission under section 63-720, Idaho Code, that the deferral of property tax payments was erroneously granted to a person who is not a qualified claimant or in regard to property that is not qualified property.

(2) When a deferral of property tax is terminated any unpaid amount of deferred tax and interest shall be paid to the state tax commission no later than one hundred eighty (180) days after the termination.

(3) Any payments of deferred property tax received by the state tax commission under this section or under sections 63-719 and 63-720, Idaho Code, shall be distributed to the property tax deferral recovery fund which is hereby created. Amounts in the property tax deferral recovery fund are hereby continuously appropriated for the purposes of section 63-3638(5), Idaho Code.

SECTION 4. That Section 63-720, Idaho Code, be, and the same is hereby amended to read as follows:

63-720. RECOVERY OF ERRONEOUS AND OTHER IMPROPER DEFERRALS. (1) In addition to the provisions of section 63-719, Idaho Code, the state tax commission may recover deferrals of tax payments made under sections 63-712 through 63-721, Idaho Code, from any person who elected the deferral under section 63-714, Idaho Code, if the commission determines that:

- (a) A deferral was granted to a person who is not a qualified claimant or in regard to property that is not qualified property; or
- (b) The owner of the property subject to the deferral ~~possesses insufficient~~ does not possess sufficient equity in that property, ~~after consideration of encumbrances that are superior to any liens for deferral, to secure the payment of all existing deferrals granted in the property.~~

(2) The deficiency determination, collection, and enforcement procedures provided by the Idaho income tax act, sections 63-3039, 63-3042, 63-3043 through 63-3064, Idaho Code, shall apply and be available to the commission for enforcement and collection under sections 63-712 through 63-721, Idaho Code, and such sections shall, for this purpose, be considered part of sections 63-712 through 63-721, Idaho Code. Wherever liens or any other proceedings are defined as income tax liens or proceedings, they shall, when applied in enforcement or collection under sections 63-712 through 63-721, Idaho Code, be described as tax deferral liens and proceedings. In connection with such sections, a deficiency shall consist of any amount subject to recovery under this section together with any interest and penalty due thereon.

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, and retroactively to January 1, 2013.

Approved February 26, 2013.

CHAPTER 23  
(H.B. No. 87)

AN ACT

RELATING TO WINE EXCISE TAX; AMENDING SECTION 23-1319, IDAHO CODE, TO PROVIDE CLARIFICATION WHEN EXCISE TAX IS TO BE PAID BY A WINERY AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 23-1319, Idaho Code, be, and the same is hereby amended to read as follows:

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

(a) Every sale of wine by a distributor to a retailer shall constitute a sale of wine for resale or consumption in this state, whether the sale is made within or without this state, and the distributor shall be liable for the payment of taxes. In every transfer sale of wine by a licensed winery ~~to through any of its licensed retail outlets~~, the winery shall be liable for payment of taxes imposed by this section.

(b) When wine has been destroyed by breakage or has spoiled or otherwise become unfit for beverage purposes prior to payment of taxes on it, the distributor, upon satisfactory proof of destruction or spoilage, shall be entitled to deduct from existing inventories, subject to tax, the amount of wine so destroyed or spoiled.

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

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

in obedience to deficiencies must do so within the time limits elsewhere prescribed by law.

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

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

(2) The balance remaining after distributing the amount in paragraph (1) of this subsection shall be distributed as follows:

(i) Twelve percent (12%) shall be distributed to the substance abuse treatment fund which is created in section 23-408, Idaho Code;

(ii) Five percent (5%) shall be distributed to the Idaho grape growers and wine producers commission account; and

(iii) The remainder shall be distributed to the general account.

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

Approved February 26, 2013.

CHAPTER 24  
(S.B. No. 1009)

AN ACT

RELATING TO APPEALS FROM THE COUNTY BOARD OF EQUALIZATION; AMENDING SECTION 63-511, IDAHO CODE, TO REVISE THE DEADLINE FOR THE SUBMITTAL OF APPEALS TO THE BOARD OF TAX APPEALS FROM THE COUNTY BOARD OF EQUALIZATION.

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

SECTION 1. That Section 63-511, Idaho Code, be, and the same is hereby amended to read as follows:

63-511. APPEALS FROM COUNTY BOARD OF EQUALIZATION. (1) Any time within thirty (30) days after mailing of notice of a decision of the board of equalization, or pronouncement of a decision announced at a hearing, an appeal of any act, order or proceeding of the board of equalization, or the failure of the board of equalization to act may be taken to the board of tax appeals. Such appeal may only be filed by the property owner, the assessor, the state tax commission or by a person aggrieved when he deems such action illegal or prejudicial to the public interest. Nothing in this section shall be construed so as to suspend the payment of property taxes pending said appeal.

(2) Notice of such appeal stating the grounds therefor shall be filed with the county auditor, who shall forthwith transmit to the board of tax appeals a copy of said notice, together with a certified copy of the minutes of the proceedings of the board of equalization resulting in such act, order or proceeding, or a certificate to be furnished by the clerk of the board that said board of equalization has failed to act in the time required by law on any complaint, protest, objection, application or petition in regard to assessment of the complainant's property, or a petition of the state tax commission. The county auditor shall also forthwith transmit all evidence taken in connection with the matter appealed. The county auditor shall submit all such appeals to the board of tax appeals within thirty (30) days of being notified of the appeal ~~or by no later than October 1, whichever is~~

later. The board of tax appeals may receive further evidence and will hear the appeal as provided in chapter 38, title 63, Idaho Code.

(3) Any appeal that may be taken to the board of tax appeals may, during the same time period, be taken to the district court for the county in which the property is located.

(4) In any appeal taken to the board of tax appeals or the district court pursuant to this section, the burden of proof shall fall upon the party seeking affirmative relief to establish that the valuation from which the appeal is taken is erroneous, or that the board of equalization erred in its decision regarding a claim that certain property is exempt from taxation, the value thereof, or any other relief sought before the board of equalization. A preponderance of the evidence shall suffice to sustain the burden of proof. The burden of proof shall fall upon the party seeking affirmative relief and the burden of going forward with the evidence shall shift as in other civil litigation. The board of tax appeals or the district court shall render its decision in writing, including therein a concise statement of the facts found by the court and the conclusions of law reached by the court. The board of tax appeals or the court may affirm, reverse, modify or remand any order of the board of equalization, and shall grant other relief, invoke such other remedies, and issue such orders in accordance with its decision, as appropriate.

Approved February 26, 2013.

CHAPTER 25  
(S.B. No. 1010)

AN ACT

RELATING TO MEDICAL ASSISTANCE SERVICES; AMENDING SECTION 56-255, IDAHO CODE, TO REVISE PROVISIONS OF BEHAVIORAL HEALTH SERVICES FOR MEDICAID PARTICIPANTS.

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

SECTION 1. That Section 56-255, Idaho Code, be, and the same is hereby amended to read as follows:

56-255. MEDICAL ASSISTANCE PROGRAM -- SERVICES TO BE PROVIDED. (1) The department may make payments for the following services furnished by providers to participants who are determined to be eligible on the dates on which the services were provided. Any service under this section shall be reimbursed only when medically necessary within the appropriations provided by law and in accordance with federal law and regulation, Idaho law and department rule. Notwithstanding any other provision of this chapter, medical assistance includes the following benefits specific to the eligibility categories established in section 56-254(1), (2) and (3), Idaho Code, as well as a list of benefits to which all Idaho medicaid participants are entitled, defined in subsection (5) of this section.

(2) Specific health benefits and limitations for low-income children and working-age adults with no special health needs include:

(a) All services described in subsection (5) of this section;

(b) Early and periodic screening, diagnosis and treatment services for individuals under age twenty-one (21) years, and treatment of conditions found; and

(c) Cost-sharing required of participants. Participants in the low-income children and working-age adult group are subject to the following premium payments, as stated in department rules:

- (i) Participants with family incomes equal to or less than one hundred thirty-three percent (133%) of the federal poverty guideline are not required to pay premiums; and
- (ii) Participants with family incomes above one hundred thirty-three percent (133%) of the federal poverty guideline will be required to pay premiums in accordance with department rule.

(3) Specific health benefits for persons with disabilities or special health needs include:

- (a) All services described in subsection (5) of this section;
- (b) Early and periodic screening, diagnosis and treatment services for individuals under age twenty-one (21) years, and treatment of conditions found;
- (c) Case management services as defined in accordance with section 1905(a) (19) or section 1915(g) of the social security act; and
- (d) ~~Mental health services delivered by providers that meet national accreditation standards, including:~~
  - ~~(i) Inpatient psychiatric facility services whether in a hospital, or for persons under age twenty-two (22) years in a freestanding psychiatric facility, as permitted by federal law, in excess of those limits in department rules on inpatient psychiatric facility services provided under subsection (5) of this section;~~
  - ~~(ii) Outpatient mental health services in excess of those limits in department rules on outpatient mental health services provided under subsection (5) of this section; and~~
  - ~~(iii) Psychosocial rehabilitation for reduction of mental disability for children under the age of eighteen (18) years with a serious emotional disturbance (SED). Individuals age eighteen (18) years to age twenty-one (21) years with severe and persistent mental illness shall have access to benefits up to a weekly cap of five (5) hours while adults over the age of twenty-one (21) years with severe and persistent mental illness shall have access to benefits up to a weekly cap of four (4) hours;~~
- ~~(e) Long-term care services, including:~~
  - (i) Nursing facility services, other than services in an institution for mental diseases, subject to participant cost-sharing;
  - (ii) Home-based and community-based services, subject to federal approval, provided to individuals who require nursing facility level of care who, without home-based and community-based services, would require institutionalization. These services will include community supports, including options for self-determination or family-directed, which will enable individuals to have greater freedom to manage their own care within the determined budget as defined by department rule; and
  - (iii) Personal care services in a participant's home, prescribed in accordance with a plan of treatment and provided by a qualified person under supervision of a registered nurse;
- ~~(fe) Services for persons with developmental disabilities, including:~~
  - (i) Intermediate care facility services, other than such services in an institution for mental diseases, for persons determined in accordance with section 1902(a) (31) of the social security act to be in need of such care, including such services in a public institution, or distinct part thereof, for persons with intellectual disabilities or persons with related conditions;
  - (ii) Home-based and community-based services, subject to federal approval, provided to individuals who require an intermediate care facility for people with intellectual disabilities (ICF/ID) level of care who, without home-based and community-based services, would require institutionalization. These services will include community supports, including options for self-determi-

- nation or family-directed, which will enable individuals to have greater freedom to manage their own care within the determined budget as defined by department rule. The department shall respond to requests for budget modifications only when health and safety issues are identified and meet the criteria as defined in department rule; and
- (iii) Developmental disability services for children and adults shall be available based on need through state plan services or waiver services as described in department rule. The department shall develop a blended rate covering both individual and group developmental therapy services;
- (gf) Home health services, including:
- (i) Intermittent or part-time nursing services provided by a home health agency or by a registered nurse when no home health agency exists in the area;
  - (ii) Home health aide services provided by a home health agency; and
  - (iii) Physical therapy, occupational therapy or speech pathology and audiology services provided by a home health agency or medical rehabilitation facility;
- (hg) Hospice care in accordance with section 1905(o) of the social security act;
- (ih) Specialized medical equipment and supplies;
- (ji) Medicare cost-sharing, including:
- (i) Medicare cost-sharing for qualified medicare beneficiaries described in section 1905(p) of the social security act;
  - (ii) Medicare part A premiums for qualified disabled and working individuals described in section 1902(a)(10)(E)(ii) of the social security act;
  - (iii) Medicare part B premiums for specified low-income medicare beneficiaries described in section 1902(a)(10)(E)(iii) of the social security act; and
  - (iv) Medicare part B premiums for qualifying individuals described in section 1902(a)(10)(E)(iv) and subject to section 1933 of the social security act; and
- (kj) Nonemergency medical transportation.
- (4) Specific health benefits for persons over twenty-one (21) years of age who have medicare and medicaid coverage include:
- (a) All services described in subsection (5) of this section, other than if provided under the federal medicare program;
  - (b) All services described in subsection (3) of this section, other than if provided under the federal medicare program;
  - (c) Other services that supplement medicare coverage; and
  - (d) Nonemergency medical transportation.
- (5) Benefits for all medicaid participants, unless specifically limited in subsection (2), (3) or (4) of this section, include the following:
- (a) Health care coverage including, but not limited to, basic inpatient and outpatient medical services, and including:
    - (i) Physicians' services, whether furnished in the office, the patient's home, a hospital, a nursing facility or elsewhere;
    - (ii) Services provided by a physician or other licensed practitioner to prevent disease, disability and other health conditions or their progressions, to prolong life, or to promote physical or mental health; and
    - (iii) Hospital care, including:
      1. Inpatient hospital services other than those services provided in an institution for mental diseases;
      2. Outpatient hospital services; and
      3. Emergency hospital services;

- (iv) Laboratory and x-ray services;
  - (v) Prescribed drugs;
  - (vi) Family planning services and supplies for individuals of child-bearing age;
  - (vii) Certified pediatric or family nurse practitioners' services;
  - (viii) Emergency medical transportation;
  - (ix) Mental Behavioral health services, including:
    - 1. Outpatient mental behavioral health services that are appropriate, within limits stated in department rules delivered by providers that meet national accreditation standards and may include community-based rehabilitation services and case management; and
    - 2. Inpatient psychiatric facility services within limits stated in department rules whether in a hospital, or for persons under the age of twenty-two (22) years in a freestanding psychiatric facility as permitted by federal law;
  - (x) Medical supplies, equipment, and appliances suitable for use in the home;
  - (xi) Physical therapy and speech therapies combined to align with the annual medicare caps; and
  - (xii) Occupational therapy to align with the annual medicare cap;
- (b) Primary care medical homes;
- (c) Dental services. Children shall have access to prevention, diagnosis and treatment services as defined in federal law. Adult coverage shall be limited to medically necessary oral surgery and palliative services and associated diagnostic services. Select covered benefits include: exams, radiographs, periodontal, oral and maxillofacial surgery and adjunctive general services as defined in department rule. Pregnant women, participants on the aged and disabled waiver and the developmental disability waiver shall have access to dental services that reflect evidence-based practice;
- (d) Medical care and any other type of remedial care recognized under Idaho law, furnished by licensed practitioners within the scope of their practice as defined by Idaho law, including:
- (i) Podiatrists' services based on chronic care criteria as defined in department rule;
  - (ii) Optometrists' services based on chronic care criteria as defined in department rule;
  - (iii) Chiropractors' services shall be limited to six (6) visits per year; and
  - (iv) Other practitioners' services, in accordance with department rules;
- (e) Services for individuals with speech, hearing and language disorders as defined in department rule;
- (f) Eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist;
- (g) Services provided by essential providers, including:
- (i) Rural health clinic services and other ambulatory services furnished by a rural health clinic in accordance with section 1905(1) (1) of the social security act;
  - (ii) Federally qualified health center (FQHC) services and other ambulatory services that are covered under the plan and furnished by an FQHC in accordance with section 1905(1) (2) of the social security act;
  - (iii) Indian health services;
  - (iv) District health departments; and
  - (v) The family medicine residency of Idaho and the Idaho state university family medicine residency; and

(h) Physician, hospital or other services deemed experimental are excluded from coverage. The director may allow coverage of procedures or services deemed investigational if the procedures or services are as cost-effective as traditional, standard treatments.

Approved March 1, 2013.

CHAPTER 26  
(S.B. No. 1076)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE COMMISSION ON HISPANIC AFFAIRS FOR FISCAL YEAR 2013; 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 131, Laws of 2012, and any other appropriation provided for by law, there is hereby appropriated \$10,000 from the Miscellaneous Revenue Fund to the Commission on Hispanic Affairs, to be expended for operating expenditures, for the period July 1, 2012, through June 30, 2013.

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 1, 2013.

CHAPTER 27  
(S.B. No. 1077)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED FOR FISCAL YEAR 2013; AUTHORIZING ADDITIONAL FULL-TIME EQUIVALENT POSITIONS FOR FISCAL YEAR 2013; 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 275, Laws of 2012, and any other appropriation provided for by law, there is hereby appropriated to the Commission for the Blind and Visually Impaired, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
Adaptive Aids and Appliances				
Fund	\$2,200			\$2,200
Federal Grant				
Fund	25,000	\$64,400	\$221,200	310,600
TOTAL	\$27,200	\$64,400	\$221,200	\$312,800

SECTION 2. FTP AUTHORIZATION. The full-time equivalent position authorization provided to the Commission for the Blind and Visually Impaired in Section 3, Chapter 275, Laws of 2012, is increased by twelve hundredths (0.12) for the period July 1, 2012, through June 30, 2013.

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

Approved March 1, 2013.

CHAPTER 28  
(H.B. No. 17)

AN ACT

RELATING TO THE BOARD OF PHARMACY; AMENDING SECTION 37-3201, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 54-1701, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 54-1702, IDAHO CODE, TO REVISE TERMINOLOGY AND TO PROVIDE FOR PRACTICE INTO THE STATE; AMENDING SECTION 54-1704, IDAHO CODE, TO REVISE A DEFINITION; AMENDING SECTION 54-1705, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 54-1720, IDAHO CODE, TO REVISE TERMINOLOGY, TO REVISE PROVISIONS RELATING TO FEES FOR NONRESIDENT PRACTICE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1721, IDAHO CODE, TO REVISE TERMINOLOGY AND TO PROVIDE FOR NONRESIDENT PRACTICE UNDER UNLAWFUL PRACTICE; AMENDING SECTION 54-1723A, IDAHO CODE, TO REVISE TERMINOLOGY AND TO REVISE PROVISIONS RELATING TO REGISTRATION FOR NONRESIDENTS IN TELEPHARMACY; AMENDING SECTION 54-1726, IDAHO CODE, TO REVISE TERMINOLOGY, TO PROVIDE FOR GROUNDS FOR DISCIPLINE FOR NONRESIDENT LICENSEES AND REGISTRANTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1728, IDAHO CODE, TO REVISE TERMINOLOGY, TO PROVIDE FOR PENALTIES AND REINSTATEMENT FOR NONRESIDENT LICENSEES AND REGISTRANTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1729, IDAHO CODE, TO REVISE TERMINOLOGY, TO PROVIDE FOR NONRESIDENT FACILITIES REGISTRATION REQUIREMENTS AND COMPLIANCE STANDARDS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1730, IDAHO CODE, TO REVISE TERMINOLOGY, TO REVISE PROVISIONS RELATING TO DRUG OUTLET APPLICATION AND FEES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1732, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; REPEALING SECTION 54-1740, IDAHO CODE, RELATING TO SHORT TITLE; REPEALING SECTION 54-1741, IDAHO CODE, RELATING TO LEGISLATIVE DECLARATION; REPEALING SECTION 54-1742, IDAHO CODE, RELATING TO THE DEFINITION OF OUT-OF-STATE MAIL SERVICE PHARMACY; REPEALING SECTION 54-1743, IDAHO CODE, RELATING TO LICENSE REQUIREMENTS; REPEALING SECTION 54-1744, IDAHO CODE, RELATING TO NOTIFICATIONS; REPEALING SECTION 54-1745, IDAHO CODE, RELATING TO INSPECTIONS; REPEALING SECTION 54-1746, IDAHO CODE, RELATING TO PRODUCT SELECTION OF PRESCRIBED DRUGS; REPEALING SECTION 54-1747, IDAHO CODE, RELATING TO PATIENT COMMUNICATION; REPEALING SECTION 54-1748, IDAHO CODE, RELATING TO VIOLATIONS AND PENALTIES; AMENDING SECTION 54-1761, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 54-4702, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AND AMENDING SECTION 54-5110, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE.

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

SECTION 1. That Section 37-3201, Idaho Code, be, and the same is hereby amended to read as follows:

37-3201. DEFINITIONS. As used in this chapter:

- (1) "Code imprint" means a series of letters or numbers assigned by the manufacturer or distributor to a specific drug, or marks or monograms unique to the manufacturer or distributor of the drug, or both;
- (2) "Distributor" means a person who distributes for resale a drug in solid dosage form under his own label even though he is not the actual manufacturer of the drug;
- (3) "Solid dosage form" means capsules or tablets intended for oral use;
- (4) "Legend drug" means any drug defined by section 54-1705(3~~14~~), Idaho Code.

SECTION 2. That Section 54-1701, Idaho Code, be, and the same is hereby amended to read as follows:

54-1701. SHORT TITLE. This act chapter shall be known as the "Idaho Pharmacy Act."

SECTION 3. That Section 54-1702, Idaho Code, be, and the same is hereby amended to read as follows:

54-1702. LEGISLATIVE DECLARATION. The practice of pharmacy in the state of Idaho is declared a professional practice affecting the health, safety and welfare of the public and is subject to regulation and control in the public interest. It is further declared to be a matter of public interest and concern that the practice of pharmacy, as defined in this chapter, merits and receives the confidence of the public and that only qualified persons be permitted to engage in the practice of pharmacy in or into the state of Idaho. This act chapter shall be liberally construed to carry out these objects and purposes.

SECTION 4. That Section 54-1704, Idaho Code, be, and the same is hereby amended to read as follows:

54-1704. PRACTICE OF PHARMACY. "Practice of pharmacy" means:

- (1) Tthe interpretation, evaluation and dispensing of prescription drug orders;
- (2) Pparticipation in drug and device selection, drug administration, prospective and retrospective drug regimen reviews and drug or drug-related research; ~~the practice of telepharmacy within and across state lines;~~
- (3) The provision of patient counseling and the provision of those acts or services necessary to provide pharmaceutical care; and
- (4) Tthe responsibility for:
  - (a) Compounding and labeling of drugs and devices, except labeling by a manufacturer, repackager or distributor of nonprescription drugs and commercially packaged legend drugs and devices;
  - (b) Proper and safe storage of drugs and devices, and maintenance of proper records for them; and
  - (c) The offering or performing of those acts, services, operations or transactions necessary to the conduct, operation, management and control of pharmacy. ~~Licensed pharmacists may;~~
- (5) The ~~prescribe~~ prescribing of:
  - (a) Dietary fluoride supplements when prescribed according to the American dental association's recommendations for persons whose drinking water is proven to have a fluoride content below the United States department of health and human services' recommended concentration. ~~Licensed pharmacists may also prescribe; and~~

(b) Agents for active immunization when prescribed for susceptible persons twelve (12) years of age or older for the protection from communicable disease.

SECTION 5. That Section 54-1705, Idaho Code, be, and the same is hereby amended to read as follows:

54-1705. DEFINITIONS. In this chapter:

(1) "Board of pharmacy" or "board" means the Idaho state board of pharmacy.

(2) "Central drug outlet" means a resident or nonresident pharmacy, drug outlet, or business entity employing or contracting pharmacists to perform centralized pharmacy services.

(3) "Central pharmacist" means a pharmacist performing centralized pharmacy services.

(4) "Centralized pharmacy services" means the processing by a central drug outlet or central pharmacist of a request from another pharmacy to fill, refill, or dispense a prescription drug order, perform processing functions or provide cognitive or pharmaceutical care services. Each function may be performed by the same or different persons and at the same or different locations.

(5) "Counseling" or "counsel" means the effective communication by the pharmacist of information as set out in this chapter, to the patient or caregiver, in order to improve therapeutic outcomes by maximizing proper use of prescription medications drugs and devices. Specific areas of counseling shall include, but are not limited to:

(a) Name and strength and description of the medication drug;

(b) Route of administration, dosage, dosage form, continuity of therapy and refill information;

(c) Special directions and precautions for preparation, administration, storage and use by the patient as deemed necessary by the pharmacist;

(d) Side effects or adverse effects and interactions and therapeutic contraindications that may be encountered, including their avoidance, which may interfere with the proper use of the medication drug or device as was intended by the prescriber, and the action required if they occur;

(e) Techniques for self-monitoring drug therapy; and

(f) Action to be taken in the event of a missed dose.

(36) "Deliver" or "delivery" means the actual, constructive or attempted transfer of a drug or device from one (1) person to another, whether or not for a consideration.

(47) "Device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent or other similar related article including any component part or accessory which is:

(a) Recognized in the official United States Pharmacopoeia or official National Formulary, other drug compendia or any supplement to them;

(b) Intended for use in the diagnosis of disease or other conditions, or the cure, mitigation, treatment or prevention of disease in man or other animal;

(c) Intended to affect the structure or any function of the body of man or other animal, and which does not achieve any of its principal intended purposes through chemical action within or on the body of man or other animal, and which is not dependent upon being metabolized for the achievement of any of its principal intended purposes.

(58) "Dispense" or "dispensing" means the preparation and delivery of a prescription drug pursuant to a lawful prescription drug order of a practitioner in a suitable container appropriately labeled for subsequent admin-

istration to or use by a patient or other individual entitled to receive the prescription drug.

(69) "Distribute" means the delivery of a drug other than by administering or dispensing.

(710) "Drug" means:

(a) Articles recognized as drugs in the official United States Pharmacopoeia, official National Formulary, official Homeopathic Pharmacopoeia, other drug compendia or any supplement to any of them;

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animal;

(c) Articles, other than food, intended to affect the structure or any function of the body of man or other animals; and

(d) Articles intended for use as a component of any articles specified in paragraph (a), (b) or (c) of this subsection.

(811) "Drug order" means an prescription drug order issued in the unique form and manner permitted for a patient or resident of an institutional facility, or as permitted for other purposes when permitted by board as defined in rules that contains at least the name of the patient; date of issuance; the drug name, strength, and route of administration; directions for use; the name of the prescribing practitioner and, if written, the prescribing practitioner's signature or the signature of the practitioner's agent. Unless specifically differentiated, state law applicable to a prescription drug order is also applicable to a drug order.

(912) "Drug outlets" means all resident or nonresident pharmacies, business entities and other facilities with where employees or personnel are engaged in the practice of pharmacy, in the provision of pharmaceutical care, or in the dispensing, delivering, distributing or manufacturing of drugs or devices in or into Idaho.

(103) "Extern" means a bona fide student enrolled in an approved school or college of pharmacy who has not received his first professional degree in pharmacy.

(114) "Externship" means a structured practical experience program in pharmacy, ~~approved by the board and~~ administered by a school or college of pharmacy.

(125) "Institutional facility" means a facility for which its primary purpose is to provide a physical environment for patients to obtain health care services and in which patients spend a majority of their time, as may be further defined by board rules.

(136) "Intern" means any person who has completed a course of study at an approved school or college of pharmacy, received the first professional degree in pharmacy and is registered with the board as an pharmacist intern. Interns must register with the board prior to commencement of an internship program.

(147) "Internship" means a postgraduate practical experience program under the supervision of a preceptor ~~at a preceptor site.~~

(158) "Investigational or new drug" means any drug which is limited by state or federal law to use under professional supervision of a practitioner authorized by law to prescribe or administer such drug.

(169) "Labeling" means the process of preparing and affixing of a label to any drug container, exclusive however, of the labeling by a manufacturer, packer or distributor of a nonprescription drug or commercially packaged legend drug or device. Any such label shall include all information required by federal and state law ~~or regulation.~~

(1720) "Limited service outlet" means a resident or nonresident facility or business entity that is subject to registration or licensure by the board, pursuant to section 54-1729(3), Idaho Code, in that it and has employees or personnel engaged in the practice of pharmacy, in the provision of pharmaceutical care, or in the dispensing, delivering, distributing or manufacturing of drugs or devices but is not a retail pharmacy, institutional

facility, manufacturer, wholesaler, veterinary drug outlet, telepharmacy ~~across state lines~~ nonresident central drug outlet or mail service pharmacy.

(21) "Mail service pharmacy" means a nonresident pharmacy that ships, mails or delivers by any lawful means a dispensed legend drug to residents in this state pursuant to a legally issued prescription drug order and ensures the provision of corresponding related pharmaceutical care services required by law.

(1822) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a device or a drug, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a drug by an individual for his own use or the preparation, compounding, packaging or labeling of a drug:

(a) By a pharmacist or practitioner as an incident to his administering or dispensing of a drug in the course of his professional practice; or

(b) By a practitioner or by his authorization under his supervision for the purpose of or as an incident to research, teaching or chemical analysis and not for sale.

(1923) "Manufacturer" means a person who by compounding, cultivating, harvesting, mixing or other process, produces or prepares legend drugs, and includes persons who prepare such drugs in dosage forms by mixing, compounding, encapsulating, entableting, or other process, or who packages or repackages such drugs, but does not include pharmacists or practitioners in the practice of their profession.

(204) "Nonprescription drugs" means medicines or drugs which may be sold without a prescription drug order and which are prepackaged for use by the consumer and labeled in accordance with the requirements of the statutes and regulations of this state and the federal government law.

(25) "Nonresident" means a person or business entity located in the District of Columbia or a state other than Idaho that practices pharmacy including, but not limited to, pharmaceutical care services into Idaho.

(216) "Person" means an individual, corporation, partnership, association or any other legal entity.

(227) "Pharmaceutical care" means drug therapy and other pharmaceutical patient care services intended to achieve outcomes related to the cure or prevention of a disease, elimination or reduction of a patient's symptoms, or arresting or slowing of a disease process as defined in the rules of the board.

(238) "Pharmacist" means an individual licensed by this state to engage in the practice of pharmacy or a pharmacist licensed registered by this state who is located in another state ~~who~~ or the District of Columbia and is registered by the board of pharmacy to engaged in the practice of telepharmacy ~~across state lines~~ pharmacy into Idaho, unless exempted.

(29) "Pharmacist-in-charge" (PIC) means a pharmacist whose qualifications, responsibilities and reporting requirements are defined in rule.

(2430) "Pharmacy" means any facility, department or other place where prescriptions drug orders are filled or compounded and prescriptions are sold, dispensed, offered or displayed for sale, which has, as its principal purpose, the dispensing of drug and health supplies intended for the general health, welfare and safety of the public.

~~(25) "Practice of telepharmacy" means the provision of pharmaceutical care by registered or licensed pharmacies and pharmacists located within United States jurisdictions through the use of telecommunications or other technologies to patients at distances that are located within United States jurisdictions, as defined in the rules of the board.~~

~~(26) "Practice of telepharmacy across state lines" means the practice of telepharmacy when the patient is located within the state of Idaho and the pharmacist is located in a United States jurisdiction outside the state of Idaho, as defined in the rules of the board.~~

(2731) "Practitioner" means a person licensed in this state and permitted by such license to dispense, conduct research with respect to or administer drugs in the course of professional practice or research in this state.

(2832) "Precursor" means a substance, other than a legend drug which is an immediate chemical intermediate that can be processed or synthesized into a legend drug, and is used or produced primarily for use in the manufacture of a legend drug by persons other than persons licensed to manufacture such legend drugs by the Idaho board of pharmacy, registered by the state board of health and welfare, or licensed to practice pharmacy by the Idaho board of pharmacy.

(2933) "Preceptor" means a pharmacist licensed ~~in the state~~ and in good standing, who supervises the internship or externship training of a registered intern student pharmacist. The preceptor shall be actively engaged in the practice of pharmacy on a full-time employment basis at a registered preceptor site.

~~(30) "Preceptor site" means any training site for pharmacy interns and externs registered with the board pursuant to board rule.~~

(314) "Prescription drug or legend drug" means a drug which, under federal law is required, prior to being dispensed or delivered, to be labeled with one (1) of the following statements:

- (a) "Caution: Federal law prohibits dispensing without a prescription"; or
- (b) "Rx Only"; or
- (c) "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian";

or a drug which is required by any applicable federal or state law or regulation to be dispensed on prescription drug order only or is restricted to use by practitioners only.

(325) "Prescription drug order" means a ~~lawful written or verbal~~ valid order of a practitioner for a drug or device for an ultimate user of the drug or device, ~~issued and signed by a practitioner, or an order transmitted verbally from a practitioner or the practitioner's agent to a pharmacist in a pharmacy, or transmitted verbally from a practitioner and immediately reduced to writing by a licensed practical nurse or licensed professional nurse in an institutional facility for a patient or resident of such facility.~~

(336) "Prospective drug review" includes, but is not limited to, the following activities:

- (a) Evaluation of the prescription ~~or medication~~ drug order for:
  - (i) Known allergies;
  - (ii) Rational therapy contraindications;
  - (iii) Reasonable dose and route of administration; and
  - (iv) Reasonable directions for use.
- (b) Evaluation of the prescription ~~or medication~~ drug order for duplication of therapy.
- (c) Evaluation of the prescription ~~or medication~~ drug order for interactions:
  - (i) Drug-drug;
  - (ii) Drug-food; and
  - (iii) Drug-disease.
- (d) Evaluation of the prescription ~~or medication~~ drug order for proper utilization:
  - (i) Over or under utilization; and
  - (ii) Abuse/misuse.

(347) "Record" means all papers, letters, memoranda, notes, prescriptions, drug orders, invoices, statements, patient medication charts or files, computerized records or other written indicia, documents or objects which are used in any way in connection with the purchase, sale or handling of any drug or device.

(358) "Sale" means every sale and includes:

- (a) Manufacturing, processing, transporting, handling, packaging or any other production, preparation or repackaging;
- (b) Exposure, offer, or any other proffer;
- (c) Holding, storing or any other possession;
- (d) Dispensing, giving, delivering or any other supplying; and
- (e) Applying, administering or any other usage.

(369) "Warehouseman" means a person who stores legend drugs for others and who has no control over the disposition of such drugs except for the purpose of such storage.

(3740) "Wholesaler" means a person engaged in the business of distributing legend drugs that he himself has not produced or prepared, to persons included in any of the classes named in subsection (2) (a) through (f) of section 54-1734, Idaho Code.

SECTION 6. That Section 54-1720, Idaho Code, be, and the same is hereby amended to read as follows:

54-1720. OTHER DUTIES -- POWERS -- AUTHORITY. The board of pharmacy shall have such other duties, powers, and authority as may be necessary to the enforcement of this act chapter and to the enforcement of board rules made pursuant thereto, which shall include, but are not limited to, the following:

(1) The board may join such professional organizations and associations organized exclusively to promote the improvement of the standards of the practice of pharmacy for the protection of the health and welfare of the public and whose activities assist and facilitate the work of the board.

(2) In addition to any statutory requirements, the board may require such surety bonds as it deems necessary to guarantee the performance and discharge of the duties of any officer or employee receiving and disbursing funds.

(3) The executive director of the board shall keep the seal of the board and shall affix it only in such manner as may be prescribed by the board.

(4) On or before the 60th day after the last day of each state fiscal year, the board shall submit to the governor a report summarizing its proceedings and activities during that fiscal year, together with a report of all moneys received and disbursed by the board. Such reports or comprehensive summaries or abstracts thereof, as determined by the board shall be made available to the public.

(5) (a) The board shall determine ~~within thirty (30) days prior to the beginning of each state fiscal year~~ the fees to be collected for:

~~1. (i)~~ Examinations and reexaminations, which fee shall not exceed two hundred fifty dollars (\$250);

~~2. (ii)~~ The issuance of licenses, which fee shall not exceed two hundred fifty dollars (\$250);

~~3. (iii)~~ The issuance and renewal of certificates of registration and renewal certificates of registration, which fee shall not exceed one hundred dollars (\$100), except in the case of out-of-state mail service pharmacies licensed pursuant to section 54-1743, Idaho Code, in which case the fee for nonresident registrations shall not exceed five hundred dollars (\$500) for initial registration and two hundred fifty dollars (\$250) and

~~4. The certification of approved providers of continuing education courses, which fee shall not exceed three hundred dollars (\$300) thereafter for annual renewals.~~

(b) All fees or fines which shall be paid under the provisions of this act chapter shall be paid over by the board to the treasurer of the state of Idaho, and shall be held by the state treasurer in the pharmacy account, which shall be paid out by the state treasurer upon warrant drawn by the state controller against said account. The state controller is hereby authorized, upon presentation of the proper vouchers of claims against the state, approved by the said board and the state board of examiners, as provided by law, to draw his warrant upon said account.

(6) The board may receive and expend moneys in addition to its annual appropriations, from parties other than the state, provided:

(a) Such moneys are awarded for the pursuit of a specific objective which the board is authorized to accomplish by this act chapter, or which the board is qualified to accomplish by reason of its jurisdiction or professional expertise;

(b) Such moneys are expended for the pursuit of the objective for which they are awarded;

(c) Activities connected with or occasioned by the expenditures of such moneys do not interfere with or impair the performance of the board's duties and responsibilities and do not conflict with the exercise of the board's powers as specified by this act chapter;

(d) Such moneys are kept in a separate, special state account; and

(e) Periodic reports are made to the administrator, division of ~~budget,~~ policy planning and coordination financial management, concerning the board's receipt and expenditure of such moneys.

(7) The board shall assign to each drug outlet under its jurisdiction, a uniform state number, ~~coordinated where possible with all other states which adopt the same uniform numbering system.~~

(8) The board or its authorized representatives shall also have power to investigate and gather evidence concerning alleged violations of the provisions of this act chapter or of the rules of the board.

(9) (a) Notwithstanding anything in this act chapter to the contrary, whenever a duly authorized representative of the board finds or has probable cause to believe that any drug, or device is adulterated or misbranded within the meaning of the Idaho food, drug and cosmetic act, he shall affix to such drug or device a tag or other appropriate marking giving notice that such article is or is suspected of being adulterated or misbranded, has been detained or embargoed and warning all persons not to remove or dispose of such article by sale or otherwise until provision for removal or disposal is given by the board, its agent or the court. No person shall remove or dispose of such embargoed drug or device by sale or otherwise without the permission of the board or its agent or, after summary proceedings have been instituted, without permission from the court.

(b) When a drug or device detained or embargoed under paragraph (a) of this subsection (9) has been declared by such representative to be adulterated or misbranded, the board shall, as soon as practical thereafter, petition the judge of the district court in whose jurisdiction the article is detained or embargoed for an order for condemnation of such article. If the judge determines that the drug or device so detained or embargoed is not adulterated or misbranded, the board shall direct the immediate removal of the tag or other marking.

(c) If the court finds the detained or embargoed drug or device is adulterated or misbranded, such drug or device, after entry of the decree, shall be destroyed at the expense of the owner under the supervision of a board representative and all court costs and fees, storage and other proper expense shall be borne by the owner of such drug or device. When

the adulteration or misbranding can be corrected by proper labeling or processing of the drug or device, the court, after entry of the decree and after such costs, fees and expenses have been paid and a good and sufficient bond has been posted, may direct that such drug or device be delivered to the owner thereof for such labeling or processing under the supervision of a board representative. Expense of such supervision shall be paid by the owner. Such bond shall be returned to the owner of the drug or device on representation to the court by the board that the drug or device is no longer in violation of the embargo and the expense of supervision has been paid.

(d) It is the duty of the attorney general to whom the board reports any violation of this subsection to cause appropriate proceedings to be instituted in the proper court without delay and to be prosecuted in the manner required by law. Nothing in this subsection (9) shall be construed to require the board to report violations whenever the board believes the public's interest will be adequately served in the circumstances by a suitable written notice or warning.

(10) Except as otherwise provided to the contrary, the board shall exercise all of its duties, powers and authority in accordance with the administrative procedures act.

(11) (a) For the purpose of any proceedings held before the board as authorized by law, including the refusal, nonrenewal, revocation or suspension of licenses, registrations or certifications authorized by this act chapter, or the imposition of fines or reprimands on persons holding such licenses, certification or registrations, the board may subpoena witnesses and compel their attendance, and may also at such time require the production of books, papers, documents or other memoranda. In any such proceeding before the board, any member of the board, or its designee, may administer oaths or affirmations to witnesses so appearing.

(b) If any person shall refuse to obey a subpoena so issued, or refuse to testify or produce any books, papers or documents called for by said subpoena, the board may make application to the district court of the county in which the proceeding is held, for an order of the court requiring the person to appear before the court, and to show cause why the person should not be compelled to testify, to produce such books, papers, memoranda or other documents required by the subpoena, or otherwise comply with its terms. The application shall set forth the action theretofore taken by the board to compel the attendance of the witness, the circumstances surrounding the failure of the witness to attend or otherwise comply with the subpoena, together with a brief statement of the reasons why compliance with the subpoena is necessary to the proceeding before the board.

(c) Upon the failure of a person to appear before the court at the time and place designated by it, the court may enter an order without further proceedings requiring the person to comply with the subpoena. Any person failing or refusing to obey such order of the court shall be punished for contempt of court as in other cases provided.

SECTION 7. That Section 54-1721, Idaho Code, be, and the same is hereby amended to read as follows:

54-1721. UNLAWFUL PRACTICE. (1) It shall be unlawful for any person or business entity to engage in the practice of pharmacy including, but not limited to, pharmaceutical care services in or into Idaho unless licensed or registered to so practice under the provisions of this act; chapter, except as provided, however, herein:

(a) Pphysicians, dentists, veterinarians, osteopaths or other practitioners of the healing arts who are licensed under the laws of this state

may deliver and administer prescription drugs to their patients in the practice of their respective professions where specifically authorized to do so by statute of this state; and

(b) Nonresident pharmacists practicing pharmacy into Idaho who are employed by and practicing for an Idaho registered nonresident mail service pharmacy.

(2) Notwithstanding the provisions of subsection (1) of this section and any statute or rule to the contrary, persons who hold a valid and current license to practice practical or professional nursing in this state pursuant to sections 54-1407, 54-1408 and 54-1418, Idaho Code, and who are employed by one (1) of the public health districts established under section 39-408, Idaho Code, shall be permitted to engage in the labeling and delivery of refills of the following prepackaged items when such items have been prescribed to a patient by a licensed physician, licensed physician's assistant or licensed advanced practice nurse:

(a) Prenatal vitamins;

(b) Contraceptive medications drugs approved by the United States food and drug administration;

(c) Antiviral medications drugs approved by the United States centers for disease control and prevention for treatment of sexually transmitted infection; and

(d) Medications Drugs approved by the United States centers for disease control and prevention for treatment of active and latent tuberculosis.

(3) It shall be unlawful for any person, not legally licensed or registered as a pharmacist, to take, use or exhibit the title of pharmacist or the title of druggist or apothecary, or any other title or description of like import.

(4) Any person who shall be found to have unlawfully engaged in the practice of pharmacy shall be subject to a fine not to exceed three thousand dollars (\$3,000) for each offense. Each such violation of this act chapter or the rules promulgated hereunder pertaining to unlawfully engaging in the practice of pharmacy shall also constitute a misdemeanor punishable upon conviction as provided in the criminal code of this state.

SECTION 8. 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 INTO IDAHO. (1) ~~No pharmacist who is not licensed t~~To obtain a registration to practice pharmacy within as a pharmacist into 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 Be licensed and in good standing in the state and proof that such license is in good standing from which the applicant practices pharmacy;~~

~~(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) Be located in one (1) of the fifty (50) states or the District of Columbia; and~~

~~(e) 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.~~

(42) 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.

(3) A successful applicant for registration under this section shall comply with the board's laws and rules of this state unless compliance would violate the laws or rules in the state in which the registrant is located, except as follows:

(a) A technician shall not exceed the practice limitations for technicians in Idaho;

(b) A pharmacist shall only substitute drug products in accordance with Idaho law;

(c) A pharmacist shall only select drug products in accordance with Idaho law; and

(d) A pharmacist shall not exceed the pharmacy staffing ratio, as defined in rule.

~~(54) Renewal of a registration to engage in the practice of pharmacy across state lines shall be required annually and. The application for renewal shall be submitted to the board no later than the 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 9. That Section 54-1726, Idaho Code, be, and the same is hereby amended to read as follows:

54-1726. GROUND FOR DISCIPLINE. (1) The board of pharmacy may refuse to issue or renew, or may suspend, revoke or restrict the licenses or registration of any person, pursuant to the procedures set forth in chapter 52, title 67, Idaho Code, upon one (1) or more of the following grounds:

(a) Unprofessional conduct as that term is defined by the rules of the board;

(b) Incapacity of a nature that prevents a pharmacist from engaging in the practice of pharmacy with reasonable skill, competence and safety to the public;

(c) Being found guilty, convicted 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:

1. (i) Any felony;

2. (ii) Any act involving moral turpitude, gross immorality or which is related to the qualifications, functions or duties of a licensee; or

3. (iii) Violations of the pharmacy or drug laws of this state or rules pertaining thereto, or of statutes, rules or regulations of any other state, or of the federal government;

(d) Fraud or intentional misrepresentation by a licensee in securing the issuance or renewal of a license.

(e) Engaging or aiding and abetting an individual to engage in the practice of pharmacy without a license, or falsely using the title of pharmacist.

(f) Being found by the board to be in violation of any of the provisions of this chapter, chapter 27, title 37, Idaho Code, or rules adopted pursuant to either chapter.

(2) Nonresident licensees and registrants shall be held accountable to the board for violations by its agents and employees and subject to the same grounds for discipline and penalties for their actions as set forth herein.

SECTION 10. That Section 54-1728, Idaho Code, be, and the same is hereby amended to read as follows:

54-1728. PENALTIES AND REINSTATEMENT. (1) Upon the finding of the existence of grounds for discipline of any person or business entity holding a license or registration, seeking a license or registration, or a renewal license or registration under the provisions of this act chapter, the board of pharmacy may impose one (1) or more of the following penalties:

- (a) Suspension of the offender's license or registration for a term to be determined by the board;
- (b) Revocation of the offender's license or registration;
- (c) Restriction of the offender's license or registration to prohibit the offender from performing certain acts or from engaging in the practice of pharmacy in a particular manner for a term to be determined by the board;
- (d) Refusal to renew offender's license or registration;
- (e) Placement of the offender on probation and supervision by the board for a period to be determined by the board;
- (f) Imposition of an administrative fine not to exceed two thousand dollars (\$2,000) plus costs of prosecution and administrative costs of bringing the action including, but not limited to, attorney's fees and costs and costs of hearing transcripts.

(2) The board may take any action against a nonresident licensee or registrant that the board can take against a resident licensee or registrant for violation of the laws of this state or the state in which it resides.

(3) The board may report any violation by a nonresident licensee or registrant, or its agent or employee, of the laws and rules of this state, the state in which it resides or the United States to any appropriate state or federal regulatory or licensing agency including, but not limited to, the regulatory agency of the state in which the nonresident licensee or registrant is a resident.

(4) The board may elect to not initiate an administrative action under Idaho law against a nonresident licensee or registrant upon report of a violation of law or rule of this state if the licensee's or registrant's home state commences an action for the violation complained of; provided however, that the board may elect to initiate an administrative action if the home state action is unreasonably delayed or the home state otherwise fails to take appropriate action for the reported violation.

(5) The suspension, revocation, restriction or other action taken against a licensee or registrant by a state licensing board with authority over a licensee's or registrant's professional license or registration or by the drug enforcement administration may result in the board's issuance of an order likewise suspending, revoking, restricting or otherwise affecting the license or registration in this state, without further proceeding, but subject to the effect of any modification or reversal by the issuing state or the drug enforcement administration.

(6) Any person whose license to practice pharmacy in this state has been suspended, revoked or restricted pursuant to this act chapter, or any drug outlet whose certificate of registration has been suspended, revoked or restricted pursuant to this act chapter, whether voluntarily or by action of the board, shall have the right, at reasonable intervals, to petition the board for reinstatement of such license. Such petition shall be made

in writing and in the form prescribed by the board. Upon investigation and hearing, the board may in its discretion grant or deny such petition, or it may modify its original finding to reflect any circumstances which have changed sufficiently to warrant such modifications.

(37) Nothing herein shall be construed as barring criminal prosecutions for violations of the act where such violations are deemed as criminal offenses in other statutes of this state or of the United States.

(48) All final decisions by the board shall be subject to judicial review pursuant to the procedures of the administrative procedure act.

SECTION 11. That Section 54-1729, Idaho Code, be, and the same is hereby amended to read as follows:

54-1729. REGISTRATION AND LICENSURE OF FACILITIES. (1) All drug or device outlets doing business in or into Idaho shall annually register with or: (a) If a nonresident, be licensed by, as applicable, the board of pharmacy or registered and in good standing in the applicant's state of residence; (b) Submit a written application in the form prescribed by the board; (c) Pay the fee or fees specified by the board for the issuance of the registration or license; (d) Be located in one (1) of the fifty (50) states or the District of Columbia; and (e) Have a PIC or director who is licensed or registered by the board, except manufacturers, wholesalers, veterinary drug outlets and limited service outlets without a pharmacy.

(2) Each drug or device outlet shall apply for a certificate of registration or a license in one (1) of the following classifications:

- (a) Retail pharmacy;
- (b) Institutional facility;
- (c) Manufacturer;
- (d) Wholesaler;
- (e) Veterinary drug outlet;
- (f) ~~Telepharmacy across state lines~~ Nonresident central drug outlet;
- (g) Mail service pharmacy;
- (h) Limited service outlet.

(3) The board shall establish by rule under the powers granted to it under sections 54-1718 and 54-1719, Idaho Code, the criteria which each drug outlet, that has employees or personnel engaged in the practice of pharmacy, must meet to qualify for registration or licensure in each classification designated in subsection (2) of this section. The board may issue various types of certificates with varying restrictions to such ~~limited service outlets~~ designated in subsection (2) of this section where the board deems it necessary by reason of the type of drug outlet requesting a certificate.

(4) It shall be lawful for an drug outlet registered or licensed under this section to sell and distribute nonprescription drugs. ~~Drug outlets~~ engaging in the sale and distribution of such items shall not be deemed to be improperly engaged in the practice of pharmacy. No rule will be adopted by the board under this chapter which shall require the sale of nonprescription drugs by a licensed pharmacist or under the supervision of a licensed pharmacist or otherwise apply to or interfere with the sale and distribution of such medicines.

(5) If the regulatory board or licensing authority of the state in which a nonresident outlet is located fails or refuses to conduct an inspection or fails to obtain records or reports required by the board, upon reasonable notice to the nonresident outlet, the board may conduct an inspection. ~~Drug Nonresident outlets registered under subsection (2) (f) of this section shall pay the same registration fee as those registering under subsection (2) (b) of this section, but shall also pay the actual costs of the out-of-~~

state inspection of the drug outlet as may be required by the board, including the transportation, lodging and related expenses of the board's inspector. Nothing in this section shall preclude the board, in lieu of an inspection by the board, from relying on an inspection of the drug outlet conducted by the regulatory authority of the state within which the drug outlet is located.

(6) A successful applicant for registration under the provisions of 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.

(7) A successful applicant for registration under the provisions of this section shall comply with the board's laws and rules of this state unless compliance would violate the laws or rules in the state in which the registrant is located, except as follows:

(a) A technician shall not exceed the practice limitations for technicians in Idaho;

(b) A pharmacist shall only substitute drug products in accordance with the board's laws and rules;

(c) A pharmacist shall only select drug products in accordance with the board's laws and rules; and

(d) A pharmacy shall not exceed the pharmacy staffing ratio, as defined in rule.

(8) Renewal shall be required annually and submitted to the board no later than the thirtieth day of June. The board shall specify by rule the procedures to be followed and the fees to be paid for renewal of registration or licensure.

SECTION 12. That Section 54-1730, Idaho Code, be, and the same is hereby amended to read as follows:

54-1730. DRUG OUTLET APPLICATION PROCEDURES. (1) The board shall specify by rule ~~or regulation~~ the registration procedures to be followed, including, but not limited to, specification of forms for use in applying for such certificates of registration and times, places and fees for filing such application; provided, however, the annual fee for an original or renewal certificate shall not exceed one hundred dollars (\$100), except the fee for nonresident pharmacies or outlets shall not exceed five hundred dollars (\$500) for initial registration and two hundred fifty dollars (\$250) thereafter for annual renewals.

(2) Applications for certificates of registration shall include the following information about the proposed drug outlet:

(a) Ownership;

(b) Location;

(c) Identity of pharmacist licensed or registered to practice in the state, who shall be the pharmacist in charge of the drug outlet, where one (1) is required by this act chapter, and such further information as the board may deem necessary.

(3) Certificates of registration issued by the board pursuant to this act chapter shall not be transferable or assignable.

(4) The board shall specify by rule ~~and regulation~~ minimum standards for the professional responsibility in the conduct of any drug outlet that has employees or personnel engaged in the practice of pharmacy. The board is specifically authorized to require that the portion of the facility to which such certificate of registration applies be operated only under the direct supervision of no less than one (1) pharmacist licensed to practice in this state and not otherwise, and to provide such other special requirements as deemed necessary.

SECTION 13. 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(26), 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:

(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 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.

(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 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 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 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 pun-

ished 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 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 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:

(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.

(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.

(iii) Intentionally make a false statement in any prescription, drug order, order, report or record required by this chapter.

(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.

(v) Make or utter any false or forged prescription or false drug order or forged written order.

(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.

(vii) 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) (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 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 (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.

SECTION 14. That Sections 54-1740 through 54-1748, Idaho Code, be, and the same are hereby repealed.

SECTION 15. 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) "Legend drug" has the same meaning as provided in section 54-1705(3~~1~~4), Idaho Code.

(2) "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 private prescription drug insurance or who does not have income and other resources available sufficient to pay for the legend drug.

(3) "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, acting in consultation with a pharmacist licensed in the state of Idaho.

SECTION 16. That Section 54-4702, Idaho Code, be, and the same is hereby amended to read as follows:

54-4702. DEFINITIONS. As used in this chapter:

(1) "Acupuncture" means that theory of health care developed from traditional and modern Oriental medical philosophies that employs diagnosis and treatment of conditions of the human body based upon stimulation of specific acupuncture points on meridians of the human body for the promotion, maintenance, and restoration of health and for the prevention of disease. Therapies within the scope of acupuncture include manual, mechanical, thermal, electrical and electromagnetic treatment of such specific indicated points. Adjunctive therapies included in, but not exclusive to, acupuncture include herbal and nutritional treatments, therapeutic exercise and other therapies based on traditional and modern Oriental medical theory.

(2) "Board" means the Idaho state board of acupuncture.

(3) "NCCAOM" means "National Certification Commission for Acupuncture and Oriental Medicine."

(4) "Practice of acupuncture" means the insertion of acupuncture needles and use of similar devices and therapies, including application of moxibustion, to specific indicated points on the skin of the human body as indicated pursuant to traditional and modern theories of Oriental medicine. The "practice of acupuncture" does not include:

(a) surgery; or

(b) prescribing, dispensing or administering any prescription drug or legend drug as defined in section 54-1705(3~~1~~4), Idaho Code.

SECTION 17. That Section 54-5110, Idaho Code, be, and the same is hereby amended to read as follows:

54-5110. NATUROPATHIC MEDICAL FORMULARY COUNCIL ESTABLISHED. There is hereby established a naturopathic medical formulary council, which is separate and distinct from the board, to be composed of seven (7) members. Two (2) members shall be naturopathic physicians licensed under this chapter, appointed by the board of naturopathic medical examiners. Three (3) members shall be pharmacists licensed under chapter 17, title 54, Idaho Code, appointed by the board of naturopathic medical examiners from a list of nominees provided by the Idaho state board of pharmacy. Two (2) members shall be physicians licensed under chapter 18, title 54, Idaho Code, appointed by the board of naturopathic medical examiners from a list of nominees provided by the Idaho state board of medicine. The initial council

shall be appointed as follows: One (1) naturopathic physician shall be appointed for a one (1) year term; one (1) physician licensed under chapter 18, title 54, Idaho Code, and one (1) pharmacist shall be appointed for a two (2) year term; and two (2) pharmacists, one (1) naturopathic physician and one (1) physician licensed under chapter 18, title 54, Idaho Code, shall be appointed for a three (3) year term. Thereafter, the term of office shall be three (3) years. A quorum shall consist of five (5) members and shall be required for any vote to be taken. It shall be the duty of the naturopathic medical formulary council to establish a formulary for use by naturopathic physicians, and immediately upon adoption or revision of the formulary, the council shall transmit the approved formulary to the board, which shall adopt the formulary by temporary rule. The formulary will be reviewed annually by the council, or at any time at the request of the board. The formulary list may not go beyond the scope of prescription medicines and medical devices covered by approved naturopathic medical education and training and existing naturopathic medical formularies, or board-approved continuing education. The naturopathic medical formulary shall not include medicines and devices that are inconsistent with the training provided by approved naturopathic medical colleges. Nothing herein shall allow a naturopathic physician to dispense, administer or prescribe any prescription drug as defined in section 54-1705(314), Idaho Code, or medical device unless such prescription drug or medical device is specifically included in the naturopathic medical formulary.

Approved March 1, 2013.

CHAPTER 29  
(H.B. No. 40)

AN ACT

RELATING TO CROSS-COUNTRY SKIING; REPEALING SECTION 67-7119, IDAHO CODE,  
RELATING TO CROSS-COUNTRY SKIING ADVISORY COMMITTEES.

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

SECTION 1. That Section 67-7119, Idaho Code, be, and the same is hereby repealed.

Approved March 1, 2013.

CHAPTER 30  
(H.B. No. 81)

AN ACT

RELATING TO PROCURING AND PURCHASING BY CERTAIN INSTITUTIONS OF HIGHER EDUCATION; REPEALING SECTION 3, CHAPTER 286, LAWS OF 2010, TO DELETE A SUNSET DATE.

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

SECTION 1. That Section 3, Chapter 286, Laws of 2010, be, and the same is hereby repealed.

Approved March 1, 2013.

CHAPTER 31  
(H.B. No. 83)

AN ACT

RELATING TO PROPRIETARY SCHOOLS; AMENDING SECTION 33-2406, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A CONDITION OF REGISTRATION, TO ELIMINATE LANGUAGE RELATING TO A NEWLY REGISTERED PROPRIETARY SCHOOL, TO PROVIDE THAT NEITHER THE PRINCIPAL NOR SURETY ON A BOND OR OTHER FINANCIAL INSTRUMENT MAY TERMINATE COVERAGE OF THE BOND AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. 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 or other financial instrument in a format approved by the director, 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 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. 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 may permit the director to accept from a newly registered proprietary school, for a period not to exceed five (5) years, a bond in a lesser amount that is supplemented by other financial instruments deemed acceptable by the director.~~

The director 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 or other financial instrument may terminate the coverage of the bond, except upon giving one hundred twenty (120) days' prior written notice to the director.

Approved March 1, 2013.

CHAPTER 32  
(H.B. No. 84)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-909, IDAHO CODE, TO PROVIDE THAT CERTAIN ABATEMENT OF UNSAFE PUBLIC SCHOOL FACILITIES SHALL BE PERFORMED EXCLUSIVELY IN ACCORDANCE WITH CERTAIN REQUIREMENTS OF THE DIVISION OF BUILDING SAFETY, TO PROVIDE THAT THE IDAHO BUILDING CODE BOARD SHALL FUNCTION AS A BOARD OF APPEALS, TO PROVIDE FOR THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY, TO PROVIDE THAT THE RESPONSIBILITY FOR ENSURING

SAFETY OF THE FACILITY OR PORTION OF THE FACILITY WILL BE RETURNED TO THE SCHOOL DISTRICT AND THAT RESPONSIBILITY FOR ENSURING CERTAIN COMPLIANCE WITH BUILDING CODES WILL BE RETURNED TO THE AUTHORITY HAVING JURISDICTION.

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

SECTION 1. That Section 33-909, Idaho Code, be, and the same is hereby amended to read as follows:

33-909. PUBLIC SCHOOL FACILITIES COOPERATIVE FUNDING PROGRAM -- FUND CREATED. (1) In fulfillment of the constitutional requirement to provide a general, uniform and thorough system of public, free common schools, it is the intent of the state of Idaho to advance its responsibility for providing a safe environment conducive to learning by providing a public school facilities funding program to enable qualifying school districts to address unsafe facilities identified as unsafe under the standards of the Idaho uniform school building safety act.

(2) Participation in the program, for the purpose of obtaining state financial support to abate identified school building safety hazards, requires submission of an application to the public school facilities cooperative funding program panel. Application can be made by:

(a) Any school district that has failed to approve at least one (1) or more bond levies for the repair, renovation or replacement of existing unsafe facilities, within the two (2) year period immediately preceding submission of the application; or

(b) The administrator of the division of building safety, for a school district that has failed to address identified unsafe facilities as provided in chapter 80, title 39, Idaho Code.

(3) There is hereby created within the office of the state board of education the Idaho public school facilities cooperative funding program panel, hereafter referred to as the panel. The panel shall consist of the administrator of the division of building safety, the administrator of the division of public works and the executive director of the state board of education, or a designee appointed by a panel member. It shall be the duty of the panel to consider all applications made to it, and to approve, modify or reject an application based on the most economical solution to the problem, as analyzed within a projected twenty (20) year time frame.

(4) The application shall contain the following information:

(a) The identified school building safety hazards and such other information necessary to document the deficiencies;

(b) The school district's plan for abating the defects, including costs and sources and amounts of revenue available to the school district;

(c) The market value for assessment purposes of the school district; and

(d) A detailed accounting of all bond and plant facility levies of the school district and the revenues raised by such levies.

For applications initiated by the administrator of the division of building safety pursuant to subsection (2) (b) of this section, the school district shall provide the information required in this subsection (4) if such information is not available to the administrator.

(5) If the panel determines that it requires additional plans and information, it may authorize the expenditure of up to one hundred fifty thousand dollars (\$150,000) per application from the public school facilities cooperative fund for the procurement thereof. In considering an application, the panel shall determine whether the plan as proposed is acceptable, or is acceptable with modifications as determined by the panel, or should be rejected. If the application is approved or approved with modifications, any expenditures authorized by the panel pursuant to this subsection shall

be added to the project. The panel shall notify the applicant of its decision, in writing, within ninety (90) days of receiving the application. At the same time the panel notifies the applicant, the panel shall send notification of an approved application or a modified application to the state board of education, along with the panel's specifications for the project and its cost.

(6) If an application received from a school district is accepted or modified by the panel, the local board of trustees of that school district, at the next election held pursuant to section 34-106, Idaho Code, shall submit the question to the qualified electors of the school district of whether to approve a bond in the amount of the cost of the project as approved by the panel.

(7) Within thirty-five (35) calendar days of receiving notification from the panel that an application submitted by the administrator of the division of building safety pursuant to subsection (2) (b) of this section has been approved or modified by the panel, or within thirty-five (35) calendar days of receiving certification from the panel that the question submitted to the electorate pursuant to subsection (6) of this section was not approved in the election, the state board of education shall appoint a district supervisor for interim state supervision of the local school district. The district supervisor shall be responsible for ensuring that the project, as approved by the panel, is completed and shall regularly report to the panel in a manner as determined by the panel upon approval of the project. The district supervisor shall also have the authority granted to said position by the provisions of section 6-2212, Idaho Code. A district supervisor's term of service shall continue for the duration of the project, and such person appointed as a district supervisor shall serve at the pleasure of the state board of education.

(8) The abatement of unsafe public school facilities through the public school facilities cooperative funding program shall be performed exclusively in accordance with the regular permitting, plan review and inspection requirements of the division of building safety. The Idaho building code board shall function as a board of appeals for the division of building safety for such construction in accordance with the provisions of section 39-4107, Idaho Code. Upon successful completion of the construction in accordance with applicable building codes, a certificate of occupancy shall be issued by the administrator of the division of building safety. Upon issuance of a certificate of occupancy, responsibility for ensuring the safety of the facility or portion thereof so constructed will then be returned to the school district and responsibility for ensuring subsequent compliance with building codes returned to the authority having jurisdiction.

(9) Upon approval of an application or a modified application submitted by the administrator of the division of building safety pursuant to subsection (2) (b) of this section, or upon receipt of certification from the county that the question submitted to the electorate pursuant to subsection (6) of this section was not approved in the election, the panel shall certify the cost of the project, as approved by the panel, to the state department of education.

(a) The total cost of the project shall initially be paid by the state from the public school facilities cooperative fund. If the district supervisor determines that the amount approved by the panel is insufficient to complete the project in a satisfactory manner, the panel may request a legislative appropriation of additional moneys from the public school facilities cooperative fund. If such an appropriation is approved, these additional moneys shall be added to the cost of the project.

(b) The district's share of costs that may be repaid through the levy provisions of this section shall not exceed the district's share of bond payment costs as calculated for the bond levy equalization support pro-

gram in the fiscal year in which the application is made. Interest shall be charged on the unpaid balance of the district's share of costs, as such balance exists at the end of each fiscal year, at the rate of interest earned by the state treasurer on the investment of idle funds in that fiscal year.

(c) It shall be the responsibility of the state department of education to calculate a state-authorized plant facilities levy rate in accordance with the provisions of subsection (910) of this section, which, when imposed over a maximum period not to exceed twenty (20) years, may yield the revenues needed to repay the school district's share of the cost of the project.

(d) The levy rate calculated by the state department of education shall be certified by the department to the county or counties wherein the boundaries of the school district are contained, for assessment of the levy and collection of the revenues by such county or counties in the manner provided by law. The revenues collected by imposition of the state-authorized plant facilities levy shall be remitted to the state treasurer for deposit to the public school facilities cooperative fund.

(910) The annual state-authorized plant facilities levy rate shall be limited to the greater of:

(a) The difference between the school district's combined bond and plant facilities levy rates, and the statewide average bond and plant facility levy rates; or

(b) The statewide average plant facility levy rate.

The initial levy rate so calculated shall be established as the minimum levy rate that shall be imposed for the amount of time required to reimburse the state for the school district's share of the project cost, but not to exceed twenty (20) years, even if this period would not provide reimbursement of the entire amount of the school district's share of the cost of the project. The state department of education is authorized and directed to recalculate the levy rate on an annual basis and is authorized to increase or decrease the levy rate according to the scheduled payback, but the levy rate shall not be less than the levy rate initially imposed. Provided however, if the levy rate calculated is estimated to raise more money than would be necessary to repay the district's share of costs, then the state department of education shall certify to the county or counties wherein the boundaries of the school district are contained, the moneys necessary to repay the district's share of costs.

(101) There is hereby created in the state treasury a public school facilities cooperative fund. The fund shall contain such moneys as may be directed pursuant to appropriation. Moneys in the fund shall be used exclusively to finance the public school facilities cooperative funding program and are hereby continuously appropriated for such purposes as authorized by this section. 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 idle moneys in the state treasury. Interest earned on the investments shall be credited to the school district building account.

Approved March 1, 2013.

CHAPTER 33  
(H.B. No. 115)

AN ACT

RELATING TO APPROPRIATIONS AND TRANSFERS OF FUNDS; PROVIDING AN APPROPRIATION AND A TRANSFER OF FUNDS TO THE FIRE SUPPRESSION DEFICIENCY FUND; PROVIDING AN APPROPRIATION AND A TRANSFER OF FUNDS TO THE PEST CONTROL DEFICIENCY FUND; PROVIDING AN APPROPRIATION AND A TRANSFER OF FUNDS TO THE HAZARDOUS SUBSTANCE EMERGENCY RESPONSE FUND; 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 \$6,013,200 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 \$349,400 from the General Fund to the Pest Control Deficiency Fund. Such moneys shall be used to reimburse costs incurred by the Plant Industries Program in the Department of Agriculture pursuant to Section 22-2019, Idaho Code.

SECTION 3. There is hereby appropriated and the State Controller shall transfer \$28,100 from the General Fund to the Hazardous Substance Emergency Response Fund. Such moneys shall be used to reimburse costs incurred by the Bureau of Homeland Security in the Military Division of the Office of the Governor pursuant to Section 39-7110, Idaho Code.

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

Approved March 1, 2013.

CHAPTER 34  
(H.B. No. 12, As Amended in the Senate)

AN ACT

RELATING TO THE SALES AND USE TAX; AMENDING SECTION 63-3622FF, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE AND TO PROVIDE A SALES TAX EXEMPTION FOR FOOD PURCHASED WITH BENEFITS PROVIDED UNDER THE FEDERAL SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM; AND AMENDING SECTION 63-3621, IDAHO CODE, TO CLARIFY THAT FOR MEMBERS OF THE MILITARY AND ACCOMPANYING SPOUSES NO USE TAX SHALL APPLY TO CERTAIN ARTICLES ACQUIRED PRIOR TO A TIME CERTAIN.

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 SNAP BENEFIT CARDS. 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), benefits provided under the federal supplemental nutrition assistance program (SNAP) 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. That Section 63-3621, Idaho Code, be, and the same is hereby amended to read as follows:

63-3621. IMPOSITION AND RATE OF THE USE TAX -- EXEMPTIONS. An excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property acquired on or after October 1, 2006, for storage, use, or other consumption in this state at the rate of six percent (6%) of the value of the property, and a recent sales price shall be presumptive evidence of the value of the property unless the property is wireless telecommunications equipment, in which case a recent sales price shall be conclusive evidence of the value of the property.

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

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

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

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

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

A seller may accept a resale certificate from a purchaser prior to the time of sale, at the time of sale, or at any reasonable time after the sale

when necessary to establish the privilege of the exemption. The resale certificate relieves the person selling the property from the burden of proof only if taken from a person who is engaged in the business of selling or renting tangible personal property and who holds the permit provided for by section 63-3620, Idaho Code, or who is a retailer not engaged in business in this state, and who, at the time of purchasing the tangible personal property, intends to sell or rent it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose. Other than as provided elsewhere in this section, when a resale certificate, properly executed, is presented to the seller, the seller has no duty or obligation to collect sales or use taxes in regard to any sales transaction so documented regardless of whether the purchaser properly or improperly claimed an exemption. A seller so relieved of the obligation to collect tax is also relieved of any liability to the purchaser for failure to collect tax or for making any report or disclosure of information required or permitted under this chapter.

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

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

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

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

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

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

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

tion that is both physically located in Idaho and recognized as accredited by the state board of education.

(l) The use tax herein imposed shall not apply to the use of household goods, personal effects and personally owned vehicles or personally owned aircraft by a resident of this state, ~~or military personnel temporarily assigned in this state and spouses who accompany them,~~ if such articles were acquired by such person in another state while a resident of that state and primarily for use outside this state and if such use was actual and substantial, but if an article was acquired less than three (3) months prior to the time he entered this state, it will be presumed that the article was acquired for use in this state and that its use outside this state was not actual and substantial. The use tax herein imposed shall not apply to the use of household goods, personal effects and personally owned vehicles or personally owned aircraft by active duty military personnel temporarily assigned in this state and spouses who accompany them if such articles were acquired prior to receipt of orders to transfer to Idaho or three (3) months prior to moving to Idaho, whichever time period is shorter. For purposes of this subsection, "resident" shall be as defined in section 63-3013 or 63-3013A, Idaho Code.

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

- (1) A nonprofit organization as defined in section 63-36220, Idaho Code; or
- (2) The state of Idaho; or
- (3) Any political subdivision of the state.

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

(n) The use tax herein imposed shall not apply to free tastings of beverages including, but not limited to, wine and beer. For the purposes of this subsection, a free tasting shall be defined as a beverage provided to a potential customer, at no charge, and to occur individually at that specific location and time.

Approved March 4, 2013.

CHAPTER 35  
(S.B. No. 1028)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-1620, IDAHO CODE, TO REMOVE REFERENCE TO A PILOT PROGRAM AND TO REMOVE UNNECESSARY LANGUAGE; AMENDING SECTION 33-1621, IDAHO CODE, TO REVISE PROVISIONS RELATING TO PARTICIPATION IN THE MASTERY ADVANCEMENT PROGRAM; AND REPEALING SECTION 7, CHAPTER 275, LAWS OF 2010.

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

SECTION 1. That Section 33-1620, Idaho Code, be, and the same is hereby amended to read as follows:

33-1620. MASTERY ADVANCEMENT PILOT PROGRAM. There is hereby established ~~a pilot project to be known as the "Mastery Advancement Pilot Program,"~~ hereinafter referred to as "the program." This program shall permit certain students in certain Idaho public schools, including Idaho

public charter schools, to successfully proceed through school curriculum at their own pace.

SECTION 2. That Section 33-1621, Idaho Code, be, and the same is hereby amended to read as follows:

~~33-1621. PROGRAM PARTICIPANTS APPLICATION TO PARTICIPATE IN PROGRAM. (1) No more than twenty-one (21) school districts and no more than three (3) charter schools may participate in the program. Participating districts Any school district or public charter school wanting to participate in the mastery advancement program shall be determined through submit to the state department of education an application process for participation in the program on a form established by the state department of education. Any school district and any public charter school that submits a completed application shall be allowed to participate in the program.~~

~~(2) School districts and charter schools selected for the program will be expected to participate for the full six (6) years of the program. Provided however, that any school district or charter school selected for the program may request to the state department of education to opt out of the program. The department may grant such request at its discretion.~~

~~(3) No participating school district shall be required to implement the program on a districtwide basis. It shall be left to the discretion of each participating district to determine which schools in the district shall participate.~~

SECTION 3. That Section 7, Chapter 275, Laws of 2010, be, and the same is hereby repealed.

Approved March 5, 2013.

CHAPTER 36  
(S.B. No. 1016)

AN ACT

RELATING TO PRODUCER LICENSING; AMENDING SECTION 41-1039, IDAHO CODE, TO REMOVE LANGUAGE PROVIDING THAT A BAIL AGENT'S LICENSE FILED WITH THE CLERK OF THE DISTRICT COURT IS DEEMED PROOF THAT SUCH BAIL AGENT IS LICENSED; AND AMENDING SECTION 19-2918, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES.

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

SECTION 1. 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)~~3) 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 2. 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. 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.

(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.

(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.

(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)~~3), 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 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(43), Idaho Code. The director shall immediately notify all judicial district trial court administrators of such decision.

Approved March 7, 2013.

CHAPTER 37  
(S.B. No. 1017)

AN ACT

RELATING TO PROCEEDINGS IN MAGISTRATE'S DIVISION; REPEALING SECTION 19-3939, IDAHO CODE, RELATING TO THE UNDERTAKING FOR APPEARANCE OF WITNESSES; REPEALING SECTION 19-3940, IDAHO CODE, RELATING TO THE TRANSMISSION OF PAPERS; REPEALING SECTION 19-3941, IDAHO CODE, RELATING TO BAIL PENDING APPEAL; REPEALING SECTION 19-3942, IDAHO CODE, RELATING TO TRIAL ON APPEAL; REPEALING SECTION 19-3943, IDAHO CODE, RELATING TO COSTS TO ABIDE EVENT; AND REPEALING SECTION 19-3944, IDAHO CODE, RELATING TO JUDGMENT AGAINST SURETIES FOR COSTS.

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

SECTION 1. That Sections 19-3939, 19-3940, 19-3941, 19-3942, 19-3943 and 19-3944, Idaho Code, be, and the same are hereby repealed.

Approved March 7, 2013.

CHAPTER 38  
(H.B. No. 29)

AN ACT

RELATING TO JUDICIAL DISTRICTS; AMENDING SECTION 1-804, IDAHO CODE, TO INCREASE THE NUMBER OF JUDGES IN THE THIRD JUDICIAL DISTRICT AND TO INCREASE THE RESIDENT CHAMBERS IN CANYON COUNTY; AMENDING SECTION 1-805, IDAHO CODE, TO INCREASE THE NUMBER OF JUDGES IN THE FOURTH JUDICIAL DISTRICT AND TO INCREASE THE RESIDENT CHAMBERS IN ADA COUNTY; AMENDING SECTION 1-808, IDAHO CODE, TO INCREASE THE NUMBER OF JUDGES IN THE SEVENTH JUDICIAL DISTRICT AND TO PROVIDE ONE RESIDENT CHAMBERS IN JEFFERSON COUNTY; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 1-804, Idaho Code, be, and the same is hereby amended to read as follows:

1-804. THIRD DISTRICT -- NUMBER OF JUDGES -- RESIDENT CHAMBERS. (1) The third judicial district shall consist of the counties of Adams, Washington, Payette, Gem, Canyon and Owyhee.

(2) The third judicial district shall have ~~six~~ seven (67) district judges.

(3) Resident chambers of the district judges of the third judicial district shall be established as follows:

(a) One (1) resident chambers shall be established in Washington or Payette County.

(b) ~~Five~~ Six (56) resident chambers shall be established in Canyon County.

SECTION 2. That Section 1-805, Idaho Code, be, and the same is hereby amended to read as follows:

1-805. FOURTH DISTRICT -- NUMBER OF JUDGES -- RESIDENT CHAMBERS. (1) The fourth judicial district shall consist of the counties of Valley, Boise, Ada and Elmore.

(2) The fourth judicial district shall have ~~ten~~ eleven (101) district judges.

(3) Resident chambers of the district judges of the fourth judicial district shall be established as follows:

(a) ~~Nine~~ Ten (910) resident chambers shall be established in Ada County;

(b) One (1) resident chambers shall be established in Ada or Elmore County.

SECTION 3. That Section 1-808, Idaho Code, be, and the same is hereby amended to read as follows:

1-808. SEVENTH DISTRICT -- NUMBER OF JUDGES -- RESIDENT CHAMBERS. (1) The seventh judicial district shall consist of the counties of Lemhi, Custer, Butte, Clark, Fremont, Jefferson, Madison, Teton, Bonneville and Bingham.

(2) The seventh judicial district shall have ~~five~~ six (56) district judges.

(3) Resident chambers of the district judges of the seventh judicial district shall be established as follows:

(a) One (1) resident chambers shall be established in Madison County;

(b) One (1) resident chambers shall be established in Bingham County;

(c) Three (3) resident chambers shall be established in Bonneville County;

(d) One (1) resident chambers shall be established in Jefferson County.

SECTION 4. This act shall be in full force and effect on and after October 1, 2013.

Approved March 7, 2013.

CHAPTER 39  
(S.B. No. 1044)

AN ACT

RELATING TO MOTORCYCLES; AMENDING SECTION 49-114, IDAHO CODE, TO REVISE THE DEFINITION OF MOTORCYCLE AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 49-114, Idaho Code, be, and the same is hereby amended to read as follows:

49-114. DEFINITIONS -- M. (1) "Major component part" means a rear clip, cowl, frame or inner structure forward of the cowl, body, cab, front

end assembly, front clip or such other part which is critical to the safety of the vehicle.

(2) "Manifest" means a form used for identifying the quantity, composition, origin, routing, waste or material identification code and destination of hazardous material or hazardous waste during any transportation within, through, or to any destination in this state.

(3) "Manufactured home." (See section 39-4105, Idaho Code)

(4) "Manufacturer" means every person engaged in the business of constructing or assembling vehicles of a type required to be registered at an established place of business in this state. The term, for purposes of sections 49-1613 through 49-1615, 49-1617, 49-1622 and 49-1623, Idaho Code, shall include a distributor and other factory representatives.

(5) "Manufacturer's year designation" means the model year designated by the vehicle manufacturer, and not the year in which the vehicle is, in fact, manufactured.

(6) "Maximum gross weight" means the scale weight of a vehicle, equipped for operation, to which shall be added the maximum load to be carried as declared by the owner in making application for registration. When a vehicle against which a registration fee is assessed is a combination of vehicles, the term "maximum gross weight" means the combined maximum gross weights of all vehicles in the combination.

(7) "Metal tire." (See "Tires," section 49-121, Idaho Code)

(8) "Mileage" means actual distance that a vehicle has traveled.

(9) "Moped" means a limited-speed motor-driven cycle having:

(a) Both motorized and pedal propulsion that is not capable of propelling the vehicle at a speed in excess of thirty (30) miles per hour on level ground, whether two (2) or three (3) wheels are in contact with the ground during operation. If an internal combustion engine is used, the displacement shall not exceed fifty (50) cubic centimeters and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged; or

(b) Two (2) wheels or three (3) wheels with no pedals, which is powered solely by electrical energy, has an automatic transmission, a motor which produces less than two (2) gross brake horsepower, is capable of propelling the device at a maximum speed of not more than thirty (30) miles per hour on level ground and as originally manufactured, meets federal motor vehicle safety standards for motor-driven cycles. A moped is not required to be titled and no motorcycle endorsement is required for its operator.

(10) "Motorbike" means a vehicle as defined in section 67-7101, Idaho Code. Such vehicle shall be titled and may be approved for motorcycle registration pursuant to section 49-402, Idaho Code, upon certification by the owner of the installation and use of conversion components that make the motorbike compliant with federal motor vehicle safety standards.

(11) "Motorcycle" means every motor vehicle having a seat or saddle for the use of the rider, and designed to travel on not more than three (3) wheels in contact with the ground or designed to travel on two (2) wheels in contact with the ground which is modified by the addition of two (2) stabilizing wheels on the rear of the motor vehicle, that meets the federal motor vehicle safety standards as originally designed, and includes a converted motorbike, but does not include a motor-driven cycle, a motorbike, a tractor or a moped.

(12) "Motor carrier" means an individual, partnership, corporation or other legal entity engaged in the transportation by motor vehicle of persons or property in the furtherance of a business or for hire.

(13) "Motor-driven cycle" means a cycle with a motor that produces five (5) brake horsepower or less as originally manufactured that meets federal motor vehicle safety standards as originally designed, and does not include

mopeds. Such vehicle shall be titled and a motorcycle endorsement is required for its operation.

(14) "Motor home" means a vehicular unit designed to provide temporary living quarters, built into an integral part or permanently attached to a self-propelled motor vehicle chassis. The vehicle must contain permanently installed independent life support systems which meet the National Fire Protection Association (NFPA) 1192 Standard on Recreational Vehicles, and provide at least four (4) of the following facilities: cooking, refrigeration or icebox, self-contained toilet, heating and/or air conditioning, a potable water supply system, including a faucet and sink, separate 110-125 volt electrical power supply and/or LP-gas supply.

(15) "Motorized wheelchair" means a motor vehicle with a speed not in excess of eight (8) miles per hour, designed for and used by a person with a disability.

(16) "Motor number." (See "Identifying number," section 49-110, Idaho Code)

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

(18) "Motor vehicle liability policy" means an owner's or operator's policy of liability insurance, certified as provided in section 49-1210, Idaho Code, as proof of financial responsibility, and issued by an insurance carrier duly authorized to transact business in this state, to or for the benefit of the person named therein as insured.

(19) "Motor vehicle record" means any record that pertains to a motor vehicle registration, motor vehicle title or identification documents or other similar credentials issued by the department or other state or local agency.

SECTION 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 8, 2013.

CHAPTER 40  
(H.B. No. 72)

AN ACT

RELATING TO INCOME TAX CREDITS FOR CHARITABLE CONTRIBUTIONS; AMENDING SECTION 63-3029A, IDAHO CODE, TO PROVIDE FOR TAX CREDIT TO DEDICATED ACCOUNTS WITHIN THE IDAHO COMMUNITY FOUNDATION INC. THAT EXCLUSIVELY SUPPORT CHARITABLE PURPOSES OTHERWISE QUALIFYING FOR THE TAX CREDIT AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 63-3029A, IDAHO CODE, AS ENACTED BY SECTION 4, CHAPTER 354, LAWS OF 2010, TO PROVIDE FOR TAX CREDIT TO DEDICATED ACCOUNTS WITHIN THE IDAHO COMMUNITY FOUNDATION INC. THAT EXCLUSIVELY SUPPORT CHARITABLE PURPOSES OTHERWISE QUALIFYING FOR THE TAX CREDIT; DECLARING AN EMERGENCY, PROVIDING RETROACTIVE APPLICATION AND EFFECTIVE DATES.

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

SECTION 1. That Section 63-3029A, Idaho Code, be, and the same is hereby amended to read as follows:

63-3029A. INCOME TAX CREDIT FOR CHARITABLE CONTRIBUTIONS -- LIMITATION. At the election of the taxpayer, there shall be allowed, subject to the applicable limitations provided herein, as a credit against the income tax imposed by chapter 30, title 63, Idaho Code, an amount equal to fifty

percent (50%) of the aggregate amount of charitable contributions made by such taxpayer during the year to a nonprofit corporation, fund, foundation, trust, or association organized and operated exclusively for the benefit of institutions of higher learning located within the state of Idaho, including a university related research park, to nonprofit private or public institutions of elementary, secondary, or higher education or their foundations located within the state of Idaho, to a nonprofit corporation, fund, foundation, trust or association which is: (i) organized and operated exclusively for the benefit of elementary or secondary education institutions located within the state of Idaho; (ii) officially recognized and designated as any such elementary or secondary education institution's sole designated supporting organization; and (iii) qualified to be exempt from federal taxation under the terms of section 501(c) (3) of the Internal Revenue Code, to Idaho education public broadcast system foundations within the state of Idaho, to the Idaho state historical society or its foundation, to the council for the deaf and hard of hearing, to the developmental disabilities council, to the commission for the blind and visually impaired, to the commission on hHispanic affairs, to the state independent living council, to the Idaho commission for libraries and to public libraries or their foundations and library districts or their foundations located within the state of Idaho, and to nonprofit public or private museums or their foundations located within the state of Idaho and to dedicated accounts within the Idaho community foundation inc. that exclusively support the charitable purposes otherwise qualifying for the tax credit authorized under the provisions of this section.

(1) In the case of a taxpayer other than a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed fifty percent (50%) of such taxpayer's total income tax liability imposed by section 63-3024, Idaho Code, for the year, or five hundred dollars (\$500), whichever is less.

(2) In the case of a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed ten percent (10%) of such corporation's total income or franchise tax liability imposed by sections 63-3025 and 63-3025A, Idaho Code, for the year, or five thousand dollars (\$5,000), whichever is less.

For the purposes of this section, "contribution" means monetary donations reduced by the value of any benefit received in return such as food, entertainment or merchandise.

For the purposes of this section, "institution of higher learning" means only an educational institution located within this state meeting all of the following requirements:

- (a) It maintains a regular faculty and curriculum and has a regularly enrolled body of students in attendance at the place where its educational activities are carried on.
- (b) It regularly offers education above the twelfth grade.
- (c) It is accredited by the northwest association of schools and colleges, or by the state board of education.

For the purposes of this section, a nonprofit institution of secondary or higher education means a private nonprofit secondary or higher educational institution located within the state of Idaho, which is accredited by the northwest association of schools and colleges, or by the state board of education. A nonprofit private institution of elementary education means a private nonprofit elementary educational institution located within the state of Idaho and approved by the state board of education.

SECTION 2. That Section 63-3029A, Idaho Code, as enacted by Section 4, Chapter 354, Laws of 2010, be, and the same is hereby amended to read as follows:

63-3029A. INCOME TAX CREDIT FOR CHARITABLE CONTRIBUTIONS -- LIMITATION. At the election of the taxpayer, there shall be allowed, subject to the applicable limitations provided herein, as a credit against the income tax imposed by chapter 30, title 63, Idaho Code, an amount equal to fifty percent (50%) of the aggregate amount of charitable contributions made by such taxpayer during the year to a nonprofit corporation, fund, foundation, trust, or association organized and operated exclusively for the benefit of institutions of higher learning located within the state of Idaho, including a university related research park, to nonprofit private or public institutions of elementary, secondary, or higher education or their foundations located within the state of Idaho, to Idaho education public broadcast system foundations within the state of Idaho, to the Idaho state historical society or its foundation, to the Idaho commission for libraries and to public libraries or their foundations and library districts or their foundations located within the state of Idaho, and to nonprofit public or private museums or their foundations located within the state of Idaho and to dedicated accounts within the Idaho community foundation inc. that exclusively support the charitable purposes otherwise qualifying for the tax credit authorized under the provisions of this section.

(1) In the case of a taxpayer other than a corporation, the amount allowable as a credit under the provisions of this section for any taxable year shall not exceed twenty percent (20%) of such taxpayer's total income tax liability imposed by section 63-3024, Idaho Code, for the year, or one hundred dollars (\$100), whichever is less.

(2) In the case of a corporation, the amount allowable as a credit under the provisions of this section for any taxable year shall not exceed ten percent (10%) of such corporation's total income or franchise tax liability imposed by sections 63-3025 and 63-3025A, Idaho Code, for the year, or one thousand dollars (\$1,000), whichever is less.

For the purposes of this section, "contribution" means monetary donations reduced by the value of any benefit received in return such as food, entertainment or merchandise.

For the purposes of this section, "institution of higher learning" means only an educational institution located within this state meeting all of the following requirements:

- (a) It maintains a regular faculty and curriculum and has a regularly enrolled body of students in attendance at the place where its educational activities are carried on.
- (b) It regularly offers education above the twelfth grade.
- (c) It is accredited by the northwest association of schools and colleges, or by the state board of education.

For the purposes of this section, a nonprofit institution of secondary or higher education means a private nonprofit secondary or higher educational institution located within the state of Idaho, which is accredited by the northwest association of schools and colleges, or by the state board of education. A nonprofit private institution of elementary education means a private nonprofit elementary educational institution located within the state of Idaho and approved by the state board of education.

SECTION 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, and retroactively to January 1, 2013. Section 2 of this act shall be in full force and effect on and after January 1, 2016.

Approved March 8, 2013.

CHAPTER 41  
(H.B. No. 42)

AN ACT

RELATING TO COUNTIES; AMENDING SECTIONS 31-126 AND 31-129, IDAHO CODE, TO REVISE THE BOUNDARY DESCRIPTIONS OF GOODING COUNTY AND JEROME COUNTY; AMENDING SECTIONS 31-134 AND 31-136, IDAHO CODE, TO REVISE THE BOUNDARY DESCRIPTIONS OF LINCOLN COUNTY AND MINIDOKA COUNTY AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 31-126, Idaho Code, be, and the same is hereby amended to read as follows:

31-126. GOODING COUNTY. Gooding county is described as follows: beginning at the northeast corner of section six (6), township three (3) south, range sixteen (16) east;

Eastern boundary. Thence south twenty-four (24) miles, more or less, along the section line to the southeast corner of section thirty-one (31), township six (6) south, range sixteen (16) east; thence east ~~west~~ one (1) mile, more or less, to the ~~northeast~~ northwest corner of section ~~four~~ five (45), township seven (7) south, range sixteen (16) east; thence south along the section line, to the thread of the Snake river;

Southern boundary. Thence northwesterly along the thread of the Snake river to the west line of township six (6) south, range twelve (12) east;

Western boundary. Thence north along the west line of range twelve (12) east, to the northwest corner of township three (3) south, range twelve (12) east;

Northern boundary. Thence east along the north line of township three (3) south, to the place of beginning.

County seat--Gooding.

SECTION 2. That Section 31-129, Idaho Code, be, and the same is hereby amended to read as follows:

31-129. JEROME COUNTY. Jerome county is described as follows: beginning at the northwest corner of section five (5), township seven (7) south, range sixteen (16) east, Boise meridian;

Northern boundary. Thence east thirteen (13) miles, more or less, to the northeast corner of section five (5), township seven (7) south, range eighteen (18) east, Boise meridian; thence south two (2) miles, more or less, to the southwest corner of section nine (9), township seven (7) south, range eighteen (18) east, Boise meridian; thence east one (1) mile, more or less, to the southeast corner of section nine (9), township seven (7) south, range eighteen (18) east, Boise meridian; thence south one (1) mile, more or less, to the southwest corner of section fifteen (15), township seven (7) south, range eighteen (18) east, Boise meridian; thence east fifteen (15) miles, more or less, to the northeast corner of section twenty-four (24), township seven (7) south, range twenty (20) east, Boise meridian; thence south three (3) miles, more or less, to the northeast corner, section one (1), township eight (8) south, range twenty (20) east, Boise meridian; thence east six (6) miles, more or less, to the northeast corner of section one (1), township eight (8) south, range twenty-one (21) east, Boise meridian;

Eastern boundary. Thence south following the range line between ranges twenty-one (21) and twenty-two (22) east, Boise meridian, to the center line of Snake river;

Southern boundary. Thence down the center line of the channel of said river, following its meanderings to a point where the same intersects the section line between sections seventeen (17) and eighteen (18) in township nine (9) south, range sixteen (16) east, Boise meridian;

Western boundary. Thence north to the place of beginning.  
County seat--Jerome.

SECTION 3. That Section 31-134, Idaho Code, be, and the same is hereby amended to read as follows:

31-134. LINCOLN COUNTY. Lincoln county is described as follows: beginning at the northeast corner of section six (6), township three (3) south, range sixteen (16) east;

Western boundary. Thence south twenty-four (24) miles, more or less, along the section line to the southeast corner of section thirty-one (31), township six (6) south, range sixteen (16) east; ~~thence east one (1) mile, more or less, to the northeast corner of section four (4), township seven (7) south, range sixteen (16) east; thence south along the section line to the thread of the Snake river (1913, ch. 4, section 2, p. 14);~~

Southern boundary. Thence easterly following the middle of the channel of Snake river to a point where the center line of the Snake river is intersected by the west section line of section three (3), township ten (10) south along the township line to the northwest corner of section four (4), township seven (7) south, range eighteen (18) east; thence south along the section line to the southwest corner of section nine (9), township seven (7) south, range eighteen (18) east; thence east along the section line to the southeast corner of section nine (9), township seven (7) south, range eighteen (18) east; thence south along the section line to the southwest corner of section fifteen (15), township seven (7) south, range eighteen (18) east; thence east along the section line to the southwest corner of section eighteen (18), township seven (7) south, range twenty-one (21) east; thence south along the range line to the southwest corner of township seven (7) south, range twenty-one (21) east; thence east along the township line to the southwest corner of section thirty-four (34), township seven (7) south, range twenty-three (23) east;

Eastern boundary. ~~Thence northerly along the said section line to the northwest corner of section three (3), township nine (9) south, range eighteen (18) east; thence easterly along the township line to the northwest corner of township nine (9) south, range twenty-two (22) east; thence north along the township line to the northwest corner of township eight (8) south, range twenty-two (22) east; thence easterly along the township line to the southwest corner of section thirty-four (34), township seven (7) south, range twenty-three (23) east; thence north along section line to the north line of township seven (7) south, range twenty-three (23) east; thence easterly along the township line to the southwest corner of section thirty-four (34), township six (6) south, range twenty-three (23) east; thence northerly along a line which is three (3) miles west of and generally parallel to the east line of range twenty-three (23) east, north of the first (1st) standard parallel south, to the north line of township three (3) south, range twenty-three (23) east (1913, ch. 3, section 2, p. 5);~~

Northern boundary. Thence west along the township line between townships two (2) and three (3) south, to the place of beginning (R.C., section 23q).

County seat--Shoshone.

SECTION 4. That Section 31-136, Idaho Code, be, and the same is hereby amended to read as follows:

31-136. MINIDOKA COUNTY. Minidoka county is described as follows: beginning at the point where the center line of the Snake river is intersected by the west section line of section ~~three (3)~~ nineteen (19), township ten (10) south, range ~~eighteen (18)~~ twenty-two (22) east;

Western boundary. Thence northerly along the said ~~section township~~ line to the northwest corner of section ~~three (3)~~, township nine eight (98) south, range ~~eighteen (18)~~ twenty-two (22) east; ~~thence easterly along the township line to the northwest corner of township nine (9) south, range twenty-two (22) east; thence north along the township line to the northwest corner of township eight (8) south, range twenty-two (22) east; thence easterly along the township line to the southwest corner of section thirty-four (34), township seven (7) south, range twenty-three (23) east; thence north along the section line to the north line of township seven (7) south, range twenty-three (23) east; thence easterly along the township line to the southwest corner of section thirty-four (34), township six (6) south, range twenty-three (23) east; thence northerly along a line which is three (3) miles west of and generally parallel to the east line of range twenty-three (23) east, north of the first (1st) standard parallel south, to the north line of township three (3) south, range twenty-three (23) east;~~

Northern boundary. Thence easterly along said township line (1913, ch. 3, section 2, pp. 5, 6) to the intersection of the same with the line between ranges twenty-five (25) and twenty-six (26) east; thence south along the said range line (R.C., section 23e), to its intersection with the center line of Snake river; thence southwesterly along said center line of Snake river, to the point of beginning (1913, ch. 3, section 2, p. 6).

County seat--Rupert.

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 12, 2013.

CHAPTER 42  
(H.B. No. 47)

AN ACT

RELATING TO WATERMASTERS; AMENDING SECTION 42-605, IDAHO CODE, TO AUTHORIZE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES TO APPOINT A SUCCESSOR WATERMASTER UNDER CERTAIN CONDITIONS AND TO PROVIDE A PROCEDURE.

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

SECTION 1. That Section 42-605, Idaho Code, be, and the same is hereby amended to read as follows:

42-605. DISTRICT MEETINGS -- WATERMASTER AND ASSISTANTS -- ELECTION -- REMOVAL -- OATH AND BOND -- ADVISORY COMMITTEE. (1) There shall be held on the first Monday in March in each year, and, except as provided in subsection (2) of this section, commencing at two o'clock P.M., a meeting of all persons owning or having the use of a water right, in the waters of the stream or water supply comprising such district, which right has been adjudicated or decreed by the court or is represented by valid permit or license issued by the department of water resources.

(2) Such meeting shall be held at some place within the water district, or at some nearby location convenient to a majority of those entitled to vote thereat, which place shall be designated by the director of the department

of water resources. The director shall, at least twenty-one (21) days prior to the meeting date, send notification by regular mail to all persons, companies or corporations known by the director to hold rights to the use of the waters of such district, which right has been adjudicated or decreed by the court or is represented by valid permit or license issued by the department of water resources, of the time, date, location and purpose of the annual meeting. At any annual meeting the water users may vote to waive the requirement for notice by mail and provide for notice to be given for future meetings by publication of the time, date, location and purpose of the meeting in a newspaper or newspapers in general circulation in the district. Published notice shall be made once per week for two (2) consecutive weeks with the second notice appearing at least fourteen (14) and not more than thirty (30) days prior to the meeting. In water districts whose area includes land in more than four (4) counties the annual meeting shall commence at ten o'clock A.M. instead of two o'clock P.M.: provided, that the water users of any water district may, by resolution adopted at an annual meeting or at a special meeting properly called for that purpose, change the time of day when the meeting shall commence or change the date for annual meetings in subsequent years to any day except Saturday and Sunday between the second Monday of January and the third Monday in March or change both the time and the date, in which case the director of the department of water resources shall send notification at least twenty-one (21) days prior to said meeting date. At an annual meeting the water users may adopt resolutions to assure or improve the distribution of the waters of the district within state law, and may provide that such resolutions shall continue from year to year.

(3) At the meeting of the water users of a district there shall be elected a watermaster for such water district, who may be authorized to employ such other regular assistants as the water users shall deem necessary, and who, upon appointment by the director of the department of water resources, shall be responsible for distribution of water within said water district, and the water users shall, prior to the election of such watermaster and approval of the employment of assistants, fix the compensation to be paid them during the time actually engaged in the performance of their duties.

(4) Voting shall be by majority vote of the water users present at the meeting unless one (1) or more water users requests voting using the procedure which follows in this subsection. In such case the meeting chairman shall appoint a credentials committee to determine the number of votes each water user present is authorized to cast. If requested, each person present, owning or having the use for the ensuing season of any water right in the stream or water supply comprising such water district, which right has been adjudicated or decreed by the court or is represented by valid permit or license issued by the department of water resources, shall be entitled to a number of votes equal to the average annual dollar amount and any fraction thereof assessed for that person's qualifying water right for the previous five (5) years, or such lesser number of years as the right has been assessed. If a right has not previously been assessed, a person present, owning or having the use of the right for the ensuing season shall be entitled to a number of votes equal to the dollar amount and any fraction thereof which the right would have been assessed had it existed and been reasonably used when water was available under the priority of the right during the previous season.

(5) At such meeting the water users shall choose a meeting chairman and meeting secretary and shall determine the manner and method of electing the watermaster. The water users shall, at the annual meeting, provide for the water district treasurer functions in accordance with section 42-619, Idaho Code. Within five (5) days after such meeting the meeting chairman and meeting secretary shall forward a certified copy of the minutes of such meeting to the department of water resources. The meeting chairman, or the meeting secretary, if the meeting chairman is not present, from the immediately pre-

ceding annual meeting shall call the meeting to order and preside over the election of officers for the meeting.

(6) At such meeting the water users may choose an advisory committee to be composed of members selected as may be determined at the meeting, which committee shall serve as advisors to the director and the watermaster in matters pertaining to the distribution of water within the district. The advisory committee may be authorized to carry out policies as set forth in resolutions duly adopted by the water users at the annual meeting or at a special meeting. The advisory committee may also serve as the local committee to facilitate the rental of stored water if appointed by the water resource board for such purpose under the provisions of section 42-1765, Idaho Code.

(7) A corporation or a water delivery organization, including, but not limited to a corporation, a water company, an irrigation district, an irrigation company or a canal company, shall be considered a person for the purpose of this section and shall cast its vote by someone to be designated by the corporation.

(8) Should said meeting not be held, or should said watermaster not be elected or the watermaster's compensation not be fixed as above provided, then the director of the department of water resources is authorized to appoint a watermaster and fix the watermaster's compensation.

(9) The director of the department of water resources may remove any watermaster whenever such watermaster fails to perform the watermaster's duty, upon complaint in that respect being made to the director in writing, by one (1) person owning or having the right to the use of a water right in such district, which right has been adjudicated or decreed by the court or is represented by valid permit or license issued by the department of water resources provided, that upon investigation the director, after a hearing with the other water users of said district, which shall be held in the district or at some location convenient to the water users of the district, finds such charge to be true, and the director may appoint a successor for the unexpired term.

(10) Before entering upon the duties of the watermaster's office, said watermaster shall take and subscribe to an oath before some officer authorized by the laws of the state to administer oaths, to faithfully perform the duties of the watermaster's office, as provided in section 42-607, Idaho Code, and shall file that oath with the department of water resources. Upon appointment by the director of the department of water resources, the actions taken by a watermaster in fulfillment of the duties of his office are covered by the state group surety bond as provided by sections 59-801 through 59-804, Idaho Code. A duly appointed watermaster that is reelected in consecutive years shall not be required to take and file additional oaths with the department of water resources for each consecutive year the watermaster is reelected. If a duly elected or appointed watermaster resigns, dies or is physically unable to perform his duties during the remainder of the elected or appointed watermaster term of service, then the director of the department of water resources is authorized to appoint a successor for the unexpired term as provided in paragraphs (a) and (b) of this subsection.

(a) If a water district advisory committee has been chosen as provided in subsection (6) of this section, the water district advisory committee shall meet to either nominate a successor watermaster or request a special meeting as provided in subsection (11) of this section to elect a new watermaster. Upon receipt of a nomination from a majority of the members of the water district advisory committee, the director of the department of water resources is authorized to appoint the nominated successor watermaster for the unexpired term.

(b) If a water district advisory committee has not been chosen, the director of the department of water resources is authorized to appoint a temporary successor watermaster. The temporary appointment extends through the unexpired term unless a special meeting is requested as

provided in subsection (11) of this section and water users elect a new watermaster.

(11) The director shall call a special meeting of the water users of a district upon receipt of a written request for such meeting from a majority of the members of the advisory committee for a district, a written request from water users representing thirty percent (30%) or more of the votes cast at the last regular annual meeting, a written request from the watermaster or on the director's own motion if the director determines a meeting is necessary to address matters that cannot be delayed until the next regular annual meeting. Notice of the time, place and purpose of the special meeting shall be given by the director in the manner provided in subsection (2) of this section, provided however, that a special meeting notice shall be sent at least fourteen (14) days prior to the meeting date.

(12) The water users may, by resolution, authorize the watermaster to acquire, hold and dispose of such real and personal property, equipment and facilities in the name of the water district as necessary for the proper distribution of water and shall provide that all such real and personal property shall remain in the custody of the watermaster and the watermaster's successor.

Approved March 12, 2013.

CHAPTER 43  
(H.B. No. 48)

AN ACT

RELATING TO INJECTION WELLS; AMENDING SECTION 42-3908, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES SHALL REQUIRE GOOD AND SUFFICIENT SECURITY AS A CONDITION OF EVERY CLASS II INJECTION WELL PERMIT, TO PROVIDE FOR THE FORM OF SECURITY, TO PROVIDE THE BASIS FOR SECURITY, TO PROVIDE FOR THE AMOUNT OF SECURITY, TO PROVIDE THAT THE SECURITY SHALL BE CONDITIONED UPON CERTAIN PERFORMANCE, TO PROVIDE FOR THE DURATION OF THE SECURITY, TO PROVIDE THAT WELL DECOMMISSIONING SHALL INCLUDE CERTAIN RECLAMATION OF THE WELL SITE AND TO AUTHORIZE ADDITIONAL SECURITY REQUIREMENTS UNDER CERTAIN CIRCUMSTANCES.

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

SECTION 1. That Section 42-3908, Idaho Code, be, and the same is hereby amended to read as follows:

42-3908. PERMIT APPROVING CONSTRUCTION AND USE -- CONDITIONS -- REJECTION OF APPLICATION. If the director of the department of water resources determines the use of the proposed or existing injection well will not affect the rights of others to use water for beneficial purposes shall issue a permit approving the construction, modification or continued operation of such well. Such permit shall contain conditions, if any, determined to be necessary to protect the public interest in the ground water resource including, but not limited to, the method and manner of operation of the injection well, the period during which the injection well may be operated, a date when such permit shall expire, and periodic reports to the department of water resources of the quality and quantity of the fluids injected. No deep injection well or shallow injection well, as may be required by rules and regulations adopted under this chapter, shall be used unless a valid permit is in effect in accordance with this chapter.

The director shall require, as a condition of every class II injection well permit, that every person who engages in the construction, modification

or operation of a well provides evidence of good and sufficient security in the form of a bond, letter of credit or other surety acceptable to the director that ensures that the applicant performs the duties required pursuant to this chapter and properly decommission any well covered by such permit. Good and sufficient security for each injection well shall be in the amount of ten thousand dollars (\$10,000) plus one dollar (\$1.00) per foot of depth. The security shall be conditioned upon the performance of the owner's or operator's duty to comply with the rules of the water resource board with respect to the construction, modification, operation, plugging and decommissioning of each well. The security shall remain in full force and effect until the plugging and decommissioning of the well is approved by the director or the security is released by the director. Well decommissioning shall include reclamation of the well site so that the site is left in a stable, noneroding condition with no impact to any ground water or surface water sources of the state. The director may require additional security of an owner or operator given sufficient reason, such as noncompliance, unusual conditions or other circumstances that suggest a particular well has potential risk or liability in excess of that normally expected.

If the director of the department of water resources determines the use of the proposed or existing injection well will interfere or is interfering with the right of the public to withdraw water for beneficial uses, and the director finds there are no overriding needs existing to justify the use of the injection well, the director may reject the application and forward notice of such rejection to the owner or operator by certified mail.

Approved March 12, 2013.

CHAPTER 44  
(H.B. No. 49)

AN ACT

RELATING TO INJECTION WELLS; AMENDING SECTION 42-3902, IDAHO CODE, TO DEFINE "CLASS II INJECTION WELL"; AND AMENDING SECTION 42-3905, IDAHO CODE, TO REVISE FILING FEE PROVISIONS AND TO PROVIDE A FILING FEE FOR CLASS II INJECTION WELLS.

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

SECTION 1. That Section 42-3902, Idaho Code, be, and the same is hereby amended to read as follows:

42-3902. DEFINITIONS. Whenever used in this chapter:

(1) "Aquifer" means any geologic formation that will yield water to a well in sufficient quantities to make production of water from the formation feasible for beneficial use, except when the water in such formation results solely from injection through a deep or shallow injection well.

(2) "Class II injection well" means a deep injection well used to inject fluids:

(a) Which are brought to the surface in connection with natural gas storage operations, or conventional oil or natural gas production and may be commingled with waste waters from gas plants, dehydration stations, or compressor stations which are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection;

(b) For enhanced recovery of oil or natural gas; or

(c) For storage of hydrocarbons which are liquid at standard temperature and pressure.

(3) "Deep injection well" means an injection well which is more than eighteen (18) feet in vertical depth below land surface.

(34) "Director" means the director of the department of water resources.

(45) "Drinking water source" means an aquifer which contains water having less than ten thousand (10,000) mg/l total dissolved solids and has not been exempted from this designation by the director of the department of water resources.

(56) "Fluid" means any material or substance which flows or moves whether in a semisolid, liquid, sludge, gaseous or any other form or state.

(67) "Formation" means a body of consolidated or unconsolidated rock characterized by a degree of lithologic homogeneity which is mappable at the earth's surface or traceable in the subsurface.

(78) "Hazardous waste" means any fluid or combination of fluids, excluding radioactive wastes, which because of quantity, concentration or characteristics (physical, chemical or biological) may:

(a) Cause or significantly contribute to an increase in deaths or an increase in serious, irreversible or incapacitating reversible illness; or

(b) Pose a substantial threat to human health or to the environment if improperly treated, stored, disposed of, or managed. Such wastes include, but are not limited to, materials which are toxic, corrosive, ignitable, or reactive, or materials which may have mutagenic, teratogenic, or carcinogenic properties, but do not include solid or dissolved material in domestic sewage or solid or dissolved material in irrigation return flows.

(89) "Injection" means the subsurface emplacement of fluids through an injection well, but excludes the following:

(a) The underground injection of natural gas for purposes of storage; and

(b) The underground injection of fluids or propping agents, other than diesel fuels, pursuant to hydraulic fracturing operations related to oil, gas or geothermal production activities.

(910) "Injection well" means any feature that is operated to allow injection which also meets at least one (1) of the following criteria:

(a) A bored, drilled or driven shaft whose depth is greater than the largest surface dimension;

(b) A dug hole whose depth is greater than the largest surface dimension;

(c) An improved sinkhole; or

(d) A subsurface fluid distribution system.

Provided however, that "injection well" does not mean or include any well drilled for oil, gas or geothermal production activities, other than one into which diesel fuels are injected pursuant to hydraulic fracturing operations.

(101) "Irrigation waste water" means excess surface water from agricultural fields generated during any agricultural operation, including runoff of irrigation tailwater, as well as natural drainage resulting from precipitation, snowmelt and floodwaters.

(112) "Licensed driller" means any person holding a valid license to drill water wells in Idaho as provided and defined in section 42-238, Idaho Code.

(123) "Operate" means to allow fluids to enter an injection well by action or by inaction of the operator.

(134) "Operator" means any individual, group of individuals, partnership, company, corporation, municipality, county, state agency, taxing district or federal agency who operates or proposes to operate any injection well.

(145) "Owner" means any individual, group of individuals, partnership, company, corporation, municipality, county, state agency, taxing district, or federal agency owning land on which any injection well exists or is proposed to be constructed.

(156) "Radioactive material" means any material, solid, liquid or gas which emits radiation spontaneously.

(167) "Radioactive waste" means any fluid which contains radioactive material in concentrations which exceed those established for discharges to water by 10 CFR 20.

(178) "Shallow injection well" means an injection well which is less than or equal to eighteen (18) feet in vertical depth below land surface.

(189) "Sanitary waste" means any fluid generated through residential (domestic) activities, such as food preparation, cleaning and personal hygiene. The term does not include industrial, municipal, commercial or other nonresidential process fluids.

(1920) "Surface runoff water" means runoff water from the natural ground surface and cropland. Runoff from urbanized areas, such as streets, parking lots, airports, and runoff from animal feedlots, agricultural processing facilities and similar facilities are not included within the scope of this term.

SECTION 2. That Section 42-3905, Idaho Code, be, and the same is hereby amended to read as follows:

42-3905. FEES -- TRANSMITTED TO STATE TREASURER. (1) Fees provided for in this section shall accompany all applications and notice of construction forms. No such application or notice of construction form shall be accepted unless accompanied by a filing fee as provided in this section. A separate application shall be filed for each deep injection well and each shallow injection well for which a permit is required by the rules adopted by the water resource board. The filing fee for each deep injection well requiring a permit shall be two thousand five hundred dollars (\$2,500) for a class II injection well and one hundred dollars (\$100) for all other deep injection wells, payable to the department of water resources.

(2) The notice of construction form for each new shallow injection well shall be accompanied by a fee of seventy-five dollars (\$75.00) payable to the department of water resources.

(3) All fees received under the provisions of this chapter are deemed to be nonrefundable and shall be transmitted to the state treasurer for deposit in the water administration fund as established under the provisions of section 42-238a, Idaho Code, except that fees submitted with applications that do not require a permit shall be returned to the applicant. Fees collected may be used by the director of the department of water resources to carry out the provisions of this chapter.

Approved March 12, 2013.

CHAPTER 45  
(H.B. No. 50)

AN ACT

RELATING TO HYDROPOWER; AMENDING SECTION 42-203B, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE AUTHORITY OF THE DIRECTOR OF THE IDAHO DEPARTMENT OF WATER RESOURCES TO LIMIT A PERMIT OR LICENSE FOR POWER PURPOSES TO A TERM, TO PROVIDE THAT THE TERM MAY BE IN CERTAIN FORMS, TO REVISE AN EXCEPTION TO APPLICABILITY, TO REVISE PROVISIONS RELATING TO THE CONSIDERATION OF CERTAIN FACTORS REGARDING THE DIRECTOR'S LIMITATION OF A

PERMIT OR LICENSE TO A TERM, TO REMOVE REFERENCE TO A TERM OF YEARS, TO PROVIDE THAT THE TERM, ONCE ESTABLISHED, SHALL NOT BE MODIFIED EXCEPT IN ACCORDANCE WITH DUE PROCESS OF LAW PRIOR TO EXPIRING, TO PROVIDE FOR THE AUTOMATIC EXTENSION OF A TERM WITH ANNUAL RENEWALS OF THE PROJECT'S FEDERAL ENERGY REGULATORY COMMISSION (FERC) LICENSE, TO PROVIDE THAT THE DIRECTOR MAY REVIEW SUCH WATER RIGHT LICENSES AND ISSUE CERTAIN ORDERS PRIOR TO THE ISSUANCE OF A SUBSEQUENT OR NEW FERC LICENSE, TO PROVIDE FOR THE EFFECTIVE DATE OF SUCH ORDERS, TO PROVIDE FOR AUTOMATIC EXTENSION OF TERMS WHERE SUCH ORDER IS NOT ISSUED AND FOR THE CONTINUED EFFECTIVENESS OF ORIGINAL CONDITIONS, TO PROVIDE FOR THE DIRECTOR'S REVIEW OF TERMS NOT ESTABLISHED BY REFERENCE TO A PROJECT'S FERC LICENSE, TO PROVIDE THAT THE DIRECTOR MAY REVIEW SUCH WATER RIGHT LICENSES AND ISSUE CERTAIN ORDERS PRIOR TO EXPIRATION OF THE TERM, TO PROVIDE FOR THE EFFECTIVE DATE OF SUCH ORDERS, TO PROVIDE FOR AUTOMATIC EXTENSION OF TERMS WHERE SUCH ORDER IS NOT ISSUED AND FOR THE CONTINUED EFFECTIVENESS OF ORIGINAL CONDITIONS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 42-203B, Idaho Code, be, and the same is hereby amended to read as follows:

42-203B. AUTHORITY TO SUBORDINATE RIGHTS -- NATURE OF SUBORDINATED WATER RIGHT AND AUTHORITY TO ESTABLISH A SUBORDINATION CONDITION -- AUTHORITY TO LIMIT TERM OF PERMIT OR LICENSE. (1) The legislature finds and declares that it is in the public interest to specifically implement the state's power to regulate and limit the use of water for power purposes and to define the relationship between the state and the holder of a water right for power purposes to the extent such right exceeds an established minimum flow. The purposes of the trust established by subsections (2) and (3) of this section are to assure an adequate supply of water for all future beneficial uses and to clarify and protect the right of a user of water for power purposes subordinated by a permit issued after July 1, 1985, or by an agreement, to continue using the water pending approval of depletionary future beneficial uses.

(2) A water right for power purposes which is defined by agreement with the state as unsubordinated to the extent of a minimum flow established by state action shall remain unsubordinated as defined by the agreement. Any portion of the water rights for power purposes in excess of the level so established shall be held in trust by the state of Idaho, by and through the governor, for the use and benefit of the user of the water for power purposes, and of the people of the state of Idaho; provided, however, that application of the provisions of this section to water rights for hydropower purposes on the Snake river or its tributaries downstream from Milner dam shall not place in trust any water from the Snake river or surface or ground water tributary to the Snake river upstream from Milner dam. For the purposes of the determination and administration of rights to the use of the waters of the Snake river or its tributaries downstream from Milner dam, no portion of the waters of the Snake river or surface or ground water tributary to the Snake river upstream from Milner dam shall be considered. The rights held in trust shall be subject to subordination to and depletion by future upstream beneficial users whose rights are acquired pursuant to state law, including compliance with the requirements of section 42-203C, Idaho Code.

(3) Water rights for power purposes not defined by agreement with the state shall not be subject to depletion below any applicable minimum stream flow established by state action. Water rights for power purposes in excess of such minimum stream flow shall be held in trust by the state of Idaho, by and through the governor, for the use and benefit of the users of water for power purposes and of the people of the state of Idaho. The rights held in

trust shall be subject to subordination to and depletion by future consumptive upstream beneficial users whose rights are acquired pursuant to state law, excluding compliance with the requirements of section 42-203C, Idaho Code.

(4) The user of water for power purposes as beneficiary of the trust established in subsections (2) and (3) of this section shall be entitled to use water available at its facilities to the extent of the water right, and to protect its rights to the use of the water as provided by state law against depletions or claims not in accordance with state law.

(5) The governor or his designee is hereby authorized and empowered to enter into agreements with holders of water rights for power purposes to define that portion of their water rights at or below the level of the applicable minimum stream flow as being unsubordinated to upstream beneficial uses and depletions, and to define such rights in excess thereof as being held in trust by the state under subsection (2) of this section. Such agreements shall be subject to ratification by law. The contract entered into by the governor and the Idaho Power Company on October 25, 1984, is hereby found and declared to be such an agreement, and the legislature hereby ratifies the governor's authority and power to enter into this agreement.

(6) The director shall have the authority to subordinate the rights granted in a permit or license for power purposes to subsequent upstream beneficial depletionary uses. A subordinated water right for power use does not give rise to any claim against, or right to interfere with, the holder of subsequent upstream rights established pursuant to state law. The director shall also have the authority to limit a permit or license for power purposes to a specific term, which may be in the form of a fixed date or by reference to a federal energy regulatory commission (FERC) license or other authorization issued or contract executed, in connection with the power project.

Subsection (6) of this section shall not apply to licenses which have already been issued as of ~~the effective date of this act July 1, 1985.~~

(7) The director, in the exercise of the authority to limit a permit or license for power purposes to a specific term, of years shall, designate the number of years through which the term of the license shall extend and for purposes of determining such date shall term, consider among other any of the following factors, among others:

(a) The term of any power purchase contract which is, or reasonably may become, applicable to, such permit or license;

(b) The policy of the Idaho public utilities commission (IPUC) regarding the term of power purchase contracts as administered by the IPUC under and pursuant to the authority of the public utility regulatory policy act of 1978 (PURPA);

(c) The term of any ~~federal energy regulatory commission (FERC) license granted, or which reasonably may be granted, with respect to any particular permit or license for power purpose;~~

(d) Existing downstream water uses established pursuant to state law.

~~The term of years shall be determined at the time of issuance of the permit, or as soon thereafter as practicable if adequate information is not then available. The term of years shall commence upon application of water to beneficial use. The term of years, once established, shall not thereafter be modified except in accordance with due process of law prior to expiring.~~

(8) If a term is established by the director by reference to the hydropower project's FERC license, the term shall automatically extend to run concurrently with any annual renewals of the project's FERC license. Prior to the issuance of a subsequent or new FERC license for the project, the director may review the water right license and may issue an order canceling all or any part of the use, establishing a new term, or revising, adding or deleting conditions under which the water right may be exercised. The order shall take effect on the date the current term, as may be extended through an-

nual renewals, expires. If the director does not issue such an order, the term shall automatically extend to a length equal to the project's subsequent or new FERC license and any original conditions on the water right license shall remain in effect.

(9) If a term is established by the director but the term is not established by reference to a hydropower project's FERC license, the director may review the water right license prior to the expiration of the term and may issue an order canceling all or any part of the use, establishing a new term of years, or revising, adding or deleting conditions under which the water right may be exercised. The order shall take effect on the date the current term expires. If the director does not issue such an order, the term shall automatically extend to a length equal to the original term and any original conditions on the water right license shall remain in effect.

Approved March 12, 2013.

CHAPTER 46  
(H.B. No. 82)

AN ACT

RELATING TO WORKER'S COMPENSATION; AMENDING SECTION 72-102, IDAHO CODE, TO REVISE A DEFINITION; AND AMENDING SECTION 72-205, IDAHO CODE, TO PROVIDE THAT CERTAIN WORK EXPERIENCE STUDENTS SHALL BE COVERED BY THE IDAHO HIGHER EDUCATION POLICY.

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

SECTION 1. That Section 72-102, Idaho Code, be, and the same is hereby amended to read as follows:

72-102. DEFINITIONS. Words and terms used in the worker's compensation law, unless the context otherwise requires, are defined in the subsections which follow:

(1) "Alien" means a person who is not a citizen, a national or a resident of the United States or Canada. Any person not a citizen or national of the United States who relinquishes or is about to relinquish his residence in the United States shall be regarded as an alien.

(2) "Balance billing" means charging, billing, or otherwise attempting to collect directly from an injured employee payment for medical services in excess of amounts allowable in compensable claims as provided by rules promulgated by the commission pursuant to section 72-508, Idaho Code.

(3) "Beneficiary" means any person who is entitled to income benefits or medical and related benefits under this law.

(4) "Burial expenses" means a sum, not to exceed six thousand dollars (\$6,000) for funeral and burial or cremation, together with the actual expenses of transportation of the employee's body to his place of residence within the United States or Canada.

(5) "Commission" means the industrial commission.

(6) "Community service worker" means:

(a) Any person who has been convicted of a criminal offense, any juvenile who has been found to be within the purview of chapter 5, title 20, Idaho Code, and who has been informally diverted under the provisions of section 20-511, Idaho Code, or any person or youth who has been diverted from the criminal or juvenile justice system and who performs a public service for any department, institution, office, college, university, authority, division, board, bureau, commission, council, or other entity of the state, or any city, county, school district, irrigation district or other taxing district authorized to levy a tax or an assess-

ment or any other political subdivision or any private not-for-profit agency which has elected worker's compensation insurance coverage for such person; or

(b) Parolees under department of correction supervision, probationers under court order or department of correction supervision and offender residents of community work centers under the direction or order of the board of correction who are performing public service or community service work for any of the entities specified in paragraph (6) (a) of this section other than the department of correction.

(7) "Compensation" used collectively means any or all of the income benefits and the medical and related benefits and medical services.

(8) "Custom farmer" means a person who contracts to supply operated equipment to a proprietor of a farm for the purpose of performing part or all of the activities related to raising or harvesting agricultural or horticultural commodities.

(9) "Death" means death resulting from an injury or occupational disease.

(10) Dependency limitations.

(a) "Adopted" and "adoption" include cases where persons are treated as adopted as well as those of legal adoption unless legal adoption is specifically provided.

(b) "Brother" and "sister" include stepbrothers and stepsisters, half brothers and half sisters, and brothers and sisters by adoption.

(c) "Child" includes adopted children, posthumous children, and acknowledged illegitimate children, but does not include stepchildren unless actually dependent.

(d) "Grandchild" includes children of legally adopted children and children of stepchildren, but does not include stepchildren of children, stepchildren of stepchildren, or stepchildren of adopted children unless actually dependent.

(e) "Parent" includes stepparents and parents by adoption.

(f) "Grandparent" includes parents of parents by adoption, but does not include parents of stepparents, stepparents of parents, or stepparents of stepparents.

(11) "Disability," for purposes of determining total or partial temporary disability income benefits, means a decrease in wage-earning capacity due to injury or occupational disease, as such capacity is affected by the medical factor of physical impairment, and by pertinent nonmedical factors as provided in section 72-430, Idaho Code.

(12) "Employee" is synonymous with "workman" and means any person who has entered into the employment of, or who works under contract of service or apprenticeship with, an employer. It does not include any person engaged in any of the excepted employments enumerated in section 72-212, Idaho Code, unless an election as provided in section 72-213, Idaho Code, has been filed. Any reference to an employee who has been injured shall, where the employee is dead, include a reference to his dependents as herein defined, if the context so requires, or, where the employee is a minor or incompetent, to his committee or guardian or next friend.

(13) (a) "Employer" means any person who has expressly or impliedly hired or contracted the services of another. It includes contractors and subcontractors. It includes the owner or lessee of premises, or other person who is virtually the proprietor or operator of the business there carried on, but who, by reason of there being an independent contractor or for any other reason, is not the direct employer of the workers there employed. If the employer is secured, it means his surety so far as applicable.

(b) "Professional employer" means a professional employer as defined in chapter 24, title 44, Idaho Code.

(c) "Temporary employer" means the employer of temporary employees as defined in section 44-2403(7), Idaho Code.

(d) "Work site employer" means the client of the temporary or professional employer with whom a worker has been placed.

(14) "Farm labor contractor" means any person or his agent or subcontractor who, for a fee, recruits and employs farm workers and performs any farm labor contracting activity.

(15) "Gender and number." The masculine gender includes the feminine and neuter; "husband" or "wife" includes "spouse"; the singular number includes plural and the plural the singular.

(16) "Income benefits" means payments provided for or made under the provisions of this law to the injured employee disabled by an injury or occupational disease, or his dependents in case of death, excluding medical and related benefits.

(17) "Independent contractor" means any person who renders service for a specified recompense for a specified result, under the right to control or actual control of his principal as to the result of his work only and not as to the means by which such result is accomplished. For the purposes of worker's compensation law, a custom farmer is considered to be an independent contractor.

(18) "Injury" and "accident."

(a) "Injury" means a personal injury caused by an accident arising out of and in the course of any employment covered by the worker's compensation law.

(b) "Accident" means an unexpected, undesigned, and unlooked for mishap, or untoward event, connected with the industry in which it occurs, and which can be reasonably located as to time when and place where it occurred, causing an injury.

(c) "Injury" and "personal injury" shall be construed to include only an injury caused by an accident, which results in violence to the physical structure of the body. The terms shall in no case be construed to include an occupational disease and only such nonoccupational diseases as result directly from an injury.

(19) "Manifestation" means the time when an employee knows that he has an occupational disease, or whenever a qualified physician shall inform the injured worker that he has an occupational disease.

(20) "Medical and related benefits" means payments provided for or made for medical, hospital, burial and other services as provided in this law other than income benefits.

(21) "Medical services" means medical, surgical, dental or other attendance or treatment, nurse and hospital service, medicines, apparatus, appliances, prostheses, and related services, facilities and supplies.

(22) "Occupational diseases."

(a) "Occupational disease" means a disease due to the nature of an employment in which the hazards of such disease actually exist, are characteristic of, and peculiar to the trade, occupation, process, or employment, but shall not include psychological injuries, disorders or conditions unless the conditions set forth in section 72-451, Idaho Code, are met.

(b) "Contracted" and "incurred," when referring to an occupational disease, shall be deemed the equivalent of the term "arising out of and in the course of" employment.

(c) "Disablement," except in the case of silicosis, means the event of an employee's becoming actually and totally incapacitated because of an occupational disease from performing his work in the last occupation in which injuriously exposed to the hazards of such disease, and "disability" means the state of being so incapacitated.

(d) "Disablement," in the case of silicosis, means the event of first becoming actually incapacitated, because of such disease, from per-

forming any work in any remunerative employment; and "disability" means the state of being so incapacitated.

(e) "Silicosis" means the characteristic fibrotic condition of the lungs caused by the inhalation of silicon dioxide (SiO<sub>2</sub>) dust.

(23) "Outworker" means a person to whom articles or materials are furnished to be treated in any way on premises not under the control or management of the person who furnished them.

(24) "Person" means the state or any political subdivision thereof, or any individual, partnership, firm, association, trust, corporation, including the state insurance fund, or any representative thereof.

(25) "Physician" means medical physicians and surgeons, ophthalmologists, otorhinolaryngologists, dentists, osteopaths, osteopathic physicians and surgeons, optometrists, podiatrists, chiropractic physicians, and members of any other healing profession licensed or authorized by the statutes of this state to practice such profession within the scope of their practice as defined by the statutes of this state and as authorized by their licenses.

(26) "Provider" means any person, firm, corporation, partnership, association, agency, institution, or other legal entity providing any kind of medical services related to the treatment of an injured employee which are compensable under Idaho's worker's compensation law.

(27) "Secretary" means the secretary of the commission.

(28) "Self-insurer" means an employer who has been authorized under the provisions of this law to carry his own liability to his employees covered by this law.

(29) "State" includes any state, district, commonwealth, zone or territory of the United States or any province of Canada.

(30) "Surety" means any insurer authorized to insure or guarantee payment of worker's compensation liability of employers in any state; it also includes the state insurance fund, a self-insurer and an inter-insurance exchange.

(31) "United States," when used in a geographic sense, means the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone and the territories of the United States.

(32) "Volunteer emergency responder" means a firefighter or peace officer, or publicly employed certified personnel as that term is defined in section 56-1012, Idaho Code, who is a bona fide member of a legally organized law enforcement agency, a legally organized fire department or a licensed emergency medical service provider organization who contributes services.

(33) "Wages" and "wage earning capacity" prior to the injury or disablement from occupational disease mean the employee's money payments for services as calculated under section 72-419, Idaho Code, and shall additionally include the reasonable market value of board, rent, housing, lodging, fuel, and other advantages which can be estimated in money which the employee receives from the employer as part of his remuneration, and gratuities received in the course of employment from others than the employer. "Wages" shall not include sums which the employer has paid to the employee to cover any special expenses entailed on him by the nature of his employment.

(34) "Wages" and "wage earning capacity" after the injury or disablement from occupational disease shall be presumed to be the actual earnings after the injury or disablement, which presumption may be overcome by showing that those earnings do not fairly and reasonably represent wage earning capacity; in such a case wage earning capacity shall be determined in the light of all factors and circumstances which may affect the worker's capacity to earn wages.

(35) "Work experience student" means any person enrolled in the public school districts or public institutions of higher education of this state and who, as part of his instruction, is enrolled in a class or program for academic credit and for which the student is employed by, or works for, a

private or governmental entity. The student need not receive wages from the private or governmental entity in order to be classified as a work experience student.

(36) "Worker's compensation law" or "workmen's compensation law" means and includes the worker's compensation law of this state and any like or similar law of any state, United States, territory, or province of Canada.

SECTION 2. That Section 72-205, Idaho Code, be, and the same is hereby amended to read as follows:

72-205. PUBLIC EMPLOYMENT GENERALLY -- COVERAGE. The following shall constitute employees in public employment and their employers subject to the provisions of this law:

(1) Every person in the service of the state or of any political subdivision thereof, under any contract of hire, express or implied, and every official or officer thereof, whether elected or appointed, while performing his official duties, except officials of athletic contests involving secondary schools, as defined by section 33-119, Idaho Code.

(2) Every person in the service of a county, city, or any political subdivision thereof, or of any municipal corporation.

(3) Participants in the Idaho youth conservation project under the supervision of the Idaho state forester.

(4) Every person who is a volunteer emergency responder shall be deemed, for the purposes of this law, to be in the employment of the political subdivision or municipality where the department, agency or organization is organized.

(5) Every person who is a regularly enrolled volunteer member or trainee of the department of disaster and civil defense, or of a civil defense corps, shall be deemed, for the purposes of this law, to be in the employment of the state.

(6) Members of the Idaho national guard while on duty and employees of or persons providing voluntary service to an approved Idaho national guard morale, welfare, and recreational activity. No Idaho compensation benefits shall inure to any such member, employee or volunteer or their beneficiaries for any injury or death compensable under federal law.

(7) A community service worker, as that term is defined in section 72-102, Idaho Code, is considered to be an employee in public employment for purposes of receiving worker's compensation benefits, which shall be the community service worker's exclusive remedy for all injuries and occupational diseases as provided under chapters 1 through 8, title 72, Idaho Code.

(8) Every person who participates in a youth employment program funded in whole or in part by state or federal money and administered by a state or federal agency or a nonprofit corporation or entity.

(9) A work experience student, as that term is defined in section 72-102, Idaho Code, who does not receive wages while participating in the school's work experience program shall be covered by the school district's policy or by the Idaho higher education policy.

Approved March 12, 2013.

CHAPTER 47  
(H.B. No. 89)

AN ACT

RELATING TO THE PHYSICIAN ASSISTANT ADVISORY COMMITTEE; AMENDING SECTION 54-1807A, IDAHO CODE, TO REVISE THE RATE OF COMPENSATION FOR THE MEMBERS OF THE PHYSICIAN ASSISTANT ADVISORY COMMITTEE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 54-1807A, Idaho Code, be, and the same is hereby amended 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(hn), 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.

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

Approved March 12, 2013.

CHAPTER 48  
(H.B. No. 122)

AN ACT  
APPROPRIATING ADDITIONAL MONEYS TO THE SOIL AND WATER CONSERVATION COMMISSION FOR FISCAL YEAR 2013; 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 238, Laws of 2012, and any other appropriation provided for by law, there is hereby appropriated \$20,000 from the Federal Grant Fund to the Soil and Water Conservation Commission, to be expended for operating expenditures, for the period July 1, 2012, through June 30, 2013.

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

Approved March 12, 2013.

CHAPTER 49  
(H.B. No. 123)

AN ACT  
APPROPRIATING ADDITIONAL MONEYS TO THE LAVA HOT SPRINGS FOUNDATION FOR FISCAL YEAR 2013; 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 237, Laws of 2012, and any other appropriation provided for by law, there is hereby appropriated \$140,000 from the Lava Hot Springs Foundation Fund to the Lava Hot Springs Foundation, to be expended for capital outlay, for the period July 1, 2012, through June 30, 2013.

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

Approved March 12, 2013.

CHAPTER 50  
(H.B. No. 166)

AN ACT

RELATING TO THE IDAHO NATIONAL GUARD YOUTH CHALLENGE PROGRAM; APPROPRIATING ADDITIONAL MONEYS TO THE MILITARY DIVISION FOR THE FEDERAL/STATE AGREEMENTS PROGRAM FOR FISCAL YEAR 2013; AUTHORIZING ADDITIONAL FULL-TIME EQUIVALENT POSITIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 171, Laws of 2012, and any other appropriation provided for by law, there is hereby appropriated to the Military Division for the Federal/State Agreements Program, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
Miscellaneous Revenue			
Fund	\$84,500	\$885,800	\$970,300
Federal Grant			
Fund	<u>253,600</u>	<u>168,200</u>	<u>421,800</u>
TOTAL	\$338,100	\$1,054,000	\$1,392,100

SECTION 2. FTP AUTHORIZATION. The full-time equivalent position authorization provided to the Military Division in Section 2, Chapter 171, Laws of 2012, is increased by five (5) for the period July 1, 2012, through June 30, 2013.

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

Approved March 12, 2013.

CHAPTER 51  
(H.B. No. 174)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 2013; 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 276, Laws of 2012, and any other appropriation provided for by law, there is hereby appropriated to the Department of Water Resources for the Water Management Program, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
Water Administration			
Fund		\$400,000	\$400,000
Water Resources Adjudication			
Fund	\$35,000	0	35,000
TOTAL	\$35,000	\$400,000	\$435,000

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

Approved March 12, 2013.

CHAPTER 52  
(H.B. No. 180)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISION OF WELFARE FOR FISCAL YEAR 2013; PROVIDING LEGISLATIVE INTENT; 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 288, Laws of 2012, and any other appropriation provided for by law, there is hereby appropriated to the Department of Health and Welfare for the Division of Welfare, the following amounts to be expended for the designated programs and expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. SELF-RELIANCE OPERATIONS:			
FROM:			
Cooperative Welfare (Federal)			
Fund	\$6,320,000		\$6,320,000
II. BENEFIT PAYMENTS:			
FROM:			
Cooperative Welfare (Dedicated)			
Fund	0	\$831,900	\$831,900
TOTAL	\$6,320,000	\$831,900	\$7,151,900

SECTION 2. LEGISLATIVE INTENT. Clarifying approval of fiscal year 2013 supplemental requests by the Department of Health and Welfare for the Medicaid Readiness Project on February 7, 2013, it is the intent of the Legisla-

ture that funding provided for the Medicaid Readiness Project support only the "mandatory" changes to the Medicaid program that are required by the Patient Protection and Affordable Care Act. Funding for the Medicaid Readiness Project is not intended to support the "optional" expansion of the Medicaid program as identified in the June 28, 2012, Supreme Court Ruling in the case of National Federation of Independent Business v. Sebelius, Secretary of Health and Human Services.

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

Approved March 12, 2013.

CHAPTER 53  
(H.B. No. 7)

AN ACT

RELATING TO THE DEPARTMENT OF FINANCE; AMENDING SECTION 67-2754, IDAHO CODE, TO GRANT THE DIRECTOR OF THE DEPARTMENT OF FINANCE THE AUTHORITY TO APPROVE A MULTISTATE LICENSING PROGRAM FOR USE BY CERTAIN PERSONS AND TO PROVIDE REQUIREMENTS FOR SUCH PERSONS USING AN APPROVED MULTISTATE LICENSING SYSTEM.

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

SECTION 1. That Section 67-2754, Idaho Code, be, and the same is hereby amended to read as follows:

67-2754. POWERS OF DIRECTOR. The director shall have the following powers and authority under this act:

(1) Investigations. The director may make such public or private investigations within or without this state as he deems necessary to determine whether any person has violated this act or is attempting or conspiring to violate this act. The investigative powers of the director under this act shall include, but not be limited to, participating in joint or multi-state investigations with any regulatory or law enforcement agencies of this state, any other state, the federal government or authorized agency thereof, or any regulatory or law enforcement agency of another country. The director may also participate in any antifraud or criminal information network or service available to the director or the department.

(2) Statements. The director may require or permit any person to file a statement in writing, under oath, to appear before the director and give testimony, or otherwise, as the director may determine, as to all the facts and circumstances concerning the matter to be investigated.

(3) Publication. The director may publish information concerning any violation or attempted violation of this act, or any rule or order hereunder.

(4) Subpoenas and production. Either in the course of an investigation, or in any administrative proceeding brought pursuant to this act, in addition to the powers and penalties set forth in section 67-2717, Idaho Code, the director may subpoena documents and witnesses, take evidence, require the production of any books, papers, correspondence, memoranda, agreements or other documents or records in any form or on any media, which the director, in his discretion, deems material or relevant.

(a) Failure to comply. In case of contumacy or refusal to obey a subpoena or order to compel production issued to any person, any court of competent jurisdiction, upon application by the director, may issue

to that person an order requiring him to appear before the director or the officer designated by him, to produce documentary evidence if so ordered, to appear and produce testimony if so ordered, or to give evidence relating to the matter under investigation or proceeding and any failure to obey such order of the court may be punished by the court as a contempt of court.

(b) Use of evidence or testimony. No person is excused from attending and testifying, from producing any document or record before the director or obeying the subpoena of the director or any officer designated by him or in any proceeding instituted by the director on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he is compelled, after claiming his privilege against self-incrimination, to testify, except that the individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(5) Licensing and registration. The director may approve a multistate licensing system for use by persons seeking to obtain, maintain and retain a license under the laws administered by the department of finance. A person who chooses to use an approved multistate licensing system for licensure shall comply with all procedures, requirements and policies of that licensing system including, but not limited to, fees, renewal dates, reinstatement periods, reports and deadlines and may not convert to an alternative licensing system without the prior written consent of the director.

Approved March 12, 2013.

CHAPTER 54  
(H.B. No. 8)

AN ACT

RELATING TO COMMERCIAL TRANSACTIONS; AMENDING SECTION 28-41-201, IDAHO CODE, TO CLARIFY WHAT CONSTITUTES ENGAGING IN BUSINESS IN THIS STATE FOR WHICH A CERTAIN LICENSE IS REQUIRED; AMENDING SECTION 28-41-301, IDAHO CODE, TO DEFINE A TERM, TO PROVIDE CORRECT CODE REFERENCES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 28-46-301, IDAHO CODE, TO PROVIDE FOR CERTAIN EXEMPTIONS AND TO REVISE A CODE REFERENCE; AMENDING SECTION 28-46-302, IDAHO CODE, TO PROVIDE CIRCUMSTANCES UNDER WHICH A LICENSE APPLICATION SHALL BE DEEMED WITHDRAWN AND VOID, TO PROVIDE FOR THE AUTOMATIC EXPIRATION OF CERTAIN LICENSES, TO PROVIDE CRITERIA FOR THE REINSTATEMENT OF AN EXPIRED LICENSE AND TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 28-46-404, IDAHO CODE, TO PROVIDE FOR THE AUTOMATIC EXPIRATION OF CERTAIN LICENSES, TO PROVIDE CIRCUMSTANCES UNDER WHICH A LICENSE APPLICATION SHALL BE DEEMED WITHDRAWN AND VOID, TO PROVIDE CRITERIA FOR THE REINSTATEMENT OF AN EXPIRED LICENSE AND TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 28-46-413, IDAHO CODE, TO REVISE REQUIREMENTS RELATING TO PAYDAY LOAN BUSINESS PRACTICES; AMENDING SECTION 28-46-508, IDAHO CODE, TO REVISE PROVISIONS RELATING TO PROHIBITED ACTIONS; AMENDING SECTION 26-2239, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 28-41-107, IDAHO CODE, TO REVISE CODE REFERENCES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 28-41-108, IDAHO CODE, TO REVISE A CODE REFERENCE; AMENDING SECTION 28-44-102, IDAHO CODE, TO REVISE A CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 28-44-107, IDAHO CODE, TO REVISE A CODE REFERENCE; AMENDING SECTION 28-46-102, IDAHO CODE,

TO REVISE CODE REFERENCES; AMENDING SECTION 28-46-402, IDAHO CODE, TO REVISE A CODE REFERENCE; AMENDING SECTION 45-1604, IDAHO CODE, TO REVISE A CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 48-603, IDAHO CODE, TO REVISE A CODE REFERENCE; AND AMENDING SECTION 67-2751, IDAHO CODE, TO REVISE A CODE REFERENCE.

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

SECTION 1. That Section 28-41-201, Idaho Code, be, and the same is hereby amended to read as follows:

28-41-201. TERRITORIAL APPLICATION. (1) Except as otherwise provided in this section, this act applies to sales and loans made in this state and to modifications, including refinancings, consolidations, and deferrals, made in this state, of sales and loans, wherever made. For purposes of this act a sale, loan, or modification of a sale or loan is made in this state if:

(a) A written agreement evidencing the obligation or offer of the consumer is received by the creditor in this state; or

(b) A consumer who is a resident of this state enters into the transaction with a creditor who has solicited or advertised in this state by any means including, but not limited to, mail, brochure, telephone, print, radio, television, internet or any other electronic means.

(2) Notwithstanding subsection (1)(b) of this section, unless made subject to this act by agreement of the parties, a sale, loan, or modification of a sale or loan is not made in this state if a resident of this state enters into the transaction while physically present in another state.

(3) The part on limitations on creditors' remedies, part 1 of the chapter on remedies and penalties, chapter 45, title 28, Idaho Code, applies to actions or other proceedings brought in this state to enforce rights arising from regulated credit sales or regulated loans, or extortionate extensions of credit, wherever made.

(4) If a regulated credit sale or regulated loan, or modification thereof, is made in another state to a person who is a resident of this state when the sale, loan, or modification is made, the following provisions apply as though the transaction occurred in this state:

(a) A seller, lender, or assignee of his rights, may not collect charges through actions or other proceedings in excess of those permitted by the chapter on finance charges and related provisions; and

(b) A seller, lender, or assignee of his rights, may not enforce rights against the buyer or debtor, with respect to the provisions of agreements which violate the provisions on limitations on agreements and practices, part 3 of chapter 43, title 28, Idaho Code.

(5) Except as provided in subsection (3) of this section, a sale, loan, or modification thereof, made in another state to a person who was not a resident of this state when the sale, loan or modification was made is valid and enforceable according to its terms to the extent that it is valid and enforceable under the laws of the state applicable to the transaction.

(6) For the purposes of this act, the residence of a buyer or debtor is the address given by him as his residence in any writing signed by him in connection with a credit transaction. Until he notifies the creditor of a new or different address, the given address is presumed to be unchanged.

(7) Notwithstanding other provisions of this section:

(a) Except as provided in subsection (3) of this section, this act does not apply if the buyer or debtor is not a resident of this state at the time of a credit transaction and the parties then agree that the law of his residence applies; and

(b) This act applies if the buyer or debtor is a resident of this state at the time of a credit transaction and the parties then agree that the law of this state applies.

(8) Except as provided in subsection (7) of this section, the following agreements by a buyer or debtor are invalid with respect to regulated credit sales, regulated loans, or modifications thereof, to which this act applies:

- (a) That the law of another state shall apply;
- (b) That the buyer or debtor consents to the jurisdiction of another state; and
- (c) That fixes venue.

(9) Notwithstanding any other provision in this section, any person who, in this state, advertises, offers or solicits to make a loan for a consumer purpose, or arranges a payday loan for a third party lender, is engaging in business in this state for which a license is required under the Idaho credit code, unless exempt pursuant to section 28-46-301, Idaho Code.

SECTION 2. That Section 28-41-301, Idaho Code, be, and the same is hereby amended to read as follows:

28-41-301. GENERAL DEFINITIONS. (1) "Actuarial method" means the method, defined by rules adopted by the administrator, of allocating payments made on a debt between principal or amount financed and loan finance charge or credit service charge pursuant to which a payment is applied first to the accumulated loan finance charge or credit service charge and the balance is applied to the unpaid principal or unpaid amount financed.

(2) "Administrator" means the administrator designated in section 28-46-103, Idaho Code.

(3) "Agreement" means the bargain of the parties in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance.

(4) "Agricultural purpose" means a purpose related to the production, harvest, exhibition, marketing, transportation, processing, or manufacture of agricultural products by a natural person who cultivates, plants, propagates, or nurtures the agricultural products. "Agricultural products" includes agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish, and any products thereof, including processed and manufactured products, and any and all products raised or produced on farms and any processed or manufactured products thereof.

(5) "Amount financed" means the total of the following items:

(a) In the case of a sale, the cash price of the goods, services, or interest in land, less the amount of any down payment made in cash or in property traded in, and the amount actually paid or to be paid by the seller pursuant to an agreement with the buyer to discharge a security interest in, a lien on, or a debt with respect to property traded in;

(b) In case of a loan, the net amount paid to, receivable by, or paid or payable for the account of the debtor, plus the amount of any discount excluded from the finance charge, paragraph (b) (iii) of subsection (18); and

(c) In the case of a loan, to the extent that payment is, or payments are, deferred and the amount is not otherwise included and is authorized and disclosed to the debtor as required by law, amounts actually paid or to be paid by the creditor for registration, certificate of title, or license fees.

(6) "Billing cycle" means the time interval between periodic billing statement dates.

(7) "Business purpose" means any purpose except a consumer purpose. For purposes of this act, a credit transaction:

- (a) Engaged in by a debtor for an agricultural purpose; or
- (b) Engaged in by a debtor for an investment purpose; or
- (c) Creating a debt secured by a first mortgage or first deed of trust on real property; or

(d) In which the debtor is an organization, rather than a natural person;

is considered to be for a business purpose.

(8) "Card issuer" means a person who issues a credit card.

(9) "Cardholder" means a person to whom a credit card is issued or who has agreed with the card issuer to pay obligations arising from the issuance to or use of the card by another person.

(10) "Cash price" means the price of goods, services, or an interest in land at which the goods, services, or interest in land are offered for sale by the seller to cash buyers in the ordinary course of business, except as the administrator may otherwise prescribe by rule, and may include:

(a) Applicable sales, use, and excise and documentary stamp taxes;

(b) The cash price of accessories or related services such as delivery, installation, servicing, repairs, alterations, and improvements; and

(c) Amounts actually paid or to be paid by the seller for registration, certificate of title, or license fees.

The cash price stated by the seller to the buyer pursuant to the provisions on disclosure, part 2 of chapter 43, title 28, Idaho Code, is presumed to be the cash price.

(11) "Conspicuous" means a term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it. Whether a term or clause is conspicuous or not is for decision by the court.

(12) "Consumer purpose" means primarily a personal, family or household purpose. For purposes of this act, consumer purpose does not include a credit transaction:

(a) Engaged in by a debtor for an agricultural purpose; or

(b) Engaged in by a debtor for an investment purpose; or

(c) Creating a debt secured by a first mortgage or first deed of trust on real property; or

(d) In which the debtor is an organization, rather than a natural person.

(13) "Credit" means the right granted by a creditor to a debtor to defer payment of debt, to incur debt and defer its payment, or to purchase property or services and defer payment therefor.

(14) "Credit card" means a card or device issued under an arrangement pursuant to which a card issuer gives to a cardholder the privilege of obtaining credit from the card issuer or other person in purchasing or leasing property or services, obtaining loans, or otherwise. A transaction is "pursuant to a credit card" only if credit is obtained according to the terms of the arrangement by transmitting information contained on the card or device orally, in writing, by mechanical or electronic methods, or in any other manner. A transaction is not "pursuant to a credit card" if the card or device is used solely in that transaction to:

(a) Identify the cardholder or evidence his credit-worthiness and credit is not obtained according to the terms of the arrangement;

(b) Obtain a guarantee of payment from the cardholder's deposit account, whether or not the payment results in a credit extension to the cardholder by the card issuer; or

(c) Effect an immediate transfer of funds from the cardholder's deposit account by electronic or other means, whether or not the transfer results in a credit extension to the cardholder by the card issuer.

(15) "Creditor" means the person who grants credit in a regulated credit transaction or, except as otherwise provided, an assignee of a creditor's right to payment, but use of the term does not itself impose on an assignee any obligation of his assignor. In case of credit granted pursuant to a credit card, "creditor" means the card issuer and not another person honoring the credit card.

(16) "Debtor" means the person to whom credit is granted in a regulated credit transaction.

(17) "Earnings" means compensation paid or payable by an employer to an employee, or for his account, for personal services rendered or to be rendered by him, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension, retirement, or disability program.

(18) "Finance charge":

(a) Except as provided in paragraph (b) of this subsection, "finance charge" means the sum of any of the following types of charges payable directly or indirectly by the debtor and imposed directly or indirectly by the creditor as an incident to or as a condition of the extension of credit, as applicable:

(i) Interest or any amount payable under a point, discount, or other system of charges, however denominated;

(ii) Time-price differential, credit service, service, carrying, or other charge, however denominated;

(iii) Premium or other charge for any guarantee or insurance protecting the creditor against the debtor's default or other credit loss; and

(iv) Charges incurred for investigating the collateral or credit-worthiness of the debtor or for commissions or brokerage for obtaining the credit, irrespective of the person to whom the charges are paid or payable, unless the creditor had no notice of the charges when the credit was granted.

(b) The term does not include:

(i) Charges as a result of default or delinquency if made for actual unanticipated late payment, delinquency, default, or other like occurrence, unless the parties agree that these charges are finance charges; a charge is not made for actual unanticipated late payment, delinquency, default or other like occurrence if imposed on an account that is or may be debited from time to time for purchases or other debts and, under its terms, payment in full or of a specified amount is required when billed, and in the ordinary course of business the debtor is permitted to continue to have purchases or other debts debited to the account after imposition of the charge;

(ii) Deferral charges, section 28-42-302, Idaho Code; or

(iii) A discount, if a creditor purchases or satisfies obligations of a cardholder pursuant to a credit card and the purchase or satisfaction is made at less than the face amount of the obligation.

(19) "Goods" includes goods not in existence at the time the transaction is entered into and merchandise certificates, but excludes money, chattel paper, documents of title, and instruments.

(20) "Insurance premium loan" means a regulated consumer loan that:

(a) Is made for the sole purpose of financing the payment by or on behalf of an insured of the premium on one (1) or more policies or contracts issued by or on behalf of an insurer;

(b) Is secured by an assignment by the insured to the lender of the unearned premium on the policy or contract; and

(c) Contains an authorization to cancel the policy or contract financed.

(21) "Lender," except as otherwise provided, includes an assignee of a lender's right to payment, but use of the term does not in itself impose on an assignee any obligation of the lender.

(22) "Lender credit card" means a credit card issued by a regulated lender.

(23) (a) "Loan" means, except as provided in paragraph (b) of this subsection:

(i) The creation of debt by the lender's payment of or agreement to pay money to the debtor or to a third person for the account of the debtor;

(ii) The creation of debt pursuant to a lender credit card in any manner, including a cash advance or the card issuer's honoring a draft or similar order for the payment of money drawn or accepted by the debtor, paying or agreeing to pay the debtor's obligation, or purchasing or otherwise acquiring the debtor's obligation from the obligee or his assignees;

(iii) The creation of debt by a cash advance to a debtor pursuant to a seller credit card;

(iv) The creation of debt by a credit to an account with the lender upon which the debtor is entitled to draw immediately; and

(v) The forbearance of debt arising from a loan.

(b) "Loan" does not include:

(i) A card issuer's payment or agreement to pay money to a third person for the account of a debtor if the debt of the debtor arises from a sale and results from use of a seller credit card; or

(ii) The forbearance of debt arising from a sale.

(24) "Merchandise certificate" means a writing not redeemable in cash and usable in its face amount in lieu of cash in exchange for goods or services.

(25) "Nationwide mortgage licensing system and registry" or "NMLSR" means a mortgage licensing system developed and maintained by the conference of state bank supervisors and the American association of residential mortgage regulators for the licensing and registration of mortgage brokers, mortgage lenders, mortgage loan originators and other consumer financial service providers.

(26) "Open-end credit" means an arrangement pursuant to which:

(a) A creditor may permit a debtor, from time to time, to purchase on credit from the creditor or pursuant to a credit card, or to obtain loans from the creditor or pursuant to a credit card;

(b) The amounts financed and the finance and other appropriate charges are debited to an account;

(c) The finance charge, if made, is computed on the account periodically; and

(d) Either the debtor has the privilege of paying in full or in installments or the creditor periodically imposes charges computed on the account for delaying payment and permits the debtor to continue to purchase on credit.

(267) "Organization" means a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.

(278) "Payable in installments" means that payment is required or permitted by agreement to be made in:

(a) Two (2) or more periodic payments, excluding a down payment, with respect to a debt arising from a regulated consumer credit sale pursuant to which a finance charge is made;

(b) Four (4) or more periodic payments, excluding a down payment, with respect to a debt arising from a regulated consumer credit sale pursuant to which no finance charge is made; or

(c) Two (2) or more periodic payments with respect to a debt arising from a regulated consumer loan. If any periodic payment other than the down payment under an agreement requiring or permitting two (2) or more periodic payments is more than twice the amount of any other periodic payment, excluding the down payment, the regulated consumer credit sale or regulated consumer loan is "payable in installments."

(289) "Person" includes a natural person or an individual, and an organization.

(2930) "Person related to" with respect to an individual means:

- (a) The spouse of the individual;
- (b) A brother, brother-in-law, sister or sister-in-law of the individual;
- (c) An ancestor or lineal descendant of the individual or his spouse; and
- (d) Any other relative, by blood or marriage, of the individual or his spouse who shares the same home with the individual.

"Person related to" with respect to an organization means:

- (a) A person directly or indirectly controlling, controlled by or under common control with the organization;
- (b) An officer or director of the organization or a person performing similar functions with respect to the organization or to a person related to the organization;
- (c) The spouse of a person related to the organization; and
- (d) A relative by blood or marriage of a person related to the organization who shares the same home with him.

(301) "Precomputed credit transaction" means a credit transaction in which the debt is a sum comprising the amount financed and the amount of the finance charge computed in advance. A disclosure required by the Federal Consumer Credit Protection Act does not in itself make a finance charge or transaction precomputed.

(312) "Presumed" or "presumption" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

(323) "Regulated consumer credit sale" means a regulated credit sale, subsection (356) of this section, and for a consumer purpose, subsection (12) of this section.

(334) "Regulated consumer credit transaction" means a regulated credit transaction, subsection (367) of this section, and for a consumer purpose, subsection (12) of this section.

(345) "Regulated consumer loan" means a regulated loan, subsection (389) of this section, and for a consumer purpose, subsection (12) of this section.

(356) "Regulated credit sale" means a sale of goods, services, or an interest in land in which:

- (a) Credit is granted either pursuant to a seller credit card or by a seller who regularly engages as a seller in credit transactions of the same kind; and
- (b) The debt is payable in installments or a finance charge is made.

A "regulated credit sale" does not include a sale in which the seller allows the buyer to purchase goods or services pursuant to a lender credit card.

(367) "Regulated credit transaction" means a regulated credit sale or regulated loan or a refinancing or consolidation thereof.

(378) "Regulated lender" means a person authorized to make, or take assignments of, regulated consumer loans, as a regular business, under section 28-46-301, Idaho Code.

(389) "Regulated loan" means a loan made by a creditor regularly engaged in the business of making loans in which the debt is payable in installments or a finance charge is made. A "regulated loan" does not include a sale in which the seller allows the buyer to purchase pursuant to a seller credit card.

(3940) "Sale of goods" includes an agreement in the form of a bailment or lease of goods if the bailee or lessee pays or agrees to pay as compensation for use a sum substantially equivalent to or in excess of the aggregate value of the goods involved and it is agreed that the bailee or lessee will become, or for no other or a nominal consideration has the option to become, the owner of the goods upon full compliance with the terms of the agreement.

(401) "Sale of an interest in land" includes a lease in which the lessee has an option to purchase the interest and all or a substantial part of the rental or other payments previously made by him are applied to the purchase price.

(412) "Sale of services" means furnishing or agreeing to furnish services and includes making arrangements to have services furnished by another.

(423) "Seller" includes, except as otherwise provided, an assignee of the seller's right to payment, but use of the term does not in itself impose on an assignee any obligation of the seller.

(434) "Seller credit card" means either:

(a) A credit card issued primarily for the purpose of giving the cardholder the privilege of using the card to purchase property or services from the card issuer, persons related to the card issuer, or persons licensed or franchised to do business under the card issuer's business or trade name or designation, or both from any of these persons and from other persons; or

(b) A credit card issued by a person except a regulated lender primarily for the purpose of giving the cardholder the privilege of using the credit card to purchase property or services from at least one hundred (100) persons not related to the card issuer.

(445) "Services" includes:

(a) Work, labor, and other personal services;

(b) Privileges with respect to transportation, hotel and restaurant accommodations, education, entertainment, recreation, physical culture, hospital accommodations, funerals, cemetery accommodations, and the like; and

(c) Insurance provided by a person other than the insurer.

(456) "Supervised financial organization" means a person, except an insurance company or other organization primarily engaged in an insurance business:

(a) Organized, chartered, or holding an authorization certificate under the laws of this state or of the United States that authorizes the person to make loans and to receive deposits, including a savings, share, certificate or deposit account; and

(b) Subject to supervision by an official or agency of this state or of the United States.

SECTION 3. That Section 28-46-301, Idaho Code, be, and the same is hereby amended to read as follows:

28-46-301. AUTHORITY TO MAKE REGULATED CONSUMER LOANS -- EXEMPTION FROM LICENSING. (1) The administrator shall receive and act on all applications for licenses to make regulated consumer loans under this act. Applications shall be filed in the manner prescribed by the administrator and shall contain such information as the administrator may reasonably require. Unless a person is exempt under federal law or under this section or has first obtained a license from the administrator authorizing him to make regulated consumer loans, he shall not engage in the business of:

(a) Making regulated consumer loans; or

(b) Taking assignments of and undertaking direct collection of payments from or enforcement of rights against debtors arising from regulated consumer loans.

(2) Any "supervised financial organization," as defined in section 28-41-301(45), Idaho Code, or any person organized, chartered, or holding an authorization certificate under the laws of another state to engage in making loans and receiving deposits, including a savings, share, certificate, or deposit account and who is subject to supervision by an official or agency

of the other state, shall be exempt from the licensing requirements of this section.

(3) Mortgage lenders licensed under the Idaho residential mortgage practices act, chapter 31, title 26, Idaho Code, shall be exempt from the licensing requirements of this section as to mortgage lending activities defined in chapter 31, title 26, Idaho Code.

(4) Agencies of the United States and agencies of this state and its political subdivisions shall be exempt from the licensing requirements of this section.

SECTION 4. That Section 28-46-302, Idaho Code, be, and the same is hereby amended to read as follows:

28-46-302. LICENSE TO MAKE REGULATED CONSUMER LOANS. (1) The administrator shall receive and act on all applications for a license to do business as a regulated lender. Applications shall be filed in the manner prescribed by the administrator, shall contain such information as the administrator may reasonably require, shall be updated as necessary to keep the information current, and shall be accompanied by an application fee of three hundred fifty dollars (\$350). When an application for licensure is denied or withdrawn, the administrator shall retain all fees paid by the applicant. The administrator may deny an application for a license if the administrator finds that:

(a) The financial responsibility, character, and fitness of the applicant, and of the officers and directors thereof (if the applicant is a corporation) are not such as to warrant belief that the business will be operated honestly and fairly within the purposes of this act;

(b) The applicant does not maintain at least thirty thousand dollars (\$30,000) in liquid assets, as determined in accordance with generally accepted accounting principles, available for the purpose of making loans under this chapter;

(c) The applicant has had a license, substantially equivalent to a license under this chapter and issued by any state, denied, revoked or suspended under the law of such state;

(d) The applicant has filed an application for a license which is false or misleading with respect to any material fact;

(e) The application does not contain all of the information required by the administrator; or

(f) The application is not accompanied by an application fee of three hundred fifty dollars (\$350).

(2) A licensee under this chapter shall meet the requirements of subsection (1) of this section at all times while licensed pursuant to this chapter. The administrator is empowered to conduct investigations as he may deem necessary, to enable him to determine the existence of the requirements set out in subsection (1) of this section.

(3) Upon written request, the applicant is entitled to a hearing on the question of his qualifications for a license if:

(a) The administrator has notified the applicant in writing that his application has been denied, or objections filed; or

(b) The administrator has not issued a license within sixty (60) days after the application for the license was filed.

If a hearing is held, the applicant and those filing objections shall reimburse, pro rata, the administrator for his reasonable and necessary expenses incurred as a result of the hearing. A request for a hearing may not be made more than fifteen (15) days after the administrator has mailed a writing to the applicant notifying him that the application has been denied and stating in substance the administrator's finding supporting denial of the application or that objections have been filed and the substance thereof.

(4) The administrator may issue additional licenses to the same licensee upon application by the licensee, in the manner prescribed by the administrator, and payment of the required application fee. A separate license shall be required for each place of business. Each license shall remain in full force and effect unless the licensee does not satisfy the renewal requirements of subsection (78) of this section, or the license is relinquished, suspended or revoked.

(5) No licensee shall change the location of any place of business, or consolidate, or close any locations, without giving the administrator at least fifteen (15) days' prior written notice.

(6) A licensee shall not engage in the business of making regulated consumer loans at any place of business for which he does not hold a license nor shall he engage in business under any other name than that in the license.

(7) A license application shall be deemed withdrawn and void if an applicant submits an incomplete license application and, after receipt of a written notice of the application deficiency, fails to provide the director with information necessary to complete the application within sixty (60) days of receipt of the deficiency notice. A written deficiency notice shall be deemed received by a license applicant when:

(a) Placed in regular U.S. mail by the director or his agent using an address provided by the applicant on the license application; or

(b) E-mailed to the applicant using an e-mail address provided by the applicant on the license application; or

(c) Posted by the director or his agent on the NMLSR if the license application was submitted through the NMLSR.

(8) On or before May 31 of each year, every licensee under this chapter shall pay a nonrefundable annual license renewal fee of one hundred fifty dollars (\$150) per licensed location, and shall file with the administrator a renewal form containing such information as the administrator may require. Notwithstanding the provisions of section 67-5254, Idaho Code, a license issued under this part automatically expires if not timely renewed according to the requirements of this section. Notwithstanding the provisions of section 67-5254, Idaho Code, branch licenses issued under this part also expire upon the expiration, relinquishment or revocation of a license issued under this part to a licensee's designated home office.

(9) For a period of time not to exceed sixty (60) days following license expiration, the director may reinstate an expired license if he finds that the applicant meets the requirements for licensure under this part and the applicant has submitted to the director:

(a) A complete application for renewal;

(b) The fees required to apply for license renewal unless previously paid for the period for which the license renewal applies; and

(c) A reinstatement fee of two hundred dollars (\$200).

SECTION 5. That Section 28-46-404, Idaho Code, be, and the same is hereby amended to read as follows:

28-46-404. APPLICATION FOR PAYDAY LOAN LICENSE. (1) Each application for a license shall be in writing and under oath to the administrator, in a form prescribed by the administrator, and shall include at least the following:

(a) The legal name, residence and business address of the applicant and, if the applicant is an entity, of every member, partner, director, senior officer or twenty-five percent (25%) or more equity owner of the applicant;

(b) The location at which the principal place of business of the applicant is located; and

(c) Other data and information the administrator may require with respect to the applicant, and if the applicant is an entity, such data and

information of its members, partners, directors, senior officers, or twenty-five percent (25%) or more equity owners of the applicant.

(2) Each application for a license shall be accompanied by an application fee in the amount of three hundred fifty dollars (\$350). Such fee shall not be subject to refund.

(3) The fee set forth in subsection (2) of this section shall be required for each location for which an application is submitted.

(4) Within sixty (60) days of the filing of an application in a form prescribed by the administrator, accompanied by the fee required in subsection (2) of this section, the administrator shall investigate to ascertain whether the qualifications prescribed by subsection (1) of section 28-46-403, Idaho Code, have been satisfied. If the administrator finds that the qualifications have been satisfied and approves the documents, the administrator shall issue to the applicant a license to engage in the payday loan business.

(5) Notwithstanding the provisions of section 67-5254, Idaho Code, a license issued pursuant to this section shall remain in full force and effect unless the licensee does not satisfy part automatically expires if not timely renewed according to the renewal requirements of subsection (67) of this section, or the license is relinquished, suspended or revoked pursuant to this act. Notwithstanding the provisions of section 67-5254, Idaho Code, branch licenses issued under this part also expire upon the expiration, relinquishment or revocation of a license issued under this part to a licensee's designated home office.

(6) A license application shall be deemed withdrawn and void if an applicant submits an incomplete license application and, after receipt of a written notice of the application deficiency, fails to provide the director with information necessary to complete the application within sixty (60) days of receipt of the deficiency notice. A written deficiency notice shall be deemed received by a license applicant when:

(a) Placed in regular U.S. mail by the director or his agent using an address provided by the applicant on the license application; or

(b) E-mailed to the applicant using an e-mail address provided by the applicant on the license application; or

(c) Posted by the director or his agent on the NMLSR if the license application was submitted through the NMLSR.

(7) On or before May 31 of each year, every licensee under this part 4 shall pay a nonrefundable annual license renewal fee of one hundred fifty dollars (\$150) per licensed location, and shall file with the administrator a renewal form containing such information as the administrator may require.

(8) For a period of time not to exceed sixty (60) days following license expiration, the director may reinstate an expired license if he finds that the applicant meets the requirements for licensure under this part and the applicant has submitted to the director:

(a) A complete application for renewal;

(b) The fees required to apply for license renewal unless previously paid for the period for which the license renewal applies; and

(c) A reinstatement fee of two hundred dollars (\$200).

SECTION 6. That Section 28-46-413, Idaho Code, be, and the same is hereby amended to read as follows:

28-46-413. PAYDAY LOAN BUSINESS PRACTICES. (1) No licensee or person related to a licensee by common control may have outstanding at any time to a single borrower a loan or loans with an aggregate principal balance exceeding one thousand dollars (\$1,000), plus allowable fees.

(2) No payday loan shall be repaid by the proceeds of another payday loan made by the same licensee or a person related to the licensee by common control.

(3) If the borrower's check is returned unpaid to the licensee from a payor financial institution, the licensee shall have the right to collect charges authorized by section 28-22-105, Idaho Code, provided such charges are disclosed in the loan agreement. A licensee may not charge treble damages. If the borrower's obligation is assigned to any third party for collection, the provisions of this section shall apply to such third party collector.

(4) A licensee, or person required to be licensed pursuant to this part, shall not threaten a borrower with criminal action as a result of any payment deficit.

(5) No licensee, or person required to be licensed pursuant to this part, shall engage in unfair or deceptive acts, practices or advertising in the conduct of a payday loan business.

(6) A licensee may renew a payday loan no more than three (3) consecutive times, after which the payday loan shall be repaid in full by the borrower. A borrower may enter into a new loan transaction with the licensee at any time after a prior loan to the borrower is completed. A loan secured by a borrower's check is completed when the check is presented or deposited by the licensee or redeemed by the borrower pursuant to section 28-46-412(6), Idaho Code.

(7) Other than a borrower's check in a transaction pursuant to section 28-46-412(6), Idaho Code, a licensee shall not accept any property, title to property, or other evidence of ownership as collateral for a payday loan.

(8) A licensee may conduct other business at a location where it engages in payday lending unless it carries on such other business for the purpose of evading or violating the provisions of this act.

(9) A borrower may rescind the payday loan at no cost at any time prior to the close of business on the next business day following the day on which the payday loan was made by paying the principal amount of the loan to the licensee in cash or other immediately available funds.

SECTION 7. That Section 28-46-508, Idaho Code, be, and the same is hereby amended to read as follows:

28-46-508. PROHIBITED ACTIONS. A No title lender licensee under this part or person required under this part to have such license shall not:

(1) Enter into a title loan agreement with a person less than eighteen (18) years of age, or with anyone who appears to be intoxicated;

(2) Make any agreement giving the title lender any recourse against the debtor other than the title lender's right to take possession of the titled personal property and certificate of title upon the debtor's default, and to sell or otherwise dispose of the titled personal property in accordance with the provisions of chapter 9, title 28, Idaho Code, except where the debtor prevented repossession of the vehicle, damaged or committed or permitted waste on the vehicle or committed fraud;

(3) Enter into a title loan agreement in which the amount of money loaned, when combined with the outstanding balance of other outstanding title loan agreements the debtor has with the same lender secured by any single titled personal property, exceeds the retail value of the titled personal property as determined by common motor vehicle appraisal guides;

(4) Accept any waiver, in writing or otherwise, of any right or protection accorded a debtor under this chapter;

(5) Fail to exercise reasonable care to protect from loss or damage the certificate of title in the physical possession of the title lender;

(6) Purchase titled personal property used as security for a title loan made by the title lender;

(7) Enter into a title loan agreement unless the debtor presents a clear title to titled personal property at the time that the loan is made. If the

title lender files a lien against such titled personal property without possession of a clear title to such property, the resulting lien shall be void;

(8) Capitalize or add any accrued interest or fee to the original principal of the title loan agreement during any renewal of the agreement;

(9) Require a debtor to provide any additional guaranty as a condition to entering into a title loan agreement;

(10) Use any device or agreement, including agreements with affiliated title lenders, with the intent to obtain greater charges than otherwise would be authorized by this part; or

(11) Violate the provisions of this part or any rule promulgated pursuant thereto.

SECTION 8. That Section 26-2239, Idaho Code, be, and the same is hereby amended to read as follows:

26-2239. EXEMPTIONS. The provisions of this act shall not apply to the following:

(1) Persons licensed to practice law in this state, to the extent that they are retained by their clients to engage in activities authorized by this act, and such activities are incidental to the practice of law. Such exemption shall not apply to an attorney engaged in a separate business conducting the activities authorized by this act;

(2) Any regulated lender as defined in section 28-41-301(37), Idaho Code, and its subsidiary, affiliate or agent to the extent that the regulated lender, subsidiary, affiliate or agent collects for the regulated lender or engages in acts governed by this act which are incidental to the business of a regulated lender;

(3) Any bank, trust company, credit union, insurance company or industrial loan company authorized to do business in this state;

(4) Any federal, state or local governmental agency or instrumentality;

(5) Any real estate broker or real estate salesman licensed under the laws of and residing within this state while engaged in acts authorized by his real estate license;

(6) Any person authorized to engage in escrow business in this state while engaged in authorized escrow business;

(7) Any mortgage company engaged in the regular business of a mortgage company as defined in section 26-2802, Idaho Code, except a mortgage company engaged in a separate business conducting the activities authorized by this act;

(8) Any court appointed trustee, receiver or conservator;

(9) Any telephone corporation, as defined in subsection (10) of section 62-603, Idaho Code, whose initial request for payment on behalf of such telephone corporation or on behalf of another person is made by the telephone corporation as a part of regular telecommunications billings to its customers and at a time before the account, bill, claim or other indebtedness becomes past due or delinquent;

(10) Any person while acting as a debt collector for another person, both of whom are related by common ownership or affiliated by corporate control, if the person acting as a debt collector does so only for persons to whom he is so related or affiliated and if the principal business of such person is not the collection of debts.

SECTION 9. That Section 28-41-107, Idaho Code, be, and the same is hereby amended to read as follows:

28-41-107. EFFECT OF ACT ON POWERS OF ORGANIZATIONS. (1) This act prescribes maximum charges for all creditors, except those excluded under section 28-41-202, Idaho Code, extending credit as a regular business, includ-

ing regulated credit sales, ~~subsection (34) of as defined in~~ section 28-41-301, Idaho Code, and regulated loans, ~~subsection (37) of as defined in~~ section 28-41-301, Idaho Code, and displaces existing limitations on the powers of those creditors based on maximum charges, except in insurance matters as prescribed by rule ~~or regulation~~ of the department of insurance.

(2) With respect to sellers of goods or services, small loan companies, licensed lenders, finance companies, sales finance companies, industrial banks and loan companies, and commercial banks, this act displaces existing limitations on their powers based solely on amount or duration of credit, except the insurance matters as prescribed by rule ~~or regulation~~ of the department of insurance.

(3) Except as provided in subsection (1) of this section, this act does not displace limitations on powers of credit unions, savings banks, savings and loan associations, or other thrift institutions whether organized for the profit of shareholders or as mutual organizations.

(4) Except as provided in subsections (1) and (2) of this section, this act does not displace:

(a) Limitations on powers of supervised financial organizations, ~~subsection (44) of as defined in~~ section 28-41-301, Idaho Code, with respect to the amount of a loan to a single borrower, the ratio of the loan to the value of collateral, the duration of a loan secured by an interest in land, or other similar restrictions designed to protect deposits; or

(b) Limitations on powers an organization is authorized to exercise under the laws of this state or the United States.

(5) Notwithstanding the provisions of chapter 1, title 57, Idaho Code, and chapter 27, title 67, Idaho Code, any supervised financial organization which intentionally fails to comply with the provisions of this act shall not be entitled to receive deposits from state or public depositing units.

SECTION 10. That Section 28-41-108, Idaho Code, be, and the same is hereby amended to read as follows:

28-41-108. TRANSACTIONS SUBJECT TO ACT BY AGREEMENT. Parties to a credit transaction or modification thereof that is not a regulated consumer credit transaction, ~~subsection (33) of as defined in~~ section 28-41-301, Idaho Code, may agree in a writing signed by them that the transaction is subject to the provisions of this act applying to regulated consumer credit transactions. If the parties so agree, the transaction is a regulated consumer credit transaction for the purposes of this act.

SECTION 11. That Section 28-44-102, Idaho Code, be, and the same is hereby amended to read as follows:

28-44-102. SCOPE -- RELATION TO CREDIT INSURANCE ACT -- APPLICABILITY TO PARTIES. (1) Except as provided in subsection (2) of this section, this chapter applies to insurance provided or to be provided in relation to a regulated consumer credit transaction, ~~subsection 33 of as defined in~~ section 28-41-301, Idaho Code.

(2) The provision on cancellation by a creditor, section 28-44-304, Idaho Code, applies to loans the primary purpose of which is the financing of insurance. No other provision of this chapter applies to insurance so financed.

(3) This chapter supplements and does not repeal the Credit Insurance Act, chapter 23, title 41, Idaho Code. The provisions of this act concerning administrative controls, liabilities, and penalties do not apply to persons acting as insurers, as defined by title 41, Idaho Code, or rules and ~~regulations~~ prescribed by the director of the department of insurance.

SECTION 12. That Section 28-44-107, Idaho Code, be, and the same is hereby amended to read as follows:

28-44-107. MAXIMUM CHARGE BY CREDITOR FOR INSURANCE. (1) Except as provided in subsection (2) of this section, if a creditor contracts for or receives a separate charge for insurance, the amount charged to the debtor for the insurance may not exceed the premium to be charged by the insurer, as computed at the time the charge to the debtor is determined, conforming to any rate filings required by law and made by the insurer with the director of the department of insurance.

(2) A creditor who provides credit insurance in relation to open-end consumer credit, ~~subsection (25) of as defined in~~ section 28-41-301, Idaho Code, may calculate the charge to the debtor in each billing cycle by applying the current premium rate to:

- (a) The average daily unpaid balance of the debt in the cycle;
- (b) The unpaid balance of the debt or a median amount within a specified range of unpaid balances of debt on approximately the same day of the cycle. The day of the cycle need not be the day used in calculating the finance charge, section 28-42-201, Idaho Code, but the specified range shall be the range used for that purpose; or
- (c) The unpaid balances of principal calculated according to the actuarial method.

SECTION 13. That Section 28-46-102, Idaho Code, be, and the same is hereby amended to read as follows:

28-46-102. APPLICABILITY. This part applies to persons who in this state:

- (1) Make or solicit regulated consumer credit transactions, ~~subsection (33) of as defined in~~ section 28-41-301, Idaho Code; or
- (2) Directly collect payments from or enforce rights against debtors arising from regulated consumer credit transactions, ~~subsection (33) of as defined in~~ section 28-41-301, Idaho Code, wherever they are made; or
- (3) Are designated in this act as regulated lenders.

SECTION 14. That Section 28-46-402, Idaho Code, be, and the same is hereby amended to read as follows:

28-46-402. LICENSE REQUIRED. (1) No person shall engage in the business of payday loans, offer or make a payday loan, or arrange a payday loan for a third party lender in a payday loan transaction without having first obtained a license under this chapter. A separate license shall be required for each location from which such business is conducted.

(2) Any "supervised financial organization," as defined in section 28-41-301~~(45)~~, Idaho Code, or any person organized, chartered, or holding an authorization certificate under the laws of another state to engage in making loans and receiving deposits, including a savings, share, certificate, or deposit account and who is subject to supervision by an official or agency of the other state, shall be exempt from the licensing requirements of this section.

(3) A payday loan made in this state in violation of the licensing requirement of this section is void, uncollectible and unenforceable. For any such payday loan the debtor is not obligated to pay the principal or any fee associated with such payday loan. If a debtor has paid any part of the principal or fee, the debtor has a right to recover the payment from the person violating the provisions of this section or from an assignee of that person's rights who undertakes direct collection of payments or enforcement of rights arising from the debt. In the event the administrator initiates an administrative or civil action against a person who has violated the provisions of

this section, the administrator shall be entitled to recover the principal and fees received by such person in a payday loan transaction made in violation of the provisions of this section.

(4) If the administrator finds that a person subject to this part has violated, is violating, or that there is reasonable cause to believe that a person is about to violate the provisions of this part, or any rule promulgated under this act and pertinent to this part, the administrator may, in his discretion, order the person to cease and desist from the violations.

SECTION 15. That Section 45-1604, Idaho Code, be, and the same is hereby amended to read as follows:

45-1604. EXCLUSIONS. The provisions of this chapter shall not apply to:

(1) Regulated lenders, as defined in section 28-41-301(37), Idaho Code;

(2) Any person licensed or chartered under the laws of any state or of the United States as a bank, trust company, savings and loan association, credit union, or industrial loan company. The terms "bank," "trust company," "savings and loan association," "credit union" and "industrial loan company" shall include affiliates or ~~wholly-owned~~ wholly owned subsidiaries of such organizations, provided that the affiliate or subsidiary is regularly examined by the chartering state or federal agency for consumer compliance purposes;

(3) Mortgage lenders and mortgage brokers licensed under the Idaho residential mortgage practices act, sections 26-3101 et seq., Idaho Code;

(4) Employees and agents of the organizations specified in subsections (1), (2) and (3) of this section, when acting within the scope of such employment or agency; and

(5) Family member or members of the owner or owners of record of any interest in residential real property subject to foreclosure. For purposes of this chapter, "family member or members" means a natural person or the spouse of a natural person who is related to such owner or owners of record by blood, adoption or marriage within the second degree of consanguinity or a grandchild or the spouse of a grandchild.

SECTION 16. That Section 48-603, Idaho Code, be, and the same is hereby amended to read as follows:

48-603. UNFAIR METHODS AND PRACTICES. The following unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared to be unlawful, where a person knows, or in the exercise of due care should know, that he has in the past, or is:

(1) Passing off goods or services as those of another;

(2) Causing likelihood of confusion or of misunderstanding as to the source, sponsorship, approval, or certification of goods or services;

(3) Causing likelihood of confusion or of misunderstanding as to affiliation, connection, or association with, or certification by, another;

(4) Using deceptive representations or designations of geographic origin in connection with goods or services;

(5) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, connection, qualifications or license that he does not have;

(6) Representing that goods are original or new if they are deteriorated, altered, reconditioned, reclaimed, used, or secondhand;

(7) Representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another;

(8) Disparaging the goods, services, or business of another by false or misleading representation of fact;

(9) Advertising goods or services with intent not to sell them as advertised;

(10) Advertising goods or services with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity;

(11) Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions;

(12) Obtaining the signature of the buyer to a contract when it contains blank spaces to be filled in after it has been signed;

(13) Failing to deliver to the consumer at the time of the consumer's signature a legible copy of the contract or of any other document which the seller or lender has required or requested the buyer to sign, and which he has signed, during or after the contract negotiation;

(14) Making false or misleading statements of fact concerning the age, extent of use, or mileage of any goods;

(15) Promising or offering to pay, credit or allow to any buyer or lessee, any compensation or reward in consideration of his giving to the seller or lessor the names of prospective purchasers or lessees, or otherwise aiding the seller or lessor in making a sale or lease to another person, if the earning of the rebate, discount or other value is contingent upon the occurrence of an event subsequent to the time the buyer or lessee agrees to buy or lease;

(16) Representing that services, replacements or repairs are needed if they are not needed, or providing services, replacements or repairs that are not needed;

(17) Engaging in any act or practice which is otherwise misleading, false, or deceptive to the consumer;

(18) Engaging in any unconscionable method, act or practice in the conduct of trade or commerce, as provided in section 48-603C, Idaho Code, provided, however, that the provisions of this subsection shall not apply to a regulated lender as that term is defined in ~~subsection (37) of section 28-41-301, Idaho Code;~~

(19) Taking advantage of a disaster or emergency declared by the governor under chapter 10, title 46, Idaho Code, or the president of the United States under the provisions of the disaster relief act of 1974, 42 U.S.C. section 5121 et seq., by selling or offering to sell to the ultimate consumer fuel or food, pharmaceuticals, or water for human consumption at an exorbitant or excessive price; provided however, this subsection shall apply only to the location and for the duration of the declaration of emergency. In determining whether a price is exorbitant or excessive, the court shall take into consideration the facts and circumstances including, but not limited to:

(a) A comparison between the price paid by the alleged violator for the fuel, food, pharmaceuticals, or water and the price for which the alleged violator sold those same items to the ultimate consumer immediately before and after the period specified by the disaster or emergency declaration;

(b) Additional costs of doing business incurred by the alleged violator because of the disaster or emergency;

(c) The duration of the disaster or emergency declaration.

Notwithstanding anything to the contrary contained elsewhere in the act, no private cause of action exists under this subsection.

SECTION 17. That Section 67-2751, Idaho Code, be, and the same is hereby amended to read as follows:

67-2751. DEFINITIONS. As used in sections 67-2750 through 67-2762, Idaho Code:

(1) "Act" or "Idaho Financial Fraud Prevention Act" means sections 67-2750 through 67-2762, Idaho Code.

(2) "Department" means the Idaho department of finance.

(3) "Director" means the director of the Idaho department of finance or his designee.

(4) "Financial institution" means any state or federally chartered bank, savings bank, savings and loan association, thrift institution, holding company, credit union, credit union service organization, "regulated lender" as defined in section 28-41-301(37), Idaho Code, collection agency licensed under the Idaho collection agency act, mortgage lender, mortgage broker, or loan originator licensed under the Idaho residential mortgage practices act, licensee under the Idaho money transmitters act, escrow agency, or broker-dealer or investment advisor licensed under the Idaho securities act or federal law, or such an institution licensed under the laws of another state, and doing business in Idaho.

(5) "Person" means a natural person, firm, partnership, association, corporation, limited liability company, limited liability partnership, trust, or any other association of individuals, however organized, and whether or not citizens or residents of this state.

Approved March 12, 2013.

CHAPTER 55  
(H.B. No. 9)

AN ACT

RELATING TO LIMITATIONS ON LOANS, INVESTMENTS, AND PRACTICES; AMENDING SECTION 26-705, IDAHO CODE, TO DEFINE TERMS, TO REVISE A DEFINITION, TO PROVIDE AN ADDITIONAL ITEM THAT DOES NOT CONSTITUTE A LOAN OR EXTENSION OF CREDIT, TO PROVIDE REQUIREMENTS FOR A BANK ENGAGED IN A DERIVATIVE TRANSACTION, TO REVISE HEADINGS, TO ESTABLISH PROVISIONS RELATING TO EXTENSIONS OF CREDIT AND CREDIT EXPOSURE IN A DERIVATIVE TRANSACTION AND TO MAKE TECHNICAL CORRECTIONS; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 26-705, Idaho Code, be, and the same is hereby amended to read as follows:

26-705. LOANS TO ONE PERSON. (1) The total loans and extensions of credit by a bank to a person outstanding at one (1) time, shall at no time exceed twenty percent (20%) of the capital structure of such bank.

(2) "Borrower" means a person who is named as a borrower or debtor in a loan or extension of credit, a counterparty to whom a bank has credit exposure in a derivative transaction entered into by the bank, or any other person including a drawer, endorser or guarantor, who is deemed to be a borrower under the direct benefit and common enterprise tests set forth in this section.

(3) "Derivative transaction" includes any transaction that is a contract, agreement, swap, warrant, note or option that is based, in whole or in part, on the value of, any interest in or any quantitative measure or the occurrence of any event relating to, one (1) or more commodities, securities, currencies, interest or other rates, indices or other assets.

(4) "Loans and extensions of credit" means a bank's direct or indirect advance of funds to or on behalf of a borrower based upon an obligation of the

borrower to repay the funds, or repayable from specific property pledged by or on behalf of the borrower, and includes, for the purposes of this section:

- (a) A contractual commitment to advance funds;
- (b) A maker or endorser's obligation arising from a bank's discount of commercial paper;
- (c) A bank's purchase of securities subject to an agreement that the seller shall repurchase the securities at the end of a stated period, but not including a bank's purchase of type I securities, as defined in 12 CFR part 1, subject to a repurchase agreement, where the purchasing bank has assured control over or has established its rights to the type I securities as collateral;
- (d) A bank's purchase of third-party paper subject to an agreement that the seller shall repurchase the paper upon default or at the end of a stated period. The amount of the bank's loan is the total unpaid balance of the paper owned by the bank less any applicable dealer reserves retained by the bank and held by the bank as collateral security. Where the seller's obligation to repurchase is limited, the bank's loan is measured by the total amount of the paper the seller may ultimately be obligated to repurchase. A bank's purchase of third party paper without direct or indirect recourse to the seller is not a loan or extension of credit to the seller;
- (e) An overdraft, whether or not prearranged, but not an intra-day intraday overdraft for which payment is received before the close of business of the bank that makes the funds available;
- (f) The sale of federal funds with a maturity of more than one (1) business day, but not federal funds with a maturity of one (1) day or less or federal funds sold under a continuing contract; and
- (g) Loans or extensions of credit that have been charged off on the books of the bank in whole or in part, unless the loan or extension of credit:
  - (i) Is unenforceable by reason of discharge in bankruptcy;
  - (ii) Is no longer legally enforceable because of expiration of the statute of limitations or a judicial decision; or
  - (iii) Is no longer legally enforceable for other reasons, provided that the bank maintains sufficient records to demonstrate that the loan is unenforceable; and
- (h) Any credit exposure in a derivative transaction.

(35) The following items do not constitute loans or extensions of credit for purposes of this section:

- (a) Additional funds advanced for the benefit of a borrower by a bank for payment of taxes, insurance, utilities, security, and maintenance and operating expenses necessary to preserve the value of real property securing the loan, consistent with safe and sound banking practices, but only if the advance is for the protection of the bank's interest in the collateral, and provided that such amounts must be treated as an extension of credit if a new loan or extension of credit is made to the borrower;
- (b) Accrued and discounted interest on an existing loan or extension of credit, including interest that has been capitalized from prior notes and interest that has been advanced under terms and conditions of a loan agreement;
- (c) Financed sales of a bank's own assets, including other real estate owned, if the financing does not put the bank in a worse position than when the bank held title to the assets;
- (d) A renewal or restructuring of a loan as a new loan or extension of credit, following the exercise by a bank of reasonable efforts, consistent with safe and sound banking practices, to bring the loan into conformance with the lending limit, unless new funds are advanced by the bank to the borrower (except as permitted by this section), or a new bor-

rower replaces the original borrower, or unless the director determines that a renewal or restructuring was undertaken as a means to evade the bank's lending limit;

(e) Amounts paid against uncollected funds in the normal process of collection; and

(f) (i) That portion of a loan or extension of credit sold as a participation by a bank on a nonrecourse basis, provided that the participation results in a pro rata sharing of credit risk proportionate to the respective interests of the originating and participating lenders. Where a participation agreement provides that repayment must be applied first to the portions sold, a pro rata sharing shall be deemed to exist only if the agreement also provides that, in the event of a default or comparable event defined in the agreement, participants must share in all subsequent repayments and collections in proportion to their percentage participation at the time of the occurrence of the event.

(ii) When an originating bank funds the entire loan, it must receive funding from the participants before the close of business of its next business day. If the participating portions are not received within that period, then the portions funded shall be treated as a loan by the originating bank to the borrower. If the portions so attributed to the borrower exceed the originating bank's lending limit, the loan may be treated as nonconforming, rather than a violation, if:

1. The originating bank had a valid and unconditional participation agreement with a participating bank or banks that was sufficient to reduce the loan to within the originating bank's lending limit;
2. The participating bank reconfirmed its participation and the originating bank had no knowledge of any information that would permit the participant to withhold its participation; and
3. The participation was to be funded by close of business of the originating bank's next business day; and

(g) Intraday credit exposure in a derivative transaction.

(46) The following loans or extensions of credit are not subject to the lending limits of this section:

(a) The discount of bills of exchange drawn in good faith against actual existing values;

(b) The discount of bankers' acceptances of other banks;

(c) The discount of commercial or business paper actually owned by the person negotiating the same;

(d) The obligations of the United States or general obligations of any state or of any political subdivision thereof, or obligation issued under authority of the federal farm loan act;

(e) Loans made on warehouse receipts and bills of lading, when such warehouse receipts and bills of lading cover nonperishable commodities of the marketable value of at least one hundred twenty percent (120%) of the amount loaned thereon;

(f) Loans and extensions of credit to the extent secured or covered by guaranties, or by commitments or agreements to take over or to purchase, made by any Federal Reserve Bank or by the United States or any department, bureau, board, commission, or establishment of the United States, including any corporation wholly owned directly or indirectly by the United States; or

(g) Loans, including portions thereof, secured by a segregated deposit account in the lending bank, provided a security interest in the deposit has been perfected under applicable law.

(57) Combination. Loans or extensions of credit to one (1) borrower shall be attributed to another person and each person shall be deemed a borrower when proceeds of a loan or extension of credit are to be used for the direct benefit of the other person, to the extent of the proceeds so used, or when a common enterprise is deemed to exist between the persons.

(a) Direct benefit. The proceeds of a loan or extension of credit to a borrower shall be deemed to be used for the direct benefit of another person and shall be attributed to the other person when the proceeds, or assets purchased with the proceeds, are transferred to another person, other than in a bona fide arm's length transaction where the proceeds are used to acquire property, goods or services.

(b) Common enterprise. A common enterprise shall be deemed to exist and loans to separate borrowers shall be aggregated:

(i) When the expected source of repayment for each loan or extension of credit is the same for each borrower and neither borrower has another source of income from which the loan (together with the borrower's other obligations) may be fully repaid. An employer shall not be treated as a source of repayment under this paragraph because of wages and salaries paid to an employee unless the standards of paragraph (b) (ii) of this subsection are met;

(ii) When loans or extensions of credit are made:

1. To borrowers who are related directly or indirectly through common control, including where one (1) borrower is directly or indirectly controlled by another borrower; and

2. Substantial financial interdependence exists between or among the borrowers. Substantial financial interdependence is deemed to exist when fifty percent (50%) or more of one (1) borrower's gross receipts or gross expenditures (on an annual basis) are derived from transactions with the other borrower. Gross receipts and expenditures include gross revenues/expenses, intercompany loans, dividends, capital contributions, and similar receipts or payments;

(iii) When separate persons borrow from a bank to acquire a business enterprise of which those borrowers will own more than fifty percent (50%) of the voting securities or voting interests, in which case a common enterprise is deemed to exist between the borrowers for purposes of combining the acquisition loans; or

(iv) When the director determines, based upon an evaluation of the facts and circumstances of particular transactions, that a common enterprise exists.

(c) Loans to a corporate group.

(i) Loans or extensions of credit by a bank to a corporate group may not exceed fifty percent (50%) of the bank's capital and surplus. A corporate group includes a person and all of its subsidiaries. For purposes of this paragraph, a corporation or a limited liability company is a subsidiary of a person if the person owns or beneficially owns directly or indirectly more than fifty percent (50%) of the voting securities or voting interests of the corporation or company.

(ii) Except as provided in paragraph (c) (i) of this subsection, loans or extensions of credit to a person and its subsidiary, or to different subsidiaries of a person, are not combined unless either the direct benefit or the common enterprise test is met.

(d) Loans to partnerships, joint ventures, and associations.

(i) Partnership loans. Loans or extensions of credit to a partnership, joint venture or association are deemed to be loans or extensions of credit to each member of the partnership, joint venture or association. This rule does not apply to limited partners in limited partnerships or to members of joint ventures or asso-

ciations if the partners or members, by the terms of the partnership or membership agreement, are not held generally liable for the debts or actions of the partnership, joint venture or association, and those provisions are valid under applicable law.

(ii) Loans to partners.

1. Loans or extensions of credit to members of a partnership, joint venture or association are not attributed to the partnership, joint venture or association unless either the direct benefit or the common enterprise test is met. Both the direct benefit and common enterprise tests are met between a member of a partnership, joint venture or association and such partnership, joint venture or association, when loans or extensions of credit are made to the member to purchase an interest in the partnership, joint venture or association.

2. Loans or extensions of credit to members of a partnership, joint venture or association are not attributed to other members of the partnership, joint venture or association unless either the direct benefit or common enterprise test is met.

(e) Loans to foreign governments and their agencies and instrumentalities.

(i) Aggregation. Loans and extensions of credit to foreign governments and their agencies and instrumentalities shall be aggregated with one another only if the loans or extensions of credit fail to meet either the means test or the purpose test at the time the loan or extension of credit is made.

1. The means test is satisfied if the borrower has resources or revenue of its own sufficient to service its debt obligations. If the government's support (excluding guarantees by a central government of the borrower's debt) exceeds the borrower's annual revenues from other sources, it shall be presumed that the means test has not been satisfied.

2. The purpose test is satisfied if the purpose of the loan or extension of credit is consistent with the purposes of the borrower's general business.

(ii) Documentation. In order to show that the means and purpose tests have been satisfied, a bank must, at a minimum, retain in its files the following items:

1. A statement (accompanied by supporting documentation) describing the legal status and the degree of financial and operational autonomy of the borrowing entity;

2. Financial statements for the borrowing entity for a minimum of three (3) years prior to the date the loan or extension of credit was made or for each year that the borrowing entity has been in existence, if less than three (3) years;

3. Financial statements for each year the loan or extension of credit is outstanding;

4. The bank's assessment of the borrower's means of servicing the loan or extension of credit, including specific reasons in support of that assessment. The assessment shall include an analysis of the borrower's financial history, its present and projected economic and financial performance, and the significance of any financial support provided to the borrower by third parties, including the borrower's central government; and

5. A loan agreement or other written statement from the borrower that clearly describes the purpose of the loan or extension of credit. The written representation will

ordinarily constitute sufficient evidence that the purpose test has been satisfied. However, when, at the time the funds are disbursed, the bank knows or has reason to know of other information suggesting that the borrower will use the proceeds in a manner inconsistent with the written representation, it may not, without further inquiry, accept the representation.

(8) A bank shall evaluate the credit exposure in a derivative transaction in accordance with a methodology approved by any federal bank supervisory agency. In each type of derivative transaction a bank engages in, a bank shall use the same credit exposure methodology in all derivative transactions of that type.

(69) Lending limit calculation. For purposes of determining compliance with this section, a bank shall determine its lending limit as of the last day of the preceding calendar quarter. A bank's lending limit calculated in accordance with this section shall be effective on the date that the limit is to be calculated. If the director determines for safety and soundness reasons that a bank should calculate its lending limit more frequently than required by this subsection, the director may provide written notice to the bank directing the bank to calculate its lending limit at a more frequent interval, and the bank shall thereafter calculate its lending limit at that interval until further notice from the director.

(710) Nonconforming loans and extensions of credit. A loan or extension of credit, within a bank's legal lending limit when made, shall not be deemed a violation but shall be treated as nonconforming if the loan or extension of credit is no longer in conformity with the bank's lending limit because:

(a) The bank's capital has declined, borrowers have subsequently merged or formed a common enterprise, lenders have merged, or the lending limit or capital rules have changed. A bank must use reasonable efforts to bring a loan or extension of credit that is nonconforming under this subsection into conformity with the bank's lending limit unless to do so would be inconsistent with safe and sound banking practices.

(b) Collateral securing the loan or extension of credit to satisfy the requirements of a lending limit exception has declined in value. A bank must bring a loan or extension of credit that is nonconforming under this subsection into conformity with the bank's lending limit within thirty (30) calendar days, except when judicial proceedings, regulatory actions or other extraordinary circumstances beyond the bank's control prevent the bank from taking action.

(c) In the case of credit exposure in a derivative transaction, the credit exposure increases after execution of the transaction. A bank must use reasonable efforts to bring a derivative transaction that is nonconforming under this subsection into conformity with the bank's lending limit unless to do so would be inconsistent with safe and sound banking practices.

(811) When in the judgment of the director the loans and extensions of credit to any person, or the combined loans and extensions of credit to any corporation and one (1) or more of its stockholders are excessive, he shall require the reduction thereof to such limits and within such time as he shall prescribe.

Provided, further, that the director may compel the reduction of any loan or extension of credit which shall in his judgment appear excessive or dangerous.

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 21, 2013.

Approved March 12, 2013.

CHAPTER 56  
(H.B. No. 11)

AN ACT

RELATING TO CASUALTY INSURANCE CONTRACTS; AMENDING SECTION 41-2507, IDAHO CODE, TO PROVIDE A GROUND FOR AN INSURER TO REFUSE TO RENEW A CERTAIN POLICY AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 41-2507, Idaho Code, be, and the same is hereby amended to read as follows:

41-2507. CANCELLATION OF POLICIES -- GROUNDS. No notice of cancellation of a policy shall be effective and the insurer shall not refuse renewal of a policy, unless based on one (1) or more of the following reasons:

- (1) Nonpayment of premium; or
- (2) The policy was obtained through a material misrepresentation; or
- (3) Any insured violated any of the terms and conditions of the policy;

or

(4) The named insured failed to disclose fully his motor vehicle accidents and moving traffic violations, or his losses covered under any automobile physical damage or comprehensive coverage, for the preceding thirty-six (36) months if called for in the application; or

(5) As to renewal of the policy, if the insured at any time while the policy was in force failed to disclose fully to the insurer, upon request therefor, facts relative to accidents and losses incurred material to underwriting of the risk; or

(6) Any insured made a false or fraudulent claim or knowingly aided or abetted another in the presentation of such a claim; or

(7) The named insured or any other operator who either resides in the same household or customarily operates an automobile insured under such policy:

(a) Has, within the thirty-six (36) months prior to the notice of cancellation or nonrenewal, had his driver's license under suspension or revocation; or

(b) Has a history of and is subject to epilepsy or heart attacks, and such individual cannot produce a certificate from a physician testifying to his unqualified ability to operate a motor vehicle safely; or

(c) Has an accident record, conviction record, either (criminal or traffic), physical, mental, or other condition which is such that his operation of an automobile might endanger the public safety; or

(d) Has, while the policy is in force, engaged in a prearranged competitive speed contest while operating or riding in an automobile insured under the policy; or

(e) Has, within the thirty-six (36) months prior to the notice of cancellation or nonrenewal, been addicted to the use of narcotics or other drugs; or

(f) Uses alcoholic beverages to excess; or

(g) Has been convicted, or forfeited bail, during the thirty-six (36) months immediately preceding the notice of cancellation or nonrenewal; for

- (i) Any felony; or
- (ii) Criminal negligence resulting in death, homicide, or assault arising out of the operation of a motor vehicle; or
- (iii) Operating a motor vehicle while in an intoxicated condition or while under the influence of drugs; or
- (iv) Leaving the scene of an accident without stopping to report; or
- (v) Theft or unlawful taking of a motor vehicle; or
- (vi) Making fraudulent statements in an application for a driver's license; or
- (h) Has been convicted of, has had a judgment entered against, or forfeited bail for, three (3) or more violations within the thirty-six (36) months immediately preceding the notice of cancellation or nonrenewal, of any law, ordinance, or regulation of any state for which a violation point is assessed by the Idaho transportation department under the provisions of section 49-326, Idaho Code, whether or not the violations were repetitions of the same offense or different offenses; or
- (8) The insured automobile is:
  - (a) So mechanically defective that its operation might endanger public safety; or
  - (b) Used in carrying passengers for hire or compensation, except that the use of an automobile for a ~~car-pool~~ carpool shall not be considered use of an automobile for hire or compensation; or
  - (c) Used in the business of transportation of flammables or explosives; or
  - (d) An authorized emergency vehicle; or
  - (e) Modified or changed in condition during the policy period so as to increase the risk substantially; or
  - (f) Subject to an inspection law and has not been inspected or, if inspected, has failed to qualify; or
- (9) As to the renewal of the policy only, the insured automobile is registered in a jurisdiction other than Idaho.

Approved March 12, 2013.

CHAPTER 57  
(H.B. No. 28)

AN ACT

RELATING TO MANUFACTURED HOME DEALER AND INSTALLER LICENSING; AMENDING SECTION 44-2101, IDAHO CODE, TO REVISE LEGISLATIVE FINDINGS, TO REVISE PROVISIONS RELATING TO CERTAIN LICENSE REQUIREMENTS AND TO REVISE PROVISIONS RELATING TO FEES FOR CRIMINAL HISTORY BACKGROUND CHECKS; AMENDING SECTION 44-2101A, IDAHO CODE, TO REMOVE A DEFINITION AND TO REMOVE A TERM; AMENDING SECTION 44-2103, IDAHO CODE, TO REMOVE REFERENCES TO SERVICE COMPANIES; AMENDING SECTION 44-2106, IDAHO CODE, TO REMOVE REFERENCES TO A SERVICE COMPANY; AND AMENDING SECTION 44-2107, IDAHO CODE, TO REMOVE A REFERENCE TO SERVICE COMPANY.

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

SECTION 1. That Section 44-2101, Idaho Code, be, and the same is hereby amended to read as follows:

44-2101. PURPOSE -- LICENSE REQUIRED -- REINSTATEMENT. (1) The legislature finds that the regulation and control of those persons engaged in the business of manufacturing, selling, or installing ~~or servicing of~~ manufactured and mobile homes is necessary to protect the health and safety of the

citizens of Idaho. To that end, it shall be unlawful for any person to engage in business as a manufacturer, retailer, resale broker, installer, ~~service company,~~ salesman or responsible managing employee without being duly licensed as provided in this chapter.

(2) ~~On and after July 1, 2007, a~~All applicants for original retailer or resale broker ~~original licensure will be~~ licenses are required to submit to a fingerprint-based criminal history background check of the Idaho central criminal database and the federal bureau of investigation criminal history database. Each applicant for original licensure must submit a full set of the applicant's fingerprints and ~~any relevant~~ the fees directly to the Idaho state police and the federal bureau of investigation identification division for this purpose cover the cost of the criminal history background check for such person along with the completed application.

(3) If the licensee fails to submit a completed application for renewal or to pay the renewal fee on or before the expiration date, the administrator may accept a later application for reinstatement subject to such conditions as the board may require by rule including, but not limited to, the assessment of a late fee; provided that between the license expiration date and the date of reinstatement of the license, the rights of the licensee under such license shall be expired, and during such period of expiration it shall be unlawful for such licensee to do or attempt to offer to do any of the acts of the kind and nature described in the definitions in section 44-2101A, Idaho Code, in consideration of compensation of any kind or expectation thereof. An expired license that is not reinstated within six (6) months of the expiration date shall be automatically terminated by the administrator and may not be reinstated.

SECTION 2. That Section 44-2101A, Idaho Code, be, and the same is hereby amended to read as follows:

44-2101A. DEFINITIONS. As used in this chapter:

(1) "Administrator" means the administrator of the division of building safety of the state of Idaho.

(2) "Board" means the manufactured housing board established in section 44-2104, Idaho Code.

(3) "Engaged in the business" means the individual or entity buys, sells, brokers, trades, or offers for resale a manufactured or mobile home.

(4) "Installer" means a person who owns a business that ~~or services~~ a manufactured home or mobile home at the site where it is to be used for occupancy.

(5) "Manufactured home" or "manufactured house" means a structure as defined in section 39-4105, Idaho Code.

(6) "Manufacturer" means any person engaged in the business of manufacturing manufactured homes that are offered for sale, lease or exchange in the state of Idaho.

(7) "Mobile home" means a structure as defined in section 39-4105, Idaho Code.

(8) "Person" means a natural person, corporation, partnership, trust, society, club, association or other organization.

(9) "Place of business" refers to any physical location at which the business is lawfully conducted.

(10) "Resale broker" means any person engaged in the business of selling broker-owned, used, third-party owned, or other resale of manufactured or mobile homes.

(11) "Responsible managing employee" or "RME" means the person designated by the retailer, installer, manufacturer, ~~service company~~ or resale broker to supervise other employees, either personally or through others.

(12) "Retailer" means any person engaged in the business of selling or exchanging new, used, resale or brokered manufactured or mobile homes.

(13) "Salesman" means any person employed by a retailer or resale broker for a salary, commission or compensation of any kind to sell, list, purchase or exchange or to negotiate for the sale, listing, purchase or exchange of new, used, brokered or third-party owned units, except as otherwise provided in this chapter.

~~(14) "Service company" means any person other than an installer who provides service, repair or tear down of manufactured or mobile homes.~~

SECTION 3. That Section 44-2103, Idaho Code, be, and the same is hereby amended to read as follows:

44-2103. FEES -- DEPOSIT OF FEES. (1) Fees for licensing of retailers, resale brokers, installers, manufacturers, salesmen, and RMEs ~~and service companies~~ shall not exceed:

- (a) Retailer or resale broker license ..... \$500.00
- (b) Manufacturer license ..... \$500.00
- (c) ~~Service company or i~~Installer license ..... \$300.00
- (d) Salesman license ..... \$ 50.00
- (e) RME license ..... \$ 50.00

(2) All license fees collected by the division of building safety under the provisions of this chapter shall be paid into the manufactured housing account, which is hereby created in the dedicated fund. The expenses incurred in administering and enforcing the provisions of this chapter shall be paid from the account.

(3) The following performance bonding requirements shall be met before the issuance of these licenses:

- (a) Manufacturer ..... \$20,000 bond
- (b) Retailer ..... \$40,000 bond
- (c) Resale broker ..... \$30,000 bond
- (d) ~~Service company or i~~Installer ..... \$ 5,000 bond

(4) The administrator is authorized to provide by rule, in accordance with the provisions of section 44-2102, Idaho Code, for the acceptance of a deposit of cash or securities in lieu of a bond in satisfaction of the bonding requirements of this section.

(5) Fees and bond requirements of this section shall be the exclusive fee and bond requirements for retailers, resale brokers, installers, manufacturers, and salesmen ~~and service companies~~ governed by the provisions of this chapter, and shall supersede any program of any political subdivision of the state which sets fee or bond requirements for the same services.

(6) A retailer or resale broker must obtain a separate ~~service company or~~ installer license, pay the license fee set forth in subsection (1) (c) of this section and meet the bonding requirements of subsection (3) (d) of this section in order to provide the services covered by ~~a service company or an~~ an installer license.

SECTION 4. That Section 44-2106, Idaho Code, be, and the same is hereby amended to read as follows:

44-2106. VIOLATIONS. (1) It shall be unlawful to engage in business as a manufacturer, retailer, resale broker, installer, salesman, ~~service company~~ or RME without being duly licensed by the division of building safety pursuant to this chapter, except that an individual may buy, sell, broker, trade or offer for resale up to two (2) manufactured or mobile homes, or a combination thereof, in any one (1) calendar year without being licensed under this chapter if all of the units have been properly titled in the name of that individual.

(2) It shall be unlawful for a manufacturer, retailer, resale broker, installer, salesman, ~~service company~~ or RME to:

- (a) Intentionally publish or circulate any advertising which is misleading or inaccurate in any material particular or which misrepresents any of the products or services sold or provided by a manufacturer, retailer, resale broker, installer, salesman, ~~service company~~ or RME;
- (b) Violate any of the provisions of this chapter or any rule adopted by the division of building safety pursuant to this chapter;
- (c) Knowingly purchase, sell or otherwise acquire or dispose of a stolen manufactured or mobile home;
- (d) With respect only to a retailer or resale broker, to engage in the business for which such retailer or resale broker is licensed without at all times maintaining a principal place of business located within the state.

SECTION 5. That Section 44-2107, Idaho Code, be, and the same is hereby amended to read as follows:

44-2107. PENALTY PROVISIONS. (1) Whoever shall violate any of the provisions of this chapter, or any laws or rules adopted pursuant to this chapter, or who shall refuse to perform any duty lawfully enjoined upon him by the administrator within the prescribed time, or who shall fail, neglect, or refuse to obey any lawful order given or made by the administrator, shall be guilty of a misdemeanor and shall be subject to the civil penalties established by administrative rule but not to exceed one thousand dollars (\$1,000) in accordance with the following:

(a) Each day of such violation shall constitute a separate offense. A violation will be considered a second or additional offense only if it occurs within one (1) year from the first violation.

(b) The same penalties shall apply, upon conviction, to any member of a copartnership, or to any construction, managing or directing officer of any corporation, limited liability company or limited liability partnership or other such organization consenting to, participating in, or aiding or abetting any such violation of this chapter.

(2) In addition to any other penalties specified in this section, whenever any person violates the provisions of this chapter by acting as a retailer, resale broker, installer, ~~service company~~ or RME, without a license, the administrator may maintain an action in the name of the state of Idaho to enjoin the person from any further violations in accordance with the following:

(a) Such action may be brought either in the county in which the acts are claimed to have been or are being committed, in the county where the defendant resides, or in Ada county.

(b) Upon the filing of a verified complaint in the district court, the court, if satisfied that the acts complained of have been or probably are being or may be committed, may issue a temporary restraining order and/or preliminary injunction, without bond, enjoining the defendant from the commission of any such act or acts constituting the violation.

(c) A copy of the complaint shall be served upon the defendant and the proceedings shall thereafter be conducted as in other similar civil actions. If the commission of the act or acts is established, the court shall enter a decree permanently enjoining the defendant from committing such act or acts. If an injunction issued under this section is violated, the court, or the judge thereof at chambers, may summarily try and punish the offender for contempt of court.

Approved March 12, 2013.

CHAPTER 58  
(H.B. No. 86)

AN ACT

RELATING TO TAXES; REPEALING SECTIONS 3, 4 AND 5, CHAPTER 6, LAWS OF 2012, RELATING TO NOTICE OF REDETERMINATION OR DEFICIENCY AND NOTICE OF LEVY AND DISTRAINT; AND AMENDING SECTION 6, CHAPTER 6, LAWS OF 2012, TO AMEND A CERTAIN EFFECTIVE DATE.

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

SECTION 1. That Sections 3, 4 and 5, Chapter 6, Laws of 2012, be, and the same are hereby repealed.

SECTION 2. That Section 6, Chapter 6, Laws of 2012, be, and the same is hereby amended to read as follows:

SECTION 6. Sections 1 and 2 of this act shall be in full force and effect on and after July 1, 2012. ~~Sections 3, 4 and 5 of this act shall be in full force and effect on and after July 1, 2013.~~

Approved March 12, 2013.

CHAPTER 59  
(H.B. No. 93)

AN ACT

RELATING TO FOREST AND RANGE FIRES; AMENDING CHAPTER 1, TITLE 38, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 38-104B, IDAHO CODE, TO PROVIDE FOR NON-PROFIT RANGELAND FIRE PROTECTION ASSOCIATIONS, TO DEFINE A TERM AND TO PROVIDE PROCEDURES.

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

SECTION 1. That Chapter 1, Title 38, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 38-104B, Idaho Code, and to read as follows:

38-104B. NONPROFIT RANGELAND FIRE PROTECTION ASSOCIATIONS. (1) "Non-profit rangeland fire protection association" means a nonprofit corporation or nonprofit unincorporated association, that has entered into an agreement for the detection, prevention or suppression of forest and range fires with the state of Idaho or any agency of the state of Idaho pursuant to title 38, Idaho Code.

(2) A group of rangeland owners wishing to establish a rangeland fire protection association shall petition the director of the department of lands. The director may accept petitions where:

(a) Petitioners meet the requirements established by the director concerning the legal status of the association, liability insurance and governing and managing structure; and

(b) Petitioners demonstrate financial ability to form a rangeland fire protection association; or

(c) Adequate state funding exists, as determined by the director, to assist in the initial establishment of the association.

(3) Prior to entering into an agreement, and annually thereafter, the director shall review and inspect the association for the following:

(a) The governing and managing structure of the association;

- (b) The adequacy of liability insurance; and
- (c) The training of all association personnel.

Approved March 12, 2013.

CHAPTER 60  
(H.B. No. 128)

AN ACT

RELATING TO WATER; AMENDING SECTION 42-2205, IDAHO CODE, TO PROVIDE THAT LIENS BY OPERATING COMPANIES MAY NOT BIND ANY LAND FOR A LONGER PERIOD THAN THREE YEARS AFTER THE FILING UNLESS PROCEEDINGS ARE COMMENCED IN A COURT WITHIN THAT TIME TO ENFORCE THE LIEN AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 42-2205, Idaho Code, be, and the same is hereby amended to read as follows:

42-2205. LIMITATION OF LIEN. No lien provided for in this chapter binds any land for a longer period than ~~two three~~ (23) years after the filing of the statement mentioned in section 42-2203, Idaho Code, unless proceedings be commenced in a proper court within that time to enforce such lien.

Approved March 12, 2013.

CHAPTER 61  
(H.B. No. 129)

AN ACT

RELATING TO IRRIGATION DISTRICTS; AMENDING SECTION 43-712, IDAHO CODE, TO REVISE THE INTEREST RATE ON DELINQUENT ASSESSMENTS RELATING TO THE REDEMPTION OF LANDS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 43-712, Idaho Code, be, and the same is hereby amended to read as follows:

43-712. DELINQUENT ASSESSMENTS -- REDEMPTION OF LAND. After delinquency and prior to three (3) years from the date of entry of such delinquency, and thereafter until assessment deed is issued by the treasurer, redemption of lands may be made by paying to the treasurer an amount equal to the delinquent assessments thereon, plus the penalty of ~~two per-cent percent~~ (2%) thereon, together with interest at the rate of ~~eight per-cent one percent~~ (8 $\frac{1}{2}$ %) per annum ~~month~~ from the date of delinquency entry until paid. Upon redemption, the treasurer shall note the redemption on the delinquent list and shall issue a redemption certificate in triplicate, showing the name of the redemptioner, the amount paid in redemption, description of lands redeemed, year in which assessment was levied, and the delinquency entry number, delivering one (1) copy to the redemptioner, and in case the land being redeemed has been included in a list filed with the county recorder, he shall file one (1) copy with the county recorder of the county in which the land is located, and thereupon the county recorder shall enter the redemption opposite the corresponding entry in his record of delinquent assessments, for which service he shall be entitled to charge a fee as

provided by section 31-3205, Idaho Code, which fee shall be added to the amount necessary for redemption paid by the redemptioner, and be transmitted to the county recorder by the district treasurer.

If the property on which the assessments are delinquent is not redeemed within the time hereinbefore limited, and if the assessment deed for the delinquency is made by the treasurer to the district, such property may nevertheless be redeemed by the owner thereof, or by any party in interest, up to the time a sale of the property is made by the board of directors and deed or contract for sale is delivered to the purchaser, by paying to the district treasurer the amount of all unpaid assessments levied or assessed against the said property to the time of redemption together with penalty and interest thereon and also by paying assessments for the year or years since the date of issuance of assessment deed to the district together with penalty and interest thereon, and all costs incurred for a sale of the property by the district, and the sum of two dollars (\$2.00) for redemption deed from the district, and all other fees and charges for redemption otherwise prescribed by law. All assessments accruing against such property subsequent to the issuance of deed to the district shall be extended by the treasurer and be computed according to the authorized levies for the year or years to be extended. Upon payment to the district treasurer of the amounts required to be paid as herein provided, the district treasurer must issue a redemption deed to the redemptioner.

Approved March 12, 2013.

CHAPTER 62  
(H.B. No. 132)

AN ACT

RELATING TO FOREST AND RANGE FIRE; PROVIDING LEGISLATIVE INTENT; AMENDING SECTION 6-202, IDAHO CODE, TO REVISE PROVISIONS RELATING TO TRESPASS; AMENDING SECTION 38-107, IDAHO CODE, TO LIMIT DAMAGES IN CERTAIN CIVIL ACTIONS FOR REAL AND PERSONAL PROPERTY DAMAGE CAUSED BY FOREST OR RANGE FIRE, TO DEFINE TERMS, TO CLARIFY THE APPLICABILITY OF SPECIFIED PROVISIONS OF LAW AND TO MAKE A TECHNICAL CORRECTION; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. LEGISLATIVE INTENT. The Legislature finds that generally, real and personal property damage caused by forest and range fire is measured by the diminution of fair market value of the real and personal property. In Idaho, restoration damages may be awarded if there is a reason personal to the owner for restoring the forest or range land to its original condition.

The Legislature further finds that in other jurisdictions, large forest or range land owners have sought and have been awarded double recovery, the diminution of fair market value and restoration costs, for the damage to forest or range land caused by forest or range fires. The awards include intangible environmental damages that are clearly speculative in their nature, and should not be recoverable. This legislation clarifies that for real and personal property damage caused by forest or range fire, recovery is limited to reasonable suppression costs, economic damages and either the diminution of fair market value of the real and personal property, or the actual and tangible costs for restoration, not intangible environmental damages, as a result of the forest or range fire.

SECTION 2. That Section 6-202, Idaho Code, be, and the same is hereby amended to read as follows:

6-202. ACTIONS FOR TRESPASS. Any person who, without permission of the owner, or the owner's agent, willfully and intentionally enters upon the real property of another person which property is posted with "No Trespassing" signs or other notices of like meaning, spaced at intervals of not less than one (1) notice per six hundred sixty (660) feet along such real property; or who willfully and intentionally cuts down or carries off any wood or underwood, tree or timber, or girdles, or otherwise willfully and intentionally injures any tree or timber on the land of another person, or on the street or highway in front of any person's house, village, or city lot, or cultivated grounds; or on the commons or public grounds of or in any city or town, or on the street or highway in front thereof, without lawful authority, is liable to the owner of such land, or to such city or town, for treble the amount of damages which may be assessed therefor or fifty dollars (\$50.00), plus a reasonable attorney's fee which shall be taxed as costs, in any civil action brought to enforce the terms of this act if the plaintiff prevails.

SECTION 3. That Section 38-107, Idaho Code, be, and the same is hereby amended to read as follows:

38-107. UNCONTROLLED FIRES A NUISANCE -- ABATEMENT -- CIVIL LIABILITY. (1) Any forest or range fire burning out of control or without adequate and proper precautions having been taken to prevent its spread, is hereby declared a public nuisance, by reason of its menace to life and/or property. Any person responsible through his conduct, acts and/or control of property or operations for either the starting or the existence of such fire is hereby required to make a reasonable effort to control or extinguish it immediately, without awaiting instructions from the director of the department of lands or a fire warden. The director of the department of lands or any fire warden may summarily abate the nuisance thus constituted by controlling or extinguishing such fire and the person wilfully willfully or negligently responsible for the starting or existence of such fire shall be liable for the costs incurred by the state or its authorized agencies in controlling or extinguishing the same. The amount of such costs shall be recovered by a civil action prosecuted in the name of the state of Idaho and any amounts recovered shall be paid to the state treasurer for deposit to the forest protection fund. Civil liability provided for herein shall be exclusive of and in addition to any criminal penalties otherwise provided.

(2) Notwithstanding any other provision of law, in a civil action against any person, legal entity, state or political subdivision for forest or range fire caused by a negligent or unintentional act, which act was not willful or intentional under section 6-202, Idaho Code, the real and personal property damage is limited to:

(a) The reasonable costs for controlling or extinguishing the forest or range fire;

(b) Economic damages; and

(c) Either (i) the diminution of fair market value of the real and personal property resulting from the fire, or (ii) the actual and tangible restoration costs associated with bringing the damaged real and personal property back to its pre-injured state to the extent that such actual and tangible restoration costs are reasonable and practical.

As used in this subsection, "economic damages" means objectively verifiable monetary loss including, but not limited to, out-of-pocket expenses, loss of earnings, loss of use of property or loss of business or employment opportunities. As further used in this subsection, "fair market value" means the amount a willing buyer would pay a willing seller in an arms-length transaction when both parties are fully informed about all of the advantages and disadvantages of the property and neither is acting under any compulsion to buy or sell, as determined by a state certified appraiser, who is qualified to appraise the property. Claims against the state or a political subdivi-

sion shall remain subject to the requirements of chapter 9, title 6, Idaho Code, and damages against the state or a political subdivision shall be the amount set forth in chapter 9, title 6, Idaho Code, as limited in this subsection.

SECTION 4. 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 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 12, 2013.

CHAPTER 63  
(H.B. No. 137)

AN ACT

RELATING TO URBAN RENEWAL LAW; AMENDING SECTION 50-2007, IDAHO CODE, TO REMOVE LANGUAGE RELATING TO CERTAIN URBAN RENEWAL AGENCY POWERS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 50-2007, Idaho Code, be, and the same is hereby amended to read as follows:

50-2007. POWERS. Every urban renewal agency shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this act, including the following powers in addition to others herein granted:

(a) ~~to~~ undertake and carry out urban renewal projects and related activities within its area of operation; and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers under this act; and to disseminate slum clearance and urban renewal information;

(b) ~~to~~ provide or to arrange or contract for the furnishing or repair by any person or agency, public or private, of services, privileges, works, streets, roads, public utilities or other facilities for or in connection with an urban renewal project; to install, construct, and reconstruct streets, utilities, parks, playgrounds, off-street parking facilities, public facilities, other buildings or public improvements; and any improvements necessary or incidental to a redevelopment project; and to agree to any conditions that it may deem reasonable and appropriate attached to federal financial assistance and imposed pursuant to federal law relating to the determination of prevailing salaries or wages or compliance with labor standards, in the undertaking or carrying out of an urban renewal project and related activities, and to include in any contract let in connection with such a project and related activities, provisions to fulfill such of said conditions as it may deem reasonable and appropriate;

(c) ~~within its area of operation, to enter into any building or property in any urban renewal area in order to make inspections, surveys, appraisals, soundings or test borings, and to obtain, upon sufficient cause and after a hearing on the matter, an order for this purpose from a court of~~

~~competent jurisdiction in the event entry is denied or resisted;~~ to acquire by purchase, lease, option, gift, grant, bequest, devise, eminent domain or otherwise, any real property (or personal property for its administrative purposes,) together with any improvements thereon; to hold, improve, renovate, rehabilitate, clear or prepare for redevelopment any such property or buildings; to mortgage, pledge, hypothecate or otherwise encumber or dispose of any real property; to insure or provide for the insurance of any real or personal property or operations of the municipality against any risks or hazards, including the power to pay premiums on any such insurance; and to enter into any contracts necessary to effectuate the purposes of this act: Provided however, that no statutory provision with respect to the acquisition, clearance or disposition of property by public bodies shall restrict a municipality or other public body exercising powers hereunder in the exercise of such functions with respect to an urban renewal project and related activities, unless the legislature shall specifically so state;

(d) ~~W~~With the approval of the local governing body, (1) prior to approval of an urban renewal plan, or approval of any modifications of the plan, to acquire real property in an urban renewal area, demolish and remove any structures on the property, and pay all costs related to the acquisition, demolition, or removal, including any administrative or relocation expenses; and (2) to assume the responsibility to bear any loss that may arise as the result of the exercise of authority under this subsection in the event that the real property is not made part of the urban renewal project;

(e) ~~T~~To invest any urban renewal funds held in reserves or sinking funds or any such funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control; to redeem such bonds as have been issued pursuant to section 50-2012, Idaho Code, at the redemption price established therein or to purchase such bonds at less than redemption price, all such bonds so redeemed or purchased to be canceled;

(f) ~~T~~To borrow money and to apply for and accept advances, loans, grants, contributions and any other form of financial assistance from the federal government, the state, county, or other public body, or from any sources, public or private, for the purposes of this act, and to give such security as may be required and to enter into and carry out contracts or agreements in connection therewith; and to include in any contract for financial assistance with the federal government for or with respect to an urban renewal project and related activities such conditions imposed pursuant to federal laws as the municipality may deem reasonable and appropriate and which are not inconsistent with the purposes of this act;

(g) ~~W~~Within its area of operation, to make or have made all surveys and plans necessary to the carrying out of the purposes of this act and to contract with any person, public or private, in making and carrying out such plans and to adopt or approve, modify and amend such plans, which plans may include, but are not limited to: (1) plans for carrying out a program of voluntary compulsory repair and rehabilitation of buildings and improvements, (2) plans for the enforcement of state and local laws, codes and regulations relating to the use of land and the use and occupancy of buildings and improvements and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements, and (3) appraisals, title searches, surveys, studies, and other plans and work necessary to prepare for the undertaking of urban renewal projects and related activities; and to develop, test, and report methods and techniques, and carry out demonstrations and other activities, for the prevention and the elimination of slums and urban blight and developing and demonstrating new or improved means of providing housing for families and persons of low income and to apply for, accept and utilize grants of funds from the federal government for such purposes;

(h) ~~T~~To prepare plans for and assist in the relocation of persons, (including individuals, families, business concerns, nonprofit organiza-

tions and others) displaced from an urban renewal area, and notwithstanding any statute of this state to make relocation payments to or with respect to such persons for which reimbursement or compensation is not otherwise made, including the making of such payments financed by the federal government;

(i) ~~t~~To exercise all or any part or combination of powers herein granted;

(j) ~~i~~In addition to its powers under subsection (b) of this section, an agency may construct foundations, platforms, and other like structural forms necessary for the provision or utilization of air rights sites for buildings and to be used for residential, commercial, industrial, and other uses contemplated by the urban renewal plan, and to provide utilities to the development site; and

(k) ~~t~~To use, lend or invest funds obtained from the federal government for the purposes of this act if allowable under federal laws or regulations.

Approved March 12, 2013.

CHAPTER 64  
(H.B. No. 10)

AN ACT

RELATING TO IDAHO RESIDENTIAL MORTGAGE PRACTICES ACT; AMENDING SECTION 26-31-102, IDAHO CODE, TO DEFINE TERMS, TO REVISE DEFINITIONS, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 26-31-103, IDAHO CODE, TO REQUIRE A BACKGROUND INVESTIGATION FOR CERTAIN CONTROL PERSONS; AMENDING SECTION 26-31-201, IDAHO CODE, TO FURTHER DEFINE A TERM AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 26-31-202, IDAHO CODE, TO REVISE EXEMPTIONS RELATING TO ATTORNEYS AND ACCOUNTANTS; AMENDING SECTION 26-31-204, IDAHO CODE, TO REVISE THE MEMBERSHIP OF A VOLUNTEER ADVISORY BOARD; AMENDING SECTION 26-31-206, IDAHO CODE, TO REVISE PROVISIONS, TO ESTABLISH ADDITIONAL PROVISIONS RELATING TO A LICENSE TO DO BUSINESS AS A MORTGAGE BROKER OR MORTGAGE LENDER AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 26-31-207, IDAHO CODE, TO REVISE PROVISIONS AND TO ESTABLISH ADDITIONAL PROVISIONS RELATING TO THE REVOCATION OR SUSPENSION OF CERTAIN LICENSES; AMENDING SECTION 26-31-208, IDAHO CODE, TO REVISE PROVISIONS AND TO ESTABLISH ADDITIONAL PROVISIONS RELATING TO THE MAINTENANCE OF RECORDS AND THE RENEWAL AND REINSTATEMENT OF CERTAIN LICENSES; AMENDING SECTION 26-31-209, IDAHO CODE, TO GRANT THE DIRECTOR OF THE DEPARTMENT OF FINANCE CERTAIN SUBPOENA AUTHORITY; AMENDING SECTION 26-31-211, IDAHO CODE, TO ESTABLISH ADDITIONAL PROHIBITED PRACTICES OF MORTGAGE BROKERS AND MORTGAGE LENDERS; REPEALING SECTION 26-31-212, IDAHO CODE, RELATING TO CONTINUING EDUCATION OF QUALIFIED PERSONS IN CHARGE; AMENDING SECTION 26-31-301, IDAHO CODE, TO PROVIDE A CORRECT CITATION; AMENDING SECTION 26-31-303, IDAHO CODE, TO DEFINE A TERM, TO REVISE A DEFINITION AND TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 26-31-304, IDAHO CODE, TO REVISE REQUIREMENTS RELATING TO LICENSE, REGISTRATION AND EXEMPTIONS AND TO PROVIDE CORRECT CODE REFERENCES; AMENDING SECTION 26-31-305, IDAHO CODE, TO PROVIDE CRITERIA ESTABLISHING WHEN A LICENSE APPLICATION SHALL BE DEEMED WITHDRAWN AND VOID; AMENDING SECTION 26-31-306, IDAHO CODE, TO REVISE A SHORT TITLE, TO ESTABLISH ADDITIONAL REQUIREMENTS FOR THE ISSUANCE OF A LICENSE, TO PROHIBIT THE ASSIGNMENT OR TRANSFER OF CERTAIN LICENSES, TO ESTABLISH PROVISIONS RELATING TO AN INACTIVE LICENSE STATUS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 26-31-308, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A CERTAIN QUALIFIED WRITTEN TEST; AMENDING SECTION 26-31-309, IDAHO CODE, TO REVISE A SHORT TITLE, TO REVISE

LICENSE RENEWAL REQUIREMENTS AND TO ESTABLISH REQUIREMENTS RELATING TO LICENSE REINSTATEMENT; AMENDING SECTION 26-31-310, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 26-31-317, IDAHO CODE, TO PROVIDE ADDITIONAL PROHIBITED ACTS AND PRACTICES; AND AMENDING SECTION 26-31-320, IDAHO CODE, TO ESTABLISH ADDITIONAL PROVISIONS RELATING TO UNIQUE IDENTIFIER DISCLOSURE.

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

SECTION 1. That Section 26-31-102, Idaho Code, be, and the same is hereby amended to read as follows:

26-31-102. GENERAL DEFINITIONS. As used in this chapter and in rules promulgated pursuant to this chapter:

(1) "Borrower" means the person who has applied for a residential mortgage loan from a licensee, or person required to be licensed, under this chapter, or on whose behalf the activities set forth in section 26-31-201(3), (5) or (7), or section 26-31-303(67), Idaho Code, are conducted.

(2) "Control person" means a person who:

(a) Is a person who has the power, directly or indirectly, to direct the management or policies of a company, including a managing member, general partner, director, executive officer or other person occupying a similar position or performing similar functions, or in the case of a limited liability company, is a managing member;

(b) Directly or indirectly has the right to vote ten percent (10%) or more of a class of a voting security of a mortgage broker or mortgage lender;

(c) Is a qualified person in charge as defined in section 26-31-201, Idaho Code; or

(d) Is an individual identified as a manager of a location for which an applicant is applying for a license under part 2 of this chapter.

(3) "Deficiency" means information contained in, or omitted from, an application for a mortgage broker, mortgage lender or mortgage loan originator license that causes the application to be inaccurate, incomplete or otherwise not in conformance with the provisions of this chapter, any rule promulgated or order issued under this chapter, application instructions published by the director or the provisions of the NMLSR policy guidebook.

(24) "Department" means the department of finance of the state of Idaho.

(35) "Director" means the director of the department of finance.

(6) "Financial services" means any activity pertaining to securities, commodities, banking, insurance, consumer lending, money services businesses, consumer debt management or real estate including, but not limited to, acting as or being associated with a bank or savings association, credit union, farm credit system institution, mortgage lender, mortgage broker, real estate salesperson or agent, appraiser, closing agent, title company, escrow agent, payday lender, money transmitter, check casher, pawnbroker, collection agent, debt management company, title lender or credit repair organization.

(7) "Housing finance agency" means any entity that is:

(a) Chartered by a state to help meet the affordable housing needs of the residents of the state;

(b) Supervised directly or indirectly by the state government; and

(c) Subject to audit and review by the state in which it operates.

(48) "Licensee" means a person licensed pursuant to this chapter to engage in the activities regulated by this chapter.

(59) "Nationwide mortgage licensing system and registry" or "NMLSR" means a mortgage licensing system developed and maintained by the conference

of state bank supervisors and the American association of residential mortgage regulators for the licensing and registration of mortgage brokers, mortgage lenders and mortgage loan originators.

(10) "NMLSR policy guidebook" means the conference of state bank supervisor's and the American association of residential mortgage regulator's NMLSR policy guidebook for licensees, published by the NMLSR, as identified by administrative rule.

(611) "Person" means a natural person, corporation, company, limited liability company, partnership or association.

(712) "Real estate settlement procedures act" means the act set forth in 12 U.S.C. section 2601 et seq., as identified by administrative rule.

(813) "Regulation X" means regulation X as ~~promulgated~~ issued by the ~~U.S. department of housing and urban development~~ federal bureau of consumer protection and codified in ~~24 at 12 CFR part 3500~~ 1024 et seq., as identified by administrative rule.

(914) "Regulation Z" means regulation Z as ~~promulgated~~ issued by the ~~board of governors of the federal reserve system~~ federal bureau of consumer protection and codified in at 12 CFR part 226 1026 et seq., as identified by administrative rule.

(105) "Residential mortgage loan" means any loan that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling, as defined in section 103(v) of the truth in lending act, located in Idaho, or on residential real estate.

(116) "Residential real estate" means any real property located in Idaho, upon which is constructed or intended to be constructed a dwelling as defined in section 103(v) of the truth in lending act.

(127) "Truth in lending act" means the act set forth in 15 U.S.C. section 1601 et seq., as identified by administrative rule.

(138) "Unique identifier" means a number or other identifier assigned by protocols established by the NMLSR.

SECTION 2. That Section 26-31-103, Idaho Code, be, and the same is hereby amended to read as follows:

26-31-103. DIRECTOR'S AUTHORITY UNDER THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY. (1) The legislature has determined that a nationwide mortgage licensing system and registry for mortgage brokers, mortgage lenders and mortgage loan originators is consistent with both the public interest and the purposes of this chapter.

(2) For the sole purpose of participating in the nationwide mortgage licensing system and registry, the director is authorized to:

(a) Modify by rule the license renewal dates under this chapter;

(b) Establish by rule such new requirements as are necessary for the state of Idaho to participate in the nationwide mortgage licensing system and registry upon the director's finding that each new requirement is consistent with both the public interest and the purposes of this chapter; and

(c) Require a background investigation of each applicant and each control person of an applicant for a mortgage broker, mortgage lender or mortgage loan originator license by means of fingerprint checks by the Idaho state police and the FBI for state and national criminal history record checks. The information obtained thereby may be used by the director to determine the applicant's eligibility for licensing under this chapter. The fee required to perform the criminal history record check shall be borne by the license applicant. Information obtained or held by the director pursuant to this subsection shall be considered confidential personal information and shall be exempt from disclosure pursuant to section 9-340C(8) and (9), Idaho Code.

SECTION 3. That Section 26-31-201, Idaho Code, be, and the same is hereby amended to read as follows:

26-31-201. DEFINITIONS. As used in this part and in rules promulgated pursuant to this chapter and pertinent to this part:

(1) "Agent" means a person who acts with the consent and on behalf of a licensee and is subject to the licensee's direct or indirect control, and may include an independent contractor.

(2) "Loan modification" means an adjustment or compromise of an existing residential mortgage loan. The term "loan modification" does not include a refinancing transaction.

(3) "Loan modification activities" means for compensation or gain, or in the expectation of compensation or gain, engaging in or offering to engage in effecting loan modifications in this state. The definition of "debt counselor" or "credit counselor" in section 26-2222(9), Idaho Code, shall not apply to loan modification activities.

(4) "Mortgage broker" means any nonexempt organization that performs the activities described in subsection (5) of this section, with respect to a residential mortgage loan.

(5) "Mortgage brokering activities" means for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly, accepting or offering to accept an application for a residential mortgage loan, assisting or offering to assist in the preparation of an application for a residential mortgage loan on behalf of a borrower, negotiating or offering to negotiate the terms or conditions of a residential mortgage loan with any person making residential mortgage loans or engaging in loan modification activities on behalf of a borrower.

(6) "Mortgage lender" means any nonexempt organization that makes residential mortgage loans to borrowers and performs the activities described in subsection (7) of this section.

(7) "Mortgage lending activities" means for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly, accepting or offering to accept applications for residential mortgage loans, or assisting or offering to assist in the preparation of an application for a residential mortgage loan.

(8) "Organization" means a person that is not a natural person.

(9) "Qualified person in charge" means the person designated, pursuant to section 26-31-206, Idaho Code, as being in charge of, and primarily responsible for, the operation of a licensed location of a mortgage broker or mortgage lender licensed under this part.

SECTION 4. That Section 26-31-202, Idaho Code, be, and the same is hereby amended to read as follows:

26-31-202. EXEMPTIONS. The provisions of this part do not apply to:

(1) Agencies of the United States and agencies of this state and its political subdivisions;

(2) An owner of real property who offers credit secured by a contract of sale, mortgage or deed of trust on the property sold;

(3) A loan that is made by a person to an employee of that person if the proceeds of the loan are used to assist the employee in meeting his housing needs;

(4) Regulated lenders licensed under the Idaho credit code and regularly engaged in making regulated consumer loans other than those secured by a security interest in real property;

(5) Trust companies as defined in section 26-3203, Idaho Code;

(6) Any person licensed or chartered under the laws of any state or of the United States as a bank, savings and loan association, credit union or industrial loan company. The terms "bank," "savings and loan association,"

"credit union" and "industrial loan company" shall include employees and agents of such organizations as well as wholly owned subsidiaries of such organizations, provided that the subsidiary is regularly examined by the chartering state or federal agency for consumer compliance purposes;

(7) Attorneys, or persons duly authorized to practice in this state, to the extent that they are retained by their clients to engage in activities authorized by this part and such activities are ancillary to the attorney's representation of the client;

(8) Accountants with an active license under chapter 2, title 54, Idaho Code, provided that the license held by such attorneys or persons is in an active status they are retained by their clients to engage in activities authorized by this part and such activities are ancillary to the representation of the client;

(89) Persons employed by, or who contract with, a licensee under this part to perform only clerical or administrative functions on behalf of such licensee, and who do not solicit borrowers or negotiate the terms of loans on behalf of the licensee;

(910) Any person not making more than five (5) loans primarily for personal, family or household use and primarily secured by a security interest on residential real property, with his own funds for his own investment, in any period of twelve (12) consecutive months; nor

(101) Any person who funds a residential mortgage loan which has been originated and processed by a licensee under this part or by an exempt person under this part, who does not directly or indirectly solicit borrowers in this state for the purpose of making residential mortgage loans, and who does not participate in the negotiation of residential mortgage loans with the borrower. For the purpose of this subsection, "negotiation of residential mortgage loans" does not include setting the terms under which a person may buy or fund a residential mortgage loan originated by a licensee under this part or an exempt person under this part.

SECTION 5. That Section 26-31-204, Idaho Code, be, and the same is hereby amended to read as follows:

26-31-204. POWERS AND DUTIES OF DIRECTOR. In addition to any other duties imposed upon the director by law, the director shall:

(1) Administer and enforce the provisions and requirements of this part;

(2) Conduct investigations and issue subpoenas as necessary to determine whether a person has violated any provision of this part or rules promulgated pursuant to this chapter and pertinent to this part;

(3) Conduct examinations of the books and records of mortgage broker and mortgage lender licensees and conduct investigations as necessary and proper for the enforcement of the provisions of this part and the rules promulgated pursuant to this chapter and pertinent to this part;

(4) Appoint a volunteer advisory board which shall consist of up to five (5) individual mortgage industry participants who are licensed or registered through the NMLSR, no less than two (2) individuals who of whom represent licensed mortgage lenders brokers and no less than two (2) individuals who of whom represent licensed mortgage brokers lenders;

(5) Pursuant to chapter 52, title 67, Idaho Code, issue orders and promulgate rules that, in the opinion of the director, are necessary to execute, enforce and effectuate the purposes of this part;

(6) Be authorized to set, by annual written notification to mortgage broker and mortgage lender licensees, limits on the fees and charges which are set forth in subsections (1) and (2) of section 26-31-210, Idaho Code; and

(7) Review and approve forms used by mortgage broker and mortgage lender licensees prior to their use as prescribed by the director.

SECTION 6. That Section 26-31-206, Idaho Code, be, and the same is hereby amended to read as follows:

26-31-206. LICENSE TO DO BUSINESS AS A MORTGAGE BROKER OR MORTGAGE LENDER. (1) The director shall receive and act on all applications for licenses to do business as a mortgage broker or mortgage lender. Applications shall be filed through the NMLSR, or as otherwise prescribed by the director, shall contain such information as the director may reasonably require, shall be updated through the NMLSR, or as otherwise prescribed by the director, as necessary to keep the information current, and shall be accompanied by a nonrefundable application fee of three hundred fifty dollars (\$350).

(2) An application for license may be denied if the director finds that:

(a) The financial responsibility, character and fitness of the license applicant, or of the officers and directors thereof, if the applicant is a corporation, partners thereof if the applicant is a partnership, members or managers thereof if the applicant is a limited liability company and individuals designated in charge of the applicant's places of business, or other control persons, are not such as to warrant belief that the business will be operated honestly and fairly within the purposes of this part;

(b) The qualified person in charge of the applicant's places of business has not been issued a license under part 3 of this chapter or does not have a minimum of three (3) years' experience in residential mortgage brokering or mortgage lending;

(c) The applicant or any control person of the applicant has been convicted of or pled nolo contendere to any felony, or has been convicted of or pled nolo contendere to a misdemeanor involving any aspect of the financial services business, or a court has accepted a finding of guilt on the part of the applicant or any control person of the applicant of any felony, or of a misdemeanor involving any aspect of the financial services business, fraud, false statement or omission, any theft or wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion or conspiracy to commit any of these offenses;

(d) The applicant or any control person of the applicant has had a license, substantially equivalent to a license under this part and issued by any state, denied, to conduct financial services issued by a government agency revoked or suspended under the laws of such state enforced by such agency;

(e) The applicant or any control person of the applicant has filed an application for a license which is false or misleading with respect to any material fact;

(f) The applicant or any partner, officer, director, manager, member, employee, ~~or~~ agent or other control person of the applicant has violated this chapter or any rule promulgated or order issued under this chapter and pertinent to this part;

(g) The applicant or any partner, officer, director, manager, member, employee, ~~or~~ agent or other control person of the applicant has violated any state or federal law, rule or regulation pertaining to ~~the financial services industry;~~ or

(h) The applicant or any control person of the applicant has not provided information on the application as reasonably required by the director pursuant to subsection (1) of this section, or has provided materially false information.

(3) The director is empowered to conduct investigations as he may deem necessary, to enable him to determine the existence of the requirements set out in subsection (2) of this section.

(4) Upon written request to the director, an applicant is entitled to a hearing on the question of his qualifications for a license if:

(a) The director has notified the applicant in writing that his application has been denied;

(b) The director has not issued a license within sixty (60) days after ~~the receipt of a complete license application for the license was filed from an applicant~~. If a hearing is held, the applicant shall reimburse, pro rata, the director for his reasonable and necessary expenses incurred as a result of the hearing. A request for hearing may not be made more than fifteen (15) days after the director has mailed a writing to the applicant notifying him that the application has been denied and stating in substance the director's finding supporting denial of the application.

(5) A license application shall be deemed withdrawn and void if an applicant submits an incomplete license application and, after receipt of a written notice of the application deficiency, fails to provide the director with information necessary to complete the application within sixty (60) days of receipt of the deficiency notice. A written deficiency notice shall be deemed received by a license applicant when:

(a) Placed in regular U.S. mail by the director or his agent using an address provided by the applicant on the license application; or

(b) E-mailed to the applicant using an e-mail address provided by the applicant on the license application; or

(c) Posted by the director or his agent on the NMLSR.

(6) Every licensee under this part shall maintain a home office located in the United States and licensed under this part as the licensee's principal location for the transaction of mortgage business. The director may, on application through the NMLSR, or as otherwise prescribed by the director, issue additional branch licenses to the same licensee upon compliance with all the provisions of this part governing the issuance of a single license. A separate license shall be required for each place of business from which mortgage brokering activities or mortgage lending activities are directly or indirectly conducted. The individual qualified person in charge of each place of business shall continuously satisfy the requirements of subsections (2) (b), (c) and (d) of this section. Each license under this part shall remain in full force and effect unless the licensee does not satisfy the renewal requirements of section 26-31-208(3), Idaho Code, or the license is relinquished, suspended or revoked; provided however, branch licenses shall terminate upon the relinquishment or revocation of a home office license.

(67) No licensee under this part shall change the location of any place of business, consolidate two (2) or more locations or close any home office location without giving the director at least fifteen (15) days' prior written notice. A licensee under this part shall give written notice to the director within three (3) business days of the closure of any branch location licensed under this part. Written notice of the closure of a home or branch office location shall include a detailed explanation of the disposition of all loan applications pending at the time of closure of the licensed location.

(78) No licensee under this part shall engage in the business of making or brokering residential mortgage loans at any place of business for which he does not hold a license nor shall he engage in business under any other name than that on the license.

(89) The director may suspend action upon a mortgage broker or mortgage lender license application pending resolution of any criminal charges before any court of competent jurisdiction against an applicant which could disqualify that applicant if convicted.

(910) The director may suspend action upon a mortgage broker or mortgage lender license application pending resolution of any civil action or administrative proceeding against an applicant in which the civil action or administrative proceeding involves any aspect of a financial service business and the outcome of which could disqualify the applicant.

(101) A license applicant under this part shall make complete disclosure of all information required in the license application, including information concerning officers, directors, partners, members, managers, employees or agents. A license applicant, or person acting on behalf of the applicant, is not liable in any civil action other than a civil action brought by a governmental agency, related to an alleged untrue statement made pursuant to this part, unless it is shown by clear and convincing evidence that:

(a) The license applicant, or person acting on behalf of the license applicant, knew at the time that the statement was made that it was false in any material respect; or

(b) The license applicant, or person acting on behalf of the applicant, acted in reckless disregard as to the statement's truth or falsity.

~~(11) Each mortgage broker or mortgage lender licensed under this part shall display in plain view the certificate of licensure issued by the department in its principal office and in each branch office.~~

(12) Notwithstanding any other provision of this part, an individual licensed under part 3 of this chapter may apply for a license under this section.

SECTION 7. That Section 26-31-207, Idaho Code, be, and the same is hereby amended to read as follows:

26-31-207. REVOCATION OR SUSPENSION OF LICENSE. (1) If the department has reason to believe that grounds exist for revocation or suspension of a license issued pursuant to this part, the department may initiate a contested case against a mortgage broker or mortgage lender, and any partner, officer, director, manager, member, control person, employee or agent whose activities constitute the basis for revocation or suspension, in accordance with chapter 52, title 67, Idaho Code. The director may, after proceedings pursuant to chapter 52, title 67, Idaho Code, suspend the license for a period not to exceed six (6) months, or revoke the license, if he finds that:

(a) The licensee or any partner, officer, director, manager, member, control person, employee or agent of the licensee has violated this chapter or any rule promulgated or order issued under this chapter and pertinent to this part; or

(b) The licensee or any partner, officer, director, manager, member, control person, employee or agent of the licensee has violated any state or federal law, rule or regulation pertaining to mortgage brokering, mortgage lending, or mortgage loan origination activities; or

(c) Facts or conditions exist which would clearly have justified the director in refusing to grant a license had these facts or conditions been known to exist at the time the license was issued; or

(d) The licensee or any partner, officer, director, manager, member, control person, employee or agent of the licensee has been convicted of any felony, or of a misdemeanor involving any aspect of the financial services business, or a court has accepted a finding of guilt on the part of the licensee or partner, officer, director, manager, member, control person, employee or agent of the licensee, of any felony, or of a misdemeanor involving any aspect of the financial services business; or

(e) The licensee or any partner, officer, director, manager, member, control person, employee or agent of the licensee has had a license to conduct financial services, including a license substantially equivalent to a license under this act, and issued by another state, denied, revoked or suspended under the laws of such state by any government agency; or

(f) The licensee has filed an application for a license which as of the date the license was issued, or as of the date of an order denying, suspending or revoking a license, was incomplete in any material respect or contained any statement that was, in light of the circumstances un-

der which it was made, false or misleading with respect to any material fact; or

(g) The mortgage broker or mortgage lender licensee has failed to notify the director of the employment or termination of, or the entering into or termination of a contractual relationship with, a licensed mortgage loan originator pursuant to section 26-31-208(2), Idaho Code; or

(h) The mortgage broker or mortgage lender licensee has failed to supervise diligently and control the mortgage-related activities of a mortgage loan originator as defined in part 3 of this chapter and that is employed by the licensee; or

(i) The mortgage broker or mortgage lender licensee has failed to designate a new qualified person in charge and notify the director of the same through the NMLSR within thirty (30) days following a change in the qualified person in charge; or

(j) The licensee has failed to notify the director of the appointment or employment of a control person within thirty (30) days of such occurrence.

(2) If the director finds that good cause exists for revocation of a license issued under this part, and that enforcement of this chapter and the public interest require immediate suspension of the license pending investigation, he may, after a hearing upon five (5) days' written notice, enter an order suspending the license for not more than thirty (30) days.

(3) Any mortgage broker or mortgage lender licensee may relinquish its license by notifying the department in writing of its relinquishment, but this relinquishment shall not affect its liability for acts previously committed, and may not occur after the filing of a complaint for revocation of the license.

(4) The director may, in his discretion, reinstate a license issued under this part, terminate a suspension or grant a new license under this part to a person whose license issued under this part has been revoked or suspended, if no fact or condition then exists which clearly would justify the department in refusing to grant a license.

SECTION 8. That Section 26-31-208, Idaho Code, be, and the same is hereby amended to read as follows:

26-31-208. RECORDS -- ANNUAL REPORTS -- RENEWAL AND REINSTATEMENT OF LICENSE. (1) Every licensee under this part shall maintain records in the United States, including financial records in conformity with generally accepted accounting principles, in a manner that will enable the director to determine whether the licensee is complying with the provisions of this part. The recordkeeping system of the licensee shall be sufficient if it makes the required information reasonably available to the director. The records need not be kept in the place of business where residential mortgage loans are made, if the director is given free access to the records wherever located. The records pertaining to any loan need not be preserved for more than three (3) years after making the final entry relating to the loan.

(2) Every mortgage broker or mortgage lender licensed under this part that employs or contracts with a mortgage loan originator licensed under part 3 of this chapter, for the purpose of conducting mortgage loan origination activities in Idaho, shall:

(a) Notify the director through the NMLSR, or as otherwise prescribed by the director, of the employment of, or contractual relationship with, a mortgage loan originator licensee within thirty (30) days of such employment or contract;

(b) Notify the director through the NMLSR, or as otherwise prescribed by the director, of the termination of employment of, or contractual re-

lationship with, a mortgage loan originator licensee within thirty (30) days of such termination; and

(c) Maintain any records relating to the employment of, or contractual relationship with, a mortgage loan originator licensee, for a period not to exceed three (3) years.

(3) On or before December 31 of each year, every mortgage broker and mortgage lender licensee under this part shall pay through the NMLSR, or as otherwise prescribed by the director, a nonrefundable annual license renewal fee of one hundred fifty dollars (\$150), and file with the director through the NMLSR, or as otherwise prescribed by the director, a renewal ~~form~~ application containing such information as the director may require. Notwithstanding the provisions of section 67-5254, Idaho Code, a license issued under this part automatically expires if not timely renewed according to the requirements of this section. Notwithstanding the provisions of section 67-5254, Idaho Code, branch licenses issued under this part also expire upon the expiration, relinquishment or revocation of a license issued under this part to a licensee's designated home office.

~~(4) On or before March 31 of each year, or other date established by the director by rule, every mortgage broker and mortgage lender licensee under this part shall file with the director a composite annual report containing such information as the director may require for the residential mortgage loans made or brokered by it for the preceding calendar year. The director may reinstate an expired license during the time period of January 1 through February 28, immediately following license expiration if the director finds that the applicant meets the requirements for licensure under this part after submission to the director of:~~

~~(a) A complete application for renewal;~~

~~(b) The fees required to apply for license renewal unless previously paid for the period for which the license renewal applies; and~~

~~(c) A reinstatement fee of two hundred dollars (\$200).~~

~~(5) Within forty-five (45) days of the end of each calendar quarter, each mortgage broker and mortgage lender licensee under this part shall, as required by the NMLSR, submit to quarterly mortgage call reports through the NMLSR reports of condition, which shall be in such form and shall contain such information as the NMLSR director may require.~~

~~(6) Within forty-five (45) days of the end of each calendar year, each mortgage broker and mortgage lender licensee under this part shall submit an annual report of financial condition through the NMLSR, which shall be in such form and shall contain such information as the director may require.~~

SECTION 9. That Section 26-31-209, Idaho Code, be, and the same is hereby amended to read as follows:

26-31-209. EXAMINATION AND INVESTIGATIONS. (1) The director shall examine periodically at intervals he deems appropriate, the loans and business records of each licensee under this part. In addition, for the purpose of discovering violations of the provisions of this part or securing information lawfully required pursuant to this part, the director may at any time investigate the loans, business, books and records of any such licensee. For these purposes, the director shall have free and reasonable access to the offices, places of business and books and records of the licensee. The director, for purposes of examination of licensees under this part, shall be paid the actual cost of examination by such licensee within thirty (30) days of the completion of the examination.

(2) If the records of a licensee under this part are located outside of this state, the licensee shall have the option to make such records available to the director at a convenient location within this state, or pay the reasonable and necessary expenses for the director or his representative to examine such records at the place where they are maintained. The director

may designate representatives, including comparable officials of the state in which the records are located, to inspect such records on his behalf.

(3) For the purposes of this section, the director may administer oaths or affirmations, and upon his own motion or upon request of any party, may subpoena witnesses, compel their attendance, adduce evidence and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts, or any other matter reasonably calculated to lead to the discovery of admissible evidence.

(4) If the director has a reasonable basis to believe that an unlicensed person is engaging in activities for which a license is required under this part, then the director may subpoena the person or any employee, member, officer, representative or agent that has possession, custody or care of the books and records of the person to compel their attendance, adduce evidence and require the production of any matter that is relevant to the investigation, including the existence, description, nature, custody, condition and location of any books, documents or other tangible things and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of admissible evidence.

(5) Upon failure to obey a subpoena or to give testimony and upon reasonable notice to all persons affected thereby, the director may apply to the district court for an order compelling compliance.

SECTION 10. That Section 26-31-211, Idaho Code, be, and the same is hereby amended to read as follows:

26-31-211. PROHIBITED PRACTICES OF MORTGAGE BROKERS AND MORTGAGE LENDERS. No mortgage broker or mortgage lender licensee under this part or person required under this part to have such license shall:

(1) Obtain any exclusive dealing or exclusive agency agreement from any borrower;

(2) Delay closing of any residential mortgage loan for the purpose of increasing interest, costs, fees or charges payable by the borrower;

(3) Accept any fees at closing which were not previously disclosed fully to the borrower;

(4) Obtain any agreement or instrument in which blanks are left to be filled in after signing by a borrower;

(5) Engage in any misrepresentation or omission of a material fact in connection with a residential mortgage loan;

(6) Make payment, whether directly or indirectly, of any kind to any in-house or fee appraiser for the purpose of influencing the independent judgment of the appraiser with respect to the value of any residential real property which is to be covered by a residential mortgage loan;

(7) Make any false promise likely to influence or persuade, or pursue a course of misrepresentations and false promises through mortgage loan originators or other agents, or through advertising or otherwise;

(8) Misrepresent, circumvent or conceal, through whatever subterfuge or device, any of the material terms of a residential mortgage loan transaction;

(9) Enter into any agreement, with or without the payment of a fee, to fix in advance a particular interest rate or other term in a residential mortgage loan unless written confirmation of the agreement is delivered to the borrower as required by rule promulgated pursuant to this chapter and pertinent to this part;

(10) Engage in mortgage loan origination activity through any person who at the time of such mortgage loan origination activity does not hold a mortgage loan originator license issued by the department pursuant to this chapter; nor

(11) Receive a fee for engaging in loan modification activities except pursuant to a written agreement between the person subject to this part and a person seeking a loan modification. The written agreement must specify the amount of the fee that will be charged to the person seeking a loan modification, specify the terms of the loan for which modification will be sought and disclose the expected impact of the loan modification on the monthly payment and length of the loan; nor

(12) Employ or otherwise appoint as a qualified person in charge any person who the director has found to have violated standards of conduct adopted by the NMLSR applicable to a person taking a written test administered pursuant to section 26-31-308, Idaho Code, or who has obtained or attempted to obtain credit for education required pursuant to section 26-31-307 or 26-31-310, Idaho Code, by means of false pretenses or representations.

SECTION 11. That Section 26-31-212, Idaho Code, be, and the same is hereby repealed.

SECTION 12. That Section 26-31-301, Idaho Code, be, and the same is hereby amended to read as follows:

26-31-301. TITLE. This part 3 of the chapter may be cited as the "Idaho Secure and Fair Enforcement for Mortgage Licensing Act of 2009" or the "Idaho S.A.F.E. Mortgage Licensing Act of 2009."

SECTION 13. That Section 26-31-303, Idaho Code, be, and the same is hereby amended to read as follows:

26-31-303. DEFINITIONS. For purposes of this part, the following definitions shall apply:

(1) "Depository institution" has the same meaning as in section 3 of the federal deposit insurance act, and includes any credit union.

(2) "Expungement" means, with respect to a record of criminal conviction entered in this state, that no one, including law enforcement, can be permitted access to the record even by court order. With respect to criminal convictions entered in another state, that state's definition of expungement shall apply.

(3) "Federal banking agency" means the board of governors of the federal reserve system, the comptroller of the currency, the director of the office of thrift supervision, the national credit union administration and the federal deposit insurance corporation.

(34) "Immediate family member" means a spouse, child, sibling, parent, grandparent or grandchild, and includes stepparents, stepchildren, stepsiblings and adoptive relationships.

(45) "Individual" means a natural person.

(56) "Loan processor or underwriter" means an individual who performs clerical or support duties as an employee at the direction of and subject to the supervision and instruction of a person licensed, or exempt from licensing under this chapter.

(a) For the purposes of this subsection clerical or support duties may include, subsequent to the receipt of an application:

(i) The receipt, collection, distribution and analysis of information common for the processing or underwriting of a residential mortgage loan; and

(ii) Communicating with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that such communication does not include offering or negotiating loan rates or terms or counseling consumers about residential mortgage loan rates or terms.

(b) An individual engaging solely in loan processor or underwriter activities shall not represent to the public, through advertising or other means of communicating or providing information, including the use of business cards, stationery, brochures, signs, rate lists or other promotional items, that such individual can or will perform any of the activities of a mortgage loan originator.

(67) "Mortgage loan originator" means an individual who for compensation or gain or in the expectation of compensation or gain takes a residential mortgage loan application, or offers or negotiates terms of a residential mortgage loan.

(a) Mortgage loan originator does not mean the following:

(i) An individual engaged solely as a loan processor or underwriter except as otherwise provided in section 26-31-304(43), Idaho Code;

(ii) A person or entity that only performs real estate brokerage activity and is licensed or registered in accordance with Idaho law, unless the person or entity is compensated by a lender, a mortgage broker or other mortgage loan originator, or by any agent of such lender, mortgage broker or other mortgage loan originator;

(iii) A person or entity solely involved in extensions of credit relating to timeshare plans, as that term is defined in 11 U.S.C. section 101(53D); and

~~(iv) A person that only performs the activities of a manufactured housing resale broker, responsible managing employee, retailer or salesman as defined in and licensed under chapter 21, title 44, Idaho Code, unless the person is compensated by a lender, a mortgage broker or other mortgage loan originator, or by any agent of such lender, mortgage broker or other mortgage loan originator. This subparagraph shall not apply if the United States department of housing and urban development finds, through guideline, rule, regulation or interpretive letter, that it is inconsistent with the requirements of P.L. 110-289, title V~~ An individual who is an employee of a federal, state or local government agency or housing finance agency and who acts as a loan originator only pursuant to his or her official duties as an employee of the federal, state or local government agency or housing finance agency.

(b) For the purposes of this section, "real estate brokerage activity" means any activity that involves offering or providing real estate brokerage services to the public, including:

(i) Acting as a real estate agent or real estate broker for a buyer, seller, lessor or lessee of real property;

(ii) Bringing together parties interested in the sale, purchase, lease, rental or exchange of real property;

(iii) Negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental or exchange of real property, other than in connection with providing financing with respect to any such transaction;

(iv) Engaging in any activity for which a person is required to be registered or licensed as a real estate agent or real estate broker under law; and

(v) Offering to engage in any activity, or act in any capacity, described in subparagraphs (i) through (iv) of this paragraph.

(78) "Nontraditional mortgage product" means any mortgage product other than a thirty (30) year fixed rate mortgage.

(89) "Registered mortgage loan originator" means any individual who is registered with, and maintains a unique identifier through the NMLSR, who meets the definition of mortgage loan originator and who is an employee of one (1) of the following:

(a) A depository institution;

- (b) A subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency; or
- (c) An institution regulated by the farm credit administration.

SECTION 14. That Section 26-31-304, Idaho Code, be, and the same is hereby amended to read as follows:

26-31-304. LICENSE AND REGISTRATION REQUIRED -- EXEMPTIONS. (1) Unless specifically exempt under subsection (32) of this section, an individual shall not engage in the business of a mortgage loan originator with respect to any dwelling located in this state without first obtaining and maintaining annually a license under this part. Each licensed mortgage loan originator shall register with and maintain a valid unique identifier issued by the NMLSR.

~~(2) In order to facilitate an orderly transition to licensing and minimize disruption in the mortgage marketplace, the effective dates for subsection (1) of this section are as follows:~~

~~(a) For all individuals other than those described in subsection (2) (b) of this section, the effective date is July 31, 2010, or such later date approved by the secretary of the U.S. department of housing and urban development, pursuant to the authority granted under P.L. 110-289, section 1508(a).~~

~~(b) For all individuals licensed as mortgage loan originators at the time of the enactment of this part, the effective date is January 1, 2011, or such later date approved by the secretary of the U.S. department of housing and urban development, pursuant to the authority granted under P.L. 110-289, section 1508(a).~~

~~(3) The following are exempt from this part:~~

(a) Registered mortgage loan originators when acting on behalf of an entity described in section 26-31-303(89) (a) through (c), Idaho Code;

(b) Any individual who offers or negotiates terms of a residential mortgage loan with or on behalf of an immediate family member of the individual;

(c) Any individual who offers or negotiates terms of a residential mortgage loan that is secured by a dwelling that serves as the individual's residence; and

(d) An licensed attorney duly authorized to practice in this state who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a lender, a mortgage broker or other mortgage loan originator or by any agent of such lender, mortgage broker or other mortgage loan originator.

(43) A loan processor or underwriter who is an independent contractor may not engage in the activities of a loan processor or underwriter unless such independent contractor loan processor or underwriter obtains and maintains a license under subsection (1) of this section. Each independent contractor loan processor or underwriter licensed as a mortgage loan originator must have and maintain a valid unique identifier issued by the nationwide mortgage licensing system and registry.

(54) For the purpose of implementing an orderly and efficient application and licensing process the director may establish licensing rules and interim procedures for licensing and acceptance of applications. For previously registered or licensed individuals the director may establish expedited review and licensing procedures.

SECTION 15. That Section 26-31-305, Idaho Code, be, and the same is hereby amended to read as follows:

26-31-305. LICENSE AND REGISTRATION APPLICATION. (1) Applicants for a license under this part shall apply through the NMLSR in a form prescribed by the director. Each form shall include such content as the director may reasonably require, shall be updated as necessary to keep the information current and shall be accompanied by a nonrefundable application fee of two hundred dollars (\$200).

(2) In order to fulfill the purposes of this part, the director may establish relationships or enter into contracts with the NMLSR or other entities designated by the NMLSR to collect and maintain records and to process fees.

(3) Applicants for licensure under this part shall submit the following to the NMLSR:

(a) Fingerprints for submission to the federal bureau of investigation, and any governmental agency or entity authorized to receive such information for a state, national and international criminal history background check; and

(b) Personal history and experience in a form prescribed by the NMLSR, including the authorization for the NMLSR and the director to obtain the following:

(i) An independent credit report obtained from a consumer reporting agency described in section 603(p) of the fair credit reporting act; and

(ii) Information related to any administrative, civil or criminal findings by any governmental jurisdiction.

(4) For the purposes of this section and in order to reduce the points of contact which the federal bureau of investigation may have to maintain for purposes of subsection (3) (a) and (b) (ii) of this section, the director may use the NMLSR as a channeling agent for requesting information from and distributing information to the department of justice or any governmental agency.

(5) For the purposes of this section and in order to reduce the points of contact which the director may have to maintain for purposes of subsection (3) (b) (i) and (ii) of this section, the director may use the NMLSR as a channeling agent for requesting and distributing information to and from any source so directed by the director.

(6) Upon written request, an applicant for a license under this part is entitled to a hearing on the question of his qualifications for a license if:

(a) The director has notified the applicant in writing that his application has been denied and the request for a hearing is made not more than fifteen (15) days after the director mailed the written notification of denial; or

(b) The director has not issued the applicant a license within sixty (60) days after the a complete application for the license was filed.

If a hearing is held, the applicant shall reimburse, pro rata, the director for his reasonable and necessary expenses incurred as a result of the hearing. The director shall state, in substance, his findings that support a denial of an application.

(7) A license application shall be deemed withdrawn and void if an applicant submits an incomplete license application and, after receipt of a written notice of the application deficiency, fails to provide the director with information necessary to complete the application within sixty (60) days of receipt of the deficiency notice. A written deficiency notice shall be deemed received by a license applicant when:

(a) Placed in regular U.S. mail by the director or his agent using an address provided by the applicant on the license application; or

(b) E-mailed to the applicant using an e-mail address provided by the applicant on the license application; or

(c) Posted by the director or his agent on the NMLSR.

(8) The director may suspend action upon an application for a license pursuant to this part pending the resolution of any criminal charge before a court of competent jurisdiction against the applicant which could disqualify the applicant from licensure if the applicant is found guilty of or pleads guilty to the pending charge.

(89) The director may suspend action upon an application for a license pursuant to this part pending resolution of any civil action or administrative proceeding against an applicant that involves any aspect of a financial service business, the outcome of which could disqualify the applicant from licensure.

(910) A license applicant under this part shall make complete disclosure of all information required in the license application. A license applicant or person acting on behalf of the applicant is not liable in any civil action other than a civil action brought by a governmental agency related to an alleged untrue statement made pursuant to this section, unless it is shown that:

(a) The license applicant, or person acting on behalf of the license applicant, knew at the time that the statement was made that it was materially false; or

(b) The license applicant or person acting on behalf of the license applicant acted in reckless disregard as to the truth or falsity of the statement.

SECTION 16. That Section 26-31-306, Idaho Code, be, and the same is hereby amended to read as follows:

26-31-306. ISSUANCE OF LICENSE -- LICENSE NOT ASSIGNABLE OR TRANSFERABLE -- INACTIVE LICENSE STATUS. (1) The director shall not issue a mortgage loan originator license under this part unless the director first makes the following findings:

(a) The applicant has never had a mortgage loan originator license, or other mortgage related license, revoked in any governmental jurisdiction. If such revocation was formally vacated, then it shall not be deemed a revocation for purposes of this section.

(b) The applicant has not been convicted of, found guilty of or pled guilty or nolo contendere to, a felony in a domestic, foreign or military court:

(i) During the seven (7) year period immediately preceding the date of the application for licensing or registration; or

(ii) At any time preceding such date of application, if such felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering;

(c) Any pardon or expungement of a conviction shall not be deemed a conviction for purposes of this section resulting in an automatic denial or revocation of a mortgage loan originator license. The director may consider the underlying crime, facts or circumstances of a pardoned or expunged felony conviction when determining the eligibility of an applicant for licensure under paragraph (d) of this subsection.

(ed) The applicant has demonstrated financial responsibility, character and general fitness sufficient to command the confidence of the community and to warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently within the purposes of this part. The director shall not base a license application denial under this part solely on a license applicant's credit score or credit report. For purposes of this section, a license applicant is not financially responsible if he has shown a disregard for the management of his personal financial affairs. A determination that an individual has not shown financial responsibility may include, but is not limited to, consideration of the following:

- (i) A current outstanding judgment, except a judgment issued solely as a result of medical expenses;
- (ii) A current outstanding tax lien or other government lien or filing;
- (iii) A foreclosure within the past three (3) years; or
- (iv) A pattern of delinquent accounts within the past three (3) years.

(de) The applicant has successfully completed the prelicensing education requirement pursuant to section 26-31-307, Idaho Code.

(ef) The applicant has passed a written test that meets the test requirement pursuant to section 26-31-308, Idaho Code.

(fg) The applicant has met the mortgage recovery fund requirement pursuant to section 26-31-110, Idaho Code.

(gh) The applicant has provided information on the application as required in section 26-31-305, Idaho Code.

(2) The director may conduct investigations as he deems necessary to determine the existence of the requirements listed in this section.

(3) A license issued under this part is not assignable or transferable.

(4) A mortgage loan originator whose license is placed on inactive status under this part shall not act as a mortgage loan originator in this state until the license is activated.

(5) The director shall place a mortgage loan originator license on inactive status upon the occurrence of any of the following:

(a) A mortgage loan originator license application is submitted and approved prior to the filing and approval of a loan originator's relationship and sponsorship by an employing licensed mortgage broker or mortgage lender or by an exempt entity;

(b) Receipt of a notice from either the licensed mortgage broker, mortgage lender, registrant, exempt entity or mortgage loan originator that the mortgage loan originator's sponsored relationship as an employee or independent agent of a licensed mortgage broker, mortgage lender or exempt entity has been terminated; or

(c) The surrender, expiration, suspension or revocation of the employing licensed mortgage broker's, mortgage lender's or exempt entity's license.

(6) If a mortgage loan originator license is designated as inactive under this part, then it shall remain in that status unless and until it is surrendered, revoked, suspended, expired or is activated.

(7) A mortgage loan originator who holds an inactive mortgage loan originator license may renew such inactive license if he or she remains otherwise eligible for renewal pursuant to section 26-31-309, Idaho Code. Such renewal shall not activate the license from an inactive status.

(8) The director may activate a mortgage loan originator license upon receipt of a filing through the NMLSR indicating that the mortgage loan originator licensee has been employed and sponsored as a mortgage loan originator by a licensed mortgage broker, mortgage lender or by an exempt entity registrant and if such mortgage loan originator meets the conditions for licensing under this part.

SECTION 17. That Section 26-31-308, Idaho Code, be, and the same is hereby amended to read as follows:

26-31-308. TESTING OF MORTGAGE LOAN ORIGINATORS. (1) All individuals seeking a mortgage loan originator license under this part shall satisfy the written test requirement by passing a qualified written test developed by the NMLSR and administered by a provider approved by the NMLSR based upon reasonable standards and subject to subsection (2) of this section.

(2) A written test shall not be deemed a qualified written test for purposes of subsection (1) of this section unless it tests the applicant's knowledge and comprehension in the following subject areas:

- (a) Ethics;
- (b) Federal and state law and regulation pertaining to mortgage loan origination;
- (c) Federal and state law and regulation pertaining to fraud, consumer protection, the nontraditional mortgage marketplace and fair lending issues.

(3) Nothing in this section shall prohibit a test provider approved by the NMLSR from administering a written test at the applicant's place of employment, at the location of any subsidiary or affiliate of the applicant's employer or at the location of any entity with which the applicant holds an exclusive arrangement to conduct the business of a mortgage loan originator.

(4) In order to pass a qualified written test, an individual must achieve a test score of not less than seventy-five percent (75%) correct answers to questions.

(5) An individual may retake a qualified written test ~~three~~ two (32) times with each test occurring at least thirty (30) days after the preceding test. If an individual does not achieve a passing score on a qualified written test upon retake number ~~three~~ two (32), then the individual shall wait at least six (6) months before retaking a written test.

(6) A mortgage loan originator who fails to maintain a valid license under this part for a period of five (5) years or longer shall, as a condition of obtaining a new license under this part, retake and pass a qualified written test, not taking into account any time during which such individual is a registered mortgage loan originator.

SECTION 18. That Section 26-31-309, Idaho Code, be, and the same is hereby amended to read as follows:

26-31-309. LICENSE RENEWAL AND REINSTATEMENT REQUIREMENTS. (1) The minimum standards for license renewal for mortgage loan originators licensed under this part shall include the following:

- (a) The mortgage loan originator continues to meet the minimum standards for license issuance pursuant to section 26-31-306, Idaho Code;
- (b) The mortgage loan originator has satisfied the annual continuing education requirements pursuant to section 26-31-310, Idaho Code; and
- (c) The mortgage loan originator has filed with the director through the NMLSR, on or before December 31 of each year, a renewal ~~form~~ application containing such information as the director may require, accompanied by a nonrefundable annual license renewal fee of one hundred dollars (\$100).

(2) If a mortgage loan originator fails to timely satisfy the provisions of subsection (1) of this section, notwithstanding the provisions of section 67-5254, Idaho Code, then his license shall be deemed automatically and immediately expired.

(3) The director may adopt procedures for the reinstatement of ~~reinstatement of~~ expired licenses consistent with the standards established by the NMLSR during the time period of January 1 through February 28, immediately following license expiration if the director finds that the former licensee meets the requirements for licensure under this part after submission to the director of:

- (a) A complete application for renewal;
- (b) The fees required to apply for license renewal unless previously paid for the period for which the license renewal applies; and
- (c) A reinstatement fee of one hundred dollars (\$100).

SECTION 19. That Section 26-31-310, Idaho Code, be, and the same is hereby amended to read as follows:

26-31-310. CONTINUING EDUCATION FOR MORTGAGE LOAN ORIGINATORS. (1) In order to meet the annual continuing education requirements, a licensed mortgage loan originator shall complete at least eight (8) hours of education each year, which shall include:

- (a) Three (3) hours minimum of instruction on federal law and regulation;
- (b) Two (2) hours minimum of instruction on ethics, including instruction on fraud, consumer protection and fair lending issues;
- (c) Two (2) hours minimum of instruction on lending standards for the nontraditional mortgage product marketplace; and
- (d) One (1) hour minimum of instruction directly related to this chapter and rules promulgated pursuant to this chapter.

(2) All continuing education courses and course providers shall be reviewed and approved by the NMLSR based upon reasonable standards.

(3) Nothing in this section shall preclude any approved education course that is provided by the mortgage loan originator's employer or an entity which is affiliated with the mortgage loan originator by an agency contract or any subsidiary or affiliate of such employer or entity.

(4) Continuing education courses may be completed either in a classroom, online or by any other means approved by the NMLSR.

(5) A licensed mortgage loan originator may only receive credit for a continuing education course in the year in which the course is taken, except as provided in section 26-31-309(23), Idaho Code, and subsection (9) of this section, and may not take the same approved course in the same or successive years in order to meet the annual continuing education requirements.

(6) A licensed mortgage loan originator who is an approved instructor may receive credit toward his required annual continuing education hours at the rate of two (2) hours of credit for every one (1) hour of instruction of an approved continuing education course.

(7) An individual having successfully completed the continuing education requirements described in subsection (1) (a) through (c) of this section for any state shall be awarded credit toward completion of continuing education requirements in Idaho.

(8) A licensed mortgage loan originator who subsequently becomes unlicensed shall complete the continuing education requirements for the last year in which the license was held prior to issuance of a new or renewed license.

(9) An individual meeting the requirements of section 26-31-309(1) (a) and (c), Idaho Code, may make up any deficiency in continuing education requirements as established by rule of the director.

SECTION 20. That Section 26-31-317, Idaho Code, be, and the same is hereby amended to read as follows:

26-31-317. PROHIBITED ACTS AND PRACTICES. It is a violation of this part for a person or individual subject to this part, in connection with mortgage loan origination activity in this state, to:

- (1) Directly or indirectly employ any scheme, device or artifice to defraud or mislead borrowers or lenders or to defraud any person;
- (2) Engage in any unfair or deceptive practice;
- (3) Obtain property by fraud or misrepresentation;
- (4) Solicit or enter into a contract with a borrower that provides that the person or individual subject to this part may earn a fee or commission through "best efforts" to obtain a loan, even though no loan is actually obtained for the borrower;

(5) Solicit, advertise or enter into a contract for specific interest rates, points or other financing terms, unless the terms are actually available at the time of soliciting, advertising or contracting;

(6) Conduct any business covered by this part without holding a valid license as required under this part, or assist or aid and abet any person in the conduct of business under this part who does not hold a valid license as required under this part;

(7) Fail to make disclosures as required by this part or any other applicable state or federal law including rules or regulations promulgated thereunder;

(8) Fail to comply with provisions of this part or rules promulgated under this part, or fail to comply with any other state or federal law, including the rules and regulations promulgated thereunder, applicable to any business authorized or conducted under this part;

(9) Make any false or deceptive statement or representation, including a false or deceptive statement or representation concerning rates, points or other financing terms or conditions for a residential mortgage loan, or engage in bait and switch advertising;

(10) Negligently make any false statement or knowingly and willfully omit a material fact in connection with any information or reports filed with a government agency or the NMLSR or in connection with any investigation conducted by the director or another governmental agency;

(11) Make any payment, threat or promise, directly or indirectly, to any person for the purpose of influencing the independent judgment of the person in connection with a residential mortgage loan, or make any payment, threat or promise, directly or indirectly, to any appraiser of a property, for the purpose of influencing the independent judgment of the appraiser with respect to the value of the property;

(12) Collect, charge, attempt to collect or charge, or use or propose any agreement purporting to collect or charge any fee prohibited by this part;

(13) Cause or require a borrower to obtain property insurance coverage in an amount that exceeds the replacement cost of the improvements as established by the property insurer;

(14) Fail to truthfully account for moneys belonging to a party to a residential mortgage loan transaction;

(15) Be employed simultaneously by more than one (1) mortgage broker or mortgage lender licensed or required to be licensed under part 2 of this chapter;

(16) Enter into concurrent contractual relationships for delivery of mortgage loan origination services to more than one (1) mortgage broker or mortgage lender licensed or required to be licensed under part 2 of this chapter;

(17) Obtain any exclusive dealing or exclusive agency agreement from any borrower;

(18) Delay closing of any residential mortgage loan for the purpose of increasing interest, costs, fees or charges payable by the borrower;

(19) Accept any fees at closing which were not previously disclosed fully to the borrower;

(20) Obtain any agreement or instrument in which blanks are left to be filled in after signing by a borrower; or

(21) Enter into any agreement, with or without the payment of a fee, to fix in advance a particular interest rate or other term in a residential mortgage loan unless written confirmation of the agreement is delivered to the borrower as required by rule pursuant to this chapter;

(22) Violate standards of conduct adopted by the NMLSR applicable to a person taking a written test administered pursuant to section 26-31-308, Idaho Code, as found by the director; or

(23) Obtain or attempt to obtain credit for education required pursuant to section 26-31-307 or 26-31-310, Idaho Code, by means of false pretenses or representations.

SECTION 21. That Section 26-31-320, Idaho Code, be, and the same is hereby amended to read as follows:

26-31-320. UNIQUE IDENTIFIER DISCLOSURE. The unique identifier of any person engaged in the origination of a residential mortgage loan shall be clearly displayed on all residential mortgage loan application forms, solicitations or advertisements, including business cards, and websites and other forms of media, and any other document required by rule promulgated under this chapter or order issued by the director under this chapter and pertinent to this part.

Approved March 13, 2013.

CHAPTER 65  
(H.B. No. 109)

AN ACT

RELATING TO THE BOARD OF PHARMACY; AMENDING SECTION 54-1707, IDAHO CODE, TO PROVIDE FOR EXPERIENCE FOR PHARMACIST MEMBERS OF THE BOARD OF PHARMACY.

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

SECTION 1. That Section 54-1707, Idaho Code, be, and the same is hereby amended to read as follows:

54-1707. MEMBERSHIP. The board of pharmacy shall consist of five (5) members. One (1) member shall be a representative of the public, and four (4) members shall be licensed pharmacists who possess the qualifications specified in section 54-1708, Idaho Code. The board of pharmacy shall have diverse pharmacy practice experience, with at least one (1) member having substantial experience in retail pharmacy and at least one (1) member having substantial experience in hospital pharmacy.

Approved March 13, 2013.

CHAPTER 66  
(H.B. No. 153)

AN ACT

RELATING TO JURY SELECTION AND SERVICE; AMENDING SECTION 2-215, IDAHO CODE, TO REVISE PROVISIONS RELATING TO MILEAGE AND PER DIEM OF JURORS.

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

SECTION 1. That Section 2-215, Idaho Code, be, and the same is hereby amended to read as follows:

2-215. MILEAGE AND PER DIEM OF JURORS. A juror shall be paid mileage for his travel expenses from his residence to the place of holding court and return at the same rate per mile as established by resolution of the county commissioners for county employees in the county where the juror resides, and shall be compensated at the following rate, to be paid from the county treasury:

(1) Five dollars (\$5.00), or a rate of more than five dollars (\$5.00) up to twenty-five dollars (\$25.00) as determined by the county commissioners of the county where the juror resides, for each one-half (1/2) day, or portion thereof, unless the juror travels more than thirty (30) miles from his residence in which event he shall receive ten dollars (\$10.00), or a rate of more than ten dollars (\$10.00) up to fifty dollars (\$50.00) as determined by the county commissioners of the county where the juror resides, for each one-half (1/2) day or portion thereof;

(2) Ten dollars (\$10.00), or a rate of more than ten dollars (\$10.00) up to fifty dollars (\$50.00) as determined by the county commissioners in the county where the juror resides, for each day's required attendance at court of more than one-half (1/2) day.

Approved March 13, 2013.

CHAPTER 67  
(H.B. No. 163)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-513, IDAHO CODE, TO CLARIFY THE NUMBER OF DAYS TO SIGN AND RETURN A CONTRACT, TO ESTABLISH PROVISIONS RELATING TO A DEFAULT TIME, TO REVISE PROVISIONS RELATING TO THE DELIVERY OF A CONTRACT AND ACKNOWLEDGMENT OF SUCH DELIVERY, TO REVISE PROVISIONS RELATING TO DECLARING A POSITION VACANT, TO MAKE A CODIFIER'S CORRECTION AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 33-513, Idaho Code, be, and the same is hereby amended to read as follows:

33-513. PROFESSIONAL PERSONNEL. The board of trustees of each school district, including any specially chartered district, shall have the following powers and duties:

1. To employ professional personnel, on written contract in form approved by the state superintendent of public instruction, conditioned upon a valid certificate being held by such professional personnel at the time of entering upon the duties thereunder. Should the board of trustees fail to enter into written contract for the employment of any such person, the state superintendent of public instruction shall withhold ensuing apportionments until such written contract be entered into. When the board of trustees has delivered a proposed contract for the next ensuing year to any such person, such person shall have a period of time to be determined by the board of trustees in its discretion, but in no event less than ten (10) calendar days from the date the contract is delivered, in which to sign the contract and return it to the board. If the board of trustees does not make a determination as to how long the person has to sign and return the contract, the default time limit shall be twenty-one (21) calendar days after the contract is delivered to the person. Delivery of a contract may be made only in person or by certified mail, return receipt requested or electronically, return receipt requested. When delivery is made in person, delivery of the contract must be acknowledged by a signed receipt. When delivery is made by certified mail or electronically, delivery must be acknowledged by the return of the certified mail receipt or return electronic receipt from the person to whom the contract was sent. If the delivery is made electronically, with return electronic receipt, and the district has not received a return of a signed contract and has not received an electronic read receipt from the employee, the district shall then resend the original electroni-

cally delivered contract to the employee via certified mail, return receipt requested, and provide such individual with a new date for contract return. Should the person willfully refuse to acknowledge receipt of the contract or the contract is not signed and returned to the board in the designated period of time or if no designated period of time is set by the board, the default time, the board or its designee may declare the position vacant.

The board of trustees shall withhold the salary of any teacher who does not hold a teaching certificate valid in this state. It shall not contract to require any teacher to make up time spent in attending any meeting called by the state board of education or by the state superintendent of public instruction; nor while attending regularly scheduled official meetings of the state teachers' association.

2. In the case of school districts other than elementary school districts, to employ a superintendent of schools for a term not to exceed three (3) years, who shall be the executive officer of the board of trustees with such powers and duties as the board may prescribe. The superintendent shall also act as the authorized representative of the district whenever such is required, unless some other person shall be named by the board of trustees to act as its authorized representative. The board of trustees shall conduct an annual, written formal evaluation of the work of the superintendent of the district. The evaluation shall indicate the strengths and weaknesses of the superintendent's job performance in the year immediately preceding the evaluation and areas where improvement in the superintendent's job performance, in the view of the board of trustees, is called for.

3. To employ through written contract principals who shall hold a valid certificate appropriate to the position for which they are employed, who shall supervise the operation and management of the school in accordance with the policies established by the board of trustees and who shall be under the supervision of the superintendent.

4. To employ assistant superintendents and principals for a term not to exceed two (2) years. Service performed under such contract shall be included in meeting the provisions of section 33-515, Idaho Code, as a teacher and persons eligible for a renewable contract as a teacher shall retain such eligibility.

5. To suspend, grant leave of absence, place on probation or discharge certificated professional personnel for a material violation of any lawful rules or regulations of the board of trustees or of the state board of education, or for any conduct which could constitute grounds for revocation of a teaching certificate. Any certificated professional employee, except the superintendent, may be discharged during a contract term under the following procedures:

(a) The superintendent or any other duly authorized administrative officer of the school district may recommend the discharge of any certificated employee by filing with the board of trustees written notice specifying the alleged reasons for discharge.

(b) Upon receipt of such notice the board, acting through ~~their~~ its duly authorized administrative official, shall give the affected employee written notice of the allegations and the recommendation of discharge, along with written notice of a hearing before the board prior to any determination by the board of the truth of the allegations.

(c) The hearing shall be scheduled to take place not less than six (6) days nor more than twenty-one (21) days after receipt of the notice by the employee. The date provided for the hearing may be changed by mutual consent.

(d) The hearing shall be public unless the employee requests in writing that it be in executive session.

(e) All testimony at the hearing shall be given under oath or affirmation. Any member of the board, or the clerk of the board, may administer oaths to witnesses or affirmations by witnesses.

(f) The employee may be represented by legal counsel and/or by a representative of a local or state teachers association.

(g) The chairman of the board or the designee of the chairman shall conduct the hearing.

(h) The board shall cause an electronic record of the hearing to be made or shall employ a competent reporter to take stenographic or stenotype notes of all the testimony at the hearing. A transcript of the hearing shall be provided at cost by the board upon request of the employee.

(i) At the hearing, the superintendent or other duly authorized administrative officer shall present evidence to substantiate the allegations contained in such notice.

(j) The employee may produce evidence to refute the allegations. Any witness presented by the superintendent or by the employee shall be subject to cross-examination. The board may also examine witnesses and be represented by counsel.

(k) The affected employee may file written briefs and arguments with the board within three (3) days after the close of the hearing or such other time as may be agreed upon by the affected employee and the board.

(l) Within fifteen (15) days following the close of the hearing, the board shall determine and, acting through ~~their~~ its duly authorized administrative official, shall notify the employee in writing whether the evidence presented at the hearing established the truth of the allegations and whether the employee is to be retained, immediately discharged, or discharged upon termination of the current contract.

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

Approved March 13, 2013.

CHAPTER 68  
(H.B. No. 203)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISIONS OF INDEPENDENT COUNCILS, INDIRECT SUPPORT SERVICES AND PUBLIC HEALTH SERVICES; AMENDING SECTION 1, CHAPTER 230, LAWS OF 2012, TO REVISE THE APPROPRIATION FOR FISCAL YEAR 2013; PROVIDING LEGISLATIVE INTENT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 1, Chapter 230, Laws of 2012, be, and the same is hereby amended to read as follows:

SECTION 1. There is hereby appropriated to the Department of Health and Welfare, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. INDEPENDENT COUNCILS:					
A. DEVELOPMENTAL DISABILITIES COUNCIL:					
FROM:					
Cooperative Welfare (General)					
Fund	\$88,600	\$11,800			\$100,400
Cooperative Welfare (Dedicated)					
Fund		15,000			15,000
Cooperative Welfare (Federal)					
Fund	<u>292,300</u>	<u>196,600</u>		<u>\$31,600</u>	<u>520,500</u>
TOTAL	\$380,900	\$223,400		\$31,600	\$635,900
B. DOMESTIC VIOLENCE COUNCIL:					
FROM:					
Cooperative Welfare (General)					
Fund	\$11,800	\$1,300			\$13,100
Domestic Violence Project					
Fund	155,200	163,200		\$171,800	490,200
Cooperative Welfare (Dedicated)					
Fund		40,000			40,000
Cooperative Welfare (Federal)					
Fund	<u>101,000</u>	<u>66,900</u>		<u>3,415,400</u>	<u>3,583,300</u>
TOTAL	\$268,000	\$271,400		\$3,587,200	\$4,126,600
DIVISION					
TOTAL	\$648,900	\$494,800		\$3,618,800	\$4,762,500
II. INDIRECT SUPPORT SERVICES:					
FROM:					
Cooperative Welfare (General)					
Fund	\$9,157,100	<del>\$6,072,200</del>	<del>\$260,000</del>		<del>\$15,489,300</del>
		<u>\$6,200,300</u>	<u>\$135,000</u>		<u>\$15,492,400</u>
Cooperative Welfare (Dedicated)					
Fund	963,400	<del>1,025,400</del>	23,000		<del>2,011,800</del>
		<u>1,078,800</u>			<u>2,065,200</u>
Cooperative Welfare (Federal)					
Fund	<u>10,175,400</u>	<del>8,203,200</del>	<del>2,340,000</del>		<del>20,718,600</del>
		<u>9,331,300</u>	<u>1,215,000</u>		<u>20,721,700</u>
TOTAL	\$20,295,900	<del>\$15,300,800</del>	<del>\$2,623,000</del>		<del>\$38,219,700</del>
		<u>\$16,610,400</u>	<u>\$1,373,000</u>		<u>\$38,279,300</u>

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
III. PUBLIC HEALTH SERVICES:					
A. PHYSICAL HEALTH SERVICES:					
FROM:					
Cooperative Welfare (General)					
Fund	\$1,283,100	<del>\$1,546,200</del>		\$1,084,600	<del>\$3,913,900</del>
		<u>\$1,987,600</u>			<u>\$4,355,300</u>
Idaho Immunization Dedicated Vaccine					
Fund		<del>7,200,000</del>			<del>7,200,000</del>
		<u>17,300,000</u>			<u>17,300,000</u>
Cancer Control					
Fund	49,200	228,200		123,400	400,800
Central Tumor Registry					
Fund				182,700	182,700
Cooperative Welfare (Dedicated)					
Fund	1,564,900	1,861,700		10,186,700	13,613,300
Cooperative Welfare (Federal)					
Fund	<u>5,513,700</u>	<u>7,755,700</u>		<u>42,997,900</u>	<u>56,267,300</u>
TOTAL	\$8,410,900	<del>\$18,591,800</del>		\$54,575,300	<del>\$81,578,000</del>
		<u>\$29,133,200</u>			<u>\$92,119,400</u>
B. EMERGENCY MEDICAL SERVICES:					
FROM:					
Emergency Medical Services					
Fund	\$1,499,900	\$909,100		\$220,000	\$2,629,000
Emergency Medical Services III					
Fund				1,400,000	1,400,000
Cooperative Welfare (Dedicated)					
Fund	237,400	341,300			578,700
Cooperative Welfare (Federal)					
Fund	<u>296,600</u>	<u>450,000</u>		<u>175,000</u>	<u>921,600</u>
TOTAL	\$2,033,900	\$1,700,400		\$1,795,000	\$5,529,300
C. LABORATORY SERVICES:					
FROM:					
Cooperative Welfare (General)					
Fund	\$1,407,400	\$416,300	\$31,600		\$1,855,300
Cooperative Welfare (Dedicated)					
Fund	430,200	199,300			629,500
Cooperative Welfare (Federal)					
Fund	<u>891,000</u>	<u>949,000</u>	<u>0</u>		<u>1,840,000</u>
TOTAL	\$2,728,600	\$1,564,600	\$31,600		\$4,324,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
DIVISION					
TOTAL	\$13,173,400	<del>\$21,856,800</del> \$32,398,200	\$31,600	\$56,370,300	<del>\$91,432,100</del> \$101,973,500
GRAND TOTAL	\$34,118,200	<del>\$37,652,400</del> \$49,503,400	<del>\$2,654,600</del> \$1,404,600	\$59,989,100	<del>\$134,414,300</del> \$145,015,300

SECTION 2. LEGISLATIVE INTENT. Clarifying approval of fiscal year 2013 supplemental requests by the Department of Health and Welfare for the Medicaid Readiness Project on February 7, 2013, it is the intent of the Legislature that funding provided for the Medicaid Readiness Project support only the "mandatory" changes to the Medicaid program that are required by the Patient Protection and Affordable Care Act. Funding for the Medicaid Readiness Project is not intended to support the "optional" expansion of the Medicaid program as identified in the June 28, 2012, Supreme Court Ruling in the case of National Federation of Independent Business v. Sebelius, Secretary of Health and Human Services.

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

Approved March 13, 2013.

CHAPTER 69  
(S.B. No. 1001)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-107, IDAHO CODE, TO REVISE PROVISIONS RELATING TO DISEASE RESEARCH, TO REMOVE OBSOLETE LANGUAGE AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 36-107, Idaho Code, be, and the same is hereby amended to read as follows:

36-107. FISH AND GAME ACCOUNT. (a) The director shall promptly transmit to the state treasurer all moneys received by him, from the sale of hunting, fishing and trapping licenses, tags and permits or from any other source connected with the administration of the provisions of the Idaho fish and game code or any law or regulation for the protection of wildlife, including moneys received from the sale of predatory animal furs taken under the provisions of this chapter, and the state treasurer shall deposit all such moneys in the fish and game account, which is hereby established, reserved, set aside, appropriated in the state treasury, and made available until expended as may be directed by the commission in carrying out the purposes of the Idaho fish and game code or any law or regulation promulgated for the protection of wildlife, and shall be used for no other purpose. Pending ex-

penditure or use, surplus moneys in the fish and game account shall be invested by the state treasurer in the manner provided for idle state moneys in the state treasury by section 67-1210, Idaho Code. Interest received on all such investments shall be paid into the account. The state controller shall annually, by August 1 of each year, transfer the sum of one hundred thousand dollars (\$100,000) from the fish and game account to the University of Idaho Caine Veterinary Teaching and Research Center for disease research regarding the interaction of disease between wildlife and domestic livestock. Said moneys shall be expended on projects agreed upon by the University of Idaho Caine Veterinary Teaching and Research Center and the state wildlife veterinarian director of the department of fish and game.

(b) The commission shall govern the financial policies of the department and shall, as provided by law, fix the budget for the operation and maintenance of its work for each fiscal year. Said budget shall not be exceeded by the director.

(c) The sum of two dollars (\$2.00) from each license authorized in sections 36-406(a) and 36-407(b), Idaho Code, which entitles a person to fish, shall be used for the construction, repair, or rehabilitation of state fish hatcheries, fishing lakes, or reservoirs.

(d) The department is authorized to expend up to one dollar and fifty cents (\$1.50) from each resident deer and elk tag sold and five dollars (\$5.00) from each nonresident deer and elk tag sold to fund the department's big game landowner-sportsman's relations program.

Approved March 13, 2013.

#### CHAPTER 70

(S.B. No. 1003, As Amended)

#### AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-404, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CLASS 2 LICENSES, TO PROVIDE THAT CERTAIN PERSONS WITH A CLASS 2 LICENSE SHALL NOT HUNT BIG GAME AND SHALL BE ACCOMPANIED IN THE FIELD BY AN ADULT LICENSED TO HUNT IN IDAHO, TO REMOVE PROVISIONS RELATING TO YOUTH SMALL GAME LICENSES AND YOUTH HUNTER EDUCATION GRADUATE LICENSES AND TO PROVIDE THAT DISABLED HUNTING LICENSES ARE CLASS 6 LICENSES; AMENDING SECTION 36-406, IDAHO CODE, TO REVISE TERMINOLOGY, TO PROVIDE THAT A TRAPPING LICENSE SHALL ENTITLE THE PURCHASER TO TRAP WOLVES, TO REMOVE PROVISIONS RELATING TO YOUTH SMALL GAME LICENSES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 36-407, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTAIN NONRESIDENT LICENSES, TO PROVIDE THAT NONRESIDENT TRAPPING LICENSES SHALL ENTITLE A PERSON TO TRAP WOLVES, TO PROVIDE FOR CERTAIN LICENSES TO HUNT, TO REMOVE VERBIAGE PROVIDING THAT A NONRESIDENT NONGAME LICENSE ENTITLES A PERSON TO CARRY A SHOTGUN OR RIFLE FOR THE PROTECTION OF LIVESTOCK AND TO REMOVE PROVISIONS RELATING TO THE TIME DURING WHICH SUCH LICENSE IS VALID, TO PROVIDE THAT NONRESIDENT COMBINATION LICENSES SHALL ENTITLE PERSONS TO PURCHASE CERTAIN GAME TAGS, TO PROHIBIT CERTAIN PURCHASERS OF NONRESIDENT JUNIOR MENTORED HUNTING LICENSES FROM HUNTING BIG GAME, TO REMOVE PROVISIONS RELATING TO NONRESIDENT YOUTH SMALL GAME LICENSES AND TO REMOVE PROVISIONS RELATING TO YOUTH HUNTER EDUCATION GRADUATE LICENSES; AND AMENDING SECTION 36-416, IDAHO CODE, TO REMOVE LICENSE FEE PROVISIONS FOR YOUTH SMALL GAME LICENSES AND YOUTH HUNTER EDUCATION GRADUATE HUNTING LICENSES, TO REMOVE A FEE FOR NONRESIDENT DISABLED COMBINATION LICENSES, TO PROVIDE A FEE FOR NONRESIDENT DISABLED HUNTING LICENSES AND TO REVISE TERMINOLOGY RELATING TO DISABLED HUNTING LICENSES.

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

SECTION 1. That Section 36-404, Idaho Code, be, and the same is hereby amended to read as follows:

36-404. CLASSES OF LICENSES. The licenses required by the provisions of this title shall be of eight (8) classes. Classes one (1) through five (5) and eight (8) in this section may be purchased or obtained only by persons who meet residency requirements under the provisions of section 36-202(s) and (t), Idaho Code, or who are valid holders of a lifetime license certificate.

Class 1: Adult Combination -- Hunting -- Fishing -- Trapping Licenses. Licenses to be issued only to persons who are residents of the state of Idaho.

Class 2: Junior Hunting -- Trapping -- Youth Small Game Licenses.

(a) Junior hunting license. Licenses to be issued only to persons who are residents of the state of Idaho and are between ~~twelve~~ ten (120) and seventeen (17) years of age, inclusive. Provided, that a license may be issued to qualified persons who are ~~eleven~~ nine (119) years of age to allow the application for a controlled hunt turkey permit; however, said persons shall not hunt until they are twelve ten (120) years of age. Persons with a junior hunting license who are ten (10) or eleven (11) years of age shall not hunt big game and said persons shall be accompanied in the field by an adult licensed to hunt in the state of Idaho.

(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. 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.~~

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 -- Disabled Combination Hunting License for American Veteran Participating in a Hunt in Association with a Qualified Organization -- 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 wildlife 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 wildlife of the state, and a fee as specified in section 36-416, Idaho Code, for a trapping license entitling the purchaser to trap ~~furbearers, wolves, furbearing animals and~~ unprotected and predatory animals wildlife 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 wildlife 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, a wolf 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 fish and game set-aside account for the purposes of section 36-111(1) (a), Idaho Code;
- (ii) Two dollars (\$2.00) in the fish and game set-aside account for the purposes of section 36-111(1) (b), Idaho Code;
- (iii) One dollar and fifty cents (\$1.50) in the fish and game 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 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 With Three Day Fishing License. A license issued only to a person twelve (12) years of age or older entitling said person to pursue, hunt, or kill game animals, game birds, small game animals, and unprotected birds and animals and predatory birds and animals wildlife and to purchase game tags as provided in section 36-409(b), Idaho Code, and to fish in the waters of the state for a period of three (3) consecutive days for any fish during an open season for those fish, excluding steelhead trout and anadromous salmon. 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 tag; 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 wolves, fur-bearing, unprotected, and predatory animals wildlife. 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 ~~nonresident nongame license to hunt is 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~~ wildlife 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~~ upland game animals, ~~hunnable furbearers~~ fur-bearing animals, and unprotected and predatory ~~birds and animals~~ wildlife 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~~ wildlife of the state and to purchase game tags as provided in section 36-409 (b), Idaho Code, 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 tag; 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~~ ten (120) and seventeen (17) years of age, inclusive, to hunt big game animals, upland game birds (including turkeys), migratory game birds, cottontail rabbits, upland game animals, huntable furbearing animals and ~~unprotected and predatory birds and animals~~ wildlife 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~~ nine (119) years of age to allow the application for a controlled hunt turkey permit; however, said persons shall not hunt until they are ~~twelve~~ ten (120) years of age. Persons with a nonresident junior mentored hunting license who are ten (10) or eleven (11) years of age shall not hunt big game animals. 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.~~

~~(n) Nonresident Disabled American Veteran. A license entitling a person to participate in a hunt in association with a qualified organization. "Qualified organization," as used in association with these licenses, shall be as defined in section 36-408(7), Idaho Code.~~

SECTION 4. 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	N/A
Hunting License with		
3 Day Fishing License	N/A	153.00
Fishing License	24.00	96.50

Sr. Combination License (65 and Older)	10.00	N/A
Sportsman's Pak License	114.65	N/A
Jr. Combination License	15.75	N/A
Jr. Hunting License	5.50	N/A
Jr. Mentored Hunting License	N/A	30.00
<del>Youth Small Game License</del>	<del>5.50</del>	<del>18.25</del>
<del>Youth Hunter Education Graduate Hunting License</del>	<del>3.25</del>	<del>3.25</del>
Jr. Fishing License	12.00	20.00
Disabled Combination License	3.25	<del>3.25</del> N/A
Disabled Fishing License	3.25	N/A
<u>Disabled Hunting License</u>	<u>N/A</u>	<u>3.25</u>
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

For purposes of this subsection, disabled ~~combination~~ hunting licenses provided to nonresidents shall be limited to nonresident disabled American veterans participating in a hunt in association with a qualified organization. "Qualified organization," as used in association with these licenses, shall be as defined in section 36-408(7), Idaho Code.

(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	9.00
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	14.75
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	5.00
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	9.00
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

For purposes of this subsection, Jr. or Sr. or disabled American veteran tags provided to nonresidents shall be limited to nonresident disabled American veterans participating in a hunt in association with a qualified organization. "Qualified organization," as used in association with these tags, shall be as defined in section 36-408(7), Idaho Code.

(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 13, 2013.

CHAPTER 71  
(S.B. No. 1004)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-406, IDAHO CODE, TO PROVIDE FOR SPECIFIED RESIDENT THREE YEAR LICENSES, TO PROVIDE FOR FEES AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 36-407, IDAHO CODE, TO PROVIDE FOR SPECIFIED NONRESIDENT THREE YEAR LICENSES AND TO PROVIDE FOR FEES.

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

SECTION 1. That Section 36-406, Idaho Code, be, and the same is hereby amended to read as follows:

36-406. RESIDENT FISHING, HUNTING AND TRAPPING LICENSES -- FEES. (a) Adult Licenses -- Combination -- Fishing -- Hunting -- Trapping. A license of the first class may be had by a person possessing the qualifications therein described on payment of a fee as specified in section 36-416, Idaho Code, for a combined fishing and hunting license entitling the purchaser to hunt and fish for game animals, game birds, unprotected and predatory animals and fish of the state, a fee as specified in section 36-416, Idaho Code, for a fishing license entitling the purchaser to fish in the public waters of the state, a fee as specified in section 36-416, Idaho Code, for a hunting license entitling the purchaser to hunt game animals, game birds, unprotected and predatory animals of the state, and a fee as specified in section 36-416, Idaho Code, for a trapping license entitling the purchaser to trap furbearers, unprotected and predatory animals of the state.

(b) Junior Licenses -- Hunting -- Trapping. A license of the second class may be had by a person possessing the qualifications therein described on payment of a fee as specified in section 36-416, Idaho Code, for a hunting license, and a fee as specified in section 36-416, Idaho Code, for a trapping license entitling the purchaser to the same privileges as the corresponding license of the first class provides.

(c) Junior Combination -- Fishing Licenses. A license of the third class may be purchased by a person possessing the qualifications therein described on payment of a fee as specified in section 36-416, Idaho Code, for a combined fishing and hunting license, and a fee as specified in section 36-416, Idaho Code, for a fishing license entitling the purchaser to the same privileges as the corresponding license of the first class provides.

(d) Senior Resident Combination. A license of the fourth class may be had by a person possessing the qualifications therein described on payment of a fee as specified in section 36-416, Idaho Code, for a combined fishing and hunting license entitling the purchaser to the same privileges as the corresponding license of the first class provides.

(e) Lifetime Licenses -- Combination -- Hunting -- Fishing. A license of the fifth class may be obtained at no additional charge by a person possessing the qualifications therein described for a combined hunting and fishing license, for a hunting license, or for a fishing license, entitling the person to the same privileges as the corresponding license of the first class provides. Lifetime licensees must be certified under the provisions of section 36-413, 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, a wolf 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 fish and game set-aside account for the purposes of section 36-111(1)(a), Idaho Code;
- (ii) Two dollars (\$2.00) in the fish and game set-aside account for the purposes of section 36-111(1)(b), Idaho Code;
- (iii) One dollar and fifty cents (\$1.50) in the fish and game 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 nonser-

vice-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 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.

(j) Adult Licenses -- Three Year -- Combination -- Fishing -- Hunting. A license of the first class may be had by a person possessing the qualifications therein described on payment of three (3) times the 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, fish, unprotected and predatory wildlife of the state, three (3) times the 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, or three (3) times the 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 wildlife of the state. The expiration date for said licenses shall be December 31 of the third year following the date of issuance.

(k) Junior Licenses -- Three Year -- Hunting. A license of the second class may be had by a person possessing the qualifications therein described on payment of three (3) times the fee as specified in section 36-416, Idaho Code, for a hunting license. The expiration date for said license shall be December 31 of the third year following the date of issuance.

(l) Junior Licenses -- Three Year -- Combination -- Fishing Licenses. A license of the third class may be purchased by a person possessing the qualifications therein described on payment of three (3) times the fee as specified in section 36-416, Idaho Code, for a combined fishing and hunting license and three (3) times the 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. The expiration date for said licenses shall be December 31 of the third year following the date of issuance.

(m) Senior Resident Combination License -- Three Year. A license of the fourth class may be had by a person possessing the qualifications therein described on payment of three (3) times the 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. The expiration date for said license shall be December 31 of the third year following the date of issuance.

(n) Disabled Persons Licenses -- Three Year -- Combination -- Fishing. A license of the ninth class may be had by any resident disabled person possessing the qualifications therein described on payment of three (3) times the 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. The expiration date for said licenses shall be December 31 of the third year following the date of issuance.

SECTION 2. 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 With Three Day Fishing 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, and to fish in the waters of the state for a period of three (3) consecutive days for any fish during an open season for those fish, excluding steelhead trout and anadromous salmon. 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.

(n) Nonresident Disabled American Veteran. A license entitling a person to participate in a hunt in association with a qualified organization. "Qualified organization," as used in association with these licenses, shall be as defined in section 36-408(7), Idaho Code.

(o) Nonresident Hunting License -- Three Year. A license issued only to a person twelve (12) years of age or older entitling said person to hunt game birds, game animals, unprotected and predatory wildlife 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 tag; 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 three (3) times the fee as specified in section 36-416, Idaho Code. The expiration date for said license shall be December 31 of the third year following the date of issuance.

(p) Nonresident Season Fishing License -- Three Year. 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 three (3) times the fee as specified in section 36-416, Idaho Code, for a fishing license. The expiration date for said license shall be December 31 of the third year following the date of issuance.

(q) Nonresident Combination Licenses -- Three Year. A license entitling the person to hunt and fish for game animals, game birds, fish and unprotected and predatory wildlife of the state may be had by a person twelve (12) years of age or older upon payment of three (3) times the fee as specified in section 36-416, Idaho Code, for a combined hunting and fishing license. A license may be issued to a qualified person who is eleven (11) years of age to allow the application for a controlled hunt tag; however, the person shall not hunt until he is twelve (12) years of age. The expiration date for said license shall be December 31 of the third year following the date of issuance.

(r) Nonresident Junior Mentored Hunting License -- Three Year. A license entitling a nonresident between ten (10) and seventeen (17) years of age, inclusive, to hunt game animals, upland game birds (including turkeys), migratory game birds, and unprotected and predatory wildlife 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 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. A license of this kind may be had upon payment of three (3) times the fee as specified in section 36-416, Idaho Code, for a junior mentored hunting license. The expiration date for said license shall be December 31 of the third year following the date of issuance.

Approved March 13, 2013.

CHAPTER 72  
(S.B. No. 1027)

AN ACT

RELATING TO EDUCATION SCHOLARSHIPS; REPEALING SECTION 33-3722, IDAHO CODE, RELATING TO THE STUDENT EDUCATION INCENTIVE LOAN FORGIVENESS CONTRACT; AMENDING SECTION 33-4301, IDAHO CODE, TO REVISE THE SHORT TITLE; AMENDING SECTION 33-4302, IDAHO CODE, TO ESTABLISH THE ARMED FORCES AND PUBLIC SAFETY OFFICER SCHOLARSHIP PROGRAM, TO REVISE PROVISIONS RELATING TO INDIVIDUALS ELIGIBLE FOR THE ARMED FORCES AND PUBLIC SAFETY SCHOLARSHIP PROGRAM, TO DEFINE TERMS AND TO MAKE A TECHNICAL CORRECTION; REPEALING SECTION 33-4302A, IDAHO CODE, RELATING TO PUBLIC SAFETY OFFICER DEPENDENT SCHOLARSHIPS; REPEALING SECTION 33-4303, IDAHO CODE, RELATING TO THE IDAHO ROBERT R. LEE PROMISE SCHOLARSHIP

PROGRAM; REPEALING SECTION 33-4304, IDAHO CODE, RELATING TO PUBLIC POLICY; REPEALING SECTION 33-4305, IDAHO CODE, RELATING TO PURPOSES; REPEALING SECTION 33-4306, IDAHO CODE, RELATING TO DEFINITIONS; REPEALING SECTION 33-4307, IDAHO CODE, RELATING TO ELIGIBILITY, MAXIMUM AMOUNTS AND CONDITIONS; REPEALING SECTION 33-4308, IDAHO CODE, RELATING TO MAXIMUM NUMBER OF GRANTS; REPEALING SECTION 33-4309, IDAHO CODE, RELATING TO REMITTANCE IN CASE OF DISCONTINUED ATTENDANCE; REPEALING SECTION 33-4310, IDAHO CODE, RELATING TO PROHIBITION OF DISCRIMINATION; REPEALING SECTION 33-4311, IDAHO CODE, RELATING TO CERTIFICATIONS OF ENROLLMENT AND TERMINATION OF ATTENDANCE OF GRANT RECIPIENTS; REPEALING SECTION 33-4312, IDAHO CODE, RELATING TO THE STATE BOARD OF EDUCATION AND THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO AS ADMINISTRATIVE AGENCIES; REPEALING SECTION 33-4313, IDAHO CODE, RELATING TO DUTIES OF THE BOARD; REPEALING SECTION 33-4314, IDAHO CODE, RELATING TO THE APPOINTMENT OF ADMINISTRATOR AND STAFF; REPEALING SECTION 33-4315, IDAHO CODE, RELATING TO NO CONTROL OF NONPUBLIC INSTITUTIONS WHICH ACCEPT GRANT RECIPIENTS; AMENDING CHAPTER 43, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-4303, IDAHO CODE, TO ESTABLISH THE IDAHO OPPORTUNITY SCHOLARSHIP, TO PROVIDE FOR PURPOSE, TO DEFINE TERMS, TO PROVIDE FOR RULES, TO PROVIDE FOR ELIGIBILITY, TO PROVIDE FOR USE OF FUNDS, TO ESTABLISH LIMITS ON COSTS, TO PROVIDE FOR AWARD PAYMENTS, TO ESTABLISH PROVISIONS RELATING TO REMITTANCE, TO PROVIDE FOR THE OPPORTUNITY SCHOLARSHIP PROGRAM ACCOUNT AND TO PROVIDE FOR AN EVALUATION; AMENDING CHAPTER 43, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-4304, IDAHO CODE, ESTABLISHING PROVISIONS RELATING TO SCHOLARSHIP PROGRAM REPORTING REQUIREMENTS; REPEALING CHAPTER 46, TITLE 33, IDAHO CODE; REPEALING CHAPTER 56, TITLE 33, IDAHO CODE; AMENDING SECTION 33-2101A, IDAHO CODE, TO REMOVE CODE REFERENCES; AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. That Section 33-3722, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Section 33-4301, Idaho Code, be, and the same is hereby amended to read as follows:

33-4301. SHORT TITLE. This act may be cited as "~~The POW/MIA Scholarship Act of 1972~~ Scholarships and State Aid Act."

SECTION 3. That Section 33-4302, Idaho Code, be, and the same is hereby amended to read as follows:

33-4302. SCHOLARSHIPS -- STATE AID ARMED FORCES AND PUBLIC SAFETY OFFICER SCHOLARSHIPS. (1) The following individuals shall be eligible for the scholarship program provided for herein:

(a) Any spouse or child of any Idaho citizen who, while such person is or was a resident of the state of Idaho, has been determined by the federal government to be a prisoner of war or missing in action; or to have died of, or become totally and permanently disabled by, injuries or wounds sustained in action in any area of armed conflict in which the United States is a party; and

(b) Any spouse or child of any member of the armed forces of the United States who is stationed in the state of Idaho on military orders and who is deployed from the state of Idaho to any area of armed conflict in which the United States is a party and who has been determined by the federal government to be a prisoner of war or missing in action; or to have died of, or become totally and permanently disabled by, injuries or wounds sustained in action as a result of such deployment.

(c) Any spouse or child of a full-time or part-time public safety officer, as defined in subsection (d) of this section, employed by or volunteering for the state of Idaho or for a political subdivision of the state of Idaho, which public safety officer is or was a resident of the state of Idaho at the time such officer was killed or totally and permanently disabled in the line of duty. The death or disability shall have occurred on or after January 1, 1975. The scholarship provided for in this section shall not be available unless it is determined that:

(i) The death or disablement of the public safety officer occurred in the performance of the officer's duties;

(ii) The death or disablement was not caused by the intentional misconduct of the public safety officer or by such officer's intentional infliction of injury; and

(iii) The public safety officer was not voluntarily intoxicated at the time of death.

(d) For purposes of this section the following terms have the following meanings:

(i) "Public safety officer" means a peace officer or firefighter, a paramedic or emergency medical technician as those terms are defined in section 56-1012, Idaho Code.

(ii) "Volunteering" means contributing services as a bona fide member of a legally organized law enforcement agency, fire department or licensed emergency medical service provider organization.

(2) (a) To be eligible for the scholarship provided for herein, a child of a military member or a public safety officer must be a resident of the state of Idaho and must have completed secondary school or its equivalent in the state of Idaho. A child already born, or born after a military member or public safety officer is determined to be imprisoned or missing in action, or is killed or becomes totally and permanently disabled, shall be eligible for this scholarship;

(b) To be eligible for the scholarship provided for herein, the spouse of a military member or public safety officer must be a resident of the state of Idaho and must have been married to such person at the time the military member or public safety officer was determined to be imprisoned or missing in action, or was killed or became totally and permanently disabled. Provided however, that in the situation of disability, the spouse must be currently married to such person.

(3) An eligible individual who applies for the scholarship provided for herein shall, after verification of eligibility, receive the scholarship and be admitted to attend undergraduate studies at any public institution of higher education or public professional-technical college within the state of Idaho without the necessity of paying tuition and fees therefor; such student shall be provided with books, equipment and supplies necessary for pursuit of such program of enrollment not to exceed five hundred dollars (\$500) per quarter, semester, intensified semester, or like educational period; such student shall be furnished on-campus housing and subsistence for each month he or she is enrolled full-time under this program and actually resides in such on-campus facility; provided, however, that such undergraduate educational benefits shall not exceed a total of thirty-six (36) months or four (4) nine (9) month periods. Provided further, that the initiation of such educational benefits shall extend for a period of ten (10) years after achieving a high school diploma or its equivalency, or for a period of ten (10) years after the event giving rise to the eligibility for the scholarship, whichever is longer.

(4) The eligible individual shall meet such other educational qualifications as such institution of higher education or professional-technical college has established for other prospective students of this state, as well as any additional educational qualifications established by the state board of education and board of regents of the university of Idaho.

(5) Application for eligibility under this section shall be made to the state board of education and the board of regents of the university of Idaho or the state board of vocational-technical education. The board shall verify the eligibility of the applicant and communicate such eligibility to such person and the affected institution or college.

(6) Affected institutions shall in their preparation of future budgets include therein costs resultant from such tuition, fee, book, equipment, supply, housing and subsistence loss for reimbursement thereof from appropriations of state funds.

(7) For the purposes of this section, a member of the armed forces of the United States is considered totally and permanently disabled if at the time of application a current disability determination made by the United States social security administration is in effect with respect to such individual.

(8) The state board of education and board of regents of the university of Idaho may adopt rules to implement and administer the scholarship program provided for in this section.

SECTION 4. That Section 33-4302A, Idaho Code, be, and the same is hereby repealed.

SECTION 5. That Sections 33-4303 through 33-4315, Idaho Code, be, and the same are hereby repealed.

SECTION 6. That Chapter 43, 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 33-4303, Idaho Code, and to read as follows:

33-4303. IDAHO OPPORTUNITY SCHOLARSHIP. (1) The purposes of this section are to:

- (a) Recognize that all Idaho citizens benefit from an educated citizenry;
- (b) Increase individual economic vitality and improve the overall quality of life for many of Idaho's citizens;
- (c) Provide access to eligible Idaho postsecondary education through funding to remove financial barriers;
- (d) Increase the opportunity for economically disadvantaged Idaho students; and
- (e) Incentivize students to complete a postsecondary education degree or certificate.

(2) For the purposes of this section the following definitions shall apply:

(a) "Educational costs" means the dollar amount determined annually by the state board of education as necessary for student tuition, fees, books and such other expenses reasonably related to attendance at an eligible Idaho postsecondary educational institution.

(b) "Eligible Idaho postsecondary educational institution" means: A public postsecondary organization governed or supervised by the state board, the board of regents of the university of Idaho, a board of trustees of a community college established pursuant to the provisions of chapter 21, title 33, Idaho Code, or the state board for professional-technical education or any educational organization located in Idaho that is:

- (i) Operated privately;
- (ii) Classified as not-for-profit under state law;
- (iii) Under the control of an independent board and not directly controlled or administered by a public or political subdivision; and
- (iv) Accredited by an organization recognized by the state board as provided in section 33-2402, Idaho Code.

- (c) "Eligible student" means a student who:
- (i) Is an Idaho resident as defined in section 33-3717B, Idaho Code;
  - (ii) Has or will graduate from an accredited high school or its equivalent in Idaho as determined by the state board;
  - (iii) Has enrolled or applied to an eligible Idaho postsecondary educational institution;
  - (iv) Is a postsecondary undergraduate student who has not previously completed a baccalaureate (bachelor's) degree or higher; and
  - (v) Meets need and merit criteria as set by the state board.

"Eligible student" also means a student who has met the eligibility requirements and was awarded an opportunity scholarship prior to June 30, 2014. Continued eligibility shall be based upon the eligibility requirements at the time of the original award.

(d) "Opportunity scholarship program" means the scholarship program described in this section and in the rules established by the state board.

(e) "Shared model of responsibility" means a model set by the board to determine the required and expected contributions of the student, the student's family and available federal financial aid.

(f) "State board" means the state board of education.

(3) The state board shall promulgate rules to determine student eligibility, academic and financial eligibility, a process for eligible students to apply, amount of awards, how eligible students will be selected and when the awards shall be made, as well as other rules necessary for the administration of this section.

(4) An eligible student must:

(a) Apply or have applied for federal student financial assistance available to an eligible student who will attend or is enrolled in an eligible Idaho postsecondary educational institution; and

(b) Meet need and merit criteria established by the state board in rule.

(5) Funds that are available for the opportunity scholarship program shall be used to provide scholarships based upon a shared model of responsibility between the scholarship recipient and the recipient's family, the federal government and the participating eligible Idaho postsecondary educational institution that the recipient attends for covering the educational costs.

(6) The opportunity scholarship award shall not exceed the actual educational costs at the eligible Idaho postsecondary educational institution that the student attends. The amount of scholarship shall not exceed the educational costs established by the state board.

(7) Award payments shall be made annually to an eligible Idaho postsecondary educational institution. In no instance may the entire amount of an award be paid to or on behalf of such student in advance.

(8) If an eligible student becomes ineligible for a scholarship under the provisions of this chapter, or if a student discontinues attendance before the end of any semester, quarter, term or equivalent, covered by the award after receiving payment under this chapter, the eligible Idaho postsecondary educational institution shall remit, up to the amount of any payments made under this program, any prorated tuition or fee balances to the state board.

(9) There is hereby created an account in the state treasury to be designated the opportunity scholarship program account.

(a) The account shall consist of moneys appropriated to the account by the legislature, moneys contributed to the account from other sources and the earnings on such moneys. The executive director of the state board may receive on behalf of the state board any moneys or real or personal property donated, bequeathed, devised or conditionally granted

to the state board for purposes of providing funding for such account. Moneys received directly or derived from the sale of such property shall be deposited by the state treasurer in the account.

(b) Earnings from moneys in the account or specified gifts shall be distributed annually to the state board to implement the opportunity scholarship program as provided for under the provisions of this chapter.

(c) All moneys placed in the account and earnings thereon are hereby perpetually appropriated to the state board for the purpose described in subsection (9) (b) of this section. All expenditures from the account shall be paid out in warrants drawn by the state controller upon presentation of the proper vouchers. Up to fifty thousand dollars (\$50,000) of the annual earnings distribution to the state board may be used by the state board annually for administrative costs related to the implementation of the provisions of this chapter.

(d) Allowable administrative costs include, but are not limited to, operating expenses for the implementation and maintenance of a database, operating expenses to administer the program, personnel costs necessary to administer the program and costs related to promoting awareness of the program.

(e) Any unused annual funds shall be deposited into the opportunity scholarship program account.

(f) Pending use, surplus moneys in the account shall be invested by the state treasurer in the same manner as provided under section 67-1210, Idaho Code. Interest earned on the investments shall be returned to the account.

(10) The effectiveness of the Idaho opportunity scholarship will be evaluated by the state board on a regular basis. This evaluation will include annual data collection as well as longer-term evaluations.

SECTION 7. That Chapter 43, 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 33-4304, Idaho Code, and to read as follows:

33-4304. SCHOLARSHIP PROGRAM REPORTING REQUIREMENTS. All eligible institutions participating in the scholarships and state aid programs shall report student level data on the effectiveness of the program. The data reported shall be established by the state board of education.

SECTION 8. That Chapter 46, Title 33, Idaho Code, be, and the same is hereby repealed.

SECTION 9. That Chapter 56, Title 33, Idaho Code, be, and the same is hereby repealed.

SECTION 10. That Section 33-2101A, Idaho Code, be, and the same is hereby amended to read as follows:

33-2101A. JUNIOR COLLEGE SHALL MEAN COMMUNITY COLLEGE. Notwithstanding any other provision of law, in sections 21-805, 21-806, 21-809, 23-404, 31-808, 33-101, 33-107, 33-107B, 33-601, 33-1252, 33-2101, 33-2102, 33-2103, 33-2104, 33-2105, 33-2106, 33-2107, 33-2107A, 33-2107B, 33-2107C, 33-2108, 33-2109A, 33-2110, 33-2110A, 33-2110B, 33-2111, 33-2112, 33-2113, 33-2114, 33-2115, 33-2116, 33-2117, 33-2118, 33-2119, 33-2121, 33-2122, 33-2123, 33-2124, 33-2125, 33-2126, 33-2130, 33-2135, 33-2137, 33-2138, 33-2139, 33-2141, 33-2142, 33-2143, 33-2144, 33-2211, 33-3716, 33-4001, 33-4003, 33-4004, 33-4006, 33-4201, ~~33-4306, 33-4315,~~ 46-314, 50-1721, 57-1105A, 59-1324, 59-1371, 59-1374, 67-2320, 67-2322 and 67-5332, Idaho Code, the term "junior college" shall mean and shall be denoted as "community college."

SECTION 11. Sections 5, 6, 8 and 9 of this act shall be in full force and effect on and after July 1, 2014. Sections 1, 2, 3, 4, 7 and 10 of this act shall be in full force and effect on and after July 1, 2013.

Approved March 13, 2013.

CHAPTER 73  
(S.B. No. 1031)

AN ACT

RELATING TO COMMERCIAL TRANSACTIONS; AMENDING SECTION 28-4-608, IDAHO CODE, TO PROVIDE FOR AN EXCEPTION, TO ESTABLISH PROVISIONS RELATING TO CERTAIN REMITTANCE TRANSFERS AND TO ESTABLISH PROVISIONS RELATING TO THE APPLICATION OF LAWS.

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

SECTION 1. That Section 28-4-608, Idaho Code, be, and the same is hereby amended to read as follows:

28-4-608. ~~EXCLUSION OF CONSUMER TRANSACTIONS GOVERNED BY FEDERAL LAW RELATIONSHIP TO ELECTRONIC FUND TRANSFER ACT.~~ (1) Except as provided in subsection (2) of this section, tThis part does not apply to a funds transfer any part of which is governed by the electronic fund transfer act of 1978 (title XX, public law 95-630, 92 stat. 3728, 15 U.S.C. section 1693 et seq.) as amended from time to time.

(2) This part applies to a funds transfer that is a remittance transfer as defined in the electronic fund transfer act (15 U.S.C. section 1693o-1) as amended from time to time, unless the remittance transfer is an electronic fund transfer as defined in the electronic fund transfer act (15 U.S.C. section 1693a) as amended from time to time.

(3) In a funds transfer to which this part applies, in the event of an inconsistency between an applicable provision of this part and an applicable provision of the electronic fund transfer act, the provision of the electronic fund transfer act governs to the extent of the inconsistency.

Approved March 13, 2013.

CHAPTER 74  
(S.B. No. 1101)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF PARKS AND RECREATION FOR FISCAL YEAR 2013; 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 245, Laws of 2012, and any other appropriation provided for by law, there is hereby appropriated to the Department of Parks and Recreation, the following amounts to be expended for operating expenditures according to the designated programs, from the listed funds for the period July 1, 2012, through June 30, 2013:

FOR:

I. MANAGEMENT SERVICES:

FROM:

Parks and Recreation Fund	\$180,000
---------------------------	-----------

II. PARK OPERATIONS:

FROM:

Public Recreation Enterprise Fund	<u>150,000</u>
-----------------------------------	----------------

TOTAL	\$330,000
-------	-----------

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

Approved March 13, 2013.

CHAPTER 75  
(S.B. No. 1102)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF SELF-GOVERNING AGENCIES FOR REGULATORY BOARDS; AMENDING SECTION 1, CHAPTER 278, LAWS OF 2012, TO REVISE THE APPROPRIATION TO THE REGULATORY BOARDS FOR FISCAL YEAR 2013; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 1, Chapter 278, Laws of 2012, be, and the same is hereby amended to read as follows:

SECTION 1. There is hereby appropriated to the Regulatory Boards, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. BOARD OF ACCOUNTANCY:					
FROM:					
State Regulatory					
Fund	\$255,600	\$254,100			\$509,700
II. BOARD OF PROF. ENGINEERS & LAND SURVEYORS:					
FROM:					
State Regulatory					
Fund	\$361,300	\$224,400	\$700		\$586,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
III. BUREAU OF OCCUPATIONAL LICENSES:					
FROM:					
State Regulatory					
Fund	\$1,992,400	\$1,142,000	\$1,250,000	\$52,500	\$4,436,900
		<u>\$1,267,000</u>			<u>\$3,311,900</u>
IV. OUTFITTERS AND GUIDES LICENSING BOARD:					
FROM:					
State Regulatory					
Fund	\$348,800	\$201,700			\$550,500
V. REAL ESTATE COMMISSION:					
FROM:					
State Regulatory					
Fund	\$890,700	\$555,000			\$1,445,700
GRAND TOTAL	\$3,848,800	\$2,377,200	\$1,250,700	\$52,500	\$7,529,200
		<u>\$2,502,200</u>	<u>\$700</u>		<u>\$6,404,200</u>

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

Approved March 13, 2013.

CHAPTER 76  
(S.B. No. 1103)

AN ACT  
APPROPRIATING ADDITIONAL MONEYS TO THE STATE TAX COMMISSION FOR FISCAL YEAR  
2013; 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 235, Laws of 2012, and any other appropriation provided for by law, there is hereby appropriated to the State Tax Commission from the General Fund, the following amounts for the designated programs to be expended for personnel costs for the period July 1, 2012, through June 30, 2013:

FOR:	
I. AUDIT AND COLLECTIONS	\$181,300
II. REVENUE OPERATIONS	\$18,700
TOTAL	\$200,000

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

Approved March 13, 2013.

CHAPTER 77  
(S.B. No. 1104)

AN ACT  
APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF FISH AND GAME FOR FIS-  
CAL YEAR 2013; 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 174, Laws of 2012, and any other appropriation provided for by law, there is hereby appropriated to the Department of Fish and Game, the following amounts to be expended for the designated programs and expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
<b>I. ADMINISTRATION:</b>				
FROM:				
Fish and Game (Licenses)				
Fund			\$30,000	\$30,000
Fish and Game (Federal)				
Fund			<u>20,000</u>	<u>20,000</u>
TOTAL			\$50,000	\$50,000
<b>II. ENFORCEMENT:</b>				
FROM:				
Fish and Game (Federal)				
Fund	\$32,300	\$6,700		\$39,000
<b>III. FISHERIES:</b>				
FROM:				
Fish and Game (Other)				
Fund	\$307,100	\$619,200	\$865,000	\$1,791,300
Fish and Game (Federal)				
Fund	<u>2,400</u>	<u>2,588,000</u>	<u>1,281,500</u>	<u>3,871,900</u>
TOTAL	\$309,500	\$3,207,200	\$2,146,500	\$5,663,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
IV. WILDLIFE:				
FROM:				
Fish and Game (Other)				
Fund	\$190,100	\$51,300		\$241,400
Fish and Game (Federal)				
Fund	<u>335,700</u>	<u>563,500</u>		<u>899,200</u>
TOTAL	\$525,800	\$614,800		\$1,140,600
V. COMMUNICATIONS:				
FROM:				
Fish and Game Expendable Trust				
Fund		\$28,600		\$28,600
Fish and Game (Federal)				
Fund	<u>\$172,900</u>	<u>297,800</u>	<u>\$595,000</u>	<u>1,065,700</u>
TOTAL	\$172,900	\$326,400	\$595,000	\$1,094,300
VI. WINTER FEEDING AND HABITAT IMPROVEMENT:				
FROM:				
Fish and Game (Federal)				
Fund	\$63,500	\$155,100		\$218,600
GRAND TOTAL	\$1,104,000	\$4,310,200	\$2,791,500	\$8,205,700

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 March 13, 2013.

CHAPTER 78  
(H.B. No. 66, As Amended in the Senate)

AN ACT

RELATING TO THE RURAL ECONOMIC DEVELOPMENT AND INTEGRATED FREIGHT TRANSPORTATION PROGRAM; AMENDING SECTION 49-2905, IDAHO CODE, TO REMOVE REFERENCE TO ADVISING THE DEPARTMENT OF AGRICULTURE AND TO REVISE PROVISIONS TO REFLECT THE ACCURATE PURPOSE FOR THE PROVISION OF CERTAIN INFORMATION TO THE INTERAGENCY WORKING GROUP BY THE IDAHO TRANSPORTATION DEPARTMENT.

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

SECTION 1. That Section 49-2905, Idaho Code, be, and the same is hereby amended to read as follows:

49-2905. STATE RAIL AND INTERMODAL FACILITY SYSTEM PLAN. (1) The Idaho transportation department shall prepare and periodically update a state rail and intermodal facility system plan, a primary objective of which is

to identify, evaluate and encourage the development and preservation of essential rail and truck intermodal services. The plan shall:

- (a) Identify and describe the state's rail system;
- (b) Prepare state rail system maps;
- (c) Identify and evaluate mainline capacity issues in cooperation with the railroads;
- (d) Identify and evaluate rail access and congestion issues;
- (e) Identify and evaluate rail commodity flows and traffic types;
- (f) Identify lines and corridors that have been rail banked or pre-served;
- (g) Identify and evaluate other rail and intermodal issues affecting the state's freight transportation system and regional and local economies;
- (h) Identify and evaluate those rail freight lines that are potentially subject to abandonment in the future because of unmet capital needs or other reasons, or have recently been approved for abandonment but the track improvements are still in place;
- (i) Whenever possible provide priorities for determining which rail lines or intermodal commerce authorities should receive state support, and provide to the interagency working group supporting information used in establishing such priorities for use by the interagency working group ~~in advising the department of agriculture~~. The priorities should include:
  - (i) The anticipated benefits to the state and local economy;
  - (ii) Coordinated freight transportation system including the anticipated cost of road and highway improvements necessitated by the proposed project;
  - (iii) Establishment of an intermodal facility, if indicated;
  - (iv) The likelihood the qualified line receiving funding can meet operating costs from freight charges, surcharges on rail traffic and other funds; and
  - (v) The impact of abandonment or capacity constraints if the project does not obtain state support; and
- (j) Identify and describe the state's intermodal rural rail and truck freight system by:
  - (i) Preparing state intermodal and regional freight transfer station system maps;
  - (ii) Identifying and evaluating intermodal and truck and rail freight transfer capacity and coordination issues in cooperation with local government and the railroad and truck interests;
  - (iii) Identifying and evaluating intermodal and freight transfer access and highway capacity issues; and
  - (iv) Identifying and evaluating major freight commodity origins, destinations and traffic flows by mode and corridor.

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

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

(4) The Idaho transportation department shall determine the amount of moneys necessary to prepare and periodically update the state rail plan re-

quired by subsection (1) of this section, and communicate that amount to the department of agriculture who shall annually provide to the transportation department moneys in an amount not to exceed one percent (1%) of the total assets in the fund established by section 49-2904, Idaho Code, to prepare and periodically update the state rail plan. The Idaho transportation department is hereby authorized to accumulate these funds not to exceed an aggregate amount of seventy-five thousand dollars (\$75,000) for preparing and periodically updating the state rail plan.

Approved March 15, 2013.

CHAPTER 79  
(H.B. No. 96)

AN ACT

RELATING TO VETERINARIANS; AMENDING SECTION 54-2103, IDAHO CODE, TO REVISE DEFINITIONS, TO MAKE A TECHNICAL CORRECTION.

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 utilized by a licensed veterinarian to assist in the performance of acts pertaining to the practice of veterinary medicine.

(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, but not to include an individual employed as a technician by animal research laboratories.

~~(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 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 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 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 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 for those individuals to whom activities or functions have been assigned or delegated.

(39) "Supervising veterinarian" means a licensed veterinarian 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 supervising veterinarian shall be individually responsible and liable, regardless of the supervision provided, for all damages arising out of his own acts or omissions 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

committee on veterinary technician education and activities of the American veterinary medical association, or other accrediting agency approved by the board, or a person who has received equivalent training as set forth in the rules of the board.

(47) "Veterinary technology" means the performance of services within the practice of veterinary medicine by a person working under the direction of a 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.

Approved March 15, 2013.

CHAPTER 80  
(H.B. No. 103)

AN ACT

RELATING TO FEES; AMENDING SECTION 31-3201H, IDAHO CODE, TO REMOVE A CERTAIN DATE.

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

SECTION 1. That Section 31-3201H, Idaho Code, be, and the same is hereby amended 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.

Approved March 15, 2013.

CHAPTER 81  
(H.B. No. 112)

AN ACT

RELATING TO THE HONEY ADVERTISING COMMISSION; AMENDING SECTION 22-2804, IDAHO CODE, TO REVISE COMPENSATION PROVISIONS REGARDING THE COMMISSION.

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

SECTION 1. That Section 22-2804, Idaho Code, be, and the same is hereby amended to read as follows:

22-2804. COMMISSION, MEMBERS, APPOINTMENT AND COMPENSATION. There is hereby created and established in the department of agriculture an Idaho honey advertising commission to be known and designated as such, and shall be composed of the director of the department and three (3) members, who shall be practical honey producers or beekeepers, appointed by the governor, at the recommendation of a representative group of beekeepers of the state of Idaho. Each member so appointed shall be a resident citizen of the state of Idaho and from the district from which appointed, for a period of five (5) years prior to his appointment, and shall have had active experience in raising honey bees and each member shall have derived the major portion of his income from the production and sale of honey. One (1) member shall be chosen from the district north of the Salmon River; one (1) from the district south of the Salmon River and west of a north-south line bisecting the city of Shoshone and extending from the south boundary of the state of Idaho to the Salmon River; one (1) from the district south of the Salmon River and east of a north-south line bisecting the city of Shoshone and extending from the south boundary of the state of Idaho to the Salmon River. Commission members shall be appointed and serve for a term of three (3) years and until their respective successors are appointed and qualified. The commission shall elect its chairman.

The chairman of the commission may delegate the function of the honey advertising commission to an executive secretary whose function will be subject to the approval of the honey advertising commission. The executive secretary must be a member of the Idaho honey industry association, inc., or its successor organization but need not be a member of the honey advertising commission.

A majority of the members of said commission shall constitute a quorum for the transaction of all business and the carrying out of the duties of said commission. Before entering on the discharge of their duties as members of said commission, each member shall take and subscribe to the oath of office prescribed by the statutes of Idaho.

Each member of the commission shall be compensated as provided by section 59-509(dn), Idaho Code. The commission shall meet regularly once each fiscal year at a date established by said commission in its designated business office, and it shall fix the time and place of special meetings as may be deemed necessary by the chairman of the commission.

Approved March 15, 2013.

CHAPTER 82  
(H.B. No. 131)

AN ACT

RELATING TO WATER; AMENDING SECTION 42-204, IDAHO CODE, TO REVISE EXTENSION PROVISIONS RELATING TO THE TIME IN WHICH A PERMIT HOLDER COMPLETES WORK AND APPLIES WATER TO FULL BENEFICIAL USE, TO PROVIDE THAT THE TIME FOR COMPLETION OF WORKS AND APPLICATION OF THE WATER TO FULL BENEFICIAL USE UNDER CERTAIN PERMITS MAY BE EXTENDED FOR AN ADDITIONAL PERIOD OF UP TO TEN YEARS UNDER SPECIFIED CIRCUMSTANCES AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY, PROVIDING FOR APPLICABILITY AND TO PROVIDE THAT PERMITS PENDING BEFORE THE DEPARTMENT ARE ENTITLED TO THE MAXIMUM QUALIFYING EXTENSION AVAILABLE UNDER SPECIFIED LAW.

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

SECTION 1. That Section 42-204, Idaho Code, be, and the same is hereby amended to read as follows:

42-204. EXAMINATION -- PERMIT -- COMMENCEMENT OF WORK -- EXTENSIONS -- APPEAL. On receipt of the application, which shall be of a form prescribed by the department of water resources, it shall be the duty of that department to make an ~~indorsement~~ endorsement thereon of the date of its receipt, and to examine said application and ascertain if it sets forth all the facts necessary to show the location, nature and amount of the proposed use. If upon such examination the application is found defective, it shall be the duty of the department of water resources to return the same for correction or to correspond with the applicant to obtain the needed information or amendments. If the application is returned to the applicant or the department shall request additional information and the applicant fails to return the corrected application or to supply the needed information within thirty (30) days, the department may void the record of said application and notify the applicant of such action. If the corrected application is returned or the information is supplied after thirty (30) days, such corrected application shall be treated in all respects as a new application, and the priority of the right initiated shall be determined by the date of receipt, in the office of the department, of the corrected application or additional information; provided, that upon request, and good cause appearing therefor, the director of the department of water resources may grant an extension of time within which to return the corrected application or supply needed information. All applications which shall comply with the provisions of this chapter and with the regulations of the department of water resources shall be numbered in such manner as will aid in their identification, and it shall be the duty of the department to approve all applications, made in proper form, which contemplate the application of water to a beneficial use: provided, that the department may deny any such application, or may partially approve and grant a permit for a lesser quantity of water than applied for, or may grant a permit upon conditions as provided in the preceding section.

The department of water resources shall issue a permit for any approved application, make a record of the approval and provide a copy of the permit to the applicant, who shall be authorized, on receipt thereof, to proceed with the construction of the necessary works for the diversion of such water, and to take all steps required to apply the water to a beneficial use and perfect the proposed appropriation. The department shall require that actual construction work and application of the water to full beneficial use shall be complete within a period of five (5) years from the date of such approval, but may limit the permit to a less period than is named in the application, and the permit shall set forth the date when beneficial application of the water

to be diverted by such works shall be made. Sixty (60) days before the date set for the completion of the appropriation of water under any permit, the department shall forward a notice to the applicant by certified mail at his address of record of the date for such completion, which said notice shall advise the applicant of the necessity of submitting an affidavit of completion or a request for an extension of time on or before said date; Provided that:

(1-) In cases where the applicant is prevented from proceeding with his work by his failure to obtain necessary consent or final approval or rejection from the federal government because of the pendency of an application for right-of-way or other matter within the jurisdiction of the United States, by state, county, city or other local government permitting or administrative action or process related to the applicant's land or water development, or by litigation of any nature which might bring his title to said water in question, the department of water resources upon proper showing of the existence of any such condition, and being convinced that said applicant is proceeding diligently and in good faith, shall extend the time so that the amount of time lost by such delays shall be added to the time given in the original permit, or in any subsequent grant of extension pursuant to subsection (2), (3), (4) or (6) of this section, for each and every action required.

(2-) The time for completion of works and application of the water to full beneficial use under any permit involving the diversion of more than twenty-five thousand (25,000) acre feet in one (1) irrigation season for a project of no less than five thousand (5,000) acres, may upon application to the director of the department of water resources supported by a showing that additional time is needed on account of the time required for organizing, financing and constructing works of such large size, be extended by the director of the department of water resources for an additional period of seven (7) years, but not to exceed up to twelve (12) years in all from the date of beyond the initial development deadline contained in the permit, or beyond a grant of extension pursuant to the provisions of subsection (1) of this section: Provided, that no such extension shall be granted unless the applicant for such extension shall show that there has been actually expended toward the construction of said diversion, {including expenditures for the purchase of rights-of-way and property in connection therewith}, at least one hundred thousand dollars (\$100,000).

(3-) The time for completion of works and application of the water to full beneficial use under any permit involving the construction of a reservoir of more than ten thousand (10,000) acre feet capacity or for the appropriation of water to be impounded in such reservoir of more than ten thousand (10,000) acre feet capacity, may be extended by the director of the department of water resources upon application to the director if the permittee establishes that the permittee has exercised reasonable diligence and that good cause exists for the requested extension.

(4-) The time for completion of works and application of the water to full beneficial use under any permit involving the diversion of two (2) or more cubic feet per second or the development or cultivation of one hundred (100) or more acres of land may be extended by the director of the department of water resources upon application by the permittee for an additional period up to ten (10) years beyond the initial development deadline contained in the permit, or beyond a grant of extension pursuant to the provisions of subsection (1) of this section, provided the permittee establishes that the permittee has exercised reasonable diligence and that good cause exists for the requested extension.

(5) In connection with permits held by the United States, or the Idaho water resource board, whether acquired as the original applicant, by assignment or otherwise, the director of the department of water resources may extend the time for completion of the works and application of the water to full

beneficial use for such additional period or periods of time as he may deem necessary upon application supported by a showing that such additional time is required by reason of the status of plans, authorization, construction fund appropriations, construction, or any arrangements which are found to be requisite to completion of the construction of such works.

5-(6) In all other situations not governed by these provisions the department may grant one (1) extension of time, not exceeding five (5) years beyond the date originally set for completion of works and application of the water to full beneficial use, or beyond any grant of extension pursuant to the provisions of subsection (1) of this section, upon request for extension received on or before the date set for completion, provided good cause appears therefor.

Any applicant feeling himself aggrieved by the decision of the department of water resources regarding his application may request a hearing before the director in accordance with section 42-1701A(3), Idaho Code, for the purpose of contesting the decision and may seek judicial review pursuant to section 42-1701A(4), Idaho Code, of any final decision of the director following the hearing.

Every holder of a permit which shall be issued under the terms and conditions of an application filed hereafter appropriating twenty-five (25) cubic feet or less per second must, within one (1) year from the date upon which said permit issues from the office of the department of water resources, commence the excavation or construction of the works by which he intends to divert the water, and must prosecute the work diligently and uninterruptedly to completion, unless temporarily interrupted through no fault of the holder of such permit by circumstances, over which he has no control.

The holder of any permit who shall fail to comply with the provisions of this section within the time or times specified shall be deemed to have abandoned all rights under his permit.

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 regarding all permits pending before the Idaho department of water resources. Permits pending before the department are entitled to the maximum qualifying extension available pursuant to the provisions of section 42-204, Idaho Code, regardless of whether the permittee received a prior extension under section 42-204(6), Idaho Code.

Approved March 15, 2013.

CHAPTER 83  
(H.B. No. 139)

AN ACT

RELATING TO INCOME TAXATION; AMENDING SECTION 63-3026A, IDAHO CODE, TO PROVIDE FOR A SOURCING FORMULA TO IDAHO FOR PARTNERSHIP INCOME WITH EXCEPTIONS; 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 re-

lated 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. Partnership income, including guaranteed payments pursuant to section 707 of the Internal Revenue Code, is sourced to Idaho based upon the Idaho apportionment factor of the partnership; excluding:

1. Guaranteed payment to a retired partner per 4 U.S.C. section 114(b) (1) (I) that is sourced to the recipient's state of domicile;

2. Guaranteed payment to an individual partner up to two hundred fifty thousand dollars (\$250,000) in any calendar year is sourced as compensation for services. The amount of the guaranteed payment in excess of two hundred fifty thousand dollars (\$250,000) is sourced to Idaho based upon the partnership's Idaho apportionment factor. The two hundred fifty thousand dollar (\$250,000) amount will be adjusted annually by multiplying the amount by the percentage (the consumer price index for the calendar year immediately preceding the calendar year to which the adjusted amount will apply divided by the consumer price index for calendar year 2013) as defined in section 63-3024, Idaho Code;

(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; 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;

(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. In the case of a nonresident individual who sells the nonresident's interest in a publicly traded partnership defined in section 7704 of the Internal Revenue Code doing business in Idaho, the gains or losses shall be determined using the amount described in section 751 of the Internal Revenue Code, multiplied by the apportionment factor for the year in which the sale occurred.

(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, 2013.

Approved March 15, 2013.

CHAPTER 84  
(H.B. No. 168)

AN ACT

RELATING TO MOTOR CARRIERS; AMENDING CHAPTER 10, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-1014, IDAHO CODE, TO DEFINE TERMS AND TO PROVIDE THAT AN INDEMNITY AGREEMENT IN A MOTOR CARRIER TRANSPORTATION CONTRACT IS AGAINST THE PUBLIC POLICY OF THIS STATE AND IS VOID AND UNENFORCEABLE.

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

SECTION 1. That Chapter 10, 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 49-1014, Idaho Code, and to read as follows:

49-1014. INDEMNITY AGREEMENT IN MOTOR CARRIER TRANSPORTATION CONTRACTS VOID. As used in this section:

(1) "Motor carrier transportation contract" means a contract, agreement or understanding covering:

(a) The transportation of property for compensation or hire by the motor carrier;

(b) Entrance on property by the motor carrier for the purpose of loading, unloading or transporting property for compensation or hire; or

(c) A service incidental to activity described in this subsection including, but not limited to, storage of property.

(2) "Promisee" means the promisee and any agents, employees, servants or independent contractors who are directly responsible to the promisee except for motor carriers party to a motor carrier transportation contract with the promisee and such motor carrier's agents, employees, servants or independent contractors directly responsible to such motor carrier.

(3) Notwithstanding any other provision of law to the contrary, a provision, clause, covenant or agreement contained in, collateral to or affecting a motor carrier transportation contract that purports to indemnify, defend or hold harmless, or has the effect of indemnifying, defending or holding harmless, the promisee from or against any liability for loss or damage resulting from the negligence or intentional acts or omissions of the promisee is against the public policy of this state and is void and unenforceable.

Approved March 15, 2013.

CHAPTER 85  
(H.B. No. 169)

AN ACT

RELATING TO SPECIAL LICENSE PLATES; AMENDING SECTION 49-402D, IDAHO CODE, TO PROVIDE FOR THE LEGISLATURE'S ROLE IN THE ISSUANCE OF SPECIAL LICENSE PLATES AND TO PROVIDE THAT THE DEPARTMENT SHALL REPORT TO THE LEGISLATURE ON ANY DENIED APPLICATIONS.

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

SECTION 1. That Section 49-402D, Idaho Code, be, and the same is hereby amended to read as follows:

49-402D. SPECIAL LICENSE PLATE PREQUALIFICATION PROCESS. (1) For any new special license plate program approved by the legislature, the program sponsor shall, before issuance of any such special license plate, meet the prequalification process outlined in this section. The program sponsor for aAny special plate consideration program shall:

(a) Submit a financial plan for the use of the proceeds from the special license plate sales; and

(b) Designate an individual who shall be deemed responsible by the agency for certifying compliance with the requirements of this section and working with the department; and

(c) If the applicant is a nonprofit agency, submit evidence to the department that the applicant has 501(c)(3) federal income tax status that has been in existence for at least two (2) years.

(d) The department is authorized and shall adopt and promulgate rules to carry out the provisions of this section.

(2) If the request for a special license plate is approved by the department, the following requirements, in addition to those set out in subsection (1) of this section, shall be met by September 1 prior to the next legislative session and prior to the issuance of any special license plates approved by the legislature.

(a) The applicant shall deposit estimated programming and administrative costs with the department to be utilized for programming costs of the specialty plate. Administrative costs in the amount of one thousand dollars (\$1,000) shall be nonrefundable.

(b) In addition to the requirements provided for in section 49-402C, Idaho Code, the applicant requesting a special license plate program shall provide to the department an acceptable plate design.

(c) The applicant shall transmit to the department a list of two hundred fifty (250) applicants whose vehicles are currently registered in the state of Idaho, who intend to purchase the specialty plate when available, as evidenced by completing forms provided by the department.

(3) The department shall submit the completed applications for special license plate programs that meet the requirements of this section to the chairmen of the senate transportation committee and the house of representatives transportation and defense committee each year on behalf of the agency to be included for consideration in the next legislative session.

(4) On an annual basis, by December 1 of each calendar year, the sponsor of a special license plate program, shall prepare an annual report, which shall be made available on request, and shall be forwarded to the department. Such report shall include an accounting of revenues and expenditures associated with the funds collected for the special license plate program. The department shall compile and forward such reports to the chairmen of the senate transportation committee and the house of representatives transportation and defense committee by January 15 of each year. Failure of the agency to provide such report by the due date shall result in the suspension of the special license plate program sales on January 1 until such report is provided. The provisions of this section shall apply to all special plate programs generating revenue outside of the department excluding military license plate programs.

(5) Any decision by the department that the special license plate program application does not meet the provisions of this section may be appealed to the director of the department. Such notice of appeal shall be made in writing within twenty (20) days of the notice of denial. For all denied applications, the department shall, at the next legislative session, report to the senate and house of representatives transportation committees on such denied applications and the reason for the denials.

Approved March 15, 2013.

CHAPTER 86  
(H.B. No. 175)

AN ACT

RELATING TO SPECIAL LIENS REGARDING LIVESTOCK; AMENDING SECTION 45-805, IDAHO CODE, TO PROVIDE THAT CERTAIN LIVESTOCK MAY BE SOLD AT A LICENSED PUBLIC LIVESTOCK AUCTION MARKET, TO PROVIDE THAT CERTAIN EQUINES MAY BE SOLD AT A SALE OFFERED TO THE PUBLIC, TO REVISE PROVISIONS RELATING TO THE CONTENT OF REQUISITE NOTICE TO THE OWNER OR OWNERS OF THE LIVESTOCK AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 45-805, Idaho Code, be, and the same is hereby amended to read as follows:

45-805. LIENS FOR SERVICES ON OR CARING FOR PROPERTY. (a) Every person who, while lawfully in possession of an article of personal property, renders any service to the owner thereof, by labor, or skill, employed for the protection, improvement, ~~safe-keeping~~ safekeeping, or carriage thereof, has a special lien thereon, dependent on possession, for the compensation, if any, which is due him from the owner, for such service. If the liens as herein provided are not paid within sixty (60) days after the work is done, service

rendered or materials supplied, the person in whose favor such special lien is created may proceed to sell the property at a public auction after giving ten (10) days' public notice of the sale by advertising in some newspaper published in the county where the property is situated, or if there is no newspaper published in the county then by posting notices of the sale in three (3) of the most public places in the county for ten (10) days previous to such sale. The person shall also send the notice of auction to the owner or owners of the property and to the holder or holders of a perfected security interest in the property as provided in subsection (c) of this section. The person who is about to render any service to the owner of an article of personal property by labor or skill employed for the protection, improvement, safekeeping or carriage thereof may take priority over a prior perfected security interest by, before commencing any such service, giving notice of the intention to render such service to any holder of a prior perfected security interest at least three (3) days before rendering such service. If the holder of the security interest does not notify said person, within three (3) days that it does not consent to the performance of such services, then the person rendering such service may proceed and the lien provided for herein shall attach to the property as a superior lien. The provisions of this section shall not apply to a motor vehicle subject to the provisions of sections 49-1809 through 49-1818, Idaho Code.

(b) Livery or boarding or feed stable proprietors, and persons pasturing livestock of any kind, have a lien, dependent on possession, for their compensation in caring for, boarding, feeding or pasturing such livestock. If the liens as herein provided are not paid within sixty (60) days after the work is done, service rendered, or feed or pasturing supplied, the person in whose favor such special lien is created may proceed to sell the property at a licensed public livestock auction market, or if the lien is on equines, to sell the animals at a sale offered to the public, after giving ten (10) days' notice to the owner or owners of the livestock and the state brand inspector. The information contained in such notice shall be verified and contain the following:

- (1) The time, place and date of the licensed public livestock auction market, or in the case of equines, the time, place and date of the sale offered to the public;
- (2) The name, address and phone number of the person claiming the lien;
- (3) The name, address and phone number of the owner or owners of the livestock upon which the lien has been placed;
- (4) The number, breed and current brand of the livestock upon which the lien has been placed; and
- (5) A statement by the lienor that the requirements of this section have been met.

(c) Notices provided in subsections (a) and (b) of this section shall be made by personal service or by certified or registered mail to the last known address of the owner or owners and any holder of a prior perfected security interest. The proceeds of the sale must be applied to the discharge of any prior perfected security interest, the lien created by this section and costs; the remainder, if any, must be paid over to the owner.

Approved March 15, 2013.

CHAPTER 87  
(H.B. No. 210)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISIONS OF MEDICAL ASSISTANCE SERVICES AND LICENSING AND CERTIFICATION; AMENDING SECTION 1, CHAPTER 247, LAWS OF 2012, TO REVISE THE APPROPRIATION FOR FISCAL YEAR 2013; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 1, Chapter 247, Laws of 2012, be, and the same is hereby amended to read as follows:

SECTION 1. There is hereby appropriated to the Department of Health and Welfare, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>I. MEDICAL ASSISTANCE SERVICES:</b>					
<b>A. MEDICAID ADMINISTRATION &amp; MEDICAL MGMT:</b>					
FROM:					
Cooperative Welfare (General)					
Fund	\$5,498,500	\$7,829,500	\$6,000	\$1,219,200	\$14,553,200
Idaho Health Insurance Access Card					
Fund		152,000			152,000
Cooperative Welfare (Dedicated)					
Fund	10,600	9,083,800			9,094,400
Cooperative Welfare (Federal)					
Fund	<u>9,332,000</u>	<u>36,794,500</u>	<u>35,000</u>	<u>1,638,600</u>	<u>47,800,100</u>
TOTAL	\$14,841,100	\$53,859,800	\$41,000	\$2,857,800	\$71,599,700
<b>B. COORDINATED MEDICAID PLAN:</b>					
FROM:					
Cooperative Welfare (General)					
Fund				\$124,151,400	\$124,151,400
				<u>\$121,673,400</u>	<u>\$121,673,400</u>
Hospital Assessment					
Fund				25,319,000	25,319,000
Cooperative Welfare (Dedicated)					
Fund				800,300	800,300
Cooperative Welfare (Federal)					
Fund				<u>269,720,100</u>	<u>269,720,100</u>
				<u>269,787,900</u>	<u>269,787,900</u>
TOTAL				<u>\$419,990,800</u>	<u>\$419,990,800</u>
				<u>\$417,580,600</u>	<u>\$417,580,600</u>

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>C. ENHANCED MEDICAID PLAN:</b>					
FROM:					
Cooperative Welfare (General)					
Fund				<u>\$219,924,900</u>	<u>\$219,924,900</u>
				<u>\$219,881,400</u>	<u>\$219,881,400</u>
Idaho Health Insurance Access Card					
Fund				1,551,400	1,551,400
Medical Assistance					
Fund				2,500	2,500
Hospital Assessment					
Fund				11,347,600	11,347,600
Cooperative Welfare (Dedicated)					
Fund				121,985,600	121,985,600
Cooperative Welfare (Federal)					
Fund				<u>528,950,900</u>	<u>528,950,900</u>
				<u>538,531,900</u>	<u>538,531,900</u>
TOTAL				<u>\$883,762,900</u>	<u>\$883,762,900</u>
				<u>\$893,300,400</u>	<u>\$893,300,400</u>
<b>D. BASIC MEDICAID PLAN:</b>					
FROM:					
Cooperative Welfare (General)					
Fund				<u>\$115,547,700</u>	<u>\$115,547,700</u>
				<u>\$113,559,300</u>	<u>\$113,559,300</u>
Idaho Health Insurance Access Card					
Fund				4,077,100	4,077,100
Hospital Assessment					
Fund				22,322,700	22,322,700
Cooperative Welfare (Dedicated)					
Fund				2,971,100	2,971,100
Cooperative Welfare (Federal)					
Fund				<u>391,087,500</u>	<u>391,087,500</u>
TOTAL				<u>\$536,006,100</u>	<u>\$536,006,100</u>
				<u>\$534,017,700</u>	<u>\$534,017,700</u>
DIVISION					
TOTAL	\$14,841,100	\$53,859,800	\$41,000	<u>\$1,842,617,600</u>	<u>\$1,911,359,500</u>
				<u>\$1,847,756,500</u>	<u>\$1,916,498,400</u>
<b>II. LICENSING AND CERTIFICATION:</b>					
FROM:					
Cooperative Welfare (General)					
Fund	\$1,034,900	\$271,700			\$1,306,600
Cooperative Welfare (Dedicated)					
Fund	602,300	12,200			614,500

	FOR	FOR	FOR	FOR	TOTAL
	PERSONNEL	OPERATING	CAPITAL	TRUSTEE AND	
	COSTS	EXPENDITURES	OUTLAY	BENEFIT	
				PAYMENTS	
Cooperative Welfare (Federal)					
Fund	<u>2,505,100</u>	<u>615,100</u>			<u>3,120,200</u>
TOTAL	\$4,142,300	\$899,000			\$5,041,300
GRAND TOTAL	\$18,983,400	\$54,758,800	\$41,000	<del>\$1,842,617,600</del> <u>\$1,847,756,500</u>	<del>\$1,916,400,800</del> <u>\$1,921,539,700</u>

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

Approved March 15, 2013.

CHAPTER 88  
(S.B. No. 1007)

AN ACT

RELATING TO MOTOR VEHICLE REGISTRATION; AMENDING SECTION 49-402, IDAHO CODE, TO REVISE A TERM, TO REMOVE A REFERENCE TO IDAHO AND TO ADD LANGUAGE RELATING TO STAGGERED REGISTRATION; AMENDING SECTION 49-402A, IDAHO CODE, TO ADD LANGUAGE RELATING TO STAGGERED REGISTRATION; AMENDING SECTION 49-434, IDAHO CODE, TO ADD LANGUAGE RELATING TO STAGGERED REGISTRATION; 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 registration 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) and shall be subject to staggered registration for the purpose of reregistration and notice of expiration.

(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) and shall be subject to staggered registration for the purpose of reregistration and notice of expiration.

(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 subject to staggered registration for the purpose of reregistration and notice of expiration.

(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 and shall be subject to staggered registration for the

purpose of reregistration and notice of expiration. 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, 49-420H, 49-420I, 49-420J, 49-420K and 49-420L, Idaho Code, and any new special plate program effective on and after January 1, 2013, pursuant to section 49-402D, 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 and shall be subject to staggered registration for the purpose of reregistration and notice of expiration. 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.

(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.

(11) In addition to annual registration fees as provided in this section, registrants may pay a fee to purchase an Idaho state parks passport authorizing resident motor vehicle entry into all Idaho state parks. Registrants may pay the fee for a one (1) year or two (2) year period of time. The fee shall be ten dollars (\$10.00) for one (1) year and twenty dollars (\$20.00) for two (2) years. All fees collected pursuant to this subsection shall be deposited into the park and recreation fund and shall be subject to appropriation. Fees collected pursuant to this subsection shall not be considered a motor vehicle registration fee as provided in section 17, article VII, of the constitution of the state of Idaho.

SECTION 2. That Section 49-402A, Idaho Code, be, and the same is hereby amended to read as follows:

49-402A. UTILITY TRAILERS -- REGISTRATION, FEES AND TRANSFERS. (1) The department shall register a utility trailer for a period of one (1) year for a fee of five dollars (\$5.00).

(2) The department may register a utility trailer for a five (5) year period or for a ten (10) year period, and shall issue a license plate with the year of expiration designated by a validation sticker. Five (5) year registrations shall cost twenty dollars (\$20.00) and ten (10) year registrations shall cost thirty dollars (\$30.00) and shall be subject to staggered registration for the purpose of reregistration and notice of expiration.

(3) If ownership or interest in the trailer transfers as a result of a sale, neither the registration card nor plate can be transferred to another person. The registration card and plate shall remain in the possession of the transferor and may be transferred to another utility trailer owned by the transferor, and shall be valid until expiration of the original registration.

SECTION 3. That Section 49-434, Idaho Code, be, and the same is hereby amended to read as follows:

49-434. OPERATING FEES. (1) There shall be paid on all commercial vehicles, noncommercial vehicles, and on all farm vehicles having a maximum gross weight not in excess of sixty thousand (60,000) pounds, an annual registration fee or a staggered registration fee for the purpose of reregistration and notice of expiration in accordance with the following schedule.

Unladen Weight for Wreckers Maximum Gross Weight For Other Vehicles (Pounds)	Annual Registration Fee	
	Noncommercial and Farm Vehicles	Commercial Vehicles and Wreckers
8,001-16,000 inc. ....	\$ 48.00	\$ 48.00
16,001-26,000 inc. ....	61.08	143.40
26,001-30,000 inc. ....	91.68	223.80
30,001-40,000 inc. ....	130.08	291.60
40,001-50,000 inc. ....	188.28	360.00
50,001-60,000 inc. ....	311.88	515.40

(2) There shall be paid on all commercial vehicles, irrespective of body type, and on all farm vehicles having a maximum gross weight in excess of sixty thousand (60,000) pounds, an annual registration fee in the amount prescribed by subsection (8) of this section, as applicable.

(3) In addition, the annual registration fee for trailers shall be:

- (a) Trailer or semitrailer in a combination of vehicles .....\$15.00
- (b) Rental utility trailer with a gross weight of two thousand (2,000) pounds or less .....\$8.00
- (c) Rental utility trailer with a gross weight over two thousand (2,000) pounds .....\$15.00

(4) As an option to the trailer and semitrailer and rental utility trailer annual registrations issued pursuant to subsection (3) of this section, the department may provide a nonexpiring plate and registration for trailers and semitrailers, and an optional, extended registration for rental utility trailers.

(a) For trailers and semitrailers, the nonexpiring registration fee shall be one hundred five dollars (\$105). The license plate shall remain on the trailer or semitrailer until the registration is canceled or revoked. No part of the fee is subject to refund. However, the registrant may transfer the nonexpiring plate and registration to another trailer or semitrailer titled to the registrant if the original registration date is prior to July 1, 2009. The registration document shall be the official record of the status of the nonexpiring registration and no registration fee shall be required after the initial registration is paid. No validation sticker shall be required or issued for such nonexpiring license plate.

(i) Registration of a trailer or semitrailer based in another jurisdiction may be issued when the registrant provides a valid jurisdiction title or ownership document and certification statement, and no title transfer will be required.

(ii) Periodic verification will be made to confirm ownership status. Failure of the owner to comply with the verification request to confirm ownership within thirty (30) days, shall result in cancellation of the permanent plate registration.

(b) For rental utility trailers, the registrant may prepay the annual registration for an additional one (1), two (2), three (3) or four (4) years, but in no event shall the optional registration period extend be-

yond five (5) years. The fee shall be as specified in subsection (3) (b) or (c) of this section. A pressure-sensitive sticker shall be used to validate the license plate. The license plate shall become void if the owner's interest in the rental utility trailer changes during the five (5) year period. If the owner fails to enter the rental utility trailer on the annual renewal application during the five (5) year period, the registration record shall be purged. Any unexpired plate shall be returned to the department if it is not entered on the renewal application.

(5) A fleet registration option is available to owners who have twenty-five (25) or more commercial or farm vehicles or any combination thereof. Such owners may register all of their company vehicles with the department in lieu of registering with a county assessor. To qualify the fleet must be owned and operated under the unified control of one (1) person and the vehicles must be physically garaged and maintained in two (2) or more counties. Fleet registration shall not include fleets of rental vehicles. The department shall provide a registration application to the owner and the owner shall provide all information that the department determines is necessary. The department shall devise a special license plate numbering system for fleet-registered vehicles as an alternative to county license plates. The fleet registration application and all subsequent registration renewals shall include the physical address where a vehicle is principally used, garaged and maintained. The fleet owner shall report the physical address to the department upon initial registration, on each renewal, and at any time a vehicle registered under this option is permanently transferred to another location.

(6) If the ownership of a vehicle changes during the registration period, the original owner may transfer the plate to another vehicle. The remaining fee shall be credited against the cost of the new registration. Refunds may be given for any unexpired portion of the vehicle registration fee if the plate is not transferred by the owner to another vehicle. Any request for refund shall include surrender of the license plate, validation sticker and registration document. Owners of vehicles registered under the international registration plan may request a refund of the unexpired portion of the Idaho vehicle registration fee by presenting evidence from the base jurisdiction that the license plate, validation sticker and registration document have been surrendered. A license plate shall not be transferred to another owner when the ownership of a vehicle changes. The owner shall obtain a replacement plate, validation sticker if required, and a registration document when a plate is lost, destroyed or becomes illegible.

(7) An administrative fee of four dollars (\$4.00) shall be paid and deposited to the state highway account on all registrations completed by the department under subsection (1) or (8) (a) of this section. Vehicles registered under subsection (8) (b) of this section shall pay the fee provided in section 49-435(2), Idaho Code.

(8) There shall be paid on all commercial and farm vehicles having a maximum gross weight in excess of sixty thousand (60,000) pounds, a registration fee based upon the maximum gross weight of a vehicle as declared by the owner and the total number of miles driven on roads and highways in the state, county, city and highway district systems in Idaho, and if registered under the international registration plan (IRP), in all other jurisdictions. The appropriate registration fee shall be determined as follows:

(a) If the owner registers vehicles under the international registration plan (IRP), the appropriate mileage column shall be determined by the total miles an owner operated a fleet of vehicles on roads and highways in the state, county, city and highway district systems in Idaho and in all other jurisdictions in the preceding year, as defined in section 49-117, Idaho Code, and by the maximum gross weight of each vehicle within a fleet.

(b) If the owner registers vehicles under the international registration plan and determines that the average international registration plan fleet miles, calculated by dividing the total IRP fleet miles in all jurisdictions by the number of registered vehicles, is less than fifty thousand one (50,001) miles, the owner may apply to the department for refund of a portion of the registration fees paid, consistent with the fee schedules set forth in this section. The department shall provide an application for the refund. An owner making application for refund under this section shall be subject to auditing as provided in section 49-439, Idaho Code.

(c) If the owner is not registering vehicles under the international registration plan, the appropriate mileage column shall be determined by the total miles the owner operated each of the vehicles to be registered on roads and highways in the state, county, city and highway district systems in Idaho in the preceding year and by the maximum gross weight of each vehicle.

Maximum Gross  
Weight of Vehicle  
(Pounds)

Total Miles Driven

	1 to 7,500	7,501 to 20,000	20,001 to 35,000	35,001 to 50,000	Over 50,000
60,001-62,000	\$223	\$ 511	\$ 789	\$1,068	\$1,560
62,001-64,000	\$251	\$ 576	\$ 890	\$1,205	\$1,760
64,001-66,000	\$280	\$ 642	\$ 992	\$1,342	\$1,960
66,001-68,000	\$309	\$ 707	\$1,093	\$1,479	\$2,160
68,001-70,000	\$337	\$ 773	\$1,194	\$1,615	\$2,360
70,001-72,000	\$366	\$ 838	\$1,295	\$1,752	\$2,560
72,001-74,000	\$394	\$ 904	\$1,396	\$1,889	\$2,760
74,001-76,000	\$423	\$ 969	\$1,498	\$2,026	\$2,960
76,001-78,000	\$451	\$1,035	\$1,599	\$2,163	\$3,160
78,001-80,000	\$480	\$1,100	\$1,700	\$2,300	\$3,360
80,001-82,000	\$494	\$1,133	\$1,751	\$2,368	\$3,460
82,001-84,000	\$509	\$1,165	\$1,801	\$2,437	\$3,560
84,001-86,000	\$523	\$1,198	\$1,852	\$2,505	\$3,660
86,001-88,000	\$537	\$1,231	\$1,902	\$2,574	\$3,760
88,001-90,000	\$551	\$1,264	\$1,953	\$2,642	\$3,860
90,001-92,000	\$566	\$1,296	\$2,004	\$2,711	\$3,960
92,001-94,000	\$580	\$1,329	\$2,054	\$2,779	\$4,060
94,001-96,000	\$594	\$1,362	\$2,105	\$2,848	\$4,160
96,001-98,000	\$609	\$1,395	\$2,155	\$2,916	\$4,260
98,001-100,000	\$623	\$1,427	\$2,206	\$2,985	\$4,360
100,001-102,000	\$637	\$1,460	\$2,257	\$3,053	\$4,460
102,001-104,000	\$651	\$1,493	\$2,307	\$3,121	\$4,560
104,001-106,000	\$666	\$1,526	\$2,358	\$3,190	\$4,660
106,001-108,000	\$680	\$1,558	\$2,408	\$3,258	\$4,760
108,001-110,000	\$694	\$1,591	\$2,459	\$3,327	\$4,860
110,001-112,000	\$709	\$1,624	\$2,510	\$3,395	\$4,960
112,001-114,000	\$723	\$1,657	\$2,560	\$3,464	\$5,060
114,001-116,000	\$737	\$1,689	\$2,611	\$3,532	\$5,160
116,001-118,000	\$751	\$1,722	\$2,661	\$3,601	\$5,260

Maximum Gross Weight of Vehicle (Pounds)	Total Miles Driven				
118,001-120,000	\$766	\$1,755	\$2,712	\$3,669	\$5,360
120,001-122,000	\$780	\$1,788	\$2,763	\$3,738	\$5,460
122,001-124,000	\$794	\$1,820	\$2,813	\$3,806	\$5,560
124,001-126,000	\$809	\$1,853	\$2,864	\$3,874	\$5,660
126,001-128,000	\$823	\$1,886	\$2,914	\$3,943	\$5,760
128,001-129,000	\$837	\$1,918	\$2,965	\$4,011	\$5,860

(d) In addition to the fees set forth in paragraphs (a) and (c) of this subsection (8), an owner or operator may purchase a temporary permit as provided in section 49-432(2), Idaho Code, for operation of a vehicle at a weight in excess of the current, valid, registered maximum gross vehicle weight. The permit so issued shall be specific to the motor vehicle to which it is issued. No permit or fee shall be transferable or apportionable to any other vehicle, nor shall any such fee be refundable.

(e) Any commercial or farm vehicle registered for more than sixty thousand (60,000) pounds up to one hundred six thousand (106,000) pounds traveling fewer than two thousand five hundred (2,500) miles annually on roads and highways in the state, county, city and highway district systems in Idaho shall pay an annual registration fee of two hundred fifty-five dollars (\$255). The provisions of section 49-437(2), Idaho Code, shall not apply to vehicles registered under this subsection (8) (e).

(9) (a) During the first registration year that the fee schedule in subsection (8) (c) of this section is in use, an owner shall use the mileage data from the records used to report the mileage use fee in the immediately preceding year as the basis for determining the appropriate registration fee schedule.

(b) Any owner who registers a motor vehicle for the first time and who has no mileage history for the vehicle shall estimate the miles to determine the appropriate fee schedule in subsection (8) (c) of this section. When estimating the miles, the owner shall provide a statement on the application of the method used to arrive at the estimated miles.

(c) Any owner using any fee schedule other than the highest fee schedule under subsection (8) (c) of this section, shall certify at the time of registration that the miles operated in the preceding year do not exceed the schedule applied for. Any owner using a fee schedule under subsection (8) (c) of this section that is less than the highest schedule shall maintain records to substantiate the use of the schedule as required by section 49-439, Idaho Code.

(10) An owner registering under subsection (8) (a) or (8) (c) of this section may elect to pay the full annual registration fee at the time of registration or renewal of registration, or an owner may pay at least one-quarter (1/4) of the annual registration fee due. The remainder of the annual Idaho registration fee shall be paid in three (3) equal installments on dates as billed by the department.

(11) An owner registering or renewing a registration under subsection (8) (a) of this section electing to use installment payments as provided in subsection (10) of this section, shall pay all of the fees due to other IRP jurisdictions in addition to one-quarter (1/4) of the Idaho fee due at the time of registration or reregistration. The remainder of the annual Idaho registration fee shall be paid in three (3) equal installments on dates as billed by the department.

(12) If any vehicle or combinations of vehicles haul nonreducible loads, as authorized under the provisions of section 49-1004, Idaho Code,

and weigh less than the starting weights per axle configuration listed in column 1 of subsection (2), section 49-1004, Idaho Code, then and in that event there shall be paid for that vehicle, in addition to the other fees required in this section, an additional use fee of 2.1 mills per mile for each two thousand (2,000) pounds or fraction thereof of the maximum gross weight in excess of those set forth in section 49-1001, Idaho Code.

SECTION 4. This act shall be in full force and effect on and after January 1, 2014.

Approved March 21, 2013.

CHAPTER 89  
(S.B. No. 1008)

AN ACT

RELATING TO THE ISSUANCE OF SALVAGE CERTIFICATES OF TITLE; AMENDING SECTION 49-524, IDAHO CODE, TO REMOVE THE REQUIREMENT TO ISSUE SALVAGE CERTIFICATES FROM INSURANCE COMPANIES AND SALVAGE POOLS, TO PROVIDE FOR THE SUBMISSION OF APPLICATIONS FOR SALVAGE CERTIFICATES BY INSURANCE COMPANIES AND SALVAGE POOLS, TO PROVIDE FOR THE ISSUANCE OF SALVAGE CERTIFICATES BY THE DEPARTMENT, TO PROVIDE FOR THE NOTATION "THEFT RECOVERY" TO APPEAR ON CERTIFICATES OF TITLE IN ADDITION TO THE TITLE RECORD WHEN AN INSURER HAS ACQUIRED A VEHICLE IN A SETTLEMENT OF A THEFT CLAIM AND, UPON RECOVERY, THE VEHICLE IS NOT A SALVAGE VEHICLE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 49-524, Idaho Code, be, and the same is hereby amended to read as follows:

49-524. SALVAGE CERTIFICATE OF OWNERSHIP TITLE OR ELECTRONIC FILE TO REPLACE CERTIFICATE OF TITLE OR CERTIFICATE OF ORIGIN ON VEHICLES. (1) Every person acquiring a vehicle which that has been determined to be a salvage vehicle, shall obtain a salvage certificate of ownership title on that vehicle.

(2) The salvage certificate of title shall replace the manufacturer's certificate of origin, manufacturer's statement of origin, certificate of title or other comparable ownership document and shall indicate ownership only; it shall not be valid for registration purposes.

(3) A salvage certificate of ownership title shall be issued by the department or under the direction of the department and shall be on a form or electronic file as prescribed by the department. The form or electronic file shall provide for assignments of the salvage certificate of title.

(4) The fee for a salvage certificate of title or electronic filing of a salvage certificate of title shall be fifteen dollars (~~\$15.00~~) in accordance with the provisions of section 49-202(2)(b), Idaho Code. The fee shall be deposited in the state highway account.

(5) Every insurer making payment for a vehicle which that has been determined to be a salvage vehicle, shall, within thirty (30) days from receipt of the properly released manufacturer's certificate of origin, manufacturer's statement of origin, or certificate of title, or other comparable ownership document, issue a salvage certificate to the purchaser and surrender such document to the department, the ownership documents, a copy of the along with an application for salvage certificate of title, the salvage certificate of title fee and other documents as required by the department

for processing. The department shall mark its records appropriately issue a salvage certificate of title to the applicant if all requirements have been satisfied.

(6) If a salvage pool receives a manufacturer's certificate of origin, manufacturer's statement of origin, certificate of title or other comparable ownership document for a vehicle which that has been determined to be a salvage vehicle, he the salvage pool shall, within thirty (30) days and upon receipt of the properly released certificate of origin or certificate of title, issue a salvage certificate to the purchaser and ownership document, surrender such document to the department, the ownership documents, a copy of the along with an application for salvage certificate of title, the salvage certificate of title fee and other documents as required by the department for processing. The department shall mark its records appropriately issue a salvage certificate of title to the applicant if all requirements have been satisfied.

(7) If an insurer has made payment for a salvage vehicle, and the insurer or a salvage pool, is unable to obtain a properly released manufacturer's certificate of origin, manufacturer's statement of origin, or certificate of title or other comparable ownership document for the salvage vehicle within thirty (30) days after the acceptance by the owner of an amount in settlement of a total loss, then the insurer or salvage pool may issue a salvage certificate with agreement from the insurer to the purchaser submit an application for salvage certificate of title to the department without having first obtained the properly released certificate of origin or certificate of title one (1) of the aforementioned ownership documents. Within ten (10) days of the issuance of a salvage certificate to the purchaser in place of one (1) of the aforementioned ownership documents, the insurer or the salvage pool shall submit to the department the following: a sworn statement that it made at least two (2) written attempts to obtain from the owner the properly released manufacturer's certificate of origin, manufacturer's statement of origin, or certificate of title, or other comparable ownership document by sending notice to the owner at the owner's address of record with the department, together with a copy of each such written attempt. Additionally, the insurer or salvage pool shall include proper evidence of the satisfaction or discharge of any lien or encumbrance properly noted upon the certificate of title or upon the electronic records of the department, a copy of the, an application for salvage certificate of title, the salvage certificate of title fee, indemnifying affidavit, and other documents as required by the department for processing. The department shall mark its records appropriately issue a salvage certificate of title if all requirements have been satisfied.

(8) It is a misdemeanor, punishable by up to six (6) months in jail, a fine of one thousand dollars (\$1,000) or both, if the owner of a retained salvage vehicle fails to surrender the title and be issued a salvage certificate of title, or to sell the vehicle and not tell the buyer that the vehicle is totaled.

(9) If an insurer has allowed the owner to retain ownership of the salvage vehicle, the owner must surrender the certificate of title for such vehicle to the department or the insurance company not later than thirty (30) days from the date that the claim was satisfied. The insurer must notify the department of a total loss payoff within thirty (30) days. The insurer or department shall issue a salvage certificate of title to the owner prior to any sale or disposition of the salvage vehicle.

(10) If an insurer acquires the manufacturer's certificate of origin, manufacturer's statement of origin, certificate of title of a vehicle or other comparable ownership document for a vehicle in a settlement of a theft claim, the insurer shall immediately, upon receipt of the properly released certificate of origin or certificate of title ownership document, issue a salvage certificate in the name of the insurer and surrender such document

to the department, ~~the ownership documents, a copy of the~~ along with an application for salvage certificate of title in the name of the insurer, the salvage certificate of title fee and other documents as required by the department for processing.

(11) If an insurer has acquired a vehicle in a settlement of a theft claim, has made application to and has been issued a new salvage certificate of title in the name of the insurer and the vehicle is subsequently recovered and is not a salvage vehicle, the insurer may complete an affidavit indemnifying the department stating the facts of acquisition and disposition of the vehicle in a form prescribed by the department and deliver the salvage certificate of ownership, affidavit and any other documents required by the department to the transferee at the time of delivery of the vehicle. A notation of "theft recovery" shall be made on the title certificate and title record.

(12) Any person acquiring ownership of a salvage vehicle purchased in a state or jurisdiction which ~~that~~ does not require surrender of the certificate of title or comparable ownership document shall, within thirty (30) days following delivery of the certificate of title or ownership document, surrender such title or document to the department and apply for a salvage certificate of title.

(13) An owner of a salvage vehicle who sells or transfers said vehicle shall provide a properly executed assignment of the salvage certificate of ownership to the transferee.

(14) A purchaser of a salvage vehicle shall not possess or retain a salvage vehicle without a salvage certificate of title. The salvage vehicle purchaser shall display the salvage certificate of title upon the request of any peace officer or agent of the department.

Approved March 21, 2013.

CHAPTER 90  
(S.B. No. 1014)

AN ACT

RELATING TO FEES AND TAXES; AMENDING SECTION 41-406, IDAHO CODE, TO REMOVE THE REQUIREMENT THAT A SPECIFIC PERCENTAGE OF FUNDS BE ALLOCATED TO SPECIFIC PROGRAMS; AND PROVIDING A SUNSET DATE.

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

SECTION 1. That Section 41-406, Idaho Code, be, and the same is hereby amended to read as follows:

41-406. DEPOSIT AND REPORT OF FEES, LICENSES AND TAXES. (1) The director shall transmit all taxes, fines and penalties collected by him to the state treasurer as provided under section 59-1014, Idaho Code. The director shall file with the state controller a statement of each deposit thus made. All such funds received shall be deposited into the department of insurance suspense account.

Such funds shall be distributed as follows:

(a) The director may deposit up to twenty percent (20%) of the funds received in the insurance refund account which is hereby created for the purpose of repaying overpayments of any taxes, fines, and penalties or other erroneous receipts. There is hereby appropriated out of the insurance refund account so much thereof as shall be necessary for the payment of refunds. Any unencumbered balance remaining in the insurance refund account on June 30 of each and every year in excess of forty thousand dollars (\$40,000) shall be transferred to the general

fund and the state controller is hereby authorized and directed on such dates to make such transfers unless the board of examiners, which is hereby authorized to do so, changes the date of transfer or sum to be transferred.

(b) That portion of the premium tax, payable to the public employee retirement fund as provided in section 59-1394, Idaho Code, shall be distributed to that fund.

(c) That portion of the premium tax necessary to cover administrative costs incurred by the department in placing insurance companies or any other insurance entities into receivership or under administrative supervision, and such costs cannot be satisfied from the assets of these companies or entities, shall be distributed to the insurance insolvency administrative fund which is hereby created. There is hereby appropriated out of the insurance insolvency administrative fund so much thereof as shall be necessary, but not to exceed two hundred thousand dollars (\$200,000) in any one (1) fiscal year, for the payment of the department's administrative expenses incurred in carrying out such receiverships or supervision. A balance of one hundred thousand dollars (\$100,000) shall be maintained in this fund on June 30 of each year.

(d) After all other deductions authorized in this section have been made, if the premium tax remaining exceeds forty-five million dollars (\$45,000,000), one-fourth (1/4) of such excess is hereby appropriated and shall be paid to the Idaho high risk individual reinsurance pool established in chapter 55, title 41, Idaho Code, and one-fourth (1/4) of such excess above fifty-five million dollars (\$55,000,000) is hereby appropriated and shall be paid to the Idaho health insurance access card fund, established in section 56-242, Idaho Code, ~~with eighty percent (80%) of such moneys to be appropriated to the CHIP Plan B subaccount and the children's access card program subaccount and twenty percent (20%) of such moneys, not to exceed one million two hundred thousand dollars (\$1,200,000) per year, to be appropriated to the small business health insurance pilot program subaccount.~~

(e) The balance of the premium tax, fines and penalties shall be distributed to the general fund of the state of Idaho.

(f) All moneys received for fees, licenses and miscellaneous charges collected shall be distributed to the insurance administrative account.

(2) The director shall make and file with the state controller an itemized statement of the fees, licenses, taxes, fines and penalties collected by him during the preceding month.

SECTION 2. The provisions of subsection (1) (d) of Section 1 of this act shall be null, void and of no force and effect on and after October 1, 2015.

Approved March 21, 2013.

CHAPTER 91  
(S.B. No. 1024)

AN ACT

RELATING TO SHEEP AND GOATS; AMENDING SECTION 25-127, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE MEMBERSHIP OF THE IDAHO SHEEP AND GOAT HEALTH BOARD AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 25-131, IDAHO CODE, TO PROVIDE THAT THE STATE OF IDAHO MAY AUDIT THE FUNDS OF THE BOARD AT ANY TIME.

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

SECTION 1. That Section 25-127, Idaho Code, be, and the same is hereby amended to read as follows:

25-127. MEMBERS -- APPOINTMENT, QUALIFICATIONS, SALARY -- OATH. The Idaho sheep and goat health board, hereinafter called the board, shall consist of five (5) members, ~~all of whom shall be~~ consisting of experienced wool growers or goat raisers, or a combination of experienced wool growers and goat raisers, and no two (2) of whom shall be from the same county; said members shall be appointed by, and serve at the pleasure of, the governor. Members shall hold their offices for the term for which they are appointed and thereafter until their successors are duly appointed and qualified.

As vacancies occur upon the board, the Idaho Wool Growers Association shall submit to the governor the names of two (2) persons qualified and suitable for appointment for each such vacancy from whom the governor shall make his appointment to fill such vacancies. The first board shall be appointed for the following terms: two (2) members shall be appointed to hold office until the first Monday of January 1952; two (2) members shall be appointed to hold office until the first Monday of January 1954; one (1) member shall be appointed to hold office until the first Monday of January 1956; and at the expiration of said dates for the members first appointed and until the expiration of terms thereafter, members shall be appointed to fill such vacancies for a term of six (6) years; and in case of any vacancy occurring in the office of a board member at any time other members shall be appointed, who in each instance shall hold office until the unexpired term of the member whom he is appointed to succeed. Each of said members, before entering upon the duties of his office, shall take and subscribe to the oath of office required by section 59-401, Idaho Code. The members of the board may be compensated as provided by section 59-509(d), Idaho Code. Said compensation may be paid from the Idaho sheep and goat health account in the same manner as other expenses are paid. Each member of said board shall be a qualified elector of the county from which he is chosen and must reside during his term of office within the state of Idaho. Said board must hold a meeting annually and at any other time if so requested by any member of the board. The Idaho sheep and goat health board may request the removal of a board member, with or without cause, by a majority vote. Upon receipt of the request, the governor may immediately withdraw the board member's appointment.

SECTION 2. That Section 25-131, Idaho Code, be, and the same is hereby amended to read as follows:

25-131. IDAHO SHEEP AND GOAT HEALTH ACCOUNT -- ASSESSMENT -- FIRST PURCHASER TO MAKE REPORT -- PENALTY FOR FAILURE TO MAKE REPORT -- APPROPRIATION. (1) In order for the board to carry out the provisions of this chapter, the board shall assess, levy and collect an assessment established by the board, not to exceed twelve cents (12¢) per pound on all wool, in the grease

basis, sold through commercial channels. In the event that a sheep, which produces wool subject to this assessment, shall be located outside the state of Idaho during a part of the assessment year, the amount of the assessment shall be reduced on a pro rata basis. Such assessment shall be levied and assessed to the producer at the time of the first sale of wool and shall be deducted by the first purchaser from the price paid to the producer at the time of such first sale. The assessment provided in this section shall not be levied or collected on any casual sale. In addition to the assessment provisions of this section related to wool, the board may by rule establish an assessment on goats that would assess goats on a per head basis and at a rate that is comparable to the assessment on wool.

(2) The assessment provided by this section shall constitute a lien prior to all other liens and encumbrances upon such wool except liens which are declared prior by operation of a statute of this state.

(3) If the first purchaser lives or has his principal office in another state, the producer shall make the reports and pay the assessments to the board as required under this section unless the first purchaser agrees in writing to make such reports and pay such assessments.

(4) The first purchaser shall specify the amounts of assessments withheld in any written statements made to the producer.

(5) The first purchaser shall make reports to the board on forms prescribed by the board, and no first purchaser shall fail to make such reports or falsify any such reports. The assessment deducted and withheld by a first purchaser, as required in subsection (1) of this section, shall be paid to the board on a quarterly calendar year basis, and shall be due and payable within thirty (30) days after the end of the quarter. All moneys collected by the board under the provisions of this chapter shall be paid to the state treasurer. All moneys received from the assessment pursuant to this section shall be deposited in the state treasury by the state treasurer to the credit of a special account in the state operating fund hereby created to be known as the "Idaho sheep and goat health account."

(6) A first purchaser who delays transmittal of reports and payments of assessments beyond the time stated in subsection (5) of this section shall pay five percent (5%) of the amount due for the first month of delay and one percent (1%) of the amount due for each month of delay thereafter. Such moneys shall be deposited in the Idaho sheep and goat health account.

(7) In addition thereto, the said account shall consist of any appropriations made by the legislature for the use of and expenditure by said board. All fees of every kind collected under the provisions of this chapter, or under any rules and regulations made pursuant to the provisions of this chapter, shall be deposited in the state treasury in the manner hereinabove described. The moneys in said special account are hereby appropriated for the use and expenditure of said board carrying out the provisions of this chapter and the rules and regulations made herein and said account is hereby declared to be a continuing account.

(8) All moneys appropriated to the board for the purposes of sheep disease prevention, abatement, suppression, control or eradication shall be expended by the board only for those purposes, in accordance with the duties specified in section 25-128(1), Idaho Code.

(9) All moneys received by the board from that portion of the special assessment which is made to carry on the work for prevention and control of damage caused by predatory animals and other vertebrate pests shall be expended by the board in the respective districts comprising the counties where the assessment was collected less the actual and necessary administrative costs for carrying out the provisions of this chapter. All moneys received by such account for work for prevention and control of damage caused by predatory animals and other vertebrate pests except as herein otherwise provided shall be expended by the board within the district or districts

specified by the party or agency providing such funds and any trust fund must be held inviolate for the purposes of the trust.

(10) The right is reserved to the state of Idaho to audit the funds of the board at any time.

Approved March 21, 2013.

CHAPTER 92  
(S.B. No. 1043)

AN ACT

RELATING TO MOTOR VEHICLE DRIVER'S LICENSES AND IDENTIFICATION CARDS; AMENDING SECTION 49-315, IDAHO CODE, TO PROVIDE THAT A LICENSEE WHO IS A VETERAN MAY REQUEST THAT HIS OR HER STATUS AS SUCH BE DESIGNATED ON HIS OR HER DRIVER'S LICENSE AND TO ESTABLISH PROVISIONS GOVERNING SUCH DESIGNATION; AMENDING SECTION 49-2444, IDAHO CODE, TO PROVIDE THAT A PERSON WHO IS A VETERAN MAY REQUEST THAT HIS OR HER STATUS AS SUCH BE DESIGNATED ON AN IDENTIFICATION CARD AND TO ESTABLISH PROVISIONS GOVERNING SUCH DESIGNATION; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. 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. 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 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.

(7) A licensee who is a veteran may request that his or her status as such be designated on the driver's license at no additional cost. Any such request shall be accompanied by proof of being a current or former member of the United States armed forces. Upon request and submission of satisfactory proof, the department shall indicate such person's status as a veteran on any class of driver's license issued pursuant to this section. Such designation shall be made upon original issuance or renewal of a driver's license. Designation shall also be made on any duplicate driver's license issued, provided that the fee for such duplicate driver's license is paid in accordance with section 49-306, Idaho Code.

Satisfactory proof of being a current or former member of the United States armed forces must be furnished by an applicant to the department before a designation of veteran status will be indicated on any class of driver's license. Acceptable proof shall be a copy of form DD214 or an equivalent document or statement from the department of veterans affairs that identifies a character of service upon separation as "honorable" or "general under honorable conditions."

SECTION 2. 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 that 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. 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. 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 pur-

poses 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 nonrefundable 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 twenty-five (25) 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 twenty-five (25) months, the renewal of the identification card shall start from the original date of expiration regardless of the year in which the applica-

tion for renewal is made. If the identification card is expired for more than twenty-five (25) 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) If an Idaho identification card has expired or will expire and the identification cardholder is temporarily out of state except on active military duty, the identification cardholder may request in writing on a form prescribed by the department an extension of the identification card. The request shall be accompanied by the fee fixed in section 49-306, Idaho Code, and the extension shall be no more than a twelve (12) month period. If the department determines that an extension of the identification card is necessary, it may issue an identification card showing the date to which the expired identification card is extended. Identification card extensions are limited to two (2) consecutive extensions per identification cardholder.

(b) Upon returning to the state of Idaho, the identification cardholder shall, within ten (10) days, apply for a renewal of the expired identification card and surrender the extended identification card and the expired identification card.

(6) An Idaho identification card issued to any person prior to serving on active duty in the armed forces of the United States, or a member of the immediate family accompanying such a person, if valid and in full force and effect upon entering active duty, shall remain in full force and effect and shall, upon application, be extended for a period of four (4) years so long as active duty continues, and the identification card shall remain in full force and effect sixty (60) days following the date the cardholder is released from active duty.

(7) 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.

(8) 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.

(9) A person who is a veteran may request that his or her status as such be designated on an identification card at no additional cost. Any such request shall be accompanied by proof of being a current or former member of the United States armed forces. Upon request and submission of satisfactory proof, the department shall indicate such person's status as a veteran on any identification card issued pursuant to the provisions of this section. Such designation shall be made upon original issuance or renewal of an identification card. Designation shall also be made on any duplicate identification card issued, provided that the fee for such duplicate card is paid in accordance with this section.

Satisfactory proof of being a current or former member of the United States armed forces must be furnished by an applicant to the department before a designation of veteran status will be indicated on any identification card. Acceptable proof shall be a copy of form DD214 or an equivalent doc-

ument or statement from the department of veterans affairs that identifies a character of service upon separation as "honorable" or "general under honorable conditions."

(10) In the case of a name change, the applicant shall provide legal documentation to verify the change in accordance with department rules.

(101) 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.

(112) 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.

(123) 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.

(134) 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 (5), Idaho Code. The identification card may be renewed at no cost to the applicant as long as the driver's license remains canceled.

(145) 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 (101) of this section.

SECTION 3. This act shall be in full force and effect on and after November 10, 2014.

Approved March 21, 2013.

CHAPTER 93  
(S.B. No. 1050)

AN ACT

RELATING TO MOTOR VEHICLE DEALERS; AMENDING SECTION 49-1637, IDAHO CODE, TO REVISE PROVISIONS RELATING TO EDUCATION REQUIREMENTS OF APPLICANTS FOR A WHOLESALE DEALER'S LICENSE.

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

SECTION 1. That Section 49-1637, Idaho Code, be, and the same is hereby amended to read as follows:

49-1637. EDUCATION REQUIREMENTS FOR VEHICLE DEALERS. (1) Except as provided in subsection (2) of this section, the following continuing education requirements shall apply to a vehicle dealer for an initial dealer's license and for the annual renewal, as provided in sections 49-1607(3) and 49-1634, Idaho Code, of a dealer's license:

(a) An applicant for an annual renewal of a dealer's license must complete a four (4) hour education program as described in subsection (3) of this section prior to submitting a renewal application for a vehicle or vessel dealer license.

(b) An applicant requesting an initial vehicle or vessel dealer's license shall be required to provide certification that he has completed a department approved prelicensing class or program, including an exam-

ination on the materials that were presented prior to submitting a license application.

(2) The education requirements of subsection (1) of this section do not apply to an applicant for a full-time or part-time vehicle salesman's license, manufacturer's license, or distributor's license ~~or~~ wholesale dealer's license. The following applicants are also exempt from the provisions of subsection (1) of this section:

(a) A vehicle dealer of nationally advertised and recognized new motor vehicles or vessels; and

(b) A franchise dealer of new recreational vehicles, new motorcycles, new all-terrain vehicles, new snowmobiles or new vessels.

(3) The continuing education programs and prelicensing class requirements required in subsection (1) of this section shall be developed with input from motor vehicle industry organizations including, but not limited to, the Idaho independent automobile dealers association, and shall be approved by the department:

(a) Prelicensing classes shall consist of eight (8) hours of instruction or as otherwise approved by the department, which shall include the written examination.

(b) Fees applicable to the prelicensing class shall not exceed three hundred fifty dollars (\$350).

(c) Fees applicable to the dealer education program shall not exceed two hundred dollars (\$200).

(d) Any provider as approved by the department shall make the dealer education programs and prelicensing classes available on a monthly basis, at a minimum.

(4) The continuing education programs and the prelicensing class/programs required in subsection (1) of this section may be provided by accredited educational institutions, private vocational schools, correspondence schools or trade associations, provided that the continuing education program and prelicensing class/programs have been approved by the department as required in subsection (3) of this section.

(5) The department may promulgate rules as necessary to implement the provisions of this section.

Approved March 21, 2013.

CHAPTER 94  
(S.B. No. 1055)

AN ACT

RELATING TO EDUCATION AND INTERNET BASED EXPENDITURE WEBSITE; AMENDING SECTION 33-357, IDAHO CODE, TO PROVIDE THAT AN ANNUAL BUDGET SHALL BE INCLUDED ON THE INTERNET BASED WEBSITE AND TO PROVIDE THAT CERTAIN MASTER LABOR AGREEMENTS SHALL BE INCLUDED ON THE INTERNET BASED WEBSITE.

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

SECTION 1. That Section 33-357, Idaho Code, be, and the same is hereby amended to read as follows:

33-357. CREATION OF INTERNET BASED EXPENDITURE WEBSITE. (1) As used in this section, unless otherwise required:

(a) "Education provider" means:

(i) A school district, including a specially chartered district organized and existing pursuant to law;

(ii) A cooperative services agency or intermediate school district;

- (iii) A public charter school authorized pursuant to state law;
  - (iv) A publicly funded governmental entity established by the state for the express purpose of providing online courses.
- (b) "Entity" means a corporation, association, union, limited liability company, limited liability partnership, grantee, contractor, local government or other legal entity, including a nonprofit corporation or an employee of the education provider.
- (c) "Public record" shall have the same meaning as set forth in chapter 3, title 9, Idaho Code.
- (2) (a) No later than December 1, 2011, each education provider shall develop and maintain a publicly available website where the education provider's expenditures are posted in a nonsearchable PDF format, a searchable PDF format, a spreadsheet or in a database format.
- (b) The internet based website shall include the following data concerning all expenditures made by the education provider:
- (i) The name and location or address of the entity receiving moneys;
  - (ii) The amount of expended moneys;
  - (iii) The date of the expenditure;
  - (iv) A description of the purpose of the expenditure, unless the expenditure is self-describing;
  - (v) Supporting contracts and performance reports upon which the expenditure is related when these documents already exist; and
  - (vi) To the extent possible, a unique identifier for each expenditure;
  - (vii) The annual budget approved by the education provider's governing board, to be posted within thirty (30) days after its approval; and
  - (viii) Any current master labor agreements approved by the education provider's governing board.
- (c) The expenditure data shall be provided in an open structured data format that may be downloaded by the user.
- (d) The internet based website shall contain only information that is a public record or that is not confidential or otherwise exempt from public disclosure pursuant to state or federal law.
- (3) The education provider shall:
- (a) Update the expenditures contained on the internet based website at least monthly;
  - (b) Archive all expenditures, which shall remain accessible and on the internet based website for a number of years, consistent with state law regarding keeping and retention of records;
  - (c) Make the internet based website easily accessible from the main page of the education provider's website; and
  - (d) The website shall include those records beginning on the effective date of this act on July 1, 2011, and all data prior to that date shall be available by way of a public records request.

Approved March 21, 2013.

CHAPTER 95  
(S.B. No. 1058)

AN ACT

RELATING TO SALE OF KEG BEER; AMENDING SECTION 23-1007, IDAHO CODE, TO REVISE THE SIZE OF A KEG OF BEER THAT A DEALER OR WHOLESALER IS ALLOWED TO SELL TO A CONSUMER AT HIS LICENSED PREMISES; AND AMENDING SECTION 23-1018, IDAHO CODE, TO REVISE A DEFINITION.

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

SECTION 1. That Section 23-1007, Idaho Code, be, and the same is hereby amended to read as follows:

23-1007. SALES BY DEALERS AND WHOLESALERS -- PROHIBITED UNLESS OBTAINED FROM LICENSEES -- CONSUMPTION ON PREMISES PROHIBITED -- MINIMUM SALE ON LICENSED PREMISES OF UNBROKEN PACKAGES OR KEGS. Except as provided in section 23-1007A, Idaho Code, it shall be unlawful for any dealer or wholesaler to sell for use within the state of Idaho any unbroken packages or kegs of beer produced, manufactured, imported or bought by such dealer except to licensed dealers, wholesalers, retailers to whom a license has been issued by the director, or to employees of the wholesaler or dealer; nor shall any dealer or wholesaler allow for a consideration such beer to be consumed upon the premises of such dealer or wholesaler; provided, however, that any dealer or wholesaler shall be allowed to make sales of beer in kegs of not less than ~~seven and three-quarters~~ five (7-3/45) gallons to a consumer at his licensed premises. Licensed brewers may sell at retail only as provided in section 23-1003(d) and (e), Idaho Code.

SECTION 2. That Section 23-1018, Idaho Code, be, and the same is hereby amended to read as follows:

23-1018. SALE OF KEG BEER -- PENALTIES. (1) Retail and wholesale licensees selling keg beer for consumption off licensed premises shall place an identification tag onto all kegs of beer at the time of sale and require the signing of a receipt therefor by the purchaser in order to allow kegs to be traced if the contents are used in violation of this act. The keg identification shall be in the form of a numbered label prescribed and supplied by the director of the Idaho state police, which identifies the seller and which is removable or obliterated when the keg is processed for refilling. The receipt shall be on a form prescribed and supplied by the director of the Idaho state police and shall include the name and address of the purchaser and such other information as may be required by the director of the Idaho state police.

(2) Any licensee selling keg beer for off-premises consumption who fails to require the signing of a receipt at the time of sale and fails to place a numbered identification label onto the keg shall be subject to having his license suspended as set forth in section 23-1038, Idaho Code.

(3) Possession of a keg containing beer which is not identified as required by subsection (1) of this section is a misdemeanor.

(4) Any purchaser of keg beer who knowingly provides false information on the receipt required by subsection (1) of this section shall be guilty of a misdemeanor.

(5) As used in this section, "keg" means any brewery-sealed, individual container of beer having a liquid capacity of ~~seven and three-fourths~~ five (7-3/45) gallons or more.

Approved March 21, 2013.

CHAPTER 96  
(S.B. No. 1083)

AN ACT

RELATING TO MOTOR VEHICLE LICENSE PLATES; AMENDING SECTION 49-443, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO THE USE OF CERTAIN SPECIALTY LICENSE PLATES AND TO MAKE TECHNICAL CORRECTIONS; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 49-443, Idaho Code, be, and the same is hereby amended to read as follows:

49-443. LICENSE PLATES TO BE FURNISHED BY DEPARTMENT -- FORM AND CONTENTS. (1) The assessor or the department shall furnish to every owner whose vehicle is registered or licensed by that office, pursuant to sections 49-402 and 49-402A, Idaho Code, one (1) license plate for vehicles registered under the provisions of section 49-406, 49-406A or 49-408, Idaho Code, or a motorcycle, trailer, truck-tractor, or semitrailer; one (1) restricted vehicle license plate for all-terrain vehicles, utility type vehicles and motorbikes licensed pursuant to this chapter; and two (2) license plates for every other motor vehicle. If a vehicle is issued one (1) plate only, that plate shall be displayed in accordance with the provisions of section 49-428, Idaho Code. For vehicles registered under the provisions of section 49-407, Idaho Code, the applicant shall provide one (1) plate to be displayed on the rear of the vehicle.

Commencing January 1, 1992, the color and design of the plates shall be comparable to the color and design of the statehood centennial issue of license plates with blue numerals and letters on a multicolored red, white and blue background. Each license plate must bear upon its face the inscriptions "Famous Potatoes" and "Scenic Idaho." The restricted vehicle license plate for all-terrain vehicles, utility type vehicles and motorbikes shall be a white background with black numerals and letters, with "Idaho Restricted Vehicle" and the year of its expiration on its face and no other inscription. The restricted vehicle license plate shall be the same size required for the motorcycle license plate.

Every license plate shall have displayed upon it the registration number assigned to the vehicle and its owner and the name "Idaho" which may be abbreviated. The plates issued under the provisions of section 49-402(1), Idaho Code, and the required letters and numerals, including an identification of the county in which the motor vehicle to which the plates will be affixed is registered, shall be of sufficient size to be plainly readable from a distance of seventy-five (75) feet during daylight, and each license plate and registration sticker shall be treated with a fully reflectorized material according to specifications prescribed by the board.

(2) License plates shall be valid for a period of seven (7) years beginning with the date of issuance of new plates. At the end of the sixth year, the registered owner shall receive notice of the date upon which the plates will expire. The department shall implement a plate-number reservation program beginning prior to the 1999 plate issue and following once every seven (7) years thereafter, for a limited plate-number sequence in each county which that chooses to offer a reservation program. Requests for license plate number reservations shall be submitted to the county during the open reservation period established by the department. The department may charge a minimal fee as determined by the board to recover costs to the department for reservation of license plate numbers. The provisions of this

subsection (2) shall not apply to any license plates issued pursuant to the provisions of section 49-434(4), Idaho Code.

For specialty license plate programs discontinued pursuant to the provisions of section 49-402C, Idaho Code, a registrant with a specialty license plate currently registered under the program, may use such license plate for up to seven (7) years from the date of issuance. This provision is intended to permit the use of the specialty plate by the registrant regardless of the number of persons who purchase the specialty plate. The registrant shall be required to pay the special plate program fees provided for specialty plates pursuant to this chapter. Such fees shall be deposited into the state highway account.

(3) If a license plate number has expired as provided in subsection (2) of this section and the number was not reserved, or if the vehicle registration is not renewed within sixty (60) days of its expiration, the plate number shall be available for use by another registrant. To obtain a specific number in the recycled license plate number file, the owner of a registered vehicle shall pay a one (1) time fee as determined by rule of the board.

The provisions of this subsection shall apply only to vehicles registered under the provisions of section 49-402(1), Idaho Code, and section 49-434(1), Idaho Code, as it applies to noncommercial vehicles.

(4) License plates issued for vehicles required to be registered in accordance with the provisions of sections 49-402 and 49-402A, Idaho Code, shall be issued color coded registration validation stickers showing the year of registration. Each registration validation sticker shall bear a number from 1 through 12, which number shall correspond to the month of the calendar year in which the registration of the vehicle expires and shall be affixed to the lower right-hand corner of the plates within the outlined rectangular area.

(5) License plates for utility trailers registered under the provisions of section 49-402A, Idaho Code, which that are issued for five (5) or ten (10) years and license plates for rental utility trailers registered under the provisions of section 49-434, Idaho Code, which that are issued for up to five (5) years, shall use the design in effect on the date of manufacture. If a design change occurs, plates from the effective date of the design change shall be manufactured using the new design. Unexpired plates need not be reissued to conform to a design change.

(6) For license plates which that are lost, stolen, mutilated, or illegible, the owner shall apply for a duplicate or substitute. The assessor shall also furnish for each registration, and to validate the license plate, a pressure-sensitive, uniquely-numbered registration sticker, except for trailers and semitrailers registered under the nonexpiring provisions in section 49-434, Idaho Code. License plates issued for state, county and city motor vehicles shall be permanent and remain on the vehicle for which issued from year to year, and need no renewal or validation sticker.

(7) Whenever a vehicle is completely destroyed by fire or accident and the operator submits satisfactory proof of that destruction to the department or appropriate assessor's office, the registration use increment and fees shall be transferred to the replacement vehicle for a service transfer fee of five dollars (\$5.00), which fee shall be retained by the registering authority. None of the original fees shall be subject to refund.

(8) The department shall furnish to every owner whose vehicle is registered under sections 49-434 and 49-435, Idaho Code, a pressure-sensitive, uniquely-numbered registration sticker to validate the license plate, provided however, the provisions of this subsection (8) shall not apply to trailers and semitrailers registered under the provisions of section 49-434(4), Idaho Code.

(9) The board shall have authority to require the return to the department of all license plates and registration stickers upon termination of the lawful use of them by the owner.

(10) The board may promulgate such rules as are necessary to implement the provisions of this section.

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, 2012.

Approved March 21, 2013.

CHAPTER 97  
(S.B. No. 1089)

AN ACT

RELATING TO EDUCATION; REPEALING SECTION 33-1004G, IDAHO CODE, RELATING TO EARLY RETIREMENT INCENTIVE EXCLUDING ADMINISTRATIVE STAFF; AMENDING SECTION 33-1004H, IDAHO CODE, TO REVISE PROVISIONS RELATING TO SCHOOL DISTRICTS EMPLOYING RETIRED TEACHERS AND ADMINISTRATORS AND TO MAKE A CODIFIER'S CORRECTION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 33-1004G, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Section 33-1004H, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004H. EMPLOYING RETIRED TEACHERS AND ADMINISTRATORS. (1) Notwithstanding the provisions of section 33-514, 33-1271 or 33-1273, Idaho Code, school districts may employ certificated school teachers and administrators who are receiving retirement benefits from the public employee retirement system of Idaho, except those who received benefits under the early retirement program previously provided in section 33-1004G, Idaho Code, by the state in positions requiring such certification, as at-will employees. Any employment contract between the retiree and the school district shall be separate and apart from the collective bargaining agreement of the school district.

(2) Retirees employed under this section shall accrue one (1) day per month of sick leave, with no annual sick leave accumulation unless additional sick leave is negotiated between the candidate and the school district at the time of employment. No sick leave accrued under this section qualifies for unused sick leave benefits under section 33-1228, Idaho Code.

(3) School districts are not required to provide health insurance or life insurance benefits to persons employed under this section. Post-termination benefits may be negotiated between the school district and the certificated employee at the time of rehiring but in no event can the parties affect or attempt to affect the provisions governing the public employee retirement system.

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

Approved March 21, 2013.

CHAPTER 98  
(S.B. No. 1092)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-1002, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO ADDITIONAL MATH AND SCIENCE COURSES; AND AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1021, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO MEETING GRADUATION REQUIREMENTS FOR MATH AND SCIENCE COURSES, TO PROVIDE FOR THE DISTRIBUTION OF CERTAIN MONEYS, TO PROVIDE FOR THE USE OF SUCH MONEYS, TO ESTABLISH CRITERIA FOR THE DISTRIBUTION OF MONEYS AND TO ESTABLISH PROVISIONS RELATING TO CERTAIN NINTH GRADE STUDENTS FOR THE PURPOSES OF SCHOOL SIZE CLASSIFICATIONS.

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

SECTION 1. That Section 33-1002, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

(j) For employee severance payments as provided in section 33-521, Idaho Code;

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

(l) For additional math and science courses for high school students as provided in section 33-1021, Idaho Code;

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

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

to secure the total educational support distribution funds.

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

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

COMPUTATION OF KINDERGARTEN SUPPORT UNITS

Average Daily

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

COMPUTATION OF ELEMENTARY SUPPORT UNITS

Average Daily

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

COMPUTATION OF SECONDARY SUPPORT UNITS

Average Daily

Attendance	Attendance Divisor	Minimum Units Allowed
750 or more . . . .	18.5 . . . . .	47

400 - 749.99 ADA....	16.....	28
300 - 399.99 ADA....	14.5.....	22
200 - 299.99 ADA....	13.5.....	17
100 - 199.99 ADA....	12.....	9
99.99 or fewer	Units allowed as follows:	
Grades 7-12	.....	8
Grades 9-12	.....	6
Grades 7- 9	.....	1 per 14 ADA
Grades 7- 8	.....	1 per 16 ADA

## COMPUTATION OF EXCEPTIONAL EDUCATION SUPPORT UNITS

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

## COMPUTATION OF ALTERNATIVE SCHOOL SECONDARY SUPPORT UNITS

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

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

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

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

- (a) (i) Divide the actual average daily attendance, excluding students approved for inclusion in the exceptional child educational program, for the administrative schools and each of the separate schools and attendance units by the appropriate divisor from the tables of support units in this section, then add the quotients to obtain the district's support units allowance for regular students, kindergarten through grade 12 including alternative school

secondary students. Calculations in application of this subsection shall be carried out to the nearest tenth.

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

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

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

(c) District Share. The district's share of state apportionment is the amount of the total district allowance, subsection (6) (b) of this section.

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

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

SECTION 2. That Chapter 10, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1021, Idaho Code, and to read as follows:

33-1021. MATH AND SCIENCE REQUIREMENT. In order to meet state graduation requirements regarding math and science courses, moneys shall be distributed to school districts to defray the cost of providing additional math and science courses. Moneys so distributed shall be used to hire additional high school math and science teachers or to defray costs associated with providing math and science courses to high school students. Moneys shall be distributed to school districts from the moneys appropriated to the educational support program for each regular high school, not including alternative schools, based on the following criteria:

(1) For each school with enrollment of 99 or less, distribute the equivalent of one and one-quarter (1.25) of a classified staff position.

(2) For each school with enrollment of 100 to 159, distribute the equivalent of one ninth (1/9) of a classified staff position.

(3) For each school with enrollment of 160 to 319, distribute the equivalent of two sevenths (2/7) of a classified staff position.

(4) For each school with enrollment of 320 to 639, distribute the equivalent of one (1.0) instructional staff position, based on the statewide average funding per position.

(5) For each school with enrollment of 640 or more, distribute the equivalent of one (1.0) instructional staff position, based on the statewide average funding per position, and three-quarters (0.75) of a classified staff position. For the purposes of these school size classifications for regular high schools that serve only grades 10-12, ninth grade students who will attend the regular high school upon matriculating to tenth grade shall be included as enrolled in the regular high school.

Approved March 21, 2013.

CHAPTER 99  
(S.B. No. 1113)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF SELF-GOVERNING AGENCIES FOR THE MEDICAL BOARDS; AMENDING SECTION 1, CHAPTER 129, LAWS OF 2012 TO REVISE THE APPROPRIATION TO THE MEDICAL BOARDS FOR FISCAL YEAR 2013; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 1, Chapter 129, Laws of 2012, be, and the same is hereby amended to read as follows:

SECTION 1. There is hereby appropriated to the Department of Self-Governing Agencies for the medical boards, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. BOARD OF DENTISTRY:				
FROM:				
State Regulatory				
Fund	\$233,000	\$236,700	\$55,000	\$524,700
		<u>\$247,200</u>	<u>\$7,000</u>	<u>\$487,200</u>
II. BOARD OF MEDICINE:				
FROM:				
State Regulatory				
Fund	\$818,700	\$658,800	\$274,200	\$1,751,700
		<u>\$708,800</u>	<u>\$24,200</u>	<u>\$1,551,700</u>

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
III. BOARD OF NURSING:				
FROM:				
State Regulatory				
Fund	\$617,600	\$515,700	\$2,600	\$1,135,900
IV. BOARD OF PHARMACY:				
FROM:				
State Regulatory				
Fund	\$827,800	\$570,200	\$250,000	\$1,648,000
		<u>\$620,200</u>		<u>\$1,448,000</u>
Federal Grant				
Fund	<u>0</u>	50,200	<u>0</u>	50,200
		<u>148,300</u>		<u>148,300</u>
TOTAL	\$827,800	\$620,400	\$250,000	\$1,698,200
		<u>\$768,500</u>		<u>\$1,596,300</u>
V. BOARD OF VETERINARY MEDICINE:				
FROM:				
State Regulatory				
Fund	\$124,100	\$140,200	\$2,800	\$267,100
	<u>\$140,400</u>	<u>\$155,300</u>		<u>\$298,500</u>
GRAND TOTAL	\$2,621,200	\$2,171,800	\$584,600	\$5,377,600
	<u>\$2,637,500</u>	<u>\$2,395,500</u>	<u>\$36,600</u>	<u>\$5,069,600</u>

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

Approved March 21, 2013.

CHAPTER 100  
(S.B. No. 1120)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE LIEUTENANT GOVERNOR FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; EXEMPTING APPROPRIATION OBJECT TRANSFER LIMITATIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Office of the Lieutenant Governor from the General Fund, the following amounts to be expended for the designated expense classes, for the period July 1, 2013, through June 30, 2014:

FOR:

Personnel Costs	\$135,400
Operating Expenditures	<u>12,200</u>
TOTAL	\$147,600

SECTION 2. FTP AUTHORIZATION. 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, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EXEMPTIONS FROM OBJECT TRANSFER LIMITATIONS. For fiscal year 2014, the Office of the Lieutenant Governor is hereby exempted from the provisions of Section 67-3511(1) and (3), Idaho Code, allowing unlimited transfers between object codes, for all moneys appropriated to it for the period July 1, 2013, through June 30, 2014. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

SECTION 4. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 21, 2013.

CHAPTER 101  
(H.B. No. 26)

AN ACT

RELATING TO THE INSTALLATION OF HEATING, VENTILATION AND AIR CONDITIONING SYSTEMS; AMENDING SECTION 54-5015, IDAHO CODE, TO REVISE A TERM AND TO ESTABLISH PROVISIONS ALLOWING INDIVIDUALS HOLDING EITHER AN HVAC CERTIFICATION OR PLUMBING CERTIFICATION TO INSTALL CERTAIN PIPING.

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

SECTION 1. That Section 54-5015, Idaho Code, be, and the same is hereby amended to read as follows:

54-5015. EXCLUSIVE JURISDICTION OF THE STATE -- RESTRICTION ON REQUIREMENT FOR ADDITIONAL LICENSES OR FEES -- CLARIFICATION OF CERTIFICATION, LICENSING AND PERMITTING REQUIREMENTS. (1) Only the administrator of the division of building safety of the state of Idaho is authorized and empowered to conduct examinations and to pass upon the qualifications of applicants, and to grant and issue certificates of competency and registration of apprentices to such applicants as are found to be qualified to engage

in the trade, business, work or practice of heating, ventilation and air conditioning.

(2) No local jurisdiction shall have the authority to require additional certification or registration or to require payment of any fees in order for any HVAC contractor, specialty contractor, journeyman, specialty journeyman, apprentice, or specialty apprentice to engage in the heating, ventilation and air conditioning trade within the local jurisdiction or to issue certificates to persons certified or registered under the provisions of this chapter.

(3) Nothing in this chapter shall restrict a city or county from imposing stricter public safety rules, notwithstanding any provision of Idaho Code.

(4) A certificate issued pursuant to chapter 26, title 54, Idaho Code, or a license issued pursuant to chapter 10, title 54, Idaho Code, shall be acceptable for all HVAC installation work that falls within the scope of the certificate or license that has been issued. This will allow:

(a) Individuals holding a current HVAC or electrical license or a current plumbing certification to install electrical circuitry from the disconnecting means to a water heater and electrical connections to the water heater as long as the disconnect is in sight from the unit and the circuit from the disconnecting means to the water heater is no more than fifty (50) feet long;

(b) Individuals holding a current HVAC or electrical license to install:

(i) Electrical space heaters with no attached ductwork;

(ii) Electrical connections to HVAC equipment from the disconnecting means to the unit as long as the disconnect is in sight from the unit and the circuit from the disconnecting means to the HVAC equipment is no more than fifty (50) feet long; and

(iii) Ventilating fans, except ducted range hoods in residences;

(c) Individuals holding either an HVAC license certification or plumbing certification to install:

(i) Boilers that are not otherwise subject to inspection by the industrial commission or its authorized agent; and

(ii) Gas Fuel piping; and piping for hydronic systems; and

(iii) Piping for hydronic systems; and

(iv) Piping for steam and hot water boiler systems;

(d) HVAC licensees to install control wiring of twenty-four (24) volts or less for HVAC equipment of five (5) tons or less in capacity.

(5) Notwithstanding any other provision of this section, plumbing certificate holders are not authorized to install control wiring in HVAC equipment, regardless of voltage.

Approved March 21, 2013.

CHAPTER 102  
(H.B. No. 43)

AN ACT

RELATING TO THE ECONOMIC ADVISORY COUNCIL FOR THE DEPARTMENT OF COMMERCE; AMENDING SECTION 67-4704, IDAHO CODE, TO CLARIFY THAT MEMBERS OF THE ECONOMIC ADVISORY COUNCIL SERVE AT THE PLEASURE OF THE GOVERNOR AND TO PROVIDE THAT NO MORE THAN FOUR MEMBERS OF THE ECONOMIC ADVISORY COUNCIL SHALL BE FROM ANY ONE POLITICAL PARTY.

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

SECTION 1. That Section 67-4704, Idaho Code, be, and the same is hereby amended to read as follows:

67-4704. ECONOMIC ADVISORY COUNCIL -- APPOINTMENT OF MEMBERS -- QUALIFICATIONS. There shall be an economic advisory council to advise the department in the preparation and execution of plans, projects and programs in the furtherance of the power and duties conferred by section 67-4703, Idaho Code. The director shall consult, confer and advise with the advisory council in connection with all decisions concerning the administration and development of such plans, projects and programs. The approval of the advisory council shall be a condition precedent to the undertaking of action in the implementation of such plans, projects and programs by the department. The advisory council shall consist of seven (7) persons, who shall be appointed by and serve at the pleasure of the governor, and who shall serve for three (3) year terms. They shall serve and shall be compensated as provided by section 59-509(b), Idaho Code. One (1) person shall be appointed to represent each of the six (6) planning regions of the state and one (1) member shall serve in a statewide capacity. Membership shall be divided between political parties No more than four (4) members of the economic advisory council shall be from any one (1) political party.

Approved March 21, 2013.

CHAPTER 103  
(H.B. No. 44)

AN ACT

RELATING TO EMPLOYMENT SECURITY LAW; AMENDING CHAPTER 13, TITLE 72, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 72-1351B, IDAHO CODE, TO PROHIBIT CERTAIN RELIEF FROM LIABILITY RELATING TO BENEFITS PAID TO A CLAIMANT THAT ARE SUBSEQUENTLY DETERMINED TO BE OVERPAID, TO PROVIDE CONDITIONS, TO CLARIFY WHAT CONSTITUTES A TIMELY RESPONSE, TO PROVIDE FOR EXTENDED TIME LIMITS, TO CLARIFY WHAT CONSTITUTES AN ADEQUATE RESPONSE, TO CLARIFY WHAT CONSTITUTES A PATTERN OF FAILURE TO RESPOND TIMELY AND ADEQUATELY, TO PROVIDE FOR NOTIFICATION OF THE DEPARTMENT OF LABOR'S DETERMINATION AND TO PROVIDE FOR APPEAL; AMENDING SECTION 72-1369, IDAHO CODE, TO PROVIDE FOR THE COLLECTION OF CIVIL PENALTIES, TO PROVIDE FOR THE DEPOSIT OF CIVIL PENALTIES INTO SPECIFIED FUNDS AND TO LIMIT THE COMPROMISE OF CIVIL PENALTIES; AMENDING SECTION 72-1603, IDAHO CODE, TO REVISE A DEFINITION AND TO MAKE TECHNICAL CORRECTIONS; AND PROVIDING EFFECTIVE DATES.

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 72-1351B, Idaho Code, and to read as follows:

72-1351B. FEDERAL CONFORMITY PROVISION PROHIBITING RELIEF FROM LIABILITY. (1) Notwithstanding any other provision of this chapter, an experience rated employer's account may not be relieved of charges and a reimbursing employer may not be relieved of liability for benefits paid to a claimant that are subsequently determined to be overpaid if:

(a) The covered employer or an agent of the covered employer is at fault for failing to respond timely or adequately to the department's written or electronic request for information relating to a claim for unemployment insurance benefits; and

(b) The covered employer or agent of the covered employer has established a pattern of failing to timely or adequately respond.

(2) A response is timely if the requested information is received by the department within seven (7) days from the date the request is mailed or sent electronically. This time limit may be extended by the department at its discretion upon a covered employer's or agent of the covered employer's written request.

(3) A response is adequate if it provides sufficient facts to allow the department to make the correct determination. A response will not be considered inadequate if the department failed to ask for all necessary information.

(4) A pattern of failure to respond timely or adequately means at least two (2) or more instances of such behavior. If a covered employer uses a third party agent to respond on its behalf, then a pattern may be established based upon that agent's behavior with respect to the individual client or covered employer that agent represents.

(5) A covered employer shall be notified in writing of the department's determination, which 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 provisions of section 72-1361, Idaho Code.

SECTION 2. 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 and civil penalties.

(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.

(c) The first fifteen percent (15%) of a civil penalty assessed pursuant to subsection (2) of this section shall be paid into the employment security fund created in section 72-1346, Idaho Code, and any additional amounts collected shall be paid into the employment security administrative and reimbursement fund created in section 72-1348, Idaho Code.

(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.

(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 in excess of the amount required to be paid into the employment security fund pursuant to subsection (4) (c) of this section, 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 3. That Section 72-1603, Idaho Code, be, and the same is hereby amended to read as follows:

72-1603. DEFINITIONS. As used in this chapter:

(1) "Date of hire" or "date of rehire" means the actual commencement of employment of an employee for wages or other remuneration.

(2) "Department" means the Idaho department of labor.

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

(4) "Employee" means an individual who is an employee within the meaning of 26 U.S.C. 3401. "Employee" does not include an employee of a federal or state agency performing intelligence or counterintelligence functions, if the head of such agency has determined that reporting information with respect to the employee pursuant to this chapter could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

(5) "Employer" has the meaning given such term in 26 U.S.C. 3401(d) and includes labor organizations and governmental entities, except for any department, agency or instrumentality of the United States. The term "employer" does not include a multistate employer who has notified the United States secretary of health and human services in writing that it will transmit new hire reports magnetically or electronically to a state other than Idaho.

(6) "Labor organization" shall have the meaning given such term in 29 U.S.C. 152(5), and includes any entity, ~~{also known as a "hiring hall,"}~~ which is used by the organization and an employer to carry out requirements described in 29 U.S.C. 158(f)(3) or an agreement between the organization and the employer.

(7) "Rehire" means to ~~re-employ~~ reemploy an individual who was laid off, separated, furloughed, granted leave without pay or terminated from employment at least ~~twelve (12) months~~ sixty (60) consecutive days prior to ~~re-employment~~ reemployment.

SECTION 4. Sections 1 and 2 of this act shall be in full force and effect on and after October 22, 2013; and Section 3 of this act shall be in full force and effect on and after July 1, 2013.

Approved March 21, 2013.

CHAPTER 104  
(H.B. No. 46)

AN ACT

RELATING TO FIRE ESCAPES AND DOORS; REPEALING SECTION 39-1901, IDAHO CODE, RELATING TO FIRE ESCAPES PROVIDED FOR CERTAIN STRUCTURES; REPEALING SECTION 39-1902, IDAHO CODE, RELATING TO HOW FIRE ESCAPES ARE ATTACHED; REPEALING SECTION 39-1904, IDAHO CODE, RELATING TO THE PENALTY FOR VIOLATIONS; AND REPEALING SECTION 39-1905, IDAHO CODE, RELATING TO DOORS ON PUBLIC BUILDINGS.

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

SECTION 1. That Section 39-1901, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Section 39-1902, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Section 39-1904, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Section 39-1905, Idaho Code, be, and the same is hereby repealed.

Approved March 21, 2013.

CHAPTER 105  
(H.B. No. 53)

AN ACT

RELATING TO THE BOND BANK AUTHORITY; AMENDING SECTION 67-8703, IDAHO CODE,  
TO CLARIFY SALARIES FOR CERTAIN MEMBERS OF THE BOND BANK AUTHORITY.

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

SECTION 1. That Section 67-8703, Idaho Code, be, and the same is hereby amended to read as follows:

67-8703. BOND BANK AUTHORITY CREATED -- MEMBERSHIP -- VACANCIES -- OFFICERS -- QUORUM -- COMPENSATION. (1) There is hereby created an independent public body corporate and politic to be known as the Idaho bond bank authority. The authority is an instrumentality of the state within the state treasurer's office but has a legal existence independent of and separate from the state with continuing succession until its existence is terminated by law.

(2) The authority shall consist of the following five (5) members:

(a) The state treasurer, or his designee, who shall serve as ex officio chairman;

(b) One (1) member of the senate, who shall be appointed by and serve at the pleasure of the president pro tempore of the senate for a term of two (2) years;

(c) One (1) member of the house of representatives, who shall be appointed by and serve at the pleasure of the speaker of the house of representatives for a term of two (2) years; and

(d) Two (2) members appointed by the governor, who shall serve at the pleasure of the governor for terms of four (4) years, and who shall be residents of the state and qualified voters at the time of appointment.

(3) A vacancy occurring other than by expiration of term shall be filled in the same manner as the original appointment and for the balance of the unexpired term.

(4) The members may elect, by majority vote, a secretary and a treasurer. The secretary and treasurer may be nonmembers, and the same person may be elected to serve both as secretary and treasurer.

(5) Three (3) members of the authority shall constitute a quorum. Action may be taken and motions and resolutions adopted by the authority at any meeting by the affirmative vote of a majority of members present. A vacancy in the membership of the authority does not impair the right of a quorum to exercise all the powers and perform all the duties of the authority.

(6) Members of the authority shall be compensated as provided by section 59-509(h), Idaho Code, except for those members with salaries established in section 59-501, Idaho Code.

Approved March 21, 2013.

CHAPTER 106  
(H.B. No. 100)

AN ACT

RELATING TO THE IDAHO OPPORTUNITY FUND; AMENDING CHAPTER 47, TITLE 67, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 67-4732 THROUGH 67-4736, IDAHO CODE, TO PROVIDE A SHORT TITLE AND LEGISLATIVE INTENT, TO PROVIDE RULEMAKING AUTHORITY TO THE DIRECTOR OF THE DEPARTMENT OF COMMERCE, TO

CREATE THE IDAHO OPPORTUNITY FUND IN THE STATE TREASURY, TO PROVIDE THE MAKEUP OF THE FUND AND TO PROVIDE FOR USE OF THE FUND, TO PROVIDE THAT AGREEMENTS ARE REQUIRED FOR DISBURSEMENT OF FUNDS AND TO PROVIDE FOR ANNUAL REPORTING BY THE DIRECTOR OF THE DEPARTMENT OF COMMERCE.

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

SECTION 1. That Chapter 47, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTIONS, to be known and designated as Sections 67-4732 through 67-4736, Idaho Code, and to read as follows:

67-4732. IDAHO OPPORTUNITY FUND -- SHORT TITLE -- LEGISLATIVE INTENT. Sections 67-4732 through 67-4736, Idaho Code, shall be known and may be cited as the "Idaho Opportunity Fund Act" and also known as "this act." The intent of the Idaho opportunity fund is to promote economic development and provide financial assistance, through the Idaho department of commerce, to retain, expand or attract quality jobs in industries deemed vital to the health of the local and statewide economy.

67-4733. DIRECTOR RULEMAKING AUTHORITY. The director shall promulgate rules pursuant to chapter 52, title 67, Idaho Code, in the furtherance of the objectives of this act.

67-4734. IDAHO OPPORTUNITY FUND. There is hereby created in the state treasury the Idaho opportunity fund. Moneys in the Idaho opportunity fund may be expended by the Idaho department of commerce, pursuant to the provisions of this act, to assist in securing commitments for the retention and expansion of existing businesses and recruitment of new businesses.

(1) Moneys deposited in the fund. The following amounts shall be deposited in the fund:

(a) Any amounts appropriated by the legislature for the fund for purposes described by this section;

(b) Repayment of any moneys originally distributed from the fund that were improperly disbursed pursuant to the company performance agreement or the local government grant agreement; and

(c) Gifts, grants and other donations received for the fund.

(2) Use of funds. Moneys in the Idaho opportunity fund may be allocated to local governments for any lawful purpose consistent with the intent of this act, which purposes shall include:

(a) Construction of or improvements to new or existing water, sewer, gas or electric utility systems for new or existing buildings to be used for industrial or commercial operations;

(b) Flood zone or environmental hazard mitigation; and

(c) Construction, upgrade or renovation of other infrastructure related items including, but not limited to, railroads, broadband, parking lots, roads or other public costs that are directly related to specific job creation or expansion projects.

67-4735. AGREEMENTS REQUIRED AND DISBURSEMENT OF FUNDS. (1) Funds may be disbursed from the Idaho opportunity fund only in accordance with this act and rules adopted by the department, and only in accordance with agreements entered into between the department and one (1) or more local governments, and agreements between the local government and a grantee business as set forth herein.

(2) Company performance agreements. An agreement between a local government and a grantee business, in addition to any requirements in rules adopted by the department, may contain the following provisions:

- (a) A commitment to create or retain a specified number of jobs within a specified salary range at a specific location;
  - (b) A commitment regarding the time period in which the jobs will be created or retained and the minimum time period for which the jobs must be maintained;
  - (c) A commitment to complete the construction related to the agreed upon capital expenditures;
  - (d) A provision that a reasonable percentage of the total amount of the grant be withheld until specified performance targets are met;
  - (e) A provision that a reasonable percentage of the total amount of the grant be withheld until the specified number of jobs are maintained for a specified period of time;
  - (f) A commitment to provide proof satisfactory to the local government and the director of new jobs created or existing jobs retained and the salary level of those jobs;
  - (g) A provision that funds received under the agreement may be used only for a purpose as authorized by this act;
  - (h) A provision allowing the director or the local government to inspect all records of the business that may be used to confirm compliance with the agreement or with the requirements of this act;
  - (i) A provision establishing the method for determining compliance with the agreement;
  - (j) A provision establishing a schedule for disbursement of funds under the agreement that allows disbursement of funds only in proportion to the amount of performance completed under the agreement;
  - (k) A provision requiring repayment of grant funds and corresponding terms for repayment, if applicable, in the event a business subsequently fails to comply with the terms of the agreement;
  - (l) A provision that any repayments of grant funds required if the performance targets are not achieved may be prorated to reflect a partial attainment of job creation or other performance targets; and
  - (m) Any other lawful provision the director or the local government finds necessary to ensure the proper use of state or local funds.
- (3) Local government grant agreement. An agreement between the department and one (1) or more local governments shall contain the following provisions:
- (a) A commitment on the part of the local government to match, in whole or in part, the funds allocated by the department. A local match may include, but shall not be limited to, money, fee waivers, in-kind services, donation of assets, the provision of infrastructure or a combination thereof. The director of the department of commerce shall have the authority to waive the local match requirement;
  - (b) A provision requiring the local government to recapture any funds to which the local government is entitled under the company performance agreement;
  - (c) A provision requiring repayment from the local government to the department for any funds used for unapproved purposes or disbursed prior to compliance with the company performance agreement or achievement of the job creation or other performance targets;
  - (d) A provision allowing the department access to all records possessed by the local government necessary to ensure compliance with the company performance agreement and with the requirements of this act;
  - (e) A provision establishing a schedule for the disbursement of funds from the Idaho opportunity fund to the local government that reflects the disbursement schedule established in the company performance agreement; and
  - (f) Any other lawful provision the department deems necessary to ensure the proper use of state funds.

(4) Disbursement of funds. Funds may be disbursed from the Idaho opportunity fund to the local government only after the local government has demonstrated that the business has complied with the negotiated terms of the company performance agreement. The department shall disburse funds allocated under the Idaho opportunity fund to a local government in accordance with the disbursement schedule established in the local government grant agreement.

67-4736. ANNUAL REPORT BY DIRECTOR. The director of the department of commerce shall annually publish a report regarding the state of the Idaho opportunity fund and cause the same to be made available to the public. The report shall contain information on the commitment of funds, disbursement and use of funds, the number of jobs committed and created, the total capital expenditures resulting from grant funds and the median wage of total jobs created as result of grant funds distributed in the prior year. The report is due no later than the last day of September each year. The director shall also provide such report to the governor and the joint finance-appropriations committee during each regular session of the Idaho state legislature. In addition, the director of the department of commerce shall provide reports on the grant activity and performance to the economic advisory council on a quarterly basis during the year.

Approved March 21, 2013.

CHAPTER 107  
(H.B. No. 117)

AN ACT

RELATING TO AERONAUTICS; AMENDING SECTION 21-101, IDAHO CODE, TO REVISE A DEFINITION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 21-104, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO AERIAL SEARCH OPERATIONS; AND AMENDING SECTION 21-114, IDAHO CODE, TO REMOVE LANGUAGE RELATING TO PILOT REGISTRATION, TO REVISE PROVISIONS RELATING TO CERTAIN FEES, TO REVISE PROVISIONS RELATING TO CERTAIN AIRCRAFT REGISTRATION, TO ESTABLISH PROVISIONS RELATING TO PERSONAL PROPERTY TAX, TO REVISE PROVISIONS RELATING TO CERTAIN DECALS, TO REVISE PROVISIONS RELATING TO REQUIREMENT FOR REGISTRATION AND ISSUANCE OF CERTIFICATES, TO REVISE PROVISIONS RELATING TO EXEMPTIONS, TO REVISE PROVISIONS RELATING TO THE TRANSFER OF OWNERSHIP OF AN AIRCRAFT AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 21-101, Idaho Code, be, and the same is hereby amended to read as follows:

21-101. DEFINITIONS. As used in this chapter, unless the context otherwise requires:

(a) "Aeronautics" means the science and art of flight and including, but not limited to, transportation by aircraft; the operation, construction, repair, or maintenance of aircraft, aircraft power plants and accessories, including the repair, packing, and maintenance of parachutes; the design, establishment, construction, extension, operation, improvement, repair, or maintenance of airports or other air navigation facilities; and instruction in flying or ground subjects pertaining thereto.

(b) "Aircraft" means any contrivance now known, or hereafter invented, used or designed for navigation of or flight in the air for the carriage of

pilots or passengers. For the purposes of this chapter, the term "aircraft" does not include parachutes or paragliders constructed primarily of fabric.

(c) "Airport" means any area of land or water which is used, or intended for use, for the landing and take-off of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon. The term "airport" shall include such other common terms as aviation field, airfield, intermediate landing field, landing field, landing area, airstrip and landing strip. For the purposes of this chapter, the term "airport" refers to a publicly owned and managed facility that is open for public use without operational restrictions on its use.

(d) "Department" means the Idaho transportation department.

(e) "Director" means the director of the Idaho transportation department.

(f) "State" or "this state" means the state of Idaho.

(g) "Air navigation facility" means any facility, other than one owned or operated by the United States, used in, available for use in, or designed for use in, aid of air navigation, including any structures, mechanisms, lights, beacons, markers, communicating systems, or other instrumentalities, or devices used or useful as an aid, or constituting an advantage or convenience, to the safe takeoff, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport, and any combination of any or all of such facilities.

(h) "Operation of aircraft" or "operate aircraft" means the navigation or piloting of aircraft in the airspace over this state or upon any airport within this state.

(i) "Airman" means any individual who engages, as the person in command or as pilot, mechanic, or member of the crew, in the navigation of aircraft while under way, and any individual who is directly in charge of the inspection, maintenance, overhauling, or repair of aircraft engines, propellers, or appliances, and any individual who serves in the capacity of aircraft dispatcher, or ~~air-traffic-control-tower~~ air traffic control tower operator; but does not include any individual employed outside the United States, or any individual employed by a manufacturer of aircraft, aircraft engines, propellers, or appliances, to perform duties as inspector or mechanic in connection therewith, or any individual performing inspection or mechanical duties in connection with aircraft owned or operated by him.

(j) "Aeronautics instructor" means any individual who for hire or reward engages in giving instruction or offering to give instruction in flying or ground subjects pertaining to aeronautics; but excludes any instructor in a public school, university, or institution of higher learning duly accredited and approved for carrying on collegiate work, who instructs in flying or ground subjects pertaining to aeronautics, only in the performance of his duties at such school, university or institution.

(k) "Air school" means:

(1) ~~a~~Any aeronautics instructor who advertises, represents or holds out as giving or offering to give instruction in flying or ground subjects pertaining to aeronautics; and

(2) ~~a~~Any person who advertises, represents or holds out as giving or offering to give instruction in flying or ground subjects pertaining to aeronautics whether for or without hire or reward;

but excludes any public school, or university, or institution of higher learning duly accredited and approved for carrying on collegiate work.

(l) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.

(m) "Municipality" means any county, city, district or other political subdivision or public corporation, of this state. "Municipal" means pertaining to a municipality as herein defined.

(n) "Aviation hazard" means any new or existing structure, object of natural growth, use of land, or modification thereto, which that endangers the lives and property of users of an airport, or of occupants of land in its vicinity, and that reduces the size of the area available for landing, taking off and maneuvering of aircraft, or extends up into the airspace between airports to cause disastrous and needless loss of life and property.

(o) "State airway" means a route in the navigable airspace over and above the lands or waters of this state, designated by the board as a route suitable for air navigation.

(p) "Board" means the Idaho transportation board.

(q) "Public transportation" means rail, mass transit, and any other public transportation activities in which the state may become involved.

SECTION 2. That Section 21-104, Idaho Code, be, and the same is hereby amended to read as follows:

21-104. DEVELOPMENT OF AERONAUTICS -- ~~GENERAL SUPERVISION.~~ (a) General supervision. The department shall have general supervision over aeronautics within this state. It is empowered and directed to encourage, foster, and assist in the development of aeronautics in this state and to encourage the establishment of airports and air navigation facilities. It shall cooperate with and assist the federal government, the municipalities of this state, and other persons in the development of aeronautics, and shall seek to coordinate the aeronautical activities of these bodies and persons. Municipalities are authorized to cooperate with the department in the development of aeronautics and aeronautics facilities in this state.

(b) Aerial search. Aerial search operations for lost aircraft and airmen shall be coordinated by the department, division of aeronautics under the direction and supervision of the chief of the bureau of homeland security within the military division.

SECTION 3. That Section 21-114, Idaho Code, be, and the same is hereby amended to read as follows:

21-114. REGISTRATION OF PILOTS AND AIRCRAFT -- REQUISITES. (a) ~~Pilot Registration -- Fees.~~ Subject to the limitation of subsections (c) and (d) of this section, the department is authorized to require that every individual who pilots an aircraft within this state is to register with the department and to renew such registration every other year thereafter in which he pilots an aircraft within this state. The department may charge for each such registration, and for each biennial renewal thereof, a fee of twelve dollars (\$12.00). Such income shall be used for department expenses associated with search and rescue of lost aircraft and airmen and for pilot safety programs. Search and rescue coordination shall be under the direction and supervision of the chief of the bureau of homeland security within the military division, with aerial search operations coordinated by the department, division of aeronautics.

~~(b) Aircraft Registration -- Fees.~~

(1) ~~Private Aircraft.~~ Subject to the limitations of subsections (e) and (d) of this section, every aircraft operating within this state and/or holding a currently valid airworthiness certificate and a currently valid annual inspection or progressive inspection system issued by the appropriate federal agency, shall be registered with the department prior to or during each annual registration year in which the aircraft is operated within this state. The annual registration year shall commence on the date provided by regulation, and the holding

of a currently valid airworthiness certificate and a currently valid annual inspection or progressive inspection system issued by the appropriate federal agency during any part of the registration year shall be considered prima facie evidence that the aircraft is operating within this state. The department shall charge for each such registration, and for each annual renewal thereof, the fees at the rate of one cent (1¢) per pound of the manufacturer's certified maximum gross weight authorized in the aircraft listing, aircraft specification or type certificate data sheet of said aircraft issued by the federal aviation agency administration, and in no case to exceed two hundred dollars (\$200) upon any one (1) aircraft, provided that such fee shall be in lieu of all personal property taxes on such aircraft.

Those aircraft in nonairworthy condition that are not operated during any part of the registration year are not required to register but may, at the owner's discretion, be registered in lieu of personal property tax.

Registration certificates shall be kept in the aircraft at all times. In addition to the registration certificate, an identifying decal shall be issued and placed on the left side of the aircraft either upon the vertical stabilizer thereof or upon a window nearest to the rear of the aircraft, fully visible from the outside of the aircraft.

Aircraft shall only be registered prior to or during the current annual registration year. There shall be no registration of aircraft for any registration period which is prior to the current registration year. Registration certificates issued for aircraft newly purchased or acquired, or aircraft imported into the state after expiration of the first six (6) months of the current annual registration year, as prescribed by the department, shall be issued at the rate of fifty percent (50%) of the annual fee. Those aircraft that have been found in violation of the provisions of this section after the first six (6) months will pay the full year's fee and shall, at the discretion of the director, be referred to the respective county assessor for collection of personal property tax.

(2) ~~Manufacturers and Dealers License~~. It shall be unlawful for any person to carry on or conduct the business of buying, selling, or dealing in aircraft unless registered with the department, as such manufacturer or dealer. Any manufacturer or dealer in aircraft owning, having an interest in, or having in his possession an aircraft for the purpose of sale, shall upon the registration and payment of fees as in this act chapter required, acquire one (1) registration certificate ~~which that~~ shall bear the distinctive registration number issued to such manufacturer or dealer, and any number of identifying decals. The registration certificate shall be kept at the main office of the manufacturer or dealer and an identifying decal shall be placed upon the left side of every aircraft that the manufacturer or dealer may have an interest in which is held for sale, ~~on the left side thereof~~ either upon the vertical stabilizer or upon a window nearest to the rear of the aircraft.

An identifying decal issued to a manufacturer or dealer during the calendar year for which issued can be transferred from an aircraft no longer in the possession of the dealer or manufacturer for sale or demonstration to one acquired for the purpose of sale or demonstration during the calendar year.

~~No identifying decal issued to a manufacturer or dealer as herein provided may be transferred to an aircraft owned or in the possession of such manufacturer or dealer when such aircraft is used solely for commercial purposes~~ Manufacturer or dealer decals may only be used on aircraft flown for purposes of sales demonstration, ferry or test.

The fee to be paid by a manufacturer or dealer in aircraft shall be forty dollars (\$40.00) for the registration certificate and one

dollar (\$1.00) for each identifying decal issued to such manufacturer or dealer.

(eb) Requirements for Registration, Issuance of Certificate. Possession of the appropriate effective federal certificate, permit, rating or license relating to competency of the pilot or ownership and airworthiness of the aircraft, as the case may be, and payment of the fee duly required pursuant to the provisions of this section shall be the only requisites for registration of a pilot or an aircraft under this section. Registration shall be effected by filing with the department a written statement containing the information reasonably required by the department for such purpose. It shall not be necessary for the registrant to provide the department with originals or copies of federal certificates, permits, ratings or licenses. The department may ~~shall~~ issue certificates of registration, or such other evidences of registration ~~or~~ and payment of fees as it may deem proper, and in connection therewith may prescribe requirements for the possession and exhibition of such certificates or other evidences similar to the requirements of section 21-113(b), Idaho Code, for the possession and exhibition of federal airman and aircraft certificates, permits, ratings or licenses. Failure to register, if required, shall be unlawful.

(dc) Exemptions. The provisions of this section shall not apply to:

- (1) An aircraft owned by, and used exclusively in the service of, any government or any political subdivision thereof, including the government of the United States, any state, territory, or possession of the United States, or the District of Columbia, which is not engaged in carrying persons or property for commercial purposes;
- (2) An aircraft which is owned by a bona fide nonresident of this state; provided, however, that this exemption shall not apply to such aircraft operated in the transportation of persons or property for hire, in dusting, seeding, or spraying for hire, or in any other activity for hire in this state, whether such aircraft so operated be engaged casually or continuously in this state for a cumulative period of greater than ninety (90) days in any annual registration year;
- (3) An aircraft engaged principally in commercial airline or air freight flying constituting an act of interstate or foreign commerce while operating under a certificate, permit or license issued by the appropriate agency of the United States government;
- (4) An individual piloting an aircraft owned by, and used exclusively in the service of, any government or any political subdivision thereof, including the government of the United States, any state, territory, or possession of the United States, or the District of Columbia, which is not engaged in carrying persons or property for commercial purposes;
- (5) An individual piloting any aircraft registered under the laws of a foreign country;
- (6) A bona fide nonresident of this state piloting aircraft in this state; provided, however, that this exemption shall not apply to any nonresident piloting an aircraft in this state for hire whether such nonresident is so engaged casually or continuously;
- (7) An individual piloting an aircraft engaged principally in commercial airline or air freight flying constituting an act of interstate or foreign commerce, while such aircraft is being operated under a certificate, permit or license issued by the appropriate agency of the United States government;
- (8) An individual operating model aircraft;
- (9) An individual piloting an aircraft which is equipped with fully functioning dual controls when a properly certified pilot is in full charge of one (1) set of said controls and such flight is solely for instruction or for the demonstration of said aircraft to a bona fide prospective purchaser pursuant to the provisions of part 121, title 14, of the code of federal regulations (14 CFR 121) or an equivalent

foreign air carrier operating under a bilateral agreement with the United States government.

(ed) Transfer of Aircraft. When the ownership of an aircraft registered under the provisions of this section is transferred to a resident of this state, the new owner will be required to register the aircraft under the provisions of this section. If the transferor wishes to register another aircraft he shall pay the registration fee required by this section less the amount of registration fee already paid on the aircraft which that was sold, or if the transferor shall have an aircraft to be registered with a useful load less than the aircraft that was sold, he shall pay a transfer fee of one dollar (\$1.00).

Approved March 21, 2013.

CHAPTER 108  
(H.B. No. 118)

AN ACT

RELATING TO REGISTRATION OF AIRCRAFT; AMENDING SECTION 21-114, IDAHO CODE, TO REVISE A REGISTRATION FEE, TO REVISE A TERM, TO PROVIDE FOR A MINIMUM AND MAXIMUM FEE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 21-114, Idaho Code, be, and the same is hereby amended to read as follows:

21-114. REGISTRATION OF PILOTS AND AIRCRAFT -- REQUISITES. (a) Pilot Registration -- Fees. Subject to the limitation of subsections (c) and (d) of this section, the department is authorized to require that every individual who pilots an aircraft within this state is to register with the department and to renew such registration every other year thereafter in which he pilots an aircraft within this state. The department may charge for each such registration, and for each biennial renewal thereof, a fee of twelve dollars (\$12.00). Such income shall be used for department expenses associated with search and rescue of lost aircraft and airmen and for pilot safety programs. Search and rescue coordination shall be under the direction and supervision of the chief of the bureau of homeland security within the military division, with aerial search operations coordinated by the department, division of aeronautics.

(b) Aircraft Registration -- Fees.

(1) Private Aircraft. Subject to the limitations of subsections (c) and (d) of this section, every aircraft operating within this state and/or holding a currently valid airworthiness certificate and a currently valid annual inspection or progressive inspection system issued by the appropriate federal agency, shall be registered with the department prior to or during each annual registration year in which the aircraft is operated within this state. The annual registration year shall commence on the date provided by regulation, and the holding of a currently valid airworthiness certificate and a currently valid annual inspection or progressive inspection system issued by the appropriate federal agency shall be considered prima facie evidence that the aircraft is operating within this state. The department shall charge for each such registration, and for each annual renewal thereof, the fees at the rate of one three cents (~~13¢~~) per pound of gross weight authorized in the aircraft listing, aircraft specification or type certificate data sheet of said aircraft issued by the federal aviation agency administration, and in no case to be less than twenty dollars

(\$20.00) and not to exceed ~~two~~ six hundred dollars (\$2600) upon any one (1) aircraft, provided that such fee shall be in lieu of all personal property taxes on such aircraft.

Registration certificates shall be kept in the aircraft at all times. In addition to the registration certificate, an identifying decal shall be issued and placed on the left side of the aircraft either upon the vertical stabilizer thereof or upon a window nearest to the rear of the aircraft, fully visible from the outside of the aircraft.

Aircraft shall only be registered prior to or during the current annual registration year. There shall be no registration of aircraft for any registration period which is prior to the current registration year. Registration certificates issued after expiration of the first six (6) months of the current annual registration year, as prescribed by the department, shall be issued at the rate of fifty percent (50%) of the annual fee. Those aircraft that have been found in violation of the provisions of this section after the first six (6) months will pay the full year's fee.

(2) Manufacturers and Dealers License. It shall be unlawful for any person to carry on or conduct the business of buying, selling, or dealing in aircraft unless registered with the department, as such manufacturer or dealer. Any manufacturer or dealer in aircraft owning, having an interest in, or having in his possession an aircraft for the purpose of sale, shall upon the registration and payment of fees as in this act chapter required, acquire one (1) registration certificate which shall bear the distinctive registration number issued to such manufacturer or dealer, and any number of identifying decals. The registration certificate shall be kept at the main office of the manufacturer or dealer and an identifying decal shall be placed upon the left side of every aircraft that the manufacturer or dealer may have an interest in which is held for sale, ~~on the left side thereof~~ either upon the vertical stabilizer or upon a window nearest to the rear of the aircraft.

An identifying decal issued to a manufacturer or dealer during the calendar year for which issued can be transferred from an aircraft no longer in the possession of the dealer or manufacturer for sale or demonstration to one acquired for the purpose of sale or demonstration during the calendar year.

No identifying decal issued to a manufacturer or dealer as herein provided may be transferred to an aircraft owned or in the possession of such manufacturer or dealer when such aircraft is used solely for commercial purposes.

The fee to be paid by a manufacturer or dealer in aircraft shall be forty dollars (\$40.00) for the registration certificate and one dollar (\$1.00) for each identifying decal issued to such manufacturer or dealer.

(c) Requirements for Registration, Issuance of Certificate. Possession of the appropriate effective federal certificate, permit, rating or license relating to competency of the pilot or ownership and airworthiness of the aircraft, as the case may be, and payment of the fee duly required pursuant to the provisions of this section shall be the only requisites for registration of a pilot or an aircraft under this section. Registration shall be effected by filing with the department a written statement containing the information reasonably required by the department for such purpose. It shall not be necessary for the registrant to provide the department with originals or copies of federal certificates, permits, ratings or licenses. The department may issue certificates of registration, or such other evidences of registration or payment of fees as it may deem proper, and in connection therewith may prescribe requirements for the possession and exhibition of such certificates or other evidences similar to the requirements of section 21-113(b), Idaho Code, for the possession and exhibition

of federal airman and aircraft certificates, permits, ratings or licenses. Failure to register, if required, shall be unlawful.

(d) Exemptions. The provisions of this section shall not apply to:

(1) An aircraft owned by, and used exclusively in the service of, any government or any political subdivision thereof, including the government of the United States, any state, territory, or possession of the United States, or the District of Columbia, which is not engaged in carrying persons or property for commercial purposes;

(2) An aircraft which is owned by a bona fide nonresident of this state; provided, however, that this exemption shall not apply to such aircraft operated in the transportation of persons or property for hire, in dusting, seeding, or spraying for hire, or in any other activity for hire in this state, whether such aircraft so operated be engaged casually or continuously;

(3) An aircraft engaged principally in commercial airline or air freight flying constituting an act of interstate or foreign commerce while operating under a certificate, permit or license issued by the appropriate agency of the United States government;

(4) An individual piloting an aircraft owned by, and used exclusively in the service of, any government or any political subdivision thereof, including the government of the United States, any state, territory, or possession of the United States, or the District of Columbia, which is not engaged in carrying persons or property for commercial purposes;

(5) An individual piloting any aircraft registered under the laws of a foreign country;

(6) A bona fide nonresident of this state piloting aircraft in this state; provided, however, that this exemption shall not apply to any nonresident piloting an aircraft in this state for hire whether such nonresident is so engaged casually or continuously;

(7) An individual piloting an aircraft engaged principally in commercial airline or air freight flying constituting an act of interstate or foreign commerce, while such aircraft is being operated under a certificate, permit or license issued by the appropriate agency of the United States government;

(8) An individual operating model aircraft;

(9) An individual piloting an aircraft which is equipped with fully functioning dual controls when a properly certified pilot is in full charge of one (1) set of said controls and such flight is solely for instruction or for the demonstration of said aircraft to a bona fide prospective purchaser.

(e) Transfer of Aircraft. When the ownership of an aircraft registered under the provisions of this section is transferred, the new owner will be required to register the aircraft under the provisions of this section. If the transferor wishes to register another aircraft he shall pay the registration fee required by this section less the amount of registration fee already paid on the aircraft which was sold, or if the transferor shall have an aircraft to be registered with a useful load less than the aircraft that was sold, he shall pay a transfer fee of one dollar (\$1.00).

Approved March 21, 2013.

CHAPTER 109  
(H.B. No. 141)

AN ACT

RELATING TO EXEMPTIONS FROM PROPERTY TAXATION; AMENDING CHAPTER 6, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-60200, IDAHO CODE, TO PROVIDE THAT WELLS DRILLED FOR THE PRODUCTION OF OIL, GAS OR HYDROCARBON CONDENSATE ARE EXEMPT FROM PROPERTY TAXATION; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Chapter 6, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-60200, Idaho Code, and to read as follows:

63-60200. PROPERTY EXEMPT FROM TAXATION -- OIL OR GAS RELATED WELLS. The following property is exempt from taxation: wells drilled for the production of oil, gas or hydrocarbon condensate.

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, 2013.

Approved March 21, 2013.

CHAPTER 110  
(H.B. No. 177, As Amended in the Senate)

AN ACT

RELATING TO THE COLLEGE SAVINGS PROGRAM; AMENDING SECTION 33-5401, IDAHO CODE, TO REVISE A DEFINITION; AMENDING SECTION 33-5402, IDAHO CODE, TO REVISE THE POWERS AND DUTIES OF THE COLLEGE SAVINGS PROGRAM BOARD AND TO PROVIDE FOR CERTAIN POWERS AND DUTIES; AMENDING SECTION 33-5403, IDAHO CODE, TO REMOVE CERTAIN PROVISIONS RELATING TO THE USE OF A CONTRACTOR AS ACCOUNT DEPOSITORY AND MANAGER AND THE ADMINISTRATION OF THE PROGRAM, TO PROVIDE FOR THE ADMINISTRATION AND IMPLEMENTATION OF THE PROGRAM AND TO PROVIDE FOR THE DELEGATION OF CERTAIN POWERS AND DUTIES; AMENDING SECTION 33-5404, IDAHO CODE, TO PROVIDE THAT THE PROGRAM SHALL BE OPERATED THROUGH THE USE OF INDIVIDUAL ACCOUNTS, TO PROVIDE THAT EACH ACCOUNT MAY BE OPENED BY ANY PERSON WHO DESIRES TO SAVE FOR THE QUALIFIED HIGHER EDUCATION EXPENSES OF A PERSON, TO REMOVE PROVISIONS RELATING TO THE PROCEDURE TO BE FOLLOWED IN THE EVENT THE BOARD TERMINATES CERTAIN AUTHORITY OF A FINANCIAL INSTITUTION RELATING TO THE PROGRAM, TO PROVIDE FOR THE TRANSFER OF ACCOUNTS, TO CLARIFY THE EFFECT OF SUCH TRANSFER, TO PROVIDE THAT THE PROGRAM SHALL PROVIDE CERTAIN STATEMENTS TO EACH ACCOUNT OWNER AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 33-5409, IDAHO CODE, TO REVISE TERMINOLOGY, TO PROVIDE FOR CONTINUOUS APPROPRIATION OF CERTAIN MONEYS TO THE BOARD AND TO REVISE PROVISIONS RELATING TO THE USE OF MONEYS IN THE COLLEGE SAVINGS FUND.

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

SECTION 1. That Section 33-5401, Idaho Code, be, and the same is hereby amended to read as follows:

33-5401. DEFINITIONS. As used in this chapter, the following terms have the following meanings unless the context clearly denotes otherwise:

(1) "Account" means an individual trust account or savings account established as prescribed in this chapter.

(2) "Account owner" means the person or state or local government organization designated in the agreement governing the account as having the right to withdraw moneys from the account before the account is disbursed to or for the benefit of the designated beneficiary.

(3) "Board" means the state college savings program board created in section 33-5402, Idaho Code.

(4) "Designated beneficiary," except as provided in section 33-5404, Idaho Code, means, with respect to an account, the individual designated at the time the account is opened as the individual whose higher education expenses are expected to be paid from the account or, if this designated beneficiary is replaced in accordance with section 33-5404, Idaho Code, the replacement beneficiary.

(5) "Eligible educational institution" shall have the meaning provided in 26 U.S.C. section 529.

(6) "Financial institution" means any state bank, national bank, savings bank, savings and loan association, credit union, insurance company, brokerage firm, trust company, mutual fund, investment firm or other similar entity that is authorized to do business in this state.

(7) "Member of the family" shall have the meaning as provided in 26 U.S.C. section 529.

(8) "Nonqualified withdrawal" means an account withdrawal that is not one (1) of the following:

(a) A qualified withdrawal;

(b) A withdrawal made as the result of the death or disability of the designated beneficiary of an account;

(c) A withdrawal that is made on account of a scholarship as defined in 26 U.S.C. section 117 or an educational allowance as defined in 26 U.S.C. section 25A(g) (2);

(d) A rollover or change of the designated beneficiary.

(9) "Person" means an individual, a trust, an estate, a partnership, an association, a foundation, a guardianship, a corporation, or a custodian under the Idaho uniform transfers to minors act.

(10) "Program" means the college savings program established under this chapter.

(11) "Qualified higher education expenses" shall have the meaning provided in 26 U.S.C. section 529(e) (3).

(12) "Qualified withdrawal" means a withdrawal from an account to pay the qualified higher education expenses of the designated beneficiary of the account, but only if the withdrawal is made in accordance with this chapter.

SECTION 2. That Section 33-5402, Idaho Code, be, and the same is hereby amended to read as follows:

33-5402. STATE COLLEGE SAVINGS PROGRAM BOARD -- COLLEGE SAVINGS PROGRAM -- POWERS AND DUTIES. There is hereby created the state college savings program board. The board shall consist of the state treasurer or his designee who shall serve as chair, the governor or designee, the state controller or designee, the attorney general or designee, the superintendent of public instruction or designee, and the secretary of state or designee. A quorum shall be necessary to transact business. Members of the board shall be compensated by their appointing entity. The state college savings program board shall:

(1) Develop and implement the program in a manner consistent with this chapter through the adoption of rules, guidelines and procedures;

- (2) Retain professional services, if necessary, including accountants, auditors, consultants and other experts;
- (3) Seek rulings and other guidance from the United States department of the treasury, the internal revenue service and the state tax commission relating to the program;
- (4) Make changes to the program required for the participants in the program to obtain the federal income tax benefits or treatment provided by section 529 of the Internal Revenue Code of 1986, as amended;
- (5) Interpret, in rules, policies, guidelines and procedures, the provisions of this chapter broadly in light of its purpose and objectives;
- (6) Charge, impose and collect administrative fees and service charges in connection with any agreement, contract or transaction relating to the program;
- (7) ~~Select the financial institution or institutions to act as the depository depositories and act as or select managers~~ of the program in accordance with this chapter;
- (8) Enter into contracts, within the limit of funds available therefor, acquire services and personal property, and do and perform any acts that may be necessary in the administration of the program. As a board comprised of elected officials, the board shall be exempt from the provisions of the procurement statutes and shall not be an agency as defined in section 67-5716, Idaho Code;
- (9) Establish, in its discretion, a trust or other method of segregating the funds of participants in the program from the general funds of the state, the funds of the board and the funds of the members of the board;
- (10) Administer the program and any trust established by the board as instrumentalities of the state under section 529 of the Internal Revenue Code of 1986, as amended, and the federal securities law, including the securities act of 1933, as amended, the trust indenture act of 1939, as amended, and the investment company act of 1940, as amended;
- (11) Employ and at its pleasure discharge an executive director and such other employees necessary in the administration of the program. Employees of the board shall be nonclassified exempt employees pursuant to the provisions of chapter 53, title 67, Idaho Code.

SECTION 3. That Section 33-5403, Idaho Code, be, and the same is hereby amended to read as follows:

~~33-5403. USE OF CONTRACTOR AS ACCOUNT DEPOSITORY AND MANAGER ADMINISTRATION OF THE PROGRAM.~~ (1) The board shall implement the program through ~~the use of its staff, agreements with one (1) or more financial institutions engaged to act as the program's depositories and managers, or through agreements with any public entity or agency, including depository, investment or management relationships with other 529 plans or entities.~~ Under the program, persons may establish accounts through the program at the depository.

(2) ~~The board shall solicit proposals from financial institutions to act as the depositories and managers of~~ implement the program. Financial institutions that submit proposals must describe the financial instruments that will be held in accounts and manage any trust established by the board consistent with sound financial principles and to obtain the federal income tax benefits or treatment provided by section 529 of the Internal Revenue Code of 1986, as amended.

(3) ~~The board shall select as program depositories and managers the Any financial institution or institutions from among bidding financial institutions that demonstrate the most advantageous combination, both to potential program participants and engaged by the board shall hold each account in trust for the benefit of this state, of the following factors:~~

- ~~(a) Financial stability and integrity;~~

- ~~(b) The safety of the investment instruments being offered, taking into account any insurance provided with respect to these instruments;~~
- ~~(c) The ability of the investment instruments to track estimated costs of higher education as calculated by the board and provided by the financial institution to the account holder;~~
- ~~(d) The ability of the financial institutions, directly or through a subcontract, to satisfy recordkeeping and reporting requirements;~~
- ~~(e) The financial institution's plan for promoting the program and the investment it is willing to make to promote the program;~~
- ~~(f) The fees, if any, proposed to be charged to persons for maintaining accounts;~~
- ~~(g) The minimum initial deposit and minimum contributions that the financial institution will require and the willingness of the financial institution to accept contributions through payroll deduction plans and other deposit plans;~~
- ~~(h) Any other benefits to this state or its residents included in the proposal, including an account opening fee payable to the board by and the account owner and an additional fee from the financial institution for statewide program marketing by the board.~~

~~(4) The board shall enter into a contract with a financial institution or, except as provided in subsection (5) of this section, contracts with financial institutions, to serve as program managers and depositories may delegate to the office of a board member any of its administrative powers and duties, if the board determines that such delegation is necessary for the efficient and effective administration of the program and the board member accepts the delegation. Administrative powers and duties include payroll processing, routine public contacts and public records maintenance. The board member shall be compensated for administrative activities pursuant to section 33-5409, Idaho Code.~~

~~(5) The board may select more than one (1) financial institution and investment for the program if both of the following conditions exist:~~

- ~~(a) The United States internal revenue service has provided guidance that giving a contributor a choice of two (2) investment instruments under a state plan will not cause the plan to fail to qualify for favorable tax treatment under section 529 of the Internal Revenue Code;~~
- ~~(b) The board concludes that the choice of instrument vehicles is in the best interest of college savers and will not interfere with the promotion of the program.~~

~~(6) A program manager shall:~~

- ~~(a) Take all action required to keep the program in compliance with the requirements of this chapter and all action not contrary to this chapter or its contract to manage the program so that it is treated as a qualified state tuition plan under section 529 of the Internal Revenue Code;~~
- ~~(b) Keep adequate records of each account, keep each account segregated from each other account and provide the board with the information necessary to prepare statements required by section 33-5404, Idaho Code, or file these statements on behalf of the board;~~
- ~~(c) Compile and total information contained in statements required to be prepared under section 33-5404, Idaho Code, and provide these compilations to the board;~~
- ~~(d) If there is more than one (1) program manager, provide the board with this information to assist the board to determine compliance with section 33-5404, Idaho Code;~~
- ~~(e) Provide representatives of the board, including other contractors or other state agencies, access to the books and records of the program manager to the extent needed to determine compliance with the contract;~~
- ~~(f) Hold all accounts in trust for the benefit of this state and the account owner.~~

~~(7) Any contract executed between the board and a financial institution pursuant to this section shall be for a term not to exceed ten (10) years.~~

~~(8) If a contract executed between the board and a financial institution pursuant to this section is not renewed, all of the following conditions apply at the end of the term of the nonrenewed contract:~~

~~(a) Accounts previously established and held in investment instruments at the financial institution shall not be terminated;~~

~~(b) Additional contributions may be made to the accounts;~~

~~(c) No new accounts may be placed with that financial institution.~~

~~(9) The board may terminate a contract with a financial institution at any time for good cause on the recommendation of the board. If a contract is terminated pursuant to this subsection, the board shall take custody of accounts held at that financial institution and shall seek to promptly transfer the accounts to another financial institution that is selected as a program manager and into investment instruments as similar to the original investments as is possible.~~

SECTION 4. That Section 33-5404, Idaho Code, be, and the same is hereby amended to read as follows:

33-5404. PROGRAM REQUIREMENTS. (1) The program shall be operated through the use of individual accounts. An Each account may be opened by any person who desires to save ~~to pay for~~ the qualified higher education expenses of a person. Minors may open an account which cannot be disaffirmed pursuant to section 32-103, Idaho Code. A person may open an account by satisfying each of the following requirements:

(a) Completing an application in the form prescribed by the board. The application shall include the following information:

(i) The name, address and social security number or employer identification number of the contributor;

(ii) The name, address and social security number of the account owner if the account owner is not the contributor;

(iii) The name, address and social security number of the designated beneficiary;

(iv) The certification relating to no excess contributions required by subsection (13) of this section;

(v) Any other information that the board may require;

(b) Paying the one-time application fee established by the board;

(c) Making the minimum contribution required by the board or by opening an account;

(d) Designating the type of account to be opened if more than one (1) type of account is offered.

(2) Any person may make contributions to an account after the account is opened.

(3) Contributions to accounts may be made only in cash.

(4) Account owners may withdraw all or part of the balance from an account on sixty (60) days' notice, or a shorter period as may be authorized by the board, under rules prescribed by the board.

(5) An account owner may change the designated beneficiary of an account to an individual who is a member of the family of the former designated beneficiary in accordance with procedures established by the board.

(6) On the direction of an account owner, all or a portion of an account may be transferred to another account of which the designated beneficiary is a member of the family of the designated beneficiary of the transferee account.

(7) Changes in designated beneficiaries and rollovers under this section are not permitted if the changes or rollovers would violate either of the following provisions of this section relating to excess contributions or to investment choice.

(8) Each account shall be maintained separately from each other account under the program.

(9) Separate records and accounting shall be maintained for each account for each designated beneficiary.

(10) No contributor to, account owner of or designated beneficiary of any account may direct the investment of any contributions to an account or the earnings from the account.

(11) ~~If the board terminates the authority of a financial institution to hold accounts and accounts must be moved from that financial institution to another financial institution, the board shall select the financial institution and type of investment to which the balance of the account is moved unless the internal revenue service provides guidance stating that allowing the account owner to select among several financial institutions that are current contractors would not cause a plan to cease to be a qualified tuition program~~ The board may transfer accounts held by a depository or manager to a successor depository or manager; provided however, that the transfer to a successor depository or manager does not cause the plan to cease to be a qualified tuition program or subject individual accounts to taxes or penalties.

(12) Neither an account owner nor a designated beneficiary may use an interest in an account as security for a loan. Any pledge of an interest in an account is of no force and effect.

(13) The board shall adopt rules to prevent contributions on behalf of a designated beneficiary in excess of those necessary to pay the qualified higher education expenses of the designated beneficiaries. The rules shall address the following:

(a) Procedures for aggregating the total balances of multiple accounts established for a designated beneficiary;

(b) The establishment of a maximum total balance that may be held in accounts for a designated beneficiary;

(c) The board shall review the quarterly reports received from participating financial institutions and certify that the balance in all qualified tuition programs, as defined in section 529 of the Internal Revenue Code, of which that person is the designated beneficiary does not exceed the lesser of:

(i) A maximum college savings amount established by the board from time to time; or

(ii) The cost in current dollars of qualified higher education expenses that the contributor reasonably anticipates the designated beneficiary will incur;

(d) Requirements that any excess balances with respect to a designated beneficiary be promptly withdrawn in a nonqualified withdrawal or rolled over to another account in accordance with this section.

(14) If there is any distribution from an account to any person or for the benefit of any person during a calendar year, the distribution shall be reported to the internal revenue service and the account owner or the designated beneficiary to the extent required by federal law.

(15) ~~The financial institution program~~ shall provide statements to each account owner at least once each year within thirty-one (31) days after the twelve (12) month period to which they relate. The statement shall identify the contributions made during a preceding twelve (12) month period, the total contributions made through the end of the period, the value of the account as of the end of this period, distributions made during this period and any other matters that the board requires be reported to the account owner.

(16) Statements and information returns relating to accounts shall be prepared and filed to the extent required by federal or state tax law.

(17) A state or local government or organization described in section 501(c)(3) of the Internal Revenue Code may open and become the account owner of an account to fund scholarships for persons whose identity will be determined after an account is opened.

(18) In the case of any account described in subsection (17) of this section, the requirement that a designated beneficiary be designated when an account is opened does not apply and each person who receives an interest in the account as a scholarship shall be treated as a designated beneficiary with respect to the interest.

(19) Any social security numbers, addresses or telephone numbers of individual account holders and designated beneficiaries that come into the possession of the board are confidential, are not public records and shall not be released by the board.

SECTION 5. That Section 33-5409, Idaho Code, be, and the same is hereby amended to read as follows:

33-5409. COLLEGE SAVINGS FUND. (1) There is hereby created in the state treasury the "College Savings Fund" to which shall be credited:

(a) Administrative fees and service charges in connection with any agreement, contract or transaction related to the college savings program;

(b) Fees and charges collected to cover costs associated with the powers and duties of the ~~state college savings board~~ as required in section 33-5402, Idaho Code;

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

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

(2) Moneys in the fund shall be continuously appropriated to the ~~treasurer of the state of Idaho~~ board, and any moneys remaining in the fund at the end of each fiscal year shall not be appropriated to any other fund.

(3) Moneys in the fund shall only be used to effect the purposes of this chapter, pursuant to the provisions as prescribed herein. ~~provided however, t~~The office of the state treasurer a board member is authorized to retain receive a portion of the moneys not to exceed one-half of one percent (0.5%) of the fund's annual revenues approved by the board to defray costs associated with the implementation, administration and oversight of the college savings program, including the administrative activities delegated pursuant to section 33-5403, Idaho Code.

Approved March 21, 2013.

CHAPTER 111  
(H.B. No. 181)

AN ACT

RELATING TO THE CAPITOL BUILDING AND GROUNDS; AMENDING SECTION 67-1610, IDAHO CODE, TO PROVIDE A REFERENCE TO THE CAPITOL MAINTENANCE RESERVE FUND AND TO ESTABLISH PROVISIONS RELATING TO CERTAIN ADMINISTRATIVE COSTS; AMENDING CHAPTER 16, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-1610A, IDAHO CODE, TO ESTABLISH THE CAPITOL MAINTENANCE RESERVE FUND, TO PROVIDE THAT THE FUND SHALL RECEIVE CERTAIN DISTRIBUTIONS AND THAT THE FUND SHALL BE MANAGED BY THE ENDOWMENT FUND INVESTMENT BOARD, TO PROVIDE FOR USE OF MONEYS IN THE FUND, TO PROVIDE FOR APPROPRIATION AND TO PROVIDE FOR AN EXCEPTION; AMENDING SECTION 67-1611, IDAHO CODE, TO ESTABLISH THE CAPITOL COMMISSION OPERATING FUND, TO PROVIDE THAT THE FUND SHALL BE MANAGED BY THE STATE TREASURER AND SHALL CONSIST OF CERTAIN TRANSFERS, INTERESTS AND PROCEEDS, TO PRO-

VIDE THAT THE MONEYS IN THE FUND SHALL BE SUBJECT TO APPROPRIATION AND TO PROVIDE FOR USE OF MONEYS IN THE FUND; AMENDING SECTION 49-420A, IDAHO CODE, TO PROVIDE THAT A CERTAIN LICENSE PLATE FEE SHALL BE DEPOSITED BY THE STATE TREASURER INTO THE CAPITOL MAINTENANCE RESERVE FUND.

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

SECTION 1. That Section 67-1610, Idaho Code, be, and the same is hereby amended to read as follows:

67-1610. CAPITOL PERMANENT ENDOWMENT FUND. (1) There is hereby created a permanent fund within the state treasury to be known as the capitol permanent endowment fund, consisting of, from this point forward: (a) the proceeds of the sale of lands granted to the state of Idaho for the purpose of facilitating the construction, repair, furnishing and improvement of public buildings at its capitol by an Act of Congress (26 Stat. L. 214, ch. 656 (1890) (as amended)) entitled "An Act to Provide for the Admission of the State of Idaho into the Union," comprising thirty-two thousand (32,000) acres, or any portion thereof, or mineral therein; (b) earnings of the capitol permanent endowment fund; (c) proceeds of the sale of timber growing upon capitol endowment lands; (d) proceeds of leases of capitol buildings endowment lands; (e) proceeds of interest charged upon deferred payments on capitol buildings endowment lands or timber on those lands; (f) all unappropriated and unencumbered moneys in the public building fund shown on the state controller's chart of accounts as the capitol permanent endowment fund; (g) retained earnings to compensate for the effects of inflation; and (h) legislative appropriations. The fund shall be managed by the endowment fund investment board in accordance with chapter 5, title 68, Idaho Code.

(2) On July 1 of each fiscal year, the endowment fund investment board shall distribute to the capitol ~~endowment income maintenance reserve~~ fund created in section ~~67-1611~~ 67-1610A, Idaho Code, an amount equal to a percentage approved by the board of the value of the capitol permanent endowment fund that is calculated to provide a stable source of moneys to allow for the maintenance, repair and restoration of the capitol, and to provide for administrative costs incurred managing the assets of the capitol permanent endowment, while still preserving and increasing over time the value of the capitol permanent endowment fund.

SECTION 2. That Chapter 16, 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 67-1610A, Idaho Code, and to read as follows:

67-1610A. CAPITOL MAINTENANCE RESERVE FUND. (1) There is hereby created a permanent fund within the state treasury to be known as the capitol maintenance reserve fund.

(2) The fund shall receive distributions from the capitol permanent endowment fund, as provided in section 67-1610, Idaho Code, and shall be managed by the endowment fund investment board in accordance with the provisions of chapter 5, title 68, Idaho Code.

(3) Except as provided for in subsection (4) of this section, all moneys in the capitol maintenance reserve fund shall be used exclusively by the capitol commission to address repair, maintenance and construction needs approved by the commission to benefit the capitol building and its grounds; provided that moneys from the fund shall also be used to pay for administrative costs incurred managing the assets of the capitol permanent endowment including, but not limited to, real property and monetary assets. All expenditures from the capitol maintenance reserve fund shall be subject to appropriation by the legislature.

(4) Upon request of the capitol commission, the endowment fund investment board shall distribute from the capitol maintenance reserve fund to the

capitol commission operating fund created in section 67-1611, Idaho Code, an amount determined by the capitol commission to be sufficient to cover the operation, activities and projects of the capitol commission.

SECTION 3. That Section 67-1611, Idaho Code, be, and the same is hereby amended to read as follows:

67-1611. ~~CAPITOL ENDOWMENT INCOME COMMISSION OPERATING FUND.~~ (1) There is hereby created in the state treasury the capitol endowment income commission operating fund. The fund shall be used to support the operation, activities and projects of the capitol commission, shall be managed by the state treasurer and shall consist of the following:

(a) ~~Distributions from the capitol permanent endowment fund, as provided in section 67-1610, Idaho Code~~ Transfers approved by the capitol commission from the capitol maintenance reserve fund for the operation, activities and projects of the capitol commission;

(b) All interests earned on the capitol endowment income commission operating fund; and

(c) All public and private moneys donated and obtained pursuant to the provisions of this chapter; and

~~(d) All other proceeds received from the use of capitol building endowment lands and not otherwise designated for deposit in the capitol buildings permanent endowment fund either public or private approved by the legislature for the purposes of this act.~~

(2) All moneys in the capitol endowment income commission operating fund shall be subject to annual appropriation by the legislature. All moneys shall be appropriated exclusively for the purposes of this chapter, retained for future appropriation, or transferred to the capitol endowment permanent fund by legislative appropriation.

SECTION 4. That Section 49-420A, Idaho Code, be, and the same is hereby amended to read as follows:

49-420A. IDAHO STATE CAPITOL COMMISSION PLATES. (1) On and after January 1, 2002, any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for and, upon department approval, receive special Idaho state capitol commission plates in lieu of regular license plates.

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

(3) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of plates, and twenty-five dollars (\$25.00) upon each succeeding annual registration. Ten dollars (\$10.00) of the initial fee and ten dollars (\$10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-five dollars (\$25.00) of each initial fee and fifteen dollars (\$15.00) of each renewal fee shall be deposited by the state treasurer in the Idaho capitol endowment income maintenance reserve fund established in section 67-1611 67-1610A, Idaho Code, and shall be used exclusively for the purposes of chapter 16, title 67, Idaho Code.

(4) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer

fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

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

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

Approved March 21, 2013.

CHAPTER 112  
(H.B. No. 184)

AN ACT

RELATING TO INCOME TAX; AMENDING SECTION 63-3022, IDAHO CODE, TO REVISE A TIME PERIOD RELATING TO A NET OPERATING LOSS CARRYBACK, TO REMOVE LANGUAGE RELATING TO NET OPERATING LOSS SUBTRACTED FROM INCOME, TO REMOVE LANGUAGE DEFINING A TERM, TO ESTABLISH PROVISIONS RELATING TO A NET OPERATING LOSS FOR ANY TAXABLE YEAR COMMENCING ON OR AFTER JANUARY 1, 2013, TO ESTABLISH PROVISIONS RELATING TO THE SUBTRACTION OF A PORTION OF A NET OPERATING LOSS, TO DEFINE A TERM AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 63-3072, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A CLAIM FOR CREDIT OR REFUND THAT RELATES TO AN OVERPAYMENT ATTRIBUTABLE TO A NET OPERATING LOSS CARRYBACK AND TO PROVIDE THAT CERTAIN CLAIMS FOR NET OPERATING LOSSES SHALL BE MADE PURSUANT TO LAW; 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, but before January 1, 2013, 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 from income in the two (2) preceding years may be subtracted from income 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) A net operating loss for any taxable year commencing on or after January 1, 2013, 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 only if an amended return carrying the loss back is filed within one (1) year of the end of the taxable year of the net operating loss that results in such carryback.

(3) Any portion of the net operating loss not subtracted from income in the two (2) preceding years may be subtracted from income 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.

(4) 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.

(5) 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.

(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 or passive 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 or passive 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 carry-back of a net operating loss provided for in subsection (c) of this section or a capital loss or passive 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 contributions to the Idaho individual trust account or savings account by the account owner that were deducted on the account owner's income tax return for the year of the transfer and the prior taxable year.

SECTION 2. That Section 63-3072, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

(c) With regard to amounts withheld as provided in section 63-3035, 63-3035A or 63-3036, Idaho Code, or amounts paid as estimated payments under section 63-3036A, Idaho Code, a claim for credit or refund shall be made within three (3) years from the due date of the return, without regard to extensions, for the taxable year in respect to which the tax was withheld or paid. However, with regard to an individual who is entitled to an extension of time as provided in section 7508 of the Internal Revenue Code, the three (3) year period provided in this subsection for claiming a credit or refund shall be extended by the number of days disregarded under section 7508 of the Internal Revenue Code.

(d) Notwithstanding any other provisions of this section, when Idaho taxable income and/or tax credits for any taxable year have been adjusted as a result of a final federal determination, the period of limitations for claiming a refund or credit of tax, penalties, or interest shall be reopened and shall not expire until the later of one (1) year from the date of delivery of the final federal determination to the taxpayer by the internal revenue service, three (3) years from the due date of the return, without regard to extensions, or three (3) years from the date the return was filed. For purposes of this subsection, the term "final federal determination" shall mean the final resolution of all issues which were adjusted by the internal revenue service. When the final federal determination is submitted, the taxpayer shall also submit copies of all schedules and written explanations provided by the internal revenue service. Upon the expiration of the period of limitations as provided in subsections (b) and (h) of this section, only those specific items of income, deductions, gains, losses or credits which were adjusted in the final federal determination shall be subject to adjustment for purposes of recomputing Idaho income, deductions, gains, losses, credits, and the effect of such adjustments on Idaho allocations and apportionments.

(e) If a claim for credit or refund relates to an overpayment attributable to a net operating loss carryback incurred in a taxable year commencing in 2012 or earlier, or a capital loss carryback, in lieu of the period of limitations prescribed in subsection (b) of this section, the period shall be that period which ends with the expiration of the fifteenth day of the fortieth month following the end of the taxable year of the net operating loss or capital loss which results in such carryback. Claims for net operating losses carried back from taxable years commencing after 2012 shall be made pursuant to section 63-3022, Idaho Code.

(f) If an adjustment, which was made within the period of limitations as provided in this section, affects the amount of tax credit, net operating loss, or capital loss, claimed in a taxable year other than the tax year in which the adjustment is made, then adjustments to the credit, net operating loss, or capital loss, claimed in such other tax year may be made and a claim

for credit or refund of tax, penalties or interest may be made even though such claim would otherwise be barred under the provisions of this section.

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

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

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

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

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

SECTION 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, 2013.

Approved March 21, 2013.

CHAPTER 113  
(H.B. No. 187)

AN ACT

RELATING TO USE TAX; AMENDING SECTION 63-3621, IDAHO CODE, TO CLARIFY SERVING SIZES FOR FREE TASTINGS OF WINE AND BEER, TO PROVIDE THAT THE USE TAX SHALL NOT APPLY TO CERTAIN FREE SAMPLES OF FOOD AND TO DEFINE A TERM; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 63-3621, Idaho Code, be, and the same is hereby amended to read as follows:

63-3621. IMPOSITION AND RATE OF THE USE TAX -- EXEMPTIONS. An excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property acquired on or after October 1, 2006, for storage, use, or other consumption in this state at the rate of six percent (6%) of the value of the property, and a recent sales price shall be presumptive evidence of the value of the property unless the property is wireless telecommunications equipment, in which case a recent sales price shall be conclusive evidence of the value of the property.

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

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

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

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

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

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

The resale certificate shall bear the name and address of the purchaser, shall be signed by the purchaser or his agent, shall indicate the number of

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

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

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

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

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

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

(k) The use tax herein imposed shall not apply to the use by a nonresident of this state of a motor vehicle which is registered or licensed under the laws of the state of his residence and is not used in this state more than a cumulative period of time totaling ninety (90) days in any consecutive twelve (12) months, and which is not required to be registered or licensed under the laws of this state. The use tax herein shall also not apply to any use of a motor vehicle which is registered or licensed under the laws of the state of residence of a nonresident student while such nonresident student is enrolled as a full-time student in an institution of postsecondary education that is both physically located in Idaho and recognized as accredited by the state board of education.

(l) The use tax herein imposed shall not apply to the use of household goods, personal effects and personally owned vehicles or personally owned aircraft by a resident of this state, or military personnel temporarily assigned in this state and spouses who accompany them, if such articles were acquired by such person in another state while a resident of that state and primarily for use outside this state and if such use was actual and substantial, but if an article was acquired less than three (3) months prior to the time he entered this state, it will be presumed that the article was acquired for use in this state and that its use outside this state was not actual and substantial. For purposes of this subsection, "resident" shall be as defined in section 63-3013 or 63-3013A, Idaho Code.

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

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

- (2) The state of Idaho; or
- (3) Any political subdivision of the state.

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

(n) The use tax herein imposed shall not apply to free tastings of food and beverages including, but not limited to, wine and beer. For the purposes of this subsection, a free tasting of wine and beer shall be defined as a beverage the maximum serving allowed by state or federal laws for such occasions provided to a potential customer, at no charge, and to occur individually at that specific at a location and time where like or similar beverages are sold. For nonalcoholic beverages and food, a tasting shall be defined as a sample from a unit available for sale at the tasting location.

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

Approved March 21, 2013.

CHAPTER 114  
(H.B. No. 188)

AN ACT

RELATING TO PATIENT CARE RECORDS; AMENDING SECTION 39-1394, IDAHO CODE, TO PROVIDE THAT A PRACTITIONER WHO IS NOT THE AUTHOR OF AN ORDER BUT WHO IS RESPONSIBLE FOR THE CARE OF A PATIENT MAY AUTHENTICATE AN ORDER AND TO PROVIDE THAT EACH HOSPITAL MUST HAVE A POLICY TO ASSURE TIMELY AUTHENTICATION OF ORDERS BY A PRACTITIONER WHO IS NOT THE AUTHOR OF AN ORDER.

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

SECTION 1. That Section 39-1394, Idaho Code, be, and the same is hereby amended to read as follows:

39-1394. PATIENT CARE RECORDS -- RETENTION -- AUTHENTICATION. (1) Retention.

(a) Hospital records relating to the care and treatment of a patient may be preserved in microfilm, other photographically reproduced form or electronic medium. Such reproduced and preserved copies shall be deemed originals for purposes of section 9-420, Idaho Code.

(b) Clinical laboratory test records and reports may be destroyed five (5) years after the date of the test recorded or reported therein, pursuant to paragraph (d) of this subsection.

(c) X-ray films may be destroyed five (5) years after the date of exposure, or five (5) years after the patient reaches the age of majority, whichever is later, pursuant to paragraph (d) of this subsection, if there are in the hospital record written findings of a physician who has read such x-ray films.

(d) At any time after the retention periods specified in paragraphs (b) and (c) of this subsection, the hospital may, without thereby incurring liability, destroy such records, by burning, shredding or other effective method in keeping with the confidential nature of their contents, provided, however, that destruction of such records must be in the ordinary course of business and no record shall be destroyed on an individual basis.

(e) For purposes of this section, the term "hospital" shall include all facilities defined as hospitals in chapter 13, title 39, Idaho Code.

(2) Authentication.

(a) Hospital records relating to orders for the care and treatment of a patient or for the administration of any drug or pharmaceutical must be authenticated to ensure accuracy and patient safety.

(b) All orders must be authenticated by the author of the order or another practitioner who is responsible for the care of the patient and who is authorized to write orders by hospital policy in accordance with state law.

(c) When telephone or oral orders must be used, they must be:

(i) Accepted only by personnel authorized to do so by medical staff policies and procedures, consistent with federal and state law; and

(ii) ~~Authenticated by the author of the order~~ in a timely manner as stipulated by hospital policy.

(d) Authentication may occur either manually, with the practitioner's signature, or electronically by facsimile transmission signed by the practitioner or by means of a unique electronic code known only to the practitioner.

(e) Each hospital must have in place policies and mechanisms to assure timely authentication of all orders and to assure that only the author of an order or another practitioner who is responsible for the care of the patient and who is authorized to write orders by hospital policy in accordance with state law can authenticate ~~his or her own entry~~ the order.

Approved March 21, 2013.

CHAPTER 115  
(H.B. No. 211)

AN ACT

RELATING TO PHYSICIANS AND SURGEONS; AMENDING SECTION 54-1806, IDAHO CODE, TO PROVIDE THAT THE BOARD OF MEDICINE SHALL HAVE THE AUTHORITY TO SHARE INFORMATION WITH THE DEPARTMENT OF LABOR TO DETERMINE WORKFORCE SHORT-AGE AREAS AND TO MAKE A TECHNICAL CORRECTION.

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 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 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 the provisions of this chapter.

(12) Prepare an annual report.

(13) Share with the department of labor personal identifying information of persons licensed under the provisions of this chapter necessary for the department of labor to identify workforce shortage areas in Idaho. The information provided to the department of labor concerning any person licensed under this chapter shall remain confidential and not subject to public disclosure, as required in section 9-340C, Idaho Code.

Approved March 21, 2013.

CHAPTER 116  
(H.B. No. 233)

AN ACT

APPROPRIATING MONEYS TO THE COMMISSION ON THE ARTS FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Commission on the Arts, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General				
Fund	\$304,300	\$136,500	\$249,700	\$690,500
Miscellaneous Revenue				
Fund		89,500	16,300	105,800
Federal Grant				
Fund	<u>346,700</u>	<u>218,300</u>	<u>450,200</u>	<u>1,015,200</u>
TOTAL	\$651,000	\$444,300	\$716,200	\$1,811,500

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Commission on the Arts is authorized no more than ten (10) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 21, 2013.

CHAPTER 117  
(H.B. No. 234)

AN ACT

APPROPRIATING MONEYS TO THE DIVISION OF HUMAN RESOURCES FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING LEGISLATIVE INTENT; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Division of Human Resources from the Division of Human Resources Fund, the following amounts to be expended for the designated expense classes, for the period July 1, 2013, through June 30, 2014:

FOR:

Personnel Costs	\$1,018,500
Operating Expenditures	<u>659,600</u>
TOTAL	\$1,678,100

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Division of Human Resources is authorized no more than twelve (12) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, 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. Of the amount appropriated in Section 1 of this act, the Division of Human Resources shall pay 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 expenditures in fiscal year 2014 within the Related Services Program of the Division of Professional-Technical Education, less any unencumbered balance remaining on June 30, 2013.

SECTION 4. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 21, 2013.

CHAPTER 118  
(H.B. No. 235)

AN ACT

APPROPRIATING MONEYS TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING LEGISLATIVE INTENT; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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 according to the designated programs and expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. RETIREMENT ADMINISTRATION:				
FROM:				
PERSI Administrative				
Fund	\$3,429,700	\$2,527,700	\$22,000	\$5,979,400
II. PORTFOLIO INVESTMENT:				
FROM:				
PERSI Special				
Fund	\$666,500	\$196,200	\$17,900	\$880,600
GRAND TOTAL	\$4,096,200	\$2,723,900	\$39,900	\$6,860,000

SECTION 2. FTP AUTHORIZATION. 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, 2013, through June 30, 2014, 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. 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 System Board as provided in Section 59-1311(4)(a), (b), and (c), Idaho Code.

SECTION 4. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to

use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 21, 2013.

CHAPTER 119  
(H.B. No. 236)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO STATE LOTTERY FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING LEGISLATIVE INTENT; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Idaho State Lottery from the State Lottery Fund, the following amounts to be expended for the designated expense classes, for the period July 1, 2013, through June 30, 2014:

FOR:

Personnel Costs	\$2,778,500
Operating Expenditures	2,560,300
Capital Outlay	<u>84,900</u>
TOTAL	\$5,423,700

SECTION 2. FTP AUTHORIZATION. 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, 2013, through June 30, 2014, 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 and gaming supplier vendor fees based on sales shall be continuously appropriated to the Idaho State Lottery under the provisions of Section 67-7428, Idaho Code.

SECTION 4. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 21, 2013.

CHAPTER 120  
(H.B. No. 237)

AN ACT

APPROPRIATING MONEYS TO THE DIVISION OF BUILDING SAFETY FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Division of Building Safety, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
State Regulatory				
Fund	\$7,612,300	\$1,814,100	\$324,200	\$9,750,600
Miscellaneous Revenue/Industrial Safety				
Fund	616,800	93,400	22,800	733,000
Miscellaneous Revenue/Logging				
Fund	329,100	70,800	22,400	422,300
Federal Grant				
Fund	<u>37,000</u>	<u>6,100</u>	<u>0</u>	<u>43,100</u>
TOTAL	\$8,595,200	\$1,984,400	\$369,400	\$10,949,000

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Division of Building Safety is authorized no more than one hundred twenty-one (121) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 21, 2013.

CHAPTER 121  
(H.B. No. 238)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF FINANCE FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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 for the designated expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
State Regulatory				
Fund	\$5,133,200	\$1,624,200	\$5,400	\$6,762,800
Securities Investor Training				
Fund	<u>50,000</u>	<u>0</u>	<u>0</u>	<u>50,000</u>
TOTAL	\$5,183,200	\$1,624,200	\$5,400	\$6,812,800

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Finance is authorized no more than sixty-four (64) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 21, 2013.

CHAPTER 122  
(H.B. No. 251)

AN ACT

APPROPRIATING MONEYS TO THE INDUSTRIAL COMMISSION FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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 according to the designated programs and expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>I. COMPENSATION:</b>					
FROM:					
Industrial Administration					
Fund	\$3,025,400	\$1,057,400	\$89,200	\$1,103,100	\$5,275,100
Peace Officer and Detention Officer Temporary Disability					
Fund	7,800	3,800		156,100	167,700
Miscellaneous Revenue					
Fund	<u>0</u>	<u>35,500</u>	<u>0</u>	<u>0</u>	<u>35,500</u>
TOTAL	\$3,033,200	\$1,096,700	\$89,200	\$1,259,200	\$5,478,300
<b>II. REHABILITATION:</b>					
FROM:					
Industrial Administration					
Fund	\$2,966,600	\$631,800	\$92,700		\$3,691,100
<b>III. CRIME VICTIMS COMPENSATION:</b>					
FROM:					
Crime Victims Compensation					
Fund	\$731,900	\$237,600	\$4,800	\$2,000,000	\$2,974,300
Federal Grant					
Fund	<u>0</u>	<u>0</u>	<u>0</u>	<u>800,000</u>	<u>800,000</u>
TOTAL	\$731,900	\$237,600	\$4,800	\$2,800,000	\$3,774,300
<b>IV. ADJUDICATION:</b>					
FROM:					
Industrial Administration					
Fund	\$1,772,200	\$562,300	\$11,200		\$2,345,700
<b>GRAND TOTAL</b>	<b>\$8,503,900</b>	<b>\$2,528,400</b>	<b>\$197,900</b>	<b>\$4,059,200</b>	<b>\$15,289,400</b>

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Industrial Commission is authorized no more than one hundred thirty-seven and twenty-five hundredths (137.25) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 21, 2013.

CHAPTER 123  
(H.B. No. 252)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF INSURANCE FOR FISCAL YEAR 2014;  
LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND  
PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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 according to the designated programs and expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
<b>I. INSURANCE REGULATION:</b>				
FROM:				
Insurance Administrative				
Fund	\$3,990,500	\$2,800,900	\$58,500	\$6,849,900
Federal Grant				
Fund	<u>242,600</u>	<u>398,100</u>	<u>0</u>	<u>640,700</u>
TOTAL	\$4,233,100	\$3,199,000	\$58,500	\$7,490,600
<b>II. STATE FIRE MARSHAL:</b>				
FROM:				
Arson, Fire and Fraud Prevention				
Fund	\$640,400	\$341,500	\$75,400	\$1,057,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
GRAND TOTAL	\$4,873,500	\$3,540,500	\$133,900	\$8,547,900

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Insurance is authorized no more than seventy-three (73) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 21, 2013.

CHAPTER 124  
(H.B. No. 253)

AN ACT

APPROPRIATING MONEYS TO THE PUBLIC UTILITIES COMMISSION FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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 for the designated expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Public Utilities Commission				
Fund	\$3,625,300	\$1,392,200	\$44,200	\$5,061,700
American Reinvestment				
Fund	150,300	71,000		221,300
Federal Grant				
Fund	<u>132,700</u>	<u>41,900</u>	<u>24,600</u>	<u>199,200</u>
TOTAL	\$3,908,300	\$1,505,100	\$68,800	\$5,482,200

**SECTION 2. FTP AUTHORIZATION.** In accordance with Section 67-3519, Idaho Code, the Public Utilities Commission is authorized no more than fifty (50) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

**SECTION 3. EMPLOYEE COMPENSATION AND BENEFITS.** The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 21, 2013.

CHAPTER 125  
(H.B. No. 254)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; APPROPRIATING AND TRANSFERRING MONEYS TO THE ENVIRONMENTAL REMEDIATION BASIN FUND; EXPRESSING LEGISLATIVE INTENT REGARDING THE ENVIRONMENTAL REMEDIATION BASIN FUND AND REQUIRING AN ANNUAL REPORT; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO USE OF THE WATER POLLUTION CONTROL FUND; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

**SECTION 1.** There is hereby appropriated to the Department of Environmental Quality, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>I. ADMINISTRATION AND SUPPORT SERVICES:</b>					
FROM:					
General					
Fund	\$1,442,100	\$1,382,200	\$82,700		\$2,907,000
Air Quality Permitting					
Fund	201,600	187,100	10,900		399,600
Public Water System Supervision					
Fund	332,600	49,400	2,800		384,800
Water Pollution Control					
Fund	67,600	20,300	1,200		89,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Department of Environmental Quality (Receipts)					
Fund	235,900	96,600	5,900		338,400
Bunker Hill Trust					
Fund		11,200			11,200
Department of Environmental Quality (Federal)					
Fund	<u>1,735,900</u>	<u>1,650,600</u>	<u>95,700</u>		<u>3,482,200</u>
TOTAL	\$4,015,700	\$3,397,400	\$199,200		\$7,612,300
II. AIR QUALITY:					
FROM:					
General					
Fund	\$2,602,500	\$247,600			\$2,850,100
Air Quality Permitting					
Fund	1,091,000	142,700		\$40,000	1,273,700
Department of Environmental Quality (Receipts)					
Fund	268,600	243,000			511,600
Department of Environmental Quality (Federal)					
Fund	<u>1,450,400</u>	<u>674,200</u>	<u>\$35,000</u>	<u>41,400</u>	<u>2,201,000</u>
TOTAL	\$5,412,500	\$1,307,500	\$35,000	\$81,400	\$6,836,400
III. WATER QUALITY:					
FROM:					
General					
Fund	\$4,560,800	\$1,203,400		\$644,800	\$6,409,000
Public Water System Supervision					
Fund	952,800	163,200		336,500	1,452,500
Water Pollution Control					
Fund	567,500	334,300		158,200	1,060,000
Department of Environmental Quality (Receipts)					
Fund	441,200	158,000		51,600	650,800
Department of Environmental Quality (Federal)					
Fund	<u>4,310,000</u>	<u>1,599,500</u>		<u>2,683,200</u>	<u>8,592,700</u>
TOTAL	\$10,832,300	\$3,458,400		\$3,874,300	\$18,165,000
IV. COEUR D'ALENE BASIN COMMISSION:					
FROM:					
General					
Fund	\$100,600	\$10,200			\$110,800
Environmental Remediation (Basin)					
Fund	61,700	15,500			77,200
Department of Environmental Quality (Federal)					
Fund	<u>14,200</u>	<u>253,400</u>		<u>\$50,000</u>	<u>317,600</u>
TOTAL	\$176,500	\$279,100		\$50,000	\$505,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>V. WASTE MANAGEMENT AND REMEDIATION:</b>					
FROM:					
General					
Fund	\$2,239,600	\$102,700		\$134,600	\$2,476,900
Environmental Remediation (Box)					
Fund	26,300	76,500		150,500	253,300
Environmental Remediation (Basin)					
Fund	82,600	841,600			924,200
Department of Environmental Quality (Receipts)					
Fund	553,100	1,092,100		51,800	1,697,000
Bunker Hill Trust					
Fund	41,800	1,920,000		300,000	2,261,800
Department of Environmental Quality (Federal)					
Fund	<u>3,033,800</u>	<u>20,603,400</u>		<u>15,500</u>	<u>23,652,700</u>
TOTAL	\$5,977,200	\$24,636,300		\$652,400	\$31,265,900
<b>VI. IDAHO NATIONAL LABORATORY OVERSIGHT:</b>					
FROM:					
General					
Fund	\$76,600	\$8,700			\$85,300
Department of Environmental Quality (Federal)					
Fund	<u>864,300</u>	<u>918,800</u>	<u>\$30,000</u>	<u>\$146,900</u>	<u>1,960,000</u>
TOTAL	\$940,900	\$927,500	\$30,000	\$146,900	\$2,045,300
GRAND TOTAL	\$27,355,100	\$34,006,200	\$264,200	\$4,805,000	\$66,430,500

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Environmental Quality is authorized no more than three hundred sixty (360) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, 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 appropriated to the Department of Environmental Quality and the State Controller shall transfer \$1,500,000 from the Water Pollution Control Fund to the Environmental Remediation Basin Fund, through monthly installments or as practicable for the period July 1, 2013, through June 30, 2014.

SECTION 4. 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 with the Governor, the Legislature, and the Coeur d'Alene Basin Environmental Improvement Project Commission on the remediation progress and the expenditures involved.

SECTION 5. 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 6. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 21, 2013.

CHAPTER 126  
(H.B. No. 255)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF LABOR; AMENDING SECTION 1, CHAPTER 137, LAWS OF 2012, TO APPROPRIATE ADDITIONAL MONEYS TO THE DEPARTMENT OF LABOR FOR FISCAL YEAR 2013; APPROPRIATING MONEYS TO THE DEPARTMENT OF LABOR FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION; AND DECLARING AN EMERGENCY FOR SECTION 1 OF THIS ACT.

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

SECTION 1. That Section 1, Chapter 137, Laws of 2012, be, and the same is hereby amended to read as follows:

SECTION 1. There is hereby appropriated to the Department of Labor, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2012, through June 30, 2013:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. EMPLOYMENT SERVICES:				
FROM:				
Unemployment Penalty and Interest				
Fund	\$114,900	\$750,000		\$864,900
II. WAGE AND HOUR:				
FROM:				
General				
Fund	\$233,600	\$64,500		\$298,100
Unemployment Penalty and Interest				
Fund	154,800	63,700		218,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Miscellaneous Revenue				
Fund	<u>0</u>	<u>10,600</u>		<u>10,600</u>
TOTAL	\$388,400	\$138,800		\$527,200
III. CAREER INFORMATION SERVICES:				
FROM:				
Unemployment Penalty and Interest				
Fund	\$232,100	<del>\$133,400</del>		<del>\$365,500</del>
		<u>\$118,400</u>		<u>\$350,500</u>
Employment Security Special Administration				
Fund	63,700	<del>65,900</del>		<del>129,600</del>
		<u>56,900</u>		<u>120,600</u>
Miscellaneous Revenue				
Fund	<u>93,800</u>	<del>26,800</del>		<del>120,600</del>
		<u>50,800</u>		<u>144,600</u>
TOTAL	\$389,600	\$226,100		\$615,700
IV. HUMAN RIGHTS COMMISSION:				
FROM:				
General				
Fund	\$137,900			\$137,900
Unemployment Penalty and Interest				
Fund		<del>\$180,200</del>		<del>180,200</del>
		<u>\$180,000</u>		<u>180,000</u>
Employment Security Special Administration				
Fund	501,600			501,600
Miscellaneous Revenue				
Fund		<del>500</del>		<del>500</del>
		<u>700</u>		<u>700</u>
Federal Grant				
Fund	<u>0</u>	<del>201,600</del>		<del>201,600</del>
		<u>221,100</u>		<u>221,100</u>
TOTAL	\$639,500	\$382,300		\$1,021,800
		<u>\$401,800</u>		<u>\$1,041,300</u>

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
V. SERVE IDAHO:				
FROM:				
Miscellaneous Revenue				
Fund		\$46,400		\$46,400
Federal Grant				
Fund	<u>\$273,500</u>	<u>323,700</u>	<u>\$2,050,000</u>	<u>2,647,200</u>
TOTAL	\$273,500	\$370,100	\$2,050,000	\$2,693,600
GRAND TOTAL				
	\$1,805,900	<u>\$1,867,300</u>	\$2,050,000	<u>\$5,723,200</u>
		<u>\$1,886,800</u>		<u>\$5,742,700</u>

SECTION 2. There is hereby appropriated to the Department of Labor, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. EMPLOYMENT SERVICES:					
FROM:					
Unemployment Penalty and Interest					
Fund	\$1,256,400	\$1,933,200	\$215,000		\$3,404,600
Employment Security Special Administration					
Fund	<u>433,200</u>	<u>7,319,600</u>	<u>1,231,700</u>		<u>8,984,500</u>
TOTAL	\$1,689,600	\$9,252,800	\$1,446,700		\$12,389,100
II. WAGE AND HOUR:					
FROM:					
General					
Fund	\$237,600	\$64,700			\$302,300
Unemployment Penalty and Interest					
Fund	155,700	64,100			219,800
Miscellaneous Revenue					
Fund	<u>0</u>	<u>10,600</u>			<u>10,600</u>
TOTAL	\$393,300	\$139,400			\$532,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>III. CAREER INFORMATION SERVICES:</b>					
FROM:					
Unemployment Penalty and Interest					
Fund	\$235,400	\$118,200			\$353,600
Employment Security Special Administration					
Fund	64,500	56,900			121,400
Miscellaneous Revenue					
Fund	<u>94,800</u>	<u>50,800</u>			<u>145,600</u>
TOTAL	\$394,700	\$225,900			\$620,600
<b>IV. HUMAN RIGHTS COMMISSION:</b>					
FROM:					
Unemployment Penalty and Interest					
Fund		\$186,200			\$186,200
Employment Security Special Administration					
Fund	\$647,200				647,200
Miscellaneous Revenue					
Fund		700			700
Federal Grant					
Fund	<u>0</u>	<u>201,600</u>			<u>201,600</u>
TOTAL	\$647,200	\$388,500			\$1,035,700
<b>V. SERVE IDAHO:</b>					
FROM:					
Unemployment Penalty and Interest					
Fund	\$39,700	\$75,600			\$115,300
Miscellaneous Revenue					
Fund		46,400			46,400
Federal Grant					
Fund	<u>235,700</u>	<u>248,100</u>		<u>\$2,050,000</u>	<u>2,533,800</u>
TOTAL	\$275,400	\$370,100		\$2,050,000	\$2,695,500
GRAND TOTAL	\$3,400,200	\$10,376,700	\$1,446,700	\$2,050,000	\$17,273,600

**SECTION 3. FTP AUTHORIZATION.** In accordance with Section 67-3519, Idaho Code, the Department of Labor is authorized no more than forty-seven and four-hundredths (47.04) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

**SECTION 4. EMPLOYEE COMPENSATION.** The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, insti-

tution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

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 21, 2013.

CHAPTER 127  
(H.B. No. 262)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE OFFICE OF THE STATE APPELLATE PUBLIC DEFENDER FOR FISCAL YEAR 2013; APPROPRIATING MONEYS TO THE OFFICE OF THE STATE APPELLATE PUBLIC DEFENDER FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION; 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 173, Laws of 2012, and any other appropriation provided for by law, there is hereby appropriated \$100,000 from the General Fund to the Office of the State Appellate Public Defender, to be expended for operating expenditures, for the period July 1, 2012, through June 30, 2013.

SECTION 2. There is hereby appropriated to the Office of the State Appellate Public Defender from the General Fund, the following amounts to be expended for the designated expense classes, for the period July 1, 2013, through June 30, 2014:

FOR:

Personnel Costs	\$1,758,800
Operating Expenditures	<u>314,800</u>
TOTAL	\$2,073,600

SECTION 3. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Office of the State Appellate Public Defender is authorized no more than twenty-three (23) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or

be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

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 21, 2013.

CHAPTER 128  
(H.B. No. 263)

AN ACT

APPROPRIATING MONEYS TO THE ATTORNEY GENERAL FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; EXEMPTING APPROPRIATION FROM OBJECT AND PROGRAM TRANSFER LIMITATIONS; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION; DIRECTING THE RECALCULATION OF CERTAIN LEGAL FEES; AND DIRECTING THE COLLECTION OF ADDITIONAL LEGAL SERVICE FEES.

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

SECTION 1. There is hereby appropriated to the Attorney General, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. STATE LEGAL SERVICES:				
FROM:				
General				
Fund	\$16,041,300	\$690,800		\$16,732,100
Consumer Protection				
Fund	215,600	153,000	\$35,500	404,100
Federal Grant				
Fund	<u>704,800</u>	<u>346,600</u>	<u>0</u>	<u>1,051,400</u>
TOTAL	\$16,961,700	\$1,190,400	\$35,500	\$18,187,600
II. SPECIAL LITIGATION:				
FROM:				
General				
Fund		\$669,400		\$669,400
GRAND TOTAL	\$16,961,700	\$1,859,800	\$35,500	\$18,857,000

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Attorney General is authorized no more than one hundred eighty-eight and one-tenth (188.1) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations

Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EXEMPTIONS FROM OBJECT AND PROGRAM TRANSFER LIMITATIONS. For fiscal year 2014, the Attorney General is hereby exempted from the provisions of Section 67-3511(1), (2) and (3), Idaho Code, allowing unlimited transfers between object codes and between programs, for all moneys appropriated to it for the period July 1, 2013, through June 30, 2014. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

SECTION 4. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

SECTION 5. DIRECTING THE RECALCULATION OF CERTAIN LEGAL FEES. The Division of Financial Management is directed to recalculate the fees for services provided by the Attorney General as included in the statewide cost allocation for the Idaho Transportation Department, Department of Health and Welfare and the Military Division. These agencies will no longer pay the Attorney General directly, but rather provide payment to the General Fund, thereby recovering their costs through the statewide cost allocation process, through the Division of Financial Management, as provided for in section 67-3531, Idaho Code.

SECTION 6. DIRECTING THE COLLECTION OF ADDITIONAL LEGAL SERVICE FEES. The Division of Financial Management is directed to collect additional legal service fees in the amount of \$100,800 from the Idaho Transportation Department, and \$100,800 from the Idaho State Police, in addition to all other Attorney General fees calculated for statewide cost allocation.

Approved March 21, 2013.

CHAPTER 129  
(H.B. No. 41)

AN ACT

RELATING TO DRIVER'S LICENSES; AMENDING SECTION 49-326, IDAHO CODE, TO CLARIFY WHEN VISUALLY IMPAIRED INDIVIDUALS ARE CONSIDERED COMPETENT TO DRIVE A MOTOR VEHICLE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 49-326, Idaho Code, be, and the same is hereby amended to read as follows:

49-326. AUTHORITY OF DEPARTMENT TO SUSPEND, DISQUALIFY OR REVOKE DRIVER'S LICENSE AND PRIVILEGES. (1) If the court has not ordered the suspension of a license or privileges, the department is authorized to suspend, disqualify or revoke the license or privileges of a driver without prelimi-

nary hearing upon a showing by its records or other sufficient evidence that the driver:

- (a) Has committed an offense for which mandatory revocation, suspension or disqualification of license or privileges is required upon conviction, court order or administrative action;
- (b) Has been convicted in any court in this state of an offense against a municipal ordinance which would have been grounds for suspension, revocation or disqualification of his driver's license or privileges had the charge been prosecuted under a state law;
- (c) Is incompetent to drive a motor vehicle;
  1. Any person who in the opinion of the department, based upon recommendation of the person's personal physician, is afflicted with or subject to any condition which brings about momentary or prolonged lapses of consciousness or control, which is or may become chronic, or when the person is suffering from a physical or mental disability or disease serving to prevent him from exercising reasonable and ordinary control over a motor vehicle while operating it upon the streets and highways, or any person who is unable to understand highway signs, warning, regulating or directing traffic, is incompetent to drive a motor vehicle.
  2. Any person who shall not have minimum visual acuity with or without corrective lenses of 20/40 in at least one (1) eye as determined by the Snellen system or other available systems is incompetent to operate a motor vehicle, however, the department shall have the authority to license such person upon the recommendation of an ophthalmologist or qualified physician and upon passage of a skills test. At 20/70 or more in both eyes with or without corrective lenses the department may suspend the driver's license and privileges. Any person who applies for or receives any type of tax, welfare or other benefits or exemptions for the blind shall be conclusively presumed incompetent to operate a motor vehicle. This presumption can be overcome by any person whose vision can be corrected to a visual acuity of 20/40 or better in one (1) eye as documented by a licensed ophthalmologist or optometrist.
  3. Any person, department, or political subdivision of the state of Idaho who receives an application for any type of tax, welfare, aid or other benefits or exemptions for the blind shall immediately forward the name, address, sex, date of birth, and date of application of the applicant to the department.
  4. Any physician who has reason to believe that a patient is incompetent to drive a motor vehicle as defined in this subsection, may submit a report to the department. Before submitting a report, a physician should notify the patient or the patient's family of the physician's concerns about the patient's ability to drive. If the physician submits a report, the physician shall provide a copy of the report to the patient or to a member of the patient's family. If a physician submits a report in good faith, no professional disciplinary procedure, no monetary liability and no cause of action may arise against the physician for submission of the report;
- (d) Has permitted an unlawful or fraudulent use of a driver's license;
- (e) Has committed an offense in another state or jurisdiction as evidenced by a conviction, court order or administrative action, which if committed in Idaho would be grounds for suspension, disqualification or revocation;
- (f) Has been convicted of the offense of reckless driving, or fleeing or attempting to elude a peace officer, and providing that the operating privilege shall be suspended for a period of thirty (30) days upon conviction and providing further, that if a second conviction occurs within a two (2) year period of time from the time of the first conviction

tion, the suspension shall be for ninety (90) days, and if a third conviction shall occur within a three (3) year period of time from the time of the first conviction, the period of suspension shall be for one (1) year;

(g) Has failed to satisfy a judgment as set forth in chapter 12, title 49, Idaho Code;

(h) Has failed to maintain proof of financial responsibility as set forth in chapter 12, title 49, Idaho Code;

(i) Has a driving record which shows a violation point count of twelve (12) or more points in any consecutive twelve (12) month period;

(j) Is an habitual violator of traffic laws;

(k) Has been convicted of the offense of violation of a restricted license and providing the driver's license and privileges be suspended for a period of thirty (30) days;

(l) Has been convicted for the offense of leaving the scene of an accident involving damages to a vehicle, the period of revocation shall be one (1) year;

(m) Has been convicted for the offense of leaving the scene of an accident resulting in injury or death, the period of revocation shall be one (1) year;

(n) Is under the age of eighteen (18) years and is not satisfactorily enrolled in school, has not received a waiver pursuant to or has not completed school as provided in section 49-303A, Idaho Code;

(o) Was cited under the age of seventeen (17) years and subsequently received a conviction involving a moving traffic violation arising out of the operation of a motor vehicle, and providing the driver shall be sent a written warning from the Idaho transportation department for a first conviction; the driver's license shall be suspended for a period of thirty (30) days for a second conviction; and the driver's license shall be suspended for a period of sixty (60) days for a third or subsequent conviction; and providing further that no restricted driving privileges shall be issued during any period of suspension hereunder.

(2) A violation point is assessed for conviction of any charge or with proof of any infraction involving a moving traffic violation. A value of one (1) point shall be given for a less serious violation and up to four (4) points for a more serious violation. Conviction or proof of infraction for only one (1) violation arising from one (1) occasion of arrest or citation shall be counted in determining the violation point count.

(3) The department is authorized and directed to establish a violation point count system for various moving traffic violations and infractions occurring either within or without the state of Idaho, affecting all holders of driver's licenses issued by the department.

(4) Notification of suspension, revocation, cancellation or disqualification. Upon suspending, revoking, canceling or disqualifying the driver's license or driving privileges of any person, the department shall immediately notify the applicant or licensee in writing, at the licensee's address on file with the department pursuant to section 49-320, Idaho Code. Upon his request, the department shall afford him an opportunity for a hearing before a hearing officer appointed by the director. The hearing may be held by telephone within twenty (20) days after receipt of the request, unless this period is for good cause shown, extended by the hearing officer for one ~~ten-day~~ ten (10) day period. The notice and hearing shall be required prior to the imposition of additional suspension or disqualification periods beyond the periods as set forth in this section. Upon a hearing, the hearing officer may administer oaths, may issue subpoenas for the attendance of witnesses and the production of relevant books and papers, and may require a reexamination of the licensee. Upon the hearing, the department shall either rescind its order or, with good cause, may affirm or extend the sus-

pension or disqualification of the driver's license or revoke the driver's license.

Whenever a driver's license, permit or driving privilege has been suspended or revoked by the department as provided in this section, other than as set forth in subsection (1) (c), (d), (g), (h), (m), (n) or (o) of this section, the department may issue a temporary restricted permit restricting the time, area and purpose of use. The application, eligibility requirements and form of the temporary restricted permit shall be provided by administrative rule. A temporary restricted permit may be issued to grant noncommercial driving privileges, but no temporary restricted permit shall be issued which grants driving privileges to operate a commercial motor vehicle.

(5) The department shall not suspend or revoke a driver's license or privileges for a period of more than one (1) year, unless otherwise provided by law. The provisions of this subsection shall not be applicable with respect to the issuance of temporary restricted permits as provided in section 49-325, Idaho Code, nor shall it be applicable to those suspensions placed on an individual's record for the purpose of administering suspensions ordered to take effect after an individual's release from confinement or imprisonment pursuant to chapter 80, title 18, Idaho Code.

(6) The department shall not disqualify a driver for a period longer than specified by 49 CFR part 383.

Approved March 22, 2013.

CHAPTER 130  
(H.B. No. 55)

AN ACT

RELATING TO THE IDAHO TELEPHONE SOLICITATION ACT; AMENDING SECTION 48-1003A, IDAHO CODE, TO REMOVE AN EXCEPTION, TO REMOVE CERTAIN DEFINITIONS, TO PROVIDE THAT IT IS NOT A VIOLATION OF THE PROVISIONS OF THIS SECTION FOR A TELEPHONE SOLICITATION TO BE MADE BY OR ON BEHALF OF A BUSINESS HAVING AN EXISTING OR ESTABLISHED BUSINESS RELATIONSHIP WITH AN IDAHO RESIDENTIAL SUBSCRIBER IF THE TELEPHONE SUBSCRIBER HAS NOT STATED THAT HE DOES NOT WISH TO RECEIVE SOLICITATIONS FROM OR ON BEHALF OF SUCH BUSINESS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 48-1003A, Idaho Code, be, and the same is hereby amended to read as follows:

48-1003A. NO TELEPHONE SOLICITATION CONTACT LIST.

(1) (a) Any Idaho residential, mobile or telephonic paging device telephone subscriber desiring to be placed on the Idaho "no telephone solicitation contact" list, indicating that the subscriber does not wish to receive telephone solicitations, may be placed upon such list through a procedure approved by the attorney general.

(b) Notwithstanding any other provision of this chapter, a national "do-not-call" registry established and maintained by the federal trade commission, pursuant to 16 CFR 310.4(b)(1)(iii)(B), may serve as the Idaho "no telephone solicitation contact" list provided by this chapter. The attorney general may provide to the federal trade commission, for inclusion in the national "do-not-call" registry, the telephone numbers of Idaho residents that are on the Idaho "no telephone solicitation contact" list.

(2) It is a violation of the provisions of this chapter for a telephone solicitor to make or cause to be made any telephone solicitation, as defined

by section 48-1002(11) (a) , Idaho Code, to any telephone number which is assigned by a telephone company to an Idaho resident listed on the Idaho "no telephone solicitation contact" list when that telephone number has been on such list for at least three (3) months prior to the date the telephone solicitation is made.

(3) Section 48-1006, Idaho Code, notwithstanding, any violation of the provisions of this section shall subject the person violating the terms of the provisions of this section to a civil penalty, to be imposed by the district court, as follows: for the first violation, not to exceed five hundred dollars (\$500); for the second violation, not to exceed two thousand five hundred dollars (\$2,500); for the third and subsequent violations, not to exceed five thousand dollars (\$5,000) per violation. Penalties received under the provisions of this section shall be expended pursuant to legislative appropriation.

(4) This section is not applicable to telephone solicitations:

(a) To a telephone subscriber's commercial or business telephone number;

(b) ~~(i) Where an established business relationship exists, as defined in subsection (3) of section 48-1002, Idaho Code, between the telephone solicitor and the telephone subscriber; provided however, the established and existing business relationship exception shall not apply between a telephone company and a telephone subscriber under this section unless the telephone subscriber shall have previously consented to receive a telephone solicitation from such company or its agent;~~

~~(ii) For purposes of this section, "telephone company" means a person providing telecommunications services to the public, or any segment thereof, for compensation, by wire, cable, radio, lightwaves, cellular signal or other means. "Telecommunications services" means the conveyance of voice, data, sign, signal, writing, sound, messages or other information at any frequency over any part of the electromagnetic spectrum and the subscriber has not stated to the telephone solicitor that he does not wish to receive telephone solicitations made by or on behalf of the business with whom the established business relationship exists;~~

(c) By a minor seeking to sell a good or service, pursuant to a telephone solicitation, for a charitable purpose or organization.

(5) The attorney general shall advise telephone subscribers who register with his office under the provisions of this section of all self-help measures available to them to reduce unwanted telephone solicitations.

Approved March 22, 2013.

CHAPTER 131  
(H.B. No. 105)

AN ACT

RELATING TO THE SEXUAL OFFENDER REGISTRATION ACT; AMENDING SECTION 18-8307, IDAHO CODE, TO REVISE PROVISIONS RELATING TO REGISTRATION.

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

SECTION 1. That Section 18-8307, Idaho Code, be, and the same is hereby amended to read as follows:

18-8307. REGISTRATION. (1) Registration shall consist of a form provided by the department and approved by the attorney general, which shall be

signed by the offender and shall require the information set forth in subsection (1) of section 18-8305, Idaho Code.

(2) At the time of registration, the sheriff shall obtain a photograph and fingerprints, in a manner approved by the department, and require the offender to provide full palm print impressions of each hand. A violent sexual predator shall pay a fee of ~~ten~~ fifty dollars (\$~~150.00~~ 150.00) to the sheriff at the time of the first calendar quarter registration and ten dollars (\$10.00) per registration every subsequent quarter in the same calendar year. All other offenders shall pay an annual fee of ~~forty~~ eighty dollars (\$~~480.00~~ 480.00) to the sheriff for registration. The sheriff may waive the registration fee if the violent sexual predator or other offender demonstrates indigency. The fees collected under this section shall be used by the sheriff to defray the costs of violent sexual predator and other sexual offender registration and verification and for electronic notification, law enforcement information sharing and tracking. Irrespective of the classification or designation of the offender or predator, each county shall cause forty dollars (\$40.00) per offender per year of the fees collected under this section to be used for development, continuous use and maintenance of a statewide electronic notification, information sharing and tracking system as implemented by the Idaho sheriffs' association.

(3) The sheriff shall forward the completed and signed form, photograph, fingerprints and palm prints to the department within three (3) working days of the registration.

(a) The official conducting the registration shall ensure that the notification form is complete and that the offender has read and signed the form.

(b) No person subject to registration shall furnish false or misleading information when complying with registration and notification requirements of this chapter.

(4) (a) Within two (2) working days of coming into any county to establish residence, an offender shall register with the sheriff of the county. The offender thereafter shall register annually, unless the offender is designated as a violent sexual predator, in which case the offender shall register with the sheriff every three (3) months as provided in this section. If the offender intends to reside in another jurisdiction, the offender shall register in the other jurisdiction within two (2) days of moving to that jurisdiction and will not be removed from the sexual offender registry in Idaho until registration in another jurisdiction is complete.

(b) A nonresident required to register pursuant to section 18-8304(1)(b), Idaho Code, shall register with the sheriff of the county where employed or enrolled as a student within two (2) working days of the commencement of employment or enrollment as a student in an educational institution, provided that nonresidents employed in counseling, coaching, teaching, supervising or working with minors in any way, regardless of the period of employment, must register prior to the commencement of such employment.

(5) Registration shall be conducted as follows:

(a) For violent sexual predators the department shall mail a non-forwardable notice of quarterly registration to the offender's last reported address within three (3) months following the last registration;

(b) For all other sex offenders the department shall mail an annual, nonforwardable notice of registration to the offender's last reported address;

(c) Within five (5) days of the mailing date of the notice, the offender shall appear in person at the office of the sheriff in the county in which the offender is required to register for the purpose of completing the registration process;

(d) If the notice is returned to the department as not delivered, the department shall inform the sheriff with whom the offender last registered of the returned notice.

(6) All written notifications of duty to register as provided herein shall include a warning that it is a felony as provided in section 18-8327, Idaho Code, for an offender to accept employment in any day care center, group day care facility or family day care home, as those terms are defined in chapter 11, title 39, Idaho Code, or to be upon or to remain on the premises of a day care center, group day care facility or family day care home while children are present, other than to drop off or pick up the offender's child or children.

(7) An offender shall keep the registration current for the full registration period. The full registration period is for life; however, offenders may petition for release from the full registration period as set forth in section 18-8310, Idaho Code.

Approved March 22, 2013.

CHAPTER 132  
(H.B. No. 107)

AN ACT

RELATING TO ABSENTEE VOTING; AMENDING CHAPTER 10, TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 34-1012, IDAHO CODE, TO PROVIDE ALTERNATIVE PROCEDURES FOR ABSENTEE VOTING AND EARLY VOTING; AND AMENDING CHAPTER 10, TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 34-1013, IDAHO CODE, TO PROVIDE PROCEDURES FOR EARLY VOTING BALLOT SECURITY.

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

SECTION 1. That Chapter 10, Title 34, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 34-1012, Idaho Code, and to read as follows:

34-1012. ALTERNATIVE PROCEDURES FOR ABSENTEE VOTING -- EARLY VOTING. Those counties that utilize absentee voting facilities that have access to the Idaho statewide voter registration system and count ballots at a central location may elect to conduct "early voting" according to the provisions of this section. For those counties that elect to do "early voting," early voting shall begin on or before the third Monday before the election and end at 5:00 p.m. on the Friday before the election. Primary election ballots shall be issued pursuant to section 34-1002(2), Idaho Code.

(1) A voter who appears at an "early voting" station to vote shall state his or her name and address to the election official and present the voter's identification as required by sections 34-1113 and 34-1114, Idaho Code.

(2) The election official shall examine the records to ascertain whether or not such applicant is registered and lawfully entitled to vote as requested. The provisions of section 34-408A, Idaho Code, authorizing election day registration shall also apply in determining the applicant's qualifications to vote.

(3) Before receiving a ballot, each elector shall sign his or her name in the election register and poll book provided for early voting.

(4) The elector shall then be given the appropriate ballots that have been stamped with the official election stamp and shall be given folding instructions for such ballots, if appropriate.

(5) Upon receipt of the ballots, the elector shall retire to a vacant voting booth and mark the ballots according to the instructions provided.

(6) After marking the ballot, the elector shall present himself or herself to the election official at the ballot box and state his or her name and address. The elector shall then deposit the ballot in the ballot box or hand it to the election official, who shall deposit it. The election official shall then record that the elector has voted and proclaim the same in an audible voice.

(7) Voters requiring assistance shall be provided with such assistance in accordance with section 34-1108, Idaho Code.

(8) Electioneering is prohibited at an early voting polling place as provided in section 18-2318, Idaho Code.

SECTION 2. That Chapter 10, Title 34, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 34-1013, Idaho Code, and to read as follows:

34-1013. EARLY VOTING BALLOT SECURITY. A detailed plan for the security of ballots for early voting shall be submitted to the secretary of state for approval no later than thirty (30) days before early voting begins. At a minimum, the following procedures must be followed:

(1) The ballot boxes used for casting early ballots shall remain locked and secured with a numbered seal until the time of tabulation on election day.

(2) A record shall be maintained consisting of the number of ballots issued by date and seal number of each ballot box used for early voting.

(3) Arrangements shall be made to have a deputy sheriff, police officer or bonded private security firm secure the location.

(4) The actual counting of ballots shall not begin until election day, and the results shall not be released to the public until all voting places in the state have closed.

Approved March 22, 2013.

#### CHAPTER 133

(H.B. No. 130, As Amended in the Senate)

#### AN ACT

RELATING TO IRRIGATION DISTRICTS; AMENDING SECTION 43-201, IDAHO CODE, TO REVISE IRRIGATION DISTRICT ELECTION PROVISIONS, TO PROVIDE FOR THE COMMENCEMENT AND DURATION OF TERMS OF OFFICE, TO PROVIDE A PROCEDURE IF NO DIRECTOR IS ELECTED AND QUALIFIED AT THE END OF AN INCUMBENT'S TERM, TO PROVIDE FOR RETROACTIVITY OF SPECIFIED ELECTION REQUIREMENTS UNDER CERTAIN CONDITIONS, TO PROVIDE THAT CANDIDATES FOR ELECTION TO THE OFFICE OF DIRECTOR SHALL BE NOMINATED, TO PROVIDE FOR NOMINATING PETITIONS, TO PROVIDE FOR OATHS, TO PROVIDE FOR VERIFICATION OF QUALIFICATIONS BY THE SECRETARY OF THE IRRIGATION DISTRICT, TO PROVIDE FOR CERTIFICATION OF QUALIFIED NOMINEES FOR INCLUSION ON THE ELECTION BALLOT, TO PROVIDE FOR DISQUALIFICATION OF CERTAIN NOMINEES AND TO PROVIDE A PROCEDURE RELATING TO DISQUALIFICATION; AMENDING SECTION 43-202, IDAHO CODE, TO PROVIDE FOR A DIRECTOR'S OATH AND BOND, TO PROVIDE FOR SPECIFIED ACTION AT A MEETING OF THE IRRIGATION DISTRICT'S BOARD OF DIRECTORS, TO PROVIDE FOR VERIFICATION OF SPECIFIED QUALIFICATIONS, TO PROVIDE FOR CERTIFICATES OF ELECTION, TO PROVIDE FOR BONDS, TO PROVIDE FOR ASSUMPTION OF DUTIES OF THE DIRECTOR AND TO PROVIDE FOR TERMINATION OF AN INCUMBENT'S TERM OF OFFICE; AND AMENDING SECTION 43-208, IDAHO

CODE, TO REVISE PROVISIONS RELATING TO MEETING FOR THE PURPOSE OF CANVASSING RETURNS, TO PROVIDE A PROCEDURE FOR THE SECRETARY FOLLOWING DECLARATION OF THE RESULT AND TO REMOVE PROVISIONS RELATING TO CERTAIN DUTIES OF THE SECRETARY.

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

SECTION 1. That Section 43-201, Idaho Code, be, and the same is hereby amended to read as follows:

43-201. ELECTION, TERM OF OFFICE, NOMINATIONS AND QUALIFICATIONS. (1) Following the organization of any district, an election shall be held in accordance with section 34-106, Idaho Code, at which shall be elected one (1) director for each division of said district by the electors of the district at large.

(2) The term of office of the directors shall, immediately after the first election following such organization, be selected by lot so that as nearly as may be, one-third (1/3) of the number shall hold office for the term of one (1) year; one-third (1/3) for the term of two (2) years, and the balance for the term of three (3) years. ~~And an election shall be held in the district each year thereafter in accordance with section 34-106, Idaho Code, for each year thereafter, at which directors shall be elected to elect directors to succeed those whose terms expire, to hold.~~ Each director's term of office shall commence on the regularly scheduled board meeting closest to the date specified for taking office in section 34-106, Idaho Code, and shall continue for a term of three (3) years, or until their successors are elected and qualified. If no director is elected and qualified at the end of an incumbent director's three (3) year term, an election shall be held at the next regular election of the irrigation district for the incumbent director's successor to hold office for the remainder of the unexpired term. This election requirement shall apply retroactively where an incumbent director remains in office on the date of the effective date of this act because the incumbent's successor was not elected and qualified in the 2012 election.

(3) Every director must be a qualified elector and a resident of the division of the director whom he is to succeed in office; provided that the bylaws may, by resolution of two-thirds (2/3) of the board and adoption by two-thirds (2/3) of the electors voting in a district election conducted in accordance with the general election laws of the state applicable to irrigation districts, set forth a provision allowing a district landowner to serve as the director from the division in which the landowner owns land, if the landowner possesses all the qualifications required of electors under the general laws of the state and has resided within fifteen (15) miles of the district for a period of at least thirty (30) days prior to the election; provided further that any landowner who owns land in more than one (1) division may serve as the director only from the division nearest which he resides.

(4) ~~Written nominations for the office of director if any are made, must be~~ Candidates for election to the office of director of an irrigation district shall be nominated by nominating petitions on forms provided by the district. Each nominating petition shall:

- (a) Identify the name of the nominee;
- (b) Identify the office for which the nomination is made;
- (c) Identify the term for which nomination is made;
- (d) Be signed by at least six (6) electors in districts having less than one hundred (100) resident electors and by at least twelve (12) electors in districts having more than one hundred (100) resident electors; and
- (e) Be filed with the secretary of the district not less than forty (40) days nor more than sixty (60) days before the date of election; and the names of the persons so nominated shall be placed upon official ballot to be furnished by the district.

(5) Each nominee shall subscribe to a nominee's oath on a form provided by the irrigation district, and shall submit the oath to the secretary of the district with the written nomination. The oath shall:

- (a) Identify the land the nominee owns within the district;
- (b) Provide the address of the nominee's residence;
- (c) Certify that the nominee meets the qualification requirements of section 43-111, Idaho Code; and
- (d) Certify that the nominee will meet such requirements on the date of election.

The secretary of the district shall verify the qualifications of each nominee and shall, no more than seven (7) days after the close of filing, certify the qualified nominees for inclusion on the election ballot. If at any time prior to the election, circumstances change so that a nominee no longer meets the qualification requirements of section 43-111, Idaho Code, the nominee shall be disqualified, shall not take office if elected and shall immediately file with the secretary of the district a written withdrawal of his nomination for the office of director. The secretary shall not place on the election ballot the name of any candidate that does not meet the qualification requirements of section 43-111, Idaho Code.

SECTION 2. That Section 43-202, Idaho Code, be, and the same is hereby amended to read as follows:

43-202. DIRECTOR'S OATH AND BOND. Within ten (10) days after receiving the certificate of election hereinafter provided for, said officers On the date a director's term of office is to begin, at the meeting of the irrigation district's board of directors as provided in section 43-201(2), Idaho Code, the person that has been elected shall: (1) take and subscribe the official oath and required by section 59-401, Idaho Code, in which the person shall verify that he or she meets the qualification requirements of section 43-111, Idaho Code; (2) be presented a certificate of election; (3) execute a bond if one (1) is hereinafter required; and (4) assume the duties of the office of director. The incumbent director's term of office shall be terminated upon the next director's assumption of office as provided in this section. Each director shall file the same in the office of the board of directors, and execute the bond hereinafter provided for. Each member of said board of directors shall execute an official bond in the sum of not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000), the amount to be determined and approved by the judge of the probate court of said county where such organization was effected and shall be recorded in the office of the county recorder thereof and filed with the secretary of said board. All official bonds provided for in this title shall be in the form prescribed by law for the official bond of county officers. If the district obtains a surety bond, blanket surety bond or crime insurance coverage pursuant to the applicable provisions of chapter 8, title 59, Idaho Code, the directors shall not be required to post a bond under the provisions of this section.

SECTION 3. That Section 43-208, Idaho Code, be, and the same is hereby amended to read as follows:

43-208. CANVASS OF RETURNS. The board of directors must meet at its usual place of meeting on or before the first Monday after next regularly scheduled board meeting following each election to canvass the returns, and they shall proceed in the same manner and with like effect, as near as may be, as the board of county commissioners in canvassing the returns of general elections, and when they shall have declared the result, the secretary shall make full entries in his records in like manner as is required of the county recorder in general elections enter a statement of the result on the records

~~of the board of directors as required by section 43-213, Idaho Code. The board of directors must declare elected the person or persons having the highest number of votes for each office. The secretary must, immediately, make out and deliver to such person or persons a certificate of election signed by him and authenticated with the seal of the board.~~

Approved March 22, 2013.

CHAPTER 134  
(H.B. No. 140)

AN ACT

RELATING TO PROPERTY TAXATION; AMENDING SECTION 63-602A, IDAHO CODE, TO PROVIDE THAT PROPERTY ON A RESERVATION BELONGING TO A FEDERALLY RECOGNIZED INDIAN TRIBE IS EXEMPT FROM PROPERTY TAXATION, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION.

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

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

63-602A. PROPERTY EXEMPT FROM TAXATION -- GOVERNMENT PROPERTY. (1) The following property is exempt from taxation: property belonging to the United States, except when taxation thereof is authorized by the congress of the United States, ~~this state, or~~; property belonging to the state of Idaho; property belonging to a federally recognized Indian tribe, as defined in section 67-4001, Idaho Code, which property is situated within the boundaries of the reservation of the Indian tribe; and property belonging to any county or municipal corporation or school district within this state.

(2) However, inventory property acquired under agricultural credit programs of the consolidated farm service agency of the United States department of agriculture shall be subject to taxation as other property in the county.

(3) However, unimproved real property of more than ten (10) contiguous acres owned in fee simple by the department of fish and game shall be subject to a fee in lieu of property taxes contingent upon the following conditions and requirements:

(a) The fee in lieu of property taxes shall not exceed the property tax for the property at the time of acquisition by the department of fish and game, unless the property tax rate for the property shall have been increased.

(b) The department shall determine and identify the parcels of property and their current use as qualified under the provisions of this act chapter. The department shall consult with the appropriate county treasurer and determine the fee to be paid on the property and credited continuously to the county current expense fund. The fee shall be an amount equal to the property tax the property would generate if assessed as agricultural property.

(c) Any future increase in the fee paid in lieu of property taxes shall be determined by the amount of property taxes the property would generate if assessed as agricultural property. The increase may be determined by the department working cooperatively with the appropriate county assessor. The method used for determining the fee that would be due on department property is to be used only under this subsection and has no other application in any other section of the Idaho Code.

(d) The department shall then provide to the assessor of the county where the parcels are located on or before the second Monday of March

each year, a listing identifying each parcel of unimproved property by legal description, size and amount of the fee for the preceding calendar year. The treasurer shall prepare and submit a billing for payment based on this information to the department. Once the fee has been determined, payment shall be made by June 20 of that year from moneys appropriated for that purpose. However, if the fees exceed the moneys appropriated for that purpose, the director of the department of fish and game shall calculate the percent reduction that must be made and certify the proportionate reduction to each county treasurer.

(e) For the purpose of this section only, unimproved real property shall mean property on which no homesite or improved site is located, and homesite or improved site shall mean any buildings, structures, or fixtures which have been erected or affixed to the land and the necessary acreage required to utilize the homesite or improved site as determined by the county assessor shall be exempt. For purposes of this subsection only, roads or fences shall not be considered as improvements.

Approved March 22, 2013.

CHAPTER 135  
(H.B. No. 161)

AN ACT

RELATING TO ELECTION CONSOLIDATION; AMENDING SECTION 33-2709, IDAHO CODE, TO REVISE ELECTION PROCEDURES FOR LIBRARY DISTRICTS IN CERTAIN INSTANCES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-2717A, IDAHO CODE, TO REVISE TIME REQUIREMENTS FOR DECLARATION OF INTENT FOR WRITE-IN CANDIDATES; AMENDING SECTION 34-106, IDAHO CODE, TO REVISE TIMING REQUIREMENTS FOR INITIATIVE, REFERENDUM, BOND, LEVY AND ANY OTHER BALLOT QUESTION ELECTIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 34-1002, IDAHO CODE, TO REVISE A CATCHLINE, TO REVISE PROVISIONS RELATING TO AN APPLICATION FOR AN ABSENTEE ELECTOR'S BALLOT FOR CERTAIN ELECTORS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 34-1703, IDAHO CODE, TO REVISE PETITION REQUIREMENTS FOR RECALL AND CITY INITIATIVE ELECTIONS; AMENDING SECTION 34-1704, IDAHO CODE, TO REVISE REQUIREMENTS FOR PRINTING OF PETITION AND SHEETS FOR SIGNATURES AND TIME LIMITS FOR PERFECTING A PETITION; AMENDING SECTION 34-1706, IDAHO CODE, TO REVISE REQUIREMENTS FOR EXAMINATION AND CERTIFICATION OF SIGNATURES; AMENDING SECTION 34-1707, IDAHO CODE, TO REVISE REQUIREMENTS FOR SUFFICIENCY OF PETITION, NOTIFICATION AND EFFECT OF RESIGNATION FOR A SPECIAL ELECTION; AMENDING SECTION 34-1711, IDAHO CODE, TO REVISE PROVISIONS REGARDING CANVASS OF RETURNS; AMENDING SECTION 34-1712, IDAHO CODE, TO REVISE NOTICE PROVISIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 34-1713, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE TIME WITHIN WHICH A RECALL MAY BE FILED; AMENDING SECTION 50-501, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 50-1044, IDAHO CODE, TO REVISE TIMING REQUIREMENTS FOR CERTAIN ELECTIONS AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 33-2709, Idaho Code, be, and the same is hereby amended to read as follows:

33-2709. EXISTING TAX-SUPPORTED TAX SUPPORTED CITY LIBRARIES MAY JOIN LIBRARY DISTRICTS. Any ~~tax-supported~~ tax supported city library may join an

established library district by majority vote of the qualified electors of the city according to procedure set forth in section 33-2707, Idaho Code. A true copy of the petition and the district library board's notice of approval or disapproval shall be sent to the city council. When the notice carries the approval of the district library board, the city council shall conduct the election and give notice of the results to the library district board and the board of county commissioners clerk shall order the election and give notice to the county clerk who shall conduct the election in a manner consistent with chapter 14, title 34, Idaho Code, and at such time as prescribed in section 34-106, Idaho Code. After receiving the certification of results of the election from the county clerk, the city council shall give notice of those results to the library district board and the board of county commissioners.

If the proposal has been approved by the majority required, the board of county commissioners of the home county of the district shall enter its order amending the boundaries of the district, including a map drawn in a draftsmanlike manner, and a copy shall be transmitted to the board of trustees of the library district, to the board of county commissioners of the county in which the petition arose, and to the board of library commissioners.

The board of trustees of the library district shall transmit a copy of the order to the county recorder, the county assessor of the home county and the state tax commission in a timely manner, but no later than December 15, in the year in which the election was held.

Addition of new territory to an existing library district shall not be considered an initial establishment. The existing district board of trustees shall continue to serve for the terms for which elected. When a vacancy occurs, appointment shall be made as provided in section 33-2716, Idaho Code.

SECTION 2. That Section 33-2717A, Idaho Code, be, and the same is hereby amended to read as follows:

33-2717A. DECLARATION OF INTENT FOR WRITE-IN CANDIDATE. No write-in vote for library district trustee in a library district 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 library trustee if elected. The declaration of intent shall be filed with the clerk of the library board not later than ~~twenty-five (25)~~ forty-five (45) days before the day of election.

SECTION 3. That Section 34-106, Idaho Code, be, and the same is hereby amended to read as follows:

34-106. LIMITATION UPON ELECTIONS. On and after January 1, 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) and subsection (7) of this section, 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.

(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, bond, levy and any other ballot question elections conducted by any political subdivision shall be held on the nearest date authorized in subsection (1) of this section which falls more than ~~forty-five (45)~~ sixty (60) days after the clerk of the political subdivision orders that such election shall be held in May and November of even-numbered years and fifty (50) days for all other elections, unless otherwise provided by law. Ballot language for any question to be placed on the ballot shall be submitted to the county clerk at least sixty (60) days before the election held in May and November of even-numbered years and at least fifty (50) days for all other elections.

(9) Recall elections may be held on any of the four (4) dates authorized in subsections (1) and (7) of this section that falls more than forty-five (45) days after the clerk of the political subdivision orders that such election shall be held.

(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 4. That Section 34-1002, Idaho Code, be, and the same is hereby amended to read as follows:

34-1002. APPLICATION FOR ABSENTEE BALLOT ~~---PRIMARY---ELECTIONS~~. (1) Any registered elector may make written application to the county clerk, or other proper officer charged by law with the duty of issuing official ballots for such election, for an official ballot or ballots of the kind or kinds to be voted at the election. The application shall contain the name of the elector, the elector's home address, county, and address to which such ballot shall be forwarded.

(2) In order to provide the appropriate primary election ballot to electors, in the event a political party elects to allow unaffiliated electors to vote in that party's primary election pursuant to section 34-904A, Idaho Code, the elector shall designate, as part of the written application

for a ballot for primary elections, the elector's party affiliation or designation as "unaffiliated." The application shall contain checkoff boxes for "unaffiliated" electors by which such electors shall indicate for which party's primary ballot the "unaffiliated" elector chooses to vote. Provided however, that no political party's primary election ballot shall be provided to an "unaffiliated" elector for a political party that has not elected to allow "unaffiliated" electors to vote in that political party's primary election pursuant to section 34-904A, Idaho Code. If an "unaffiliated" elector does not indicate a choice of political party's primary election ballot, the elector shall receive a nonpartisan ballot.

(3) In order to provide the appropriate primary election ballot to electors, in the event one (1) or more political parties elect to allow electors affiliated with a different political party to vote in that party's primary election, the application shall contain checkoff boxes by which such electors may indicate the primary ballot in which the elector wishes to vote.

(4) For electors who are registered to vote as of January 1, 2012, and who remain registered electors, the elector shall designate, as part of the written application for a ballot for the 2012 primary elections, the elector's party affiliation or designation as "unaffiliated." The application shall contain checkoff boxes for "unaffiliated" electors by which such electors shall indicate for which party's primary election ballot the "unaffiliated" elector chooses to vote, pursuant to section 34-904A, Idaho Code. Provided however, that no political party's primary election ballot shall be provided to an "unaffiliated" elector for a political party that has not elected to allow "unaffiliated" electors to vote in the party's primary election pursuant to section 34-904A, Idaho Code. If an "unaffiliated" elector does not indicate a choice of political party's primary election ballot, the elector shall receive a nonpartisan ballot. After the 2012 primary election, the county clerk shall record the party affiliation or "unaffiliated" designation so selected on the application for an absentee ballot as part of such an elector's record within the voter registration system as provided for in section 34-437A, Idaho Code.

(5) After the 2012 primary election, electors who remain registered voters and who did not vote in the 2012 primary elections and who make written application for an absentee ballot shall be designated as "unaffiliated" electors as provided in section 34-404, Idaho Code, and such electors shall be given the appropriate ballot for such "unaffiliated" designation pursuant to the provisions of this act.

(6) An elector may not change party affiliation or designation as "unaffiliated" on an application for absentee ballot. For primary elections, an elector may change party affiliation or designation as "unaffiliated" as provided for in section 34-411A, Idaho Code.

(7) The application for an absent elector's ballot shall be signed personally by the applicant. The application for a mail-in absentee ballot shall be received by the county clerk not later than 5:00 p.m. on the sixth day before the election. An application for in person absentee voting at the absent elector's polling place described in section 34-1006, Idaho Code, shall be received by the county clerk not later than 5:00 p.m. on the Friday before the election. Application for an absentee ballot may be made by using a facsimile machine or other electronic transmission. In the event a registered elector is unable to vote in person at the elector's designated polling place on the day of election because of an emergency situation which rendered the elector physically unable, the elector may nevertheless apply for an absent elector's ballot ~~on the day of election~~ by notifying the county clerk within ninety-six (96) hours prior to the closing of the polls. No person may, however, be entitled to vote under an emergency situation unless the situation claimed rendered the elector physically unable to vote at the elector's designated polling place within ninety-six (96) hours prior to the closing of the polls.

(8) A person may make application for an absent elector's ballot by use of a properly executed federal post card application as provided for in the laws of the United States known as uniformed and overseas citizens absentee voting act (UOCAVA, 42 U.S.C. 1973 ff, et seq., as amended). The issuing officer shall keep as a part of the records of such officer's office a list of all applications so received and of the manner and time of delivery or mailing to and receipt of returned ballot.

(9) The county clerk shall, not later than seventy-five (75) days after the date of each general election, submit a report to the secretary of state containing information concerning absentee voters as required by federal law.

SECTION 5. That Section 34-1703, Idaho Code, be, and the same is hereby amended to read as follows:

34-1703. FORM OF PETITION. (1) The recall petition for state officers other than members of the state legislature shall be in substantially the following form:

#### RECALL PETITION

To the honorable . . . ., Secretary of State for the State of Idaho:

We, the undersigned citizens and registered electors of the State of Idaho respectfully demand that . . . ., holding the office of . . . ., be recalled by the registered electors of this state for the following reasons, to-wit: (setting out the reasons for recall in not more than 200 words); that a special election therefor be called; that we, each for himself say: I am a registered elector of the State of Idaho; my residence, ~~post-office~~ address including city, and the date I signed this petition are correctly written after my name.

Signature	Printed Name	Residence	City <del>or</del>	Date
		Street and	<del>Post-Office</del>	
		Number		

(Here follow twenty numbered lines for signatures.)

(2) The recall petition for members of the state legislature shall be in substantially the following form:

#### RECALL PETITION

To the honorable . . . ., Secretary of State for the State of Idaho:

We, the undersigned citizens and registered electors of Legislative District No. . . . ., respectfully demand that . . . ., holding the office of . . . ., be recalled by the registered electors of Legislative District No. . . . . for the following reasons, to-wit: (setting out the reasons for recall in not more than 200 words); that a special election therefor be called; that we, each for himself say: I am a registered elector of Legislative District No. . . . ., my residence, ~~post-office~~ address including city, and the date I signed this petition are correctly written after my name.

Signature	Printed Name	Residence	City <del>or</del>	Date
		Street and	<del>Post-Office</del>	
		Number		

(Here follow twenty numbered lines for signatures.)

(3) The recall petition for county officers shall be in substantially the following form:

RECALL PETITION

To the honorable . . . . , County Clerk for the County of . . . . :

We, the undersigned citizens and registered electors of the County of . . . . , respectfully demand that . . . . , holding the office of . . . . , of the County of . . . . , be recalled by the registered electors of the County of . . . . for the following reasons, to-wit:

(setting out the reasons for recall in not more than 200 words); that a special election therefor be called; that we, each for himself say: I am a registered elector of the County of . . . . , my residence, ~~post-office~~ address including city, and the date I signed this petition are correctly written after my name.

Signature	Printed Name	Residence	City <del>or</del>	Date
		Street and	<del>Post-Office</del>	
		Number		

(Here follow twenty numbered lines for signatures.)

(4) The recall petition for city officers shall be in substantially the following form:

RECALL PETITION

To the honorable . . . . , City Clerk for the City of . . . . :

We, the undersigned citizens and registered electors of the City of . . . . , respectfully demand that . . . . , holding the office of . . . . , of the City of . . . . , be recalled by the registered electors of the City of . . . . for the following reasons, to-wit:

(setting out the reasons for recall in not more than 200 words); that a special election therefor be called; that we, each for himself say: I am a registered elector of the City of . . . . , my residence, ~~post-office~~ address including city, and the date I signed this petition are correctly written after my name.

Signature	Printed Name	Residence	City <del>or</del>	Date
		Street and	<del>Post-Office</del>	
		Number		

(Here follow twenty numbered lines for signatures.)

(5) The recall petition for special district officers shall be in substantially the following form:

RECALL PETITION

To the honorable . . . . , County Clerk of the County of . . . . :

We, the undersigned citizens and registered electors of (here insert the official name of the district), respectfully demand that . . . . , holding the office of . . . . , of the (district), be recalled by the registered electors of the (district) for the following reasons, to-wit: (insert the reasons for the recall in two hundred (200) words or less); that a special election therefor be called, that we, each for himself say: I am a registered elector of the (district), my residence, ~~post-office~~ address including city, and the date I signed this petition are correctly written after my name.

Signature	Printed Name	Residence	City <del>or</del>	Date
		Street and	Post-Office	
		Number		

(Here follow twenty numbered lines for signatures.)

SECTION 6. That Section 34-1704, Idaho Code, be, and the same is hereby amended to read as follows:

34-1704. PRINTING OF PETITION AND SHEETS FOR SIGNATURES -- TIME LIMITS FOR PERFECTING PETITION. (1) Before or at the time of beginning to circulate any petition for the recall of any officer subject to recall, the person or persons, organization or organizations under whose authority the recall petition is to be circulated, shall send or deliver to the secretary of state, county clerk, or city clerk, as the case may be, a copy of a prospective petition duly signed by at least twenty (20) electors eligible to sign such petition. The receiving officer shall immediately examine the petition and specify the form and kind and size of paper on which the petition shall be printed and circulated for further signatures. All petitions and signature sheets for recall shall be printed on a good quality bond ~~or ledger~~ paper of standardized size in substantial conformance within the provisions of section 34-1703, Idaho Code. To every sheet of petitioners' signatures shall be attached a full and correct copy of the recall petition.

(2) The secretary of state, county clerk, or city clerk, as the case may be, shall indicate in writing on the prospective recall petition that he has approved it as to form and the date of such approval. Upon approval as to form, the secretary of state, county clerk, or city clerk, shall inform the person or persons, organization or organizations under whose authority the recall petition is to be circulated, in writing, that the petition must be perfected with the required number of ~~certified~~ signatures within seventy-five (75) days following the date of approval as to form. Signatures on the prospective petition shall not be counted toward the required number of ~~certified~~ signatures. Any petition that has does not been perfected with contain the required number of ~~certified~~ signatures within the seventy-five (75) days allowed shall be declared null and void ab initio in its entirety.

SECTION 7. That Section 34-1706, Idaho Code, be, and the same is hereby amended to read as follows:

34-1706. EXAMINATION AND CERTIFICATION OF SIGNATURES. All petitions with attached signature sheets shall be filed on the same day with the secretary of state, county clerk, or city clerk, as the case may be. The secretary of state or the city clerk shall promptly transmit the petitions and attached signature sheets to the county clerk. An examination to verify whether or not the petition signers are qualified electors shall be conducted by the county clerk and a certificate shall be attached to the signature sheets as provided in section 34-1807, Idaho Code. This examination shall not exceed fifteen (15) business days from the date of receipt of the petitions.

SECTION 8. That Section 34-1707, Idaho Code, be, and the same is hereby amended to read as follows:

34-1707. SUFFICIENCY OF PETITION -- NOTIFICATION -- EFFECT OF RESIGNATION -- SPECIAL ELECTION. (1) In the event that a petition filed with the secretary of state is found by the secretary of state to contain the required number of certified signatures, the secretary of state shall promptly, ~~by certified mail, inform~~ provide written notice to the officer being recalled,

and the petitioner informing them, that the recall petition is in proper form.

(a) If the officer being recalled resigns his office within five (5) business days after notice from the secretary of state, his resignation shall be accepted and the resignation shall take effect on the day it is offered, and the vacancy shall be filled as provided by law.

(b) If the officer being recalled does not resign his office within five (5) business days after notice from the secretary of state, a special election shall be ordered by the secretary of state, unless he is the officer being recalled, in which event the governor shall order such special election. The special election must be held on the date prescribed in section 34-106, Idaho Code. If the officer being recalled is one (1) specified in section 34-1701(1) (a), Idaho Code, the special election shall be conducted statewide. If the officer being recalled is one (1) specified in section 34-1701(1) (b), Idaho Code, the special election shall be conducted only in the legislative district.

(2) In the event that a petition filed with the county clerk is found by the county clerk to contain the required number of certified signatures, the county clerk shall promptly, ~~by certified mail, inform~~ provide written notice to the officer being recalled, and the petitioner, informing them that the recall petition is in proper form.

(a) If the officer being recalled resigns his office within five (5) business days after notice from the county clerk, his resignation shall be accepted and the resignation shall take effect on the day it is offered, and the vacancy shall be filled as provided by law.

(b) If the officer being recalled does not resign his office within five (5) business days after notice from the county clerk, a special election shall be ordered by the county clerk. The special election must be held on the date prescribed in section 34-106, Idaho Code. The special election shall be conducted countywide.

(3) In the event that a petition filed with the county clerk concerning the recall of an official of a special district is found by the county clerk to contain the required number of certified signatures, the county clerk shall promptly, ~~by certified mail, inform~~ provide written notice to the officer being recalled, and the petitioner, and the governing board and ~~election officials~~ of the special district informing them that the recall petition is in proper form.

(a) If the officer being recalled resigns his office within five (5) business days after notice from the county clerk, his resignation shall be accepted and the resignation shall take effect on the day it is offered, and the vacancy shall be filled as provided by law.

(b) If the officer being recalled does not resign his office within five (5) business days after notice from the county clerk, a special election shall be ordered by the governing board of the special district. The special election must be held on the date prescribed in section 34-106, Idaho Code. The election shall be conducted by the county clerk in the manner provided in section 34-1401, Idaho Code.

(4) In the event that a petition filed with a city clerk is found by the city clerk to contain the required number of certified signatures, the city clerk shall promptly, ~~by certified mail, inform~~ provide written notice to the officer being recalled, and the petitioner, informing them that the recall petition is in proper form.

(a) If the officer being recalled resigns his office within five (5) business days after notice from the city clerk, his resignation shall be accepted and the resignation shall take effect on the day it is offered, and the vacancy shall be filled as provided by law.

(b) If the officer being recalled does not resign his office within five (5) business days after notice from the city clerk, a special election shall be ordered by the city clerk. The special election must be held

on the date prescribed in section 34-106, Idaho Code. The election shall be conducted by the county clerk in the manner provided in section 34-1401, Idaho Code, and shall be conducted citywide.

(5) In the event that a petition is found not to have the required number of signatures, the officer shall continue in office and no new recall petition may be circulated for a period of ninety (90) days against the same officer.

SECTION 9. That Section 34-1711, Idaho Code, be, and the same is hereby amended to read as follows:

34-1711. CANVASS OF RETURNS. (1) The board of county commissioners shall act as the board of canvassers for all special recall elections ~~involving state and county officers~~ that involve elections held wholly or partly within their county.

(a) For all special recall elections involving state officers, the board of county commissioners shall meet within ten (10) days after said election to canvass the votes cast at such election, and shall immediately transmit to the secretary of state an abstract of the votes cast.

(b) Within fifteen (15) days following the special recall election held to recall a state officer, the state board of canvassers shall meet and canvass the votes cast at such election, and the secretary of state shall immediately after the completion thereof, proclaim the results.

(c) For all special recall elections involving county officers, the board of county commissioners shall meet within ten (10) days after said election to canvass the votes cast at such election, and the county clerk shall immediately after the completion thereof, proclaim the results.

(d) For all special recall elections involving city officers, ~~the mayor and council shall meet within six (6) days after said election to canvass the votes cast at such election, and the city clerk shall immediately after the completion thereof, proclaim the results~~ or special district officials, the board of county commissioners shall meet within ten (10) days after said election to canvass the votes cast at such election, and the county clerk shall immediately after the completion thereof, proclaim the results. The county clerk shall certify the results of the recall election to the clerk of the political subdivision for which the election was held.

SECTION 10. That Section 34-1712, Idaho Code, be, and the same is hereby amended to read as follows:

34-1712. GENERAL ELECTION LAWS CONTROL. (1) The provisions relating to general elections, including the payment of expenses of conducting the recall election, shall govern special recall elections except where otherwise provided for.

(2) Whenever a special recall election is ordered, notice must be issued and posted in the same manner as for a general election.

(3) To recall any officer, a majority of the votes cast at the special recall election must be in favor of such recall, and additionally, the number of votes cast in favor of the recall must equal or exceed the votes cast at the last general election for that officer. If the officer was appointed or was not required to stand for election, then a majority of the votes cast in the recall election shall be the number necessary for recall.

(4) If recalled, an officer shall be recalled as of the time when the results of the special recall election are proclaimed, and a vacancy in the office shall exist.

(5) If an officer is recalled from his office the vacancy shall be filled in the manner provided by law for filling a vacancy in that office arising from any other cause.

SECTION 11. That Section 34-1713, Idaho Code, be, and the same is hereby amended to read as follows:

34-1713. TIME WITHIN WHICH RECALL MAY BE FILED -- REMOVAL OF SIGNATURES. (1) No petition for a recall shall be circulated against any officer until he has actually held his office under the current term for at least ninety (90) days.

(2) After one (1) special recall election, no further recall petition shall be filed against the same officer during his current term of office, unless the petitioners first pay into the public treasury which has paid such special recall election expenses the whole amount of the expenses for the preceding recall election. The specific reason for recall in one (1) recall petition for which an election has been held cannot be the basis for a second recall petition during that current term of office.

(3) The signer of any recall petition may remove his own name from the petition by crossing out, obliterating, or otherwise defacing his own signature at any time prior to the time when the petition is filed.

SECTION 12. That Section 50-501, Idaho Code, be, and the same is hereby amended to read as follows:

50-501. INITIATIVE AND REFERENDUM. The city council of each city shall provide by ordinance for direct legislation by the people through the initiative and referendum. Minimum requirements of the ordinance adopted shall be as follows:

(1) ~~p~~Petitioners for initiative or referendum shall be equal to twenty percent (20%) of the total number of electors who cast votes at the last general election in the city;

(2) ~~p~~Petitions for referendum shall be filed not less than sixty (60) days following the final adoption of the ordinance to be subject to referendum;

(3) ~~a~~A special election for initiative or referendum shall be provided as prescribed in section 34-106, Idaho Code;

(4) ~~r~~Requirements for signature, verification of valid petitions, printing of petition, and time limits, except as expressly modified herein, shall be as nearly as practicable as provided in ~~sections 34-1701 through 34-1705~~ chapter 18, title 34, Idaho Code. This section does not apply to bond elections.

SECTION 13. That Section 50-1044, Idaho Code, be, and the same is hereby amended to read as follows:

50-1044. AUTHORITY FOR RESORT CITY RESIDENTS TO APPROVE AND RESORT CITY GOVERNMENTS TO ADOPT, IMPLEMENT~~r~~ AND COLLECT CERTAIN CITY NONPROPERTY TAXES. The voters of any resort city with a population not in excess of ten thousand (10,000) according to the most recent census within the state of Idaho, organized under the general laws of the state, special charter, or a general incorporation act, are hereby given the freedom to authorize their city government to adopt, implement~~r~~ and collect one (1) or more local-option nonproperty taxes as provided herein. A resort city is a city that derives the major portion of its economic well-being from businesses catering to recreational needs and meeting needs of people traveling to that destination city for an extended period of time. The corporate authorities of any such resort city are hereby given the freedom and authority to adopt, implement~~r~~ and collect one (1) or more local-option nonproperty taxes as

provided herein, if approved by the required majority of city voters voting in an election as provided herein. No local-option nonproperty tax proposal may be presented to resort city voters for approval or modification for a period of ~~one (1) year~~ eleven (11) months after an election to approve or disapprove such tax. The election may be a special election conducted for the exclusive purpose of approving or disapproving such tax, or may be conducted as a part of any other special or general city election.

SECTION 14. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 22, 2013.

CHAPTER 136  
(H.B. No. 167, As Amended in the Senate)

AN ACT

RELATING TO MOTOR VEHICLE DEALERS AND SALESMEN; AMENDING SECTION 49-1603, IDAHO CODE, TO REMOVE PROVISIONS RELATING TO A NONVOTING MEMBER OF THE DEALER ADVISORY BOARD AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 16, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-1608B, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO THE IDAHO CONSUMER ASSET RECOVERY FUND, TO ESTABLISH PROVISIONS RELATING TO EXPENDITURES FROM SUCH FUND AND TO ESTABLISH PROVISIONS RELATING TO CLAIMS AGAINST SUCH FUND; AMENDING CHAPTER 16, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-1608C, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO THE CREATION OF THE IDAHO CONSUMER ASSET RECOVERY CONTROL BOARD AND TO ESTABLISH PROVISIONS RELATING TO FEES; AMENDING CHAPTER 16, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-1608D, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO CERTAIN APPLICANTS MAINTAINING A LICENSE BOND AND TO ESTABLISH PROVISIONS RELATING TO THE SUSPENSION OF FEES; AMENDING CHAPTER 16, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-1608E, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO THE SUBMISSION OF CLAIMS TO THE BOARD, TO ESTABLISH PROVISIONS RELATING TO PAYMENT OF CLAIMS AND TO ESTABLISH PROVISIONS RELATING TO SERVICE; AND AMENDING CHAPTER 16, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-1608F, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO THE PAYMENT OF CLAIMS, TO ESTABLISH PROVISIONS RELATING TO MAXIMUM AMOUNTS OF CLAIMS, TO ESTABLISH PROVISIONS RELATING TO THE BOARD WITHHOLDING PAYMENT OF CERTAIN CLAIMS, TO ESTABLISH PROVISIONS RELATING TO PRORATING CERTAIN CLAIMS, TO ESTABLISH PROVISIONS RELATING TO INSUFFICIENT MONEYS IN THE FUND, TO ESTABLISH PROVISIONS RELATING TO CERTAIN REIMBURSEMENTS TO THE FUND, TO PROVIDE FOR LIMITATIONS OF THE APPLICATION OF LAW AND TO PROVIDE FOR RULES.

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 -- DUTIES. (1) There shall be a dealer advisory board to consist of eleven (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, four (4) members appointed from licensed dealers selling used vehicles, 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.

SECTION 2. That Chapter 16, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-1608B, Idaho Code, and to read as follows:

49-1608B. IDAHO CONSUMER ASSET RECOVERY FUND ESTABLISHED -- EXPENDITURES AUTHORIZED. (1) There is hereby created in the state treasury an account to be known as the "Idaho consumer asset recovery fund" (ICAR), hereinafter referred to as the "fund." Moneys in the fund are hereby continuously appropriated to the department and shall be used exclusively to satisfy unpaid judgments as provided for in section 49-1608C, Idaho Code. The fund shall consist of moneys appropriated by the legislature and other moneys as provided for in law. All interest earned on investment by the department of moneys in the fund shall be returned to the fund.

(2) Except as provided for in subsection (3) of this section, moneys paid out of the fund shall be known as expenditures and shall be limited to awards based upon claims or final judgments of fraud, fraudulent representation or any violation of: provisions of this chapter; provisions of chapter 6, title 48, Idaho Code; provisions of chapter 5, title 49, Idaho Code; provisions of section 49-1418, Idaho Code; or provisions of federal motor vehicle safety standards or odometer fraud as provided for in this chapter. All expenditures from the fund by the board pursuant to the provisions of this act, including expenditures provided for in subsection (3) of this section, shall be paid out on warrants drawn by the department upon presentation of proper vouchers approved by the Idaho consumer asset recovery control board as established in section 49-1608C, Idaho Code.

(3) Notwithstanding any other provision of this act, no expenditures shall be made from the fund until the fund has accumulated one (1) full year

of fees. When the fund reaches or exceeds two million dollars (\$2,000,000), the fee provided for in section 49-1608C, Idaho Code, shall be temporarily suspended upon approval of the Idaho consumer asset recovery control board.

(4) Claims made against a dealer with an existing bond, pursuant to section 49-1608, Idaho Code, shall first be paid by the bond before claims may be approved for payment by the board from the fund. From July 1, 2013, through June 30, 2014, all dealers shall be required to maintain the surety bond required pursuant to the provisions of 49-1608, Idaho Code.

SECTION 3. That Chapter 16, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-1608C, Idaho Code, and to read as follows:

49-1608C. CREATION OF BOARD AND FEES. (1) The Idaho consumer asset recovery fund (ICAR) shall be administered by the Idaho consumer asset recovery control board, hereinafter referred to as the "board." The board shall be comprised of the director of the Idaho transportation department or his designee and the dealer advisory board or their designee(s), as established by section 49-1603, Idaho Code.

(2) In addition to fees authorized pursuant to section 49-1607, Idaho Code, and in addition to any fees authorized elsewhere in this chapter, the Idaho consumer asset recovery control board shall establish a fee to be collected from each applicant for a new or renewing license issued pursuant to this chapter. The fee provided for in this section shall be charged for each applicant for a motor vehicle dealer's license and the amount of such fee shall be set annually by the board. In setting the amount of the fee, the board shall take into consideration the balance of the fund and expenditures of moneys from the fund by all required participants. All fees collected pursuant to the provisions of this section shall be paid into the Idaho consumer asset recovery fund as established in section 49-1608B, Idaho Code. The department shall maintain an accurate record of all transactions involving the fund and report to the board at each meeting.

SECTION 4. That Chapter 16, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-1608D, Idaho Code, and to read as follows:

49-1608D. NEW APPLICANTS AND SUSPENSION OF FEES. In addition to the fees collected pursuant to section 49-1608C, Idaho Code, applicants for an initial motor vehicle dealer's license shall maintain a license bond pursuant to section 49-1608, Idaho Code, for three (3) consecutive years. If the fee has been temporarily suspended pursuant to section 49-1608B(3), Idaho Code, the new dealer shall pay the last set fee into the fund during the initial three (3) year licensing period. Only those renewing licensees who have not been the subject of a claim against their bond or against the fund for three (3) consecutive years shall be exempt from the requirement to maintain such bond as required pursuant to the provisions of section 49-1608, Idaho Code.

SECTION 5. That Chapter 16, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-1608E, Idaho Code, and to read as follows:

49-1608E. SUBMISSION OF CLAIMS. (1) Except as otherwise provided in this section, whenever any person is awarded a final judgment certified in a court of competent jurisdiction in the state of Idaho for:

(a) Any actual loss or damage in connection with the purchase or lease of a motor vehicle by reason of any fraud practiced on him or fraudulent representation made to him by a licensed motor vehicle dealer; or

(b) Any actual loss or damage by reason of a violation by a dealer of any of the provisions of chapter 6, title 48, Idaho Code, chapter 5, title 49, Idaho Code, or section 49-1418, Idaho Code, in connection with the purchase or lease of a motor vehicle on or after July 1, 2014, the judgment creditor may file a verified claim with the board requesting payment from the fund of the amount unpaid on the judgment subject to the following conditions:

(i) Unless the judgment has been appealed, the claim shall be filed with the department, acting on behalf of the board, no sooner than forty-five (45) days and no later than one (1) year after the judgment becomes final.

(ii) The board shall not consider claims submitted by motor vehicle dealers, financial institutions or institutions providing floorplans for motor vehicle dealers.

(2) To be eligible to receive any payment from the fund, any action instituted by a person against a licensee that may become a claim against the fund shall be served to the board in a manner consistent with the provisions of section 48-613, Idaho Code.

SECTION 6. That Chapter 16, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-1608F, Idaho Code, and to read as follows:

49-1608F. PAYMENT OF CLAIMS -- MAXIMUM. (1) The maximum claim of one (1) judgment creditor against the fund, based on an unpaid certified judgment arising out of any loss or damage by reason of a claim submitted pursuant to section 49-1608E, Idaho Code, involving a single transaction, shall be limited to fifty thousand dollars (\$50,000), regardless of the amount of the unpaid certified final judgment of one (1) judgment creditor.

(2) The aggregate of claims against the fund based on unpaid final judgments arising out of any loss or damage by reason of a claim submitted pursuant to section 49-1608E, Idaho Code, involving more than one (1) transaction shall be limited to one hundred twenty thousand dollars (\$120,000) per licensee, regardless of the total amounts of the unpaid certified judgments of judgment creditors.

(3) If a claim has been made against the fund, and the board has reason to believe that there may be additional claims against the fund from other transactions involving the same licensee, the board may withhold any payment from the fund involving the licensee for a period not to exceed the end of the relevant license period. After this period, if the aggregate of claims against the licensee exceeds one hundred twenty thousand dollars (\$120,000), a total of one hundred twenty thousand dollars (\$120,000) shall be prorated among the claimants and paid from the fund in proportion to the amounts of their unpaid certified judgments against the licensee.

(4) (a) Claims against motor vehicle dealers or their salespersons participating in the Idaho consumer asset recovery fund pursuant to section 49-1608E, Idaho Code, shall be prorated when the aggregate exceeds one hundred twenty thousand dollars (\$120,000) against one (1) dealer.

(b) Claims shall be prorated only after the dealer's twenty thousand dollar (\$20,000) bond has been exhausted and utilized first. Such additional claims shall be prorated when the aggregate exceeds one hundred thousand dollars (\$100,000) against one (1) dealer.

(5) Upon receipt of a certified judgment filed in support of a claim against the fund, the board shall send written notice to the licensee who is the subject of the unpaid judgment that a claim has been filed and that the licensee should satisfy the unpaid judgment. If the unpaid judgment is not fully satisfied within thirty (30) days following the date of the written notice by the board, the board shall make payment from the fund subject to the other limitations provided for in this act.

(6) If at any time the fund is insufficient to fully satisfy any claims or claim filed with the board and authorized by this act, the board shall pay such claim, claims or portion thereof to the claimants in the order that the claims were filed with the board.

(7) On payment by the board to a claimant from the fund, the board shall, within five (5) business days, notify the licensee in writing of the board's payment to the claimant and request full reimbursement be made to the board within thirty (30) days of the notification. Failure to reimburse the fund in full within the specified period shall be grounds for suspension or revocation of the license pursuant to title 49, chapter 16, Idaho Code. Any person whose license is revoked shall not be eligible to apply for a license as a motor vehicle dealer or for a license as a salesperson until the person has repaid in full the amount paid from the fund on his account, plus interest to be calculated pursuant to the provisions of section 28-22-104, Idaho Code.

(8) Nothing contained in this article shall limit the authority of the department to take disciplinary action against any licensee for any violation of this chapter or any rule promulgated thereunder, nor shall full repayment of the amount paid from the fund on a licensee's account nullify or modify the effect of any disciplinary action against that licensee for any violation.

(9) The department is authorized to promulgate reasonable rules not inconsistent with this chapter for the purpose of carrying out the provisions of this section.

Approved March 22, 2013.

CHAPTER 137  
(H.B. No. 170)

AN ACT

RELATING TO REAL ESTATE APPRAISERS; AMENDING SECTION 54-4105, IDAHO CODE, TO PROVIDE THAT LOCAL HIGHWAY JURISDICTIONS MAY PERFORM VALUE ESTIMATES IN THE SAME MANNER AS THE IDAHO TRANSPORTATION DEPARTMENT.

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

SECTION 1. That Section 54-4105, Idaho Code, be, and the same is hereby amended to read as follows:

54-4105. EXCEPTIONS. (1) The provisions of this chapter do not restrict the right to use the term "appraiser," provided that such term is not used in a manner that creates the impression of certification by the state of Idaho to perform real estate appraisals other than ad valorem tax appraisals. However, nothing in this chapter shall entitle a state licensed or state certified real estate appraiser to appraise real estate for ad valorem tax purposes unless he has first been certified by the Idaho state tax commission pursuant to section 63-105A(17), Idaho Code.

(2) The provisions of this chapter shall not apply to a licensed real estate broker, associate broker or salesperson who, in the ordinary course of his business gives an opinion of the price of real estate for the purpose of a prospective listing or sale, provided that such person does not represent himself as being a state licensed or certified real estate appraiser.

(3) The provisions of this chapter shall not prohibit a real estate broker or associate broker licensed under chapter 20, title 54, Idaho Code, whose license is active and in good standing, from rendering a broker's price opinion, for which the broker may charge a fee, provided the broker's price opinion complies with the following requirements:

(a) The broker's price opinion shall be in writing and contain the following:

- (i) A statement of the intended purpose of the price opinion;
- (ii) A brief description of the subject property and property interest to be priced;
- (iii) The basis of reasoning used to reach the conclusion of the price, including the applicable market data and/or capitalization computation;
- (iv) Any assumptions or limiting conditions;
- (v) A disclosure of any existing or contemplated interest of the broker(s) issuing the opinion;
- (vi) The name and signature of the broker(s) issuing the price opinion and the date of its issuance;
- (vii) A disclaimer that, unless the broker is licensed under the Idaho real estate appraisers act, chapter 41, title 54, Idaho Code, the report is not intended to meet the uniform standards of professional appraisal practice;
- (viii) A disclaimer that the broker's price opinion is not intended to be an appraisal of the market value of the property, and that if an appraisal is desired, the services of a licensed or certified appraiser should be obtained.

The broker's price opinion permitted under this chapter may not be used as an appraisal, or in lieu of an appraisal, in a federally related transaction.

(4) Any person who is not licensed or certified under the provisions of this chapter may assist a state licensed or certified real estate appraiser in the performance of an appraisal, provided that he is actively and personally supervised by the state licensed or certified appraiser and provided further that any appraisal report rendered in connection with the appraisal is reviewed and signed by the state licensed or certified real estate appraiser.

(5) The provisions of this chapter requiring mandatory licensure or certification shall not apply to employees or agents of the Idaho transportation department or a local highway jurisdiction when estimating the market value for property that is subject to eminent domain by the department or local highway jurisdiction, or property owned by the department or local highway jurisdiction that has been declared surplus, where a noncomplex appraisal would normally be ordered, and the market value is ten thousand dollars (\$10,000) or less. Such estimates of market value shall be reviewed and approved by an Idaho state certified general real estate appraiser. Idaho state certified general real estate appraisers who estimate or review market value of property under this section shall be exempt from the requirements of uniform standards of professional appraisal practice. A value estimate shall be provided to the property owner who shall also be informed of his right to request and receive an appraisal of his property.

(6) This chapter shall not prohibit a property owner from expressing his personal opinion of the value of his own property, nor shall the provisions of this chapter prohibit a lender, or employee of a lending institution, from forming and expressing an opinion of collateral value in the ordinary course of business including, but not limited to, mortgaging property, underwriting a loan, or foreclosing a loan, so long as such opinion of collateral value is not represented as being an appraisal of the market value of the property, or prepared under the provisions of this chapter.

(7) This chapter shall not prohibit an attorney or accountant from rendering professional advice within the ordinary course of his profession, so long as such advice is not represented to be an appraisal of the market value of the property.

CHAPTER 138  
(H.B. No. 214)

AN ACT

RELATING TO PUTATIVE FATHERS; AMENDING SECTION 7-1107, IDAHO CODE, TO PROVIDE A CODE REFERENCE AND TO REVISE PROVISIONS RELATING TO A PROCEEDING TO ESTABLISH PATERNITY OF A CHILD; AMENDING CHAPTER 11, TITLE 7, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 7-1126, IDAHO CODE, TO PROVIDE THAT A COURT SHALL NOT CONSIDER WHETHER A PARENT CONSENTED TO ADOPTION IN DETERMINING BEST INTEREST OF THE CHILD; AMENDING SECTION 16-1501, IDAHO CODE, TO PROVIDE THAT NOTHING IN THIS CHAPTER SHALL MODIFY THE REQUIREMENTS OF THE INDIAN CHILD WELFARE ACT; AMENDING SECTION 16-1504, IDAHO CODE, TO REVISE TERMINOLOGY, TO REVISE PROVISIONS RELATING TO THE RIGHTS OF PUTATIVE FATHERS WHOSE CHILDREN HAVE BEEN PLACED WITH ADOPTIVE PARENTS, TO REVISE PROVISIONS RELATING TO PUTATIVE FATHERS WHO DO NOT COMPLY WITH THE PROCEDURES FOR ESTABLISHING PARENTAL RIGHTS, TO PROVIDE THAT AN UNMARRIED BIOLOGICAL FATHER MUST FILE A PROCEEDING TO ESTABLISH PATERNITY PRIOR TO THE DATE OF FILING OF A PROCEEDING TO TERMINATE RIGHTS OF THE BIRTH MOTHER AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-1513, IDAHO CODE, TO PROVIDE THAT REGISTRATION OF NOTICE OF FILING OF PROCEEDINGS COMMENCES ESTABLISHMENT OF PATERNITY, TO PROVIDE CODE REFERENCES, TO PROVIDE THAT NOTICE TO A PUTATIVE FATHER OF PROCEEDINGS FOR ADOPTION CONSTITUTES IMPLIED CONSENT, TO PROVIDE FOR REVOCATION OF NOTICE OF INTENT TO CLAIM PATERNITY, TO PROVIDE FOR FEES TO COVER COSTS, TO REVISE TERMINOLOGY, TO PROVIDE FOR PAMPHLETS AND PUBLIC NOTICE REGARDING THE PUTATIVE FATHER REGISTRY, TO PROVIDE A PENALTY FOR FALSELY REGISTERING AS A PUTATIVE FATHER AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-2007, IDAHO CODE, TO PROVIDE A CODE REFERENCE AND TO PROVIDE FOR FATHERS WHO HAVE FAILED TO TIMELY FILE NOTICE OF FILING OF PROCEEDINGS; AND AMENDING SECTION 16-2008, IDAHO CODE, TO PROVIDE A CODE REFERENCE, TO PROVIDE FOR FATHERS WHO HAVE FAILED TO TIMELY FILE NOTICE OF FILING OF PROCEEDINGS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 7-1107, Idaho Code, be, and the same is hereby amended to read as follows:

7-1107. LIMITATION OF ACTION. (1) Except as provided in section 16-1504(9), Idaho Code, a pProceedings to establish paternity of the child under the provisions of this chapter may be instituted only either before or after the birth of the child and but must be instituted before the child reaches the age of majority as defined in section 32-101, Idaho Code.

(2) This section shall apply retroactively, and is for the benefit of any dependent child, whether born before or after the effective date of this act, and regardless of the past or current marital status of the parents.

SECTION 2. That Chapter 11, Title 7, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 7-1126, Idaho Code, and to read as follows:

7-1126. CUSTODY OF CHILDREN -- BEST INTEREST. In any proceeding to determine custody under the provisions of this chapter, the court shall apply sections 32-717 through 32-717E, Idaho Code. However, the court shall not consider whether or not the mother or father did or did not voluntarily consent to the adoption of the child or to the relinquishment of parental rights in determining best interest of the child.

SECTION 3. That Section 16-1501, Idaho Code, be, and the same is hereby amended to read as follows:

16-1501. MINORS AND ADULTS MAY BE ADOPTED. Any minor child may be adopted by any adult person residing in and having residence in Idaho, in the cases and subject to the rules prescribed in this chapter.

(1) Persons not minors may be adopted by a resident adult in cases where the person adopting has sustained the relation of parent to such adopted person:

(a) For a period in excess of one (1) year while the person was a minor; or

(b) For such period of time or in such manner that the court after investigation finds a substantial family relationship has been created.

(2) Adoptions shall not be denied solely on the basis of the disability of a prospective adoptive parent.

(a) "Adaptive equipment," for purposes of this chapter, means any piece of equipment or any item that is used to increase, maintain, or improve the parenting capabilities of a parent with a disability.

(b) "Disability," for purposes of this chapter, means, with respect to an individual, any mental or physical impairment which substantially limits one (1) or more major life activities of the individual including, but not limited to, self-care, manual tasks, walking, seeing, hearing, speaking, learning, or working, or a record of such an impairment, or being regarded as having such an impairment. Disability shall not include transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, other sexual behavior disorders, 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.

(c) "Supportive services," as used in this chapter, means services which assist a parent with a disability to compensate for those aspects of their disability which affect their ability to care for their child and which will enable them to discharge their parental responsibilities. The term includes specialized or adapted training, evaluations, or assistance with effective use of adaptive equipment, and accommodations which allow a parent with a disability to benefit from other services, such as Braille texts or sign language interpreters.

(3) If applicable, nothing in this chapter shall modify the requirements of the Indian child welfare act of 1978, 25 U.S.C. section 1902, et seq.

SECTION 4. That Section 16-1504, Idaho Code, be, and the same is hereby amended to read as follows:

16-1504. NECESSARY CONSENT TO ADOPTION. (1) Consent to adoption is required from:

(a) The adoptee, if he is more than twelve (12) years of age, unless he does not have the mental capacity to consent;

(b) Both parents or the surviving parent of an adoptee who was conceived or born within a marriage, unless the adoptee is eighteen (18) years of age or older;

(c) The mother of an adoptee born outside of marriage;

(d) Any biological parent who has been adjudicated to be the child's biological father by a court of competent jurisdiction prior to the mother's execution of consent;

(e) An unmarried biological father of an adoptee only if the requirements and conditions of subsection (2) (a) or (b) of this section have been proven;

- (f) Any legally appointed custodian or guardian of the adoptee;
- (g) The guardian or conservator of an incapacitated adult, if one has been appointed;
- (h) The adoptee's spouse, if any; and
- (i) An unmarried biological father who has filed a voluntary acknowledgment of paternity with the vital statistics unit of the department of health and welfare pursuant to section 7-1106, Idaho Code; and
- (j) The father of an illegitimate child who has adopted the child by acknowledgment.

(2) In accordance with subsection (1) of this section, the consent of an unmarried biological father is necessary only if the father has strictly complied with the all requirements of this section.

- (a) (i) With regard to a child who is placed with adoptive parents more than six (6) months after birth, an unmarried biological father shall have developed a substantial relationship with the child, taken some measure of responsibility for the child and the child's future, and demonstrated a full commitment to the responsibilities of parenthood by financial support of the child, of a fair and reasonable sum and in accordance with the father's ability, when not prevented from doing so by the person or authorized agency having lawful custody of the child, and either:

1. Visiting the child at least monthly when physically and financially able to do so, and when not prevented from doing so by the person or authorized agency having lawful custody of the child; or

2. Have regular communication with the child or with the person or agency having the care or custody of the child, when physically and financially unable to visit the child, and when not prevented from doing so by the person or authorized agency having lawful custody of the child.

- (ii) The subjective intent of an unmarried biological father, whether expressed or otherwise, unsupported by evidence of acts specified in this subsection shall not preclude a determination that the father failed to meet any one (1) or more of the requirements of this subsection.

- (iii) An unmarried biological father who openly lived with the child for a period of six (6) months within the one (1) year period after the birth of the child and immediately preceding placement of the child with adoptive parents, and who openly held himself out to be the father of the child during that period, shall be deemed to have developed a substantial relationship with the child and to have otherwise met all of the requirements of this subsection.

- (b) With regard to a child who is under six (6) months of age at the time he is placed with adoptive parents, an unmarried biological father shall have manifested a full commitment to his parental responsibilities by performing all of the acts described in this subsection ~~prior to the placement for adoption of the child in the home of prospective parents or~~ prior to the date of commencement the filing of any proceeding to terminate the parental rights of the birth mother, whichever event occurs first. The father shall have strictly complied with all of the requirements of this subsection by:

- (i) Commence Filing proceedings to establish paternity under section 7-1111, Idaho Code, and file filing with that court a sworn affidavit stating that he is fully able and willing to have full custody of the child, setting forth his plans for the care of the child, and agreeing to a court order of child support and the payment of expenses incurred in connection with the mother's pregnancy and the child's birth;

(ii) File Filing a notice of his commencement of the proceedings to establish his paternity of the child with the vital statistics unit of the department of health and welfare pursuant to section 16-1513, Idaho Code; and

(iii) If he had actual knowledge of the pregnancy, paying a fair and reasonable amount of the expenses incurred in connection with the mother's pregnancy and the child's birth, in accordance with his means, and when not prevented from doing so by the person or authorized agency having lawful custody of the child.

(3) An unmarried biological father whose consent is required under subsection (1) or (2) of this section may nevertheless lose his right to consent if the court determines, in accordance with the requirements and procedures of the termination of parent and child relationship act, sections 16-2001 through 16-2015, Idaho Code, that his rights should be terminated, based on the petition of any party as set forth in section 16-2004, Idaho Code.

(4) In any adoption proceeding pertaining to a child born out of wedlock, if there is no showing that an unmarried biological father has consented to or waived his rights regarding a proposed adoption, the petitioner shall file with the court a certificate from the vital statistics unit of the department of health and welfare, signed by the state registrar of vital statistics, stating that a diligent search has been made of the registry of notices from putative fathers, of a child born out of wedlock, and that the putative father involved has not filed notice of his commencement of the proceedings to establish his paternity, or if a filing is found, stating the name of the putative father and the time and date of filing. That certificate shall be filed with the court prior to the entrance of the final decree of adoption.

(5) An unmarried biological father who does not fully and strictly comply with each of the conditions provided in this section, is deemed to have waived and surrendered any right in relation to the child, including the right to notice of any judicial proceeding in connection with the adoption of the child, or for termination of parental rights and his consent to the adoption of the child is not required unless he proves, by clear and convincing evidence, all of the following:

(a) It was not possible for him, prior to the filing of a proceeding to terminate parental rights of the birth mother to:

(i) Commence proceedings to establish paternity of his child in accordance with section 7-1111, Idaho Code; and

(ii) File notice of the filing of proceedings to establish his paternity of the child with the vital statistics unit of the department of health and welfare in accordance with section 16-1513, Idaho Code;

(b) His failure to timely file notice of the filing of proceedings to establish his paternity of the child with the vital statistics unit of the department of health and welfare in accordance with section 16-1513, Idaho Code, and his failure to commence timely proceedings to establish paternity of his child in accordance with section 7-1111, Idaho Code, was through no fault of his own; and

(c) He filed notice of the filing of proceedings to establish paternity of his child in accordance with section 7-1111, Idaho Code, with the vital statistics unit of the department of health and welfare in accordance with section 16-1513, Idaho Code, and filed proceedings to establish his paternity of the child within ten (10) days after the birth of the child. Lack of knowledge of the pregnancy is not an acceptable reason for his failure to timely file notice of the commencement of proceedings or for his failure to commence timely proceedings.

(6) A minor parent has the power to consent to the adoption of his or her child. That consent is valid and has the same force and effect as a consent executed by an adult parent. A minor parent, having executed a consent,

cannot revoke that consent upon reaching the age of majority or otherwise becoming emancipated.

(7) No consent shall be required of, nor notice given to, any person whose parental relationship to such child shall have been terminated in accordance with the provisions of either chapter 16 or 20, title 16, Idaho Code, or by a court of competent jurisdiction of a sister state under like proceedings; or in any other manner authorized by the laws of a sister state. Where a voluntary child placement agency licensed by the state in which it does business is authorized to place a child for adoption and to consent to such child's adoption under the laws of such state, the consent of such agency to the adoption of such child in a proceeding within the state of Idaho shall be valid and no further consents or notices shall be required.

(8) The legislature finds that an unmarried biological father who resides in another state may not, in every circumstance, be reasonably presumed to know of, and strictly comply with, the requirements of this chapter. Therefore, when all of the following requirements have been met, that unmarried biological father may contest an adoption, prior to finalization of the decree of adoption, and assert his interest in the child:

(a) The unmarried biological father resides and has resided in another state where the unmarried mother was also located or resided;

(b) The mother left that state without notifying or informing the unmarried biological father that she could be located in the state of Idaho;

(c) The unmarried biological father has, through every reasonable means, attempted to locate the mother but does not know or have reason to know that the mother is residing in the state of Idaho; and

(d) The unmarried biological father has complied with the most stringent and complete requirements of the state where the mother previously resided or was located, in order to protect and preserve his parental interest and rights in the child in cases of adoption.

(9) Notwithstanding An unmarried biological father may, under the provisions of section 7-1107, Idaho Code, file a proceeding to establish his paternity filed pursuant to this section may be filed prior to the birth of the child; however, such paternity proceeding must be filed prior to the date of the filing of any proceeding to terminate parental rights of the birth mother.

SECTION 5. That Section 16-1513, Idaho Code, be, and the same is hereby amended to read as follows:

16-1513. REGISTRATION OF NOTICE OF COMMENCEMENT AND FILING OF PATERNITY PROCEEDINGS. (1) A person who is the father or claims to be the father of a child born out of wedlock may claim rights pertaining to his paternity of the child by commencing proceedings to establish paternity under section 7-1111, Idaho Code, and by filing with the vital statistics unit of the department of health and welfare notice of his ~~commencement~~ filing of proceedings to establish his paternity of the child born out of wedlock. The vital statistics unit of the department of health and welfare shall provide forms for the purpose of filing the notice of ~~commencement~~ filing of paternity proceedings, and the forms shall be made available through the vital statistics unit of the Idaho department of health and welfare and in the office of the county clerk in every county of this state. The forms shall include a written notification that filing pursuant to this section shall not satisfy the requirements of chapter 82, title 39, Idaho Code, and the notification shall also include the following statements:

(a) A parent may make a claim of parental rights of an abandoned child, abandoned pursuant to the provisions of chapter 82, title 39, Idaho Code, as provided by section 39-8206, Idaho Code, by filing a notice of claim of parental rights with the vital statistics unit of the depart-

ment of health and welfare on a form as prescribed and provided by the vital statistics unit of the department of health and welfare;

(b) The vital statistics unit of the department of health and welfare shall maintain a separate registry for claims to abandoned children, abandoned pursuant to the provisions of chapter 82, title 39, Idaho Code;

(c) The department shall provide forms for the purpose of filing a claim of parental rights of an abandoned child, abandoned pursuant to the provisions of chapter 82, title 39, Idaho Code, and the forms shall be made available through the vital statistics unit of the Idaho department of health and welfare and in the office of the county clerk in every county of this state;

(d) To be valid, a claim of parental rights of an abandoned child, abandoned pursuant to the provisions of chapter 82, title 39, Idaho Code, must be filed before an order terminating parental rights is entered by the court. A parent that fails to file a claim of parental rights prior to entry of an order terminating their parental rights is deemed to have abandoned the child and waived and surrendered any right in relation to the child, including the right to notice of any judicial proceeding in connection with the termination of parental rights or adoption of the child;

(e) Registration of notice of ~~commencement~~ filing of paternity proceedings pursuant to chapter 15, title 16, Idaho Code, shall not satisfy the requirements of chapter 82, title 39, Idaho Code. To register a parental claim to an abandoned child, abandoned pursuant to the provisions of chapter 82, title 39, Idaho Code, an individual must file an abandoned child registry claim with the vital statistics unit of the department of health and welfare and comply with all other provisions of chapter 82, title 39, Idaho Code, in the time and manner prescribed, in order to preserve parental rights to the child.

When filing a notice of the ~~commencement~~ filing of paternity proceedings, a person who claims to be the father of a child born out of wedlock, shall file with the vital statistics unit of the department of health and welfare, the completed form prescribed by the vital statistics unit of the department of health and welfare. Said form will be filled out completely, signed by the person claiming paternity, and witnessed before a notary public.

(2) The notice of the ~~commencement~~ filing of paternity proceedings may be filed prior to the birth of the child, but must be filed ~~prior to the placement for adoption of the child in the home of prospective parents or prior to the date of commencement~~ the filing of any proceeding to terminate the parental rights of the birth mother, ~~whichever event occurs first~~. The notice of the ~~commencement~~ filing of paternity proceedings shall be signed by the person filing the notice and shall include his name and address, the name and last address of the mother, and either the birth date of the child or the probable month and year of the expected birth of the child. The vital statistics unit of the department of health and welfare shall maintain a central registry for this purpose ~~which that~~ shall be subject to disclosure according to chapter 3, title 9, Idaho Code. The department shall record the date and time the notice of the ~~commencement~~ filing of proceedings is filed with the department. The notice shall be deemed to be duly filed with the department as of the date and time recorded on the notice by the department.

(3) If the unmarried biological father does not know the county in which the birth mother resides, he may initiate his action in any county, subject to a change in venue.

(4) Except as provided in section 16-1504(5), Idaho Code, aAny father of a child born out of wedlock who fails to file and register his notice of the commencement of paternity proceedings prior to the placement for adoption of the child in the home of prospective parents or pursuant to section 7-1111,

Idaho Code, prior to the date of commencement the filing of any proceeding to terminate the parental rights of the birth mother, whichever event occurs first, is deemed to have waived and surrendered any right in relation to the child and of any notice to proceedings for adoption of the child or for termination of parental rights of the birth mother. His consent to the adoption of the child shall not be required and he shall be barred from thereafter bringing or maintaining any action to establish his paternity of the child. Failure of such filing or registration shall constitute an abandonment of said child and shall constitute an irrevocable implied consent in any adoption or termination proceeding.

(5) The filing and registration of an unrevoked notice of the commencement of paternity proceedings by a putative father shall constitute prima facie evidence of the fact of his paternity in any contested proceeding under chapter 11, title 7, Idaho Code. The filing of a notice of the commencement of paternity proceedings shall not be a bar to an action for termination of his parental rights under chapter 20, title 16, Idaho Code.

(6) An unmarried biological father of a child born out of wedlock who has filed and registered a notice of the filing of paternity proceedings may at any time revoke notice of intent to claim paternity previously filed. Upon receipt of written revocation, the effect shall be as if no notice of the filing of paternity proceedings had been filed or registered.

(57) In any adoption proceeding pertaining to a child born out of wedlock, if there is no showing that the putative father has consented to the adoption, a certificate shall be obtained from the vital statistics unit of the department of health and welfare, signed by the state registrar of vital statistics, which certificate shall state that a diligent search has been made of the registry of notices from putative fathers, and that no filing has been found pertaining to the father of the child in question, or if a filing is found, stating the name of the putative father and the time and date of filing. That certificate shall be filed with the court prior to entry of a final decree of adoption.

(68) Identities of putative fathers can only be released pursuant to procedures contained in chapter 3, title 9, Idaho Code.

(79) To cover the cost of implementing and maintaining said central registry, the vital statistics unit of the department of health and welfare shall charge a filing fee of ten dollars (\$10.00) at the time the putative father files his notice of his commencement of proceedings. The department shall also charge a reasonable fee to cover all costs incurred in a search of the Idaho putative father registry and for furnishing a certificate in accordance with the provisions of this section and section 16-1504, Idaho Code. It is the intent of the legislature that the fee shall cover all direct and indirect costs incurred pursuant to this section and section 16-1504, Idaho Code. The board of health and welfare department shall annually review the fees and expenses incurred pursuant to administering the provisions of this section and section 16-1504, Idaho Code.

(810) Consistent with its authority denoted in the vital statistics act, section 39-242(c), Idaho Code, the board of health and welfare shall adopt, amend and repeal rules for the purpose of carrying out the provisions of this section.

(11) The department shall produce and distribute, within the limits of continuing annual appropriations duly made available to the department by the legislature for such purposes, a pamphlet or publication informing the public about the Idaho putative father registry, printed in English and Spanish. The pamphlet shall indicate the procedures to be followed in order to receive notice of any proceeding for adoption of a child an unmarried biological father claims to have fathered and of any proceeding for termination of his parental rights, voluntary acknowledgment of paternity, the consequences of acknowledgment of paternity, the consequences of failure to acknowledge paternity and the address of the Idaho putative father registry.

Within the limits of continuing annual appropriations duly made available to the department by the legislature for such purposes, such pamphlets or publications shall be made available for distribution to the public at all offices of the department of health and welfare. Upon request the department shall also provide such pamphlets or publications to hospitals, libraries, medical clinics, schools, colleges, universities, providers of child-related services and children's agencies licensed in the state of Idaho or advertising services in the state of Idaho.

(12) Within the limits of continuing annual appropriations duly made available to the department by the legislature for such purposes, each county clerk, branch office of the department of motor vehicles, all offices of the department of health and welfare, hospitals and local health districts shall post in a conspicuous place a notice that informs the public about the purpose and operation of the Idaho putative father registry. The notice must include information regarding the following:

(a) Where to obtain a registration form;

(b) Where to register;

(c) The procedures to follow in order to file proceedings to establish paternity of a child born out of wedlock;

(d) The consequences of a voluntary acknowledgment of paternity; and

(e) The consequences of failure to acknowledge paternity.

(13) The department shall host on the department's web page a public service announcement (PSA) informing the public about the Idaho putative father registry, printed in English and Spanish. The PSA shall indicate the procedures to be followed in order to receive notice of any proceeding for adoption of a child an unmarried biological father claims to have fathered and of any proceeding for termination of his parental rights, voluntary acknowledgment of paternity, the consequences of acknowledgment of paternity, the consequences of failure to acknowledge paternity and the address of the Idaho putative father registry.

(14) Failure to post a proper notice under the provisions of this section does not relieve a putative father of the obligation to file notice of the filing of proceedings to establish his paternity pursuant to this section or to commence proceedings to establish paternity pursuant to section 7-1111, Idaho Code, prior to the filing of any proceeding to terminate parental rights of the birth mother.

(15) A person who knowingly or intentionally falsely files or registers as a putative father is guilty of a misdemeanor.

SECTION 6. That Section 16-2007, Idaho Code, be, and the same is hereby amended to read as follows:

16-2007. NOTICE -- WAIVER -- GUARDIAN AD LITEM. (1) After a petition has been filed, the court shall set the time and place for hearing. The petitioner shall give notice to any person entitled to notice under section 16-1505, Idaho Code, the authorized agency having legal custody of the child and the guardian ad litem of the child and of a parent. The petitioner shall give notice to the Idaho department of health and welfare if the petition for termination was not filed in conjunction with a petition for adoption or by an adoption agency licensed by the state of Idaho.

(2) Notice shall be given by personal service on the parents or guardian. Where reasonable efforts to effect personal service have been unsuccessful or are impossible because the whereabouts of parties entitled to notice are not known or reasonably ascertainable, the court shall order service by registered or certified mail to the last known address of the person to be notified and by publication once a week for three (3) successive weeks in a newspaper or newspapers to be designated by the court as most likely to give notice to the person to be served. The hearing shall take place no sooner than ten (10) days after service of notice, or where service

is by registered or certified mail and publication, the hearing shall take place no sooner than ten (10) days after the date of last publication.

(3) Notice and appearance may be waived by a parent in writing and witnessed by a district judge or magistrate of a district court, or equivalent judicial officer of the state, where a person waiving notice and appearance resides or is present, whether within or without the county, and shall be substantially in the following form:

IN THE DISTRICT COURT OF THE .... JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ....

In the Matter of the termination )
of the parental rights to )
..... )
..... )
(a) minor child(ren)

I (we), the undersigned, being the .... of ....., do hereby waive my (our) right to notice and my (our) right to appear in any action seeking termination of my (our) parental rights. I (we) understand that by waiving notice and appearance my (our) parental right(s), to the said ....., who was born ....., ....., unto ....., may be completely and forever terminated, including all legal rights, privileges, duties and obligations, including all rights of inheritance to and from the said ....., and I (we) do hereby expressly waive my (our) right(s) to notice of or appearance in any such action.

DATED: ....., 20..

.....

STATE OF IDAHO )
) ss.
COUNTY OF .... )

On this .... day of ....., 20.., before me, the undersigned ....., .... (Judge or Magistrate) of the District Court of the .... Judicial District of the state of Idaho, in and for the county of ....., personally appeared ....., known to me (or proved to me on the oath of ....) to be the person(s) whose name(s) is (are) subscribed to the within instrument, and acknowledged to me that he (she, they) executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

.....
(District Judge or Magistrate)

(4) The court shall accept a waiver of notice and appearance executed in another state if:

- (a) It is witnessed by a magistrate or district judge of the state where signed; or
(b) The court receives an affidavit or a certificate from a court of comparable jurisdiction stating that the waiver of notice and appearance was executed in accordance with the laws of the state in which it was executed, or the court is satisfied by other showing that the waiver of notice and appearance was executed in accordance with the laws of the state in which it was executed.

(5) When the termination of the parent and child relationship is sought and the parent is determined to be incompetent to participate in the proceeding, the court shall appoint a guardian ad litem for the alleged incompetent parent. The court may in any other case appoint a guardian ad litem, as may be deemed necessary or desirable, for any party. Except as provided in section 16-1504(5), Idaho Code, ~~where the a putative father has failed to timely commence proceedings to establish paternity under section 7-1111, Idaho Code, and by filing or has failed to timely file notice of his filing of proceedings to establish his paternity of his child born out of wedlock under section 16-1513, Idaho Code, with the vital statistics unit of the de-~~

partment of health and welfare, ~~notice of his commencement of proceedings to establish his paternity of the child born out of wedlock,~~ notice under this section is not required unless such putative father is one of those persons specifically set forth in section 16-1505(1), Idaho Code.

(6) If a parent fails to file a claim of parental rights pursuant to the provisions of chapter 82, title 39, Idaho Code, for a child left with a safe haven pursuant thereto, prior to entry of an order terminating their parental rights, that parent is deemed to have abandoned the child and waived and surrendered any right in relation to the child, including the right to notice of any judicial proceeding in connection with the termination of parental rights.

SECTION 7. That Section 16-2008, Idaho Code, be, and the same is hereby amended to read as follows:

16-2008. INVESTIGATION PRIOR TO DISPOSITION. ~~a.~~ (1) If a petition for adoption is not filed in conjunction with a petition for termination, or the petition for termination was not filed by a children's adoption agency licensed by the state of Idaho upon the filing of a petition for termination, the court shall direct the department of health and welfare, bureau of child support enforcement services to submit a written financial analysis report within thirty (30) days from date of notification, detailing the amount of any unreimbursed public assistance moneys paid by the state of Idaho on behalf of the child. The financial analysis shall include recommendations regarding repayment of unreimbursed public assistance and provisions for future support for the child, and the reasons therefor.

~~b.~~ (2) Upon the filing of a petition, the court may direct, in all cases where written consent to termination has not been given as provided in this ~~act~~ chapter, that an investigation be made by the department of health and welfare, division of family and ~~children's~~ community services, or a licensed children's adoption agency, and that a report in writing of such study be submitted to the court prior to the hearing, except that where the department of health and welfare or a licensed children's adoption agency is a petitioner, either in its own right or on behalf of a parent, a report in writing of the investigation made by such agency shall accompany the petition. The department of health and welfare or the licensed children's adoption agency shall have thirty (30) days from notification by the court during which it shall complete and submit its investigation unless an extension of time is granted by the court upon application by the agency. The court may order additional investigation as it deems necessary. The social study shall include the circumstances of the petition, the investigation, the present condition of the child and parents, proposed plans for the child, and such other facts as may be pertinent to the parent and child relationship, and the report submitted shall include a recommendation and the reasons therefor as to whether or not the parent and child relationship should be terminated. If the parent has a disability as defined in this chapter, the parent shall have the right, as a part of the social study, to provide information regarding the manner in which the use of adaptive equipment or supportive services will enable the parent to carry out the responsibilities of parenting the child. The person performing the social investigation shall advise the parent of such right and shall consider all such information in any findings or recommendations. The social study shall be conducted by, or with the assistance of, an individual with expertise in the use of such equipment and services. Nothing in this section shall be construed to create any new or additional obligations on state or local governments to purchase or provide adaptive equipment or supportive services for parents with disabilities. Where the parent is a minor, if the report does not include a statement of contact with the parents of said minor, the reasons therefor shall be set forth. The pur-

pose of the investigation is to aid the court in making disposition of the petition and shall be considered by the court prior thereto.

~~e. (3) Except as provided in section 16-1504(5), Idaho Code, nNo social study or investigation as provided for in subsection b. (2) of this section shall be directed by the court with respect to the putative father who has failed to timely commence proceedings to establish paternity under section 7-1111, Idaho Code, and by filing or who has failed to timely file notice of his filing of proceedings to establish his paternity of his child born out of wedlock under section 16-1513, Idaho Code, with the vital statistics unit of the department of health and welfare, notice of his commencement of proceedings to establish his paternity of the child, unless such putative father is one (1) of those persons specifically set forth in section 16-1505(1), Idaho Code.~~

Approved March 22, 2013.

CHAPTER 139  
(H.B. No. 220)

AN ACT

RELATING TO HORSE RACING; AMENDING SECTION 54-2502, IDAHO CODE, TO DEFINE A TERM; AMENDING SECTION 54-2505, IDAHO CODE, TO REVISE A CODE REFERENCE; AND AMENDING CHAPTER 25, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-2512A, IDAHO CODE, TO PROVIDE FOR WAGERING ON HISTORICAL HORSE RACES, TO PROVIDE FOR THE DISTRIBUTION AND PAYMENT OF ALL SUMS DEPOSITED IN ANY HISTORICAL HORSE RACE POOL, TO PROVIDE FOR THE CONTINUOUS APPROPRIATION OF CERTAIN MONEYS, TO PROVIDE FOR CERTAIN AGREEMENTS WITH HORSEMEN'S GROUPS, TO PROVIDE FOR THE HISTORICAL HORSE RACE PURSE MONEYS FUND AND TO PROVIDE FOR RULEMAKING.

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

SECTION 1. That Section 54-2502, Idaho Code, be, and the same is hereby amended to read as follows:

54-2502. DEFINITIONS. Unless the context otherwise requires, words and phrases as used herein shall mean:

(1) "Commission" means the Idaho state racing commission, hereinafter created.

(2) "Gross daily receipts" means the total of all sums deposited in all pools for each race day.

(3) "Historical horse race" means a race involving live horses that was conducted in the past and that is rebroadcast by electronic means and shown on a delayed or replayed basis for the purposes of wagering conducted at a facility that is authorized to show simulcast and/or televised races.

(4) "Horsemen's group" means an organization composed of licensed owners and/or trainers duly registered with the secretary of state and recognized by the Idaho racing commission.

(45) "Host facility" means the racetrack at which the race is run, or the facility which is designated as the host facility if the race is run in a jurisdiction which is not participating in the interstate combined wagering pool.

(56) "Host jurisdiction" means the jurisdiction in which the host facility is located.

(67) "Interstate common wagering pool" means a pari-mutuel pool established in one (1) jurisdiction which is combined with comparable pari-mutuel pools from one (1) or more racing jurisdictions. Such pool is established for the purpose of establishing pay-off prices in the various jurisdictions.

(78) "Pari-mutuel" means any system whereby wagers with respect to the outcome of a race are placed with, or in, a wagering pool conducted by a person licensed or otherwise permitted to do so under state law, and in which the participants are wagering with each other and not against the operator.

(89) "Persons" means and includes individuals, firms, corporations and associations.

(910) "Pool" means the total sum of all moneys wagered in each race for each type of bet. Types of bets include win, place, show, quinella, daily double, exacta, trifecta, etc., and such other types as are approved by the commission from time to time.

(101) "Race meet" means and includes any exhibition of thoroughbred, purebred, and/or registered horse racing, mule racing or dog racing, where the pari-mutuel system of wagering is used. Singular includes the plural and plural includes the singular; and words importing one gender shall be regarded as including all other genders.

(112) "Racing jurisdiction" or "jurisdiction" means a governmental jurisdiction responsible for the regulation of pari-mutuel racing in that jurisdiction.

(123) "Simulcast" means the telecast or other transmission of live audio and visual signals of a race, transmitted from a sending track to a receiving location, for the purpose of wagering conducted on the race at the receiving location.

SECTION 2. That Section 54-2505, Idaho Code, be, and the same is hereby amended to read as follows:

54-2505. COMMISSION'S ANNUAL REPORT -- PUBLIC RECORD. The commission shall keep detailed records of all meetings and of the business transacted therein, and all licenses applied for and issued, reports of which shall be embodied in an annual report which the commission shall prepare and submit to the governor on or before the thirty-first day of March of each year. Said annual report shall cover the activities of the commission, including the financial report of the commission and a financial summary of licensees subject to section 54-2508, Idaho Code, and organizations of licensees defined in section 54-2502 (34), Idaho Code, for the preceding year in addition to the aforementioned.

All records of the commission shall be public records, and as such, subject to public inspection.

SECTION 3. That Chapter 25, 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 54-2512A, Idaho Code, and to read as follows:

54-2512A. PARI-MUTUEL BETTING ON HISTORICAL HORSE RACES -- DISTRIBUTIONS OF DEPOSITS -- HISTORICAL HORSE RACE PURSE MONEYS FUND. (1) Wagering on an historical horse race is declared to be lawful and within the scope of a license that authorizes a live race meet licensee to conduct and supervise the use of the pari-mutuel wagering on simulcast and/or televised races. Wagering on an historical horse race shall be conducted in accordance with the pari-mutuel system pursuant to the provisions of this chapter and in accordance with all rules promulgated by the commission. Wagering on an historical horse race may be conducted at any facility authorized to conduct and supervise wagering on simulcast and/or televised races.

(2) Each licensee conducting the pari-mutuel system for historical horse races shall distribute and pay all sums deposited in any historical horse race pool as follows:

(a) No less than eighty-nine percent (89%) of gross daily receipts in various wagering pools established to fund reserves and payoffs for distribution and payment to winning wagers;

(b) One and one-half percent (1.50%) of gross daily receipts to the Idaho state racing commission for distribution and deposit as follows in the following designated accounts:

(i) One-half of one percent (0.50%) of gross daily receipts to the racing commission account within the state regulatory fund;

(ii) One-fifth of one percent (0.20%) of gross daily receipts to the track distribution account within the pari-mutuel distribution fund;

(iii) One-fifth of one percent (0.20%) of gross daily receipts to the breed distribution account within the pari-mutuel distribution fund;

(iv) One-half of one percent (0.50%) of gross daily receipts to the public school income fund; and

(v) One-tenth of one percent (0.10%) of gross daily receipts to the Idaho horse council youth programs account which is hereby created within the pari-mutuel distribution fund; and

(c) The balance of gross daily receipts to the licensee. All moneys in these accounts are hereby continuously appropriated to the commission for further distribution and time of payment as provided in section 54-2513, Idaho Code.

(3) Each licensee conducting the pari-mutuel system for historical horse races shall enter into an agreement with a horsemen's group, as the term "horsemen's group" is defined in section 54-2502, Idaho Code, that shall address, but not be limited to, establishing the percentage of the historical horse race handle that is dedicated to the live horse race purse structure. In addition, the agreement shall provide that all historical race purse moneys that are accrued as required by horsemen's agreements shall be held in the historical horse race moneys fund created pursuant to the provisions of this section.

(4) The historical horse race purse moneys fund is hereby created in the state treasury. Moneys in the fund shall consist of all historical horse race moneys that are accrued as required by horsemen's agreements. Moneys in the fund are hereby perpetually appropriated to the Idaho state racing commission for distribution pursuant to the provisions of horsemen's agreements and rules of the commission. The commission is authorized to promulgate rules providing for the receipt, deposit, withdrawal and distribution of such moneys. The state treasurer shall invest idle moneys in the fund and any interest received on those investments shall be returned to the fund which is created pursuant to the provisions of this section.

(5) The commission may promulgate rules pursuant to chapter 52, title 67, Idaho Code, to implement the provisions of this section.

Approved March 22, 2013.

CHAPTER 140  
(H.B. No. 224)

AN ACT

RELATING TO EDUCATION; AMENDING CHAPTER 5, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-513A, IDAHO CODE, TO ESTABLISH PROVISIONS GOVERNING CERTAIN CONTRACTS; DECLARING AN EMERGENCY AND PROVIDING A SUNSET DATE.

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 33-513A, Idaho Code, and to read as follows:

33-513A. PROFESSIONAL PERSONNEL CONTRACTS FOR 2012-2013 SCHOOL YEAR. Professional personnel contracts entered into for the 2012-2013 school year signed on forms approved by the state superintendent of public instruction pursuant to section 33-513, Idaho Code, shall be governed by the laws of the state of Idaho that existed at the time such professional personnel contracts were entered.

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. The provisions of section 1 of this act shall be null, void and of no force and effect on and after July 1, 2015.

Approved March 22, 2013.

CHAPTER 141  
(S.B. No. 1006, As Amended)

AN ACT

RELATING TO THE IDAHO TRANSPORTATION BOARD; AMENDING SECTION 40-310, IDAHO CODE, TO PROVIDE THAT ABANDONMENT SHALL PROCEED PURSUANT TO LAW, TO REMOVE LANGUAGE RELATING TO CERTAIN POWERS AND DUTIES OF THE BOARD AS THEY RELATE TO A BOARD DECISION TO ABANDON, RELOCATE OR REPLACE CERTAIN HIGHWAYS; AND AMENDING SECTION 40-203B, IDAHO CODE, TO PROVIDE THAT PRIOR TO CONSENTING TO AN ABANDONMENT OR ASSUMING CONTROL OF AN APPLICABLE HIGHWAY, THE LOCAL HIGHWAY JURISDICTION MAY CONDUCT A PUBLIC HEARING AND PROVIDE NOTICE.

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

SECTION 1. That Section 40-310, Idaho Code, be, and the same is hereby amended to read as follows:

40-310. POWERS AND DUTIES -- STATE HIGHWAY SYSTEM. The board shall:

(1) Determine which highways in the state, or sections of highways, shall be designated and accepted for the purpose of this title as a part of the state highway system.

(a) In determining which highways or section of highways shall be a part of the state highway system, the board shall consider the relative importance of each highway to cities, existing business, industry and enterprises and to the development of cities, natural resources, industry and agriculture and be guided by statistics on existing and projected traffic volumes. The board shall also consider the safety and convenience of highway users, the common welfare of the people of the state, and of the cities within the state and the financial capacity of the state of Idaho to acquire rights-of-way and to construct, reconstruct and maintain state highways. In making a determination, the board must, before it can abandon, relocate, or replace by a new highway, any highway serving or traversing any city, or the area in which the city is located, specifically find and determine that the benefits to the state of Idaho are greater than the economic loss and damage to the city affected. No highway serving or traversing any city shall be abandoned, relocated or replaced by a new highway serving the area in which a city is located without the board first holding a public hearing in that city. The abandonment shall proceed as set forth in section 40-203B, Idaho Code. ~~Written notice setting forth the action proposed to be taken by the board shall be served upon the mayor of any city affected, and upon all property owners from which~~

~~acquisition of right-of-way is necessary and from which that property must be purchased, by certified or registered mail, and shall also be published in at least one (1) issue of a newspaper published and of general circulation in each city affected. If there is no newspaper published in the city, then a notice shall be posted in three (3) of the most public places in the city. The notice shall contain a statement of any action contemplated by the board affecting the city or property owner, and shall specify the time and place of the hearing. At the hearing a property owner from which right-of-way is necessary to be acquired and from which that property must be purchased, and the governing body of any city affected may appear, voice objections to the action proposed to be taken by the board, and may present evidence and call witnesses in support of their objections. The board shall give consideration to the protests and objections and make a written decision determining whether or not the proposed action would be of greater benefit to the state of Idaho than the economic loss and damage resulting to the city. The board shall serve a written decision upon the governing body of any affected city and property owners within ten (10) days following the completion of the hearing, and no action shall be taken by the board prior to the service of the written decision.~~

~~(b) Within ten (10) days after the written decision has been served, an appeal may be taken from the decision by the person from whom the property must be purchased, the interested city, board of county commissioners, or highway district commissioners to the district court in and for the county in which the city affected by the order is located. The appeal shall be taken and perfected in the following manner:~~

~~1. The appellant shall file with the clerk of the district court of the proper county, and serve upon the board, notice specifying the grounds of appeal, and a certified copy of the decision of the board appealed from. The district court shall then have jurisdiction of the matter and may make any order or judgment that the equities of the case require. Upon the appeal being perfected, the appeal shall receive a preferential place on the calendar of the district court.~~

~~2. The appeal shall be heard and determined by the district court in a summary manner as in a suit in equity, and the trial shall be a trial de novo on the issues framed. The court may affirm, reverse, or modify the order appealed from and may issue injunctions whenever it appears necessary for the protection of the interests of any party to the appeal.~~

~~3. No bond or undertaking shall be required of any party appealing under any of the provisions of this section.~~

~~4. The filing fees required in the district court shall be the same as is provided for filing cases originally in the court.~~

~~(c) Any final order or judgment of the district court under this subsection shall be appealable to the supreme court of the state of Idaho within thirty (30) days following the entry of the final order or judgment in the same manner as appeals in civil actions are taken to the supreme court.~~

~~(d) The board shall take no action on any matter affecting any property owner from which right-of-way is necessary to be acquired or any city until either:~~

~~1. The time has elapsed for an appeal to the district court and no appeal has been filed; or~~

~~2. If an appeal has been taken to the district court, then until the time for appeal from its final order or judgment to the supreme court has elapsed and no appeal has been taken; or~~

~~3. If an appeal has been taken to the supreme court, then until the matter has been finally determined by that court.~~

(2) The board shall cause to be prepared and publicly displayed in a conspicuous place in their offices a complete map of the state highway system in which each section shall be identified by location, length and a control number. The map shall be of a suitable size and scale and contain data and information as deemed appropriate by the board. Periodically, and not less than once each year, the board shall revise and correct the map to record the changes in the designated state highway system resulting from additions, abandonments and relocations. Hand maps of the state highway system shall be issued periodically for public distribution.

(3) Abandon the maintenance of any highway and remove it from the state highway system, when that action is determined by the unanimous consent of the board to be in the public interest.

(4) Locate, design, construct, reconstruct, alter, extend, repair and maintain state highways, and plan, design and develop statewide transportation systems when determined by the board to be in the public interest.

(5) Establish standards for the location, design, construction, reconstruction, alteration, extension, repair and maintenance of state highways, provided that standards of state highways through local highway jurisdictions shall be coordinated with the standards in use for the systems of the respective local highway jurisdictions. The board shall make agreements with local highway jurisdictions having within their limits state highway sections in the category described in section 40-502, Idaho Code, and provide for an equitable division of the maintenance of those sections. The board may also, in the interest of economy and efficiency, arrange to have any or all of the state highway sections within local highway jurisdictions maintained by those local highway jurisdictions, the cost of the work as limited by section 40-502, Idaho Code, to be reimbursed by the state.

(6) Cause to be made and kept, surveys, studies, maps, plans, specifications and estimates for the alteration, extension, repair and maintenance of state highways, and so far as practicable, of all highways in the state, and for that purpose to demand and to receive reports and copies of records from county commissioners, commissioners of highway districts, county engineers and directors of highways and all other highway officials within the state.

(7) Approve and determine the final plans, specifications and estimates for state highways and cause contracts for state highway work to be let by contract in the manner provided by law.

(8) Expend funds appropriated for construction, maintenance and improvement of state highways.

(9) Designate state highways, or parts of them, as controlled-access facilities and regulate, restrict or prohibit access to those highways to serve the traffic for which the facility is intended.

(10) Close or restrict the use of any state highway whenever the closing or restricting of use is deemed by the board to be necessary for the protection of the public or for the protection of the highway or any section from damage.

(11) Designate main traveled state highways as through highways. The traffic on through highways shall have the right-of-way over the traffic on any other highway intersecting with it, provided, that at the intersection of two (2) through highways the board shall determine which traffic shall have the right-of-way.

(12) Furnish, erect and maintain standard signs on side highways directing drivers of vehicles approaching a designated through highway to come to a full stop before entering or crossing the through highway.

(13) Provide a right-of-way for and supervise the construction of side paths or sidewalks along regularly designated state highways outside the boundaries of incorporated cities and the expenditures for the construction of them may be made from the highway funds of the county or highway districts.

(14) Upon certification and requisition of an appropriate board, commission, governing body, or official head of any state institution and on the approval of the governor, showing the same to be necessary, construct, alter, repair, and maintain the roadways in, through, and about the grounds of state institutions. The construction, alteration, repair and maintenance shall be accomplished and paid for from the state highway account in accordance with the provisions of chapter 7, title 40, Idaho Code. This provision shall not be construed to divest any board, commission, governing body, or official head of an institution their constitutional or statutory powers.

SECTION 2. That Section 40-203B, Idaho Code, be, and the same is hereby amended to read as follows:

40-203B. ABANDONMENT OR ASSUMING CONTROL OF A HIGHWAY. Whenever the Idaho transportation department is either planning to abandon any section or all of a state highway to a county, a city or a highway district or assume control of a section or all of a highway which is under the jurisdiction of a county, city or a highway district, the transportation department shall first obtain the consent of the applicable local highway jurisdiction before it may abandon or assume control of the highway. Consent shall be obtained by passage of a resolution by the local highway jurisdiction assenting to the proposed action of the transportation department. Prior to consenting to an abandonment or assumption of the applicable highway, the local highway jurisdiction may conduct a public hearing and also provide notice to any impacted property owners, businesses, industries and enterprises. If consent is not obtained as provided in this section, the action by the transportation department regarding the abandonment of a state highway or assumption of control of a local jurisdiction highway shall be null, void, and of no force and effect.

Approved March 22, 2013.

CHAPTER 142  
(S.B. No. 1025)

AN ACT

RELATING TO THE COUNTY OPTION KITCHEN AND TABLE WINE ACT; AMENDING SECTION 23-1327, IDAHO CODE, TO REVISE THE SIZE OF A CONTAINER OF WINE A DISTRIBUTOR OR IMPORTER IS ALLOWED TO PURCHASE, RECEIVE OR SELL.

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

SECTION 1. That Section 23-1327, Idaho Code, be, and the same is hereby amended to read as follows:

23-1327. SALE OF WINE IN ORIGINAL CONTAINER AND SIZE OF CONTAINERS. No distributor shall purchase, receive, or sell any wine except in the original container as prepared for the market by the importer or manufacturer. No importer or distributor shall, without permission of the director, adopt or use any container for wine that will contain in excess of one fifteen (15) gallons of wine.

Approved March 22, 2013.

CHAPTER 143  
(S.B. No. 1032)

AN ACT

RELATING TO PUBLIC ASSISTANCE; AMENDING SECTION 56-227, IDAHO CODE, TO REMOVE ARCHAIC VERBIAGE, TO REMOVE UNNECESSARY VERBIAGE, TO CLARIFY VERBIAGE, TO PROVIDE THAT CONDUCT RELATING TO CERTAIN FRAUDULENT ACTS AND PENALTIES SHALL NOT BE CONSTRUED TO BE MORE RESTRICTIVE THAN FEDERAL OR STATE PROVISIONS REGARDING THE TRANSFER OF PROPERTY FOR PUBLIC ASSISTANCE AND TO PROVIDE THAT CONDUCT RELATING TO SPECIFIED FRAUDULENT ACTS AND PENALTIES SHALL NOT APPLY TO ANY PERSON WHO COMMUNICATES INFORMATION OR RENDERS ADVICE TO ANOTHER REGARDING FEDERAL OR STATE PROVISIONS REGARDING THE TRANSFER OF PROPERTY FOR PUBLIC ASSISTANCE.

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

SECTION 1. That Section 56-227, Idaho Code, be, and the same is hereby amended to read as follows:

56-227. FRAUDULENT ACTS -- PENALTY. (1) Whoever knowingly obtains, or attempts to obtain, or aids or abets any person in obtaining, by means of a willfully false statement or representation, material omission, or fraudulent devices, public assistance, ~~relief or federal-aid assistance~~ to which he is not entitled, or in an amount greater than that to which he is justly entitled, shall be punished in the same manner and to the same extent as for larceny or theft of the money or value of the public assistance so obtained or attempted to be so obtained.

(2) Whoever sells, conveys, mortgages or otherwise disposes of his property, real or personal, or conceals his income or resources, for the purpose of rendering him eligible for ~~any form of~~ public assistance, theretofore or thereafter applied for, to which he would not otherwise be entitled, shall be punished in the same manner and to the same extent as for larceny or theft of the money or value of the public assistance so obtained or so attempted to be obtained. Provided however, this provision shall not be construed to be more restrictive than federal or state provisions regarding the transfer of property for public assistance.

(3) Every person who knowingly aids or abets any person in selling, conveying, mortgaging or otherwise disposing of his property, real or personal, or in concealing his income or resources for the purpose of rendering him eligible for ~~any form of~~ public assistance ~~or relief~~, theretofore or thereafter applied for and received, to which he would not otherwise be entitled, shall be punished in the same manner and to the same extent as for larceny or theft of the money or value of the public assistance ~~or relief~~ so obtained or attempted to be obtained. Provided however, this provision shall not apply to any person who communicates information or renders advice to another regarding federal or state provisions regarding the transfer of property for public assistance.

(4) For the purpose of this section public assistance shall include the specific categories of assistance for which provision is made in any federal or state law existing or hereafter enacted by the congress of the United States or the state of Idaho by which payments are made from the federal government to the state in aid or in respect to payment by the state for welfare purposes to any category of needy person and any other program of assistance for which provision for federal or state funds for aid may from time to time be made.

(5) The state department of health and welfare shall establish and operate a fraud control program to investigate suspected fraud relating to applications for public assistance benefits, and public assistance benefits

received by individuals or entities. Such activities shall be those which do not fall under the authority of the medicaid fraud control unit as provided in section 56-226, Idaho Code. The department shall establish a procedure to coordinate information with prosecuting attorneys to prosecute offenders who commit fraudulent acts pursuant to this chapter.

Approved March 22, 2013.

CHAPTER 144  
(S.B. No. 1033, As Amended)

AN ACT

RELATING TO CONSERVATORS AND POWERS OF ATTORNEY; AMENDING SECTION 15-12-108, IDAHO CODE, TO PROVIDE THAT RESPONSIBILITIES RELATING TO AN AGENTS ACCOUNTABILITY TO CERTAIN FIDUCIARIES AND PRINCIPALS SHALL ALSO APPLY TO APPOINTED TEMPORARY CONSERVATORS, TO PROVIDE THAT UNDER CERTAIN CONDITIONS POWERS OF ATTORNEY ARE TERMINATED UNLESS OTHERWISE ORDERED BY THE COURT AND TO MAKE A TECHNICAL CORRECTION; PROVIDING AN EFFECTIVE DATE AND PROVIDING FOR APPLICABILITY.

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

SECTION 1. That Section 15-12-108, Idaho Code, be, and the same is hereby amended to read as follows:

15-12-108. NOMINATION OF CONSERVATOR; ~~RELATION OF AGENT TO COURT-~~ APPOINTED FIDUCIARY. (1) In a power of attorney, a principal may nominate a conservator of the principal's estate for consideration by the court if protective proceedings for the principal's estate are thereafter commenced.

(2) If, after a principal executes a power of attorney, a court appoints a conservator of the principal's estate or other fiduciary charged with the management of some or all of the principal's property, including appointment of a temporary conservator pursuant to section 15-5-407A, Idaho Code, the agent is accountable to the fiduciary as well as to the principal. The power of attorney is ~~not terminated and the agent's authority continues unless limited, suspended or terminated otherwise ordered~~ otherwise ordered by the court.

SECTION 2. This act shall be in full force and effect on and after July 1, 2013, and the amendments in this act shall apply only to those appointments of temporary or permanent conservators made on or after July 1, 2013.

Approved March 22, 2013.

CHAPTER 145  
(S.B. No. 1034)

AN ACT

RELATING TO COUNTY JAILS; REPEALING SECTION 20-625, IDAHO CODE, RELATING TO THE GOVERNOR'S AUTHORITY TO ORDER REMOVAL OF PRISONERS.

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

SECTION 1. That Section 20-625, Idaho Code, be, and the same is hereby repealed.

Approved March 22, 2013.

CHAPTER 146  
(S.B. No. 1035)

AN ACT

RELATING TO COUNTY JAILS; AMENDING SECTION 20-603, IDAHO CODE, TO ESTABLISH ADDITIONAL PROVISIONS RELATING TO THE AUTHORITY TO DESIGNATE DETENTION OFFICERS TO ACT AS PEACE OFFICERS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 20-603, Idaho Code, be, and the same is hereby amended to read as follows:

20-603. AUTHORITY TO DESIGNATE DETENTION OFFICERS TO ACT AS PEACE OFFICERS. All detention officers employed by the county sheriff who receive peace officer certification from the Idaho peace officer standards and training council shall have the authority given by statute to peace officers of the state of Idaho. The county sheriff shall have the authority to designate detention officers to act as peace officers when engaged in:

- (1) Transportation of prisoners or apprehension and arrest of prisoners who have escaped<sub>;</sub> or
- (2) Apprehension and arrest of persons who are suspected of having violated the terms and conditions of their probation<sub>;</sub> or
- (3) Arrrest of a person pursuant to court order or arrest warrant<sub>;</sub> or
- (4) Arrrest of a person without a warrant in cases where there is probable cause to believe the person has committed a crime within the confines of a county jail.

Approved March 22, 2013.

CHAPTER 147  
(S.B. No. 1048, As Amended)

AN ACT

RELATING TO DRIVER'S LICENSES; AMENDING SECTION 49-1505, IDAHO CODE, TO PROVIDE THAT THE IDAHO TRANSPORTATION DEPARTMENT MAY NOT SUSPEND A DRIVER'S LICENSE FOR A PARKING VIOLATION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 49-1505, Idaho Code, be, and the same is hereby amended to read as follows:

49-1505. SUSPENSION OF DRIVER'S LICENSE AND PRIVILEGES FOR FAILURE TO PAY UNDERLYING TRAFFIC INFRACTION PENALTY -- APPEAL. (1) The department shall immediately suspend the driver's license, permit and operating privileges of any driver upon receiving notice from any court of the state that a person has failed to pay the penalty for a traffic infraction judgment. The notice may be sent to the department by any court which shall certify that a judgment for an infraction not involving a pedestrian, a parking or a bicycle violation has been entered against the person and that he has failed to pay the penalty after notice and hearing, or opportunity for hearing, as prescribed by rule of the supreme court. No notice of nonpayment of an infraction penalty shall be sent to the department if the court finds that the person failing to pay the penalty has a complete and continuing financial inability to pay the penalty.

(2) The suspension of operating privileges under this section shall continue for a period of ninety (90) days or until the penalty has been paid, whichever comes first, from notice of suspension by the department. The suspension shall be processed by the department in the same manner as other suspensions under section 49-326, Idaho Code, except that no hearing shall be held by the department and the department shall not issue any temporary restricted permit. Upon receipt of the notice of nonpayment of the penalty from the court, the department shall perform the ministerial duty of giving official notification of suspension of the driver's license and operating privileges.

(3) Upon proper application and payment of any required fee, a driver's license, privileges or permit suspended under this section shall be reinstated by the department after the period of ninety (90) days, or shall be reinstated at an earlier date upon proof of payment of the penalty for the infraction. Upon payment of the infraction penalty, the court shall issue a receipt which may be filed with the department together with an application for reinstatement of the driver's license, privileges or permit.

(4) After the expiration of a ninety (90) day suspension under this section, the driver's license, permit and driving privileges of the driver whose driver's license, permit and driving privileges were suspended shall not be reinstated under the provisions of section 49-328, Idaho Code, nor renewed under the provisions of section 49-319, Idaho Code, until the penalty for the infraction has been paid to the court in the county in which the citation was issued.

(5) Any person operating a motor vehicle after the expiration of a ninety (90) day suspension under this section, whose driver's license, privileges or permit has not been reinstated under the provisions of section 49-328, Idaho Code, or renewed under the provisions of section 49-319, Idaho Code, shall be in violation of the provisions of section 49-301, Idaho Code, for operating a motor vehicle without a driver's license.

(6) Any person whose driver's license has been suspended under this section may appeal to the district court in the county where the infraction judgment was entered within the time and in the manner provided for criminal appeals from the magistrates division to the district court. The appeal shall be expedited as provided by rule of the supreme court. If the district court finds that the notice of nonpayment of the infraction penalty should not have been sent to the department for suspension of the driver's license, privileges or permit, the district court shall order the privileges be reinstated by the department and upon receipt of a copy of such order the department shall reinstate the privileges without the payment of a fee.

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

Approved March 22, 2013.

CHAPTER 148  
(S.B. No. 1057, As Amended)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-1004, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO A DISTRICT UTILIZING A PORTION OF INSTRUCTIONAL STAFF ALLOWANCE FOR VISITS BETWEEN THE KINDERGARTEN TEACHER AND THE PARENTS OR GUARDIANS, TO MAKE A CODIFIER'S CORRECTION AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 33-1004, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

(2) Determine the instructional staff allowance by multiplying the support units by 1.1. A district must demonstrate that it actually employs the number of certificated instructional staff allowed, except as provided in subsection (5) (f) and (g) of this section. If the district does not employ the number allowed, the staff allowance shall be reduced to the actual number employed, except as provided in subsection (5) (f) and (g) of this section;

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

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

(5) Additional conditions governing staff allowance:

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

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

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

(i) The instructional staff allowance shall be calculated applying the actual number of support units. If the actual instructional staff employed in the school year is greater than the instructional staff allowance, then the instructional staff

allowance shall be increased by one-half (1/2) staff allowance; and

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

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

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

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

(f) A district may utilize up to five percent (5%) of the moneys associated with positions funded pursuant to subsection (2) of this section to defray the cost of providing virtual education coursework, including virtual dual credit coursework, without a reduction in the number of funded positions being imposed.

(g) For the period July 1, 2009, through June 30, 2011, only, a district may shift up to five percent (5%) of the positions funded pursuant to subsection (2) of this section to federal funds, without a reduction in the number of funded positions being imposed.

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

(7) A district may utilize a portion of the instructional staff allowance provided for in this section for kindergarten teachers to visit the parents or guardians of students during the first week of the kindergarten school year. Such visits may take place at school, at the student's home or at another location agreed to by the teacher and parents or guardians. The purpose of such visits is to help strengthen the working relationship between the teacher, the parents or guardians, and the student. The visits should be used as an opportunity to help establish the teacher's expectations of the student. The visit should also provide an opportunity for the parents or guardians to explain their expectations. The amount of moneys to be expended for such visits by the district may not exceed the amount equal to one (1) week of instructional staff allowance computed for kindergarten instructors in the district.

CHAPTER 149  
(S.B. No. 1061)

AN ACT

RELATING TO THREATENED AND ENDANGERED SPECIES; AMENDING SECTION 67-818, IDAHO CODE, TO PROVIDE THAT THE STATE ASSERTS PRIMACY OVER THE MANAGEMENT OF ITS FISH AND WILDLIFE AND THAT IT IS AGAINST THE POLICY OF THE STATE OF IDAHO TO INTRODUCE OR REINTRODUCE ANY FEDERALLY LISTED SPECIES ONTO LANDS WITHIN THE STATE OR INTO STATE WATERS WITHOUT STATE CONSULTATION AND APPROVAL.

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

SECTION 1. That Section 67-818, Idaho Code, be, and the same is hereby amended to read as follows:

67-818. COORDINATION OF POLICY AND PROGRAMS RELATED TO THREATENED SPECIES AND ENDANGERED SPECIES IN IDAHO. (1) There is hereby created in the office of the governor, the "Office of Species Conservation." The administrator of the office of species conservation shall be the official in the state designated to oversee implementation of federal recovery plans, as provided in 16 U.S.C. section 1533(f), and to fulfill the duties provided by this section. The administrator shall be appointed by, and serve at the pleasure of, the governor and shall be subject to confirmation by the state senate.

(2) The duties of the office of species conservation shall include:

- (a) Coordination of all state departments and divisions with duties and responsibilities affecting endangered species, threatened species, candidate species, species petitioned to be listed, and rare and declining species as defined in section 36-2401, Idaho Code;
- (b) Coordinating state implementation and response to federal recovery plans, biological opinions, guidance and projects among all state and local governments in the state of Idaho;
- (c) Participation in regional efforts to cooperatively address endangered species, threatened species, candidate and petitioned species, and rare and declining species;
- (d) Providing input and comment to federal and state agencies, and tribes on issues relating to endangered species, threatened species, candidate and petitioned species, and rare and declining species;
- (e) Cooperating and consulting with the department of fish and game, the department of lands, the department of water resources, the department of agriculture, and the department of parks and recreation regarding agreements pursuant to 16 U.S.C. section 1533, 16 U.S.C. section 1535 and 16 U.S.C. section 1539;
- (f) Negotiating agreements with federal agencies concerning endangered species, threatened species, candidate species, petitioned species, and rare and declining species including, but not limited to, agreements pursuant to 16 U.S.C. section 1533(d) and 16 U.S.C. section 1539(a), other than those agreements negotiated pursuant to 16 U.S.C. section 1535;
- (g) Providing the people of the state of Idaho with an ombudsman who can listen to citizens being harmed or hindered by the regulations of the ESA and direct them to the appropriate state or federal agency and/or speak on their behalf, as deemed appropriate by the ombudsman, to address issues or concerns related to the ESA;
- (h) Serve as a repository for agreements and plans among governmental entities in the state of Idaho for the conservation of rare and declining species, petitioned, candidate, threatened and endangered species.

(3) State policy and management plans developed pursuant to this section shall be developed in accordance with the following subsections:

(a) State policy on rare and declining, petitioned, candidate, threatened, and endangered species and state management plans shall be developed in consultation with the appropriate state agencies. The appropriate state agency for wildlife and plant management issues is the department of fish and game. The appropriate state agency for timber harvest activities, oil and gas exploration activities and for mining activities is the department of lands. The appropriate state agencies for agricultural activities are the department of agriculture and the Idaho state soil and water conservation commission. The appropriate state agency for public road construction is the transportation department. The appropriate state agency for water rights is the department of water resources. The appropriate state agency for water quality is the department of environmental quality. The appropriate state agency for outfitting and guiding activities is the Idaho outfitters and guides licensing board;

(b) State management plans shall be the policy of the state of Idaho, but are subject to legislative approval, amendment or rejection by concurrent resolution. State management plans shall be subject to public notice and comment but shall not be subject to judicial review.

(4) The governor's office of species conservation shall prepare a report to the legislature recommending a plan to develop state conservation assessments and strategies for rare and declining species in the state of Idaho and submit that report and recommendation to the legislature. The report and recommendation are subject to legislative approval, amendment or rejection by concurrent resolution.

(5) The state asserts primacy over the management of its fish and wildlife. Accordingly, any introduction or reintroduction of any federally listed species onto lands within the state or into state waters, including those actions that would impair or impede the state's primacy over its land and water, without state consultation and approval is against the policy of the state of Idaho.

(6) No provision of this section shall be interpreted as to supersede, abrogate, injure or create rights to divert or store water and apply water to beneficial uses established under section 3, article XV of the constitution of the state of Idaho, and title 42, Idaho Code.

Approved March 22, 2013.

CHAPTER 150  
(S.B. No. 1062, As Amended)

AN ACT

RELATING TO TRESPASS; AMENDING SECTIONS 18-7008 AND 36-1603, IDAHO CODE, TO PROVIDE FOR THE USE OF HIGH VISIBILITY SHADES OF ORANGE PAINT IN POSTINGS ASSOCIATED WITH TRESPASSING PROHIBITIONS, TO REVISE PROVISIONS RELATING TO THE PAINTING OF METAL FENCE POSTS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 18-7008, Idaho Code, be, and the same is hereby amended to read as follows:

18-7008. TRESPASS -- ACTS CONSTITUTING. A. Every person who willfully commits any trespass, by either:

1. Cutting down, destroying or injuring any kind of wood or timber belonging to another, standing or growing upon the lands of another; or
2. Carrying away any kind of wood or timber lying on such lands; or
3. Maliciously injuring or severing from the freehold of another, anything attached thereto, or the produce thereof; or
4. Digging, taking, or carrying away from any lot situated within the limits of any incorporated city, without the license of the owner or legal occupant thereof, any earth, soil, or stone; or
5. Digging, taking, or carrying away from any land in any of the cities of the state, laid down on the map or plan of such city, or otherwise recognized or established as a street, alley, avenue, or park, without the license of the proper authorities, any earth, soil or stone; or
6. Willfully opening, tearing down, or otherwise destroying any fence on the enclosed land of another, or opening any gate, bar, or fence of another and willfully leaving it open, or using the corral or corrals of another without the permission of the owner; or
7. Willfully covering up or encumbering in any manner, the land or city lot of another, without written permission from the owner or custodian thereof; or
8. Every person, except under landlord-tenant relationship, who, being first notified in writing, or verbally by the owner or authorized agent of the owner of real property, to immediately depart from the same and who refuses to so depart, or who, without permission or invitation, returns and enters said property within a year, after being so notified; or
9. Entering without permission of the owner or the owner's agent, upon the real property of another person which real property is posted with "No Trespassing" signs, is posted with a minimum of one hundred (100) square inches of fluorescent orange, bright orange, blaze orange, safety orange or any similar high visibility shade of orange colored paint except that when metal fence posts are used, the entire a minimum of eighteen (18) inches of the top of the post must be painted fluorescent a high visibility shade of orange, or other notices of like meaning, spaced at intervals of not less than one (1) sign, paint area or notice per six hundred sixty (660) feet along such real property; provided that where the geographical configuration of the real property is such that entry can reasonably be made only at certain points of access, such property is posted sufficiently for all purposes of this section if said signs, paint or notices are posted at such points of access; or
10. Entering the property of another and, being unprovoked, intentionally and without the consent of the animal's owner, kills or injures a domestic animal not his own:

Is guilty of a misdemeanor.

B. Every person who while committing any trespass, intentionally and without consent of the animal's owner kills or injures a domestic animal of another, not including upland game birds or birds of any species not protected by law, shall be guilty of a misdemeanor. In addition to any other sentence of jail or a criminal fine imposed, a court may, for violation of this subsection or subsection A.10. of this section, impose a civil penalty in an amount up to double the value of the animal or for injuries sustained and payable to the owner of the animal.

SECTION 2. That Section 36-1603, Idaho Code, be, and the same is hereby amended to read as follows:

36-1603. TRESPASSING ON CULTIVATED LANDS OR IN VIOLATION OF WARNING SIGNS -- POSTING OF PUBLIC LANDS. (a) No person shall enter the real property of another and shoot any weapon or enter such property for the purposes of hunting, retrieving wildlife, fishing or trapping, without the permission

of the owner or person in charge of the property, which property is either cultivated or posted with legible "No Trespassing" signs, is posted with a minimum of one hundred (100) square inches of fluorescent orange, bright orange, blaze orange, safety orange or any similar high visibility shade of orange colored paint except that when metal fence posts are used, ~~the entire~~ a minimum of eighteen (18) inches of the top of the post must be painted fluorescent a high visibility shade of orange, or other notices of like meaning, placed in a conspicuous manner on or near all boundaries at intervals of not less than one (1) sign, paint area or notice per six hundred sixty (660) feet provided that where the geographical configuration of the real property is such that entry can reasonably be made only at certain points of access, such property is posted sufficiently for all purposes of this subsection if said signs, paint areas or notices are posted at such points of access. For the purposes of this section, "cultivated" shall mean soil that is being or has been prepared by loosening or breaking up for the raising of crops, or used for the raising of crops, or artificially irrigated pasturage. No person shall fail to depart immediately from the real property of another after being notified in writing or orally by the owner of the real property or the owner's authorized agent.

(b) No person shall post, sign, or indicate that any public lands within this state, not held under an exclusive control lease, are privately owned lands.

Approved March 22, 2013.

CHAPTER 151  
(S.B. No. 1063)

AN ACT

RELATING TO THE MEDICAL CONSENT AND NATURAL DEATH ACT; AMENDING SECTION 39-4514, IDAHO CODE, TO REVISE PROVISIONS RELATING TO WHEN HEALTH CARE MAY NOT BE WITHDRAWN OR DENIED AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 39-4514, Idaho Code, be, and the same is hereby amended to read as follows:

39-4514. GENERAL PROVISIONS. (1) Application. Except as specifically provided herein, Sections 39-4510 through 39-4512B, Idaho Code, shall have no effect or be in any manner construed to apply to persons not executing a living will and durable power of attorney for health care, POST form or other health care directive pursuant to this chapter nor shall these sections in any manner affect the rights of any such persons or of others acting for or on behalf of such persons to give or refuse to give consent or withhold consent for any medical care; neither shall sections 39-4510 through 39-4512B, Idaho Code, be construed to affect chapter 3 or chapter 4, title 66, Idaho Code, in any manner.

(2) Euthanasia, mercy killing, or assisted suicide. This chapter does not make legal, and in no way condones, euthanasia, mercy killing, or assisted suicide or permit an affirmative or deliberate act or omission to end life, including any act or omission described in section 18-4017, Idaho Code, other than to allow the natural process of dying.

(3) Withdrawal of care. Assisted feeding or artificial nutrition and hydration may not be withdrawn or denied if its provision is directed by a competent patient in accordance with section 39-4503, Idaho Code, by a patient's health care directive under section 39-4510, Idaho Code, or by a patient's surrogate decision maker in accordance with section 39-4504, Idaho

Code. Health care necessary to sustain life or to provide appropriate comfort for a patient other than assisted feeding or artificial nutrition and hydration may not be withdrawn or denied if its provision is directed by a competent patient in accordance with section 39-4503, Idaho Code, by a patient's health care directive under section 39-4510, Idaho Code, or by a patient's surrogated decision maker in accordance with section 39-4504, Idaho Code, unless such care would be futile care as defined in subsection (6) of this section. Except as specifically provided in chapters 3 and 4, title 66, Idaho Code, health care, assisted feeding or artificial nutrition and hydration, the denial of which is directed by a competent patient in accordance with section 39-4503, Idaho Code, by a patient's health care directive under section 39-4510, Idaho Code, or by a patient's surrogate decision maker in accordance with section 39-4504, Idaho Code, shall be withdrawn and denied in accordance with a valid directive. This subsection does not require provision of treatment to a patient if it would require denial of the same or similar treatment to another patient.

(4) Comfort care. Persons caring for a person for whom artificial life-sustaining procedures or artificially administered nutrition and hydration are withheld or withdrawn shall provide comfort care as defined in section 39-4502, Idaho Code.

(5) Presumed consent to resuscitation. There is a presumption in favor of consent to cardiopulmonary resuscitation (CPR) unless:

(a) A completed durable power of attorney for health care or living will for that person is in effect, pursuant to section 39-4510, Idaho Code, in which the person has stated that he or she does not wish to receive cardiopulmonary resuscitation, and any terms set forth in the durable power of attorney for health care or living will upon which such statement is conditioned have been met; or

(b) The person's surrogate decision maker has communicated the person's wishes not to receive cardiopulmonary resuscitation and any terms on which the wishes not to receive cardiopulmonary resuscitation are conditioned have been met; or

(c) The person has a physician orders for scope of treatment (POST) form that meets the requirements of section 39-4512A, Idaho Code, stating that the person does not wish to receive cardiopulmonary resuscitation and any terms on which the statement is conditioned have been met and/or has a proper POST identification device pursuant to section 39-4502(15), Idaho Code.

(6) Futile care. Nothing in this chapter shall be construed to require medical treatment that is medically inappropriate or futile; provided that this subsection does not authorize any violation of subsection (3) of this section. Futile care does not include comfort care. Futile care is a course of treatment:

(a) For a patient with a terminal condition, for whom, in reasonable medical judgment, death is imminent within hours or at most a few days whether or not the medical treatment is provided and that in reasonable medical judgment will not improve the patient's condition; or

(b) The denial of which in reasonable medical judgment will not result in or hasten the patient's death.

(7) Existing directives and directives from other states. A health care directive executed prior to July 1, 2012, but which was in the living will, durable power of attorney for health care, DNR, or POST form pursuant to prior Idaho law at the time of execution, or in another form that contained the elements set forth in this chapter at the time of execution, shall be deemed to be in compliance with this chapter. Health care directives or similar documents executed in another state that substantially comply with this chapter shall be deemed to be in compliance with this chapter. This section shall be liberally construed to give the effect to any authentic

expression of the person's prior wishes or directives concerning his or her health care.

(8) Insurance.

(a) The making of a living will and/or durable power of attorney for health care, physician orders for scope of treatment (POST) form, or DNR order pursuant to this chapter shall not restrict, inhibit or impair in any manner the sale, procurement or issuance of any policy of life insurance, nor shall it be deemed to modify the terms of an existing policy of life insurance. No policy of life insurance shall be legally impaired or invalidated in any manner by the withholding or withdrawal of artificial life-sustaining procedures from an insured person, notwithstanding any term of the policy to the contrary.

(b) No physician, health care facility or other health care provider and no health care service plan, insurer issuing disability insurance, self-insured employee plan, welfare benefit plan or nonprofit hospital service plan shall require any person to execute a living will and durable power of attorney for health care or physician orders for scope of treatment (POST) form, or DNR order as a condition for being insured for, or receiving, health care services.

(9) Portability and copies.

(a) A physician orders for scope of treatment (POST) form that meets the requirements of section 39-4512A, Idaho Code, shall be transferred with the person to, and be effective in, all care settings including, but not limited to, home care, ambulance or other transport, hospital, residential care facility, and hospice care. The POST form shall remain in effect until such time as there is a valid revocation pursuant to section 39-4511A, Idaho Code, or new orders are issued by a physician, APPN or PA.

(b) A photostatic, facsimile or electronic copy of a valid physician orders for scope of treatment (POST) form may be treated as an original by a health care provider or by an institution receiving or treating a person.

(10) Registration. A directive or the revocation of a directive meeting the requirements of this chapter may be registered with the secretary of state pursuant to section 39-4515, Idaho Code. Failure to register the health care directive shall not affect the validity of the health care directive.

(11) Rulemaking authority.

(a) The department of health and welfare shall adopt those rules and protocols necessary to administer the provisions of this chapter.

(b) In the adoption of a physician orders for scope of treatment (POST) or DNR protocol, the department shall adopt standardized POST identification devices to be used statewide.

Approved March 22, 2013.

CHAPTER 152  
(S.B. No. 1064)

AN ACT

RELATING TO PERMITS FOR OVERWEIGHT OR OVERSIZE LOADS; AMENDING SECTION 49-1004, IDAHO CODE, TO REMOVE REFERENCES TO A PILOT PROJECT AND TO MAKE TECHNICAL CORRECTIONS; AND REPEALING SECTION 3, CHAPTER 315, LAWS OF 2003, RELATING TO REPORTS TO THE LEGISLATURE AND A SUNSET PROVISION.

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

SECTION 1. That Section 49-1004, Idaho Code, be, and the same is hereby amended to read as follows:

49-1004. PERMITS FOR OVERWEIGHT OR OVERSIZE LOADS -- SPECIAL PILOT PROJECT ROUTES AND ANNUAL PERMITS. (1) Upon application in writing to the board or other proper authorities in charge of, or having jurisdiction over a highway, the board or authorities may in their discretion issue a special permit to the owner or operator of any vehicle allowing vehicles or loads having a greater weight or size than permitted by law to be moved or carried over and on the highways and bridges.

(a) Special permits shall be in writing and may limit the time of use and operation over the particular highways and bridges which may be traversed and may contain any special conditions and require any undertaking or other security as the board or other proper authority shall deem to be necessary to protect the highways and bridges from injury, or provide indemnity for any injury to highways and bridges or to persons or property resulting from such operation.

(b) The owner or operator of an overweight or oversize vehicle shall obtain a permit, or shall establish intent to obtain a permit by contacting a permit office and receiving a permit number before moving the vehicle on the highways.

(c) All special permits or evidence of intent to obtain a permit, shall be carried in the vehicles to which they refer and shall upon demand be delivered for inspection to any peace officer, authorized agent of the board or any officer or employee charged with the care or protection of the highways.

(2) Nonreducible vehicles or combinations of vehicles hauling nonreducible loads at weights in excess of those set forth in section 49-1001, Idaho Code, shall pay fees as set forth in this subsection ~~(2)~~. Such fees are based on the number of axles on the vehicle or combination of vehicles and the total gross weight.

Number of axles	Column 1	Column 2
	Gross weight of vehicle and load in pounds	Gross weight of vehicle and load in pounds
2	40,001	-
3	54,001	-
4	68,001	-
5	80,001	131,001
6	97,001	148,001
7	114,001	165,001

(a) To determine the maximum allowable permit fee for vehicles with more than seven (7) axles, the table can be extended by adding seventeen thousand (17,000) pounds to the last listed weight in both columns 1 and 2 for each added axle.

(b) Permit fees for column 1 shall start at four cents (4¢) per mile and increase four cents (4¢) per mile for each additional two thousand (2,000) pound increment up to the weight indicated in column 2. Permit fees for column 2 shall start at one dollar and two cents (\$1.02) per mile and increase seven cents (7¢) per mile for each additional two thousand (2,000) pound increment.

(c) Vehicles operating at weights less than the starting weights per axle configuration listed in column 1 shall be charged four cents (4¢) per mile.

(d) For vehicles operating with axles wider than eight (8) feet six (6) inches or axles with more than four (4) tires per axle, the fee may be reduced by the board or other proper authority having jurisdiction over a highway.

(3) It shall be unlawful for any person to violate, or to cause or permit to be violated, the limitations or conditions of special permits and any violation shall be deemed for all purposes to be a violation of the provisions of this chapter.

(4) An annual special ~~pilot project~~ route permit authorizing travel on ~~pilot project~~ designated routes shall be issued by the board or may, in its discretion, be issued by a local public highway agency for operation of vehicles with a legal maximum gross weight of at least one hundred five thousand five hundred one (105,501) pounds but not exceeding one hundred twenty-nine thousand (129,000) pounds. Such ~~pilot project~~ routes on nonstate and noninterstate highways shall be determined by the local highway agency for those roads under its jurisdiction. No local public highway agency shall approve a ~~pilot project~~ route which provides a thoroughfare for interstate carriers to pass through the state. State ~~pilot project~~ routes designated by the legislature and identified on a map entitled "Designated ~~Pilot Project~~ Routes" are:

(a) US-20 Montana border to its junction with SH-33; SH-33 to its junction with US-20; US-20 to its junction with US-93; US-93 to its junction with SH-25; SH-25 to its junction with SH-50; SH-50 to its junction with US-30; US-30 to its junction with SH-74; SH-74 to its junction with US-93; US-93 to the Nevada border.

(b) US-91 from its junction with SH-34 to the Utah border.

(c) US-30 from its junction with I-15 to the Wyoming border.

(d) US-95 south from milepost 66 (Fruitland) to its junction with SH-55.

(e) SH-19 from its junction with US-95 (Wilder) to its junction with I-84B (Caldwell).

- (f) SH-78 from its junction with SH-55 (Marsing) to its junction with SH-51; SH-51 to its junction with SH-78; SH-78 to its junction with I-84B (Hammett).
- (g) SH-67 from its junction with SH-51 (Mountain Home) to its junction with SH-78 (Grandview).
- (h) SH-55 from intersection with Farmway Road to junction with US-95.
- (i) SH-25 from its junction with SH-24 to its junction with SH-27 (Paul).
- (j) SH-25 from its junction with US-93 to milepost 27 (Hazelton).
- (k) SH-24 from intersection with US-93 to its intersection with SH-25.
- (l) US-20 from its intersection with New Sweden Road to its junction with SH-22/33.
- (m) SH-34 from milepost 78 to the junction with US-91.
- (n) US-26 from its junction with US-91 north to its intersection with Gallatin/West 23rd Street in Idaho Falls.
- (o) US-91 from the intersection with Canyon Road to the junction with US-26.
- (p) SH-22 from its junction with I-15 northbound ramps (Dubois) to its junction with SH-33.
- (q) SH-45 from its junction with SH-78 to its junction with I-84 business loop; I-84 business loop to its junction with exit 35 (Nampa Boulevard/Northside Boulevard).
- (r) SH-87 from Montana border to junction with US-20.
- (s) SH-33 from its junction with SH-31 (Victor) to its junction with SH-33 spur; SH-33 spur to its junction with US-20.
- (t) SH-28 from junction with SH-22 to junction with SH-33.
- (u) SH-38 from milepost 0.689 to milepost 1.318 at Malad.
- (v) SH-27 from its junction with SH-25 (Paul) to its junction with I-84B (Burley); I-84B to its junction with SH-27; SH-27 to milepost 0 (Oakley).
- (w) SH-81 from its junction with SH-77 (Malta) to its junction with US-30 (Burley).
- (x) US-30 from junction with SH-81 at Burley to junction with SH-50 at Kimberly.
- (y) US-93 spur from junction with US-30 to junction with US-93 at Twin Falls.
- (z) US-93 from junction with US-93 spur to junction with US-30 at Twin Falls.
- (aa) US-30 from junction with SH-74 at Twin Falls to junction with I-84 business loop at Bliss.
- (bb) US-26 from its junction with SH-75 (Shoshone) to its junction with I-84 exit 141 westbound ramps (Bliss); I-84 business loop from its junction with I-84 exit 141 westbound ramps to its junction with US-30 (Bliss).
- (cc) SH-46 spur from its junction with SH-46 (Wendell) to its junction with I-84 exit 155 eastbound ramps.
- (dd) SH-46 from its junction with US-20 to its junction with I-84 exit 157 eastbound ramps (Wendell).
- (ee) US-20 from junction with US-93 at Carey to junction with I-84 business loop at interchange 95; I-84 business loop from interchange 95 to junction with SH-51; SH-51 to junction with SH-67.
- (ff) SH-51 from junction with SH-67 to junction with SH-78.
- (gg) SH-44 from its junction with SH-55 (Eagle) to its junction with I-84 exit 25 eastbound ramps.
- (hh) US-20/26 from its junction with US-95 (Parma) to its junction with I-84 exit 26 westbound ramps.
- (ii) US-20 from junction with US-33 at Sugar City south to junction with US-20 business loop/Holmes Avenue; US-20 business loop/Holmes Avenue

south to junction with US-26/Yellowstone; US-26 from intersection with US-20 business loop/Holmes Avenue south to Gallatin. Additions or deletions to the approved state ~~pilot project~~ routes specified in this subsection (4) shall be made only with the approval of the state legislature.

(5) An annual administrative permit fee for operating on ~~pilot project~~ designated routes at the weights specified in subsection (4) of this section shall be set by the board for travel on state ~~pilot project~~ routes and by the local public highway agency for travel on routes under its jurisdiction, but not to exceed a maximum of fifty dollars (\$50.00) per vehicle. The annual administrative permit fee shall cover administrative costs. Local public highway agencies are authorized to issue special ~~pilot project~~ permits and such permits shall be in writing. Administrative permit fees for permits issued by a local public highway agency shall be retained by the local public highway agency to cover administrative costs, and administrative permit fees for permits issued by the department shall be retained by the department to cover administrative costs. In addition to the annual administrative permit fee and the appropriate registration fee for weights up to one hundred five thousand five hundred (105,500) pounds, the appropriate vehicle registration fees for weights over one hundred five thousand five hundred (105,500) pounds shall be calculated and collected in accordance with the fee schedules set forth in section 49-432 or 49-434, Idaho Code.

(6) (a) In any action or proceeding brought for the purpose of setting aside a special permit issued pursuant to this section, in which any party seeks a stay or seeks a temporary restraining order or preliminary injunction against the department, other appropriate authority, the state of Idaho or any party requesting the permit, the court may require bond as provided in rule 65(c) of the Idaho rules of civil procedure, in an amount not to exceed ten percent (10%) of the shipper's or transporter's insured value of the product or material to be transported under the provisions of the permit. If any attorney's fees and/or costs are awarded to the department or other state actor, such bond may be used to satisfy that award and all awarded amounts shall be paid to the state highway account established in section 40-702, Idaho Code.

(b) Where there is a final judgment in an action or proceeding brought for the purpose of setting aside a special permit issued pursuant to this section against the party or parties who brought such action or proceeding, the court may determine the actual damages resulting from the action or proceeding caused to the department or other state actor and may award up to that amount to the party or parties.

SECTION 2. That Section 3, Chapter 315, Laws of 2003, be, and the same is hereby repealed.

Approved March 22, 2013.

CHAPTER 153  
(S.B. No. 1081)

AN ACT

RELATING TO MOTOR VEHICLE REGISTRATION; AMENDING SECTION 49-434, IDAHO CODE, TO REVISE A FEE, TO PROVIDE THAT CERTAIN TRAILER MANUFACTURERS MAY PURCHASE REGISTRATION FROM THE DEPARTMENT, TO ESTABLISH PROVISIONS RELATING TO THE ISSUING OF ANNUAL REGISTRATION TO CERTAIN FOREIGN-BASED PURCHASERS AND TO ESTABLISH PROVISIONS RELATING TO THE APPLICATION OF AN ANNUAL FEE TO A NONEXPIRING REGISTRATION FEE.

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

SECTION 1. That Section 49-434, Idaho Code, be, and the same is hereby amended to read as follows:

49-434. OPERATING FEES. (1) There shall be paid on all commercial vehicles, noncommercial vehicles, and on all farm vehicles having a maximum gross weight not in excess of sixty thousand (60,000) pounds, an annual registration fee in accordance with the following schedule.

Unladen Weight for Wreckers Maximum Gross Weight For Other Vehicles (Pounds)	Annual Registration Fee	
	Noncommercial and Farm Vehicles	Commercial Vehicles and Wreckers
8,001-16,000 inc. ....	\$ 48.00	\$ 48.00
16,001-26,000 inc. ....	61.08	143.40
26,001-30,000 inc. ....	91.68	223.80
30,001-40,000 inc. ....	130.08	291.60
40,001-50,000 inc. ....	188.28	360.00
50,001-60,000 inc. ....	311.88	515.40

(2) There shall be paid on all commercial vehicles, irrespective of body type, and on all farm vehicles having a maximum gross weight in excess of sixty thousand (60,000) pounds, an annual registration fee in the amount prescribed by subsection (8) of this section, as applicable.

(3) In addition, the annual registration fee for trailers shall be:

(a) Trailer or semitrailer in a combination of vehicles .....\$15.00

(b) Rental utility trailer with a gross weight of two thousand (2,000) pounds or less .....\$8.00

(c) Rental utility trailer with a gross weight over two thousand (2,000) pounds .....\$15.00

(4) As an option to the trailer and semitrailer and rental utility trailer annual registrations issued pursuant to subsection (3) of this section, the department may provide a nonexpiring plate and registration for trailers and semitrailers, and an optional, extended registration for rental utility trailers.

(a) For trailers and semitrailers, the nonexpiring registration fee shall be ~~one hundred five~~ ninety-nine dollars (\$~~105~~99.00). The license plate shall remain on the trailer or semitrailer until the registration is canceled or revoked. No part of the fee is subject to refund. However, the registrant may transfer the nonexpiring plate and registration to another trailer or semitrailer titled to the registrant if the original registration date is prior to July 1, 2009. The registration document shall be the official record of the status of the nonexpiring registration and no registration fee shall be required after the initial registration is paid. No validation sticker shall be required or issued for such nonexpiring license plate.

(i) Registration of a trailer or semitrailer based in another jurisdiction may be issued when the registrant provides a valid jurisdiction title or ownership document and certification statement, and no title transfer will be required.

(ii) Periodic verification will be made to confirm ownership status. Failure of the owner to comply with the verification request to confirm ownership within thirty (30) days, shall result in cancellation of the permanent plate registration.

(b) Idaho based trailer manufacturers may purchase trailer and semi-trailer registration from the department. The manufacturer may issue the annual registration to foreign-based purchasers utilizing a manufacturer's certificate of origin or manufacturer's statement of origin as proof of ownership. If the foreign-based purchaser subsequently obtains an Idaho nonexpiring registration as provided in paragraph (a) of this subsection prior to annual registration expiration, the amount of the annual registration fee shall be applied to the nonexpiring registration fee provided that the customer acquires a title for such vehicle.

(c) For rental utility trailers, the registrant may prepay the annual registration for an additional one (1), two (2), three (3) or four (4) years, but in no event shall the optional registration period extend beyond five (5) years. The fee shall be as specified in subsection (3) (b) or (c) of this section. A pressure-sensitive sticker shall be used to validate the license plate. The license plate shall become void if the owner's interest in the rental utility trailer changes during the five (5) year period. If the owner fails to enter the rental utility trailer on the annual renewal application during the five (5) year period, the registration record shall be purged. Any unrenewed plate shall be returned to the department if it is not entered on the renewal application.

(5) A fleet registration option is available to owners who have twenty-five (25) or more commercial or farm vehicles or any combination thereof. Such owners may register all of their company vehicles with the department in lieu of registering with a county assessor. To qualify the fleet must be owned and operated under the unified control of one (1) person and the vehicles must be physically garaged and maintained in two (2) or more counties. Fleet registration shall not include fleets of rental vehicles. The department shall provide a registration application to the owner and the owner shall provide all information that the department determines is necessary. The department shall devise a special license plate numbering system for fleet-registered vehicles as an alternative to county license plates. The fleet registration application and all subsequent registration renewals shall include the physical address where a vehicle is principally used, garaged and maintained. The fleet owner shall report the physical address to the department upon initial registration, on each renewal, and at any time a vehicle registered under this option is permanently transferred to another location.

(6) If the ownership of a vehicle changes during the registration period, the original owner may transfer the plate to another vehicle. The remaining fee shall be credited against the cost of the new registration. Refunds may be given for any unexpired portion of the vehicle registration fee if the plate is not transferred by the owner to another vehicle. Any request for refund shall include surrender of the license plate, validation sticker and registration document. Owners of vehicles registered under the international registration plan may request a refund of the unexpired portion of the Idaho vehicle registration fee by presenting evidence from the base jurisdiction that the license plate, validation sticker and registration document have been surrendered. A license plate shall not be transferred to another owner when the ownership of a vehicle changes. The owner shall obtain a replacement plate, validation sticker if required, and a registration document when a plate is lost, destroyed or becomes illegible.

(7) An administrative fee of four dollars (\$4.00) shall be paid and deposited to the state highway account on all registrations completed by the department under subsection (1) or (8) (a) of this section. Vehicles registered under subsection (8) (b) of this section shall pay the fee provided in section 49-435(2), Idaho Code.

(8) There shall be paid on all commercial and farm vehicles having a maximum gross weight in excess of sixty thousand (60,000) pounds, a registration fee based upon the maximum gross weight of a vehicle as declared by the owner and the total number of miles driven on roads and highways in the state, county, city and highway district systems in Idaho, and if registered under the international registration plan (IRP), in all other jurisdictions. The appropriate registration fee shall be determined as follows:

(a) If the owner registers vehicles under the international registration plan (IRP), the appropriate mileage column shall be determined by the total miles an owner operated a fleet of vehicles on roads and highways in the state, county, city and highway district systems in Idaho and in all other jurisdictions in the preceding year, as defined in section 49-117, Idaho Code, and by the maximum gross weight of each vehicle within a fleet.

(b) If the owner registers vehicles under the international registration plan and determines that the average international registration plan fleet miles, calculated by dividing the total IRP fleet miles in all jurisdictions by the number of registered vehicles, is less than fifty thousand one (50,001) miles, the owner may apply to the department for refund of a portion of the registration fees paid, consistent with the fee schedules set forth in this section. The department shall provide an application for the refund. An owner making application for refund under this section shall be subject to auditing as provided in section 49-439, Idaho Code.

(c) If the owner is not registering vehicles under the international registration plan, the appropriate mileage column shall be determined by the total miles the owner operated each of the vehicles to be registered on roads and highways in the state, county, city and highway district systems in Idaho in the preceding year and by the maximum gross weight of each vehicle.

Maximum Gross  
Weight of Vehicle  
(Pounds)

Total Miles Driven

	1 to 7,500	7,501 to 20,000	20,001 to 35,000	35,001 to 50,000	Over 50,000
60,001-62,000	\$223	\$ 511	\$ 789	\$1,068	\$1,560
62,001-64,000	\$251	\$ 576	\$ 890	\$1,205	\$1,760
64,001-66,000	\$280	\$ 642	\$ 992	\$1,342	\$1,960
66,001-68,000	\$309	\$ 707	\$1,093	\$1,479	\$2,160
68,001-70,000	\$337	\$ 773	\$1,194	\$1,615	\$2,360
70,001-72,000	\$366	\$ 838	\$1,295	\$1,752	\$2,560
72,001-74,000	\$394	\$ 904	\$1,396	\$1,889	\$2,760
74,001-76,000	\$423	\$ 969	\$1,498	\$2,026	\$2,960
76,001-78,000	\$451	\$1,035	\$1,599	\$2,163	\$3,160
78,001-80,000	\$480	\$1,100	\$1,700	\$2,300	\$3,360
80,001-82,000	\$494	\$1,133	\$1,751	\$2,368	\$3,460
82,001-84,000	\$509	\$1,165	\$1,801	\$2,437	\$3,560
84,001-86,000	\$523	\$1,198	\$1,852	\$2,505	\$3,660
86,001-88,000	\$537	\$1,231	\$1,902	\$2,574	\$3,760
88,001-90,000	\$551	\$1,264	\$1,953	\$2,642	\$3,860
90,001-92,000	\$566	\$1,296	\$2,004	\$2,711	\$3,960
92,001-94,000	\$580	\$1,329	\$2,054	\$2,779	\$4,060

Maximum Gross Weight of Vehicle (Pounds)	Total Miles Driven				
94,001-96,000	\$594	\$1,362	\$2,105	\$2,848	\$4,160
96,001-98,000	\$609	\$1,395	\$2,155	\$2,916	\$4,260
98,001-100,000	\$623	\$1,427	\$2,206	\$2,985	\$4,360
100,001-102,000	\$637	\$1,460	\$2,257	\$3,053	\$4,460
102,001-104,000	\$651	\$1,493	\$2,307	\$3,121	\$4,560
104,001-106,000	\$666	\$1,526	\$2,358	\$3,190	\$4,660
106,001-108,000	\$680	\$1,558	\$2,408	\$3,258	\$4,760
108,001-110,000	\$694	\$1,591	\$2,459	\$3,327	\$4,860
110,001-112,000	\$709	\$1,624	\$2,510	\$3,395	\$4,960
112,001-114,000	\$723	\$1,657	\$2,560	\$3,464	\$5,060
114,001-116,000	\$737	\$1,689	\$2,611	\$3,532	\$5,160
116,001-118,000	\$751	\$1,722	\$2,661	\$3,601	\$5,260
118,001-120,000	\$766	\$1,755	\$2,712	\$3,669	\$5,360
120,001-122,000	\$780	\$1,788	\$2,763	\$3,738	\$5,460
122,001-124,000	\$794	\$1,820	\$2,813	\$3,806	\$5,560
124,001-126,000	\$809	\$1,853	\$2,864	\$3,874	\$5,660
126,001-128,000	\$823	\$1,886	\$2,914	\$3,943	\$5,760
128,001-129,000	\$837	\$1,918	\$2,965	\$4,011	\$5,860

(d) In addition to the fees set forth in paragraphs (a) and (c) of this subsection (8), an owner or operator may purchase a temporary permit as provided in section 49-432(2), Idaho Code, for operation of a vehicle at a weight in excess of the current, valid, registered maximum gross vehicle weight. The permit so issued shall be specific to the motor vehicle to which it is issued. No permit or fee shall be transferable or apportionable to any other vehicle, nor shall any such fee be refundable.

(e) Any commercial or farm vehicle registered for more than sixty thousand (60,000) pounds up to one hundred six thousand (106,000) pounds traveling fewer than two thousand five hundred (2,500) miles annually on roads and highways in the state, county, city and highway district systems in Idaho shall pay an annual registration fee of two hundred fifty-five dollars (\$255). The provisions of section 49-437(2), Idaho Code, shall not apply to vehicles registered under this subsection (8) (e).

(9) (a) During the first registration year that the fee schedule in subsection (8) (c) of this section is in use, an owner shall use the mileage data from the records used to report the mileage use fee in the immediately preceding year as the basis for determining the appropriate registration fee schedule.

(b) Any owner who registers a motor vehicle for the first time and who has no mileage history for the vehicle shall estimate the miles to determine the appropriate fee schedule in subsection (8) (c) of this section. When estimating the miles, the owner shall provide a statement on the application of the method used to arrive at the estimated miles.

(c) Any owner using any fee schedule other than the highest fee schedule under subsection (8) (c) of this section, shall certify at the time of registration that the miles operated in the preceding year do not exceed the schedule applied for. Any owner using a fee schedule under subsection (8) (c) of this section that is less than the highest schedule shall maintain records to substantiate the use of the schedule as required by section 49-439, Idaho Code.

(10) An owner registering under subsection (8) (a) or (8) (c) of this section may elect to pay the full annual registration fee at the time of registration or renewal of registration, or an owner may pay at least one-quarter (1/4) of the annual registration fee due. The remainder of the annual Idaho registration fee shall be paid in three (3) equal installments on dates as billed by the department.

(11) An owner registering or renewing a registration under subsection (8) (a) of this section electing to use installment payments as provided in subsection (10) of this section, shall pay all of the fees due to other IRP jurisdictions in addition to one-quarter (1/4) of the Idaho fee due at the time of registration or reregistration. The remainder of the annual Idaho registration fee shall be paid in three (3) equal installments on dates as billed by the department.

(12) If any vehicle or combinations of vehicles haul nonreducible loads, as authorized under the provisions of section 49-1004, Idaho Code, and weigh less than the starting weights per axle configuration listed in column 1 of subsection (2), section 49-1004, Idaho Code, then and in that event there shall be paid for that vehicle, in addition to the other fees required in this section, an additional use fee of 2.1 mills per mile for each two thousand (2,000) pounds or fraction thereof of the maximum gross weight in excess of those set forth in section 49-1001, Idaho Code.

Approved March 22, 2013.

#### CHAPTER 154

(S.B. No. 1091, As Amended)

#### AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-1002, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO AN ONLINE COURSE PORTAL, ADVANCED OPPORTUNITIES AND THE "8 IN 6 PROGRAM"; AMENDING SECTION 33-1020, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A CERTAIN DISTRIBUTION CALCULATION AND TO CORRECT A CODIFIER'S ERROR; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1024, IDAHO CODE, TO PROVIDE THAT CERTAIN MONEYS MAY BE EXPENDED FOR THE DEVELOPMENT AND MAINTENANCE OF AN INTERNET-BASED PORTAL, TO ESTABLISH PROVISIONS RELATING TO CERTAIN COURSES AVAILABLE, TO PROVIDE THAT THE PORTAL SHALL INCLUDE CERTAIN CUSTOMER RATINGS AND A NOTIFICATION CAPACITY AND TO PROVIDE THAT THE PORTAL SHALL FACILITATE COMMUNICATIONS; AMENDING CHAPTER 16, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1626, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO CERTAIN ADVANCED OPPORTUNITIES, ELIGIBILITY FOR DUAL CREDIT COURSES AND THE DISTRIBUTION OF CERTAIN MONEYS AND TO ESTABLISH PROVISIONS RELATING TO CERTAIN END OF COURSE ADVANCED PLACEMENT EXAMINATIONS AND THE DISTRIBUTION AND REIMBURSEMENT OF CERTAIN MONEYS; AMENDING SECTION 33-1628, IDAHO CODE, TO PROVIDE THAT MONEYS SHALL NOT BE PAID FOR CERTAIN IDAHO DIGITAL LEARNING ACADEMY ENROLLMENTS, TO REVISE PROVISIONS RELATING TO ELIGIBLE COURSES, TO ESTABLISH PROVISIONS RELATING TO ENROLLING IN ELIGIBLE COURSES, TO ESTABLISH PROVISIONS RELATING TO CREDITS AND GRADES FOR ONLINE COURSES TAKEN AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 33-1002, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

(j) For employee severance payments as provided in section 33-521, Idaho Code;

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

(l) For an online course portal as provided for in section 33-1024, Idaho Code;

(m) For advanced opportunities as provided for in section 33-1626, Idaho Code;

(n) For the "8 in 6 Program" as provided for in section 33-1628, Idaho Code;

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

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

to secure the total educational support distribution funds.

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

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

## COMPUTATION OF KINDERGARTEN SUPPORT UNITS

## Average Daily

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

## COMPUTATION OF ELEMENTARY SUPPORT UNITS

## Average Daily

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

## COMPUTATION OF SECONDARY SUPPORT UNITS

## Average Daily

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

## COMPUTATION OF EXCEPTIONAL EDUCATION SUPPORT UNITS

## Average Daily

Attendance	Attendance Divisor	Minimum Units Allowed
14 or more . . . .	14.5 . . . . .	1 or more as

	computed
12 - 13.99....	- ..... 1
8 - 11.99....	- ..... .75
4 - 7.99....	- ..... .5
1 - 3.99....	- ..... .25

COMPUTATION OF ALTERNATIVE SCHOOL SECONDARY SUPPORT UNITS

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

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

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

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

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

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

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

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

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

(c) District Share. The district's share of state apportionment is the amount of the total district allowance, subsection (6) (b) of this section.

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

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

SECTION 2. That Section 33-1020, Idaho Code, be, and the same is hereby amended to read as follows:

33-1020. IDAHO DIGITAL LEARNING ACADEMY FUNDING. Of the moneys appropriated for the educational support program, an amount shall be distributed to support the Idaho digital learning academy, created pursuant to chapter 55, title 33, Idaho Code. For the purposes of this section, an "enrollment" shall be counted each time an Idaho school age child enrolls in an Idaho digital learning academy class. A single child enrolled in multiple classes shall count as multiple enrollments. Summer enrollments shall be included in the fiscal year that begins that summer. The amount distributed shall be calculated as follows:

(1) A ~~fixed~~ base amount shall be distributed, equal to the current fiscal year's statewide average salary-based apportionment funding per midterm support unit, multiplied by ~~seven~~ twenty-six (726).

(2) ~~A variable base amount shall be distributed each time the number of enrollments meets or exceeds an increment of five thousand (5,000). The amount so distributed shall be equal to the number of such increments, multiplied by the current fiscal year's statewide average salary-based apportionment funding per midterm support unit, multiplied by four and thirty-three hundredths (4.33).~~

~~(3) A variable amount shall be distributed, equal to the number of enrollments multiplied by the current fiscal year's statewide average salary-based apportionment funding per midterm support unit~~ appropriation of state funds for the educational support program per student reported in attendance for the first reporting period, divided by one hundred forty-three twenty-three (14323).

The state department of education shall make an estimated distribution of funds to the Idaho digital learning academy by no later than July 31 of each fiscal year, consisting of eighty percent (80%) of the estimated funding for the fiscal year. The balance of all remaining funds to be distributed, pursuant to the calculations in this section, shall be distributed by no later than May 15 of the same fiscal year.

SECTION 3. That Chapter 10, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1024, Idaho Code, and to read as follows:

33-1024. ONLINE COURSE PORTAL. (1) Of the moneys appropriated to the educational support program, up to one hundred fifty thousand dollars (\$150,000) may be expended for the development and maintenance of an internet-based portal of available online, nonsectarian K-12 or dual credit courses available from any of the following:

- (a) Idaho digital learning academy;
- (b) Idaho public school districts;
- (c) Idaho public charter schools;
- (d) Idaho public colleges and universities;
- (e) Idaho private colleges and universities accredited by the same organization that accredits Idaho's public colleges and universities; and
- (f) Any provider of online courses; provided however, that the courses available on the portal have been verified and approved by the state department of education to meet state content standards.

(2) At a minimum, the portal shall:

- (a) Include and display customer ratings from students and parents, based upon previous student enrollment with the online course, provider and instructor. Such ratings shall, at a minimum, evaluate the quality of content, instruction, communications and ease of use;
- (b) Include the capacity for parents to notify their student's home school of their desire to enroll their student in an online course listed on the portal; and
- (c) Facilitate communications between listed online course providers, students and parents and the home school in which the student is enrolled.

SECTION 4. That Chapter 16, 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 33-1626, Idaho Code, and to read as follows:

33-1626. ADVANCED OPPORTUNITIES. Students completing all state high school graduation requirements at any time prior to the beginning of their final twelfth grade semester or trimester term, except the senior project and any other course that the state board of education requires to be completed during the final year of high school, shall be eligible for the following:

(1) Dual credit courses, up to eighteen (18) credits per semester term or twelve (12) credits per trimester term of postsecondary credits. Average daily attendance shall be counted as normal for such students for public school funding purposes. The state department of education shall distribute funds from the moneys appropriated for the educational support program to defray the per credit cost charged for such dual credit courses by accredited postsecondary institutions. The amount so distributed shall not exceed seventy-five dollars (\$75.00) per credit hour.

(2) End of course, college credit-bearing advanced placement examinations, up to six (6) examinations per semester or four (4) per trimester. The state department of education shall distribute funds from the moneys appropriated for the educational support program to defray the per examination cost charged. The amount so distributed shall not exceed ninety dollars (\$90.00) per examination.

The state department of education shall reimburse school districts and public charter schools for such costs, up to the stated limits, within one hundred twenty-five (125) days of receiving the necessary data upon which reimbursements may be paid. If a student fails to earn credit for any course or

examination for which the department has paid a reimbursement, the student must pay for and successfully earn credit for one (1) such course or examination before the department may pay any further reimbursements for such student.

SECTION 5. That Section 33-1628, Idaho Code, be, and the same is hereby amended to read as follows:

33-1628. "8 IN 6 PROGRAM." (1) A program is hereby established in the state department of education to be known as the "8 in 6 Program."

(2) If a parent and student agree, by signing the appropriate form provided by the state department of education, to the conditions provided for in paragraphs (a) and (b) of this subsection, the state department of education will pay for a portion of the cost of summer online courses and online overload courses as provided for in this section from the moneys appropriated for this purpose.

(a) The student and parent agree that the student shall take and successfully complete dual credit or professional-technical education courses for at least a portion of the student's courses during the 11th eleventh and/or 12th twelfth grade years. Funding for this requirement will not be provided by the "8 in 6 Program."

(b) The student and parent agree that the student shall take and successfully complete at least one (1) summer online or online overload course and a full course load of at least fourteen (14) credits per school year.

(c) The state shall pay two hundred twenty-five dollars (\$225) per one (1) credit summer online course or one (1) credit online overload course taken in this program. Provided however, that if the moneys shall not be paid for Idaho digital learning academy (IDLA) receives a state guarantee or appropriation of at least five million dollars (\$5,000,000) for fiscal year 2013, the state shall pay no moneys for the "8 in 6 Program" for that fiscal year, and IDLA shall provide the online courses necessary to meet the needs of the "8 in 6 Program" for that fiscal year, at a cost not to exceed seventy-five dollars (\$75.00) per course enrollments funded pursuant to section 33-1626, Idaho Code.

(d) The state shall pay for no more than two (2) credits of online overload courses per student per school year. The state shall pay for no more than two (2) credits of summer online courses per student per summer. The state shall pay for no more than a combined total of four (4) credits of summer online or online overload courses per student per year. The state shall pay for no more than a combined total of eight (8) credits of summer online and online overload courses per student during such student's participation in the program.

(3) Participation in this program shall be limited to no more than ten percent (10%) of students in each grade 7 through 12. Such limitation shall be applied initially on a school district-by-school district, grade-by-grade basis. If any grades do not fully utilize their available participation slots, the school district shall reallocate said participation slots to those grades in which more than ten percent (10%) of the students have applied for participation in the program. If any school districts do not fully utilize their available participation slots by July 1, the state department of education shall reallocate said participation slots to those districts in which more than ten percent (10%) of the students have applied for participation in the program. Students accepted into the program shall remain in the program from year to year unless they sign a withdrawal form developed by the state department of education. If a participating student transfers from one (1) school district to another, such student shall remain enrolled in the program, the ten percent (10%) par-

participation limitation of the student's new school district notwithstanding. The state department of education shall maintain a list of participants.

(a) If the number of students applying for participation in the "8 in 6 Program" exceeds the number of participation slots available in the school district, the school district shall establish participation preference criteria. Such criteria shall include students who have successfully completed at least one (1) online course prior to participating in the program, and may include any of the following:

- (i) Grade point average;
- (ii) State-mandated summative achievement test results;
- (iii) Other school district administered student assessments.

(b) If a student participating in the program fails to complete with a grade of "C" or better one (1) or more summer online or online overload courses while in the program, the student must pay for and successfully complete a summer online or online overload course with a grade of "C" or better before continuing in the program.

(4) Procedures for participating in the "8 in 6 Program" include the following: The school district shall make reasonable efforts to ensure that any student who considers participating in the program considers the challenges and time necessary to succeed in the program. Such efforts by the district shall be performed prior to a student participating in the program.

(5) Eligible courses. To qualify as an eligible course for the program, the course must be one in which a majority of the instruction is provided electronically, and it must be offered by a provider accredited by the organization that accredits Idaho high schools or an organization whose accreditation of providers is recognized by the organization that accredits Idaho high schools. Dual credit, advanced placement and concurrent enrollment courses are not eligible under this program. Parents of participating students may enroll their child in any eligible course, with or without the permission of the school district in which the student is enrolled, up to the course enrollment limits provided for in subsection (2) (d) of this section. School district personnel shall assist parents in the process of enrolling students in such courses. Each participating student's transcript at the school district at which the student is enrolled shall include the credits earned and grades received by the student for any online courses taken pursuant to this section.

(6) The state board of education is hereby authorized to promulgate rules to implement the provisions of this section.

(7) Definitions:

(a) "8 in 6 Program" means the two (2) years of junior high, the four (4) years of high school and the first two (2) years of college or professional-technical preparation that normally take eight (8) years to complete are compressed into six (6) years by taking full course loads during the school year and one (1) or two (2) online courses during the summer or as online overload courses.

(b) "Full course load" means no fewer than fourteen (14) credits per school year.

(c) "Overload course" means a course taken that is in excess of or more than the number of courses taken in the normal school day as a normal school day is defined for fractional average daily attendance purposes by the state department of education.

(d) "Parent" means parent or parents or guardian or guardians.

(e) "School district" means an Idaho school district or a public charter school that provides education to any grades 7-12.

(f) "School year" means the normal school year that begins upon the conclusion of the break between grades and ends upon the beginning of the same break of the following year.

CHAPTER 155  
(S.B. No. 1098)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-1272, IDAHO CODE, TO REVISE A DEFINITION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 12, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1273A, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO NEGOTIATIONS IN OPEN SESSION, TO ESTABLISH THAT CERTAIN DOCUMENTATION SHALL BE SUBJECT TO CERTAIN DISCLOSURE LAWS AND TO PROVIDE FOR NOTICE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 33-1272, Idaho Code, be, and the same is hereby amended to read as follows:

33-1272. DEFINITIONS. Definition of terms as used in this act:

(1-) "Professional employee" means any certificated employee of a school district, including charter districts; provided, however, that superintendents, supervisors or principals may be excluded from the professional employee group if a negotiation agreement between the board and local education organization so specifies.

(2-) "Local education organization" means any local district organization duly chosen and selected by a majority of the professional employees as their representative organization for negotiations under this act.

(3-) "Negotiations" means publicly meeting and conferring in good faith by a local board of trustees and the authorized local education organization, or the respective designated representatives of both parties for the purpose of reaching an agreement, upon matters and conditions subject to negotiations as specified in a negotiation agreement between said parties.

SECTION 2. That Chapter 12, 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 33-1273A, Idaho Code, and to read as follows:

33-1273A. NEGOTIATIONS IN OPEN SESSION. (1) Any other provision of law notwithstanding, including any provisions to the contrary in section 67-2345, Idaho Code, all negotiations pursuant to this act shall be in open session and shall be open and available for the public to attend.

(2) All documentation exchanged between the parties during negotiations, including all offers, counteroffers and meeting minutes shall be subject to public writings disclosure laws.

(3) Any other provision of law notwithstanding, including any other provisions to the contrary in sections 33-402 and 67-2343, Idaho Code, the district shall post notice of all negotiation sessions at the earliest possible time practicable. This shall be done by the district immediately posting notice of the negotiation session on the front page of its district website. If time permits, the district shall also post notice within twenty-four (24) hours at its regular meeting physical posting locations.

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

Approved March 22, 2013.

CHAPTER 156  
(S.B. No. 1100)

AN ACT

RELATING TO HEALTH CARE SHARING MINISTRIES; PROVIDING A SHORT TITLE; AMENDING CHAPTER 1, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-121, IDAHO CODE, TO PROVIDE THAT A HEALTH CARE SHARING MINISTRY SHALL NOT BE CONSIDERED TO BE ENGAGING IN THE BUSINESS OF INSURANCE FOR THE PURPOSES OF TITLE 41, IDAHO CODE, TO DEFINE A TERM AND TO PROVIDE FOR APPLICATION OF THE CONSUMER PROTECTION ACT; AND PROVIDING SEVERABILITY.

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

SECTION 1. SHORT TITLE. This act shall be known as the "Health Care Sharing Ministries Freedom to Share Act."

SECTION 2. That Chapter 1, 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 41-121, Idaho Code, and to read as follows:

41-121. EXEMPTION OF HEALTH CARE SHARING MINISTRIES FROM THE INSURANCE CODE. (1) A health care sharing ministry shall not be considered to be engaging in the business of insurance for purposes of this title.

(2) As used in this section, "health care sharing ministry" means a faith-based nonprofit organization that is tax exempt under the Internal Revenue Code which:

(a) Limits its participants to those who are of a similar faith;

(b) Acts as a facilitator among participants who have financial or medical needs and matches those participants with other participants with the present ability to assist those with financial or medical needs in accordance with criteria established by the health care sharing ministry;

(c) Provides for the financial or medical needs of a participant through contributions from one (1) participant to another;

(d) Provides amounts that participants may contribute with no assumption of risk or promise to pay among the participants and no assumption of risk or promise to pay by the health care sharing ministry to the participants;

(e) Provides a written monthly statement to all participants that lists the total dollar amount of qualified needs submitted to the health care sharing ministry, as well as the amount actually published or assigned to participants for their contribution; and

(f) Provides a written disclaimer on or accompanying all applications and guideline materials distributed by or on behalf of the organization that reads, in substance: "Notice: The organization facilitating the sharing of medical expenses is not an insurance company, and neither its guidelines nor plan of operation is an insurance policy. Whether anyone chooses to assist you with your medical bills will be totally voluntary because no other participant will be compelled by law to contribute toward your medical bills. As such, participation in the organization or a subscription to any of its documents should never be considered to be insurance. Regardless of whether you receive any payment for medical expenses or whether this organization continues to operate, you are always personally responsible for the payment of your own medical bills."

(3) It is hereby declared that participation in or operation of a health care sharing ministry does not constitute an unfair or deceptive act or practice in the conduct of trade or commerce prohibited by chapter 6, title 48, Idaho Code.

SECTION 3. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

Approved March 22, 2013.

CHAPTER 157  
(S.B. No. 1128)

AN ACT

APPROPRIATING MONEYS TO THE STATE INDEPENDENT LIVING COUNCIL FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the State Independent Living Council, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General				
Fund	\$19,900	\$78,100		\$98,000
State Independent Living Council (Ded)				
Fund	160,500	86,700		247,200
State Independent Living Council (Fed)				
Fund	<u>126,200</u>	<u>23,900</u>	<u>\$220,600</u>	<u>370,700</u>
TOTAL	\$306,600	\$188,700	\$220,600	\$715,900

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the State Independent Living Council is authorized no more than five (5) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to

use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 22, 2013.

CHAPTER 158  
(S.B. No. 1129)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF SPECIES CONSERVATION FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Office of Species Conservation, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General				
Fund	\$416,000	\$62,300		\$478,300
Miscellaneous Revenue				
Fund		15,000		15,000
Federal Grant				
Fund	<u>553,900</u>	<u>195,600</u>	<u>\$12,000,000</u>	<u>12,749,500</u>
TOTAL	\$969,900	\$272,900	\$12,000,000	\$13,242,800

SECTION 2. FTP AUTHORIZATION. 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, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 22, 2013.

CHAPTER 159  
(S.B. No. 1130)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF ENERGY RESOURCES FOR FISCAL YEAR 2014;  
LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PRO-  
VIDING CERTAIN NON-GENERAL FUND REAPPROPRIATION FOR FISCAL YEAR 2014;  
AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Office of Energy Resources, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
Indirect Cost Recovery			
Fund		\$75,200	\$75,200
Renewable Energy Resources			
Fund	\$567,600	150,500	718,100
Miscellaneous Revenue			
Fund	84,900	125,000	209,900
Petroleum Price Violation			
Fund	120,500	75,000	195,500
Federal Grant			
Fund	<u>0</u>	<u>219,300</u>	<u>219,300</u>
TOTAL	\$773,000	\$645,000	\$1,418,000

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Office of Energy Resources is authorized no more than ten (10) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. NON-GENERAL FUND REAPPROPRIATION AUTHORITY. 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 moneys appropriated or reappropriated for fiscal year 2013, to be used for nonrecurring expenditures only, for the period July 1, 2013, through June 30, 2014.

SECTION 4. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to

use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 22, 2013.

CHAPTER 160  
(S.B. No. 1131)

AN ACT

APPROPRIATING MONEYS TO THE ENDOWMENT FUND INVESTMENT BOARD FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING A CONTINUOUS APPROPRIATION FOR CERTAIN COSTS; EXPRESSING LEGISLATIVE INTENT REGARDING THE TRANSFER OF MONEYS FROM THE EARNINGS RESERVE FUNDS TO THE INCOME FUNDS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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 for the designated expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Miscellaneous Revenue				
Fund	\$96,400	\$28,700	\$1,600	\$126,700
Endowment Administrative				
Fund	<u>329,300</u>	<u>163,300</u>	<u>5,500</u>	<u>498,100</u>
TOTAL	\$425,700	\$192,000	\$7,100	\$624,800

SECTION 2. FTP AUTHORIZATION. 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, 2013, through June 30, 2014, 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 consulting fees, bank custodial fees, and portfolio-related external costs for the period July 1, 2013, through June 30, 2014.

SECTION 4. LEGISLATIVE INTENT. It is the intent of the Legislature that for fiscal year 2014, the Endowment Fund Investment Board transfer \$48,844,800 as follows: \$31,292,400 from the Public School Earnings Reserve Fund to the Public School Income Fund; \$967,200 from the Agricultural College Earnings Reserve Fund to the Agricultural College Income Fund; \$3,348,000 from the Charitable Institutions Earnings Reserve Fund to the Charitable Institutions Income Fund; \$2,670,000 from the Normal School Earnings Reserve Fund to the Normal School Income Fund; \$1,422,000 from the Penitentiary Earnings Reserve Fund to the Penitentiary Income Fund; \$3,338,400 from the Scientific School Earnings Reserve Fund to the Scientific School Income Fund; \$2,946,000 from the Mental Hospital Earnings

Reserve Fund to the Mental Hospital Income Fund; and \$2,860,800 from the University Earnings Reserve Fund to the University Income Fund.

SECTION 5. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 22, 2013.

CHAPTER 161  
(S.B. No. 1132)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF FISH AND GAME FOR FISCAL YEAR 2014 ;  
LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND  
PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Department of Fish and Game, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>I. ADMINISTRATION:</b>					
<b>FROM:</b>					
Fish and Game (Licenses)					
Fund	\$3,454,900	\$1,460,500	\$2,983,500		\$7,898,900
Fish and Game (Other)					
Fund	540,600	114,000			654,600
Fish and Game Set-aside (Licenses)					
Fund	200	33,700			33,900
Fish and Game Set-Aside (Other)					
Fund	18,000	20,800			38,800
Expendable Big Game Depredation					
Fund		2,900			2,900
Fish and Game Expendable Trust					
Fund		7,300			7,300
Fish and Game Nonexpendable Trust					
Fund		3,600			3,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>Fish and Game (Federal)</b>					
Fund	<u>3,800,200</u>	<u>2,758,500</u>	<u>70,100</u>		<u>6,628,800</u>
TOTAL	\$7,813,900	\$4,401,300	\$3,053,600		\$15,268,800
<b>II. ENFORCEMENT:</b>					
<b>FROM:</b>					
<b>Fish and Game (Licenses)</b>					
Fund	\$7,633,100	\$1,999,700	\$150,200		\$9,783,000
<b>Fish and Game (Other)</b>					
Fund	136,600	24,000			160,600
<b>Fish and Game Set-Aside (Other)</b>					
Fund		20,600			20,600
<b>Fish and Game Expendable Trust</b>					
Fund		26,400			26,400
<b>Fish and Game (Federal)</b>					
Fund	<u>32,300</u>	<u>6,700</u>	<u>0</u>		<u>39,000</u>
TOTAL	\$7,802,000	\$2,077,400	\$150,200		\$10,029,600
<b>III. FISHERIES:</b>					
<b>FROM:</b>					
<b>Fish and Game (Licenses)</b>					
Fund	\$3,478,800	\$2,567,400	\$261,800		\$6,308,000
<b>Fish and Game (Other)</b>					
Fund	1,968,300	1,723,600	865,000		4,556,900
<b>Fish and Game Set-aside (Licenses)</b>					
Fund	224,300	253,600			477,900
<b>Fish and Game Set-Aside (Other)</b>					
Fund	72,600	3,500			76,100
<b>Fish and Game Expendable Trust</b>					
Fund	49,700	634,200			683,900
<b>Fish and Game Nonexpendable Trust</b>					
Fund		33,200			33,200
<b>Fish and Game (Federal)</b>					
Fund	<u>11,841,700</u>	<u>9,118,900</u>	<u>1,491,500</u>		<u>22,452,100</u>
TOTAL	\$17,635,400	\$14,334,400	\$2,618,300		\$34,588,100
<b>IV. WILDLIFE:</b>					
<b>FROM:</b>					
<b>Fish and Game (Licenses)</b>					
Fund	\$3,911,700	\$3,968,100	\$106,000	\$174,800	\$8,160,600
<b>Fish and Game (Other)</b>					
Fund	503,200	914,700			1,417,900

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Fish and Game Set-Aside (Other)					
Fund	689,000	378,200			1,067,200
Fish and Game Expendable Trust					
Fund	445,600	309,700	7,500		762,800
Fish and Game Nonexpendable Trust					
Fund	11,000	2,300			13,300
Fish and Game (Federal)					
Fund	<u>4,474,100</u>	<u>3,755,300</u>	<u>150,000</u>	<u>0</u>	<u>8,379,400</u>
TOTAL	\$10,034,600	\$9,328,300	\$263,500	\$174,800	\$19,801,200

## V. COMMUNICATIONS:

## FROM:

Fish and Game (Licenses)					
Fund	\$1,553,800	\$432,100	\$36,300		\$2,022,200
Fish and Game (Other)					
Fund	90,000	131,300	120,000		341,300
Fish and Game Set-Aside (Other)					
Fund	89,100	16,500			105,600
Fish and Game Expendable Trust					
Fund	29,900	6,100			36,000
Fish and Game Nonexpendable Trust					
Fund		200			200
Fish and Game (Federal)					
Fund	<u>938,100</u>	<u>404,400</u>	<u>0</u>		<u>1,342,500</u>
TOTAL	\$2,700,900	\$990,600	\$156,300		\$3,847,800

## VI. ENGINEERING:

## FROM:

Fish and Game (Licenses)					
Fund	\$872,000	\$72,800	\$6,600		\$951,400

## VII. WINTER FEEDING AND HABITAT IMPROVEMENT:

## FROM:

Fish and Game (Licenses)					
Fund	\$614,300	\$516,200	\$11,700		\$1,142,200
Fish and Game (Other)					
Fund	65,200	7,800			73,000
Fish and Game Set-aside (Licenses)					
Fund	4,000	1,329,800			1,333,800
Fish and Game Set-Aside (Other)					
Fund	168,500	23,700			192,200
Expendable Big Game Depredation					
Fund				\$600,000	600,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Fish and Game (Federal)					
Fund	<u>912,800</u>	<u>304,500</u>	<u>0</u>	<u>0</u>	<u>1,217,300</u>
TOTAL	\$1,764,800	\$2,182,000	\$11,700	\$600,000	\$4,558,500
GRAND TOTAL	\$48,623,600	\$33,386,800	\$6,260,200	\$774,800	\$89,045,400

SECTION 2. FTP AUTHORIZATION. 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, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 22, 2013.

CHAPTER 162  
(S.B. No. 1139)

AN ACT

APPROPRIATING MONEYS TO THE PUBLIC HEALTH DISTRICTS FOR FISCAL YEAR 2014;  
AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Public Health Districts \$8,232,500 from the General Fund to be transferred to the Public Health Trust Fund on July 1, 2013, or as soon thereafter as practicable.

SECTION 2. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 22, 2013.

CHAPTER 163  
(S.B. No. 1140)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF SELF-GOVERNING AGENCIES FOR THE MEDICAL BOARDS FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Medical Boards, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
<b>I. BOARD OF DENTISTRY:</b>				
FROM:				
State Regulatory				
Fund	\$235,600	\$247,600	\$6,400	\$489,600
<b>II. BOARD OF MEDICINE:</b>				
FROM:				
State Regulatory				
Fund	\$851,100	\$762,800	\$3,600	\$1,617,500
<b>III. BOARD OF NURSING:</b>				
FROM:				
State Regulatory				
Fund	\$624,400	\$605,900	\$10,200	\$1,240,500
<b>IV. BOARD OF PHARMACY:</b>				
FROM:				
State Regulatory				
Fund	\$892,800	\$537,900		\$1,430,700
Federal Grant				
Fund	0	58,900		58,900
TOTAL	\$892,800	\$596,800		\$1,489,600
<b>V. BOARD OF VETERINARY MEDICINE:</b>				
FROM:				
State Regulatory				
Fund	\$130,700	\$107,900		\$238,600
GRAND TOTAL	\$2,734,600	\$2,321,000	\$20,200	\$5,075,800

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, each of the programs in the Medical Boards is authorized no more than the number of full-time equivalent positions listed below at any point during the period July 1, 2013, through June 30, 2014, 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 .....	Ten and five-tenths (10.5)
Board of Pharmacy .....	Fourteen (14)
Board of Veterinary Medicine .....	Two (2)

SECTION 3. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 22, 2013.

CHAPTER 164  
(S.B. No. 1142)

AN ACT

APPROPRIATING MONEYS TO THE COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Commission for the Blind and Visually Impaired, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General				
Fund	\$635,100	\$48,500	\$599,200	\$1,282,800
Randolph Sheppard				
Fund		27,300	100,100	127,400
Rehabilitation Revenue and Refunds				
Fund		34,300	13,000	47,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Miscellaneous Revenue				
Fund		52,400	81,300	133,700
Adaptive Aids and Appliances				
Fund	17,900	47,600		65,500
Federal Grant				
Fund	<u>1,763,200</u>	<u>546,200</u>	<u>541,500</u>	<u>2,850,900</u>
TOTAL	\$2,416,200	\$756,300	\$1,335,100	\$4,507,600

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Commission for the Blind and Visually Impaired is authorized no more than thirty-nine and twelve hundredths (39.12) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 22, 2013.

CHAPTER 165  
(S.B. No. 1143)

AN ACT

APPROPRIATING MONEYS TO THE DIVISION OF VETERANS SERVICES FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Division of Veterans Services, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General					
Fund	\$922,600			\$48,900	\$971,500
Miscellaneous Revenue					
Fund	11,510,900	\$5,338,800	\$594,500		17,444,200
Veterans Home Endowment Income					
Fund	59,900	493,000		1,500	554,400
Federal Grant					
Fund	5,303,900	4,945,800	146,900	0	10,396,600
TOTAL	\$17,797,300	\$10,777,600	\$741,400	\$50,400	\$29,366,700

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Division of Veterans Services is authorized no more than three hundred sixteen and seventy-hundredths (316.70) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 22, 2013.

CHAPTER 166  
(S.B. No. 1144)

AN ACT

APPROPRIATING MONEYS TO THE AGRICULTURAL RESEARCH AND COOPERATIVE EXTENSION SERVICE FOR FISCAL YEAR 2014; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION; EXEMPTING APPROPRIATION OBJECT TRANSFER LIMITATIONS; AND PROVIDING NON-GENERAL FUND REAPPROPRIATION FOR FISCAL YEAR 2014.

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

SECTION 1. There is hereby appropriated to the Board of Regents of the University of Idaho for the Agricultural Research and Cooperative Extension Service, the following amounts to be expended from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General				
Fund	\$21,553,400	\$2,369,300	\$500,000	\$24,422,700
Equine Education				
Fund	<u>0</u>	<u>52,000</u>	<u>0</u>	<u>52,000</u>
TOTAL	\$21,553,400	\$2,421,300	\$500,000	\$24,474,700

SECTION 2. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

SECTION 3. EXEMPTIONS FROM OBJECT TRANSFER LIMITATIONS. For fiscal year 2014, the Agricultural Research and Cooperative Extension Service is hereby exempted from the provisions of Section 67-3511 (1) and (3), Idaho Code, allowing unlimited transfers between object codes, for all moneys appropriated to it for the period July 1, 2013, through June 30, 2014. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

SECTION 4. NON-GENERAL FUND REAPPROPRIATION AUTHORITY. There is hereby reapropriated to the Agricultural Research and Cooperative Extension Service any unexpended and unencumbered balances of moneys categorized as dedicated funds and federal funds as appropriated for fiscal year 2013, to be used for nonrecurring expenditures, for the period July 1, 2013, through June 30, 2014.

Approved March 22, 2013.

CHAPTER 167  
(H.B. No. 159)

AN ACT

RELATING TO THE RETAIL SALE OF LIQUOR BY THE DRINK; AMENDING SECTION 23-903, IDAHO CODE, TO ESTABLISH ADDITIONAL PROVISIONS RELATING TO A LICENSE TO RETAIL LIQUOR AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 23-903, Idaho Code, be, and the same is hereby amended to read as follows:

23-903. LICENSE TO RETAIL LIQUOR. (1) The director of the Idaho state police is hereby empowered, authorized, and directed to issue licenses to qualified applicants, as herein provided, whereby the licensee shall be

authorized and permitted to sell liquor by the drink at retail and, upon the issuance of such license, the licensee therein named shall be authorized to sell liquor at retail by the drink, but only in accordance with the rules promulgated by the director and the provisions of this chapter. No license shall be issued for the sale of liquor on any premises outside the incorporated limits of any city except as provided in this chapter and the number of licenses so issued for any city shall not exceed one (1) license for each one thousand five hundred (1,500) of population of said city or fraction thereof, as established in the last preceding census, or any subsequent special census conducted by the United States bureau of the census or by an estimate that is statistically valid including adding the number of new residential utility connections or including adding the population of areas annexed into the city after the last census or special census was conducted, except that upon proper application thereof not more than two (2) licenses may be issued for each incorporated city with a population of one thousand five hundred (1,500) or less, unless the retail licensing of liquor by the drink has been previously disapproved under the provisions of sections 23-917, 23-918, 23-919, 23-920 and 23-921, Idaho Code; provided, however, that any license heretofore issued may be renewed from year to year without regard to the population or status of the city for which such license is issued. Any license issued and which has remained in effect at its location for a consecutive period of ten (10) years or more shall be deemed to have been validly issued and may be renewed from year to year provided, however, that the applicant for the renewal of such license is not otherwise disqualified for licensure pursuant to section 23-910, Idaho Code, and, if the premises required special characteristics for original licensure, other than being either within or without the incorporated limits of a city, that said premises continue to have such special characteristics at the time of the application for renewal.

(2) Nothing herein contained shall prohibit the issuance of a license to the owner, operator, or lessee of an actual, bona fide golf course whether located within or without the limits of any city, or located on premises also operated as a winery, or ski resort, or to the lessee of any premises situate thereon, whether located within or without the limits of any city. For the purpose of this section a golf course shall comprise an actual, bona fide golf course, which is regularly used for the playing of the game of golf, and having not less than nine (9) tees, fairways and greens laid out and used in the usual and regular manner of a golf course. Nine (9) hole courses must have a total yardage of at least one thousand (1,000) yards, and eighteen (18) hole courses must have a total yardage of at least two thousand (2,000) yards as measured by totaling the tee-to-green distance of all holes. The course must be planted in grass except that it may provide artificial tee mats. Where any such golf course is owned or leased by an association of members and is used or enjoyed by such members, or their guests, none of the disqualifications contained in section 23-910, Idaho Code, shall apply to such association as a licensee where such disqualifications, or any of them, would apply only to a member of such association where such member has no interest therein except as a member thereof.

(3) Also for the purpose of this section a ski resort shall comprise real property of not less than ten (10) acres in size, exclusive of the terrain used for skiing and upon which the owner, operator, or lessee of the ski resort has made available himself, or through others, including, but not limited to, the owners of condominiums, permanent bona fide overnight accommodations available to the general public for one hundred (100) persons or more, and which real property is contiguous to or located within the area in which skiing occurs, and which real property is regularly operated as a ski resort in the winter time, and where the owner, operator, or lessee of the ski resort is also the owner, operator, or lessee of the area served by a bona fide chair ski lift facility or facilities. Alternatively, for the

purpose of this section a ski resort may also be defined as a downhill ski area, open to the public, comprising real property of not less than two hundred fifty (250) skiable acres, operating two (2) or more chair lifts with a vertical lift of one thousand (1,000) feet or more, and capable of transporting a minimum of one thousand eight hundred (1,800) skiers per hour. A ski resort qualifying under this definition shall also have on the premises a lodge facility providing shelter and food service to the public, the operator of which shall also be the valid owner or lessee of the grounds and facilities upon which the ski resort offers downhill skiing services to the public. The fees for licenses granted to ski resorts shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code. Not more than one (1) licensed premises shall be permitted on any golf course or any ski resort or within the area comprising the same.

(4) Nothing herein contained shall prohibit the issuance of a license to the owner, operator or lessee of an actual, bona fide equestrian facility located on not less than forty (40) contiguous acres, with permanently erected seating of not less than six thousand (6,000) seats, no part of which equestrian facility or the premises thereon is situate within the incorporated limits of any city, and which facility shall have at least three (3) days per year of a professionally sanctioned rodeo. Not more than one (1) licensed premises shall be permitted at any equestrian facility or within an area comprising such a facility. The license shall be solely for the equestrian facility and shall not be transferred to any other location. The fees for licenses granted to equestrian facilities shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code.

(5) Nothing herein contained shall prohibit the issuance of a license to the owner, operator, or lessee of a restaurant operated on an airport owned or operated by a county or municipal corporation or on an airport owned or operated jointly by a county and municipal corporation, and which said airport is served by a trunk or local service air carrier holding a certificate of public convenience and necessity issued by the Civil Aeronautics Board of the United States of America. Not more than one (1) license shall be issued on any airport.

(6) Nothing herein contained shall prohibit the issuance of one (1) club license to a club as defined in section 23-902, Idaho Code. The holder of a club license is authorized to sell and serve alcoholic beverages for consumption only within the licensed establishment owned, leased or occupied by the club, and only to bona fide members of the club, and to serve and to sell alcoholic beverages for consumption to bona fide members' guests. A club license issued pursuant to the provisions of this section is not transferable and may not be sold. Any club license issued pursuant to the provisions of this section will revert to the director when, in his judgment, the licensee ceases to operate as a bona fide club as defined in section 23-902, Idaho Code. No club may hold a liquor license and a club license simultaneously. A club which on July 1, 1983, holds a liquor license, may continue to possess that license. Any club which possesses a liquor license on January 1, 1983, or thereafter, and then sells that liquor license, may not obtain a club license, and the director shall not issue a club license to that club for a period of five (5) years following such sale. The fee for any license issued to a qualifying club within an incorporated municipality shall be as prescribed in subsections (1), (2) and (3) of section 23-904, Idaho Code. The fee for any license issued to a qualifying club not situate within an incorporated municipality shall be as specified for golf courses under section 23-904(6), Idaho Code. The provisions of section 23-916, Idaho Code, regarding county and city licenses, shall pertain to club licenses. The burden of producing sufficient documentation of qualifications for club licensure shall be with the club applicant.

(7) Nothing in this chapter to the contrary shall prohibit the issuance of a license to the owner, operator, or lessee of an actual, bona fide conven-

tion center which is within the incorporated limits of a city having a population of three thousand (3,000) or greater, and which city does not have located therein a convention center with a valid convention center license to sell liquor by the drink. For the purpose of this section, a convention center means a facility having at least thirty-five thousand (35,000) square feet of floor space or a facility having at least one hundred twenty (120) sleeping rooms and an adjoining meeting room which will accommodate not less than three hundred fifty (350) persons, whether or not such room may be partitioned into smaller rooms, and provided that such meeting room shall contain at least three thousand (3,000) square feet of floor space. Such license must be placed in actual use in said convention center within one (1) year from the date of its issuance. The fee for any license issued to a qualifying convention center shall be as prescribed in subsection (3) of section 23-904, Idaho Code. No license issued to a convention center hereunder shall be transferable to another location or facility, nor shall the holder of a convention center license be eligible for the issuance of a license in the same city pursuant to any other provision of this chapter. For purposes of this section, the term holder shall include an owner, operator or lessee and shall include a stockholder, director, or officer of a corporation, or a partner in a partnership, which corporation or partnership has been issued a convention center license pursuant to this chapter. Not more than one (1) licensed premises shall be permitted on any convention center or within the area comprising the same, including convention centers that also comprise golf courses or ski resorts as herein defined.

(8) Nothing in this chapter shall prohibit the issuance of a license to the owner, operator or lessee of a food, beverage and/or lodging facility that has been in continuous operation in the same location for at least seventy-five (75) years, except for temporary closings for refurbishing or reconstruction, or a food, beverage and lodging facility serving the public by reservation only, having a minimum of five (5) rooms operating in a structure that has been in existence for at least seventy-five (75) years and has been on the historic register for a minimum of ten (10) years, is situated within five hundred (500) yards of a natural lake containing a minimum of thirty-six thousand (36,000) acre feet of water when full with a minimum of thirty-two (32) miles of shoreline, and is located in a county with a minimum population of sixty-five thousand (65,000). The provisions of section 23-910, Idaho Code, shall apply to licenses issued to continuous operation facilities. The fees shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code. Licenses issued to continuous operation facilities are not transferable.

(9) Nothing in this chapter shall prohibit the issuance of a license to a federally recognized Indian tribe as defined in section 67-4001, Idaho Code, which is an owner, operator or lessee of a food, conference and lodging facility located within the boundaries of the Indian tribe's reservation and containing a minimum of thirty-five thousand (35,000) square feet and fifty (50) guest rooms. Licenses issued to Indian tribes are not transferable.

(10) Nothing in this chapter shall prohibit the issuance of a license to the owner, operator or lessee of the lodging, dining and entertainment facilities owned by a gondola resort complex and operated in conjunction with the other public services provided by a gondola resort complex located within the ownership/leasehold boundaries of a gondola resort complex. A gondola resort complex means an actual, bona fide gondola capable of transporting people for recreational and/or entertainment purposes at least three (3) miles in length with a vertical rise of three thousand (3,000) feet, portions of which may be located within or over the limits of one (1) or more cities.

(11) Nothing in this chapter shall prohibit the issuance of a license to the owner, operator or lessee of a winery also operating a golf course on the premises.

(12) Subject to approval of the mayor and city council, nothing in this chapter shall prohibit the issuance of a license to the owner, operator or lessee of a food, conference and lodging facility constructed after May 1, 2000, containing a minimum of thirty-five thousand (35,000) square feet and fifty-five (55) guest rooms with a minimum taxable value of three million dollars (\$3,000,000) in a city with a population of less than five thousand (5,000) according to the most recent census.

(13) The provisions of section 23-910, Idaho Code, shall apply to licenses issued under the provisions of this section. The fees shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code. Licenses issued under the provisions of this section are not transferable.

Approved March 22, 2013.

CHAPTER 168  
(S.B. No. 1093)

AN ACT

RELATING TO EDUCATION AND THE TRANSPORTATION SUPPORT PROGRAM; AMENDING SECTION 33-1006, IDAHO CODE, TO PROVIDE THAT THE TOTAL MONEYS PAID TO SCHOOL DISTRICTS AND PUBLIC CHARTER SCHOOLS FOR CERTAIN TRANSPORTATION COSTS SHALL BE REDUCED BY A CERTAIN AMOUNT AND SHALL BE USED AS DISCRETIONARY SPENDING.

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

SECTION 1. That Section 33-1006, Idaho Code, be, and the same is hereby amended to read as follows:

33-1006. TRANSPORTATION SUPPORT PROGRAM. (1) The state board of education shall determine what costs of transporting pupils, including maintenance, operation and depreciation of basic vehicles, insurance, payments under contract with other public transportation providers whose vehicles used to transport pupils comply with federal transit administration regulations, "bus testing," 49 CFR part 665, and any revision thereto, as provided in subsection (4)(d) of this section, or other state department of education approved private transportation providers, salaries of drivers, and any other costs, shall be allowable in computing the transportation support program of school districts. Provided however, that the only miles for which costs may be reimbursed shall be those directly associated with transporting students for the purposes of regular school attendance during regular days and hours.

(2) Any costs associated with the addition of vehicle features that are not part of the basic vehicle shall not be allowable in computing the transportation support program of school districts. A basic vehicle is hereby defined as the cost of the vehicle without optional features, plus the addition of essential safety features and features necessary for the transportation of pupils with disabilities.

(3) Each school district shall maintain records and make reports as are required for the purposes of this section.

(4) The transportation support program of a school district shall be based upon the allowable costs of:

(a) Transporting public school pupils one and one-half (1 1/2) miles or more to school;

(b) Transporting pupils less than one and one-half (1 1/2) miles as provided in section 33-1501, Idaho Code, when approved by the state board of education;

(c) The costs of payments when transportation is not furnished, as provided in section 33-1503, Idaho Code;

(d) The transportation program for grades six (6) through twelve (12), upon the costs of payments pursuant to a contract with other public or private transportation providers entered into as provided in section 33-1510, Idaho Code, if the school district establishes that the reimbursable costs of transportation under the contract are equal to or less than the costs for school buses;

(e) The employer's share of contributions to the public employee retirement system and to social security.

(5) The state's share of the transportation support program shall be fifty percent (50%) of reimbursable transportation costs of the district incurred during the immediately preceding state fiscal year, except for the cost of state department of education training and fee assessments and bus depreciation and maintenance, for which the state's share shall be eighty-five percent (85%) of such costs. For school districts that contract for pupil transportation services, the state's share shall be the average state share of costs for district-run operations, based on the statewide total of such costs. Provided however, that the reimbursable costs for any school district shall not exceed one hundred three percent (103%) of the statewide average reimbursable cost per mile or the state average reimbursable cost per student rider, whichever is more advantageous to the school district. If a school district's costs exceed the one hundred three percent (103%) limit when computed by the more advantageous of the two (2) methods, that school district shall be reimbursed at the appropriate percentage designated by this subsection, multiplied by the maximum limit for whichever method is more favorable to the school district. A school district may appeal the application of the one hundred three percent (103%) limit on reimbursable costs to the state board of education, which may establish for that district a new percentile limit for reimbursable costs compared to the statewide average, which is higher than one hundred three percent (103%). In doing so, the state board of education may set a new limit that is greater than one hundred three percent (103%), but is less than the percentile limit requested by the school district. However, the percentage increase in the one hundred three percent (103%) cap shall not exceed the percentage of the district's bus runs that qualify as a hardship bus run, pursuant to this subsection. Any costs above the new level established by the state board of education shall not be reimbursed. Such a change shall only be granted by the state board of education for hardship bus runs. To qualify as a hardship bus run, such bus run shall meet at least two (2) of the following criteria:

(a) The number of student riders per mile is less than fifty percent (50%) of the statewide average number of student riders per mile;

(b) Less than a majority of the miles on the bus run are by paved surface, concrete or asphalt, road;

(c) Over ten percent (10%) of the miles driven on the bus run are a five percent (5%) slope or greater.

(6) Beginning on July 1, 2005, any eligible home-based public virtual school may claim transportation reimbursement for the prior fiscal year's cost of providing educational services to students. In order to be eligible, such a school shall have at least one (1) average daily attendance divisor, pursuant to section 33-1002, Idaho Code, that is greater than the median divisor shown for any category of pupils, among the actual divisors listed. For the purposes of paragraphs (a), (b) and (c) of this subsection (6), "education provider" means the home-based public virtual school or an entity that has legally contracted with the home-based public virtual school to supply education services. Reimbursable costs shall be limited to the costs of:

(a) Providing an internet connection service between the student and the education provider, not including the cost of telephone service;

- (b) Providing electronic and computer equipment used by the student to transmit educational material between the student and the education provider;
- (c) Providing a toll-free telephone service for students to communicate with the education provider;
- (d) Providing education-related, face-to-face visits by representatives of the home-based public virtual school, with such reimbursements limited to the mileage costs set for state employee travel by the state board of examiners; and
- (e) Any actual pupil transportation costs that would be reimbursable if claimed by a school district.

The total reimbursement for such home-based public virtual schools shall be exempt from the statewide average cost per mile limitations of this section. The state's share of reimbursable costs shall be eighty-five percent (85%), subject to the statewide cost per student rider provisions of this section. For the purposes of such home-based public virtual school, the number of student riders shall be the same as the number of pupils in average daily attendance.

(7) The state department of education shall calculate the amount of state funds lost in fiscal year 2010 by each school district as a result of the decrease in the state reimbursement from eighty-five percent (85%) to fifty percent (50%) of certain eligible costs, including the reduction calculated for districts that contract for pupil transportation services, and excluding any reductions made due to the limitation on reimbursable expenses, all pursuant to subsection (5) of this section. The amount so calculated shall be distributed to each school district in fiscal year 2010. For each fiscal year thereafter, the amount distributed pursuant to this subsection (7) for each school district shall be determined as follows:

- (a) Divide the amount distributed to the district pursuant to this subsection (7) in fiscal year 2010 by the district's support units for fiscal year 2010;
- (b) Multiply the result of the calculation found in subsection (7) (a) of this section by the number of support units in the current fiscal year;
- (c) Determine the percentage change in statewide transportation reimbursements as provided for in subsection (5) of this section since fiscal year 2010;
- (d) Determine the percentage change in statewide student enrollment since fiscal year 2010;
- (e) Subtract the result of the calculation found in subsection (7) (d) of this section from the result of the calculation found in subsection (7) (c) of this section;
- (f) Adjust the result of the calculation found in subsection (7) (b) of this section by the percentage result from subsection (7) (e) of this section.

For school districts divided after fiscal year 2010, the calculation in subsection (7) (a) of this section shall still be based on the fiscal year 2010 figures for the formerly consolidated district. For public charter schools beginning operations on or after July 1, 2009, all calculations in this subsection (7) that are based on fiscal year 2010 shall instead be based on the public charter school's first fiscal year of operations. For the purposes of this subsection (7), the support units used shall be the number used for calculating salary-based apportionment. Funds distributed pursuant to this subsection (7) shall be used to defray the cost of pupil transportation. If the amount distributed is in excess of a school district's actual pupil transportation costs, less any state reimbursements provided by subsection (5) of this section, the excess funds may be used at the school district's discretion.

(8) The total moneys paid to school districts and public charter schools for eligible transportation costs shall be reduced by a proportionate amount to equal seven million five hundred thousand dollars (\$7,500,000) and shall be used as discretionary spending.

Approved March 28, 2013.

CHAPTER 169  
(S.B. No. 1097, As Amended)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-1002B, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO CERTAIN SCHOOL AGE STUDENTS FROM OUTSIDE THE STATE OF IDAHO AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 33-1002B, Idaho Code, be, and the same is hereby amended to read as follows:

33-1002B. PUPIL TUITION-EQUIVALENCY ALLOWANCES. 1. Districts which educate pupils placed by Idaho court order in licensed homes, agencies, institutions or juvenile detention facilities shall be eligible for an allowance equivalent to forty-two percent (42%) of the previous year's gross per pupil cost calculated on a daily basis. This district allowance shall be in addition to support unit funding and included in district apportionment payments, subject to approval of district applications by the state superintendent of public instruction.

2. Districts which educate pupils placed by Idaho court order in a juvenile detention facility with a summer school program shall be eligible for an allowance equivalent to one-half (1/2) of forty-two percent (42%) of the previous year's gross per pupil cost calculated on a daily basis. This district allowance shall be in addition to support unit funding and included in district apportionment payments, subject to approval of district applications by the state superintendent of public instruction.

3. Districts which educate school age special education students who, due to the nature and severity of their disabilities, are residing in licensed public or private residential facilities or homes, and whose parents are not patrons of the district, shall be eligible for an allowance equivalent to forty-two percent (42%) of the previous year's gross per pupil cost per child plus the excess cost rate that is annually determined by the state superintendent of public instruction. This district allowance shall be in addition to exceptional education support unit funding and included in district apportionment payments, subject to approval of district applications by the state superintendent of public instruction.

4. For school age special education students from outside the state of Idaho who, due to the nature and severity of their disabilities, are residing in licensed public or private residential facilities within the state of Idaho, the local school district shall provide education services to such students if requested by the licensed public or private residential facility, provided that the local school district has been given the opportunity to provide input on any federally required education plans for any such students. A local school district providing education services for such students shall sign a contract with any such licensed public or private residential facilities, which contract shall delineate the education services to be provided by the local school district and the amount to be paid by the licensed public or private residential facility. The amount paid shall be equal to the local school district's full cost of providing the education

services delineated by the contract, as determined by the local school district. Such students shall be excluded from all average daily attendance and other reports provided to the state that would result in the distribution of state funding to the local school district.

5. For school age nonspecial education students from outside the state of Idaho who are residing in licensed public or private residential facilities within the state of Idaho, the local school district may provide education services to such students if requested by the licensed public or private residential facility. A local school district providing education services for such students shall sign a contract with any such licensed public or private residential facilities, which contract shall delineate the education services to be provided by the local school district and the amount to be paid by the licensed public or private residential facility. The amount paid shall be equal to the local school district's full cost of providing the education services delineated by the contract, as determined by the local school district. Such students shall be excluded from all average daily attendance and other reports provided to the state that would result in the distribution of state funding to the local school district.

Approved March 28, 2013.

CHAPTER 170  
(H.B. No. 248)

AN ACT

RELATING TO THE HEALTH INSURANCE EXCHANGE; AMENDING TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 61, TITLE 41, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO STATE LEGISLATIVE PURPOSE AND INTENT, TO DEFINE TERMS, TO ESTABLISH THE EXCHANGE AND THE BOARD, TO PROVIDE FOR POWERS AND AUTHORITY OF THE EXCHANGE, TO PROVIDE FOR REPORTING, TO AUTHORIZE RELIANCE BY THE EXCHANGE ON OTHER AGENCIES, TO PROVIDE THAT THE EXCHANGE SHALL NOT PREEMPT THE DUTIES OF THE DEPARTMENT OF INSURANCE, TO PROVIDE FOR THE PREFERENCE FOR IDAHO CONTRACTORS IN A HEALTH INSURANCE EXCHANGE, TO PROVIDE SEVERABILITY; AND DECLARING AN EMERGENCY.

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

CHAPTER 61  
IDAHO HEALTH INSURANCE EXCHANGE ACT

41-6101. SHORT TITLE. This chapter shall be known and may be cited as the "Idaho Health Insurance Exchange Act."

41-6102. PURPOSE AND INTENT. It is the public policy of the state of Idaho to actively resist federal actions that would limit or override state sovereignty under the 10th amendment of the United States constitution. Through this legislation, the state of Idaho asserts its sovereignty by refusing to surrender decision-making authority over health care issues, which are matters appropriately left to states and individual citizens. The purpose of this chapter is to establish a state-created, market-driven health insurance exchange that will facilitate the selection and purchase of individual and employer health benefit plans. The creation of a state-based health insurance exchange will provide an Idaho-specific solution that fits the unique needs of the state of Idaho. Participation in the exchange is

voluntary in that no person or employer shall be required by this chapter to purchase a health benefit plan through the exchange. Creation of the exchange and its operation is deemed a public purpose intended to enhance Idaho residents' choice regarding options and access to health insurance.

41-6103. DEFINITIONS. For the purposes of this chapter:

(1) "Board" means those individuals who, acting as a board of directors of the exchange, govern and act for the exchange, pursuant to section 41-6104, Idaho Code.

(2) "Conflict of interest" means that by taking any action or making any decision or recommendation on a matter within the authority of the board, a member of the board, or a person within the member's household, or any entity with which the member, or a person within the member's household is associated, would receive a pecuniary benefit or detriment, unless the pecuniary benefit or detriment would apply to the same degree to a class consisting of all persons within the particular class in this state.

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

(4) "Exchange" means the Idaho health insurance exchange established pursuant to this chapter.

(5) "Health carrier" has the same meaning as "carrier" as set forth in section 41-5203(5), Idaho Code.

(6) "Person" has the same meaning as set forth in section 41-104, Idaho Code.

(7) "Producer" has the same meaning as set forth in section 41-1003(8), Idaho Code.

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

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

(3) The board shall consist of nineteen (19) total members, with seventeen (17) voting members. Subject to the provisions of this section, members of the board shall collectively offer expertise, knowledge and experience in health benefits administration, health care finance, health plan purchasing, health care delivery system administration, public health and health policy issues related to small employer and individual markets and the uninsured. A majority of the board shall not collectively represent health carriers and producers. The fourteen (14) voting members who are not members of the legislature shall be appointed to the board by, and serve at the pleasure of, the governor. The members appointed to the board by the governor shall be subject to confirmation by the senate, provided that, upon appointment, board members shall have full authority to exercise all the rights and duties, and participate in all decisions, required of the position. The seventeen (17) voting members of the board shall be appointed as follows:

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

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

(c) Three (3) members representing individual consumer interests appointed by the governor;

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

- (i) One (1) member representing small employer business interests employing between one (1) and ten (10) employees;
  - (ii) One (1) member representing small employer business interests employing between eleven (11) and twenty-five (25) employees;
  - (iii) One (1) member representing small employer business interests employing twenty-six (26) or more employees; and
  - (iv) One (1) at-large member;
- (e) Two (2) members representing health care providers appointed by the governor;
  - (f) One (1) member of the house of representatives appointed by the speaker of the house;
  - (g) One (1) member of the senate appointed by the president pro tempore; and
  - (h) One (1) member of the legislature representing the minority party in the legislature appointed by minority leadership.

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

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

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

(6) Neither members of the board nor any other person working or performing services for the exchange shall be:

- (a) Considered public officials, employees or agents of the state of Idaho by virtue of their service on the board or performance of services for the exchange; or
- (b) Eligible for or entitled to benefits from the public employee retirement system of Idaho.

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

(8) All meetings of the board shall be held in accordance with the open meeting law as provided for in chapter 23, title 67, Idaho Code, shall be held in an open public forum, and every reasonable effort shall be made to make such meetings televised or streamed in video and audio format.

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

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

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

41-6105. POWERS AND AUTHORITY OF THE EXCHANGE. (1) Unless otherwise required by this chapter, in the discretion of the board, the exchange shall have the powers and authority to:

- (a) Perform all duties that are necessary and appropriate to implement a health insurance exchange and the provisions of this chapter;

(b) Adopt bylaws for the regulation of its affairs and the conduct of its business, subject to the review and approval by the director. The director's consent shall be required for any amendment to the bylaws;

(c) Assess and collect fees from participating health carriers, exchange users and receive funds from any other source, that shall be used solely for the purposes of this chapter. The exchange shall not be subject to income tax imposed by the state of Idaho under chapter 30, title 63, Idaho Code;

(d) Appoint any advisory committees as deemed necessary by the board;

(e) Take any legal action to recover any amounts lawfully owed to the exchange or otherwise consistent with this chapter;

(f) Enter into contracts to effectuate and implement a health insurance exchange and shall accept requests for proposal to bid on such contracts; and

(g) Develop, adopt and implement a plan of operation and other governing documents to fulfill the requirements of this chapter.

(2) The exchange powers and authority shall be subject to the following limitations:

(a) The exchange shall not have the power to alter its own legal structure;

(b) The exchange shall be financially self-supporting and shall not request any financial support from the state and shall not have the power to tax or encumber state assets;

(c) The exchange shall be a voluntary marketplace with the purpose of preserving individual choice and facilitating the informed selection and purchase of health benefit plans by eligible individuals, eligible employers and eligible employees. Neither the exchange nor any agency of the state of Idaho shall require any person to use or participate in the exchange, nor have the authority to impose upon or collect from a person any penalty for failure or refusal to participate in the exchange or to purchase a health benefit plan or stand-alone dental plan;

(d) The exchange shall not prohibit a health carrier from participating in the exchange or prohibit a health benefit plan or stand-alone dental plan from being sold in the exchange so long as the health carrier or health benefit plan or stand-alone dental plan meets all requirements of applicable law and any requirements of the exchange consistent with this chapter;

(e) The exchange shall not prohibit or preclude a health carrier from offering insurance or a stand-alone dental plan outside the exchange;

(f) The exchange shall not prohibit a producer from participating in the exchange, and any producer participating in the exchange shall be entitled to payment for his services through written fee agreements with the individuals or small employers utilizing the services of said producer or through commissions offered by health carriers participating in the exchange;

(g) Before the exchange begins taking applications or collecting information from exchange users, the board shall certify to the director and governor that personal information collected from and about any person who voluntarily uses the exchange including, but not limited to, health care records and income, is and will continue to be secure;

(h) The exchange shall not inquire about the use, ownership, possession or storage of any firearm or ammunition by anyone using the exchange;

(i) In the event the patient protection and affordable care act (PPACA), P.L. 111-148, or any section thereof or rule enacted thereto, is declared unconstitutional or otherwise invalid by any federal court, unless such ruling is stayed by the court, the exchange shall immediately cease to enforce those affected provisions of the PPACA or rules;

(j) The state of Idaho shall not be liable for any obligations of the exchange; and

(k) The board shall not be liable for any obligations of the exchange. No member 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. The board may provide for indemnification of, and legal representation for, its members.

41-6106. REPORT. (1) The exchange shall submit a written report of its activities and the condition of the exchange to the director, the governor and the director of the legislative services office for distribution to all legislators on or before January 31, 2014, and annually on or before each January 31 thereafter. The exchange shall also report to the appropriate senate and house of representatives germane committees on any changes to its bylaws or policies and any changes or updates from the federal department of health and human services (HHS) regarding essential health benefits or operation or conditions of the exchange on or before January 31, 2014, and annually on or before each January 31 thereafter.

(2) For any changes by the board to the fee schedule charged to exchange users or participants, the exchange shall, at the next legislative session, report to the appropriate senate and house of representatives germane committees on or before January 31.

41-6107. RELATION TO OTHER LAWS. The board and the exchange are entitled to rely upon work performed by the director and the director of the Idaho department of health and welfare in furtherance of the purpose of this chapter that are not otherwise inconsistent with their respective statutory duties and authority. Nothing in this chapter, and no action taken by the exchange pursuant to this chapter, shall be construed to preempt or supersede the authority of the director to regulate the business of insurance within this state pursuant to title 41, Idaho Code, and administer and enforce rules adopted in accordance therewith.

41-6108. IDAHO CONTRACTORS IN A HEALTH INSURANCE EXCHANGE. Pursuant to sections 41-6104 and 41-6105, Idaho Code, the board shall, to the fullest extent practicable, enter into contracts with businesses conducting business in Idaho and employing citizens of this state to staff and provide support for the exchange.

41-6109. 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 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. Provided however, that should the Federal Department of Health and Human Services (HHS) and/or the United States Congress change both the establishment date and the eligibility limitation date for the exchange, the Governor shall, upon his determination that such events have occurred, issue a proclamation declaring that Idaho will not be obligated to comply until the new dates are set by HHS and/or the United States Congress. The Governor shall file such proclamation with the Secretary of State.

CHAPTER 171  
(H.B. No. 269)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF LANDS FOR FISCAL YEAR 2013; REDUCING THE APPROPRIATION TO THE DEPARTMENT OF LANDS FOR FISCAL YEAR 2013; APPROPRIATING MONEYS TO THE DEPARTMENT OF LANDS FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; EXEMPTING CERTAIN APPROPRIATION OBJECT TRANSFER LIMITATIONS; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION; PROVIDING LEGISLATIVE INTENT WITH REGARD TO FUNDING RANGELAND FIRE PROTECTION; 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 229, Laws of 2012, and any other appropriation provided for by law, there is hereby appropriated to the Department of Lands for the Forest and Range Fire Protection Program \$97,000 from the Department of Lands Fund to be expended for the period July 1, 2012, through June 30, 2013.

SECTION 2. Notwithstanding any other provision of law to the contrary, the appropriation made to the Department of Lands for the Forest and Range Fire Protection Program in Section 1, Chapter 229, Laws of 2012, from the Federal Grant Fund, is hereby reduced by \$97,000 for the period July 1, 2012, through June 30, 2013.

SECTION 3. There is hereby appropriated to the Department of Lands, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. SUPPORT SERVICES:					
FROM:					
General					
Fund	\$341,200	\$242,900	\$78,400		\$662,500
Department of Lands					
Fund	431,800	292,100	78,400		802,300
Indirect Cost Recovery					
Fund	87,800	128,500			216,300
Endowment Administrative					
Fund	<u>2,433,400</u>	<u>2,544,100</u>	<u>235,400</u>		<u>5,212,900</u>
TOTAL	\$3,294,200	\$3,207,600	\$392,200		\$6,894,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>II. FOREST RESOURCES MANAGEMENT:</b>					
FROM:					
General					
Fund	\$740,500	\$184,600			\$925,100
Department of Lands					
Fund	638,200	356,000	\$27,700		1,021,900
Indirect Cost Recovery					
Fund	82,800	434,500			517,300
Endowment Administrative					
Fund	9,311,000	6,956,800	380,200		16,648,000
Community Forestry					
Fund		20,000		\$20,000	40,000
Federal Grant					
Fund	<u>443,100</u>	<u>962,700</u>	<u>0</u>	<u>1,306,300</u>	<u>2,712,100</u>
TOTAL	\$11,215,600	\$8,914,600	\$407,900	\$1,326,300	\$21,864,400
<b>III. LAND, RANGE, AND MINERAL RESOURCE MANAGEMENT:</b>					
FROM:					
General					
Fund	\$860,000	\$80,700			\$940,700
Department of Lands					
Fund	251,800	1,144,600			1,396,400
Endowment Administrative					
Fund	<u>1,762,400</u>	<u>2,004,500</u>	<u>\$39,000</u>		<u>3,805,900</u>
TOTAL	\$2,874,200	\$3,229,800	\$39,000		\$6,143,000
<b>IV. FOREST AND RANGE FIRE PROTECTION:</b>					
FROM:					
General					
Fund	\$1,180,100	\$758,400		\$707,500	\$2,646,000
Department of Lands					
Fund	2,664,600	764,300	\$417,200	873,000	4,719,100
Fire Suppression Deficiency					
Fund	129,500	22,100			151,600
Federal Grant					
Fund	<u>927,500</u>	<u>538,500</u>	<u>0</u>	<u>2,059,100</u>	<u>3,525,100</u>
TOTAL	\$4,901,700	\$2,083,300	\$417,200	\$3,639,600	\$11,041,800
<b>V. SCALING PRACTICES:</b>					
FROM:					
Department of Lands					
Fund	\$182,200	\$46,700	\$25,000		\$253,900

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
GRAND TOTAL	\$22,467,900	\$17,482,000	\$1,281,300	\$4,965,900	\$46,197,100

SECTION 4. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Lands is authorized no more than two hundred sixty-one and forty-seven hundredths (261.47) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, 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 OBJECT TRANSFER LIMITATIONS. For fiscal year 2014, the Department of Lands is hereby exempted from the provisions of Section 67-3511 (1) and (3), Idaho Code, allowing unlimited transfers between object codes, for all moneys appropriated for the Forest and Range Fire Protection Program for the period July 1, 2013, through June 30, 2014. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

SECTION 6. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

SECTION 7. LEGISLATIVE INTENT. In order to fairly support the ongoing costs of the Rangeland Fire Protection Program, the Idaho Department of Lands is to bring a proposal to the fall Joint Finance-Appropriations Committee meeting that outlines possible sources of ongoing financial support including assessment of a per acre fee on rangelands similar to the fees on forest lands found in Section 38-111, Idaho Code, and associated statutes. The Legislature clearly recognizes and supports the value of fire preparedness and protection from wildfires and believes that the costs should be shared across rangeland ownerships as is shared across forest land ownerships.

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 28, 2013.

CHAPTER 172  
(H.B. No. 270)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; APPROPRIATING AND TRANSFERRING MONEYS; PROVIDING LEGISLATIVE INTENT WITH REGARD TO CERTAIN WATER RIGHT FILING FEES; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION; AND EXEMPTING APPROPRIATION OBJECT AND PROGRAM TRANSFER LIMITATIONS.

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

SECTION 1. There is hereby appropriated to the Department of Water Resources, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>I. MANAGEMENT AND SUPPORT SERVICES:</b>					
FROM:					
General					
Fund	\$802,900	\$674,800	\$75,200		\$1,552,900
Indirect Cost Recovery					
Fund	313,500	143,300	31,100		487,900
Water Administration					
Fund	44,200	21,900			66,100
Miscellaneous Revenue					
Fund	<u>0</u>	<u>138,100</u>	<u>0</u>		<u>138,100</u>
TOTAL	\$1,160,600	\$978,100	\$106,300		\$2,245,000
<b>II. PLANNING AND TECHNICAL SERVICES:</b>					
FROM:					
General					
Fund	\$2,146,100	\$592,100		\$554,000	\$3,292,200
Indirect Cost Recovery					
Fund	67,500	12,500			80,000
Aquifer Planning and Management					
Fund	378,400	2,388,700			2,767,100
Miscellaneous Revenue					
Fund		165,000			165,000
Federal Grant					
Fund	<u>491,300</u>	<u>2,292,400</u>		<u>0</u>	<u>2,783,700</u>
TOTAL	\$3,083,300	\$5,450,700		\$554,000	\$9,088,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
III. WATER MANAGEMENT:					
FROM:					
General					
Fund	\$3,948,600	\$1,955,300	\$60,000		\$5,963,900
Indirect Cost Recovery					
Fund	53,500	4,700			58,200
Water Administration					
Fund	1,070,800	620,800			1,691,600
Water Resources Adjudication					
Fund	35,000				35,000
Miscellaneous Revenue					
Fund	680,200	246,800			927,000
Federal Grant					
Fund	<u>496,600</u>	<u>313,400</u>	<u>0</u>		<u>810,000</u>
TOTAL	\$6,284,700	\$3,141,000	\$60,000		\$9,485,700
IV. NORTHERN IDAHO ADJUDICATION:					
FROM:					
General					
Fund	\$225,600	\$160,400			\$386,000
Northern Idaho Adjudication					
Fund	<u>71,600</u>	<u>35,200</u>			<u>106,800</u>
TOTAL	\$297,200	\$195,600			\$492,800
GRAND TOTAL	\$10,825,800	\$9,765,400	\$166,300	\$554,000	\$21,311,500

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Water Resources is authorized no more than one hundred fifty-two (152) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, 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 appropriated to the Department of Water Resources and the State Controller shall transfer \$716,000 from the Revolving Development Fund to the Secondary Aquifer Planning, Management, and Implementation Fund, on July 1, 2013, or as soon thereafter as practicable, for the period July 1, 2013, through June 30, 2014.

SECTION 4. LEGISLATIVE INTENT. Notwithstanding Section 42-1414(1)(c), Idaho Code, it is the intent of the Legislature that moneys appropriated in Section 2 of this act, for the Northern Idaho Adjudication Program from the General Fund, count toward the filing fees required under Section 42-1414(1)(a) and (b), Idaho Code, for water right claims filed in the Northern Idaho Adjudication by the Idaho Water Resource Board and the Governor of the State of Idaho based on instream flow, public lake level maintenance or recreation. If the General Fund appropriation exceeds the amount required

for the Idaho Water Resource Board's and the Governor's filing fees in the current fiscal year, the excess shall be counted toward future filing fees required for those same purposes. If the General Fund appropriation does not meet or exceed the fee required for claims of the Idaho Water Resource Board or the Governor of the State of Idaho, the director of the Department of Water Resources shall grant an extension of time to the Idaho Water Resource Board or the Governor of the State of Idaho to file the claim, and the General Fund appropriation for the following fiscal year shall be counted toward the balance of the filing fee.

SECTION 5. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

SECTION 6. EXEMPTIONS FROM OBJECT AND PROGRAM TRANSFER LIMITATIONS. For fiscal year 2014, the Department of Water Resources is hereby exempted from the provisions of Section 67-3511(1), (2) and (3), Idaho Code, allowing unlimited transfers between object codes and between programs, for all moneys appropriated to it for the period July 1, 2013, through June 30, 2014. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

Approved March 28, 2013.

#### CHAPTER 173

(H.B. No. 73, As Amended in the Senate)

#### AN ACT

RELATING TO INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS; AMENDING SECTION 67-5745, IDAHO CODE, TO REVISE THE DECLARATION OF PURPOSE FOR THE IDAHO TECHNOLOGY AUTHORITY; AMENDING SECTION 67-5745B, IDAHO CODE, TO REVISE PROVISIONS FOR APPOINTMENT OF MEMBERS OF THE AUTHORITY AND TO REVISE THE NUMBER OF REQUIRED MEETINGS; AND AMENDING SECTION 67-5745C, IDAHO CODE, TO REVISE THE AUTHORITY'S GENERAL POWERS AND DUTIES.

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

SECTION 1. That Section 67-5745, Idaho Code, be, and the same is hereby amended to read as follows:

67-5745. DECLARATION OF PURPOSE. The legislature finds that advances in information technology and telecommunications present significant opportunities for the state of Idaho to improve the efficiency and productivity of state and local government, ~~to promote, develop and diversify its economy,~~ to encourage public access to government information and to enhance lifelong educational and training opportunities. The implications of these information technology and telecommunications advances require a centralized and coordinated strategic planning process involving the expertise and participation of experienced persons from both state and local

government and the private sector. The establishment of the information Idaho technology resource management council authority will facilitate a centralized approach to the acquisition and evaluation of necessary technical information and the informed development of a statewide strategic plan to ensure a coordinated approach to the design, procurement and implementation of information technology and telecommunications systems for both state government and the public.

SECTION 2. That Section 67-5745B, Idaho Code, be, and the same is hereby amended to read as follows:

67-5745B. INFORMATION IDAHO TECHNOLOGY RESOURCE MANAGEMENT COUNCIL AUTHORITY -- COMPOSITION -- APPOINTMENT AND TERM OF OFFICE -- REIMBURSEMENT -- CONTRACTING FOR NECESSARY SERVICES. (1) An information Idaho technology resource management council authority is hereby created within the department of administration. The council authority shall consist of sixteen up to seventeen (167) members who shall each serve a term of office of two (2) years. For purposes of the initial appointments, the eight (8) members of the council to be appointed by the governor shall be appointed for a one (1) year term. The governor shall appoint eight up to two (82) members of the council as follows: a chairman, two (2) executive agency officers, authority that shall include an information technology executive from private industry, a public safety official, a state information systems manager, a representative from local government and a representative for rural interests and an employee of state government. The remaining membership of the council authority shall be comprised of the following: two (2) persons one (1) legislator appointed by the president pro tempore of the senate and two (2) persons one (1) legislator appointed by the speaker of the house of representatives, to include one (1) legislator from each of the two (2) largest parties, to represent the legislative branch of state government; one (1) person appointed by the chief justice of the supreme court to represent the judicial branch of state government; the state controller; the state superintendent of public instruction director of the department of health and welfare; the director of the department of labor; the director of the transportation department; the director of the Idaho state police; the director of the department of correction; the chairman of the Idaho geospatial council executive committee; the director of the legislative services office; the chief technology officer of the department of administration; the administrator of the division of financial management in the office of the governor; and the executive officer director of the state board of education; and the adjutant general of the military division in the office of the governor. The governor shall designate a member of the authority to act as chairman and all appointed members of the council authority shall serve at the pleasure of the appointing authority. An agency director may delegate responsibility to serve as a member of the authority to another senior management executive within the agency with authority for general agency operations whose responsibilities may include, but not be limited to, information technology operations.

(2) The council authority shall hold no fewer than four two (42) regular meetings annually at such time and place as may be directed by its chairman. The council authority may meet more frequently at the call of the chairman or if requested by a majority of the council's authority's members. Members of the council authority shall serve with no salary or benefits, but are entitled to reimbursement as provided in section 59-509(b), Idaho Code.

(3) The council authority may contract for professional services or assistance when necessary or desirable to carry out its powers and duties.

SECTION 3. That Section 67-5745C, Idaho Code, be, and the same is hereby amended to read as follows:

67-5745C. GENERAL POWERS AND DUTIES OF THE COUNCIL AUTHORITY. The ~~council~~ authority shall:

- (1) Review and evaluate the information technology and telecommunications systems presently in use by state agencies;
- (2) Prepare statewide short-range and long-range information technology and telecommunications systems plans to meet the needs of state agencies;
- (3) Within the context of its strategic plans, establish statewide information technology and telecommunications policies, standards, guidelines, conventions and comprehensive risk assessment criteria that will assure uniformity and compatibility of such systems within state agencies;
- (4) Recommend and coordinate the use and application of state agencies' information technology and telecommunications resources;
- (5) Review and approve large-scale information technology and telecommunications projects including, but not limited to, risk assessment methodologies used by state agencies using ~~council~~ authority risk assessment criteria, for state agencies;
- (6) Review state agencies' compliance with statewide information technology and telecommunications systems plans;
- (7) Recommend cost-efficient procedures for state agencies' acquisition and procurement of information technology and telecommunications systems;
- (8) Upon request, provide technical expertise to state government and any other governmental entity;
- (9) Maintain a continuous and comprehensive inventory of information technology and telecommunications systems within state agencies;
- (10) In accordance with statutes governing the availability or confidentiality of public records and information, establish guidelines for the accessing of public information by the public;
- (11) On an annual basis, publish a report of the activities of the ~~council~~ authority for provision to the governor and the legislature;
- (12) Recommend the enactment or promulgation of any statutes or rules necessary to carry out the statewide information technology and telecommunications systems plans;
- (13) Enter into contracts for professional services and assistance not otherwise available in state government;
- (14) ~~Encourage and promote the development and growth of the information technology industry in the state in accordance with sound business principles and practices;~~
- (15) Encourage and promote cooperative information technology efforts and activities between the state, local government, private enterprise and the public;
- (16) Encourage and support education and training opportunities relating to information technology and telecommunications; and
- (17) Appoint subcommittees, delegate responsibilities and pPerform any additional functions consistent with the purpose of this act which are necessary and appropriate for the proper conduct of the ~~council~~ authority.

Approved March 29, 2013.

CHAPTER 174  
(H.B. No. 76)

AN ACT

RELATING TO TRUST DEEDS; AMENDING SECTION 45-1510, IDAHO CODE, TO REVISE A PROVISION RELATING TO AN INVALID TRUSTEE'S SALE AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 45-1510, Idaho Code, be, and the same is hereby amended to read as follows:

45-1510. TRUSTEE'S DEED -- RECORDING -- EFFECT. (1) When the trustee's deed is recorded in the deed records of the county where the property described in the deed is located, the recitals contained in the deed and in the affidavits required under section 45-1506, ~~subsection (7)~~, Idaho Code, shall be prima facie evidence in any court of the truth of the recitals and the affidavits. However, the recitals and affidavits are conclusive in favor of a purchaser in good faith for value or any successor in interest thereof. For purposes of this section, the trustee's deed shall be deemed effective as of the date and time on which the sale was held if such deed is recorded within fifteen (15) days after the date of sale or the first business day following the fifteenth day if the county recorder of the county in which the property is located is closed on the fifteenth day.

(2) Where a trustee's sale held pursuant to section 45-1506, Idaho Code, is invalid by reason of automatic stay provisions of the U.S. bankruptcy code, or a stay order issued by any court of competent jurisdiction or otherwise, recordation of a notice of rescission of the trustee's deed shall restore the condition of record title to the real property described in the trustee's deed and the existence and priority of all lienholders to the status quo prior to the ~~recordation of the trustee's deed upon~~ sale. Only the trustee or beneficiary who caused the trustee's deed to be recorded, or his/its successor in interest, may record a notice of rescission. The notice of rescission shall accurately identify the deed of trust, the recording instrument numbers used by the county recorder or the book and pages at which the trustee's deed and deed of trust are recorded, the names of all grantors, trustors and beneficiaries, the location of the property subject to the deed of trust and the reason for rescission. Such notice of rescission shall be in substantially the following form:

NOTICE OF RESCISSION OF TRUSTEE'S DEED UPON SALE

This Notice of Rescission is made this day . . . . with respect to the following:

1. THAT . . . . is the duly appointed Trustee under the certain Deed of Trust dated . . . . and recorded . . . . as instrument number . . . . in book . . . ., page . . . ., wherein . . . . and . . . . are named as Trustors, . . . . is named as Trustee, . . . . is named as Beneficiary;
2. THAT . . . . is the Beneficiary of record under said Deed of Trust;
3. THAT THE DEED OF TRUST encumbers real property located in the County of . . . ., State of Idaho, described as follows:

Property Description

4. THAT BY VIRTUE OF a default under the terms of the Deed of Trust, the Beneficiary did declare a default, as set forth in a Notice of Default recorded . . . . as instrument number . . . . in book . . . ., page . . . ., in the office of the Recorder of . . . . County, State of Idaho;

- 5. THAT THE TRUSTEE has been informed by the Beneficiary that the Beneficiary desires to rescind the Trustee's Deed recorded upon the foreclosure sale that was conducted in error due to a failure to communicate timely, notice of conditions that would have warranted a cancellation of the foreclosure that did occur on . . . . ;
- 6. THAT THE EXPRESS PURPOSE of this Notice of Rescission is to return the priority and existence of all title and lienholders to the status quo ante as existed prior to the Trustee's sale.

NOW THEREFORE, THE UNDERSIGNED HEREBY RESCINDS THE TRUSTEE'S SALE AND PURPORTED TRUSTEE'S DEED UPON SALE AND HEREBY ADVISES ALL PERSONS THAT THE TRUSTEE'S DEED UPON SALE DATED . . . . AND RECORDED . . . . AS . . . . INSTRUMENT NUMBER . . . . IN THE COUNTY OF . . . . , STATE OF IDAHO, FROM . . . . (TRUSTEE) TO . . . . (GRANTEE) IS HEREBY RESCINDED, AND IS AND SHALL BE OF NO FORCE AND EFFECT WHATSOEVER. THE DEED OF TRUST DATED . . . . , RECORDED . . . . AS INSTRUMENT NUMBER . . . . IN BOOK . . . . , PAGE . . . . , IS IN FULL FORCE AND EFFECT.

.....  
 Authorized Signatory

Acknowledgment

Approved March 29, 2013.

CHAPTER 175  
 (H.B. No. 102)

AN ACT

RELATING TO THE IDAHO STATE POLICE; AMENDING SECTION 67-2901, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE IDAHO STATE POLICE FORENSIC SERVICES RESOURCES.

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

SECTION 1. That Section 67-2901, Idaho Code, be, and the same is hereby amended to read as follows:

67-2901. IDAHO STATE POLICE CREATED -- DIRECTOR -- DIVISIONS -- POWERS AND DUTIES -- FAILURE OF PEACE OFFICERS TO OBEY ORDERS, MISDEMEANOR -- DEPUTIES -- COMPENSATION AND POWERS. (1) There is hereby created the Idaho state police. The Idaho state police shall, for the purposes of section 20, article IV, of the constitution of the state of Idaho, be an executive department of the state government.

(2) The governor, with the advice and consent of the senate, shall appoint a director of the Idaho state police who shall serve at the pleasure of the governor. The director shall receive such salary as fixed by the governor.

(3) The Idaho state police shall be composed of such divisions as may be established by law and other administrative units as may be established by the director for the proper and efficient administration of the powers and duties assigned to the director or the state police. The director shall appoint, subject to the approval of the governor, an administrator for each division within the state police.

(4) The director shall exercise all of the powers and duties necessary to carry out the proper administration of the state police, and may delegate duties to employees and officers of the state police.

(5) The Idaho state police shall have power to:

(a) Enforce all of the penal and regulatory laws of the state, to preserve order, and exercise any and all powers, duties and authority of any sheriff or other peace officer anywhere in the state of Idaho, in the same manner and with like authority as the sheriffs of the counties; said department may employ from time to time, to carry out any of the provisions of this subsection, such deputies or special deputies as may be deemed, by the governor of the state of Idaho, necessary to carry out these duties and powers, and deputies shall have power to deputize other persons as deputies when necessary; said department may call into the police service of the state any and all peace officers of the state, of any city, or of any county, and may deputize private citizens, when deemed necessary by the governor of the state, to preserve order and enforce law in any extraordinary emergency when the governor shall have declared, by order in writing, the existence of such extraordinary emergency; the governor shall designate by order such peace officers or private persons as are to be called into the service of the state, and when such peace officers or deputized citizens are so called into the police service of the state such officers shall act under the direction of the director of the state police in such manner as may be directed and ordered by the governor; failure on the part of any such peace officer of the state, or person so deputized, to so act and obey such orders shall constitute a misdemeanor; the governor shall fix the compensation of such deputies;

(b) Prevent and detect crime and apprehend criminals and maintain order;

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

(d) Safeguard and protect the surface and other physical portions of the state highways and enforce any laws for highway safety;

(e) Enforce federal statutes and regulations relating to motor carrier safety and hazardous materials for interstate carriers;

(f) Enforce Idaho statutes and rules of the Idaho state police applicable to motor carriers;

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

(h) Regulate traffic on all highways and roads in the state;

(i) Perform all of the duties and exercise all of the powers of peace officers vested in the director of the Idaho state police;

(j) Execute and serve any warrant of arrest or search warrant issued by proper authority of the state, according to the tenor thereof, in any part of the state;

(k) Arrest without warrant, any person committing or attempting to commit in their presence or view a breach of the peace or any other violation of any of the laws of the state;

(l) Members of the Idaho state police shall be subject to the call of the governor and are empowered to cooperate with any other department or authority of the state, with counties and municipalities, or any locality in detecting crime, apprehending criminals and preserving law and order throughout the state; but the Idaho state police shall not be used as a posse in any municipality, except when ordered by the governor to do so; provided nothing herein contained shall be construed to vest direction or control over any sheriff, policeman, marshal or constable in the Idaho state police or any employer or officer thereof;

(m) Each member of the Idaho state police shall take and subscribe to an oath of office to support the constitution and laws of the United States and the state of Idaho, and to honestly and faithfully perform the duties imposed upon him under the provisions of the laws of Idaho as a mem-

ber of the Idaho state police. The oath shall be filed with the director.

(6) The director shall operate and supervise a forensic laboratory which will provide to state and local agencies having responsibility for enforcement of the penal laws of this state assistance in the collection, preservation and analysis of evidence in criminal cases. Idaho state police forensic services resources including, but not limited to, equipment, instrumentation, facilities and supplies may be used only by authorized employees or approved subcontractors of Idaho state police forensic services.

(7) The director shall provide security and protection for the governor and the governor's immediate family to the extent and in the manner the governor and the director deem adequate and appropriate.

(8) At the written direction of the governor or the director, the director shall provide security and protection for the lieutenant governor and the lieutenant governor's immediate family to the extent and in the manner the lieutenant governor and the director deem adequate and appropriate.

(9) The director shall provide security and protection for both houses of the legislature while in session as in the opinion of the speaker of the house and the president of the senate and the director deem necessary.

(10) The director shall provide security and protection for the supreme court and the court of appeals while they are in session, and at their places of work, as the chief justice and the director deem necessary.

(11) The director may award to an officer, upon retirement, that officer's badge, duty weapon and handcuffs, providing that a committee of three (3) of the officer's peers certifies to the director that the retiring officer has served meritoriously for a minimum of fifteen (15) years and should therefore be so honored.

(12) The director, within the limits of any appropriation made available for such purposes, shall for such Idaho state police:

(a) Establish such ranks, grades and positions as shall appear advisable and designate the authority and responsibility in each such rank, grade and position;

(b) Appoint such personnel to such rank, grade and position as are deemed by him to be necessary for the efficient operation and administration of the Idaho state police, and only those applicants shall be appointed or promoted who best meet the prescribed standards and prerequisites; provided however, that all employees shall be selected in the manner provided for in chapter 53, title 67, Idaho Code, and shall be probationers and on probation for a period of one (1) year from the date of appointment;

(c) Formulate and place in effect such rules for the Idaho state police as from time to time appear to him advisable;

(d) Prescribe by official order the uniform and equipment of the employees in the Idaho state police;

(e) Station employees in such localities as he shall deem advisable for the enforcement of the laws of the state;

(f) Have purchased, or otherwise acquired, by the purchasing agent of the state, motor vehicle equipment and all other equipment and commodities deemed by him essential for the efficient performance of the duties of the Idaho state police and purchase and install approved mechanical devices and equipment for the rapid transmission and broadcasting of information relative to crime, apprehension of criminals and the administration of the business of the Idaho state police.

(13) (a) The director shall issue to every eligible police officer member of the Idaho state police, as defined in section 59-1303(3), Idaho Code, and pursuant to the contract provided for by the personnel group insurance administrator in the department of administration, a term group life insurance certificate in the face amount of fifty thousand dollars (\$50,000) on the life of such members. Said insurance

certificate shall set forth the name or names of such beneficiary or beneficiaries as the insured may name or designate.

(b) Any eligible person entering the employ of the Idaho state police as an active police officer after the effective date of this act shall be insured as other members of the state police immediately upon taking the oath of office.

(c) Every member of the Idaho state police, upon termination of active duty or permanent release, may surrender said certificate to the head of the state police, or, at the person's option, may convert the insurance in accordance with the provisions of the contract, and no further premiums shall be paid on said policy by the state of Idaho.

(d) The director is hereby directed to hereafter include in the budget of the Idaho state police an amount sufficient to pay the annual costs accruing with respect to policies of insurance purchased under the provisions of this chapter.

(e) The premiums on the insurance herein provided for are to be paid one-half (1/2) by the employee and one-half (1/2) by the state. The director is hereby authorized to make a monthly deduction on the payroll of the amount due from each employee under this chapter.

(14) Nothing in this section shall affect the duties of the sheriff as described in section 31-2202, Idaho Code, or the primary duty, described in section 31-2227, Idaho Code, of the sheriff and prosecuting attorney of each of the several counties to enforce all the penal provisions of any and all statutes of this state.

Approved March 29, 2013.

CHAPTER 176  
(H.B. No. 110)

AN ACT

RELATING TO DAIRY PRODUCTS; AMENDING SECTION 25-3101, IDAHO CODE, TO REVISE VERBIAGE; AMENDING SECTION 25-3103, IDAHO CODE, TO REVISE VERBIAGE, TO REMOVE A DEFINITION, TO REVISE A DEFINITION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 25-3107, IDAHO CODE, TO REVISE VERBIAGE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 25-3109, IDAHO CODE, TO REMOVE REFERENCE TO AN ADMINISTRATOR, TO PROVIDE THAT THE IDAHO DAIRY PRODUCTS COMMISSION MAY EMPLOY A DIRECTOR AND TO REMOVE PROVISIONS RELATING TO FIDELITY BONDS; AMENDING SECTION 25-3111, IDAHO CODE, TO REVISE VERBIAGE, TO REMOVE DUPLICATIVE VERBIAGE AND TO REVISE CERTAIN DUTIES, AUTHORITIES AND POWERS OF THE COMMISSION; AMENDING SECTION 25-3113, IDAHO CODE, TO REVISE BONDING REQUIREMENTS AND TO REVISE VERBIAGE; AMENDING SECTION 25-3114, IDAHO CODE, TO REMOVE REFERENCE TO AN ADMINISTRATOR, TO PROVIDE FOR THE APPOINTMENT, DUTIES AND SALARY OF THE DIRECTOR AND TO REVISE VERBIAGE; AMENDING SECTION 25-3115, IDAHO CODE, TO REMOVE REFERENCE TO AN ADMINISTRATOR, TO PROVIDE FOR THE OFFICE OF THE DIRECTOR AND TO REVISE VERBIAGE; AMENDING SECTION 25-3116, IDAHO CODE, TO REVISE LIABILITY PROVISIONS; AMENDING SECTION 25-3121, IDAHO CODE, TO REVISE VERBIAGE AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 25-3122, IDAHO CODE, TO REVISE VERBIAGE AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 25-3101, Idaho Code, be, and the same is hereby amended to read as follows:

25-3101. PROTECTION OF DAIRY MARKETS -- PURPOSE. It is to the interest of all the people that the abundant natural resources of Idaho be protected, fully developed and uniformly distributed. Among the agricultural industries of the state of Idaho that contribute to the economic welfare of the state is the dairy industry. Because of problems incurred in marketing the dairy products produced in this state and because this marketing has become more and more difficult in the presently available markets, it is necessary, in order to provide a profitable enterprise for the dairy industry of the state and to promote employment labor and to assist the dairymen of the state and those in the various industries dependent upon the dairymen, that additional markets be found and developed. It is the purpose of this act chapter to promote the public health and welfare of the citizens of our state by providing means for the protection, promotion, study, research, analysis and development of markets concerning the production and marketing of Idaho dairy products.

SECTION 2. That Section 25-3103, Idaho Code, be, and the same is hereby amended to read as follows:

25-3103. DEFINITIONS. As used in this act chapter, unless the context requires otherwise:

- (1) "Commission" means the Idaho dairy products commission;
- (2) To "ship" means to deliver or consign milk or cream to a person dealing in, processing, distributing, or manufacturing dairy products for sale, for human or animal consumption, industrial or medicinal uses;
- (3) "Dealer" means one who handles, ships, buys, processes, and sells dairy products, or who acts as sales or purchasing agent, broker, or factor of dairy products;
- (4) "Producer" means a person who produces milk from cows and sells it for human or animal food, or medicinal or industrial uses;
- (5) "Producer-handler" means any person who produces milk or milk fat and uses such production, or any part of it, for processing. For the purposes of this act chapter, a producer-handler is a producer in any transaction which involves the delivery of unprocessed milk or milk fat produced by him or received from another producer and processed by such producer-handler;
- ~~"Director" means the director of the department of agriculture of the state of Idaho;~~
- (6) "Department" means the Idaho state department of agriculture;
- (7) "Person" means and includes individuals, corporations, partnerships, trusts, associations, cooperatives and any and all other business units, devices and arrangements.

SECTION 3. That Section 25-3107, Idaho Code, be, and the same is hereby amended to read as follows:

25-3107. PRODUCER MEMBERS -- NOMINATIONS -- ELECTIONS. Producer members of the commission shall be nominated and elected by producers within the district that such producer members represent in the year in which a commission member's term shall expire. Such producer members receiving the largest number of the votes cast in the respective districts which they represent shall be elected. The election shall be by secret mail ballot and under the supervision of the state department of agriculture.

Nomination for candidates to be elected to the commission shall be conducted by a nominating committee. Thirty (30) days prior to the date of election, the commission shall select a nominating committee from the district, ~~who~~ which in turn will present the names of three (3) qualified nominees; in addition thereto, producer members of the commission may be nominated by a petition of nomination signed by not less than twenty-five (25) active pro-

ducers, each of whom shall reside in the district wherein the nominee resides, and the names of all such nominees nominated by petition shall be presented to the state department of agriculture not later than the first day of May of the year in which the election for such district is to be held.

Ballots for electing members to the commission will be mailed by the department to all eligible producers no later than May 15th in districts where elections are to be held and such ballots to be valid shall be returned post-marked no later than May 31st of the year mailed, to the department.

All costs and expenses of the department shall be paid by the commission. All materials and other necessary supplies shall be provided to the department at its request.

SECTION 4. That Section 25-3109, Idaho Code, be, and the same is hereby amended to read as follows:

25-3109. COMMISSION CHAIRMAN -- ADMINISTRATOR DIRECTOR -- ~~FIDELITY BOND~~. The commission shall elect a chairman and may employ an administrator a director who is not a member of the commission. ~~The commission shall require the administrator of the commission to give a fidelity bond executed by a surety company authorized to do business in this state in favor of the commission, in such sum, and containing such terms and conditions, as the commission may prescribe. The cost of any such fidelity bond shall be paid from moneys collected pursuant to this act.~~

SECTION 5. That Section 25-3111, Idaho Code, be, and the same is hereby amended to read as follows:

25-3111. POLICIES -- DUTIES, AUTHORITIES, AND POWERS. (1) Consistent with the general purposes of this act chapter, the commission shall establish the policies to be followed in the accomplishments of such purposes.

(2) In the administration of this act chapter, the commission shall have the following duties, authorities and powers:

- (a) To conduct a campaign of research, education and publicity.
- (b) To find new markets for dairy products and their by-products.
- (c) To give, publicize and promulgate reliable information showing the value of milk, cream, and dairy products for any purpose for which they are found useful and profitable.
- (d) To make public and encourage the widespread national and international use of dairy products and by-products produced in Idaho.
- (e) To investigate and participate in studies of the problems peculiar to the dairy producers in Idaho.

~~(3) The commission shall have the duty, power and authority:~~

- (af) To take such action as the commission deems necessary or advisable in order to stabilize and protect the dairy industry of the state and the health and welfare of the public.
- (bg) To sue and be sued.
- (eh) To enter into such contracts as may be necessary or advisable.
- (di) To appoint and employ, and at its pleasure discharge, officers, agents, attorneys and such other personnel as it deems necessary, including experts in agriculture and dairying and the publicizing of the products thereof, and to prescribe their duties and to fix their compensation.
- (ej) To make use of such advertising means and methods as the commission deems advisable and to enter into contracts and agreements for research and advertising within and without the state.
- (fk) To cooperate with any local, state or national organization or agency, whether voluntary or created by the law of any state or by national law, engaged in work or activities similar to the work and activities of the commission, and to enter into contracts and agreements

with such organizations or agencies for carrying on a joint campaign of research, education and publicity in reciprocal enforcement.

(gl) To lease, purchase or own real or personal property deemed necessary in the administration of this act chapter.

(hm) To investigate and prosecute in the name of the state of Idaho violations of the provisions of this chapter or any suit or action for collection of the tax or assessment provided for in this act chapter, or to protect brands, marks, brand names, trademarks or other intellectual property rights being promoted or used by the commission.

(in) To adopt, rescind, modify and amend all necessary and proper orders, resolutions and regulations for the procedure and exercise of its powers and the performance of its duties.

(jo) To incur indebtedness and carry on all business activities.

(kp) To keep books and records and accounts of all its doings, which books, records and accounts shall be open to inspection by the state controller and public at all times.

SECTION 6. That Section 25-3113, Idaho Code, be, and the same is hereby amended to read as follows:

25-3113. ~~BOND REQUIREMENT~~ BONDS OF AGENTS AND EMPLOYEES. The ~~commission may require the administrator~~ director, or any agent or employee appointed by the commission, ~~to give a bond payable shall be bonded to the state of Idaho in the amount and with the security and containing the terms and conditions the commission prescribes~~ time, form and manner as prescribed by the provisions of chapter 8, title 59, Idaho Code. The cost of the bond is an administrative expense under this act chapter.

SECTION 7. That Section 25-3114, Idaho Code, be, and the same is hereby amended to read as follows:

25-3114. ~~ADMINISTRATOR OF THIS ACT -- APPOINTMENT OF DIRECTOR -- DUTIES -- SALARY~~. The commission shall appoint an ~~administrator~~ director who shall devote full time to the administration of this act chapter. He shall proceed immediately to prepare the plans and general program necessary and adequate to carry out the policies that are adopted by the commission. The ~~administrator~~ director shall be paid a reasonable salary fixed by the commission, commensurate with his duties, and all necessary expenses.

SECTION 8. That Section 25-3115, Idaho Code, be, and the same is hereby amended to read as follows:

25-3115. ~~OFFICE FOR ADMINISTRATOR DIRECTOR~~. For the convenience of the majority of those most likely to be affected in the administration of this act chapter, the ~~administrator~~ director, upon recommendation of the commission, shall establish and maintain an office for the ~~administrator~~ director within the state of Idaho.

SECTION 9. That Section 25-3116, Idaho Code, be, and the same is hereby amended to read as follows:

25-3116. ~~NONLIABILITY OF~~ LIMIT ON STATE LIABILITY. ~~The state of Idaho is not liable for the acts or omissions of the commission or any member thereof or any officer, agent or employee thereof~~ All contractual expenses incurred by the commission in performing its duties and exercising its powers shall be without liability on the part of the state. All tort obligations arising out of acts and omissions of the commission are binding on the state of Idaho as, and to the extent, provided for in chapter 9, title 6, Idaho Code.

SECTION 10. That Section 25-3121, Idaho Code, be, and the same is hereby amended to read as follows:

25-3121. VIOLATION OF THIS ACT CHAPTER -- MISDEMEANOR -- FINES. Any person who shall violate or aid in the violation of any of the provisions of this act chapter shall be guilty of a misdemeanor and upon conviction thereof be punished by a fine of not more than three hundred dollars (\$300.00) or imprisonment not to exceed ninety (90) days, or both. Fines collected for violation of this act chapter shall be paid into the "Idaho dairy products commission fund."

SECTION 11. That Section 25-3122, Idaho Code, be, and the same is hereby amended to read as follows:

25-3122. REFERENDUM REGARDING CONTINUANCE OF COMMISSION. After five (5) years from the date the commission was created, a referendum may be held at the petition of the producers or at the request of the commission. The question shall be submitted by secret ballots upon which the words "For continuance of the Idaho Dairy Products Commission" and "Against continuance of the Idaho Dairy Products Commission" are printed, with a square before each proposition and a direction to insert an "X" mark in the square before the proposition which the voter favors. In the event a referendum is held as provided in this section, no further referendum on the question of discontinuance of such commission shall be held within five (5) years from the date the result of the previous referendum was declared.

The referendum must be held and supervised by the department of agriculture upon its receiving either of the following:

- (1) A petition signed by twenty percent (20%) of the producers or two thousand (2,000) producers, whichever is less.
- (2) At written request from the commission.
- (3) The commission shall pay the costs of any such referendum.

The referendum shall be held, notice thereof given, expenses thereof paid and the result determined, declared and recorded in the office of the secretary of state. No hearings or district meetings shall be made prior to the referendum upon the question of determining whether such referendum should be held.

Notice of such referendum must be given by the commission in a manner determined by them. The ballots must also be prepared by the commission and forwarded to the producer members who shall return them within twenty (20) days after mailing by the commission.

Approved March 29, 2013.

#### CHAPTER 177

(H.B. No. 113, As Amended)

#### AN ACT

RELATING TO ACTIONS IN PARTICULAR CASES; AMENDING TITLE 6, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 30, TITLE 6, IDAHO CODE, TO PROVIDE A SHORT TITLE REGARDING THE IDAHO AGRITOURISM PROMOTION ACT, TO PROVIDE A PURPOSE, TO DEFINE TERMS, TO LIMIT LIABILITY, TO PROHIBIT CERTAIN ACTION, TO REQUIRE CERTAIN PLEADING, TO PROVIDE EXCEPTIONS TO THE PREVENTION OR LIMITATION OF LIABILITY, TO PROVIDE THAT LIMITATION ON LEGAL LIABILITY IS IN ADDITION TO ANY OTHER LIMITATIONS ON LEGAL LIABILITY OTHERWISE SPECIFIED BY LAW, TO PROVIDE WARNING NOTICE REQUIREMENTS, TO SPECIFY THE FORM OF WARNING NOTICES, TO PROVIDE THAT FAILURE TO COMPLY WITH

WARNING NOTICE REQUIREMENTS WILL PREVENT THE INVOCATION OF CERTAIN PRIVILEGES OF IMMUNITY AND TO PROVIDE THAT THE USE OF A FARM OR RANCH FOR AGRITOURISM ACTIVITIES SHALL NOT AFFECT THE ASSESSMENT OF THE PROPERTY AS LAND ACTIVELY DEVOTED TO AGRICULTURE AS PROVIDED BY SPECIFIED LAW.

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 30, Title 6, Idaho Code, and to read as follows:

CHAPTER 30  
IDAHO AGRITOURISM PROMOTION ACT

6-3001. SHORT TITLE. This act shall be known as the "Idaho Agritourism Promotion Act."

6-3002. PURPOSE. The legislature finds that agriculture plays a substantial role in the economy, culture and history of Idaho. As an increasing number of Idahoans are removed from day-to-day agricultural experiences, agritourism provides a valuable opportunity for the general public to interact with, experience and understand agriculture. Inherent risks exist on farms and ranches, the elimination of which would diminish the agritourism experience. Uncertainty of potential liability associated with inherent risks has a negative impact on the establishment and success of agritourism operations.

6-3003. DEFINITIONS. As used in this chapter, the term:

(1) "Agritourism activity" means any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment or educational purposes, to view or enjoy rural activities including, but not limited to, farming, ranching, historic, cultural, on-site educational programs, recreational farming programs that may include on-site hospitality services, guided and self-guided tours, bed and breakfast accommodations, petting zoos, farm festivals, corn mazes, harvest-your-own operations, hayrides, barn parties, horseback riding, fee fishing and camping. An activity is an agritourism activity whether or not the participant paid to participate in the activity.

(2) "Agritourism professional" means any person who is engaged in the business of providing one (1) or more agritourism activities, whether or not for compensation.

(3) "Inherent risks of agritourism activity" means those dangers or conditions that are an integral part of an agritourism activity including certain hazards, including surface and subsurface conditions, natural conditions of land, vegetation, waters, the behavior of wild or domestic animals and ordinary dangers of structures or equipment ordinarily used in farming and ranching operations. Inherent risks of agritourism activity also include the potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, including failing to follow instructions given by the agritourism professional or failing to exercise reasonable caution while engaging in the agritourism activity.

(4) "Participant" means any person, other than the agritourism professional, who engages in an agritourism activity.

(5) "Person" means an individual, fiduciary, firm, association, partnership, limited liability company, corporation, unit of government or any other group acting as a unit.

6-3004. LIABILITY. (1) Except as provided in subsection (2) of this section, an agritourism professional is not liable for injury to or death of a participant resulting from the inherent risks of agritourism activities,

so long as the warning contained in section 6-3005, Idaho Code, is posted as required and, except as provided in subsection (2) of this section, no participant or participant's representative can maintain an action against or recover from an agritourism professional for injury, loss, damage or death of the participant resulting from any of the inherent risks of agritourism activities. In any action for damages against an agritourism professional for agritourism activities, the agritourism professional must plead the affirmative defense of assumption of the risk of agritourism activity by the participant.

(2) Nothing in subsection (1) of this section prevents or limits the liability of an agritourism professional if the agritourism professional does any one (1) or more of the following:

(a) Commits an act or omission that constitutes negligence or willful or wanton disregard for the safety of the participant, and that act or omission proximately causes injury, damage or death to the participant;

(b) Has actual knowledge or reasonably should have known of a dangerous condition on the land, facilities or equipment used in the activity or the dangerous propensity of a particular animal used in such activity and does not make the danger known to the participant, and the danger proximately causes injury, damage or death to the participant.

(3) Any limitation on legal liability afforded by this section to an agritourism professional is in addition to any other limitations of legal liability otherwise provided by law.

6-3005. **WARNING REQUIRED.** (1) Every agritourism professional must post and maintain signs that contain the warning notice specified in subsection (2) of this section. The sign must be placed in a clearly visible location at the entrance to the agritourism location and at the site of the agritourism activity. The warning notice must consist of a sign in black letters, with each letter to be a minimum of one (1) inch in height. Every written contract entered into by an agritourism professional for the providing of professional services, instruction or the rental of equipment to a participant, whether or not the contract involves agritourism activities on or off the location or at the site of the agritourism activity, must contain in clearly readable print the warning notice specified in subsection (2) of this section.

(2) The signs and contracts described in subsection (1) of this section must contain the following notice of warning:

**WARNING**

Under Idaho law, there are risks associated with agritourism, which could lead to injury or death. You are assuming these risks. Section 6-3004, Idaho Code.

(3) Failure to comply with the requirements concerning warning signs and notices provided in this section shall prevent an agritourism professional from invoking the privileges of immunity provided by the provisions of this chapter.

6-3006. **TAXATION STATUS.** The use of a farm or ranch to conduct an agritourism activity shall not affect the assessment of the property as land actively devoted to agriculture as provided in section 63-604, Idaho Code.

Approved March 29, 2013.

CHAPTER 178  
(H.B. No. 127)

AN ACT

RELATING TO THE BUREAU OF OCCUPATIONAL LICENSES; AMENDING SECTION 67-2609, IDAHO CODE, TO PROVIDE THAT THE BUREAU OF OCCUPATIONAL LICENSES MAY COLLECT AND PAY CERTAIN FEES RELATING TO CRIMINAL BACKGROUND CHECKS.

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

SECTION 1. That Section 67-2609, Idaho Code, be, and the same is hereby amended to read as follows:

67-2609. REGISTRATION OF OCCUPATIONS. (a) The bureau of occupational licenses shall wherever the several laws regulating professions, trades and occupations which are devolved upon the bureau for administration so require or pursuant to written agreement as provided in section 67-2604, Idaho Code, exercise, in its name, or as authorized agent, but subject to the provisions of this chapter, the following powers:

(1) To conduct examinations to ascertain the qualifications and fitness of applicants to exercise the profession, trade or occupation for which an examination is held; to pass upon the qualifications of applicants for reciprocal licenses, certificates and authorities.

(2) To prescribe rules for a fair and wholly impartial method of examination of candidates to exercise the respective professions, trades or occupations.

(3) To prescribe rules defining, for the respective professions, trades and occupations, what shall constitute a school, college or university, or department of a university, or other institution, reputable and in good standing and to determine the reputability and good standing of a school, college or university, or department of a university, or other institution, by reference to a compliance with such rules.

(4) To establish a standard of preliminary education deemed requisite to admission to a school, college or university, and to require satisfactory proof of the enforcement of such standard by schools, colleges and universities.

(5) To conduct hearings on proceedings to revoke or refuse renewal of licenses, certificates or authorities of persons exercising the respective professions, trades or occupations, and to revoke or refuse to renew such licenses, certificates or authorities.

(6) To formulate rules for adoption by the boards allowing the boards to recover costs and fees incurred in the investigation and prosecution of a licensee in accordance with the contested case provisions of chapter 52, title 67, Idaho Code, for a violation of laws or rules of the boards.

(7) To formulate rules for adoption by the boards establishing a schedule of civil fines which may be imposed upon a licensee prosecuted in accordance with the contested case provisions of chapter 52, title 67, Idaho Code, for a violation of laws or rules of the boards. Any civil fine collected by a board for a violation of its laws or rules shall not exceed one thousand dollars (\$1,000), unless otherwise provided by statute, and shall be deposited in the bureau of occupational licensing account.

(8) To formulate rules when required in any act to be administered.

(9) To collect and pay such fees as are required for criminal background checks of applicants, licensees or registrants.

(b) None of the above enumerated functions and duties shall be exercised by the bureau of occupational licenses except upon the action and report in writing of persons designated from time to time by the chief of the

bureau of occupational licenses to take such action and to make such report, for the respective professions, trades and occupations.

Approved March 29, 2013.

CHAPTER 179  
(H.B. No. 162)

AN ACT

RELATING TO COSMETICIANS; AMENDING SECTION 54-802, IDAHO CODE, TO REVISE A DEFINITION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 54-802, Idaho Code, be, and the same is hereby amended to read as follows:

54-802. DEFINITIONS. For the purpose of this chapter, the following definitions shall apply:

(1) "Cosmetology" shall constitute any one (1) or combination of the following practices when done upon the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments:

(a) Cutting, trimming, arranging, dressing, curling, waving by any method, cleansing, singeing, bleaching, coloring, or similar work upon the hair.

(b) Noninvasive care of the skin of the face and body by application of cosmetic preparations, antiseptics, tonics, lotions, creams and essential oils to cleanse, massage, exfoliate, hydrate and stimulate; makeup application; pore extraction; use of chemical exfoliants approved for professional esthetic use; particle exfoliation; use of any mechanical or electrical apparatus or appliance designed for nonmedical care of the skin; the temporary removal of superfluous hair by means of lotions, creams, waxing, tweezing or depilatories, and tinting of eyebrows and eyelashes.

(c) Manicuring, pedicuring the nails, and the application of artificial nails.

(2) "Registered cosmetologist" shall mean any person licensed to practice cosmetology.

(3) "Nail technology" shall constitute any one (1) or more of the following practices when done upon the human body:

(a) Manicuring, pedicuring the nails, and the application of all forms of artificial nails.

(b) Massage of the hands and feet.

(4) "Nail technician" shall mean any licensed person whose practice of cosmetology is limited to nail technology.

(5) "Nail technology instructor" shall mean a nail technologist who is licensed to teach nail technology or any practice thereof in a school of cosmetology.

(6) "Apprentice" shall mean any person registered with the board to engage in the learning or acquiring of any or all of the practices of cosmetology in a licensed cosmetological establishment, and while so learning performs or assists in any of the practices of cosmetology.

(7) "Student" shall mean any person engaged in the learning or acquiring of any or all of the practices of cosmetology in a licensed school of cosmetology, and while so learning performs or assists in any of the practices of cosmetology.

(8) "Instructor" shall mean a cosmetologist who is licensed to teach cosmetology or any practices thereof in a school of cosmetology, school or

college of barbering, or cosmetology establishment meeting the requirements for apprenticeship training.

(9) "Instructor trainee" shall mean a registered cosmetologist who is in a school of cosmetology to receive training to teach cosmetology.

(10) "Cosmetological establishment" shall mean any licensed place or part thereof other than a school of cosmetology wherein cosmetology is practiced.

(11) "School of cosmetology" ~~shall mean any licensed place or part thereof wherein cosmetology is taught to students~~ is a postsecondary school.

(a) Schools of cosmetology must be licensed by name by the state board of cosmetology.

(b) Schools of cosmetology admit as regular students only individuals who meet the requirements of section 54-805, Idaho Code.

(12) "Board" means the Idaho board of cosmetology.

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

(14) "Chapter" as used herein refers to chapter 8, title 54, Idaho Code.

(15) "Electrologist" means any person licensed to practice electrology and who is skilled in the permanent removal of unwanted hair.

(16) "Electrolysis or electrology" means the permanent removal of hair by destroying the hair producing cells of the skin and vascular system using equipment and devices approved by and registered with the United States food and drug administration.

(17) "Esthetics" means noninvasive care of the skin of the face and body by application of cosmetic preparations, antiseptics, tonics, lotions, creams and essential oils to cleanse, massage, exfoliate, hydrate and stimulate; makeup application; pore extraction; use of chemical exfoliants approved for professional esthetic use; particle exfoliation; use of any mechanical or electrical apparatus or appliance designed for nonmedical care of the skin; the temporary removal of superfluous hair by means of lotions, creams, waxing, tweezing or depilatories, and tinting of eyebrows and eyelashes.

(18) "Esthetician" means any person licensed to practice esthetics.

(19) "Esthetics instructor" shall mean an esthetician who is licensed to teach esthetics or any practice thereof in a school of cosmetology approved to teach esthetics.

(20) "Electrologist instructor" shall mean an electrologist who is licensed to teach electrology or any practices thereof in a school of cosmetology approved to teach electrology.

(21) "Student electrologist instructor" shall mean an electrologist who is in a school of cosmetology approved to teach electrology to receive training to teach electrology.

(22) "Makeover or glamour photography business" means any business engaged in the offering of photographic services to the general public and whose employees engage in the facial application of cosmetic products or the arranging of the hair of customers in connection with the sale, or attempted sale, of photographic services.

(23) "Retail cosmetics dealer" means a fixed retail business which offers cosmetic products for sale at retail to members of the general public and whose employees engage in the facial application of cosmetic products to customers in connection with the sale, or attempted sale, of the products without compensation from the customer other than the regular price of the merchandise.

(24) "Demonstration, competition or production" means an organized event of limited duration where cosmetology services may be performed, if sponsored by a salon, school of cosmetology or cosmetology-related organization.

(25) "Haircutting" means cutting, trimming, arranging, dressing, curling, cleansing, singeing or similar work upon the hair.

(26) "Haircutter" means any licensed person whose practice of cosmetology is limited to haircutting.

SECTION 2. 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, 2013.

CHAPTER 180  
(H.B. No. 185)

AN ACT  
RELATING TO DRINKING WATER AND WASTEWATER PROFESSIONALS; AMENDING SECTION 54-2407, IDAHO CODE, TO REVISE FEE PROVISIONS RELATING TO CERTAIN EXAMINATIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 54-2407, Idaho Code, be, and the same is hereby amended to read as follows:

54-2407. FEES -- PAYMENT OF COSTS AND EXPENSES. (1) The bureau of occupational licenses shall collect a fee not to exceed one hundred dollars (\$100) for each application, each administration of an examination, each original license, and each annual renewal of any license issued pursuant to this chapter, and shall deposit all fees in the state treasury in accordance with section 67-2605, Idaho Code. The actual fees shall be set by board rule. The bureau shall also collect a fee ~~equal to~~ not greater than that charged by the examination provider when an examination is required as a condition of licensure. All required fees shall not be prorated and are nonrefundable.

(2) All fees received under the provisions of this chapter shall be paid to the bureau of occupational licenses and deposited in the state treasury to the credit of the occupational licenses fund and all costs and expenses incurred under the provisions of this chapter shall be charged against and paid from said fund.

SECTION 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 29, 2013.

CHAPTER 181  
(H.B. No. 199)

AN ACT

RELATING TO SELF-FUNDED HEALTH CARE PLANS; AMENDING SECTION 41-4001, IDAHO CODE, TO REVISE THE DECLARATION OF PURPOSE AND TO PROVIDE FOR THE INCLUSION OF POSTSECONDARY EDUCATIONAL INSTITUTIONS; AMENDING SECTION 41-4002, IDAHO CODE, TO REVISE DEFINITIONS AND TO DEFINE TERMS; AMENDING SECTION 41-4003, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE REGISTRATION OF PLANS, TO REVISE PROVISIONS RELATING TO EXCEPTIONS TO REGISTRATION, TO PROVIDE THAT CERTAIN PLANS OFFERING ONLY DENTAL AND/OR VISION BENEFITS SHALL NOT BE REQUIRED TO REGISTER, TO PROVIDE FOR PLANS ENGAGED IN BUSINESS WITHOUT AUTHORIZATION, TO PROVIDE THAT CERTAIN PLANS SHALL BE SUBJECT TO ALL SANCTIONS PROVIDED BY LAW, TO PROVIDE FOR SPECIFIED NOTICE TO STUDENT PARTICIPANTS AND PROSPECTIVE STUDENT PARTICIPANTS AND TO PROVIDE CERTAIN RESTRICTIONS FOR PLANS RELATING TO OPERATION AND REGISTRATION; AMENDING SECTION 41-4004, IDAHO CODE, TO PROHIBIT THE DIRECTOR OF THE DEPARTMENT OF INSURANCE FROM REGISTERING ANY SELF-FUNDED PLAN UNLESS SPECIFIED REQUIREMENTS ARE MET, TO REVISE AND TO PROVIDE SUCH REQUIREMENTS, TO REQUIRE THE TRUSTEE TO FILE SPECIFIED DOCUMENTS WITH THE DIRECTOR AND TO REQUIRE THE TRUSTEE TO NOTIFY THE DIRECTOR IF THE SURPLUS OF THE TRUST FALLS BELOW THE MINIMUM SURPLUS REQUIREMENTS; AMENDING SECTION 41-4005, IDAHO CODE, TO REVISE AND TO PROVIDE FOR APPLICATIONS FOR REGISTRATION, TO REVISE AND TO PROVIDE FOR DOCUMENTS THAT ARE TO ACCOMPANY APPLICATIONS AND TO REMOVE A DEFINITION; AMENDING SECTION 41-4006, IDAHO CODE, TO REVISE AND TO PROVIDE FOR ACTION UPON APPLICATIONS BY THE DIRECTOR, TO REMOVE A PROVISION RELATING TO CHALLENGES OF REFUSALS TO REGISTER, TO REVISE PROVISIONS RELATING TO INVESTIGATION BY THE DIRECTOR, TO REVISE PROVISIONS RELATING TO THE ISSUANCE AND DELIVERY OF CERTIFICATES OF REGISTRATION, TO REMOVE A PROVISION RELATING TO REFUSAL TO REGISTER AND NOTICE OF REFUSAL, TO PROVIDE FOR NOTICES OF DENIAL OF REGISTRATION, TO PROVIDE FOR REQUESTS FOR HEARING AND TO PROVIDE THAT FAILURE TO REQUEST A HEARING WITHIN A SPECIFIED TIME SHALL BE DEEMED A WAIVER OF THE OPPORTUNITY FOR HEARING; AMENDING SECTION 41-4007, IDAHO CODE, TO REVISE VERBIAGE RELATING TO THE AUTHORITY OF TRUST FUNDS; AMENDING SECTION 41-4008, IDAHO CODE, TO REVISE PROVISIONS RELATING TO LIABILITY, TO REVISE PROVISIONS RELATING TO FIDUCIARY FUNDS, TO REMOVE A PROVISION RELATING TO AN EXCEPTION TO THE PROHIBITION ON GARNISHMENT OR LEVY AND TO PROVIDE FOR THE DEPOSIT AND HOLDING OF CERTAIN MONEYS; AMENDING SECTION 41-4009, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE INVESTMENT OF TRUST FUNDS, TO REVISE PROVISIONS RELATING TO THE PROHIBITION OF CERTAIN INVESTMENTS, TO REMOVE AN EXCEPTION TO THE PROHIBITION OF CERTAIN INVESTMENTS, TO PROVIDE THAT THE INTEREST AND YIELD ON INVESTMENTS SHALL INURE TO THE BENEFIT OF THE TRUST FUND, TO REVISE ADDITIONAL REQUIREMENTS RELATING TO INVESTMENTS, TO REVISE PENALTY PROVISIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 41-4010, IDAHO CODE, TO REVISE AND TO PROVIDE FOR RESERVES, TO PROVIDE THAT CONTRIBUTION DEFICIENCY RESERVES SHALL CONSTITUTE LIABILITIES, TO REVISE SURPLUS PROVISIONS, TO PROVIDE FOR SURPLUS NOTES, TO PROVIDE THAT CERTAIN FUNDING CANNOT BE IN THE FORM OF PREPAID CONTRIBUTIONS OR OTHER LOAN OR ASSOCIATED WITH AN OFFSETTING LIABILITY, TO PROVIDE FOR THE TIME IN WHICH PLANS MUST MEET SURPLUS REQUIREMENTS AND TO PROVIDE THAT TRUST FUNDS SHALL MAINTAIN MINIMUM SURPLUS REQUIREMENTS AT ALL TIMES THROUGHOUT THE YEAR; AMENDING SECTION 41-4011, IDAHO CODE, TO REVISE AND TO PROVIDE FOR RECORDS AND ACCOUNTS, TO PROVIDE THAT AUDITS OF THE PLAN OR TRUST SHALL BE COMPLETED INDEPENDENT OF ANY OTHER ENTITY,

TO REVISE AND TO PROVIDE FOR ANNUAL STATEMENTS, TO PROVIDE FOR CERTIFIED ACTUARIAL OPINIONS, TO PROVIDE FOR THE MANNER IN WHICH THE STATEMENT SHALL BE PREPARED, TO PROVIDE FOR RETENTION OF THE ACTUARIAL WORK PAPERS, TO PROVIDE FOR FILING OF THE STATEMENTS AND CERTIFIED ACTUARIAL OPINION WITH THE DIRECTOR AND TO PROVIDE FOR THE FILING OF PERIODIC SUPPLEMENTAL UNAUDITED FINANCIAL REPORTS; AMENDING SECTION 41-4012, IDAHO CODE, TO REVISE AND TO PROVIDE FOR TAXES, TO PROVIDE FOR BACK TAXES AND SANCTIONS, TO PROVIDE FOR PREEMPTION RELATING TO CERTAIN TAXES, TO PROVIDE THAT SPECIFIED TAXES AND FEES SHALL BE IN LIEU OF INCOME AND EXCISE TAXES, LICENSE AND FEES PAYABLE TO THE STATE AND TO REVISE PROVISIONS RELATING TO REMITTANCE OF TAX PAYMENTS BY THE DIRECTOR; AMENDING SECTION 41-4013, IDAHO CODE, TO REVISE AND TO PROVIDE FOR THE EXAMINATION OF BOOKS, RECORDS, ACCOUNTS AND AFFAIRS OF SELF-FUNDED PLANS, TO REVISE PROVISIONS RELATING TO THE EXAMINER'S REPORT AND TO REVISE PROVISIONS RELATING TO RECOMMENDED CORRECTIONS OR CHANGES BY THE TRUSTEE; AMENDING SECTION 41-4014, IDAHO CODE, TO REVISE AND TO PROVIDE FOR TRUSTEES, TO PROVIDE THAT A POSTSECONDARY EDUCATIONAL INSTITUTION AS A PLAN SPONSOR OF A SELF-FUNDED PLAN SHALL BE NEITHER A TRUSTEE NOR AN ADMINISTRATOR OF SUCH PLAN, TO REVISE AN EXCEPTION PROVISION RELATING TO TRUSTEES AND ADMINISTRATORS, TO REMOVE A PROVISION RELATING TO CERTAIN LICENSURE, TO REVISE PROVISIONS RELATING TO FIDELITY BONDS OR SIMILAR COVERAGE AND TO PROVIDE THAT ADMINISTRATORS MUST BE LICENSED AND BONDED; AMENDING SECTION 41-4015, IDAHO CODE, TO REVISE AND TO PROVIDE FOR PROHIBITED PECUNIARY INTERESTS IN PLAN MANAGEMENT AND TO REVISE PROVISIONS RELATING TO THE REMOVAL OF OR IMPOSITION OF RESTRICTIONS ON TRUSTEES; AMENDING SECTION 41-4017, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE DEPLETION OF FUNDS AND TO PROVIDE FOR SANCTIONS; AMENDING SECTION 41-4018, IDAHO CODE, TO REVISE AND TO PROVIDE FOR TERMINATIONS OF REGISTRATION; AMENDING SECTION 41-4019, IDAHO CODE, TO REVISE LIQUIDATION PROVISIONS, TO PROVIDE FOR APPROVAL OF LIQUIDATION PLANS BY THE DIRECTOR, TO REVISE PROVISIONS RELATING TO ASSUMPTION OF UNPAID CLAIMS AND OBLIGATIONS, TO PROVIDE FOR THE SUBMISSION OF THIRD-PARTY CONTRACTS TO THE DEPARTMENT AND TO PROVIDE FOR THE APPLICABILITY OF SPECIFIED STATUTES AND RULES; AMENDING SECTION 41-4020, IDAHO CODE, TO REVISE VERBIAGE RELATING TO RULEMAKING; AMENDING SECTION 41-4021, IDAHO CODE, TO SPECIFY APPLICABLE LAW; AMENDING SECTION 41-4022, IDAHO CODE, TO REVISE AND TO PROVIDE FOR PENALTIES, TO PROVIDE FOR SPECIFIED DISCRETIONARY ACTION BY THE DIRECTOR IN ADDITION TO PENALTY PROVISIONS AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 41-4023, IDAHO CODE, TO REVISE COVERAGE PROVISIONS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 41-4001, Idaho Code, be, and the same is hereby amended to read as follows:

41-4001. DECLARATION OF PURPOSE. (1) ~~It is t~~The purpose of this chapter is to recognize and provide reasonable public supervision of self-funded or partially self-funded plans for provision of health care service benefits to employees or to students of a postsecondary educational institution in connection with or as an alternative to insurance and other prepayment plans, to provide standards for financial soundness of such plans, to protect the interests of employees or students covered thereby and to provide for the establishment of financially viable alternatives to traditional health care arrangements plans. The legislature of the state of Idaho declares that the existence and operation of such self-funded plans are matters of legislative concern, vitally affecting the rights and interests of the citizens of this state.

(2) The provisions of this chapter shall apply to any single employer or multiple employer arrangement ~~to plan or any postsecondary educational institution that provides a fully or partially self-fund a self-funded health benefit plan for beneficiaries residing in this state to the extent that state regulation of the arrangement or such plan is not preempted by the employee retirement income security act of 1974, as amended.~~

SECTION 2. That Section 41-4002, Idaho Code, be, and the same is hereby amended to read as follows:

41-4002. DEFINITIONS. For the purposes of this chapter unless context otherwise requires:

(1) "Administrator" is a person, if other than the trustee, ~~appointed by the plan sponsor or employed or contracted~~ by the trustee to provide administrative services to a self-funded plan.

(2) "Beneficiary" is any individual entitled, under the self-funded plan, to payment by the trust fund of any part ~~of~~ or all of the cost of any health care service rendered ~~him~~ to such beneficiary.

(3) "Claims liability" ~~or "reserves"~~ is the total of all incurred and unpaid claims, including incurred but not reported claims, for allowable benefits under a self-funded plan that are not reimbursed or reimbursable by stop-loss insurance provided by a carrier authorized to transact insurance in this state.

(4) "Contribution" is the amount paid or payable by the employer or employee, ~~or a postsecondary educational institution or student,~~ into the trust fund.

(5) "Department" is the Idaho department of insurance.

(6) "Director" is the director of the department of insurance ~~of this state.~~

(7) "Irrevocable trust agreement" is a trust agreement whereby under the terms thereof the plan sponsor cannot retain the power to alter, amend, revoke or terminate the transfer of funds or property held in trust.

(68) "Multiple employer welfare arrangement" or "multiple employer welfare plan" shall have the same meaning as that given to such the term "multiple employer welfare arrangement" by the employee retirement income security act of 1974, as amended.

(79) "Person" is any individual, corporation, limited liability company, partnership, association, firm, syndicate, organization, educational institution or any other public or private entity organized or recognized under the laws of the state of Idaho.

(810) "Plan sponsor" is any person who creates a self-funded health benefit plan for the benefit of any person employer and employee or employees, or a postsecondary educational institution and student or students.

(11) "Postsecondary educational institution" is a person whose primary purpose is to provide a postsecondary education that offers or awards educational degrees and that provides courses or programs that lead to an educational degree, that is legally authorized and maintains a presence in the state of Idaho, and that has an average annualized enrollment of eight hundred (800) or more full-time students located in Idaho.

(12) "Qualified actuary" is an actuary having experience in establishing rates for a self-funded plan and the health services being provided, and who is also a fellow of the society of actuaries, a member of the American academy of actuaries or an enrolled actuary under the employee retirement income security act of 1974, as amended.

(913) "Self-funded plan" or "plan" is any single employer plan or multiple employer welfare arrangement plan, or any other single or multiple employer plan, or any postsecondary educational institution student health benefit plan, other than a plan providing only benefits under title 72, Idaho Code, under which payment for medical, surgical, hospital, and other

services for prevention, diagnosis, or treatment of any disease, injury, or bodily condition of an employee is, or is to be, regularly provided for or promised from funds created or maintained in whole or in part by contributions or payments thereto by the employer or employers, or by the employer or employers and the employees, and or by a postsecondary educational institution and students at said institution, or students of a postsecondary educational institution, who are not otherwise covered by insurance or contract with a health care service corporation or managed care organization authorized to transact business in this state.

(104) "Single employer" is any individual, sole proprietorship, business, partnership, corporation, limited liability company, firm or any other form of legally recognized entity or a group of two (2) or more employers under "common control" as defined in section 3(40)(B)(iii) of the employee retirement system income security act of 1974, as amended.

(15) "Student" is an individual enrolled in a postsecondary educational institution.

(116) "Surplus" is the excess of the assets of a self-funded plan minus the liabilities of the plan, provided the liabilities of a self-funded plan shall include the claims liability of the plan.

(127) "Trust fund" is a trust fund established in conjunction with a self-funded plan for receipt of contributions of employer and employees, postsecondary educational institution and students, and payment of or with respect to health care service costs of beneficiaries.

(138) "Trustee" is the trustee, whether a single or multiple trustee, of the trust fund.

SECTION 3. That Section 41-4003, Idaho Code, be, and the same is hereby amended to read as follows:

41-4003. REGISTRATION REQUIRED -- EXEMPTIONS -- NOT SUBJECT TO INSURANCE CODE. (1) No person shall offer or operate a self-funded plan in this state ~~except while~~ unless the plan is registered with the director as hereinafter provided.

(2) No registration shall be required of:

(a) Any self-funded plan established for the sole purpose of funding the dollar amount of a deductible clause contained in the provisions of an insurance contract issued by an insurer duly authorized to transact disability insurance in this state if the deductible does not exceed an amount applicable to each beneficiary of ~~two~~ five thousand dollars (\$~~25,000~~ 25,000) per annum and the total of all obligations to all beneficiaries insured under the plan arising out of the application of such a deductible does not exceed the aggregate amount of ~~two~~ five hundred thousand dollars (\$~~2500,000~~ 2500,000) in any one (1) year.

(b) Any plan established and maintained for the purpose of complying with any worker's compensation law or unemployment compensation disability insurance law.

(c) Any plan administered by or for the federal government or agency thereof or any county of this state.

(d) Any plan which is primarily for the purpose of providing first aid care and treatment, ~~at a dispensary of~~ by an employer, for injury or sickness of employees while engaged in their employment.

(e) Any self-funded plan offering only dental and/or vision benefits, where such benefits are limited to no more than a total of five thousand dollars (\$5,000) per beneficiary per year. If self-funded dental and/or vision benefits are offered in conjunction with any other self-funded plan for disability or health benefits, the entire benefits are subject to all applicable provisions of chapter 40, title 41, Idaho Code, including registration.

(3) ~~Plans while so~~ that are registered under chapter 40, title 41, Idaho Code, shall not be deemed to be engaged in the business of insurance and shall not be subject to provisions of the Idaho insurance code except as expressly provided in this chapter. A plan required to register with the department that operates in this state without registering under this chapter shall be deemed to be engaged in the business of insurance without authorization and any person offering or operating an unregistered plan shall be deemed to be transacting insurance without proper licensing and subject to all sanctions as provided by law.

(4) Any self-funded plan providing benefits to more than one (1) employer shall provide to each employer participant and to each prospective employer participant written notice that the plan is not insurance and does not participate in the state Idaho life and health guaranty association. Any self-funded plan providing benefits to students of a postsecondary educational institution shall provide to each student participant and to each prospective student participant written notice that the plan is not insurance and does not participate in the Idaho life and health guaranty association. The notice shall also be included as part of all marketing materials used by or on behalf of the plan.

(5) Any plan registered as a single employer plan or as a multiple employer welfare plan shall not operate as or be registered as a postsecondary educational institution student health benefit plan. Any plan registered as a postsecondary educational institution student health benefit plan shall not operate as or be registered as a single employer plan or as a multiple employer welfare plan.

SECTION 4. That Section 41-4004, Idaho Code, be, and the same is hereby amended to read as follows:

41-4004. PLAN REQUIREMENTS. ~~No (1) The director shall not register any self-funded plan shall register, and the director shall not register a self-funded plan, which does not meet~~ under this chapter unless the following requirements are met:

(1a) ~~The plan must require all contributions to be paid in advance and to be deposited in and disbursed from a trust fund duly created and existing under an adequate~~ by a written irrevocable trust agreement between the employer or employers and the trustee, or between the postsecondary educational institution and the trustee, that meets the terms of this chapter.

(2b) ~~The plan must have, or provide for, a trustworthy and responsible shall appoint a trustee, and for competent administration of who demonstrates the character, fitness and competence to function in such role and whose function shall be to competently manage and administer the trust fund and plan.~~

(3c) With regard to single employer plans or multiple employer welfare plans, ~~t~~The plans must require that employers contribute to the trust fund, and that all contributions, if any, by employees, if any, shall be by regular periodic payroll deductions, except as to contributions made by an employee during his absence from such employment for such period as the plan may reasonably provide.

(4d) ~~The plan must provide that the administrator or trustee on behalf of the trust fund, as the case may be,~~ shall furnish to each employee-beneficiary or each student-beneficiary a copy of the plan, which shall include a written statement or schedule adequately and clearly stating all benefits currently allowable provided under the plan, together with as well as all applicable restrictions, limitations, and exclusions, and the procedure for filing a claim for benefits.

(5e) ~~The plan must shall~~ require that the trust fund be actuarially sound. that is, a Assets and income of the trust fund must shall at all

times be reasonably adequate under reasonable estimates to provide for full payment of all benefits promised to beneficiaries by the plan and to cover all other costs of operation. The initial contribution rates shall be calculated by a qualified actuary and shall include a reasonable provision for adverse deviation and a reasonable contribution to surplus.

(f) Before the registration by the department of the self-funded plan, the department shall verify that an amount equal to fifty percent (50%) of the qualified actuary's estimate of the minimum surplus requirements, as provided in section 41-4010(3), Idaho Code, after twelve (12) months of operation be deposited in the trust fund, in addition to the first month's contributions for all beneficiaries.

(2) After registration of the plan, in addition to the required quarterly and annual filings and other requirements as provided in this chapter, the trustee shall file the following documents with the director for his review and approval not less than thirty (30) days before the effective date thereof:

(a) An actuarial study as described in section 41-4005(2)(e), Idaho Code, calculating new rates for the next plan year or more frequent period if there are any midterm rate changes;

(b) Any changes in the policy form, benefits or summary plan description;

(c) Any amendments or changes made to the stop-loss agreement or agreements, including change of carriers;

(d) Any amendments or changes made to administrative, service or management agreements;

(e) Any amendments or changes to the fidelity bond or other coverage the director deemed equivalent pursuant to section 41-4014(3), Idaho Code;

(f) Any amendments or changes to the trust agreement; and

(g) Any change in the trustee or trustees, officers or management of the trust, which notice shall include biographical affidavits of any new trustee, officer or management personnel.

(3) The trustee shall notify the director immediately if the trustee learns or receives information that indicates that the surplus of the trust falls below the minimum surplus requirements.

SECTION 5. That Section 41-4005, Idaho Code, be, and the same is hereby amended to read as follows:

41-4005. APPLICATION FOR REGISTRATION -- FEE. (1) Application for registration of a self-funded plan shall be made to the director, on forms furnished and designed prescribed by him for the purpose of eliciting the director, seeking such information as to concerning whether, in the opinion of the director, the plan is qualified for registration. The application shall require the applicant to designate whether the plan is applying for registration as a single employer plan or multiple employer welfare plan or as a postsecondary educational institution student health benefit plan. The application shall be signed and verified by at least one (1) of the employers and employer or, if applicable, by a person authorized by a postsecondary educational institution to sign the application and at least one (1) of the plan trustees. If the employer, postsecondary educational institution, or trustee is a corporation, the verification shall be by a duly authorized corporate officer or by a managing member of the plan sponsor if the plan sponsor is a limited liability company.

(2) The application shall be accompanied by all plan documents including:

(a) A copy of the irrevocable trust agreement under which the trust fund is to exist and operate;

- (b) A copy of the proposed written statement of benefits ~~referred to~~ referenced in section 41-4004 (41) (d), Idaho Code;
- (c) A financial statement of the trust fund, if already in existence and operating at the time of application, certified by an independent certified public accountant. If the trust fund is not in existence at the time of application, a pro forma balance sheet for the start of operation of the plan and a pro forma balance sheet, by month, for the end of the first twelve (12) months of operation of the plan shall accompany the application, provided ~~the~~ that all balance sheets shall include actuarially determined claims liabilities;
- (d) A written statement of reasonably projected income and disbursements of the trust fund, by month, for the twelve (12) month period commencing with ~~date of application and showing also the amount reserved as of the end of such period for claims incurred and not paid or incurred and not reported,~~ certified the effective date of registration of the trust with the department and including changes to claims liabilities fully set forth in the monthly expenses as calculated by a qualified actuary;
- (e) A copy of an actuarial study prepared by a qualified actuary ~~determining adequate~~ certifying that the rates for the plan are sufficient to cover moderately adverse experience and all costs of operation. The study shall include the development and justification of the assumptions used by the actuary in determining the rates. The rates shall not be less than the sum of projected incurred claims for the year, plus costs of operation, plus any prior year deficiency, less any excess surplus prior to the establishment of the contribution deficit reserve;
- (f) With regard to a single employer plan or a multiple employer welfare plan, if the plan is domiciled outside this state, a letter or other written evidence of good standing from the plan's regulator in the state of domicile;
- (g) A copy of every contract between the plan and any administrator, trustee or service company;
- (h) A copy of a stop-loss insurance agreement issued by an insurer authorized to do business in this state providing both specific and aggregate coverage in an amount as annually indicated in the actuarial opinion for the plan, provided the director may waive the requirements for aggregate stop-loss coverage if such coverage is not reasonably available or otherwise deemed appropriate;
- (i) A copy of the policy, contract, certificate, summary plan description or other evidence of the benefits and coverages provided to beneficiaries, including a table of the rates charged or proposed to be charged for each form of such contract accompanied by a certification of a qualified actuary that:
- (i) The rates are neither inadequate nor excessive nor unfairly discriminatory;
  - (ii) The rates are appropriate for the classes of risks for which they have been computed; and
  - (iii) An adequate description of the rating methodology has been filed with the director and the methodology follows consistent and equitable actuarial principles; and
- (j) Such other relevant documentation and information as the director may reasonably require.
- (3) ~~If the applicant is a multiple employer welfare arrangement, t~~The application shall be signed under oath by the plan sponsor or the trustee of the plan, and the application shall also include:
- (a) A copy of any articles of incorporation and bylaws or any founding documents and bylaws of any entity acting as a plan sponsor;

(b) A list of the names, addresses and official capacities with concerning the plan of the individuals who will be responsible for the management and conduct of the affairs of the plan, including all trustees, officers and directors. Biographical affidavits shall be submitted for all trustees and management personnel on a form prescribed by the director. Management personnel of the trust shall be experienced and competent to ensure the trust's compliance with Idaho laws and rules. Such individuals shall fully disclose the extent and nature of any contracts or arrangements between them and the plan, including any possible conflicts of interest; and

(c) A copy of the articles of incorporation, bylaws ~~or~~, if any, and irrevocable trust agreement that governs of the plan, as well as any other document concerning the operation of the plan.

(4) At the time of filing the application the applicant shall pay to the director a nonrefundable filing fee as provided for by rule.

(5) The director shall transmit and account for all fees received by him hereunder as provided in section 41-406, Idaho Code.

~~(6) For purposes of this section, a qualified actuary is an actuary having experience in establishing rates for a self-funded plan and the health services being provided, and who is also a fellow of the society of actuaries, a member of the American academy of actuaries, or an enrolled actuary under the employee retirement income security act of 1974.~~

SECTION 6. That Section 41-4006, Idaho Code, be, and the same is hereby amended to read as follows:

41-4006. GRANT OR DENIAL OF REGISTRATION. (1) The director shall act upon an application for registration of a self-funded plan with all reasonable promptness, but not less more than ninety (90) days from the date of submission of a complete application to the director. Failure to act within the ninety (90) day time period shall be deemed ~~to be the~~ as registration of such self-funded plan by the director. ~~In the event the director refuses to register the plan, the applicant shall be entitled to challenge such refusal pursuant to chapter 2, title 41, Idaho Code, and to the contested case and judicial review provisions of chapter 52, title 67, Idaho Code.~~

(2) ~~He~~ The director may make such investigation of the ~~proposal application for registration~~ as he deems advisable. If the director finds that the application is complete and that the plan meets the qualifications stated in sections 41-4004 and 41-4005, Idaho Code, and is otherwise consistent with the provisions of this chapter, he shall issue and deliver a certificate of registration in appropriate form to the applicant; ~~otherwise, the director shall refuse to register the plan and shall give written notice of such refusal to the applicant, stating the reasons therefor.~~

(3) In the event the director denies an applicant's application for registration, the director shall notify the applicant in writing of the basis for the denial. Within twenty-one (21) days of the issuance of the notice of denial, the applicant may submit to the director a written request for a hearing before the director or his duly appointed representative addressing the basis for the denial of the application and requesting that the director reexamine the applicant's qualifications for registration. An applicant's failure to request a hearing in writing within twenty-one (21) days of the issuance of the notice of denial shall be deemed a waiver of the opportunity for hearing.

SECTION 7. That Section 41-4007, Idaho Code, be, and the same is hereby amended to read as follows:

41-4007. TRUST FUND -- POWERS AUTHORITY. The trust fund of a self-funded plan shall have ~~power~~ the authority:

- (1) To have and use an appropriate descriptive name;
- (2) To sue and be sued in its own name;
- (3) To contract in its own name. All such contracts shall be in writing and shall be signed by the trustee of the fund, and if there is more than one (1) trustee, the contract may be so executed by one (1) trustee if so authorized by all trustees;
- (4) To borrow money and give security therefor; and
- (5) To engage exclusively in transactions authorized or required by this chapter, or reasonably incidental thereto.

SECTION 8. That Section 41-4008, Idaho Code, be, and the same is hereby amended to read as follows:

41-4008. TRUST FUND LIABILITY -- FIDUCIARY FUNDS. (1) The trust fund of a self-funded plan shall be legally liable for payment of all applicable benefits stated in the ~~statement or schedule of benefits~~ for such plan in effect at the time a claim thereunder arises.

(2) Funds in the trust fund are fiduciary funds, and are not liable ~~for~~ to any obligation of any plan sponsor, including any employer participant in the plan or postsecondary educational institution, nor are fiduciary funds held in the trust subject to garnishment or levy. ~~for the obligation of any beneficiary. This clause~~ The prohibition on garnishment or levy shall not be deemed to prohibit levy upon the trust fund by any provider thereof (or its assignee) for health care services rendered to a beneficiary if the trust fund has theretofore agreed in writing to pay for the same direct to such provider.

(3) All funds and moneys received by the self-funded plan and all funds billed and paid as contributions to the trust fund shall be timely deposited in the trust account and shall be held in no other name than the name of the self-funded plan.

SECTION 9. That Section 41-4009, Idaho Code, be, and the same is hereby amended to read as follows:

41-4009. INVESTMENT OF TRUST FUND. (1) The trustee may invest ~~reserves and other trust funds~~ trust funds available for the ~~that~~ purpose in the trust fund of a self-funded plan in the following kinds of investments only:

(a) General obligations of the United States government, or of any state, district, commonwealth, or territory of the United States, or of any municipality, county, or other political subdivision or agency thereof.

(b) Obligations, including the payment of principal and interest thereon of which is are guaranteed by any such government or agency.

(c) Corporate bonds and similar obligations meeting the requirements specified for investment of funds of insurers under section 41-711, Idaho Code.

(d) Collateral loans, including payment of principal and interest of which ~~is~~ are adequately secured by securities in which the trust fund could lawfully invest ~~direct~~ directly.

(e) Deposits, savings accounts, and share accounts in established chartered banks and savings and loan associations located in the United States. Such An investment as to in any one (1) such institution may not be in excess of the amount covered by applicable deposit, savings, and share account insurance, unless otherwise authorized by at the discretion of the director.

(f) Investments as permitted by sections 41-714 and 41-716, Idaho Code, provided that the combined amount of such investments shall not exceed ten percent (10%) of the total assets of the trust fund.

(2) In addition to investments excluded under subsection (1) of this section, the trustee is expressly prohibited from investing trust fund moneys in:

(a) Any loan to or security of any plan sponsor including any employer or postsecondary educational institution participating in the plan, or to or of any trustee, officer, director, subsidiary or affiliate of any such plan sponsor, employer or postsecondary educational institution.

(b) The security of any person in which the trustee, administrator, or any consultant of the plan has a direct or indirect material pecuniary interest.

(c) Real estate property or loans thereon.

(d) Any personal loan, ~~other than a collateral loan referred to in subsection (1) (d) of this section, but subject to paragraphs (a) and (b) of this subsection (2).~~

(3) All such investments shall be made and held in the name of the trust fund, and the interest and yield thereon shall inure to the account benefit of the trust fund.

(4) No investment shall be made by or on behalf of the trust fund unless authorized in writing by the trustee and ~~so shown~~ included in the records of the trust fund.

(5) Any person who authorizes any investment of trust fund moneys in violation of this section shall, in addition to other penalty penalties that may be applicable therefor, be liable for all loss suffered by the trust fund on account of the investment.

(6) No investment made in violation of this section shall constitute an "asset" in any determination of the financial condition of the trust fund.

SECTION 10. That Section 41-4010, Idaho Code, be, and the same is hereby amended to read as follows:

41-4010. RESERVES AND SURPLUS. (1) A The trustee of a self-funded plan shall establish and maintain in the trust fund the following reserves:

(a) A reserve in an amount as certified by ~~a member of the American academy of actuaries~~ a qualified actuary as being necessary for payment of claims against the trust fund for benefits, ~~including both claims reported and not yet paid and claims incurred but not yet reported~~ liability. The reserve shall be reasonably adjusted on a quarterly basis in an amount as determined by a qualified actuary or other qualified person if authorized by the director.

(b) If, under the plan, periodic contributions ~~of either the employer(s) or employees~~ to the trust fund have been paid in advance or are payable less frequently than monthly, there shall be a reserve for unearned contributions as computed pro rata on the basis of the unexpired portion of the period for which the contribution has been paid.

(c) If future claims payments plus future costs of operation are greater than future contributions plus current reserves, there shall be a reserve in an amount equal to future claims payments plus future costs of operation, less future contributions, less current reserves.

(2) In any determination of the financial condition of the trust fund, the claims reserve, and reserve for unearned contributions and contribution deficiency reserve shall constitute liabilities.

(3) In addition to reserves required by this section, a self-funded plan shall establish and maintain in its trust fund surplus equal to at least ~~thirty percent (30%) of the unpaid claims liability of the plan. A newly formed plan with no prior operating history shall maintain surplus of not less than ten percent (10%) of unpaid claims liability during its first year of operation, not less than twenty percent (20%) of unpaid claims liability during its second year of operation and not less than thirty percent (30%) of unpaid claims liability at all times thereafter;~~

(a) The equivalence of three (3) months of contributions for the current plan year; or

(b) One hundred ten percent (110%) of the difference between the total dollar aggregate stop-loss attachment point plus costs of operation and the total dollar expected contributions for the current plan year.

(4) A surplus note that has been approved by the director in a form and as defined in section 41-2841, Idaho Code, may be used to fund surplus and shall not be accounted as a liability.

(5) Up to one-third (1/3) of the surplus required by this section may be funded by a clean, irrevocable letter of credit, in a form acceptable to the director, issued in favor of the trust fund by a federally or state chartered bank having a branch office in Idaho. Such irrevocable letter of credit cannot be guaranteed by pledge of any of the plan assets. The funding cannot be in the form of prepaid contributions or other loan or associated with an off-setting liability.

(6) A newly formed plan with no prior operating history shall meet the minimum surplus requirements no later than twelve (12) months after the date of initial operation. For plans registered with the department and in existence on the effective date of this law, such plans shall have twenty-four (24) months from the effective date of this law in which to increase their surplus level to comply with the requirements of subsection (3) of this section.

(7) The trust fund shall maintain the minimum surplus requirements at all times throughout the year.

SECTION 11. 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 during all times of the existence of the trust covering all financial transactions and affairs of the trust fund, which records and accounts shall be subject to review by the director. Any audit of the plan or trust shall be completed independently of any other entity.

(2) Within ninety (90) days after close of a fiscal year of the plan, the trustee shall make prepare an annual statement in writing summarizing the financial transactions of the trust fund for such fiscal year and its the financial condition of the trust at the end of such year in accordance with the requirements of this chapter and with generally accepted and applicable accounting principles. The statement shall otherwise be in a form and require information as prescribed by acceptable to the director and the financial include such information therein shall be certified by the accountant by whom such information was prepared or audited as prescribed by the director. The financial information included therein shall be certified by the accountant who audited such information. The trustee shall promptly deliver a copy of the statement to each employer or postsecondary educational institution participating in the plan and keep a copy thereof on file in the business office of from which the plan where it is operated. Such statement shall be available for review by any beneficiary at all reasonable times for a period of not less than three (3) years for review by any beneficiary from the date of the statement. If the plan is managed by a third party administrator, such statement shall be available at the administrative offices of the employer or employers or postsecondary educational institution.

(3) The plan's annual statement shall be accompanied by the certified actuarial opinion described in section 41-4010, Idaho Code. Such annual statement shall be prepared in accordance with actuarial standard of practice no. 28. The self-funded plan shall require that the qualified actuary retain the actuarial work papers until the department has filed an

examination report of the plan covering the period of the actuarial opinion but no longer than seven (7) years from the date of such opinion.

(4) On or before expiration of such ninety (90) day period the trustee shall ~~cause file~~ file an original of the annual statement ~~to be filed and certified actuarial opinion~~ with the director. The actuarial opinion shall be filed in a form prescribed by 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.

(45) The trustee shall also file quarterly supplemental unaudited financial reports and other periodic supplemental unaudited financial reports in a form and at the times prescribed by the director.

(56) The director shall transmit and account for all fees received by him hereunder as provided in section 41-406, Idaho Code.

(67) 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 12. That Section 41-4012, Idaho Code, be, and the same is hereby amended to read as follows:

41-4012. TAXES. (1) ~~There is hereby levied upon~~ Each self-funded plans required to be registered under this chapter is subject to the tax as provided for in this section. Each registered self-funded plan, and each formerly registered plan with respect to beneficiaries in this state while so registered, shall ~~coincidentally~~ simultaneously with the filing of its annual statement with the director, pay to the director a tax computed at the rate of four cents (4¢) per month per beneficiary covered by the plan during the fiscal year of the annual statement with respect to all beneficiaries working or resident in this state. Any plans operating in Idaho without proper registration shall be subject to back taxes for all years the plan was in operation plus all other sanctions authorized by law.

(2) ~~The state of Idaho hereby preempts the field of imposition of All excise, privilege, franchise, income, license and similar taxes, licenses and fees are hereby preempted from imposition upon self-funded plans and on the intangible property of their trust funds; and no county, city, municipality, district, school district, or other political subdivision or agency of Idaho shall levy upon such plans or trust funds any such tax, license or fee additional to such as are levied by the legislature of Idaho those set forth in this chapter.~~

(3) ~~The tax herein levied imposed on self-funded plans in subsection (1) of this section, together with the fees provided for imposed on such plans as set forth in this chapter, shall be in lieu of any and all income taxes and other excise taxes, licenses and fees payable to the state of Idaho.~~ and no self-funded plan shall be required to file any tax returns or comply with any provisions governing such income taxes and other excise taxes, licenses and fees payable to the state of Idaho.

(4) The director shall promptly remit all such tax payments received by him pursuant to this section to the state treasurer for credit to the state general fund of the state.

SECTION 13. That Section 41-4013, Idaho Code, be, and the same is hereby amended to read as follows:

41-4013. EXAMINATION OF BOOKS, RECORDS AND ACCOUNTS. (1) The books, records, accounts and affairs of a self-funded plan shall be subject to examination by the director, by ~~competent~~ qualified examiners duly authorized by him in writing, at such times or intervals as the director deems advisable appropriate. The purposes of the examination shall be to determine compliance of the plan with applicable laws, the plan's financial condition, and

actuarial the adequacy of its the plan's trust fund, the treatment accorded by the plan to its beneficiaries, and as to any other factors deemed materially related relevant by the director to the plan's management and operation.

(2) The trustee shall promptly make the books, records and accounts of the plan and trust fund available in Idaho to the department's examiner in Idaho and otherwise facilitate the examination.

(3) The examiner shall conduct the examination expeditiously, make his prepare the report of the examination in writing, and deliver a copy thereof to the trustee and the director as soon as practicable. The trustee shall have no longer than four (4) weeks after receipt of the report within which to recommend to the director such corrections or changes therein as the trustee may deem appropriate. After making such corrections or changes, if any, as he deems ~~proper~~ appropriate, the director shall file the report in his office as a document open to public inspection, and deliver to the trustee a copy of the report, as so corrected or changed including any modifications made to the examiner's original report as submitted to the director.

(4) At the direction of the director, the costs of the examination shall be borne by the trust fund of the plan, and shall be paid by the trustee in accordance with section 41-228, Idaho Code.

SECTION 14. That Section 41-4014, Idaho Code, be, and the same is hereby amended to read as follows:

41-4014. TRUSTEES -- ADMINISTRATORS -- BONDING. (1) Either an individual or a corporation or other legal entity may be a trustee of the trust fund. Either Any person acting as a trustee is a fiduciary acting on behalf of the beneficiaries of the plan and the trust fund in such capacity. Aan individual, firm, ~~or~~ corporation or other legal entity may be an administrator of a plan.

(2) An employer participant in the plan shall be neither a trustee nor the administrator, ~~but.~~ A postsecondary educational institution as a plan sponsor of a self-funded plan shall be neither a trustee nor an administrator of such plan. However, this provision subsection shall not be deemed to prohibit an individual who is otherwise an employee of such an employer or a postsecondary educational institution from being trustee or administrator.

(3) ~~Any administrator that is retained by a self-funded plan must be licensed as an administrator pursuant to chapter 9, title 41, Idaho Code.~~ The trustee shall ~~cause to be issued~~ obtain a fidelity bond, or coverage deemed by the director to be equivalent to a fidelity bond, in the name of the self-funded plan ~~protecting, the purpose of which is to protect~~ against acts of fraud and dishonesty by its the plan's trustees, directors, officers and employees responsible for servicing the in connection with the trust fund or plan. Such bond shall be in an amount equal to the greater of ten percent (10%) of the contributions received by the plan or ten percent (10%) of the benefits paid during the preceding calendar year. If the plan was not in operation 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 plan during its first year of operation. The amount of any bond required under this section shall be not less than twenty-five thousand dollars (\$25,000) or more than five hundred thousand dollars (\$500,000).

(4) Any administrator that is retained by a self-funded plan must be licensed and bonded as an administrator pursuant to chapter 9, title 41, Idaho Code.

SECTION 15. That Section 41-4015, Idaho Code, be, and the same is hereby amended to read as follows:

41-4015. PROHIBITED PECUNIARY INTERESTS IN PLAN MANAGEMENT. (1) No plan sponsor, trustee, administrator, or other person having responsibility for the management of a self-funded plan or the investment or other handling of trust funds shall:

(a) Receive directly or indirectly or ~~be pecuniarily interested~~ have a pecuniary interest, either directly or indirectly, in any fee, commission, compensation, or emolument, other than salary or other similar compensation regularly fixed and allowed authorized for services regularly duly rendered to the plan, arising out of any transaction to which the trust fund is or ~~is to be~~ may become a party.

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

(c) Have any direct or indirect material pecuniary interest in any loan or investment ~~of related to~~ the trust fund.

(2) No consultant to the plan or trust fund shall directly or indirectly receive or ~~be pecuniarily interested~~ have a pecuniary interest, either directly or indirectly, in any commission or other compensation arising out of any contract or transaction between the plan or trust fund and any insurer, health care service corporation, health maintenance organization or other provider of health care services or of drugs or other health care needs and supplies.

(3) The director may, after reasonable notice and the opportunity for a hearing, require removal of a trustee or prohibit the trustee from employing or retaining or continuing to employ or retain any person in the administration of the trust fund or plan, upon finding that continuation of the trustee or such employment or retention involves a conflict of interest ~~not in the best interests of the plan or an interest with the potential to adversely affecting interests of~~ affect plan beneficiaries.

SECTION 16. That Section 41-4017, Idaho Code, be, and the same is hereby amended to read as follows:

41-4017. RECOVERY OF DEPLETED FUNDS. If after notice and the opportunity for a hearing the director finds that any self-funded plan trust fund has been depleted by reason of any wrongful or negligent act or omission of a trustee or any other person, he shall transmit a copy of his findings to the attorney general of this state, who may bring an action in the name of the people of this state, or intervene in any action brought by or on behalf of an employer or beneficiary, for the recovery of the amount of such depletion, for the benefit of the trust fund, and to impose any sanctions as authorized by law.

SECTION 17. That Section 41-4018, Idaho Code, be, and the same is hereby amended to read as follows:

41-4018. TERMINATION OF REGISTRATION. (1) The director shall terminate the registration of a self-funded plan upon written request of the trustee, or if he finds, after an inquiry or an examination, that the trust fund is insolvent. For the purposes of this section chapter, "insolvent" means the plan is unable to pay its obligations when they are due or that its assets do not exceed its liabilities. As used in this section chapter, "assets" means all investments held in the name of the trust as permitted by section 41-4009, Idaho Code.

(2) The director may terminate the registration of a plan for violation of this chapter, or failure of the trustee to timely file with the director the annual statement with the director or actuarial opinion and timely pay the tax within the time required under sections 41-4011 and 41-4012, Idaho

Code, or if he finds, after an inquiry or an examination of the trust fund and the plan or notice from the trustee:

(a) That the plan no longer meets the qualifications required by sections 41-4004 and 41-4005, Idaho Code, and that the such deficiency will not or cannot be remedied within a reasonable time;

(b) ~~That as a matter of frequent practice the~~ there is a pattern of benefits promised by the plan that are not being fairly and promptly paid;

(c) That the cost of administering the plan is excessive in relation to the character and volume of service being rendered in the administration; ~~or~~

(d) That the trust fund has been subject to fraudulent, incompetent or dishonest practices on the part of the trustee, administrator, consultant, any participating employer, or any postsecondary educational institution, beneficiaries or others; or

(e) That the trust fund does not meet the minimum surplus requirements under this chapter.

(3) The director shall ~~so~~ terminate the plan's registration by his written order given provided to the trustee last of record with the department and to each employer or postsecondary educational institution last of record ~~a participant in the plan. The~~ with the department. Such order shall state the grounds upon which ~~made it is based~~ and its effective date. The order shall be subject to judicial review in the same manner as applies to official orders of the director in general.

SECTION 18. That Section 41-4019, Idaho Code, be, and the same is hereby amended to read as follows:

41-4019. LIQUIDATION OF TRUST FUND. (1) Upon termination of registration of the plan, the trust fund of a self-funded plan shall be liquidated as soon as practicable.

(2) Liquidation of a solvent self-funded plan shall be conducted by its trustee under a plan of liquidation in writing filed with and approved by the director, ~~found by the director to be as~~ fair and equitable to all persons having a pecuniary interest in the trust fund, ~~and approved by him~~. Any balance remaining after payment or adequate provision for all claims and charges against the trust fund shall be disposed of in such manner as is provided for in the plan of liquidation. Unless ~~under~~ the plan of liquidation, provides that liability for all unpaid claims and obligations of the trust fund has been unconditionally assumed by other financially responsible person or persons and the third party contract has been submitted to the department for its review, the existence of surplus funds for such disposition shall not be determined prior to expiration of two (2) years after termination of the registration.

(3) The liquidation of an insolvent self-funded plan shall be carried out by the director in accordance with chapter 33, title 41, Idaho Code (rehabilitation and liquidation). ~~and~~ ~~For this purpose~~, the self-funded plan shall be deemed to be an insolvent domestic insurer and subject to all statutes and rules applicable to the same.

SECTION 19. That Section 41-4020, Idaho Code, be, and the same is hereby amended to read as follows:

41-4020. RULES. (1) The director may make promulgate reasonable rules necessary for or as an aid to effectuation of any provision of this chapter. No such rule shall extend, modify, or conflict with any provision of this chapter and the reasonable implications thereof.

(2) Such rules, or any amendment thereof, shall be made by the director in accordance with chapter 52, title 67, Idaho Code.

SECTION 20. That Section 41-4021, Idaho Code, be, and the same is hereby amended to read as follows:

41-4021. OTHER PROVISIONS APPLICABLE. Chapter 2, title 41, Idaho Code, (the director of the department of insurance), chapter 9, title 41, Idaho Code, (insurance administrators), chapter 13, title 41, Idaho Code, (trade practices and frauds), chapter 56, title 41, Idaho Code, (prompt payment of claims), chapter 59, title 41, Idaho Code, (external review), section 41-1845, Idaho Code, (recreational-related activities), sections 41-2141 and 41-2216, Idaho Code, (coordination with social security benefits), and section 41-2841, Idaho Code, (borrowed surplus), to the extent applicable and not in conflict with the express provisions of this chapter, shall also apply with respect to self-funded plans, and for the purpose such plans shall be deemed to be "insurers."

SECTION 21. That Section 41-4022, Idaho Code, be, and the same is hereby amended to read as follows:

41-4022. PENALTIES. (1) Any person who willfully violates or causes or induces violation of any provision of this chapter, or any lawful rule of the director issued thereunder, shall be subject to an administrative penalty for each violation of not more than one thousand dollars (\$1,000) for an individual and not more than five thousand dollars (\$5,000) for any entity for each violation.

(2) Any person who makes a false statement or representation of a material fact, knowing it to be false, or who knowingly fails to disclose a material fact in any application, examination, ~~or statement required under this chapter or by lawful rule of the director thereunder~~ relating to self-funded plans, trust accounts, administration of a plan or any matter materially related thereto, shall be subject to penalty as provided in subsection (4) of this section.

(3) Any person who makes a false entry in any book, record, statement, or report required by this chapter or lawful any rule of the director ~~promulgated thereunder to be kept by him for any self-funded plan,~~ with intent to injure or defraud the trust fund or any beneficiary thereunder, or to deceive anyone authorized or entitled to examine the affairs of the plan, shall be subject to penalty as provided in subsection (4) of this section.

(4) For each such violation, act or omission referred to in subsections (2) and (3) of this section, unless greater penalty is provided therefor under any other applicable law, the offender shall upon conviction thereof be subject to a fine of not more than fifteen thousand dollars (\$15,000) and to imprisonment for not more than fifteen (15) years, or to both such fine and imprisonment.

(5) Further, the director may in his discretion:

(a) Order the person to cease and desist from the violation of such provision;

(b) Issue an order revoking or suspending the registration of the plan that engaged in such violation;

(c) Bring an action in the fourth district court in and for Ada county or in such other court as the director deems appropriate to seek appropriate injunctive relief and impose a civil penalty not to exceed five thousand dollars (\$5,000) for each violation.

SECTION 22. That Section 41-4023, Idaho Code, be, and the same is hereby amended to read as follows:

41-4023. COVERAGE FROM MOMENT OF BIRTH -- COMPLICATIONS OF PREGNANCY. (1) Every self-funded plan issued pursuant to this chapter in this state, or providing coverage to any covered family residing within this

state, shall contain a provision granting immediate accident and sickness coverage, from and after the moment of birth, to each newborn child or infant of any covered family covered, including a newborn child placed with the adoptive covered family within sixty (60) days of the adopted child's date of birth. Coverage under the self-funded plan for an adopted newborn child placed with the adoptive covered family more than sixty (60) days after the birth of the adopted child shall be from and after the date the child is so placed. Coverage provided in accordance with this section shall include, but not be limited to, coverage for congenital anomalies. For the purposes of this section, "child" means an individual who has not reached eighteen (18) years of age as of the date of the adoption or placement for adoption. For the purposes of this section, "placed" shall mean physical placement in the care of the adoptive covered family, or in those circumstances in which such physical placement is prevented due to the medical needs of the child requiring placement in a medical facility, it shall mean when the adoptive covered family signs an agreement for adoption of such child and signs an agreement assuming financial responsibility for such child. Prior to legal finalization of adoption, the coverage required under the provisions of this subsection (1) as to a child placed for adoption with a covered family continues in the same manner as it would with respect to a naturally born child of the covered family until the first to occur of the following events:

- (a) The date the child is removed permanently from that placement and the legal obligation terminates; or
- (b) The date the covered family rescinds, in writing, the agreement of adoption or agreement assuming financial responsibility.

No such plan may be issued or amended if it contains any disclaimer, waiver, or other limitation of coverage relative to the coverage or insurability of newborn or adopted children or infants of a covered family, which child or children are covered from and after the moment of birth that is inconsistent with the provisions of this section.

(2) Neither the plan trustee or employer or a postsecondary educational institution nor an insurer shall restrict coverage under a self-funded plan of any dependent child adopted by a participant or beneficiary, or placed with a participant or beneficiary for adoption, solely on the basis of a pre-existing condition of the child at the time the child would otherwise become eligible for coverage under the plan, if the adoption or placement for adoption occurs while the participant or beneficiary is eligible for coverage under the plan.

(3) No self-funded plan which provides maternity benefits for a person covered continuously from conception shall be issued, amended, delivered, or renewed in this state on or after January 1, 1977, if it contains any exclusion, reduction, or other limitations as to coverage, deductibles, or coinsurance provisions as to involuntary complications of pregnancy, unless such provisions apply generally to all benefits paid under the plan. If a fixed amount is specified in such plan for surgery, the fixed amounts for surgical procedures involving involuntary complications of pregnancy shall be commensurate with other fixed amounts payable for procedures of comparable difficulty and severity. In a case where a fixed amount is payable for maternity benefits, involuntary complications of pregnancy shall be deemed an illness and entitled to benefits otherwise provided by the plan. Where the plan contains a maternity deductible, the maternity deductible shall apply only to expenses resulting from normal delivery and cesarean section delivery; however, expenses for cesarean section delivery in excess of the deductible shall be treated as expenses for any other illness under the plan. This subsection shall apply to all self-funded plans except any such plan made subject to an applicable collective-bargaining agreement in effect before January 1, 1977.

For purposes of this subsection, involuntary complications of pregnancy shall include, but not be limited to, puerperal infection, eclampsia, cesarean section delivery, ectopic pregnancy, and toxemia.

All plans subject to this subsection and issued, amended, delivered, or renewed in this state on or after January 1, 1977, shall be construed to be in compliance with this section, and any provision in any such plan which is in conflict with this section shall be of no force or effect.

(4) From and after January 1, 1998, no self-funded plan that provides maternity benefits shall restrict benefits for any hospital length of stay in connection with childbirth for the mother or newborn child in a manner that would be in conflict with the newborns' and mothers' health protection act of 1996.

(5) Any new or renewing self-funded group disability plan or blanket disability plan delivered or issued for delivery in this state shall provide that an unmarried child under the age of ~~twenty-fivesix~~ (25~~6~~) years ~~and who receives more than one-half (1/2) of his financial support from the parent~~ shall be permitted to remain on the parent's or parents' plan. Further, any unmarried child of any age who is medically certified as disabled and financially dependent upon the parent is permitted to remain on the parent's or parents' plan.

Approved March 29, 2013.

CHAPTER 182  
(H.B. No. 216)

AN ACT

RELATING TO STANDARDS FOR GUYED TOWERS; AMENDING SECTION 21-515A, IDAHO CODE, TO PROVIDE AN EXCEPTION FOR FACILITIES USED BY A FEDERAL POWER MARKETING AGENCY TO SERVE PUBLIC UTILITIES OR CONSUMER-OWNED UTILITIES.

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

SECTION 1. That Section 21-515A, Idaho Code, be, and the same is hereby amended to read as follows:

21-515A. HAZARDS TO AIR FLIGHT -- STANDARDS FOR GUYED TOWERS. (1) Any temporary or permanent guyed tower fifty (50) feet or more in height that is located outside the boundaries of an incorporated city or town on land that is primarily rural or undeveloped or used for agricultural purposes, or that is primarily desert, and where such guyed tower's appearance is not otherwise governed by state or federal law, rule or regulation, shall be lighted, marked and painted or otherwise constructed to be visible in clear air during daylight hours from a distance of not less than two thousand (2,000) feet. Guyed towers shall be required to be in accordance with the following:

(a) Guyed towers shall be painted in seven equal alternating bands of aviation orange and white. Such alternating bands shall begin with orange at the top of the tower and end with orange at the base.

(b) Guyed towers shall have a flashing light at the top of the tower. Such light shall be visible in clear air, with the naked eye, from a distance of two thousand (2,000) feet when flashing. Such light shall also be visible with night vision goggles.

(c) The surface area under the footprint of the tower and six (6) feet beyond the outer tower anchors shall have a contrasting appearance with any surrounding vegetation.

(d) Two (2) marker balls shall be attached to and evenly spaced on each of the outside guy wires.

(e) Guyed towers shall have a seven (7) foot long safety sleeve at each anchor point and shall extend from the anchor point along each guy wire attached to the anchor point.

(2) Any guyed tower that was erected prior to the effective date of this act shall be marked as required by the provisions of this section within one (1) year of the effective date of this act. Any guyed tower that is erected on or after the effective date of this act shall be marked as required by the provisions of this section at the time it is erected.

(3) For the purposes of this section, the following terms shall have the following meanings:

(a) "Guyed tower" means a tower that is supported in whole or in part by guy wires and ground anchors or other means of support besides the superstructure of the tower itself, towers used for military purposes excepted.

(b) "Height" means the distance measured from the original grade at the base of the tower to the highest point of the tower.

(c) "Temporary or permanent guyed tower" means a guyed tower erected and standing for any period of time whatsoever.

(4) This section shall not apply to power poles or structures owned and operated by an electric supplier as defined in section 61-332A(4), Idaho Code, to facilities used by a federal power marketing agency to serve public utilities or consumer-owned utilities or any structure the primary purpose of which is to support telecommunications equipment.

(5) Any person who violates a provision of this section shall be guilty of a misdemeanor.

Approved March 29, 2013.

CHAPTER 183  
(H.B. No. 218)

AN ACT

RELATING TO SCHOOL BONDS; AMENDING SECTION 33-1107, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE ISSUANCE OF SCHOOL BONDS, TO ESTABLISH CERTAIN PROVISIONS RELATING TO AN ANNUAL TAX LEVY, TO ESTABLISH PROVISIONS RELATING TO THE ADOPTION OF AN AMORTIZATION PLAN, TO PROVIDE THAT BONDS MAY BE ISSUED AS SERIAL OR TERM BONDS, TO ESTABLISH PROVISIONS RELATING TO INTEREST AND THAT EACH BOND SHALL BE NUMBERED, TO PROVIDE THAT EACH ISSUE SHALL MATURE AND BE PAID IN FULL NOT MORE THAN THIRTY YEARS FROM THE DATE OF THE BONDS AND TO ESTABLISH THAT NO ISSUE SHALL BE SOLD AT LESS THAN ITS AGGREGATE PAR VALUE; REPEALING SECTION 33-1108, IDAHO CODE, RELATING TO PRINTING OF BONDS; AMENDING SECTION 33-1109, IDAHO CODE, TO REMOVE LANGUAGE RELATING TO CERTAIN COUPONS AND TO REVISE A PROVISION RELATING TO THE RECORDING OF BONDS; AMENDING SECTION 33-1111, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE PUBLIC OR PRIVATE SALE OF BONDS, TO PROVIDE FOR ELECTRONIC BIDS, TO REMOVE LANGUAGE RELATING TO ELECTRONIC BIDDING AND TO REMOVE LANGUAGE RELATING TO THE SALE OF CERTAIN BONDS AT LESS THAN PAR VALUE; REPEALING SECTION 33-1116, IDAHO CODE, RELATING TO REFUNDING BONDS; AMENDING SECTION 33-1117, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE REDEMPTION OF BONDS; AMENDING SECTION 33-1121, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE REFUNDING OF BONDS, TO ESTABLISH ADDITIONAL PROVISIONS RELATING TO THE REFUNDING OF BONDS AND TO REVISE PROVISIONS RELATING TO THE ADVANCE REFUNDING OF BONDS; REPEALING SECTION 33-1122, IDAHO CODE, RELATING TO THE APPLICATION OF OTHER STATUTES; REPEALING SECTION 33-1123, IDAHO CODE, RELATING TO AUTHORIZATION; REPEALING SECTION 33-1124, IDAHO

CODE, RELATING TO A RESOLUTION NOT TO BE AMENDED OR REPEALED; REPEALING SECTION 33-1125, IDAHO CODE, RELATING TO THE APPLICATION OF BOND PROCEEDS AND LIMITATIONS; AND AMENDING SECTION 33-354, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES.

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

SECTION 1. That Section 33-1107, Idaho Code, be, and the same is hereby amended to read as follows:

33-1107. PLAN AND FORM OF BONDS -- AMORTIZATION. School district bonds shall be issued in denominations of ~~one hundred dollars (\$100) or multiples thereof, not to exceed one hundred thousand dollars (\$100,000), and in form prescribed by the state superintendent of public instruction to be determined by the board of trustees.~~

No school district bonds shall be issued except upon an amortization plan, ~~each issue of bonds to be redeemed in full within twenty (20) years from the date of the bonds. The first amortized principal payment shall mature and be payable not more than two (2) years from and after the date of the bonds, and the various annual maturities of any issue of bonds shall as nearly as practicable be in such principal amounts as will, together with accruing interest on all outstanding bonds of such issue, be met and paid by an equal annual tax levy during the term for which such bonds shall be issued. No bond shall mature and be payable as to principal in partial payments.~~

~~Each bond shall bear interest from the date of issue, payable semiannually on the first days of such months as shall be determined by the board of trustees, at such interest rate as said board may determine. Each bond of any issue shall be numbered in a consecutive series. Each interest payment on each bond shall be evidenced by an interest coupon thereto attached. Such coupons shall be numbered in a consecutive series; shall be identified with the bond to which attached; shall show the number and name of the issuing school district, and the date and place of payment of such interest.~~

~~The foregoing plan and form of bonds and bonding may be departed from whenever in the judgment of and shall satisfy one (1) of the following:~~

(1) The annual tax levy in any year shall not exceed by more than ten percent (10%) the average annual tax levy if the principal and interest coming due on the bonds was repaid in equal annual amounts; or

(2) The annual tax levy in any year shall not exceed by more than ten percent (10%) the average annual tax levy if the principal and interest coming due on the bonds, together with the principal and interest coming due on all other outstanding bonds of the school district, was repaid in equal annual amounts; or

(3) The annual tax levy shall result in the repayment of principal and interest coming due on the bonds, or the bonds, together with the principal and interest coming due on all other outstanding bonds of the school district, more rapidly than an equal annual tax levy.

Whenever the amortization plan does not satisfy any of the foregoing alternatives, the board of trustees such departure may adopt such amortization plan as it shall find will result to the benefit and advantage of the district, and the board of trustees may issue and sell such bonds with such annual maturities as it shall determine either prior to or after the fixing of the interest rates such bonds will bear, and in every such instance it shall be permissible for the board of trustees to issue such bonds in the annual maturities so determined upon and bearing the rate or rates of interest ascertained upon the sale of such bonds, and the plan and form thereof together with the contract, if any, for the issue must be approved by the state superintendent of public instruction.

Subject to the provisions of this section, bonds may be issued as serial or term bonds.

Each bond shall bear interest from the date of issue, payable semi-annually on the days of such months as shall be determined by the board of trustees, at such interest rate as said board may determine. Each bond of any issue shall be numbered in a consecutive series. Each issue of bonds shall mature and be paid in full not more than thirty (30) years from the date of the bonds.

No issue of school bonds shall at any time be sold at less than its aggregate par value.

SECTION 2. That Section 33-1108, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Section 33-1109, Idaho Code, be, and the same is hereby amended to read as follows:

33-1109. SIGNATURE AND RECORDING OF BONDS. Each bond shall be signed by the chairman of the board of trustees and countersigned by the clerk; and the seal of the district, if it have has a seal, shall be attached. ~~The attached coupons shall be signed by the clerk, personally or by facsimile.~~

All bonds shall be recorded by the treasurer of the district who shall keep record of the number, amount and status of the issue, together with the name of the successful bidder purchaser therefor.

SECTION 4. That Section 33-1111, Idaho Code, be, and the same is hereby amended to read as follows:

33-1111. SALE OF BONDS. School bonds may be sold at private sale, as provided in section 57-232, Idaho Code, after notice as hereinafter provided, or may be sold at public sale as hereinafter provided.

~~If bonds are sold at private sale, notice~~ Notice of the intention to sell such bonds at public or private sale shall be published once in the name of the issuer in a newspaper of general circulation within the issuer's boundaries at least three (3) days prior to the time scheduled by the issuer for approving the private sale of such bonds. Failure to comply with this requirement shall not invalidate the sale of the bonds, so long as the issuer has made a good faith effort to comply.

~~If the bonds are sold at public sale the board of trustees shall give notice of its intent to sell a bond issue.~~

~~The notice shall be published once in a newspaper published in this state, at least one (1) week prior to the day bids are opened. Said~~ If the bonds are sold at public sale, the notice shall describe the issue of bonds; shall state that the board of trustees will receive sealed bids or electronic bids pursuant to the provisions of section 57-233, Idaho Code, until a specified day and hour; and that said bids will be opened accepted or rejected at a regular or special meeting of the board at a time and place to be named in the notice. Said notice may require such deposits of forfeits as the board may deem necessary.

At the meeting held at the time and place named in the notice, the board of trustees shall open the bids, and may sell the same to whomever shall make the bid most advantageous to the school district, and the deposits of the unsuccessful bidders shall thereupon be returned to them. Should the successful bidder fail or refuse to tender payment of the amount required for the purchase of the issue within ten (10) days after tender to him of the executed bonds and a certified copy of the bond proceedings, his deposit shall be forfeited; and the board may in its judgment accept the bid next most advantageous, readvertise the issue as before, or sell the bonds at private sale.

The board of trustees may reject any or all bids, and sell the bonds at private sale when this is found to be in the best interest of the district.

~~In lieu of receiving sealed bids, the board of trustees may provide for the public sale of bonds by electronic bidding as provided in section 57-233, Idaho Code.~~

~~No school bond shall at any time be sold at less than its par value.~~

SECTION 5. That Section 33-1116, Idaho Code, be, and the same is hereby repealed.

SECTION 6. That Section 33-1117, Idaho Code, be, and the same is hereby amended to read as follows:

33-1117. CALL OR REDEMPTION OF BONDS -- NOTICE. The board of trustees of any school district having outstanding bonds which are redeemable or callable before final maturity, having sufficient money in its bond interest and redemption fund may redeem one (1) or more bonds, on any callable or redeemable date. ~~If such bonds are held by the department of finance, notice shall be given said department not less than thirty (30) days prior to such redemption date. Otherwise, notice shall be given by publication, not less than thirty (30) days prior to said redemption date, in a newspaper in which the district lies. The notice shall give the name, series and number of the bond or bonds which will be redeemed; the place of redemption; and shall state that after the date of the proposed payment, interest on the said bonds will cease. In addition thereto, like notice shall be given to the holder of the bond or bonds if known; to the fiscal agent if any; to the bank or banks through which the bonds to be redeemed are payable, and to "The Bond Buyer," a publication printed in New York City.~~ Notice of redemption shall be given in the manner specified in the bonds or the resolution authorizing the bonds.

SECTION 7. That Section 33-1121, Idaho Code, be, and the same is hereby amended to read as follows:

33-1121. REFUNDING BONDS AND ADVANCE REFUNDING BONDS. ~~Whenever The board of trustees of any school district has may issue negotiable bonds for the purpose of refunding any outstanding bonds which may be called and redeemed prior to their maturities, the board of trustees of any such district may issue refunding bonds bonded indebtedness of the district pursuant to the provisions of chapter 5, title 57, Idaho Code, subject to the following additional provisions:~~

(1) The provisions of section 33-1107, 33-1109, 33-1111, 33-1115, 33-1117, 33-1118 and 33-1120, Idaho Code, shall be applicable to refunding bonds.

(2) No election shall be required for the issuance of refunding bonds provided that the refunding bonds do not create an additional indebtedness. Additional indebtedness shall mean either that the term of the refunding bonds exceeds the term of the bonds to be refunded, except as provided in subsection (4) of this section; or that the total amount of principal and interest to be paid on the refunding bonds exceeds the total of principal and interest to be paid on the bonds to be refunded.

(3) In the case of refunding bonds issued in advance of the date of calling and redeeming such outstanding bonds, for the purpose of redeeming the same, without submitting the question of issuing refunding bonds to the electors of the district, when the net interest cost of the refunding bonds shall not exceed the net interest cost of the bonds to be refunded.

"Net interest cost" of a proposed issue of refunding bonds is defined as the total amount of interest to accrue on said refunding bonds from their date to their respective maturities, plus the total amount of premiums payable to the holders of said outstanding bonds as a condition to their redemption, less the amount of any premium above their par value at which said refunding bonds are being or have been sold. "Net interest cost" of

an outstanding issue, or issues, to be refunded is defined as the total amount of interest which would accrue on said outstanding bonds from the date of the proposed refunding bonds to the respective maturity dates of said outstanding bonds to be refunded. In all cases the net interest cost shall be computed without regard to any option of redemption prior to the designated maturities.

~~(4) Two (2) or more issues of outstanding bonds may be refunded by a single issue. The maturity of the refunding bonds only if the taxable property, upon which taxes are levied may not exceed the term of the outstanding bonds except in cases where an extension, not to pay the interest and principal payments of the outstanding bonds, is identical as to each issue proposed to be refunded by a single issue of exceed sixty (60) days and in the same fiscal year shall be needed to enable the refunding bonds to comply with the requirements of the Idaho school bond guaranty act and the provisions of section 33-5306, Idaho Code.~~

~~In all other respects, the issuance of advance refunding bonds shall be governed by and subject to the limitations described in section 57-504, Idaho Code.~~

SECTION 8. That Section 33-1122, Idaho Code, be, and the same is hereby repealed.

SECTION 9. That Section 33-1123, Idaho Code, be, and the same is hereby repealed.

SECTION 10. That Section 33-1124, Idaho Code, be, and the same is hereby repealed.

SECTION 11. That Section 33-1125, Idaho Code, be, and the same is hereby repealed.

SECTION 12. That Section 33-354, Idaho Code, be, and the same is hereby amended to read as follows:

33-354. INDEBTEDNESS -- BOND ISSUES. School subdistricts may incur debt and issue bonds for the purpose of acquiring, purchasing or improving a school site or sites, acquiring or constructing new schoolhouses, remodeling existing buildings, constructing additions thereto, including all necessary furnishings and equipment, and all lighting, heating, ventilation, sanitation facilities and appliances necessary to operate the buildings of the new school subdistrict. The governing body of a school subdistrict may submit to the qualified electors of the school subdistrict the question of whether the governing body of the school subdistrict shall be empowered to issue negotiable bonds of the school subdistrict in an amount and for a period of time to be named in the notice of election. Notice of the bond election shall be given, the election shall be conducted and the returns thereof canvassed and the qualifications of electors voting or offering to vote shall be as provided in title 34, Idaho Code. The question of the issuance of such bonds shall be approved only if the percentage of votes cast at such election were cast in favor thereof as that which is now, or may hereafter be, set by the constitution of the state of Idaho. All such bonds shall be authorized, issued and sold pursuant to the provisions of sections 33-1107 through 33-1125~~21~~, Idaho Code. No bonds of a school subdistrict may be issued, however, if the issuance of such bonds would cause the percentage of market value for assessment purposes of taxable property within the boundaries of the school subdistrict represented by the aggregate outstanding indebtedness of the school subdistrict, when added to the percentage of the assessed valuation of taxable property represented by the aggregate outstanding indebtedness of the school district within which the school subdistrict lies, to exceed five percent (5%). As used

in the preceding sentence hereof, "market value for assessment purposes," "aggregate outstanding indebtedness" and "issuance" shall have the same meanings as set forth in section 33-1103, Idaho Code. Upon the approval of the issuance of such bonds, the same may be issued by the governing body of the school subdistrict on behalf of the school subdistrict at any time within two (2) years from the date of such election. Wherever in title 34, Idaho Code, and in sections 33-1107 through 33-1125~~21~~21, Idaho Code, reference is made to "school district"; for purposes of this chapter it shall be deemed to refer to school subdistricts.

Approved March 29, 2013.

CHAPTER 184  
(H.B. No. 225)

AN ACT

RELATING TO EDUCATION; REPEALING SECTION 33-1003, IDAHO CODE, RELATING TO SPECIAL APPLICATIONS OF THE EDUCATIONAL SUPPORT PROGRAM; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1003, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO SPECIAL APPLICATIONS OF THE EDUCATIONAL SUPPORT PROGRAM, TO ESTABLISH PROVISIONS RELATING TO A DECREASE IN TOTAL AVERAGE DAILY ATTENDANCE AND TO LIMIT THE APPLICATION OF LAW, TO ESTABLISH PROVISIONS RELATING TO THE APPLICATION OF THE SUPPORT PROGRAM TO SEPARATE ELEMENTARY SCHOOLS, TO CERTAIN HARDSHIP ELEMENTARY SCHOOLS AND SEPARATE ATTENDANCE UNITS, TO SEPARATE SECONDARY SCHOOLS, TO CERTAIN ELEMENTARY AND SECONDARY GRADES IN ELEMENTARY/SECONDARY SCHOOLS AND TO CERTAIN HARDSHIP SECONDARY SCHOOLS, TO ESTABLISH PROVISIONS RELATING TO MINIMUM PUPILS REQUIRED IN CERTAIN ELEMENTARY SCHOOLS, TO ESTABLISH PROVISIONS RELATING TO CERTAIN SCHOOLS THAT ARE REMOTE AND ISOLATED FROM OTHER SCHOOLS AND TO ESTABLISH PROVISIONS RELATING TO THE SUPPORT PROGRAM WHEN DISTRICT BOUNDARIES ARE CHANGED; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 33-1003, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 10, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1003, Idaho Code, and to read as follows:

33-1003. SPECIAL APPLICATION OF EDUCATIONAL SUPPORT PROGRAM. (1) Decrease in Average Daily Attendance. -- For any school district that has a decrease in total average daily attendance of three percent (3%) or more of its average daily attendance in the current school year from the total average daily attendance used for determining the allowance in the educational support program for the prior school year, the allowance of funds from the educational support program may be based on the average daily attendance of the prior school year, less three percent (3%). When this provision is applied, the decrease in average daily attendance shall be proportionately distributed among the various categories of support units that are appropriate for the district. After applying the provisions of this subsection, the state department of education shall calculate the percentage of additional statewide support units to total statewide support units and shall then reduce each school district's support units by this uniform percentage. The provisions of this subsection shall not apply to public charter schools.

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

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

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

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

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

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

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

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

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

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

(4) Support Program When District Boundaries are Changed.

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

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

(c) In new districts formed by consolidation of former districts after January 1, 2007, the support program allowance, for a seven (7) year period following the formation of the new district, shall not be less than the combined support program allowances of the component districts in the last year of operation before consolidation. After the expiration of this period, the state department of education shall annually calculate the number of support units that would have been generated had the previous school districts not consolidated. All applicable state funding to the consolidated district shall then be provided based on a support unit number that is halfway between this figure and the actual support units, provided that it cannot be less than the actual support units.

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

Approved March 29, 2013.

CHAPTER 185  
(H.B. No. 244)

AN ACT

RELATING TO FIRE PROTECTION DISTRICTS; AMENDING SECTION 31-1413, IDAHO CODE, TO PROVIDE FOR AN EXCEPTION, TO PROVIDE FOR APPLICATION OF LAW AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 31-1423, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO CIRCUMSTANCES IN WHICH A HIGHER LEVY EXCEEDS THE LOWEST LEVY IN A PROPOSED DISTRICT CONSOLIDATION, TO PROVIDE FOR A PUBLIC HEARING, TO PROVIDE FOR AN ELECTION AND TO PROVIDE FOR A QUESTION.

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

SECTION 1. That Section 31-1413, Idaho Code, be, and the same is hereby amended to read as follows:

31-1413. CONSOLIDATION OF DISTRICTS -- HEARING -- PROTEST -- ELECTION. Except as provided for in section 31-1423(2)(b), Idaho Code, aAny fire protection district may consolidate with one (1) or more existing fire protection districts subject to the following procedure, or pursuant to an election for consolidation as provided in section 31-1414, Idaho Code, and with the following effects:

(1) If, in the opinion of the board of any fire protection district, it would be to the advantage of said district to consolidate with one (1) or more other existing fire protection districts, the said board shall cause to be prepared an agreement for consolidation which shall among other things provide:

(a) The name of the proposed consolidated fire protection district.

(b) That all property of the districts to be consolidated shall become the property of the consolidated district.

(c) That all debts of the districts to be consolidated shall become the debts of the consolidated district.

(d) That the existing commissioners of the districts to be consolidated shall be the commissioners of the consolidated district until the next election, said election to be held pursuant to the terms of section 31-1410, Idaho Code, at which three (3) commissioners shall be elected, unless the agreement of consolidation establishes a five (5) member board, in which case five (5) commissioners shall be elected. If the board consists of three (3) members, commissioners from fire protection subdistricts one and two shall be elected for terms of four (4) years, and the commissioner from fire protection subdistrict three shall be elected for a term of two (2) years. If the board consists of five (5) commissioners, the commissioners from fire protection subdistricts one, three and five shall be elected for terms of four (4) years, and the commissioners from fire protection subdistricts two and four shall be elected for an initial term of two (2) years. Thereafter, the term of all commissioners shall be four (4) years.

(e) That the employees of the consolidated fire protection district shall be selected from the employees of the fire protection districts being consolidated, which employees shall retain the seniority rights under their existing employment contracts.

(2) After approval of the agreement of consolidation by each of the fire protection district boards involved, the boards of commissioners of each fire protection district shall hold a hearing not less than ten (10) or more than thirty (30) days thereafter, and shall cause notice of the hearing, designating the time and place, to be published in at least one (1) issue of a newspaper of general circulation within the district not less than five (5) days prior to the hearing. Any person supporting or objecting to the petition shall be heard at the hearing, if in attendance, and at the close of the hearing the board shall approve or reject the agreement of consolidation. If each board approves the agreement of consolidation, the agreement shall become effective and the consolidation of the district complete thirty (30) days after the approval unless within the thirty (30) days a petition signed by twenty-five percent (25%) of the qualified electors of one (1) of the fire protection districts objecting to the consolidation be filed with the secretary of the district. In the event of an objection, an election shall be held as provided in section 31-1405, Idaho Code, except that the question shall be "consolidation of . . . fire protection district, yes," or "consolidation of . . . fire protection district, no," or words equivalent thereto. If more than one-half (1/2) of the votes cast are yes, the agreement shall become effective. If more than one-half (1/2) of the votes cast are no, the agreement shall be void and of no effect; and no new consolidation shall be proposed for at least six (6) months following the date of the consolidation election.

(3) Upon the agreement of consolidation becoming effective, the board of the consolidated fire protection district shall file a certified copy of the agreement with the county recorder of each county in which such district is situated, and shall comply with the provisions of section 63-215, Idaho Code. The consolidated district shall thereafter have the same rights and obligations as any other fire protection district organized under the statutes of this state.

(4) An agreement of consolidation shall not take effect unless the provisions of section 31-1423(2) (b), Idaho Code, are complied with.

SECTION 2. That Section 31-1423, Idaho Code, be, and the same is hereby amended to read as follows:

31-1423. LEVY -- RECOMMENDED LEVY -- ELECTION. (1) Each year, immediately prior to the annual county levy of taxes, the board of commissioners of each fire protection district, organized and existing under this chapter, may levy a tax upon all the taxable property within the boundaries of such district sufficient to defray the cost of equipping and maintaining the district of twenty-four hundredths percent (.24%) of market value for assessment purposes, to be used for the purposes of this chapter and for no other purpose. The levy shall be made by resolution entered upon the minutes of the board of commissioners of the fire protection district, and it shall be the duty of the secretary of the district, immediately after entry of the resolution in the minutes, to transmit to the county auditor and the county assessor certified copies of the resolution providing for such levy. Said taxes shall be collected as provided by section 63-812, Idaho Code.

(2) (a) If two (2) or more fire protection districts consolidate into one (1) district, the provisions of section 63-802, Idaho Code, shall apply to the consolidated district's budget request as if the former district which, in the year of the consolidation, has the higher levy subject to the limitations of section 63-802, Idaho Code, had annexed the other district or districts. In addition, the consolidated district shall receive the benefit of foregone increases accumulated by the former districts under section 63-802(1) (a), Idaho Code.

(b) Provided however, that if the higher levy rate provided for in subsection (2) (a) of this section exceeds the lowest levy rate of any of the districts to be consolidated by more than three percent (3%), the commissioners of the districts consolidating shall recommend, by a majority of the commissioners of each district involved, at a public hearing where a quorum of each district board is present, a levy rate that falls between the highest levy rate and the lowest levy rate. In determining such recommended levy rate, the commissioners shall recommend a levy rate that shall be sufficient to defray the cost of equipping and maintaining the new consolidated district. If such recommended levy rate exceeds by more than three percent (3%) the lowest current district levy rate of any of the districts to be consolidated, an election shall be held in a manner consistent with the provisions of section 31-1414, Idaho Code. In such election, the electors residing in the fire protection districts seeking to consolidate shall vote to approve or disapprove the recommended levy rate and the proposed consolidation of districts. The question put to the electors shall be the same or similar to the question provided for in section 31-1414, Idaho Code, except that the question shall include, in addition to the language described in section 31-1414, Idaho Code, a reference to the recommended levy rate provided for in this section and a reference to the percentage change of such recommended levy rate from the levy rate in existence in each district in the immediately preceding year.

CHAPTER 186  
(S.B. No. 1013, As Amended in the House)

AN ACT

RELATING TO TELECOMMUNICATIONS SERVICE ASSISTANCE; AMENDING SECTION 56-901, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE TELECOMMUNICATIONS SERVICE ASSISTANCE PROGRAM; AND AMENDING SECTION 56-902, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A CERTAIN ASSISTANCE RATE DISCOUNT, TO REVISE PROVISIONS RELATING TO THE IDAHO TELECOMMUNICATIONS SERVICE ASSISTANCE PLAN, TO REMOVE REFERENCE TO THE TERM "EXCHANGE" AND TO REMOVE REFERENCE TO LINK-UP CONTRIBUTIONS.

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

SECTION 1. That Section 56-901, Idaho Code, be, and the same is hereby amended to read as follows:

56-901. TELECOMMUNICATIONS SERVICE ASSISTANCE PROGRAM -- DEFINITIONS. (1) A telecommunications service assistance program is hereby established within the department of health and welfare to provide eligible recipients with a reduction in costs of telecommunications services to promote universal service. The program shall be administered by the department of health and welfare in accordance with the provisions of this chapter and rules and regulations promulgated in compliance with chapter 52, title 67, Idaho Code, to administer the program. The telecommunications service assistance program adopted shall maximize grant limited federal "lifeline" and "link-up" contributions to Idaho's low-income customers.

(2) For the purposes of this chapter, a "telecommunications carrier" means a telephone corporation providing telecommunication services for compensation within this state, and shall include municipal, cooperative, or mutual nonprofit telephone companies, and telecommunication corporations providing wireless, cellular, personal communications services and mobile radio services for compensation.

SECTION 2. That Section 56-902, Idaho Code, be, and the same is hereby amended to read as follows:

56-902. ASSISTANCE RATE DISCOUNT -- FORM -- APPLICABLE SERVICES -- AMOUNT -- APPLICATION. (1) Telecommunication carriers providing residential basic local ~~exehange~~ service shall provide assistance in the form of a monthly discount to eligible subscribers of residential basic local ~~exehange~~ service of ~~three~~ two dollars and fifty cents (\$32.50) ~~or an amount authorized by the federal communication commission whichever is greater~~. In no case will the discount exceed the rate charged for the grade of residential basic local ~~exehange~~ service subscribed to by each eligible individual. The Idaho telecommunications service assistance plan shall only be used to provide for a single ~~residence~~ line at the ~~principal residence of the eligible subscriber household~~.

(2) The providers of residential basic local ~~exehange~~ service and the Idaho department of health and welfare shall comply with all requirements expressly provided by federal order, regulation and statute for eligible subscribers to qualify for the federal "lifeline" and "link-up" telephone assistance program. In accordance with federal law, the Idaho public utilities commission may grant waivers to carriers of residential basic local ~~exehange~~ service from providing certain services to eligible subscribers.

Approved March 29, 2013.

CHAPTER 187  
(S.B. No. 1029)

AN ACT

RELATING TO CODIFIER'S CORRECTIONS; AMENDING SECTION 23-404, IDAHO CODE, TO MAKE CODIFIER'S CORRECTIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 23-1003, IDAHO CODE, TO REMOVE A CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING THE HEADING FOR PART 8, CHAPTER 9, TITLE 28, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-2144, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE, TO MAKE A CODIFIER'S CORRECTION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-4514, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-6311, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 47-330, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 48-406, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-1908, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 54-3503, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-3504, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-3508, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 59-1302, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 59-1324, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 59-1391, IDAHO CODE, TO MAKE CODIFIER'S CORRECTIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 65-501, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 65-503A, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 23-404, Idaho Code, be, and the same is hereby amended to read as follows:

23-404. DISTRIBUTION OF MONEYS IN LIQUOR ACCOUNT. (1) The moneys received into the liquor account shall be transferred or appropriated as follows:

(a) An amount of money equal to the actual cost of purchase of alcoholic liquor and payment of expenses of administration and operation of the division, as determined by the director and certified quarterly to the state controller, shall be transferred back to the division; provided, that the amount so transferred back for administration and operation of the division shall not exceed the amount authorized to be expended by regular appropriation authorization.

(b) From fiscal year 2006 through fiscal year 2009, forty percent (40%) of the balance remaining after transferring the amounts authorized by paragraph (a) of this subsection shall be transferred or appropriated pursuant to this paragraph (b). Beginning in fiscal year 2010, the percentage transferred pursuant to this paragraph (b) shall increase to forty-two percent (42%) with an increase of two percent (2%) for each subsequent fiscal year thereafter until fiscal year 2014, when such percentage shall be fifty percent (50%).

(i) For fiscal year 2006 and through fiscal year 2009, one million eight hundred thousand dollars (\$1,800,000) shall be appropriated and paid to the cities and counties as set forth in paragraphs (c) (i) and (c) (ii) of this subsection;

(ii) Two million eighty thousand dollars (\$2,080,000) shall be transferred annually to the substance abuse treatment fund, which that is created in section 23-408, Idaho Code;

(iii) Six hundred thousand dollars (\$600,000) shall be transferred annually to the state community college account, created in section 33-2139, Idaho Code;

(iv) One million two hundred thousand dollars (\$1,200,000) shall be transferred annually to the public school income fund, as defined in section 33-903, Idaho Code;

(v) Six hundred fifty thousand dollars (\$650,000) shall be transferred annually to the cooperative welfare account in the dedicated fund;

(vi) Six hundred eighty thousand dollars (\$680,000) shall be transferred annually to the drug court, mental health court and family court services fund;

(vii) Four hundred forty thousand dollars (\$440,000) shall be transferred annually to the drug and mental health court supervision fund ~~which~~ that is created in section 23-409, Idaho Code; and

(viii) The balance shall be transferred to the general fund.

(c) The remainder of the moneys received in the liquor account shall be appropriated and paid as follows:

(i) Forty percent (40%) of the balance remaining after the transfers authorized by paragraphs (a) and (b) of this subsection have been made is hereby appropriated to and shall be paid to the several counties. Each county shall be entitled to an amount in the proportion that liquor sales through the division in that county during the state's previous fiscal year bear to total liquor sales through the division in the state during the state's previous fiscal year, except that no county shall be entitled to an amount less than that county received in distributions from the liquor account during the state's fiscal year 1981.

(ii) Sixty percent (60%) of the balance remaining after the transfers authorized by paragraphs (a) and (b) of this subsection have been made is hereby appropriated to and shall be paid to the several cities as follows:

1. Ninety percent (90%) of the amount appropriated to the cities shall be distributed to those cities ~~which~~ that have a liquor store or distribution station located within the corporate limits of the city. Each such city shall be entitled to an amount in the proportion that liquor sales through the division in that city during the state's previous fiscal year bear to total liquor sales through the division in the state during the state's previous fiscal year, except that no city shall be entitled to an amount less than that city received in distributions from the liquor account during the state's fiscal year 1981;

2. Ten percent (10%) of the amount appropriated to the cities shall be distributed to those cities ~~which~~ that do not have a liquor store or distribution station located within the corporate limits of the city. Each such city shall be entitled to an amount in the proportion that that city's population bears to the population of all cities in the state ~~which~~ that do not have a liquor store or distribution station located within the corporate limits of the city, except that no city shall be entitled to an amount less than that city received in distributions from the liquor account during the state's fiscal year 1981.

(2) All transfers and distributions shall be made periodically, but not less frequently than quarterly but, the apportionments made to any county or city, ~~which~~ that may during the succeeding three (3) year period be found to have been in error either of computation or transmittal, shall be corrected during the fiscal year of discovery by a reduction of apportionments in the

case of over-apportionment or by an increase of apportionments in the case of under-apportionment. The decision of the director on entitlements of counties and cities shall be final, and shall not be subject to judicial review.

SECTION 2. That Section 23-1003, Idaho Code, be, and the same is hereby amended to read as follows:

23-1003. BREWERS', DEALERS' AND WHOLESALERS' LICENSES. (a) Before any brewer shall manufacture, or any dealer or wholesaler import or sell, beer within the state of Idaho he shall apply to the director for a license so to do. The application form shall be prescribed and furnished by the director and require that the applicant therein show that he possesses all the qualifications and none of the disqualifications of a licensee. To determine qualification for a license, the director shall cause an investigation which that 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. The application shall also be accompanied by the required licensee fee; provided, that where the applicant is or will be within more than one (1) of the foregoing classifications he shall apply for each classification but shall pay only one (1) license fee, which shall be for the classification applied for requiring the highest fee. If the director is satisfied that the applicant possesses the qualifications and none of the disqualifications for such license, he shall issue a license for each classification applied for, subject to the restrictions and upon the conditions in this act specified, which license or licenses shall be at all times prominently displayed in the place of business of the licensee.

(b) Each wholesaler shall, in addition to the application, file with the director a notice in writing signed by the dealer or brewer and the wholesaler stating the geographic territory within which the wholesaler will distribute beer to retailers. Said territory will be the territory agreed upon between the dealer or brewer and the wholesaler and may not be changed or modified without the consent of both the dealer or brewer and the wholesaler. Provided however, nothing contained herein shall be interpreted to prohibit a brewer or dealer from permitting more than one (1) distributor for the same geographic territory.

(c) In the event that a wholesaler sells beer to a retailer who is located outside the geographical territory designated by such wholesaler on the notice provided for in subsection (b) of this section, the dealer or wholesaler who has designated the geographical territory in which the sale occurred may apply to a district court of this state for the issuance of an injunction enjoining sales of beer by the wholesaler outside of his designated geographical territory. The procedure for issuance of an injunction pursuant to this act shall be subject to the provisions of chapter 4, title 8, Idaho Code, and the Idaho Rules of Civil Procedure. Upon proof to the court that a wholesaler has made a sale of beer outside his designated geographical territory, the court shall issue an injunction directed to the wholesaler prohibiting sales of beer outside his designated geographical territory.

(d) Any brewer licensed within the state of Idaho who produces fewer than thirty thousand (30,000) barrels of beer annually, upon payment of a retailer's annual license fee, may be issued a brewer's retail beer license for the retail sale of the products of his brewery at his licensed premises or one (1) remote retail location, or both. Any brewer selling beer at retail or selling to a retailer must pay the taxes required in section 23-1008, Idaho Code, but need not be licensed as a wholesaler for the purpose of selling beer at the brewery or at one (1) remote retail location.

(e) Any brewer licensed within the state of Idaho who produces fewer than thirty thousand (30,000) barrels of beer annually, may be issued a brewer's pub license. Upon payment of a retailer's annual license fee, and subject to the fees in sections 23-1015 and 23-1016, Idaho Code, a brewer may, at his licensed brewery, at one (1) remote retail location, or both, sell at retail the products of any brewery by the individual bottle, can or glass. Any brewer selling beer at retail or selling to a retailer must pay the taxes required in section 23-1008, Idaho Code, on the products of his brewery, but need not be licensed as a wholesaler for the purpose of selling beer at the brewery or at one (1) remote retail location.

(f) A brewer licensed under the provisions of subsection (d) or (e) of this section may be licensed as a wholesaler for the sale of beer to retailers other than at the licensed brewery and one (1) remote retail location and shall not be required to pay an additional fee therefor. Such brewer shall, however, comply with and be subject to all other regulations or provisions of law which apply to a wholesaler's license, save and except as such laws may restrict such sales at the licensed brewery or one (1) other remote retail location. The holder of a brew pub license shall not be disqualified from holding a retail wine license or wine by the drink license for the sale of wine at the brew pub premises on the grounds that said licensee is also licensed as a wholesaler.

SECTION 3. That the Heading for Part 8, Chapter 9, Title 28, Idaho Code, be, and the same is hereby amended to read as follows:

PART 8.  
TRANSITION PROVISIONS FOR 2011 AMENDMENTS

SECTION 4. That Section 33-2144, Idaho Code, be, and the same is hereby amended to read as follows:

33-2144. DISBURSEMENT TO PUBLIC EMPLOYEE RETIREMENT FUND. The disbursing of funds as provided by sections 33-2139 through 33-2143, Idaho Code, shall be subject to the payments required to be made by section ~~59-1332B~~ 59-1324, Idaho Code, from the state ~~junior~~ community college fund account to the public employee retirement fund. Such payments shall be prior to the payment of funds from the state ~~junior~~ community college fund account to the several ~~junior~~ community college districts as provided by said statute.

SECTION 5. That Section 39-4514, Idaho Code, be, and the same is hereby amended to read as follows:

39-4514. GENERAL PROVISIONS. (1) Application. Except as specifically provided herein, sections 39-4510 through 39-4512B, Idaho Code, shall have no effect or be in any manner construed to apply to persons not executing a living will and durable power of attorney for health care, POST form or other health care directive pursuant to this chapter nor shall these sections in any manner affect the rights of any such persons or of others acting for or on behalf of such persons to give or refuse to give consent or withhold consent for any medical care; neither shall sections 39-4510 through 39-4512B, Idaho Code, be construed to affect chapter 3 or chapter 4, title 66, Idaho Code, in any manner.

(2) Euthanasia, mercy killing, or assisted suicide. This chapter does not make legal, and in no way condones, euthanasia, mercy killing, or assisted suicide or permit an affirmative or deliberate act or omission to end life, including any act or omission described in section 18-4017, Idaho Code, other than to allow the natural process of dying.

(3) Withdrawal of care. Assisted feeding or artificial nutrition and hydration may not be withdrawn or denied if its provision is directed by a competent patient in accordance with section 39-4503, Idaho Code, by a patient's health care directive under section 39-4510, Idaho Code, or by a patient's surrogate decision maker in accordance with section 39-4504, Idaho Code. Health care other than assisted feeding or artificial nutrition and hydration may not be withdrawn or denied if its provision is directed by a competent patient in accordance with section 39-4503, Idaho Code, by a patient's health care directive under section 39-4510, Idaho Code, or by a patient's surrogated decision maker in accordance with section 39-4504, Idaho Code, unless such care would be futile care as defined in subsection (6) of this section. Except as specifically provided in chapters 3 and 4, title 66, Idaho Code, health care, assisted feeding or artificial nutrition and hydration, the denial of which is directed by a competent patient in accordance with section 39-4503, Idaho Code, by a patient's health care directive under section 39-4510, Idaho Code, or by a patient's surrogate decision maker in accordance with section 39-4504, Idaho Code, shall be withdrawn and denied in accordance with a valid directive. This subsection does not require provision of treatment to a patient if it would require denial of the same or similar treatment to another patient.

(4) Comfort care. Persons caring for a person for whom artificial life-sustaining procedures or artificially administered nutrition and hydration are withheld or withdrawn shall provide comfort care as defined in section 39-4502, Idaho Code.

(5) Presumed consent to resuscitation. There is a presumption in favor of consent to cardiopulmonary resuscitation (CPR) unless:

(a) A completed durable power of attorney for health care or living will for that person is in effect, pursuant to section 39-4510, Idaho Code, in which the person has stated that he or she does not wish to receive cardiopulmonary resuscitation, and any terms set forth in the durable power of attorney for health care or living will upon which such statement is conditioned have been met; or

(b) The person's surrogate decision maker has communicated the person's wishes not to receive cardiopulmonary resuscitation and any terms on which the wishes not to receive cardiopulmonary resuscitation are conditioned have been met; or

(c) The person has a physician orders for scope of treatment (POST) form that meets the requirements of section 39-4512A, Idaho Code, stating that the person does not wish to receive cardiopulmonary resuscitation and any terms on which the statement is conditioned have been met and/or has a proper POST identification device pursuant to section 39-4502(15), Idaho Code.

(6) Futile care. Nothing in this chapter shall be construed to require medical treatment that is medically inappropriate or futile; provided that this subsection does not authorize any violation of subsection (3) of this section. Futile care does not include comfort care. Futile care is a course of treatment:

(a) For a patient with a terminal condition, for whom, in reasonable medical judgment, death is imminent within hours or at most a few days whether or not the medical treatment is provided and that, in reasonable medical judgment, will not improve the patient's condition; or

(b) The denial of which in reasonable medical judgment will not result in or hasten the patient's death.

(7) Existing directives and directives from other states. A health care directive executed prior to July 1, 2012, but which was in the living will, durable power of attorney for health care, DNR, or POST form pursuant to prior Idaho law at the time of execution, or in another form that contained the elements set forth in this chapter at the time of execution, shall be deemed to be in compliance with this chapter. Health care directives or

similar documents executed in another state that substantially comply with this chapter shall be deemed to be in compliance with this chapter. This section shall be liberally construed to give the effect to any authentic expression of the person's prior wishes or directives concerning his or her health care.

(8) Insurance.

(a) The making of a living will and/or durable power of attorney for health care, physician orders for scope of treatment (POST) form, or DNR order pursuant to this chapter shall not restrict, inhibit or impair in any manner the sale, procurement or issuance of any policy of life insurance, nor shall it be deemed to modify the terms of an existing policy of life insurance. No policy of life insurance shall be legally impaired or invalidated in any manner by the withholding or withdrawal of artificial life-sustaining procedures from an insured person, notwithstanding any term of the policy to the contrary.

(b) No physician, health care facility or other health care provider and no health care service plan, insurer issuing disability insurance, self-insured employee plan, welfare benefit plan or nonprofit hospital service plan shall require any person to execute a living will and durable power of attorney for health care or physician orders for scope of treatment (POST) form, or DNR order as a condition for being insured for, or receiving, health care services.

(9) Portability and copies.

(a) A physician orders for scope of treatment (POST) form that meets the requirements of section 39-4512A, Idaho Code, shall be transferred with the person to, and be effective in, all care settings including, but not limited to, home care, ambulance or other transport, hospital, residential care facility, and hospice care. The POST form shall remain in effect until such time as there is a valid revocation pursuant to section 39-4511A, Idaho Code, or new orders are issued by a physician, APPN or PA.

(b) A photostatic, facsimile or electronic copy of a valid physician orders for scope of treatment (POST) form may be treated as an original by a health care provider or by an institution receiving or treating a person.

(10) Registration. A directive or the revocation of a directive meeting the requirements of this chapter may be registered with the secretary of state pursuant to section 39-4515, Idaho Code. Failure to register the health care directive shall not affect the validity of the health care directive.

(11) Rulemaking authority.

(a) The department of health and welfare shall adopt those rules and protocols necessary to administer the provisions of this chapter.

(b) In the adoption of a physician orders for scope of treatment (POST) or DNR protocol, the department shall adopt standardized POST identification devices to be used statewide.

SECTION 6. That Section 39-6311, Idaho Code, be, and the same is hereby amended to read as follows:

39-6311. ORDER -- TRANSMITTAL TO LAW ENFORCEMENT AGENCY -- RECORD IN IDAHO LAW ENFORCEMENT TELECOMMUNICATIONS PUBLIC SAFETY AND SECURITY INFORMATION SYSTEM -- ENFORCEABILITY. (1) The orders issued under sections 39-6306 and 39-6308, Idaho Code, or foreign protection orders recognized under section 39-6306A, Idaho Code, shall be in a form approved by the supreme court of the state of Idaho.

(2) (a) A copy of a protection order granted or a foreign protection order recognized under this chapter shall be forwarded by the clerk of the

court on or before the next judicial day to the appropriate law enforcement agency specified in the order.

(b) Upon receipt of the order, the law enforcement agency shall forthwith enter the order and its expiration date into the Idaho law enforcement telecommunications public safety and security information system available in this state used by law enforcement agencies to list outstanding warrants. Notification of service as required in section 39-6310, Idaho Code, shall also be entered into the Idaho law enforcement telecommunications public safety and security information system upon receipt. Entry into the Idaho law enforcement telecommunications public safety and security information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state. Renewals of the order shall be recorded in the same manner as original orders. The information entered shall specifically state that the protection order is civil in nature. If the appropriate law enforcement agency determines that the service information sheet is incomplete or cannot be entered into the Idaho law enforcement telecommunications public safety and security information system upon receipt, the service information sheet shall be returned to the clerk of the court. The clerk of the court shall then notify the petitioner of the error or omission.

(3) Law enforcement agencies shall establish procedures reasonably adequate to assure that an officer approaching or actually at the scene of an incident of domestic violence may be informed of the existence and terms of such protection order.

(4) A protection order shall remain in effect for the term set by the court or until terminated by the court. A protection order may, upon motion and upon good cause shown, be renewed for additional terms not to exceed one (1) year each if the requirements of this chapter are met. The motion to renew an order may be granted without a hearing, if not timely objected to by the party against whom the order was entered. If the petitioner voluntarily and without duress consents to the waiver of any portion of the protection order vis-a-vis the respondent pursuant to section 39-6313, Idaho Code, the order may be modified by the court.

SECTION 7. That Section 47-330, Idaho Code, be, and the same is hereby amended to read as follows:

47-330. OIL AND GAS CONSERVATION FUND CREATED -- TAX. (1) For the purposes of paying the expenses of administration of this act and for the privilege of extracting oil and gas in this state, there is hereby levied and imposed on all oil and gas produced, saved and sold or transported from the premises in Idaho where produced a tax of two and one-half percent (2.5%) of the market value of the oil or gas produced at the site of production. If the oil and gas is transported from the premises prior to sale, then the tax will be determined based on the published Henry Hub spot price for gas or WTI Cushing spot price for crude oil at the close of business the day the oil or gas leaves the premises. Transportation from the premises prior to the sale does not include movement of oil or gas from the wellhead to another site in Idaho by the same person for dehydration or other processing required for sale. This tax is in addition to all other taxes provided by law. It shall be the duty of the state tax commission to enforce collection of this tax and to make such rules as may be necessary, pursuant to the provisions of chapter 52, title 67, Idaho Code. All money so collected shall be remitted to the state treasurer for deposit in the oil and gas conservation fund, which fund is hereby created in the office of the state treasurer of the state of Idaho.

(2) The persons owning an interest, (working interest, royalty interest, payments out of production, or any other interest), in the oil and gas, or in the proceeds thereof, shall be liable for such tax in proportion to

their ownership at the time of production. The tax so assessed and fixed shall be payable quarterly, and the sum so due shall be remitted to the state tax commission, on or before the twentieth (~~20th~~) of the next month following the preceding quarter in which the tax accrued, by the producer on behalf of himself and all other interested persons. The person remitting the tax, as herein provided, is hereby empowered and required to deduct from any amounts due the persons owning an interest in the oil and gas, or in the proceeds thereof, at the time of production a proportionate amount of such tax before making payment to such persons.

(3) The tax imposed by this section shall apply to all lands in the state of Idaho, anything in this act to the contrary notwithstanding; provided however, there shall be exempted from the tax hereinabove levied and assessed the following, to wit:

(a) The interest of the United States of America and the interest of the state of Idaho and the political subdivisions thereof in any oil or gas or in the proceeds thereof.

(b) The interest of any Indian or Indian tribe in any oil or gas or the proceeds thereof, produced from lands subject to the supervision of the United States.

(c) Oil and gas used in producing operations or for repressuring or re-cycling purposes.

(4) To the extent that such sections are not in conflict with the provisions of this act, the deficiency in tax and notice of deficiency as well as the collection and enforcement procedures provided by the Idaho income tax act, sections 63-3038, 63-3039, 63-3040, 63-3042 through 63-3065A, 63-3068, 63-3071 and 63-3075 through 63-3078, Idaho Code, shall apply and be available to the state tax commission for enforcement of the provisions of this act and the assessment and collection of any amounts due. Said sections shall for this purpose be considered a part of this act and wherever liens or any other proceedings are defined as income tax liens or proceedings they shall, when applied in enforcement or collection pursuant to this act, be described as an oil and gas tax lien or proceeding.

The state tax commission may be made a party defendant in an action at law or in equity by any person aggrieved by the unlawful seizure or sale of his property, or in any suit for refund or to recover an overpayment, but only the state of Idaho shall be responsible for any final judgment secured against the state tax commission, and said judgment or any other amount erroneously or illegally collected shall be paid or satisfied out of the state refund account created by section 63-3067, Idaho Code.

(5) All moneys collected under this chapter shall be distributed by the state tax commission as follows:

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

(b) For the balance of the proceeds, forty percent (40%) shall be distributed by the end of the month following each quarterly due date by the state tax commission into any oil and gas revenue share account as follows:

(i) Twenty-eight percent (28%) is hereby appropriated and shall be paid to the current expense fund of the county from which the oil or gas was produced;

(ii) Twenty-eight percent (28%) is hereby appropriated and shall be paid to the cities within the county from which the oil or gas was produced. Such funds shall be distributed to each city based upon the proportion that the city's population bears to the total population of all of the cities within the county;

(iii) Twenty-eight percent (28%) is hereby appropriated and shall be paid to the public school income fund; and

(iv) Sixteen percent (16%) shall be transferred to the local economic development account that is hereby created in the agency asset fund to provide assistance in those counties experiencing a severe economic hardship due to the cutback or closure of business and industry associated with oil or gas production.

(c) The remainder of the moneys deposited into the oil and gas conservation fund, sixty percent (60%) of the proceeds after refunds, may be expended pursuant to legislative appropriation and shall be used for defraying the expenses of the oil and gas conservation commission in carrying out the provisions of this act. At the beginning of each fiscal year, those moneys in the oil and gas conservation fund, after applicable refunds and distribution as noted in paragraphs (a) and (b) of this subsection, that exceed two hundred percent (200%) of the current year's appropriations for the oil and gas conservation commission shall be transferred to the general fund. The oil and gas conservation commission shall audit all bills for salaries and expenses incurred in the enforcement of this act that may be payable from the oil and gas conservation fund which that shall be audited, allowed and paid as to the claims against the state.

SECTION 8. That Section 48-406, Idaho Code, be, and the same is hereby amended to read as follows:

48-406. INJUNCTIONS. (1) Parties Authorized to Bring. Any person, municipal or other public corporation, or the state of Idaho, may maintain an action to enjoin a continuance of any act or acts in violation of this act.

(2) Authority to Issue. If it appears to the court upon any application for a temporary injunction, or upon the hearing for any order to show cause why a temporary injunction should not be issued, or, if the court shall find, in any such action, that any defendant therein is violating, or has violated, this act, then the court shall enjoin the defendant from doing all acts which are prohibited in said act.

(3) Restraints Which May Be Included. The court may, in its discretion, include in any injunction against a violation of this act such other restraints as it may deem expedient in order to deter the defendant therefrom, and ~~insure~~ ensure against his committing a future violation of this act.

(4) Article or Products Covered. Any injunction against a violation of this act, whether temporary or final, shall cover every article or product handled or sold by the defendant and not merely the particular article or product involved in the pending action.

(5) Undertaking or Bond. As a condition to the granting of a temporary injunction under this act, the court may require of the plaintiff, excepting when a municipal or public corporation or the state of Idaho is the plaintiff, a written undertaking in such sum as the court deems reasonable and proper in the premises, with sufficient sureties to the effect that the plaintiff will pay to the person enjoined such costs and damages, not exceeding an amount specified in said undertaking, as such person enjoined may incur or sustain by reason of the issuance of a temporary injunction, if it shall be finally decided that plaintiff was not entitled thereto.

Within five (5) days after the service of the temporary injunction, the defendant may except to the sufficiency of the sureties. If the defendant fails to do so he is deemed to have waived all objections to them.

When excepted to, the plaintiff's sureties, upon notice to the defendant of not less than two (2) nor more than five (5) days, must justify before the judge, in the same manner as upon bail or arrest, and upon failure to justify, or if others in their place fail to justify at the time and place appointed the order granting an injunction shall be dissolved.

(6) Injury and Damages. In any action under this act, it is not necessary to allege or prove actual damages or threat thereof, or actual injury or threat thereof, to the plaintiff. But, in addition to injunctive relief, any plaintiff in any such action is entitled to recover the amount of the actual damages, if any, sustained by the plaintiff, as well as the actual damages, if any, sustained by any person who has assigned to the plaintiff his claim for damages resulting from a violation of this act.

SECTION 9. That Section 54-1908, Idaho Code, be, and the same is hereby amended to read as follows:

54-1908. MEETINGS -- QUORUM. The board shall hold not less than four (4) regular meetings each year, on a day not later than the fifteenth day of the month in each of the months of January, April, July and October, for the purpose of transacting such business as may properly come before it. At the April meeting of each year the board shall elect officers. Special or regular monthly meetings of the board may be held at such times as the board may provide in the rules. Four (4) members of the board shall constitute a quorum. Two (2) members of the board may call a special meeting at any time. Due notice of each meeting of the board and the time and place thereof shall be given each member in the manner prescribed in the rules. Each member of the board shall be compensated as provided by section 59-509(n), Idaho Code, and paid from the public works contractors license board ~~account~~ fund.

SECTION 10. That Section 54-3503, Idaho Code, be, and the same is hereby amended to read as follows:

54-3503. LICENSE REQUIRED. (1) From and after ~~the 1st day of~~ January 1, 1995, it is unlawful for any person to assume or use the title or designation of "dietitian," "certified dietitian," "registered dietitian," or any other combination of terms ~~which~~ that include the title "dietitian," unless such person has been issued a license pursuant to this chapter and the license is in good standing pursuant to rules of the board. Nothing contained herein shall be construed to prohibit the use of the term "dietetic" or "diet" as a descriptive term in connection with a person's occupation or employment.

(2) No person shall use any other title, designation, words, letters, abbreviations, or sign, card or device which indicates to the public that such person is a dietitian or has been issued a temporary permit pursuant to this chapter unless the person is so licensed or has been issued such permit, and the license or permit is in good standing pursuant to rules of the board.

(3) A person who is a registered dietitian, as determined by the ~~commission on dietetic registration of the American dietetic association~~ academy of nutrition and dietetics, or, who is credentialed as a dietitian by any other association which is also recognized by the national commission for health certifying agencies, may continue to use such credential without being licensed pursuant to this chapter as long as the person does not engage in activities set forth in section 54-3505(3), Idaho Code.

SECTION 11. That Section 54-3504, Idaho Code, be, and the same is hereby amended to read as follows:

54-3504. DIETETIC LICENSURE BOARD CREATED -- APPOINTMENT -- TERMS. (1) A dietetic licensure board is hereby created and the members thereof shall be appointed by the Idaho state board of medicine within sixty (60) days following the effective date of this chapter.

(2) The dietetic licensure board shall consist of four (4) members, three (3) of whom shall be dietitians and one (1) member shall be a member of the public with an interest in the rights of the consumer of health care services.

(3) In making appointments to the dietetic licensure board, the board shall give consideration to recommendations made by the Idaho dietetic ~~association~~ academy of nutrition and dietetics, other professional organizations and dietitians and physicians.

(4) All members of the dietetic licensure board shall be current residents of the state of Idaho and have been residents of the state of Idaho for a minimum of three (3) years immediately preceding appointment.

(5) The initial three (3) dietitian members of the dietetic licensure board shall be persons registered by the commission on dietetic registration, ~~American dietetic association~~ academy of nutrition and dietetics, who are eligible to become licensed pursuant to this chapter, and who shall, within such time, as may be established by the board, become licensed pursuant to this chapter.

(6) The initial dietetic licensure board shall be appointed for staggered terms, the longer of which will not exceed four (4) years. After the initial appointments, all terms shall be four (4) years, and a member may be reappointed. In the event of death, resignation, or removal of any member before the expiration of the term to which appointed, the vacancy shall be filled for the unexpired portion of the term in the same manner as the original appointment.

(7) The board may, upon recommendation of the dietetic licensure board, or upon its own motion, remove any member of the dietetic licensure board, for cause, prior to the expiration of the member's term.

(8) The dietetic licensure board shall, within thirty (30) days after its appointment, and at least annually thereafter, hold a meeting and elect a chairperson. The licensure board may hold additional meetings on the call of the chairperson or at the written request of any two (2) members of the licensure board. The licensure board may appoint such committees as it considers necessary to carry out its duties. A majority of the members of the licensure board shall constitute a quorum.

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

SECTION 12. That Section 54-3508, Idaho Code, be, and the same is hereby amended to read as follows:

54-3508. WAIVER OF REQUIREMENTS. (1) The licensure board shall grant a license to any person who, on the effective date of this chapter, is registered as a dietitian by and with the commission on dietetic registration for the ~~American dietetic association~~ academy of nutrition and dietetics, a member of the national commission for health certifying agencies.

(2) The licensure board may waive the examination, education, or experience requirements and grant a license to any person registered by the commission after the effective date of this chapter if the board determines the requirements for such registration to be equivalent to the requirements for licensure set forth in this chapter.

(3) The licensure board may waive the examination, education, or experience requirements and grant a license to any applicant who shall present proof of current licensure to engage in the practice of dietetics in another state, the District of Columbia, or territory of the United States which requires standards for licensure considered by the board to be equivalent to the requirements for licensure pursuant to this chapter.

SECTION 13. 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 other than the United States, 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;

(b) Elected officials or appointed officials of an employer who receive a salary;

(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; or

(d) A person receiving differential wage payments as defined in 26 U.S.C. 3401(h) on or after July 1, 2009. A differential wage payment generally refers to an employer payment to an employee called to active duty in the uniformed services for more than thirty (30) days that represents all or a portion of the compensation he would have received from the employer if he were performing services for the employer.

(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~~ director of the office of personnel management 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, county, irrigation district, cemetery district or mosquito abatement district when the city, county, irrigation district, cemetery district or mosquito abatement district has certified, in writing to the system, the position is (i) seasonal or casual; and (ii) affected by weather, including parks, golf course positions and irrigation positions; or

(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 as a result of his death while in active duty service, the member shall be entitled to military service through the date of death. Provided further, if a member fails to again become an employee due to a disability retirement resulting from service in the armed forces of the United States, the member shall be entitled to military service through the date the disability allowance becomes payable. 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.

(c) Differential wage payments as defined in 26 U.S.C. 3401(h). A differential wage payment generally refers to an employer payment to an employee called to active duty in the uniformed services for more than thirty (30) days that represents all or a portion of the compensation he would have received from the employer if he were performing services for the employer.

(d) Employer payments to employees for or related to travel, mileage, meals, lodging or subsistence expenses, without regard to the taxability of such payments for federal income tax purposes and without regard to the form of payment, including payment made as reimbursement of an itemized expense voucher and payment made of an unvouchered expense allowance.

(31A) "Segregated account" means the account established by the retirement system for the alternate payee of a member who is not a retired member. It shall include the months of credited service and accumulated contributions transferred from the member's account.

(32) "Separation benefit" means the amount, if any, payable upon or subsequent to separation from service.

(33) "Service" means being shown on an employer's payroll as an employee receiving a salary. For each calendar month, service is credited only when a

member is an employee as defined in subsection (14) (A) of this section and is employed for fifteen (15) days or more during the calendar month. Employment of fourteen (14) days or less during any calendar month shall not be credited. No more than one (1) month of service shall be credited for all service in any month.

(34) "Service retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for service retirement.

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

(36) "Vested member" means an active or inactive member who has at least five (5) years of credited service, except that a member, who at the time of his separation from service:

(a) Held an office to which he had been elected by popular vote or having a term fixed by the constitution, statute or charter or was appointed to such office by an elected official; or

(b) Was the head or director of a department, division, agency, statutory section or bureau of the state; or

(c) Was employed on or after July 1, 1965, by an elected official of the state of Idaho and occupied a position exempt from the provisions of chapter 53, title 67, Idaho Code; and

(d) Was not covered by a merit system for employees of the state of Idaho,

is vested without regard to the length of credited service.

(37) The masculine pronoun, wherever used, shall include the feminine pronoun.

SECTION 14. That Section 59-1324, Idaho Code, be, and the same is hereby amended to read as follows:

59-1324. TRANSFER OF MONEYS FROM STATE JUNIOR COMMUNITY COLLEGE ACCOUNT. After July 1, 1984, the state board of education shall, at the request of the board, direct the transfer from the state ~~junior~~ community college account or from appropriations made for that purpose to the public employee retirement account of an aggregate sum in lieu of and equivalent to individual employer contributions provided by section 59-1322, Idaho Code, required with respect to employees of ~~junior~~ community college districts on the basis of salaries paid such employees as certified by the board to the state treasurer.

SECTION 15. That Section 59-1391, Idaho Code, be, and the same is hereby amended to read as follows:

59-1391. DEFINITIONS. As used in sections 59-1391 through and including 59-1399, Idaho Code, each of the terms defined shall have the meaning given in this section or in section 59-1302, Idaho Code, unless a different meaning is clearly required by the context.

(a) "Board" means the retirement board of the employee system.

(b) "Firefighter member" and "~~firefighter member~~" means a person or beneficiary who, prior to October 1, 1980, was receiving benefits or establishing the right to receive benefits from the firefighters' retirement fund.

(c) "Firefighters' retirement fund" means the retirement system created by and existing ~~through~~ pursuant to chapter 14, title 72, Idaho Code.

(d) "Employee system" means the retirement system created and existing ~~through~~ pursuant to chapter 13, title 59, Idaho Code.

(e) "Employer" means a city or fire district that employs paid firefighters who are participating in the firefighters' retirement fund on October 1, 1980.

(f) "Paid firefighter" and "~~paid firefighter~~" means any individual, male or female, excluding office secretaries on the payroll of any city or fire district in the state of Idaho who devotes his or her principal time of employment to the care, operation, maintenance or the requirements of a regularly constituted fire department of such city or fire district in the state of Idaho.

SECTION 16. That Section 65-501, Idaho Code, be, and the same is hereby amended to read as follows:

65-501. STATEMENT OF PURPOSE. It is the intent of the legislature to honor veterans of the armed forces by providing preference in initial appointments to public sector jobs in Idaho. ~~Veteran's~~ Veterans' preference is intended to honor those citizens who have served their country in active duty by providing veterans a more favorable competitive position for government employment and acknowledging the larger sacrifice of disabled veterans. Eligible veterans are provided advantages in public employment in Idaho, including preference for initial employment and retention in the event of layoffs. ~~Veteran's~~ Veterans' preference requires public employers to provide additional consideration for eligible veterans, but it does not guarantee the veteran a job.

SECTION 17. That Section 65-503A, Idaho Code, be, and the same is hereby amended to read as follows:

65-503A. EMPLOYER OBLIGATIONS. (1) Public employers must give notice in all announcements and advertisements of vacancies that preference in appointment will be given to preference applicants. Application forms must inquire whether the applicant is claiming ~~veteran's~~ veterans' preference and whether the applicant has previously claimed such a preference. An applicant claiming preference is responsible for providing required documentation at the time of making application. The employer must inform applicants of the requirements for documentation.

(2) In all public employment, excluding key employee positions, the hiring official shall give preference to preference eligible applicants.

(3) An application for appointment to a position will be accepted after the closing date of the examination from an applicant 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 the applicant's separation from the armed forces or hospitalization, prior to the expiration of any register established as a result of the examination, and prior to the selection for the position.

(4) A disabled veteran may file an application at any time up until a selection has been made for any position for which a register is then maintained as a source for future job openings, or for which a register is about to be established, provided he or she has not already been examined twice for the same position and grade for which application is made, does not have current eligibility on that register, or is not serving in a competitive position in the same grade for which application is made. If a register is not used as a part of the selection process, a disabled veteran may file an application after the closing date, but such application will only be considered if a selection has not been made and the selection process is still active.

(5) An appointing authority may refuse to accept an application from an otherwise qualified preference eligible applicant who is deemed unqualified through his or her actions. Examples of such actions include dismissal for cause from a public entity, a felony conviction, or conduct unbecoming a public employee. Such refusal must be supported by good cause and is appealable pursuant to section 65-506, Idaho Code.

Approved March 29, 2013.

CHAPTER 188  
(S.B. No. 1045, As Amended)

AN ACT

RELATING TO VETERANS; AMENDING SECTION 65-502, IDAHO CODE, TO REVISE THE DEFINITION OF "VETERAN" AND TO PROVIDE A DEFINITION OF "ACTIVE DUTY."

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

SECTION 1. That Section 65-502, Idaho Code, be, and the same is hereby amended to read as follows:

65-502. DEFINITIONS. As used in this chapter:

- (1) "Applicant" means an individual applying for a position with a public employer.
- (2) "Armed forces" means the army, navy, marine corps, coast guard, air force, and the reserve components thereof.
- (3) "Civil service position" means a position for which the public employee is selected from a pool of applicants through a competitive examination, a merit system or any other rating system based on experience and qualifications.
- (4) "Disabled veteran" means those veterans separated under honorable conditions who:
  - (a) Qualify as disabled veterans because they have served on active duty in the armed forces and have a current service-connected disability of ten percent (10%) or more or are receiving compensation related to a service-connected disability including retirement benefits or pension from the military or the department of veterans affairs; or
  - (b) Are purple heart recipients.
- (5) "Honorable conditions" means an honorable discharge or a general discharge "under honorable conditions."
- (6) "Initial appointment" means the first time a qualified veteran is hired by a county or a municipal government or the state, provided however, subsequent separation from the county, municipal government or the state shall not result in the award of new preference or preference points with that governmental entity. "Initial appointment" shall not include:
  - (a) Jobs held by patients, inmates or students in or enrolled at a state institution;
  - (b) Temporary or casual employment; or
  - (c) An office filled by election.
- (7) "Key employee" means an individual specifically hired for an "at will" position that is not a civil service position and where:
  - (a) The position requires an advanced degree and the exercise of independent judgment for a majority of the public employee's duties;
  - (b) The primary duty of the position is the management of a department or subdivision of the public employer and the position requires the exercise of independent judgment for a majority of position duties;
  - (c) The primary duty of the position is administrative work arising from the management of a department or subdivision of the public em-

ployer or administrative work arising from the exercise of the duties of an elected official and the public employee holds a confidential relationship to the appointing or employing officer or elected official; or  
 (d) The primary duty of the position is to provide advice or consultation to an elected official and the public employee holds a confidential relationship to the elected official.

(8) "Military duty" means training and service performed by an inductee, enlistee or reservist or any entrant into a component of the armed forces of the United States, provided "military duty" shall not include active duty training as a reservist in the armed forces of the United States or as a member of the national guard of the United States where the call is for training only.

(9) "Position" means a job held by a public employee but shall not include:

- (a) A job held by a patient, inmate or student in or enrolled at a state institution;
- (b) Temporary or casual employment; or
- (c) An office filled by election.

(10) "Preference eligible" means an individual eligible for preference under section 65-503, Idaho Code.

(11) "Public employee" means any person holding a position in public employment.

(12) "Public employer" means any government, department or agency mentioned in subsection (13) of this section employing a public employee in a position.

(13) "Public employment" means employment by the government of this state, or by any county, municipality or other political subdivision of the state, including any department or agency thereof.

(14) "Register" means a list of names of persons who have been determined to be eligible for employment in a civil service position.

(15) "Service-connected disability" means that the veteran is disabled due to injury or illness that was incurred in or aggravated by military service as certified by the federal veterans administration or an agency of the department of defense.

(16) "Temporary or casual employment" means employment for a brief, nonrecurrent period where there is no reasonable expectation that such employment will continue indefinitely or for a significant period of time.

(17) "Veteran" means any person who has been discharged or released from active duty in the armed forces under honorable conditions and ~~has provided they have served on active duty for a minimum of one hundred eighty~~ (180) consecutive days. As used in this subsection and chapter, "active duty" means full-time duty in the active military service of the United States. Such term includes full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the secretary of the military department concerned.

~~(a) Served on active duty in the armed forces during a war, in a campaign or expedition for which a campaign badge has been authorized, or during the period beginning April 28, 1952, and ending July 1, 1955;~~

~~(b) Served on active duty as defined in 38 U.S.C. section 101(21) at any time in the armed forces for a period of more than one hundred eighty (180) consecutive days, any part of which occurred after January 31, 1955, and before October 15, 1976, not including service under 10 U.S.C. section 12103(d) pursuant to an enlistment in the army national guard or the air national guard or as a reserve for service in the army reserve, naval reserve, air force reserve, marine corps reserve or coast guard reserve;~~

- ~~(c) Served on active duty as defined in 38 U.S.C. section 101(21) in the armed forces during the period beginning on August 2, 1990, and ending on January 2, 1992; or~~  
~~(d) Served as may be further defined in 5 U.S.C. section 2108.~~

Approved March 29, 2013.

CHAPTER 189  
(S.B. No. 1049, As Amended in the House)

AN ACT

RELATING TO THE OIL AND GAS CONSERVATION COMMISSION; AMENDING SECTION 47-317, IDAHO CODE, TO REMOVE REFERENCE TO THE STATE BOARD OF LAND COMMISSIONERS COMPRISING THE COMMISSION, TO PROVIDE FOR COMMISSION MEMBERSHIP, TO PROVIDE FOR TERMS OF OFFICE, TO PROVIDE FOR VACANCIES, TO PROVIDE FOR OFFICERS, TO PROVIDE FOR MEETINGS, TO PROVIDE FOR A QUORUM, TO PROVIDE FOR COMPENSATION, TO PROVIDE FOR THE SECRETARY OF THE COMMISSION, TO PROVIDE FOR PERSONNEL, TO PROVIDE THAT ALTERNATIVELY THE COMMISSION MAY CONTRACT WITH THE DEPARTMENT OF LANDS AND TO PROVIDE FOR HEARING OFFICERS; AMENDING SECTION 47-319, IDAHO CODE, TO AUTHORIZE THE COMMISSION TO APPOINT COMMITTEES FOR THE PURPOSE OF ADVISING THE COMMISSION ON MATTERS RELATING TO OIL AND GAS; AND AMENDING SECTION 47-321, IDAHO CODE, TO PROVIDE THAT APPLICATIONS FOR EXCEPTIONS TO SPACING ORDERS SHALL BE FILED WITH THE COMMISSION, TO REMOVE PROVISIONS REGARDING THE PROCESS ASSOCIATED WITH COMMISSION REVIEW RELATING TO EXCEPTIONS THAT WERE NOT GRANTED BY THE DIRECTOR OF THE DEPARTMENT OF LANDS OR OBJECTIONS TO ACTIONS OF THE DIRECTOR AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 47-317, Idaho Code, be, and the same is hereby amended to read as follows:

47-317. OIL AND GAS CONSERVATION COMMISSION CREATED -- POWERS -- LIMIT ON LOCAL RESTRICTIONS -- ATTORNEY GENERAL. (1) There is hereby created an oil and gas conservation commission of the state of Idaho which shall consist of the state board of land commissioners. The commission shall consist of five (5) members appointed by the governor with the advice and consent of the senate. The members shall serve at the pleasure of the governor. One (1) member shall be knowledgeable in oil and gas matters, one (1) member shall be knowledgeable in geological matters, one (1) member shall be knowledgeable in water matters, one (1) member shall be a private landowner who owns mineral rights with the surface in a county with oil and gas activity and one (1) member shall be a private landowner who does not own mineral rights.

(2) The term of office of each member of the commission shall be four (4) years, except that upon July 1, 2013, the governor shall appoint one (1) member for a term of one (1) year, one (1) member for a term of two (2) years, one (1) member for a term of three (3) years and two (2) members for terms of four (4) years. After the initial appointment, the governor shall appoint members to serve in office for a term of four (4) years commencing on July 1. A vacancy shall be filled by appointment for the unexpired term in the same manner provided for an appointment to the full term.

(3) The commission shall annually elect a chairman and a vice chairman from their membership. Such officers shall hold their respective offices until their successors are elected. If a vacancy occurs in either office, the commission shall elect a member to fill such office for the remainder of the term.

(4) The commission shall meet at least annually and thereafter on dates set by the commission. A majority of the voting members shall constitute a quorum.

(5) The members of the commission shall be compensated as provided in section 59-509(n), Idaho Code.

(6) Unless the commission appoints another person to be the secretary of the commission, the director of the department of lands shall be the secretary of the commission.

(7) The commission may employ personnel as may be deemed necessary, prescribe their duties and fix their compensation. In the alternative, the commission may contract with the department of lands for services.

(8) The commission shall have and is hereby given jurisdiction and authority over all persons and property, public and private, necessary to enforce the provisions of this act, and shall have power and authority to make and enforce rules, regulations and orders, and do whatever may reasonably be necessary to carry out the provisions of this act. Any delegation of authority to any other state officer, board or commission to administer any and all other laws of this state relating to the conservation of oil and gas is hereby rescinded and withdrawn and such authority is hereby unqualifiedly conferred upon the commission, as herein provided. Any person, or the attorney general, on behalf of the state, may apply for a hearing before the commission, or the commission may initiate proceedings, upon any question relating to the administration of this act, and jurisdiction is hereby conferred upon the commission to hear and determine the same and enter its rule, regulation or order with respect thereto. The commission may designate hearing officers who shall have the power and authority to conduct hearings in the name of the commission at any time and place in accordance with the provisions of chapter 52, title 67, Idaho Code.

(39) It is the intent of the legislature to occupy the field of the regulation of oil and gas exploration and production with the limited exception of the exercise of planning and zoning authority granted cities and counties pursuant to chapter 65, title 67, Idaho Code.

(410) To implement the purpose of the oil and gas conservation act, and to advance the public interest in the orderly development of the state's oil and gas resources, while at the same time recognizing the responsibility of local governments to protect the public health, safety and welfare, it is herein provided that:

(a) The commission will notice the respective city or county with jurisdiction upon receipt of an application and will remit, electronically, a copy of all application materials.

(b) No ordinance, resolution, requirement or standard of a city, county or political subdivision, except a state agency with authority, shall actually or operationally prohibit the extraction of oil and gas; provided however, that extraction may be subject to reasonable local ordinance provisions, not repugnant to law, which protect public health, public safety, public order or which prevent harm to public infrastructure or degradation of the value, use and enjoyment of private property. Any ordinance regulating extraction enacted pursuant to chapter 65, title 67, Idaho Code, shall provide for administrative permitting under conditions established by ordinance, not to exceed twenty-one (21) days, unless extended by agreement of the parties or upon good cause shown.

(c) No ordinance, resolution, requirement or standard of a city, county or political subdivision, except a state agency with authority, shall actually or operationally prohibit construction or operation of facilities and infrastructure needed for the post-extraction processing and transport of gas and oil. However, such facilities and infrastructure shall be subject to local ordinances, regulations and permitting re-

quirements, not repugnant to law, as provided in chapter 65, title 67, Idaho Code.

(511) The commission may sue and be sued in its administration of this act in any state or federal district court in the state of Idaho having jurisdiction of the parties or of the subject matter.

(612) The attorney general shall act as the legal advisor of the commission and represent the commission in all court proceedings and in all proceedings before it, and in any proceeding to which the commission may be a party before any department of the federal government.

SECTION 2. That Section 47-319, Idaho Code, be, and the same is hereby amended to read as follows:

47-319. LAND SUBJECT TO ACT -- AUTHORITY OF COMMISSION. (1) This act shall apply to all lands located in the state, however owned, including any lands owned or administered by any government or any agency or political subdivision thereof, over which the state under its police power, has jurisdiction.

(2) The commission is authorized and it is its duty to regulate the exploration for and production of oil and gas, prevent waste of oil and gas and to protect correlative rights, and otherwise to administer and enforce this act. It has jurisdiction over all persons and property necessary for such purposes. In the event of a conflict, the duty to prevent waste is paramount.

(3) The commission is authorized to make such investigations as it deems proper to determine whether action by the commission in discharging its duties is necessary.

(4) The commission is authorized to appoint, as necessary, committees for the purpose of advising the commission on matters relating to oil and gas.

(5) Without limiting its general authority, the commission shall have the specific authority to require:

(a) Identification of ownership of oil or gas wells, producing leases, tanks, plants, structures, and facilities for the transportation or refining of oil and gas;

(b) The taking and preservation of samples and the making and filing with the commission of true and correct copies of well logs and directional surveys both in form and content as prescribed by the commission; provided however, that logs of exploratory or wildcat wells marked confidential shall be subject to disclosure according to chapter 3, title 9, Idaho Code, and shall be kept confidential by the commission for a period of one (1) year from the date of filing the log with the commission. And provided that the commission may use any well logs and directional surveys in any action to enforce the provisions of this chapter or any order or rule adopted hereunder. And provided further, that after four (4) months from the effective date of this act, the commission may require the owner of a well theretofore drilled for oil or gas to file within four (4) months of such order a true and correct copy of the log or logs of such well;

(c) The drilling, casing, operation and plugging of wells in such manner as to prevent: (i) the escape of oil or gas out of one (1) pool into another; (ii) the detrimental intrusion of water into an oil or gas pool that is avoidable by efficient operations; (iii) the pollution of fresh water supplies by oil, gas, or salt water; (iv) blow-outs, cavings, seepages, and fires; and (v) waste as hereinabove defined;

(d) The taking of tests of oil or gas wells;

(e) The furnishing of a reasonable performance bond with good and sufficient surety, conditioned upon the performance of the duty to comply with the requirements of this law and the regulations of the commission

with respect to the drilling, maintaining, operating and plugging of each well drilled for oil or gas;

(f) That the production from wells be separated into gaseous and liquid hydrocarbons, and that each be measured by means and upon standards that may be prescribed by the commission;

(g) That wells not be operated with inefficient gas-oil or water-oil ratios, and to fix these ratios, and to limit production from wells with inefficient gas-oil or water-oil ratios;

(h) Metering or other measuring of oil, gas, or product;

(i) That every person who produces oil and gas in the state keep and maintain for a period of five (5) years complete and accurate records of the quantities thereof, which records, or certified copies thereof, shall be available for examination by the commission or its agents at all reasonable times within said period, and that every such person file with the commission such reasonable reports as it may prescribe with respect to such oil or gas production; and

(j) The filing of reports of plats with the commission that it may prescribe.

(56) Without limiting its general authority, and without limiting the authority of other state agencies or local government as provided by law, the commission shall have the specific authority to regulate:

(a) The drilling and plugging of wells and the compression or dehydration of produced oil and gas, and all other operations for the production of oil and gas;

(b) The shooting and treatment of wells;

(c) The spacing or locating of wells;

(d) Operations to increase ultimate recovery, such as cycling of gas, the maintenance of pressure, and the introduction of gas, water, or other substances into a producing formation; and

(e) The disposal of salt water and oil-field wastes.

(67) The commission is authorized to classify and reclassify pools as oil, gas, or condensate pools, or wells as oil, gas, or condensate wells.

(78) The commission is authorized to make and enforce rules, regulations, and orders reasonably necessary to prevent waste, protect correlative rights, to govern the practice and procedure before the commission, and otherwise to administer this act.

SECTION 3. That Section 47-321, Idaho Code, be, and the same is hereby amended to read as follows:

47-321. SPACING UNITS. (a) The commission shall promptly establish spacing units for each pool except in those pools that have been developed to such an extent that it would be impracticable or unreasonable to establish spacing units at the existing stage of development.

(b) An order establishing spacing units shall specify the size and shape of the units, which shall be such as will, in the opinion of the commission, result in the efficient and economical development of the pool as a whole. The size of the spacing units shall not be smaller than the maximum area that can be efficiently and economically drained by one (1) well; provided, that if, at the time of a hearing to establish spacing units there is not sufficient evidence from which to determine the area that can be efficiently and economically drained by one (1) well, the commission may make an order establishing temporary spacing units for the orderly development of the pool pending the obtaining of the information required to determine what the ultimate spacing should be.

(c) Except where circumstances reasonably require, spacing units shall be of approximately uniform size and shape for the entire pool. The commission may establish spacing units of different sizes or shapes for different parts of a pool or may grant exceptions to the size or shape of any spacing

unit or units or may change the sizes or shape of one (1) or more existing spacing units.

(d) An order establishing spacing units shall direct that no more than one (1) well shall be drilled to and produced from the common source of supply on any unit, and shall specify the location for the drilling of a well thereon, in accordance with a reasonably uniform spacing pattern, with necessary exceptions for wells drilled or drilling at the time of the filing of the application. If the commission finds that a well drilled at the prescribed location would not be likely to produce in paying quantities, or that surface conditions would substantially add to the burden or hazard of drilling such well, or for other good cause shown, the commission is authorized to make an order permitting the well to be drilled at a location other than that prescribed by such spacing order. Application for an exception shall be filed with the ~~director of the Idaho department of lands~~ commission and may be granted by ~~him~~ where it is shown that good cause for such exception exists and that consent to such exception has been given by the owners of all drilling units directly or diagonally offsetting the drilling unit for which an exception is requested, and, as to the lands upon which drilling units have not been established, by the owners of those lands which would be included in directly or diagonally offsetting drilling units under said order, if said order were extended to include such additional lands. ~~Where an exception is not granted by the director or where an objection to the action of said director is filed with the commission within ten (10) days after he has granted or denied the application no well shall be drilled on said drilling unit except in accordance with the order establishing drilling units, unless and until the commission shall, after notice and hearing upon the application, grant such exception.~~

(e) An order establishing spacing units for a pool shall cover all lands determined or believed to be underlaid by such pool, and may be modified by the commission from time to time to include additional lands determined to be underlaid by such pool or to exclude lands determined not to be underlaid by such pool.

(f) An order establishing spacing units may be modified by the commission to change the size or shape of one (1) or more spacing units, or to permit the drilling of additional wells on a reasonably uniform pattern.

(g) Upon the filing of an application to establish spacing units, no additional well shall be commenced for production from the pool until the order establishing spacing units has been made, unless the commencement of the well is authorized by order of the commission.

Approved March 29, 2013.

CHAPTER 190  
(S.B. No. 1078)

AN ACT

RELATING TO PUBLIC POSTSECONDARY EDUCATIONAL INSTITUTIONS; AMENDING CHAPTER 1, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-107D, IDAHO CODE, TO PROVIDE THAT NO STATE POSTSECONDARY EDUCATIONAL INSTITUTION SHALL TAKE ANY ACTION OR ENFORCE ANY POLICY THAT WOULD DENY A RELIGIOUS STUDENT GROUP ANY BENEFIT AVAILABLE TO ANY OTHER STUDENT GROUP BASED ON THE RELIGIOUS STUDENT GROUP'S REQUIREMENT THAT ITS LEADERS ADHERE TO ITS SINCERELY HELD RELIGIOUS BELIEFS OR STANDARDS OF CONDUCT AND TO DEFINE TERMS.

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 33-107D, Idaho Code, and to read as follows:

33-107D. CAMPUS ACCESS FOR RELIGIOUS STUDENTS. (1) No state postsecondary educational institution shall take any action or enforce any policy that would deny a religious student group any benefit available to any other student group based on the religious student group's requirement that its leaders adhere to its sincerely held religious beliefs or standards of conduct.

(2) As used in this section:

(a) "Benefits" include without limitation:

(i) Recognition;

(ii) Registration;

(iii) The use of facilities at the state postsecondary educational institution for meetings or speaking purposes;

(iv) The use of channels of communication of the state postsecondary educational institution; and

(v) Funding sources that are otherwise available to any other student group through the state postsecondary educational institution.

(b) "State postsecondary educational institution" means a public postsecondary organization governed or supervised by the state board, the board of regents of the university of Idaho, a board of trustees of a community college established pursuant to the provisions of chapter 21, title 33, Idaho Code, or the state board for professional-technical education.

Approved March 29, 2013.

#### CHAPTER 191

(S.B. No. 1107, As Amended)

#### AN ACT

RELATING TO REVENUE AND TAXATION; AMENDING SECTION 63-308, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO PROVIDING CERTAIN ASSESSMENT NOTICES ELECTRONICALLY TO THE TAXPAYER.

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

SECTION 1. That Section 63-308, Idaho Code, be, and the same is hereby amended to read as follows:

63-308. VALUATION ASSESSMENT NOTICE TO BE FURNISHED TAXPAYER. (1) At the taxpayer's request, on a form provided by the assessor, the valuation assessment notice may be transmitted electronically to the taxpayer.

(2) The valuation assessment notice required under the provisions of this chapter shall be delivered or may be transmitted electronically, as that term is defined in section 63-115, Idaho Code, if electronic transmission is requested by the taxpayer, to the taxpayer, or to his agent or representative, or mailed to the taxpayer, or to his agent or representative at his last known post office address no later than the first Monday in June. The original valuation assessment notice so mailed or delivered transmitted electronically must contain notices of all meetings of the board of equalization prescribed by this title for the purposes of equalizing assessments of property, and for granting exemptions from taxation. The notice shall, in clear terms, inform the taxpayer of the assessed market value for assessment purposes of his property for the current year, and his right to appeal to

the county board of equalization. The state tax commission may require that other data or information be shown on the form.

(23) In case any changes or corrections are made by the assessor from the original valuation assessment notice, the assessor shall immediately ~~deliver~~ transmit electronically or mail a corrected valuation assessment notice to the taxpayer, or his agent or representative.

(34) If the taxpayer is one other than the equitable titleholder, such as an escrowee, trustee of trust deed or other third party, the taxpayer shall ~~deliver~~ transmit electronically or mail to the equitable titleholder a true copy of the valuation assessment notice on or before the second Monday in June.

(45) For property entered and assessed on the subsequent property roll pursuant to section 63-311, Idaho Code, the valuation assessment notice shall be ~~delivered~~ transmitted electronically to the taxpayer, his agent or representative, or mailed to the taxpayer, or to his agent or representative at his last known post office address as soon as possible after it is prepared, but not later than the fourth Monday in November.

(56) For property entered and assessed on the missed property roll pursuant to section 63-311, Idaho Code, the valuation assessment notice shall be ~~delivered~~ transmitted electronically to the taxpayer, his agent or representative, or mailed to the taxpayer, or to his agent or representative at his last known post office address as soon as possible after it is prepared, but not later than the first Monday of January of the following year.

Approved March 29, 2013.

CHAPTER 192  
(S.B. No. 1111)

AN ACT

RELATING TO THE CONDOMINIUM PROPERTY ACT; AMENDING SECTION 55-1505, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE ALLOCATION OF PERCENTAGE OF OWNERSHIP INTEREST IN A COMMON AREA AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 55-1505, Idaho Code, be, and the same is hereby amended to read as follows:

55-1505. CONTENTS OF DECLARATION. (1) The declaration shall contain the following:

- (a) A legal description of the surface of the ground within the project.
- (b) A legal description of each unit in the project, which description may consist of the identifying number, symbol or name of such unit as shown on the plat.
- (c) The percentage of ownership interest in the common area which is to be allocated to each unit for purposes of tax assessment under section 55-1514, Idaho Code, and for purposes of liability as provided by section 55-1515, Idaho Code. Such percentage shall be fixed either by taking as a basis the value of each unit in relation to the value of the property as a whole or by taking as a basis the square footage of the interior floor area of each unit in relation to the square footage of the interior floor area of all the units as a whole. For said purposes, the percentage so fixed shall be conclusive, subject only to clear and convincing proof of bad faith at the time of and in the making of such allocation or the last prior amendment thereof. If a substantial change is made to the value or size, depending upon the method used for allocation, of one (1) or more units as compared with other units, upon

petition by a unit owner for reevaluation and allocation of percentage of ownership interest, the allocation shall be amended. Reallocation shall not occur more frequently than every ~~three~~ five (35) years and, if square footage is used in determining the percentage of ownership interest, only if a substantial change is made to the size of at least one (1) unit. If the board of managers fails to act, reallocation may be accomplished by court action. If court action is necessary the prevailing party may be awarded attorney's fees and costs for unreasonable pursuit or refusal.

(2) The declaration may but need not also contain any of the following:

(a) A description of the buildings in the project, stating the number of stories and basements, the number of units and the principal materials of which they are or are to be constructed.

(b) A statement of the location of each unit, its approximate area, number of rooms, and immediate common area to which it has access, and any other data for its proper identification.

(c) A description of the common areas and facilities.

(d) A description of any limited common areas and facilities, if any, stating to which units their use is reserved or the terms of applicable restrictions or limitations.

(e) The value of the property and of each unit.

(f) A statement of the purposes for which the building and each of the units are intended and restricted as to use.

(g) Provisions as to the percentage of votes by the condominium owners which shall be determinative of whether to rebuild, repair, restore, or sell the property in the event of damage, taking, or destruction of all or part of the property.

(h) Any or all of the provisions hereinafter referred to in section 55-1507, Idaho Code, as proper provisions of bylaws.

(i) Provisions for the management of the project by any management body or bodies; for the voting majorities, quorums, notices, meeting dates, and other rules governing such body or bodies; and for recordation, from time to time, as provided for in the declaration, of certificates of identity of the persons then composing such management body or bodies, which certificates shall be conclusive evidence of the facts recited therein in favor of any person relying thereon in good faith.

(j) As to any management body:

(1) For the powers thereof, including power to enforce the provisions of the declaration;

(2) For maintenance by it of fire, casualty, liability, worker's compensation and other insurance and for bonding of the members of any management body;

(3) For provision by it of and payment by it for maintenance, utility, gardening and other services; for employment of personnel necessary for operation of the project, and legal and accounting services;

(4) For purchase by it of materials, supplies and the like and for maintenance and repair of the project;

(5) For payment by it of taxes and special assessments which would be a lien upon the entire project or common areas, and for discharge by it of any lien or encumbrance levies against the entire project or common areas;

(6) For payment by it for reconstruction of any portion or portions of the project damaged, taken or destroyed;

(7) For delegation by it of its powers;

(8) For entry by it or its agents into any unit when necessary in connection with any maintenance or construction for which the management body is responsible;

- (9) For an irrevocable power of attorney to the management body to sell and convey the entire project for the benefit of all of the owners thereof when partition of the project may be had under section 55-1511, Idaho Code, which power shall: (i) be binding upon all of the owners, whether they expressly assume the obligations of the declaration or not; (ii) if so provided in the declaration, be exercisable by less than all,    {but not less than fifty percent (50%)},    of the voting power of the owners in the project; (iii) be exercisable only after recordation of a certificate by those who have the right to exercise such power of attorney that such power of attorney is properly exercisable under the declaration, which certificate shall be conclusive evidence of the facts recited therein in favor of any person relying thereon in good faith.
- (k) Provisions for amendments of such declaration or the bylaws, if any, which amendments, if made upon the vote or consent of more than fifty percent (50%) of the voting power of the owners in the project, shall be binding upon every owner and every condominium whether the burdens thereon are increased or decreased thereby, and whether or not the owner of each and every condominium consents thereto.
- (l) Provisions for independent audit of the accounts of any management body.
- (m) (1) Provisions for assessments to meet authorized expenditures of any management body, and for a method for notice and levy thereof, each condominium to be assessed separately for its share of such expenses in proportion,    {unless otherwise provided},    to its owner's fractional interest in the common areas;  
(2) For the subordination of the liens securing such assessments to other liens either generally or specifically described.
- (n) Provisions for the conditions upon which partition of the project may be had pursuant to this act. Such right to partition may be conditioned upon failure of the condominium owners to elect to rebuild within a certain period, specified inadequacy of insurance proceeds, specified damage to the building, a decision of an arbitrator, or upon any other condition.
- (o) Provisions for restrictions upon the severability of the component interests in the property which comprise a condominium. Such restrictions shall not be deemed conditions repugnant to the interest created nor unlawful restraints on alienation.
- (p) Such document, agreement or writing pertinent to the project or its financing as may be attached to, incorporated in or made an exhibit to the declaration and/or any bylaws.
- (q) Such other provisions not inconsistent with this act as the owner or owners may deem desirable in order to promote, facilitate or preserve the property or the project or the use, development or administration thereof.
- (3) ~~Subpart~~ Subsection (2) of this section shall not be construed as a limitation upon permissible contents and provisions of a declaration.

Approved March 29, 2013.

CHAPTER 193  
(S.B. No. 1112)

AN ACT

RELATING TO PROCEEDINGS BEFORE THE PUBLIC UTILITIES COMMISSION; AMENDING SECTION 61-622, IDAHO CODE, TO REVISE THE PUBLIC UTILITIES COMMISSION'S AUTHORITY REGARDING SCHEDULE, RATE, FARE, TOLL, RENTAL, CHARGE, CLASSIFICATION, CONTRACT, PRACTICE, RULE, SERVICE OR REGULATION, TO REVISE PROCEDURES AND TO MAKE A TECHNICAL CORRECTION; AND REPEALING SECTION 61-623, IDAHO CODE, RELATING TO DETERMINATION OF SCHEDULE AND REGULAR RATES BY THE PUBLIC UTILITIES COMMISSION.

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

SECTION 1. That Section 61-622, Idaho Code, be, and the same is hereby amended to read as follows:

61-622. FINDING OF COMMISSION NECESSARY FOR INCREASE IN RATE AND APPROVAL OF A NEW TARIFF OR SCHEDULE -- SUSPENSION. (1) No public utility shall raise any existing rate, fare, toll, rental or charge or so alter any existing classification, contract, practice, rule, service or regulation as to result in an increase in any rate, fare, toll, rental or charge, under any circumstances whatsoever, except upon a showing before the commission and a finding by the commission that such increase is justified.

(2) Whenever there shall be filed with the commission any tariff or schedule stating a new individual or joint rate, fare, toll, rental, charge, classification, contract, practice, rule, service or regulation that does not increase or result in the increase of any existing rate, fare, toll, rental or charge, such tariff or schedule shall not become effective except upon a showing to and a finding by the commission that such tariff or schedule is justified.

(3) The commission shall have power, and is hereby given authority to suspend the proposed effective date of any new tariff, schedule, rate, fare, toll, rental, charge, classification, contract, practice, rule, service or regulation, either upon complaint or upon its own initiative without complaint, at once, and if it so orders, without answer or other formal pleadings by the interested public utility or utilities, but upon The commission shall provide reasonable notice, that it intends to enter upon conduct a hearing or other proceeding concerning the propriety of such new tariff, schedule, rate, fare, toll, rental, charge, classification, contract, practice, rule, service or regulation. and pending the subsequent hearing or proceeding and decision thereon, such new tariff, schedule, rate, fare, toll, rental, charge, classification, contract, practice, rule, service or regulation shall not go into effect. provided, that

(4) The period of suspension of such new tariff, schedule, rate, fare, toll, rental, charge, classification, contract, practice, rule, service or regulation shall not extend beyond thirty (30) days when such new tariff, schedule, rate, fare, toll, rental, charge, classification, contract, practice, rule, service or regulation would otherwise go into effect, pursuant to section 61-307, Idaho Code, unless the commission in its discretion extends the period of suspension for an initial period not exceeding five (5) months, nor unless the commission after a showing of good cause on the record grants an additional sixty (60) days; provided further, that. pPrior to the expiration of said periods of suspension the commission may, with the consent in writing signed by the party filing such new tariff or schedule, permanently or further suspend the same.

(5) On After such hearing or other proceeding during the suspension period, the commission shall establish issue its order approving, denying

or amending the proposed tariffs, schedules, rates, fares, tolls, rentals, charges, classifications, contracts, practices, rules, services or regulations proposed, in whole or in part, or others in lieu thereof, which it shall find to be just and reasonable.

SECTION 2. That Section 61-623, Idaho Code, be, and the same is hereby repealed.

Approved March 29, 2013.

CHAPTER 194  
(S.B. No. 1152)

AN ACT

APPROPRIATING MONEYS TO THE DIVISION OF PROFESSIONAL-TECHNICAL EDUCATION FOR FISCAL YEAR 2014; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION; EXEMPTING APPROPRIATION OBJECT TRANSFER LIMITATIONS FOR THE POSTSECONDARY PROGRAM; AND PROVIDING NON-GENERAL FUND REAPPROPRIATION FOR FISCAL YEAR 2014.

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

SECTION 1. There is hereby appropriated to the Division of Professional-Technical Education, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. STATE LEADERSHIP & TECHNICAL ASSISTANCE:					
FROM:					
General					
Fund	\$1,634,500	\$282,500	\$35,500		\$1,952,500
Federal Grant					
Fund	<u>262,200</u>	<u>62,400</u>	<u>0</u>		<u>324,600</u>
TOTAL	\$1,896,700	\$344,900	\$35,500		\$2,277,100
II. GENERAL PROGRAMS:					
FROM:					
General					
Fund	\$190,900	\$22,000		\$10,752,100	\$10,965,000
Hazardous Materials/Waste Enforcement					
Fund				67,800	67,800
Federal Grant					
Fund	<u>172,500</u>	<u>14,800</u>		<u>4,252,400</u>	<u>4,439,700</u>
TOTAL	\$363,400	\$36,800		\$15,072,300	\$15,472,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
III. POSTSECONDARY PROGRAMS:					
FROM:					
General					
Fund	\$31,933,600	\$2,997,600	\$136,500		\$35,067,700
Unrestricted					
Fund	<u>0</u>	<u>510,000</u>	<u>0</u>		<u>510,000</u>
TOTAL	\$31,933,600	\$3,507,600	\$136,500		\$35,577,700
IV. UNDERPREPARED ADULTS/DISPLACED HOMEMAKERS:					
FROM:					
Displaced Homemaker					
Fund				\$170,000	\$170,000
Federal Grant					
Fund				<u>1,747,300</u>	<u>1,747,300</u>
TOTAL				\$1,917,300	\$1,917,300
V. RELATED SERVICES:					
FROM:					
General					
Fund	\$120,600	\$10,700		\$840,900	\$972,200
Miscellaneous Revenue					
Fund	213,500	31,500			245,000
Seminars and Publications					
Fund		140,000			140,000
Federal Grant					
Fund	<u>47,200</u>	<u>50,500</u>		<u>2,038,800</u>	<u>2,136,500</u>
TOTAL	\$381,300	\$232,700		\$2,879,700	\$3,493,700
GRAND TOTAL	\$34,575,000	\$4,122,000	\$172,000	\$19,869,300	\$58,738,300

SECTION 2. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

SECTION 3. EXEMPTIONS FROM OBJECT TRANSFER LIMITATIONS. For fiscal year 2014, the Division of Professional-Technical Education, Postsecondary Program, is hereby exempted from the provisions of Section 67-3511 (1) and (3), Idaho Code, allowing unlimited transfers between object codes, for all moneys appropriated to it for the period July 1, 2013, through June 30, 2014.

Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

SECTION 4. NON-GENERAL FUND REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the Division of Professional-Technical Education any unexpended and unencumbered balances of moneys categorized as dedicated funds and federal funds as appropriated for fiscal year 2013, to be used for nonrecurring expenditures, for the period July 1, 2013, through June 30, 2014.

Approved March 29, 2013.

CHAPTER 195  
(S.B. No. 1153)

AN ACT

REDUCING THE APPROPRIATION TO THE CATASTROPHIC HEALTH CARE COST FUND AND DIRECTING A TRANSFER FOR FISCAL YEAR 2013; 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 and transfer made from the General Fund to the Catastrophic Health Care Cost Fund in Section 1, Chapter 155, Laws of 2012, is hereby reduced by \$6,000,000 for the period July 1, 2012, through June 30, 2013. The State Controller shall transfer \$6,000,000 from the Catastrophic Health Care Cost Fund to the General Fund upon enactment, or as soon thereafter as practicable.

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 29, 2013.

CHAPTER 196  
(S.B. No. 1154)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO COMMISSION FOR LIBRARIES FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Idaho Commission for Libraries, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General					
Fund	\$1,733,300	\$1,345,900		\$100,000	\$3,179,200
Miscellaneous Revenue					
Fund		24,300	\$25,000	26,000	75,300
Federal Grant					
Fund	<u>506,800</u>	<u>917,800</u>	<u>25,000</u>	<u>60,000</u>	<u>1,509,600</u>
TOTAL	\$2,240,100	\$2,288,000	\$50,000	\$186,000	\$4,764,100

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Idaho Commission for Libraries is authorized no more than forty and five-tenths (40.5) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 29, 2013.

CHAPTER 197  
(S.B. No. 1160)

AN ACT

APPROPRIATING MONEYS TO THE STATE LIQUOR DIVISION FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the State Liquor Division from the Liquor Control Fund, the following amounts to be expended for the designated expense classes, for the period July 1, 2013, through June 30, 2014:

## FOR:

Personnel Costs	\$10,890,900
Operating Expenditures	5,562,000
Capital Outlay	<u>475,800</u>
TOTAL	\$16,928,700

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the State Liquor Division is authorized no more than two hundred five (205) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 29, 2013.

CHAPTER 198  
(S.B. No. 1161)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF SELF-GOVERNING AGENCIES FOR REGULATORY BOARDS FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Regulatory Boards, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. BOARD OF ACCOUNTANCY:					
FROM:					
State Regulatory					
Fund	\$258,800	\$253,400			\$512,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. BOARD OF PROF. ENGINEERS & LAND SURVEYORS:					
FROM:					
State Regulatory					
Fund	\$338,300	\$223,600	\$3,000		\$564,900
III. BUREAU OF OCCUPATIONAL LICENSES:					
FROM:					
State Regulatory					
Fund	\$2,044,400	\$1,297,700		\$52,500	\$3,394,600
IV. OUTFITTERS AND GUIDES LICENSING BOARD:					
FROM:					
State Regulatory					
Fund	\$353,700	\$201,400			\$555,100
V. REAL ESTATE COMMISSION:					
FROM:					
State Regulatory					
Fund	\$901,300	\$554,500			\$1,455,800
GRAND TOTAL	\$3,896,500	\$2,530,600	\$3,000	\$52,500	\$6,482,600

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Regulatory Boards are authorized no more than sixty-five (65) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 29, 2013.

CHAPTER 199  
(S.B. No. 1162)

AN ACT

APPROPRIATING MONEYS TO THE STATE CONTROLLER FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION; PROVIDING FOR THE RECOVERY OF STATE CONTROLLER SERVICE COSTS TO THE GENERAL FUND; AND PROVIDING NON-GENERAL FUND REAPPROPRIATION.

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

SECTION 1. There is hereby appropriated to the State Controller, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
<b>I. ADMINISTRATION:</b>				
FROM:				
General				
Fund	\$466,500	\$59,100		\$525,600
<b>II. STATEWIDE ACCOUNTING:</b>				
FROM:				
General				
Fund	\$1,514,400	\$2,066,300	\$37,300	\$3,618,000
Miscellaneous Revenue				
Fund	<u>0</u>	<u>20,000</u>	<u>0</u>	<u>20,000</u>
TOTAL	\$1,514,400	\$2,086,300	\$37,300	\$3,638,000
<b>III. STATEWIDE PAYROLL:</b>				
FROM:				
General				
Fund	\$1,315,800	\$1,838,400		\$3,154,200
Miscellaneous Revenue				
Fund	<u>0</u>	<u>20,000</u>		<u>20,000</u>
TOTAL	\$1,315,800	\$1,858,400		\$3,174,200
<b>IV. COMPUTER CENTER:</b>				
FROM:				
Data Processing Services				
Fund	\$4,321,900	\$2,847,500	\$19,800	\$7,189,200
GRAND TOTAL	\$7,618,600	\$6,851,300	\$57,100	\$14,527,000

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the State Controller is authorized no more than ninety-four (94) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

SECTION 4. 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, 2014, 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 5. NON-GENERAL FUND REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the State Controller any unexpended and unencumbered balances of moneys categorized as dedicated funds as appropriated for fiscal year 2013, to be used for nonrecurring expenditures, for the period July 1, 2013, through June 30, 2014.

Approved March 29, 2013.

CHAPTER 200  
(S.B. No. 1163)

AN ACT

APPROPRIATING MONEYS TO THE COMMISSION ON HISPANIC AFFAIRS FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Commission on Hispanic Affairs, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General			
Fund	\$91,100	\$5,500	\$96,600
Miscellaneous Revenue			
Fund	49,900	48,700	98,600
Federal Grant			
Fund	<u>19,900</u>	<u>21,000</u>	<u>40,900</u>
TOTAL	\$160,900	\$75,200	\$236,100

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Commission on Hispanic Affairs is authorized no more than three (3) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 29, 2013.

CHAPTER 201  
(S.B. No. 1164)

AN ACT

REDUCING THE APPROPRIATION TO THE DIVISION OF VOCATIONAL REHABILITATION FOR FISCAL YEAR 2013; APPROPRIATING MONEYS TO THE DIVISION OF VOCATIONAL REHABILITATION FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION; 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 Division of Vocational Rehabilitation, for the Renal Disease Services Program, in Section 2, Chapter 153, Laws of 2012, from the General Fund, is hereby reduced by the following amounts according to the designated expense classes for the period July 1, 2012, through June 30, 2013:

## FOR:

Personnel Costs	\$35,000
Trustee and Benefit Payments	<u>165,000</u>
TOTAL	\$200,000

SECTION 2. There is hereby appropriated to the Division of Vocational Rehabilitation, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. COMMUNITY SUPPORTED EMPLOYMENT:					
FROM:					
General					
Fund	\$438,200	\$23,700		\$3,418,300	\$3,880,200
II. VOCATIONAL REHABILITATION:					
FROM:					
General					
Fund	\$1,554,600	\$252,300	\$9,800	\$1,413,900	\$3,230,600
Rehabilitation Revenue and Refunds					
Fund	1,078,500			3,000	1,081,500
Miscellaneous Revenue					
Fund				970,700	970,700
Federal Grant					
Fund	<u>6,933,900</u>	<u>1,164,100</u>	<u>39,000</u>	<u>5,629,500</u>	<u>13,766,500</u>
TOTAL	\$9,567,000	\$1,416,400	\$48,800	\$8,017,100	\$19,049,300
III. COUNCIL FOR THE DEAF AND HARD OF HEARING:					
FROM:					
General					
Fund	\$155,500	\$37,700			\$193,200
GRAND TOTAL	\$10,160,700	\$1,477,800	\$48,800	\$11,435,400	\$23,122,700

SECTION 3. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Division of Vocational Rehabilitation is authorized no more than one hundred forty-eight (148) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the

use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

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 29, 2013.

CHAPTER 202  
(S.B. No. 1167)

AN ACT

APPROPRIATING MONEYS TO THE SECRETARY OF STATE FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Secretary of State, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
I. SECRETARY OF STATE:			
FROM:			
General			
Fund	\$1,671,100	\$279,300	\$1,950,400
II. COMMISSION ON UNIFORM LAWS:			
FROM:			
General			
Fund		\$41,000	\$41,000
GRAND TOTAL	\$1,671,100	\$320,300	\$1,991,400

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Secretary of State is authorized no more than twenty-seven (27) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, insti-

tution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 29, 2013.

CHAPTER 203  
(S.B. No. 1168)

AN ACT

APPROPRIATING MONEYS TO IDAHO PUBLIC TELEVISION FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to Idaho Public Television, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General				
Fund	\$858,500	\$666,200	\$302,100	\$1,826,800
Miscellaneous Revenue				
Fund	3,048,400	2,733,000	200,000	5,981,400
Federal Grant				
Fund	<u>12,500</u>	<u>12,000</u>	<u>102,500</u>	<u>127,000</u>
TOTAL	\$3,919,400	\$3,411,200	\$604,600	\$7,935,200

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, Idaho Public Television is authorized no more than fifty-nine (59) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 29, 2013.

CHAPTER 204  
(S.B. No. 1170)

AN ACT

APPROPRIATING MONEYS TO THE SOIL AND WATER CONSERVATION COMMISSION FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Soil and Water Conservation Commission, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General				
Fund	\$1,005,400	\$198,400	\$1,153,200	\$2,357,000
Administration and Accounting Services				
Fund		20,000		20,000
Resource Conservation and Rangeland Development				
Fund	146,000	146,000		292,000
Clean Water Revolving Loan (SCC)				
Fund	0	30,000	0	30,000
TOTAL	\$1,151,400	\$394,400	\$1,153,200	\$2,699,000

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Soil and Water Conservation Commission is authorized no more than sixteen (16) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 29, 2013.

CHAPTER 205  
(S.B. No. 1171)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF AGRICULTURE FOR FISCAL YEAR 2014;  
LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PRO-  
VIDING LEGISLATIVE INTENT; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPEN-  
SATION.

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

SECTION 1. There is hereby appropriated to the Department of Agriculture, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
General					
Fund	\$600,800	\$394,900			\$995,700
Administration and Accounting Services					
Fund	877,000	116,700	\$104,500		1,098,200
Facilities Maintenance					
Fund	<u>129,700</u>	<u>184,200</u>	<u>0</u>		<u>313,900</u>
TOTAL	\$1,607,500	\$695,800	\$104,500		\$2,407,800
II. ANIMAL INDUSTRIES:					
FROM:					
General					
Fund	\$1,354,000	\$208,700			\$1,562,700
Agricultural Inspection					
Fund	38,000	9,700			47,700
Agricultural Fees - Livestock Disease Control					
Fund	454,100	263,200	\$96,400		813,700
Agricultural Fees - Dairy Inspection					
Fund	1,047,100	326,500	37,200		1,410,800
Agricultural Fees - Egg Inspection					
Fund	145,900	15,200			161,100
Agricultural Fees - Commercial Fisheries					
Fund	5,700	4,200			9,900
Agricultural Fees - Poultry Inspection					
Fund	72,200	17,500			89,700
Seminars and Publications					
Fund		98,400			98,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>Federal Grant</b>					
Fund	<u>432,400</u>	<u>334,900</u>	<u>0</u>	<u>\$58,200</u>	<u>825,500</u>
TOTAL	\$3,549,400	\$1,278,300	\$133,600	\$58,200	\$5,019,500

## III. AGRICULTURAL RESOURCES:

## FROM:

## General

Fund	\$181,100	\$130,100			\$311,200
------	-----------	-----------	--	--	-----------

## Agricultural Fees - Pesticides

Fund	1,650,600	744,700	\$180,100		2,575,400
------	-----------	---------	-----------	--	-----------

## Federal Grant

Fund	<u>435,900</u>	<u>173,700</u>	<u>0</u>		<u>609,600</u>
TOTAL	\$2,267,600	\$1,048,500	\$180,100		\$3,496,200

## IV. PLANT INDUSTRIES:

## FROM:

## General

Fund	\$1,072,200	\$682,400		\$1,288,000	\$3,042,600
------	-------------	-----------	--	-------------	-------------

## Agricultural Inspection

Fund	1,003,100	274,200	\$6,000	111,100	1,394,400
------	-----------	---------	---------	---------	-----------

## Invasive Species

Fund	500,900	350,000	25,000	650,000	1,525,900
------	---------	---------	--------	---------	-----------

## Agricultural Fees - Commercial Feed and Fertilizer

Fund	1,000,800	293,500	249,400		1,543,700
------	-----------	---------	---------	--	-----------

## Agricultural Fees - Honey Advertising

Fund	400	16,300			16,700
------	-----	--------	--	--	--------

## Quality Assurance Laboratory Services

Fund	357,400	70,400			427,800
------	---------	--------	--	--	---------

## Federal Grant

Fund	<u>739,100</u>	<u>1,557,900</u>	<u>23,600</u>	<u>1,136,700</u>	<u>3,457,300</u>
TOTAL	\$4,673,900	\$3,244,700	\$304,000	\$3,185,800	\$11,408,400

## V. AGRICULTURAL INSPECTIONS:

## FROM:

## General

Fund	\$612,900	\$139,600			\$752,500
------	-----------	-----------	--	--	-----------

## Agricultural Inspection

Fund	43,400	12,000			55,400
------	--------	--------	--	--	--------

## Weights and Measures Inspection

Fund	294,900	61,100	\$74,500		430,500
------	---------	--------	----------	--	---------

## Agricultural Fees - Organic Food Products

Fund	221,100	79,700	4,600		305,400
------	---------	--------	-------	--	---------

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>Agricultural Fees - Fresh Fruit and Vegetable Inspection</b>					
Fund	6,286,100	1,467,100	235,900	\$371,100	8,360,200
<b>Federal Grant</b>					
Fund	<u>0</u>	<u>10,000</u>	<u>0</u>	<u>100,000</u>	<u>110,000</u>
<b>TOTAL</b>	<b>\$7,458,400</b>	<b>\$1,769,500</b>	<b>\$315,000</b>	<b>\$471,100</b>	<b>\$10,014,000</b>

## VI. MARKET DEVELOPMENT:

## FROM:

## General

Fund	\$372,300	\$333,400			\$705,700
------	-----------	-----------	--	--	-----------

## Agricultural Inspection

Fund	43,500	70,300	\$3,300		117,100
------	--------	--------	---------	--	---------

## Miscellaneous Revenue

Fund	75,000	50,000			125,000
------	--------	--------	--	--	---------

## Seminars and Publications

Fund		245,700			245,700
------	--	---------	--	--	---------

## USDA Publications

Fund		64,900			64,900
------	--	--------	--	--	--------

## Rural Economic Development Integrated Freight Trans.

Fund	9,300	20,000		\$140,000	169,300
------	-------	--------	--	-----------	---------

## Revolving Loans

Fund	12,300	15,300			27,600
------	--------	--------	--	--	--------

## Federal Grant

Fund	<u>113,500</u>	<u>275,500</u>	<u>0</u>	<u>767,500</u>	<u>1,156,500</u>
------	----------------	----------------	----------	----------------	------------------

<b>TOTAL</b>	<b>\$625,900</b>	<b>\$1,075,100</b>	<b>\$3,300</b>	<b>\$907,500</b>	<b>\$2,611,800</b>
--------------	------------------	--------------------	----------------	------------------	--------------------

## VII. ANIMAL DAMAGE CONTROL:

## FROM:

## General

Fund				\$138,800	\$138,800
------	--	--	--	-----------	-----------

## Animal Damage Control

Fund				215,700	215,700
------	--	--	--	---------	---------

## Agricultural Fees - Sheep and Goat Health

Fund		\$200		167,200	167,400
------	--	-------	--	---------	---------

## Federal Grant

Fund		<u>0</u>		<u>150,000</u>	<u>150,000</u>
------	--	----------	--	----------------	----------------

<b>TOTAL</b>		<b>\$200</b>		<b>\$671,700</b>	<b>\$671,900</b>
--------------	--	--------------	--	------------------	------------------

## VIII. SHEEP AND GOAT HEALTH BOARD:

## FROM:

## General

Fund	\$58,800				\$58,800
------	----------	--	--	--	----------

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Agricultural Fees - Sheep and Goat Health					
Fund	<u>62,200</u>	<u>\$37,900</u>			<u>100,100</u>
TOTAL	\$121,000	\$37,900			\$158,900
GRAND TOTAL	\$20,303,700	\$9,150,000	\$1,040,500	\$5,294,300	\$35,788,500

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Agriculture is authorized no more than one hundred eighty-nine and five-hundredths (189.05) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, 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 Department of Agriculture work together with the Department of Fish and Game to fund up to \$100,000 for a project to evaluate and monitor the impacts of raven control on sage grouse survival.

SECTION 4. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved March 29, 2013.

CHAPTER 206  
(S.B. No. 1117)

AN ACT

RELATING TO OVERWEIGHT OR OVERSIZE LOADS; AMENDING CHAPTER 10, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-1004A, IDAHO CODE, TO PROVIDE FOR SPECIAL PERMITS FOR NEW DESIGNATED SPECIAL ROUTES AND TO PROVIDE FOR THE ANALYSIS OF NEW SPECIAL ROUTES.

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

SECTION 1. That Chapter 10, 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 49-1004A, Idaho Code, and to read as follows:

49-1004A. PERMITS FOR OVERWEIGHT OR OVERSIZE LOADS -- NEW SPECIAL ROUTES. (1) Notwithstanding the provision on the addition or deletion of

approved routes in section 49-1004(4), Idaho Code, the authority having jurisdiction may designate routes within its jurisdiction for operation of vehicle combinations with a legal maximum gross weight of at least one hundred five thousand five hundred one (105,501) pounds but not exceeding one hundred twenty-nine thousand (129,000) pounds, utilizing criteria established by the board based upon road and bridge structural integrity engineering standards, as well as public safety engineering standards. The authority having jurisdiction shall issue an annual special permit authorizing travel on designated routes for such travel. Any additional routes approved by the authority having jurisdiction shall be included in the map provided for in section 49-1004(4), Idaho Code.

(2) For all requests that new routes be designated for travel by vehicle combinations with a maximum gross weight of up to one hundred twenty-nine thousand (129,000) pounds, the department shall, to the best of its ability, analyze the safety and feasibility of adding such routes and shall report its findings to the board. The Idaho department of commerce shall also assess economic development opportunities of such routes, utilizing available grant funding.

Approved April 1, 2013.

#### CHAPTER 207

(S.B. No. 1018, As Amended, As Amended)

#### AN ACT

RELATING TO JURY SELECTION AND SERVICE; AMENDING SECTION 2-208, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO REVISE PROVISIONS RELATING TO CONTEMPT PROCEEDINGS FOR A PROSPECTIVE JUROR WHO FAILS TO APPEAR PURSUANT TO COURT ORDER; AND AMENDING SECTION 7-610, IDAHO CODE, TO PROVIDE A CERTAIN PENALTY.

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

SECTION 1. That Section 2-208, Idaho Code, be, and the same is hereby amended to read as follows:

2-208. NAMES RANDOMLY DRAWN FROM MASTER JURY LIST -- QUALIFICATION QUESTIONNAIRE FORMS FOR PROSPECTIVE JURORS -- MAILING AND RETURN -- ORDER TO APPEAR -- CRIMINAL CONTEMPT -- PENALTY FOR MISREPRESENTATION. (1) The court or any other state or county official having authority to conduct a trial or hearing with a jury within the county may direct the jury commission to draw and assign to that court or official the number of qualified jurors deemed necessary for one (1) or more jury panels or as required by law for a grand jury. Upon receipt of the direction and in a manner prescribed by the court, the jury commission shall publicly draw at random, by use of a manual, mechanical, or automated system, from the master jury list the number of prospective jurors specified. Neither the names drawn nor the list shall be disclosed to any person except upon specific order of the presiding judge.

(2) Each person on the prospective jury panel shall be served with a summons, issued by the clerk of the court or the jury commissioner. The summons shall be served either personally, or by regular mail or certified mail, addressed to the prospective juror at that person's usual residence, business or post office address.

(3) The clerk or the jury commissioner shall mail a qualification questionnaire form, accompanied by instructions, addressed to the prospective jurors at their usual residence, business or post office address. The qualification questionnaire form may be sent together with the summons in a single mailing to a prospective juror. The qualification questionnaire

form shall be in a form prescribed by the supreme court. The qualification questionnaire form must be completed and returned to the clerk or the jury commissioner within ten (10) days from the date of mailing. The qualification questionnaire form shall elicit the name, address of residence, and age of the prospective juror and whether the prospective juror: (a) is a citizen of the United States of America and a resident of the county, (b) is able to read, speak and understand the English language, (c) has any disability impairing his capacity to render satisfactory jury service, and (d) has lost the right to serve on a jury because of a felony criminal conviction as provided by section 3, article VI, of the constitution of the state of Idaho, and who has not been restored to the rights of citizenship pursuant to section 18-310, Idaho Code, or other applicable law. The qualification questionnaire form shall contain the prospective juror's declaration that his responses are true to the best of his knowledge and his acknowledgment that a willful misrepresentation of a material fact may be punished as a misdemeanor. Notarization of the completed qualification questionnaire form shall not be required. If the prospective juror is unable to complete the form, another person may do so on his or her behalf and shall indicate that such person has done so and the reason therefor. If it appears there is an omission, ambiguity, or error in a returned form, the clerk or the jury commissioner shall again send the form with instructions to the prospective juror to make the necessary addition, clarification, or correction and to return the form to the jury commission within ten (10) days after its second mailing.

(4) Any prospective juror who fails to return a completed qualification questionnaire form as instructed shall be directed by the jury commission to appear forthwith before the clerk or the jury commissioner to complete the qualification questionnaire form. At the time of his appearance for jury service, or at the time of interview before the court, clerk, or the jury commissioner, any prospective juror may be required to complete another qualification questionnaire form in the presence of the court, clerk, or the jury commissioner, at which time the prospective juror may be questioned, but only with regard to his responses to questions contained on the form and grounds for his excuse or disqualification. Any information thus acquired by the court, clerk, or the jury commissioner shall be noted on the qualification questionnaire form.

(5) A prospective juror who fails to appear as directed by the commission, pursuant to subsection (34) of this section shall be ordered by the court to appear and show cause for his failure to appear as directed. ~~If the A prospective juror who fails to appear pursuant to the court's order or fails to show good cause for his failure to appear as directed by the jury commission, he is guilty of contempt and upon conviction may be fined not more than three hundred dollars (\$300) or imprisoned not more than three (3) days, or both may be subject to contempt proceedings under chapter 6, title 7, Idaho Code, and applicable rules of the supreme court, and the prospective juror's service may be postponed to a new prospective jury panel as set by the presiding judge.~~

(6) Any person who willfully misrepresents a material fact on a qualification questionnaire form for the purpose of avoiding or securing service as a juror is guilty of a misdemeanor.

(7) The contents of the juror qualification questionnaire form shall be confidential to the extent provided by rules of the Idaho supreme court.

(8) The clerk or the jury commissioner may provide an opportunity to a prospective juror to complete and return the qualification questionnaire form through electronic mail, facsimile transmission, or other reliable means of communication prior to mailing the qualification questionnaire form to the prospective juror. If the prospective juror completes and returns the qualification questionnaire form in such manner, the qualification questionnaire form need not be mailed to the prospective juror.

SECTION 2. That Section 7-610, Idaho Code, be, and the same is hereby amended to read as follows:

7-610. JUDGMENT -- PENALTY. Upon the answer and evidence taken, the court or judge must determine whether the person proceeded against is guilty of the contempt charged, and if it be adjudged that he is guilty of the contempt, a fine may be imposed on him not exceeding five thousand dollars (\$5,000), or he may be imprisoned not exceeding five (5) days, or both; provided that a person who is guilty of contempt for neglecting to attend or serve as a juror when summoned to do so, or for failing to appear as a prospective juror when summoned by the jury commission under section 2-208(4), Idaho Code, shall be fined in an amount not exceeding five hundred dollars (\$500), or may be imprisoned not exceeding five (5) days, or both; and except that if the contempt of which the defendant be adjudged guilty be a disobedience of a judgment or order for the support of minor children, he may be imprisoned not exceeding thirty (30) days in addition to such fine, under this section, as the court may impose. Additionally, the court in its discretion, may award attorney's fees and costs to the prevailing party.

Approved April 1, 2013.

CHAPTER 208  
(S.B. No. 1021)

AN ACT

RELATING TO NURSES; AMENDING SECTION 54-1413, IDAHO CODE, TO GRANT THE EXECUTIVE DIRECTOR OF THE BOARD OF NURSING CERTAIN AUTHORITY AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 54-1413, Idaho Code, be, and the same is hereby amended to read as follows:

54-1413. DISCIPLINARY ACTION. (1) Grounds for discipline. The board shall have the power to refuse to issue, renew or reinstate a license issued pursuant to this chapter, and may revoke, suspend, place on probation, reprimand, limit, restrict, condition or take other disciplinary action against the licensee as it deems proper, including assessment of the costs of investigation and discipline against the licensee, upon a determination by the board that the licensee engaged in conduct constituting any one (1) of the following grounds:

- (a) Made, or caused to be made, a false, fraudulent or forged statement or representation in procuring or attempting to procure a license to practice nursing;
- (b) Practiced nursing under a false or assumed name;
- (c) Is convicted of a felony or of any offense involving moral turpitude;
- (d) Is or has been grossly negligent or reckless in performing nursing functions;
- (e) Habitually uses alcoholic beverages or drugs as defined by rule;
- (f) Is physically or mentally unfit to practice nursing;
- (g) Violates the provisions of this chapter or rules and standards of conduct and practice as may be adopted by the board;
- (h) Otherwise engages in conduct of a character likely to deceive, defraud or endanger patients or the public, which includes, but is not limited to, failing or refusing to report criminal conduct or other conduct by a licensee that endangers patients;

- (i) Has had a license to practice nursing suspended or revoked in any jurisdiction. A certified copy of the order of suspension or revocation shall be prima facie evidence of such suspension or revocation; or
- (j) Failure to comply with the terms of any board order, negotiated settlement or probationary agreement of the board, or to pay fines or costs assessed in a prior disciplinary proceeding.

(2) Separate offense. Each day an individual violates any of the provisions of this chapter or rules and standards of conduct and practice as may be adopted by the board shall constitute a separate offense.

(3) Proceedings.

(a) The executive director shall conduct such investigations and initiate such proceedings as necessary to ensure compliance with this section. The board may accept the voluntary surrender of a license from any nurse under investigation and accordingly enter an order revoking or suspending such license and/or imposing such conditions, limitations, or restrictions on the practice of any such nurse as may be appropriate in the discretion of the board. Otherwise, every person subject to disciplinary proceedings shall be afforded an opportunity for hearing after reasonable notice. All proceedings hereunder shall be in accordance with chapter 52, title 67, Idaho Code.

(b) Hearings shall be conducted by the board or by persons appointed by the board to conduct hearings and receive evidence. The board and any person duly appointed by the board to conduct hearings shall have all powers as are necessary and incident to orderly and effective receipt of evidence including, but not limited to, the power to administer oaths, and to compel by subpoena attendance of witnesses and production of books, records and things at the hearing or at a deposition taken by a party in accordance with the Idaho rules of civil procedure. Any party shall be entitled to the use of subpoena upon application therefor.

(c) In the event any person fails to comply with a subpoena personally served upon him or refuses to testify to any matter regarding which he may be lawfully interrogated, the board shall petition the district court in the county where such failure or refusal occurred or where such person resides, to enforce such subpoena or compel such testimony. Proceedings before the district court shall be for contempt in the same nature as contempt of court for failure or refusal to comply with an order of the court and the court shall have the same powers to secure compliance with subpoena and testimony or to impose penalties as in contempt of court proceedings.

(4) Probation/Subsequent review. Any order of the board entered under this section may be withheld or suspended for a probationary period to be fixed by the board upon such terms and conditions as may be appropriate in order to regulate, monitor and/or supervise the practice of nursing by the licensee subject to such order for the prescribed probationary period. Any order of the board entered under this section may be withdrawn, reversed, modified or amended upon a showing by the person subject to the order that the grounds for discipline no longer exist or that he is rehabilitated, qualified and competent to practice nursing and that he is not likely to violate this chapter or rules adopted hereunder in the future. The board may, as a condition to withdrawal, reversal, modification or amendment of the order, require the person to pay all or part of the costs incurred by the board in proceedings upon which the order was entered.

(5) Reporting investigative information.

(a) Nothing in section 9-340C(8) and (9), Idaho Code, shall be construed as limiting the authority of the board to report current significant investigative information to the coordinated licensure information system for transmission to states that are parties to any multistate agreements or compacts regarding nurse licensure.

(b) The executive director of the board may, in the administration of this chapter, share information and otherwise cooperate with government regulatory and law enforcement agencies.

Approved April 1, 2013.

CHAPTER 209  
(S.B. No. 1059, As Amended)

AN ACT

RELATING TO THE CONTROL OF VENEREAL DISEASES; AMENDING SECTION 39-604, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE EXAMINATION FOR AND TREATMENT OF CERTAIN DISEASES OF PERSONS CONFINED OR IMPRISONED IN ANY STATE PRISON FACILITY IN IDAHO.

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

SECTION 1. That Section 39-604, Idaho Code, be, and the same is hereby amended to read as follows:

39-604. CONFINED AND IMPRISONED PERSONS -- EXAMINATION, TREATMENT, AND QUARANTINE -- VICTIMS OF SEXUAL OFFENSES -- ACCESS TO OFFENDERS' TEST RESULTS, TESTING FOR HIV, COUNSELING AND REFERRAL SERVICES. (1) All persons who shall be confined or imprisoned in any state prison facility in this state shall be examined for on admission, and again upon the offender's request before release, and, if infected, treated for the diseases enumerated in section 39-601, Idaho Code, and this examination shall include a test for HIV antibodies or antigens. This examination is not intended to limit any usual or customary medical examinations that might be indicated during a person's imprisonment. Nothing herein contained shall be construed to interfere with the service of any sentence imposed by a court as a punishment for the commission of crime. Nothing contained in this section shall be construed to impose upon any state prison facility an obligation to continue to treat a person who tested positive for any disease enumerated in section 39-601, Idaho Code, or be financially responsible for such treatment after the person is released from the state prison facility.

(2) All persons who shall be confined in any county or city jail may be examined for and, if infected, treated for the venereal diseases enumerated in section 39-601, Idaho Code, if such persons have, in the judgment of public health authorities or the jailer, been exposed to a disease enumerated in section 39-601, Idaho Code.

(3) All persons who are charged with any sex offense in which body fluid, as defined in this chapter, has likely been transmitted to another shall be tested for the human immunodeficiency virus (HIV). At the request of the victim or parent, guardian or legal custodian of a minor victim, such test shall be administered not later than forty-eight (48) hours after the date on which the information or indictment is presented.

(4) All persons, including juveniles, who are charged with sex offenses, prostitution, any crime in which body fluid has likely been transmitted to another, or other charges as recommended by public health authorities shall be tested for the venereal diseases enumerated in section 39-601, Idaho Code, and for hepatitis C virus.

(5) All persons who are charged with any crime involving the use of injectable drugs shall be tested for the presence of HIV antibodies or antigens, for hepatitis C virus and for hepatitis B virus.

(6) If a person is tested as required in subsection (3), (4) or (5) of this section, the results of the test shall be revealed to the court. The court shall release the results of the test to the victim(s), or if the vic-

tim(s) is a minor, to the minor's parent, guardian or legal custodian. Whenever a prisoner tests positive for HIV antibodies or antigens, the victim(s) of said prisoner shall be entitled to counseling regarding HIV, HIV testing in accordance with applicable law, and referral for appropriate health care and support services. Said counseling, HIV testing and referral services shall be provided to the victim(s) by the district health departments at no charge to the victim(s). Provided however, the requirement to provide referral services does not, in and of itself, obligate the district health departments to provide or otherwise pay for a victim's health care or support services. Any court, when releasing test results to a victim(s), or if the victim(s) is a minor, to the minor's parent, guardian, or legal custodian, shall explain or otherwise make the victim(s) or the victim's parent, guardian, or legal custodian, aware of the services to which the victim(s) is entitled as described herein.

(7) Responsibility for the examination, testing and treatment of persons confined in county or city jails shall be vested in the county or city that operates the jail. The county or city may contract with the district health departments or make other arrangements for the examination, testing and treatment services. The district health department or other provider may charge and collect for the costs of such examination and treatment, as follows:

(a) When the prisoner is a convicted felon awaiting transfer to the board of correction, or when the prisoner is a convicted felon being confined in jail pursuant to a contract with the board of correction, the board of correction shall reimburse such costs;

(b) When the prisoner is awaiting trial after an arrest by any state officer, the state agency employing such arresting officer shall reimburse such costs;

(c) When the prisoner is being held for any other authority or jurisdiction, including another state, the authority or jurisdiction responsible shall reimburse such costs unless otherwise provided for by contract.

Approved April 1, 2013.

CHAPTER 210  
(S.B. No. 1065)

AN ACT

RELATING TO AMATEUR RADIO TOWERS; AMENDING SECTION 21-515A, IDAHO CODE, TO INCLUDE CITIZENS BAND (CB) RADIO AND AMATEUR RADIO TOWERS IN STRUCTURES EXEMPT FROM STANDARDS FOR GUYED TOWERS.

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

SECTION 1. That Section 21-515A, Idaho Code, be, and the same is hereby amended to read as follows:

21-515A. HAZARDS TO AIR FLIGHT -- STANDARDS FOR GUYED TOWERS. (1) Any temporary or permanent guyed tower fifty (50) feet or more in height that is located outside the boundaries of an incorporated city or town on land that is primarily rural or undeveloped or used for agricultural purposes, or that is primarily desert, and where such guyed tower's appearance is not otherwise governed by state or federal law, rule or regulation, shall be lighted, marked and painted or otherwise constructed to be visible in clear air during daylight hours from a distance of not less than two thousand (2,000) feet. Guyed towers shall be required to be in accordance with the following:

(a) Guyed towers shall be painted in seven equal alternating bands of aviation orange and white. Such alternating bands shall begin with orange at the top of the tower and end with orange at the base.

(b) Guyed towers shall have a flashing light at the top of the tower. Such light shall be visible in clear air, with the naked eye, from a distance of two thousand (2,000) feet when flashing. Such light shall also be visible with night vision goggles.

(c) The surface area under the footprint of the tower and six (6) feet beyond the outer tower anchors shall have a contrasting appearance with any surrounding vegetation.

(d) Two (2) marker balls shall be attached to and evenly spaced on each of the outside guy wires.

(e) Guyed towers shall have a seven (7) foot long safety sleeve at each anchor point and shall extend from the anchor point along each guy wire attached to the anchor point.

(2) Any guyed tower that was erected prior to the effective date of this act shall be marked as required by the provisions of this section within one (1) year of the effective date of this act. Any guyed tower that is erected on or after the effective date of this act shall be marked as required by the provisions of this section at the time it is erected.

(3) For the purposes of this section, the following terms shall have the following meanings:

(a) "Guyed tower" means a tower that is supported in whole or in part by guy wires and ground anchors or other means of support besides the superstructure of the tower itself, towers used for military purposes excepted.

(b) "Height" means the distance measured from the original grade at the base of the tower to the highest point of the tower.

(c) "Temporary or permanent guyed tower" means a guyed tower erected and standing for any period of time whatsoever.

(4) This section shall not apply to power poles or structures owned and operated by an electric supplier as defined in section 61-332A(4), Idaho Code, or any structure the primary purpose of which is to support telecommunications equipment, including citizens band (CB) radio towers and all other amateur radio towers.

(5) Any person who violates a provision of this section shall be guilty of a misdemeanor.

Approved April 1, 2013.

#### CHAPTER 211

(S.B. No. 1068, As Amended)

#### AN ACT

RELATING TO MEMBERS OF THE ARMED SERVICES AND THEIR SPOUSES; AMENDING SECTION 67-2620, IDAHO CODE, TO ALLOW FOR LICENSURE, CERTIFICATION OR REGISTRATION FOR SERVICE MEMBERS AND SPOUSES.

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

SECTION 1. That Section 67-2620, Idaho Code, be, and the same is hereby amended to read as follows:

67-2620. MILITARY EDUCATION TRAINING AND SERVICE -- QUALIFICATIONS FOR LICENSURE, CERTIFICATION OR REGISTRATION. (1) Each of the professional and occupational licensing boards within the department of self-governing agencies may accept military education, training or service by an individual as a member of the armed forces or reserves of the United States, the national

guard of any state, the military reserves of any state or the naval militia of any state toward the qualifications to receive licensure, certification or registration. Each professional and occupational licensing board is authorized to promulgate rules to implement the provisions of this subsection.

(2) Each of the professional and occupational licensing boards within the department of self-governing agencies may expedite the application of a member of the armed forces or reserves of the United States, the national guard of any state, the military reserves of any state or the naval militia of any state or a spouse of such person to receive licensure, certification or registration if such member or spouse of such member possesses necessary education, qualifications or licensure or certification from another state, possession, commonwealth or territory. Each professional and occupational licensing board is authorized to promulgate rules to implement the provisions of this subsection.

Approved April 1, 2013.

CHAPTER 212  
(S.B. No. 1105)

AN ACT

RELATING TO THE LEGISLATIVE DEPARTMENT; REPEALING SECTION 67-2027, IDAHO CODE, RELATING TO THE STATE BOARD OF EXAMINERS PROVIDING FOR AN AUDIT; AND AMENDING CHAPTER 4, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-429D, IDAHO CODE, TO PROVIDE THAT THE LEGISLATIVE COUNCIL SHALL ENGAGE THE SERVICES OF A CERTIFIED PUBLIC ACCOUNTANT TO AUDIT THE FISCAL AFFAIRS OF THE LEGISLATIVE DEPARTMENT.

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

SECTION 1. That Section 67-2027, Idaho Code, be, and the same is hereby repealed.

SECTION 2. 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 67-429D, Idaho Code, and to read as follows:

67-429D. AUDIT OF LEGISLATIVE DEPARTMENT. Beginning with the two (2) year period of fiscal years 2013 and 2014 and for each succeeding biennium, the council shall engage the services of a certified public accountant to audit the fiscal affairs of the legislative department. Expenditures for such audit shall be paid out of the legislative account.

Approved April 1, 2013.

CHAPTER 213  
(S.B. No. 1106, As Amended)

AN ACT

RELATING TO HEALTH SAVINGS ACCOUNTS; PROVIDING LEGISLATIVE INTENT; AMENDING CHAPTER 57, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5761B, IDAHO CODE, TO PROVIDE FOR HEALTH SAVINGS ACCOUNTS FOR STATE EMPLOYEES WHO CHOOSE A HIGH DEDUCTIBLE HEALTH PLAN, TO DEFINE TERMS, TO PROVIDE FOR DEPOSITS INTO HEALTH SAVINGS ACCOUNTS BY EMPLOYERS, TO PROVIDE FOR CONTRIBUTION OF FUNDS TO A HEALTH SAVINGS ACCOUNT BY STATE EMPLOYEES AND TO AUTHORIZE THE DEPARTMENT OF ADMINISTRATION TO PROMULGATE RULES.

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

SECTION 1. LEGISLATIVE INTENT. It is the intent of the Legislature to encourage, facilitate and fund health savings accounts for employees of the State of Idaho who are enrolled in a high deductible health plan. By encouraging state employees to create a health savings account, they will be empowered to make sound, responsible decisions and better manage their own medical care.

SECTION 2. That Chapter 57, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-5761B, Idaho Code, and to read as follows:

67-5761B. STATE CONTRIBUTION TO STATE EMPLOYEE HEALTH SAVINGS ACCOUNTS. (1) All state officers or employees may, for themselves and their eligible dependents, create and maintain a health savings account and choose a high deductible health plan in accordance with the provisions of this section.

(2) As used in this section:

(a) "Employer premium" means the costs to the state of Idaho for a policy of group insurance procured by the department of administration.

(b) "Health savings account" means an account at a financial institution that is designed to help individuals save for future health care expenses pursuant to 26 U.S.C. section 223.

(c) "High deductible health plan" means a health plan qualifying for use with a health savings account pursuant to 26 U.S.C. section 223, and offered by the department of administration to eligible state officers and employees.

(3) State officers or employees who choose a high deductible health plan for themselves and their eligible dependents shall qualify for the deposits provided for in subsection (4) of this section. Such officers or employees shall establish and create a health savings account and provide information concerning such account to their employer.

(4) For each pay period, the employer shall deposit the difference between the employer premium for a state of Idaho high deductible health plan and the employer premium of the lowest deductible group health plan offered by the department of administration in the health savings account established and created by an officer or employee enrolled in a state of Idaho high deductible health plan. Deposits made pursuant to this subsection shall not exceed the United States internal revenue service's maximum allowable contribution to a health savings account.

(5) Nothing in this section shall prohibit state officers or employees with a health savings account from contributing to such account of their own accord.

(6) The department of administration may promulgate rules to implement the provisions of this section.

Approved April 1, 2013.

CHAPTER 214  
(S.B. No. 1108)

AN ACT

RELATING TO INITIATIVE AND REFERENDUM ELECTIONS; AMENDING SECTION 34-1801A, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE FORM OF CERTAIN PETITIONS; AMENDING SECTION 34-1804, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTAIN SIGNATURE SHEETS; AMENDING SECTION 34-1805, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE NUMBER OF SIGNATURES REQUIRED ON CERTAIN PETITIONS; AND AMENDING SECTION 34-1807, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTAIN PETITIONS AND SIGNATURE SHEETS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 34-1801A, Idaho Code, be, and the same is hereby amended to read as follows:

34-1801A. PETITION. The following shall be substantially the form of petition for any law proposed by the initiative:

WARNING

It is a felony for anyone to sign any initiative or referendum petition with any name other than his own, or to knowingly sign his name more than once for the measure, or to sign such petition when he is not a qualified elector.

INITIATIVE PETITION

To the Honorable . . . , Secretary of State of the State of Idaho:

"We, the undersigned citizens and qualified electors of the State of Idaho, respectfully demand that the following proposed law, to-wit: (setting out full text of measure proposed) shall be submitted to the qualified electors of the State of Idaho, for their approval or rejection at the regular general election, to be held on the . . . day of . . . , A.D., . . . , and each for himself says: I have personally signed this petition; I am a qualified elector of the State of Idaho; my residence and ~~post-office~~ legislative district are correctly written after my name.

Signature	Printed	Residence	City	<u>Legislative</u>	<u>Date</u>
	Name	Street	or	<u>District</u>	
		and	Post		
		Number	Office		

(Here follow twenty numbered lines for signatures.)

The petition for referendum on any act passed by the state legislature of the state of Idaho shall be in substantially the same form with appropriate title and changes, setting out in full the text of the act of the legislature to be referred to the people for their approval or rejection.

SECTION 2. That Section 34-1804, Idaho Code, be, and the same is hereby amended to read as follows:

34-1804. PRINTING OF PETITION AND SIGNATURE SHEETS. Before or at the time of beginning to circulate any petition for the referendum to the people on any act passed by the state legislature of the state of Idaho, or for any law proposed by the initiative, the person or persons or organization or organizations under whose authority the measure is to be referred or initiated shall send or deliver to the secretary of state a copy of such petition duly signed by at least twenty (20) qualified electors of the state which shall be filed by said officer in his office, and who shall immediately transmit a copy of the petition to the attorney general for the issuance of the certificate of review as provided in section 34-1809, Idaho Code. All petitions for the initiative and for the referendum and sheets for signatures shall be printed on a good quality of bond or ledger paper in the form and manner as approved by the secretary of state. To every sheet of petitioners' signatures shall be attached a full and correct copy of the measure so proposed by initiative petition; but such petition may be filed by the secretary of state in numbered sections for convenience in handling. Every sheet of petitioners' signatures upon referendum petitions shall be attached to a full and correct copy of the measure on which the referendum is demanded, and may be filed in numbered sections in like manner as initiative petitions. Not more than twenty (20) signatures on one (1) sheet shall be counted. Each signature sheet shall contain signatures of qualified electors from only one (1) county and legislative district.

SECTION 3. That Section 34-1805, Idaho Code, be, and the same is hereby amended to read as follows:

34-1805. SPONSORS TO PRINT PETITION -- NUMBER OF SIGNERS REQUIRED. After the form of the initiative or referendum petition has been approved by the secretary of state as in sections 34-1801A through 34-1822, Idaho Code, provided, the same shall be printed by the person or persons or organization or organizations under whose authority the measure is to be referred or initiated and circulated in the several counties of the state for the signatures of legal voters. Before such petitions shall be entitled to final filing and consideration by the secretary of state there shall be affixed thereto the signatures of legal voters equal in number to not less than six percent (6%) of the qualified electors at the time of the last general election in each of at least eighteen (18) legislative districts; provided however, the total number of signatures shall be equal to or greater than six percent (6%) of the qualified electors of the state at the time of the last general election.

SECTION 4. That Section 34-1807, Idaho Code, be, and the same is hereby amended to read as follows:

34-1807. CIRCULATION OF PETITIONS -- VERIFICATION OF PETITION AND SIGNATURE SHEETS -- COMPARISON OF SIGNATURES WITH REGISTRATION OATHS AND RECORDS -- CERTAIN PETITIONS AND SIGNATURES VOID. Any person who circulates any petition for an initiative or referendum shall be a resident of the state of Idaho and at least eighteen (18) years of age. Each and every sheet of every such petition containing signatures shall be verified on the face thereof in substantially the following form, by the person who circulated said sheet of said petition, by his or her affidavit thereon, and as a part thereof:

State of Idaho )  
 )ss.  
County of .... )

I, . . . . , being first duly sworn, say: That I am a resident of the State of Idaho and at least eighteen (18) years of age: that every person who signed this sheet of the foregoing petition signed his or her name thereto in my presence: I believe that each has stated his or her name, ~~post-office address~~ legislative district and residence correctly, that each signer is a qualified elector of the State of Idaho, and a resident of legislative district number . . . . in the county of . . . .

Signed.....  
Post-office address .....

Subscribed and sworn to before me this .... day of .....

(Notary Seal) Notary Public .....  
Residing at .....

In addition to said affidavit the county clerk shall carefully examine said petitions and shall attach to the signature sheets a certificate to the secretary of state substantially as follows:

State of Idaho )  
 )ss.  
County of .... )

To the honorable . . . . , Secretary of State for the State of Idaho: I, . . . . , County Clerk of . . . . County, hereby certify that . . . . signatures on this petition are those of qualified electors in legislative district number . . . .

Signed.....  
County Clerk or Deputy.

(Seal of office)

The county clerk shall deliver the petition or any part thereof to the person from whom he received it with his certificate attached thereto as above provided. The forms herein given are not mandatory and if substantially followed in any petition, it shall be sufficient, disregarding clerical and merely technical error.

Any petition upon which signatures are obtained by a person not a resident of the state of Idaho and at least eighteen (18) years of age, shall be void. The definition of resident in section 34-107, Idaho Code, shall apply to the circulators of initiative and referendum petitions. In addition to ~~be~~ being a resident, a petition circulator shall be at least eighteen (18) years of age.

Approved April 1, 2013.

CHAPTER 215  
(S.B. No. 1122)

AN ACT

RELATING TO CHILD CUSTODY; AMENDING CHAPTER 7, TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 32-720, IDAHO CODE, TO PROVIDE A PROCEDURE FOR THE COURT IN THE EVENT A PETITION FOR MODIFICATION OF A CHILD CUSTODY ORDER IS FILED WHERE THE ACTION MAY BE SUBJECT TO THE SERVICEMEMBERS CIVIL RELIEF ACT, TO PROVIDE THAT UNDER CERTAIN CIRCUMSTANCES THE COURT MAY ONLY ENTER AN ORDER OR DECREE TEMPORARILY MODIFYING THE EXISTING CHILD CUSTODY ORDER DURING A PERIOD OF DEPLOYMENT, TO PROVIDE FOR EXPIRATION OF THE ORDER OR DECREE, TO PROVIDE FOR EXPEDITED OR EMERGENCY HEARINGS RELATING TO THE EXPIRATION OF ORDERS OR DECREES, TO PROVIDE FOR THE EXTENSION OF TEMPORARY ORDERS, TO PROVIDE FOR TEMPORARY ORDERS

GRANTING DEPLOYED PARENTS REASONABLE CONTACT WITH THE CHILD, TO PROVIDE FOR EXPEDITED HEARINGS RELATING TO PETITIONS TO MODIFY, TO PROVIDE FOR THE PRESENTATION OF TESTIMONY AND EVIDENCE BY ELECTRONIC MEANS UNDER CERTAIN CONDITIONS AND TO DEFINE TERMS.

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

SECTION 1. That Chapter 7, Title 32, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 32-720, Idaho Code, and to read as follows:

32-720. PETITIONS FOR MODIFICATION -- CHILD CUSTODY ORDERS -- SERVICEMEMBERS. (1) In the event a petition for modification of a child custody order is filed during the time that the court action may be subject to the servicemembers civil relief act, 50 U.S.C. App. section 501 et seq., because one (1) of the parties is a servicemember as defined in said act, the court shall determine if said act applies to the action pursuant to the jurisdiction provisions of the act. If the court determines that the act does apply, the court shall thereafter act in compliance with the terms of said act and, in addition, the following shall apply to the extent not in violation of said act:

(a) If the court determines that modification is in the best interest of the child pursuant to the provisions of section 32-717, Idaho Code, and the party who is a servicemember is deployed, the court may only enter an order or decree temporarily modifying the existing child custody order during the period of deployment, and upon completion by the servicemember of the period of deployment, the order or decree shall expire sixty (60) days after notification to the court, and to all persons entitled to notice in the action, of the deployed servicemember's completion of deployment. Provided however, that:

(i) The court may thereafter conduct an expedited or emergency hearing for resolution of the child's custody on the filing of a motion, filed prior to the expiration of the order, alleging that it would not be in the best interests of the child pursuant to the provisions of section 32-717, Idaho Code, if the order expires;

(ii) If a motion is so filed, the temporary order shall be extended until the court rules on the motion; and

(iii) Following the return from deployment of a deploying parent and until the temporary order for child custody is terminated, the court shall enter a temporary order granting the deploying parent reasonable contact with the child unless it is contrary to the best interests of the child pursuant to the provisions of section 32-717, Idaho Code.

(b) If the deployment of a party who is a servicemember affects the party's ability or anticipated ability to appear at a regularly scheduled hearing related to a petition for modification of child custody, the court may provide for an expedited hearing to allow the servicemember to appear.

(c) If the deployment of a party who is a servicemember prevents the servicemember from appearing in person at a hearing related to a petition for the modification of child custody, the court may provide, upon reasonable advance notice to the parties, for the servicemember to present testimony and evidence by electronic means, if such can be done without prejudice to the ability of the servicemember to adequately and reasonably present such testimony and evidence.

(2) For purposes of this section:

(a) "Deployed" or "deployment" means military service performed in compliance with a valid order received by an active duty or reserve member of the armed services of the United States, national guard or

United States coast guard to report for combat operations, contingency operations, peacekeeping operations, temporary duty, a remote tour of duty or other active service for which the deploying party reports. The term shall include those members who are actually deployed as well as those members with valid orders preparing to be deployed;

(b) "Electronic means" includes communication by telephone, video teleconference or the internet.

Approved April 1, 2013.

CHAPTER 216  
(S.B. No. 1138, As Amended)

AN ACT

RELATING TO THE LOCAL PLANNING ACT; AMENDING SECTION 67-6511, IDAHO CODE, TO PROVIDE THAT OVERLAY ZONING DISTRICTS HAVE SPECIFIC STANDARDS, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-6522, IDAHO CODE, TO PROVIDE THAT IN NO EVENT SHALL THE GOVERNING BOARD BY LOCAL ORDINANCE ENACT PROVISIONS THAT ABROGATE THE STATUTORY AUTHORITY OF A PUBLIC HEALTH DISTRICT, STATE AND/OR FEDERAL AGENCY; AMENDING SECTION 67-6535, IDAHO CODE, TO ENUMERATE EXPRESS STANDARDS REGARDING THE LOCAL PLANNING ACT, TO PROVIDE PROCEDURES FOR RECONSIDERATION, TO PROVIDE STANDARDS FOR APPEAL AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTIONS 31-1425 AND 31-3908A, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES.

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

SECTION 1. That Section 67-6511, Idaho Code, be, and the same is hereby amended to read as follows:

67-6511. ZONING ORDINANCE. (1) Each governing board shall, by ordinance adopted, amended, or repealed in accordance with the notice and hearing procedures provided under section 67-6509, Idaho Code, establish within its jurisdiction one (1) or more zones or zoning districts where appropriate. The zoning districts shall be in accordance with the policies set forth in the adopted comprehensive plan.

(a) Within a zoning district, the governing board shall where appropriate, establish standards to regulate and restrict the height, number of stories, size, construction, reconstruction, alteration, repair or use of buildings and structures; percentage of lot occupancy, size of courts, yards, and open spaces; density of population; and the location and use of buildings and structures. All standards shall be uniform for each class or kind of buildings throughout each district, but the standards in one (1) district may differ from those in another district.

(b) Within an overlay zoning district, the governing board shall establish clear and objective standards for the overlay zoning district while ensuring that application of such standards does not constitute a regulatory taking pursuant to Idaho or federal law.

(2) Ordinances establishing zoning districts shall be amended as follows:

(a) Requests for an amendment to the zoning ordinance shall be submitted to the zoning or planning and zoning commission which shall evaluate the request to determine the extent and nature of the amendment requested. Particular consideration shall be given to the effects of any proposed zone change upon the delivery of services by any political subdivision providing public services, including school districts, within the planning jurisdiction. An amendment of a zoning ordinance appli-

cable to an owner's lands or approval of conditional rezoning or denial of a request for rezoning may be subject to the regulatory taking analysis provided for by section 67-8003, Idaho Code, consistent with the requirements established thereby.

(b) After considering the comprehensive plan and other evidence gathered through the public hearing process, the zoning or planning and zoning commission may recommend and the governing board may adopt or reject an ordinance amendment pursuant to the notice and hearing procedures provided in section 67-6509, Idaho Code, provided that in the case of a zoning district boundary change, and notwithstanding jurisdictional boundaries, additional notice shall be provided by mail to property owners or purchasers of record within the land being considered, and within three hundred (300) feet of the external boundaries of the land being considered, and any additional area that may be impacted by the proposed change as determined by the commission. Notice shall also be posted on the premises not less than one (1) week prior to the hearing. When notice is required to two hundred (200) or more property owners or purchasers of record, alternate forms of procedures which would provide adequate notice may be provided by local ordinance in lieu of posted or mailed notice. In the absence of a locally adopted alternative notice procedure, sufficient notice shall be deemed to have been provided if the city or county provides notice through a display advertisement at least four (4) inches by two (2) columns in size in the official newspaper of the city or county at least fifteen (15) days prior to the hearing date, in addition to site posting on all external boundaries of the site. Any property owner entitled to specific notice pursuant to the provisions of this subsection shall have a right to participate in public hearings before a planning commission, planning and zoning commission or governing board subject to applicable procedures.

(c) The governing board shall analyze proposed changes to zoning ordinances to ensure that they are not in conflict with the policies of the adopted comprehensive plan. If the request is found by the governing board to be in conflict with the adopted plan, or would result in demonstrable adverse impacts upon the delivery of services by any political subdivision providing public services, including school districts, within the planning jurisdiction, the governing board may require the request to be submitted to the planning or planning and zoning commission or, in absence of a commission, the governing board may consider an amendment to the comprehensive plan pursuant to the notice and hearing procedures provided in section 67-6509, Idaho Code. After the plan has been amended, the zoning ordinance may then be considered for amendment pursuant to ~~section 67-6511~~ paragraph (b), Idaho Code of this subsection.

(d) If a governing board adopts a zoning classification pursuant to a request by a property owner based upon a valid, existing comprehensive plan and zoning ordinance, the governing board shall not subsequently reverse its action or otherwise change the zoning classification of said property without the consent in writing of the current property owner for a period of four (4) years from the date the governing board adopted said individual property owner's request for a zoning classification change. If the governing body does reverse its action or otherwise change the zoning classification of said property during the above four (4) year period without the current property owner's consent in writing, the current property owner shall have standing in a court of competent jurisdiction to enforce the provisions of this section.

SECTION 2. That Section 67-6522, Idaho Code, be, and the same is hereby amended to read as follows:

67-6522. COMBINING OF PERMITS -- PERMITS TO ASSESSOR. Where practical, the governing board or zoning or planning and zoning commission may combine related permits for the convenience of applicants. State and federal agencies should make every effort to combine or coordinate related permits with the local governing board or commission. In no event shall the governing board by local ordinance enact provisions that abrogate the statutory authority of a public health district, state and/or federal agency. Appropriate permits as defined by local ordinance shall be forwarded to the county assessor.

SECTION 3. 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 EXPRESS STANDARDS AND TO BE IN WRITING. (1) The approval or denial of any application 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. Such approval standards and criteria shall be set forth in express terms in land use ordinances in order that permit applicants, interested residents and decision makers alike may know the express standards that must be met in order to obtain a requested permit or approval. Whenever the nature of any decision standard or criterion allows, the decision shall identify aspects of compliance or noncompliance with relevant approval standards and criteria in the written decision.

(2) The approval or denial of any application 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.

(a) Failure to identify the nature of compliance or noncompliance with express approval standards or failure to explain compliance or noncompliance with relevant decision criteria shall be grounds for invalidation of an approved permit or site-specific authorization, or denial of same, on appeal.

(b) Any applicant or affected person seeking judicial review of compliance with the provisions of this section must first seek reconsideration of the final decision within fourteen (14) days. Such written request must identify specific deficiencies in the decision for which reconsideration is sought. Upon reconsideration, the decision may be affirmed, reversed or modified after compliance with applicable procedural standards. A written decision shall be provided to the applicant or affected person within sixty (60) days of receipt of the request for reconsideration or the request is deemed denied. A decision shall not be deemed final for purposes of judicial review unless the process required in this subsection has been followed. The twenty-eight (28) day time frame for seeking judicial review is tolled until the date of the written decision regarding reconsideration or the expiration of the sixty (60) day reconsideration period, whichever occurs first.

(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 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. An appeal shall be from the final decision and not limited to issues raised in the request for reconsideration.

SECTION 4. That Section 31-1425, Idaho Code, be, and the same is hereby amended to read as follows:

31-1425. EXEMPTIONS. (1) All public utilities, as defined in section 61-129, Idaho Code, shall be exempt from taxation under the provisions of this chapter and shall not be entitled to the privileges or protection hereby provided without their consent in writing filed with the clerk of the board of county commissioners. Provided however, the board of fire protection commissioners, may enter into an agreement with a public utility for the purpose of affording the privileges or protection provided by the fire protection district to all, or such portion, of the property of the public utility as may be agreed upon between the parties and upon such terms and conditions as may be mutually agreed upon between the parties to the agreement.

(2) The board of county commissioners, upon application and recommendation of the board of fire protection commissioners, may, by an ordinance enacted by not later than the second Monday of July, exempt all or a portion of the unimproved real property within the district from taxation, and may exempt all or a portion of the taxable personal property within the district from taxation. Any ordinance of the board of county commissioners granting an exemption from taxation under the provisions of this section must provide that each category of property is treated uniformly. Notice of intent to adopt an ordinance which exempts unimproved real property shall be provided to property owners of record in substantially the same manner as required in section 67-6511(2)(b), Idaho Code, as if the ordinance were making a zoning district boundary change.

SECTION 5. That Section 31-3908A, Idaho Code, be, and the same is hereby amended to read as follows:

31-3908A. EXEMPTIONS FROM TAXATION. The board of county commissioners, upon application, may, by an ordinance enacted by not later than the second Monday of July, exempt all or a portion of the unimproved real property within the district from taxation, and may exempt all or a portion of the taxable personal property within the district from taxation. Any ordinance of the board of county commissioners granting an exemption from taxation under the provisions of this section must provide that each category of property is treated uniformly. Notice of intent to adopt an ordinance which exempts unimproved real property shall be provided to property owners of record in substantially the same manner as required in section 67-6511(2)(b), Idaho Code, as if the ordinance were making a zoning district boundary change.

Approved April 1, 2013.

## CHAPTER 217

(H.B. No. 217, As Amended in the Senate)

## AN ACT

RELATING TO MOTOR VEHICLES; AMENDING SECTION 49-1212, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE NEGLIGENT OPERATION OF A LOANED VEHICLE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 49-1212, Idaho Code, be, and the same is hereby amended to read as follows:

49-1212. EXPRESSED, PERMITTED AND IMPLIED PROVISIONS OF MOTOR VEHICLE LIABILITY POLICY. (1) An owner's policy of liability insurance shall:

(a) Designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is to be granted; and

(b) Insure the person named therein and any other person, as insured, using any such described motor vehicles with the express or implied permission of the named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance or use of the motor vehicles within the United States of America or the Dominion of Canada, subject to limits exclusive of interest and costs, with respect to each motor vehicle, as provided in section 49-117, Idaho Code.

(2) An operator's policy of liability insurance shall insure the person named as insured therein against loss from the liability imposed upon him by law for damages arising out of the use by him of any motor vehicle not owned by him, within the same territorial limits and subject to the same limits of liability as are set forth in subsection (1) of this section with respect to an owner's policy of liability insurance.

(3) A motor vehicle liability policy shall state the name and address of the named insured, the coverage afforded by the policy, the premium charged therefor, the policy period and the limits of liability, and shall contain an agreement or be ~~indorsed~~ endorsed that insurance is provided in accordance with the coverage defined in this chapter as respects bodily injury and death or property damage, or both, and is subject to all the provisions of this chapter.

(4) A motor vehicle liability policy shall not insure any liability under any worker's compensation law as provided in title 72, Idaho Code, nor any liability on account of bodily injury to or death of an employee of the insured while engaged in the employment, other than domestic, of the insured, or while engaged in the operation, maintenance or repair of any described motor vehicle nor any liability for damage to property owned by, rented to, in charge of or transported by the insured.

(5) Every motor vehicle liability policy shall be subject to the following provisions which need not be contained therein:

(a) The policy may not be canceled or annulled as to any liability by any agreement between the insurance carrier and the insured after the occurrence of any injury or damage covered by the motor vehicle liability policy.

(b) Satisfaction by the insured of a judgment for injury or damage shall not be a condition precedent to the right or duty of the insurance carrier to make payment on account of the injury or damage.

(c) The insurance carrier shall have the right to settle any claim covered by the policy, and if the settlement is made in good faith, the amount shall be deductible from the limits of liability specified referenced in subsection (1) (b) of this section.

(d) The policy and its written application, if any, and any rider or ~~indorsement~~ endorsement which does not conflict with the provisions of this chapter shall constitute the entire contract between the parties.

(6) Any policy which grants the coverage required for a motor vehicle liability policy may also grant any lawful coverage in excess of or in addition to the coverage specified for a motor vehicle liability policy, and any excess or additional coverage shall not be subject to the provisions of this chapter. With respect to a policy which grants an excess of additional coverage the term "motor vehicle liability policy" shall apply only to that part of the coverage which is required by this section.

(7) Any motor vehicle liability policy may provide that the insured shall reimburse the insurance carrier for any payment the insurance carrier would not have been obligated to make under the terms of the policy except for the provisions of this chapter.

(8) Any motor vehicle liability policy may provide for the prorating of the insurance with other valid and collectible insurance.

(9) The requirements for a motor vehicle liability policy may be fulfilled by the policies of one (1) or more insurance carriers, which policies together meet the requirements of this chapter.

(10) Any binder issued pending the issuance of a motor vehicle liability policy shall be deemed to fulfill the requirements for such a policy.

(11) Notwithstanding any other provisions of this section or section 49-2417, Idaho Code, w~~When the negligent operation of a loaned vehicle results in the death or injury to a person or damage to personal property, except for the loaned vehicle,~~ and at the time of the negligent operation of the loaned vehicle the operator ~~of the loaned vehicle~~ is insured under a motor vehicle liability policy complying with the financial responsibility law of this state, then primary coverage for the death of or injury to a person or damage to personal property, except for the loaned vehicle, shall be provided by the operator's motor vehicle liability policy. When an operator's policy provides liability or physical damage coverage for damage to the loaned vehicle, that coverage shall be primary and shall be limited to the lower of the reasonable cost to repair or the owner's actual cost to replace the loaned vehicle. The insurance policy of the owner of the loaned vehicle shall provide secondary or excess coverage for the death of or injury to a person or personal property, ~~however the loaned vehicle owner's insurance shall provide primary coverage for damage to the loaned vehicle.~~

(a) For the purpose of this subsection, "loaned vehicle" means a motor vehicle which is provided for temporary use without charge to the operator by an entity licensed under chapter 16, title 49, Idaho Code, for the purpose of demonstrating the vehicle to the operator as a prospective purchaser, or as a convenience to the operator during the repairing or servicing of a motor vehicle for the operator, regardless of whether such repair or service is performed by the owner of the loaned vehicle or by some other person or business.

(b) Should the owner of a motor vehicle receive any compensation from or on behalf of the operator for the temporary use of the motor vehicle, excluding any compensation provided to the owner as a result of the repairing or servicing of a motor vehicle for the operator, the owner's insurance coverage shall be primary and the operator's motor vehicle insurance shall be secondary or excess.

(12) No motor vehicle liability policy providing coverage beyond state mandated minimum limits shall provide a reduced level of coverage to any insured's family or household member or other authorized user except as provided in section 41-2510, Idaho Code.

CHAPTER 218  
(S.B. No. 1169)

AN ACT

APPROPRIATING MONEYS TO THE BOARD OF TAX APPEALS FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Board of Tax Appeals from the General Fund, the following amounts to be expended for the designated expense classes, for the period July 1, 2013, through June 30, 2014:

FOR:

Personnel Costs	\$433,800
Operating Expenditures	70,000
Capital Outlay	<u>1,000</u>
TOTAL	\$504,800

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Board of Tax Appeals is authorized no more than five (5) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved April 2, 2013.

CHAPTER 219  
(H.B. No. 121)

AN ACT

RELATING TO THE IDAHO CREDIT RATING ENHANCEMENT COMMITTEE; AMENDING SECTION 67-1224, IDAHO CODE, TO REVISE PROVISIONS RELATING TO MEETINGS OF THE COMMITTEE; AND AMENDING SECTION 67-1225, IDAHO CODE, TO REVISE POWERS AND DUTIES OF THE COMMITTEE AND TO PROVIDE THAT THE COMMITTEE SHALL REPORT TO THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT PRO TEMPORE OF THE SENATE BY AUGUST 1 OF EACH YEAR.

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

SECTION 1. That Section 67-1224, Idaho Code, be, and the same is hereby amended to read as follows:

67-1224. IDAHO CREDIT RATING ENHANCEMENT COMMITTEE -- MEMBERSHIP -- COMPENSATION -- QUORUM -- MEETINGS -- PERSONNEL. (1) There is hereby established in the office of the state treasurer the Idaho credit rating enhancement committee. The committee shall consist of the following members: the state treasurer, the administrator of the division of financial management, one (1) senator appointed by the president pro tempore of the senate and one (1) member of the house of representatives appointed by the speaker of the house of representatives. Other members of the committee shall be appointed by the governor after considering recommendations of the state treasurer and shall consist of one (1) member from each of the following entities knowledgeable on matters of public finance, including the Idaho state municipal bond bank, Idaho housing and finance association, Idaho state building authority, the department of education as a representative of the school bond guarantee fund and one (1) member at large.

(2) The term of an appointed member is two (2) years, but an appointed member serves at the pleasure of the appointing authority. Before the expiration of the term of an appointed member, the appointing authority shall appoint a successor. If there is a vacancy for any reason in the office of an appointed member, the appointing authority shall make an appointment to become immediately effective for the unexpired term.

(3) A member of the committee shall be entitled to compensation and expenses as provided in section 59-509(b), Idaho Code, which shall be paid by the state treasurer.

(4) The state treasurer shall serve as chairperson of the committee, with such powers and duties necessary for the performance of that office as the committee determines appropriate.

(5) A majority of the members of the committee constitutes a quorum for the transaction of business.

~~(6) The committee shall meet at least once every six (6) months at a time and place determined by the committee.~~ The committee also shall meet at other times and places specified by the call of the chairperson or by a majority of the members of the committee.

(7) The office of the state treasurer shall provide the committee with office space and clerical and other administrative support.

SECTION 2. That Section 67-1225, Idaho Code, be, and the same is hereby amended to read as follows:

67-1225. POWERS AND DUTIES OF CREDIT RATING ENHANCEMENT COMMITTEE. The Idaho credit rating enhancement committee shall advise the governor and the legislature regarding policies and action that enhance and preserve the state's credit rating and maintain the future availability of low cost capital financing. In carrying out this function, the committee shall:

~~(1) Develop a six (6) year forecast of debt capacity targets by debt type and repayment sources based on the policies and actions established under this section;~~

~~(2) Convert debt capacity targets to net available capacity estimates by reflecting amounts of capacity currently issued, the planned issuance of prior authorized debt and estimates of debt repayment;~~

~~(3) Report findings, including net debt capacity, and recommendations to the governor and the legislature speaker of the house of representatives and the president pro tempore of the senate by August 1 of each year.~~

CHAPTER 220  
(H.B. No. 147)

AN ACT

RELATING TO EXAMINATION OF CASE AND DISCHARGE OR COMMITMENT OF ACCUSED; AMENDING SECTION 19-851, IDAHO CODE, TO DEFINE A TERM, TO REVISE DEFINITIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 19-852, IDAHO CODE, TO REVISE TERMINOLOGY, TO REVISE CODE REFERENCES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 19-853, IDAHO CODE, TO REVISE TERMINOLOGY, TO REVISE CODE REFERENCES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 19-854, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO A DETERMINATION OF INDIGENCY, TO REVISE TERMINOLOGY, TO PROHIBIT THE USE OF CERTAIN INFORMATION FOR CERTAIN PURPOSES WITH EXCEPTIONS, TO REVISE PROVISIONS RELATING TO REIMBURSEMENT FOR CERTAIN COSTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 19-855, IDAHO CODE, TO REVISE TERMINOLOGY; REPEALING SECTION 19-856, IDAHO CODE, RELATING TO THE APPOINTMENT OF A SUBSTITUTE ATTORNEY; AMENDING SECTION 19-857, IDAHO CODE, TO REMOVE A REQUIREMENT THAT A CERTAIN WAIVER BE IN WRITING OR OTHER RECORD AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 19-858, IDAHO CODE, TO REVISE PROVISIONS RELATING TO REIMBURSEMENT TO A COUNTY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 19-859, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A CERTAIN DUTY OF THE BOARD OF COUNTY COMMISSIONERS OF EACH COUNTY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 19-860, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 19-863, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 19-864, IDAHO CODE, TO REVISE TERMINOLOGY, TO REVISE PROVISIONS RELATING TO CERTAIN RECORDS AND A REPORT AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 19-865, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 19-851, Idaho Code, be, and the same is hereby amended to read as follows:

19-851. RIGHT TO REPRESENTATION BY COUNSEL -- DEFINITIONS. In this act, the term:

(1) "Defending attorney" means any attorney employed by the office of public defender, contracted by the county or otherwise assigned to represent adults or juveniles at public expense;

(a2) "Detain" means to have in custody or otherwise deprive of freedom of action;

(b3) "Expenses," when used with reference to representation under this act, includes the expenses of investigation, other preparation, and trial;

(e4) "NeedyIndigent person" means a person who, at the time his need is determined pursuant to section 19-854, Idaho Code, is unable to provide for the full payment of an attorney and all other necessary expenses of representation;

(d5) "Serious crime" includes:

(1) a felony;

(2) any misdemeanor or offense the penalty for which, excluding imprisonment for nonpayment of a fine, includes the possibility of confinement means any offense the penalty for which includes the possibility of confinement, incarceration, imprisonment or detention in a correctional facility, regardless of whether actually imposed.

SECTION 2. That Section 19-852, Idaho Code, be, and the same is hereby amended to read as follows:

19-852. RIGHT TO COUNSEL OF NEEDY INDIGENT PERSON -- REPRESENTATION AT ALL STAGES OF CRIMINAL AND COMMITMENT PROCEEDINGS -- PAYMENT. (a~~1~~) An needy indigent person who is being detained by a law enforcement officer, who is confined or is the subject of hospitalization proceedings pursuant to sections 18-212, ~~18-214~~, 66-322, 66-326, 66-329, ~~or 66-4094 or 66-406~~, Idaho Code, or who is under formal charge of having committed, or is being detained under a conviction of, a serious crime, is entitled:

(1a) ~~to~~ be represented by an attorney to the same extent as a person having his own counsel is so entitled; and

(2b) ~~to~~ be provided with the necessary services and facilities of representation (including investigation and other preparation). The attorney, services, and facilities and the court costs shall be provided at public expense to the extent that the person is, at the time the court determines need indigency pursuant to section 19-854, Idaho Code, unable to provide for their payment.

(b2) An needy indigent person who is entitled to be represented by an attorney under subsection (a~~1~~) of this section is entitled:

(1a) ~~to~~ be counseled and defended at all stages of the matter beginning with the earliest time when a person providing his own counsel would be entitled to be represented by an attorney and including revocation of probation;

(2b) ~~to~~ be represented in any appeal;

(3c) ~~to~~ be represented in any other post-conviction or post-commitment proceeding that the attorney or the needy indigent person considers appropriate, unless the court in which the proceeding is brought determines that it is not a proceeding that a reasonable person with adequate means would be willing to bring at his own expense and is therefore a frivolous proceeding.

(e3) An needy indigent person's right to a benefit under subsection (a~~1~~) or (b2) of this section is unaffected by his having provided a similar benefit at his own expense, or by his having waived it, at an earlier stage.

SECTION 3. That Section 19-853, Idaho Code, be, and the same is hereby amended to read as follows:

19-853. DUTY TO NOTIFY ACCUSED OR DETAINED OF RIGHT TO COUNSEL -- APPOINTMENT OF COUNSEL. (a~~1~~) If a person who is being detained by a law enforcement officer, or who is confined or who is the subject of hospitalization proceedings pursuant to sections 66-322, 66-326, 66-329, ~~or 66-4094 or 66-406~~, Idaho Code, or who is under formal charge of having committed, or is being detained under a conviction of, a serious crime, is not represented by an attorney under conditions in which a person having his own counsel would be entitled to be so represented, the law enforcement officers concerned, upon commencement of detention, or the court, upon formal charge or hearing, as the case may be, shall:

(1a) ~~clearly~~ inform him of his right to counsel and of the right of an needy indigent person to be represented by an attorney at public expense; and

(2b) ~~if~~ the person detained or charged does not have an attorney, notify the ~~public defender~~ defending attorney or trial court concerned, as the case may be, that he is not so represented. As used in this subsection, the term "commencement of detention" includes the taking into custody of a probationer.

(b2) Upon commencement of any later judicial proceeding relating to the same matter, including, but not limited to, preliminary hearing, arraignment, trial, any post-conviction proceeding, or post-commitment proceed-

ing, the presiding officer shall clearly inform the person so detained or charged of his right to counsel and of the right of an needy indigent person to be represented by an attorney at public expense. Provided, the appointment of an attorney at public expense in uniform post-conviction procedure act proceedings shall be in accordance with section 19-4904, Idaho Code.

(e3) If a court determines that the person is entitled to be represented by an attorney at public expense, it shall promptly notify the ~~public defender~~ defending attorney or assign an attorney, as the case may be.

(d4) Upon notification by the court or assignment under this section, the ~~public defender or assigned attorney, as the case may be,~~ defending attorney shall represent the person with respect to whom the notification or assignment is made.

SECTION 4. That Section 19-854, Idaho Code, be, and the same is hereby amended to read as follows:

19-854. DETERMINATION OF NEED INDIGENCY -- FACTORS CONSIDERED -- PARTIAL PAYMENT BY ACCUSED -- REIMBURSEMENT. (a1) The determination of whether a person covered by under section 19-852, Idaho Code, is an needy indigent person shall be deferred until his first appearance in court or in a suit for payment or reimbursement under section 19-858, Idaho Code, whichever occurs earlier. Thereafter, the court concerned shall determine, with respect to each proceeding, whether he is an needy indigent person.

(2) The court concerned shall presume that the following persons are indigent persons unless such a determination is contrary to the interests of justice:

(a) Persons whose current monthly income does not exceed one hundred eighty-seven percent (187%) of the federal poverty guidelines issued annually by the federal department of health and human services;

(b) Persons who receive, or whose dependents receive, public assistance pursuant to title 56, Idaho Code, in the form of food assistance, health coverage, cash assistance or child care assistance; or

(c) Persons who are currently serving a sentence in a correctional facility or are being housed in a mental health facility.

(b3) The court concerned may determine that persons other than those described in subsection (2) of this section are indigent persons. In determining whether a person is an needy indigent person and in determining the extent of his inability to pay, the court concerned may consider such factors as income, property owned, outstanding obligations, and the number and ages of his dependents and the cost of bail.

(4) Release on bail does not necessarily prevent him a person from being an needy indigent person.

(5) In each case, the person shall, subject to the penalties for perjury, certify in writing or by other record such material factors relating to his ability to pay as the court prescribes by rule. No information provided by a person pursuant to this subsection may be used as substantive evidence in any criminal or civil proceeding against the person except:

(a) For impeachment purposes;

(b) In a prosecution for perjury or contempt committed in providing the information; or

(c) In an attempt to enforce an obligation to reimburse the state for the cost of counsel.

(e6) To the extent that a person covered by under section 19-852, Idaho Code, is able to provide for an attorney, the other necessary services and facilities of representation, and court costs, the court may order him to provide for their payment.

(d7) A needy Upon conviction, notwithstanding the form of judgment or withheld judgment, plea of guilty or finding of guilt for any crime regardless of the original crime or number of counts, an indigent person who re-

ceives the services of an attorney provided by the county may be required by the court to reimburse the county for all or a portion of the cost of those services related to the conviction, plea of guilty or finding of guilt, unless the requirement would impose a manifest hardship on the indigent person. The immediate current inability of the needy indigent person to pay the reimbursement shall not, in and of itself, restrict the court from ordering reimbursement.

SECTION 5. That Section 19-855, Idaho Code, be, and the same is hereby amended to read as follows:

19-855. QUALIFICATIONS OF COUNSEL. No person may be given the primary responsibility of representing an needy indigent person unless he is licensed to practice law in this state and is otherwise competent to counsel and defend a person charged with a crime.

SECTION 6. That Section 19-856, Idaho Code, be, and the same is hereby repealed.

SECTION 7. That Section 19-857, Idaho Code, be, and the same is hereby amended to read as follows:

19-857. WAIVER OF COUNSEL -- CONSIDERATION BY COURT. A person who has been appropriately informed of his right to counsel may ~~waive in writing, or by other record,~~ any right provided by this act, if the court concerned, at the time of or after waiver, finds of record that he has acted with full awareness of his rights and of the consequences of a waiver and if the waiver is otherwise according to law. The court shall consider such factors as the person's age, education, and familiarity with the English language and the complexity of the crime involved.

SECTION 8. That Section 19-858, Idaho Code, be, and the same is hereby amended to read as follows:

19-858. REIMBURSEMENT TO COUNTY -- WHEN AUTHORIZED. (a~~1~~) The prosecuting attorney of each county may, on behalf of the county, recover payment or reimbursement, as the case may be, from each person who has received legal assistance or another benefit under this act:

(1a) ~~to~~ which he was not entitled;

(2b) ~~with~~ respect to which he was not an needy indigent person when he received it; or

(3c) ~~with~~ respect to which he has failed to make the certification required by under section 19-854, Idaho Code, and for which he refuses to pay or reimburse. Suit must be brought within five (5) years after the date on which the aid was received.

(b~~2~~) The prosecuting attorney of each county may, on behalf of the county, recover payment or reimbursement, as the case may be, from each person other than a person covered by under subsection (a~~1~~) above, of this section who has received legal assistance under this act and who, on the date on which suit is brought, is financially able to pay or reimburse the county for it without manifest hardship according to the standards of ability to pay applicable under sections 19-851, 19-852 and 19-854, Idaho Code, but refuses to do so. Suit must be brought within three (3) years after the date on which the benefit was received.

(e~~3~~) Amounts recovered under this section shall be paid into the county general fund.

SECTION 9. That Section 19-859, Idaho Code, be, and the same is hereby amended to read as follows:

19-859. PUBLIC DEFENDER AUTHORIZED -- COURT APPOINTED ATTORNEYS -- JOINT COUNTY PUBLIC DEFENDERS. (a~~1~~) The board of county commissioners of each county shall provide for the representation of needy indigent persons and other individuals who with respect to serious crimes are subject to proceedings in the county or are detained in the county by law enforcement officers are entitled to be represented by an attorney at public expense. They shall provide this representation by:

(1a) ~~e~~Establishing and maintaining an office of public defender;

(2b) ~~a~~Arranging with the courts of ~~criminal jurisdiction~~ in the county to assign attorneys on an equitable basis through a systematic, coordinated plan; or

(3c) ~~a~~Adopting a combination of these alternatives.

Until the board elects an alternative, it shall be considered as having elected the alternative provided in subsection (a~~1~~) (2b) of this section.

(b2) If it elects to establish and maintain an office of public defender, the board of county commissioners of a county may join with the board of county commissioners of one (1) or more other counties to establish and maintain a joint office of public defender. In that case, the participating counties shall be treated for the purposes of this act as if they were one (1) county.

(e3) If the board of county commissioners of a county elects to arrange with the courts of ~~criminal jurisdiction~~ in the county to assign attorneys, a court of the county may provide for advance assignment of attorneys, subject to later approval by it, to facilitate representation of matters arising before appearance in court.

SECTION 10. That Section 19-860, Idaho Code, be, and the same is hereby amended to read as follows:

19-860. PUBLIC DEFENDER -- TERM -- COMPENSATION -- APPOINTMENT -- QUALIFICATIONS -- COURT APPOINTED ATTORNEYS -- COMPENSATION. (a~~1~~) If the board of county commissioners of a county elects to establish and maintain an office of public defender and/or juvenile public defender, the board shall:

(1a) Prescribe the qualifications of such public defender, his term of office, ~~{which may not be less than two (2) years}~~, and his rate of annual compensation, and, if so desired by the board, a rate of compensation for extraordinary services not recurring on a regular basis. So far as is possible, the compensation paid to such public defender shall not be less than the compensation paid to the county prosecutor for that portion of his practice devoted to criminal law.

(2b) Provide for the establishment, maintenance and support of his office. The board of county commissioners shall appoint a public defender and/or juvenile public defender from a panel of not more than five (5) and not fewer than three (3) persons, ~~{if that many are available}~~, designated by a committee of lawyers appointed by the administrative judge of the judicial district encompassing the county or his designee. To be a candidate, a person must be licensed to practice law in this state and must be competent to counsel and defend a person charged with a crime. During his incumbency, such public defender may engage in the practice of civil law and criminal law other than in the discharge of the duties of his office, unless he is prohibited from doing so by the board of county commissioners.

(b2) If a court before whom a person appears upon a formal charge assigns an attorney other than a public defender to represent an needy indigent person, the appropriate district court, upon application, shall prescribe a reasonable rate of compensation for his services and shall determine the direct expenses necessary to representation for which he should be reimbursed. The county shall pay the attorney the amounts so prescribed. The attorney

shall be compensated for his services with regard to the complexity of the issues, the time involved, and other relevant considerations.

SECTION 11. That Section 19-863, Idaho Code, be, and the same is hereby amended to read as follows:

19-863. DEFENSE EXPENSES -- ALLOCATION IN JOINTLY ESTABLISHED OFFICES. (a1) Subject to section 19-861, Idaho Code, any direct expense, including the cost of a transcript that is necessarily incurred in representing an needy indigent person under this act, is a county charge against the county on behalf of which the service is performed.

(b2) If two (2) or more counties jointly establish an office of public defender, the expenses not otherwise allocable among the participating counties under subsection (a1) of this section shall be allocated, unless the counties otherwise agree, on the basis of population according to the most recent decennial census.

SECTION 12. That Section 19-864, Idaho Code, be, and the same is hereby amended to read as follows:

19-864. ~~RECORDS OF DEFENSE DEFENDING ATTORNEYS~~ -- ANNUAL REPORT OF ~~PUBLIC DEFENDER'S OFFICE DEFENDING ATTORNEYS~~. (a1) A defending attorney shall keep appropriate records respecting each needy person whom he represents under this act.

(b2) ~~The public defender in those counties electing to establish and maintain such an office,~~ Defending attorneys shall submit an annual report to the board of county commissioners and the appropriate administrative district judge showing the number of persons represented under this act, the crimes involved, ~~the outcome of each case,~~ and the expenditures, ~~(totalled totalled by kind),~~ made in carrying out the responsibilities imposed by this act. ~~A copy of the report shall also be submitted to each court having criminal jurisdiction in the counties that the program serves.~~

SECTION 13. That Section 19-865, Idaho Code, be, and the same is hereby amended to read as follows:

19-865. APPLICATION OF ACT -- STATE COURTS -- FEDERAL COURTS. This act applies only to representation in the courts of this state, except that it does not prohibit a ~~public defender~~ defending attorney from representing an needy indigent person in a federal court of the United States, if:

(a1) The matter arises out of or is related to an action pending or recently pending in a court of criminal jurisdiction of the state; or

(b2) Representation is under a plan of the United States District Court as required by the ~~Criminal Justice Act of 1964,~~ 18 U.S.C. 3006A, and is approved by the board of county commissioners.

Approved April 2, 2013.

CHAPTER 221  
(H.B. No. 148)

AN ACT

RELATING TO THE CHILD PROTECTIVE ACT; AMENDING SECTION 16-1614, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE APPOINTMENT OF A GUARDIAN AD LITEM AND TO REVISE PROVISIONS RELATING TO THE APPOINTMENT OF COUNSEL FOR A GUARDIAN AD LITEM AND FOR A CHILD.

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

SECTION 1. That Section 16-1614, Idaho Code, be, and the same is hereby amended to read as follows:

16-1614. RIGHT TO APPOINTMENT OF GUARDIAN AD LITEM, COUNSEL -- FOR GUARDIAN AD LITEM, COUNSEL FOR CHILD. (1) In any proceeding under this chapter for a child under the age of twelve (12) years, the court shall appoint a guardian ad litem for the child or children to serve at each stage of the proceeding and in appropriate cases shall appoint counsel to represent the guardian, and in appropriate cases, may appoint separate ad litem, unless the guardian ad litem is already represented by counsel for the child. If a court does not have available to it a guardian ad litem program or a sufficient number of guardians ad litem, the court shall appoint counsel for the child. In appropriate cases, the court may appoint a guardian ad litem for the child and counsel to represent the guardian ad litem and may, in addition, appoint counsel to represent the child.

(2) If a court does not have available to it a guardian ad litem program or a sufficient number of guardians ad litem, the court shall appoint separate counsel for the child. For a child under the age of twelve (12) years the attorney will have the powers and duties of a guardian ad litem. For a child twelve (12) years of age or older, the court may order that the counsel act with or without the powers and duties of a guardian ad litem In any proceeding under this chapter for a child twelve (12) years of age or older, the court:

(a) Shall appoint counsel to represent the child and may, in addition, appoint a guardian ad litem; or

(b) Where appointment of counsel is not practicable or not appropriate, may appoint a guardian ad litem for the child and shall appoint counsel to represent the guardian ad litem, unless the guardian ad litem is already represented by counsel.

(3) Counsel appointed for the child under the provisions of this section shall be paid for by the county unless the party for whom counsel is appointed has an independent estate sufficient to pay such costs.

Approved April 2, 2013.

CHAPTER 222  
(H.B. No. 149)

AN ACT

RELATING TO THE JUVENILE CORRECTIONS ACT; AMENDING SECTION 20-511, IDAHO CODE, TO PROVIDE THAT CERTAIN STATEMENTS ARE INADMISSIBLE AT CERTAIN PROCEEDINGS AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 20-514, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO REPRESENTATION BY COUNSEL OF CERTAIN JUVENILES, TO PROVIDE REQUIREMENTS RELATING TO A WAIVER OF THE RIGHT TO COUNSEL BY CERTAIN JUVENILES AND TO REVISE PROVISIONS RELATING TO REIMBURSEMENT OF CERTAIN COSTS.

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

SECTION 1. That Section 20-511, Idaho Code, be, and the same is hereby amended to read as follows:

20-511. DIVERSION OR INFORMAL DISPOSITION OF THE PETITION. (1) Prior to the filing of any petition under this act, the prosecuting attorney may request a preliminary inquiry from the county probation officer to determine whether the interest of the public or the juvenile requires a formal court proceeding. If court action is not required, the prosecuting attorney may utilize the diversion process and refer the case directly to the county probation officer or a community-based diversion program for informal probation and counseling. If the diversion process is utilized pursuant to this subsection, then statements made by a juvenile in a diversion proceeding shall be inadmissible at an adjudicative proceeding on the underlying charge as substantive evidence of guilt. If community service is going to be utilized pursuant to this subsection, the prosecuting attorney shall collect a fee of sixty cents (60¢) per hour for each hour of community service work the juvenile is going to perform and remit the fee to the state insurance fund for the purpose of securing worker's compensation insurance for the juvenile offender performing community service. However, if a county is self-insured and provides worker's compensation insurance for persons performing community service pursuant to the provisions of this chapter, then remittance to the state insurance fund is not required.

(2) After the petition has been filed and where, at the admission or denial hearing, the juvenile offender admits to the allegations contained in the petition, the court may decide to make an informal adjustment of the petition. Informal adjustment includes, but is not limited to:

- (a) Reprimand of the juvenile offender;
- (b) Informal supervision with the probation department;
- (c) Community service work;
- (d) Restitution to the victim;
- (e) Participation in a community-based diversion program.

(3) Information uniquely identifying the juvenile offender, the offense, and the type of program utilized shall be forwarded to the department. This information shall be maintained by the department in a statewide juvenile offender information system. Access to the information shall be controlled by the department, subject to the provisions of section 9-342, Idaho Code.

(4) Such informal adjustment of the petition shall be conducted in the manner prescribed by the Idaho juvenile rules. When an informal adjustment is made pursuant to this section and the juvenile offender is to perform community service work, the court shall assess the juvenile offender a fee of sixty cents (60¢) per hour for each hour of community service work the juvenile offender is to perform. This fee shall be remitted by the court to the state insurance fund for the purpose of securing worker's compensation insurance for the juvenile offender performing community service. However, if a county is self-insured and provides worker's compensation insurance for persons performing community service pursuant to the provisions of this chapter, then remittance to the state insurance fund is not required.

SECTION 2. That Section 20-514, Idaho Code, be, and the same is hereby amended to read as follows:

20-514. REPRESENTATION AT ALL STAGES OF PROCEEDINGS -- APPOINTMENT OF COUNSEL -- WAIVER -- PAYMENT OF COST OF LEGAL SERVICES. (1) A juvenile who is being detained by a law enforcement officer or who is under formal charge of having committed, or who has been adjudicated for commission of, an act,

omission or status that brings him under the purview of this act, is entitled:

(a) To be represented by an attorney to the same extent as an adult having his own counsel is so entitled pursuant to section 19-852, Idaho Code; and

(b) To be provided with the necessary services and facilities of representation, including investigation and other preparation.

(2) A juvenile who is entitled to be represented by an attorney under subsection (1) of this section is entitled:

(a) To be counseled and defended at all stages of the matter beginning with the earliest time and including revocation of probation or commitment;

(b) To be represented in any appeal; and

(c) To be represented in any other post-adjudication or review proceeding that the attorney or the juvenile considers appropriate, unless the court in which the proceeding is brought determines that it is not a proceeding that a reasonable person with adequate means would be willing to bring at his own expense and is therefore a frivolous proceeding.

(3) A juvenile's right to a benefit under subsection (1) or (2) of this section is unaffected by his having provided a similar benefit at his own expense, or by his having waived it, at an earlier stage.

(4) As early as possible in the proceedings, and in any event before the hearing of the petition on the merits, the juvenile and his parents, or guardian, shall be notified of their right to have counsel represent them. When it appears to the court that the juvenile or his parents or guardian desire counsel but are financially unable to pay for such legal services, the court shall appoint counsel to represent the juvenile and his parents or guardian; provided that in the event the court shall find that there is a conflict of interest between the interests of the juvenile and his parents or guardian, then the court shall appoint separate counsel for the juvenile, whether or not he or his parents or guardian are able to afford counsel, unless there is an intelligent waiver of the right of counsel by the juvenile, except as provided in subsection (6) of this section, and the court further determines that the best interest of the juvenile does not require the appointment of counsel. Counsel appointed under this section shall initially receive reasonable compensation from the county and the county shall have the right to be reimbursed for the cost thereof by the parents or guardian as hereafter provided in this section.

(5) Any waiver of the right to counsel by a juvenile under this act shall be made in writing, on the record and upon a finding by the court that:

(a) The juvenile has been informed of the right to counsel and the dangers and disadvantages of self-representation; and

(b) The waiver is intelligently made after consideration of the totality of the circumstances including, but not limited to:

(i) The age, maturity, intelligence, education, competency and comprehension of the juvenile;

(ii) The presence of the juvenile's parents or guardian;

(iii) The seriousness of the offense;

(iv) The collateral consequences of adjudication of the offense; and

(v) Whether the interests of the juvenile and his parents or guardian conflict.

(6) A juvenile shall not be permitted to waive the assistance to counsel in any of the following circumstances:

(a) If the juvenile is under the age of fourteen (14) years;

(b) In sentencing proceedings in which it has been recommended that the juvenile be committed to the legal custody of the department of juvenile corrections;

(c) In proceedings in which the juvenile is being adjudicated for commission of a crime of a sexual nature;

(d) In proceedings in which the juvenile is being adjudicated for commission of a felony;

(e) In hearings upon a motion to waive jurisdiction under the juvenile corrections act pursuant to section 20-508, Idaho Code;

(f) In hearings upon a motion to examine the juvenile to determine if he is competent to proceed pursuant to section 20-519A, Idaho Code; or

(g) In recommitment proceedings.

(27) Upon the entry of an order finding the juvenile is within the purview of this act, tThe parents, spouse or other person liable for the support of the juvenile, or the estates of such persons, and the estate of such juvenile, shall may be liable for the cost to the county of required by the court to reimburse the county for all or a portion of the cost of those legal services rendered to the juvenile by counsel appointed pursuant to this section, unless the court finds such persons to be needy persons and financially unable to pay the cost of such legal services that are related to the finding that the juvenile is within the purview of this act, unless the court finds such persons or estate to be indigent as defined in section 19-851(c), Idaho Code, and the requirement would impose a manifest hardship on those persons responsible for the juvenile or the estates. The current inability of those persons or entities to pay the reimbursement shall not, in and of itself, restrict the court from ordering reimbursement.

(38) The prosecuting attorney of each county may, on behalf of the county, recover payment or reimbursement, as the case may be, from each person or estate who is liable for the payment or reimbursement of the cost of court appointed counsel for the juvenile, his parents or guardian under this as provided in subsection (7) of this section. In the event such payment or reimbursement is not made upon demand by the prosecuting attorney, suit may be brought against such persons by the prosecuting attorney within five (5) years after the date on which such counsel was appointed by the court.

Approved April 2, 2013.

CHAPTER 223  
(H.B. No. 183)

AN ACT

RELATING TO MUNICIPAL CORPORATIONS; AMENDING SECTION 50-308, IDAHO CODE, TO REMOVE LANGUAGE GRANTING CITIES THE POWER TO REGULATE, PREVENT AND PUNISH FOR THE CARRYING OF CONCEALED WEAPONS.

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

SECTION 1. That Section 50-308, Idaho Code, be, and the same is hereby amended to read as follows:

50-308. MAINTENANCE OF PEACE -- LICENSING AND REGULATING AMUSEMENTS. Cities shall have power: to prevent and restrain riots, routs, noises, disturbances or disorderly assemblies; ~~to regulate, prevent and punish for the carrying of concealed weapons;~~ to arrest, regulate, punish, fine or set at work on the streets or elsewhere, vagrants or persons found without visible means of support or legitimate business; license and regulate theaters, halls, concerts, dances, theatrics, circuses, carnivals, exhibitions, amusements and other performances, where an admission fee may or may not be charged.

Approved April 2, 2013.

CHAPTER 224  
(H.B. No. 193, As Amended)

AN ACT

RELATING TO PREPAID WIRELESS TELECOMMUNICATIONS SERVICE EMERGENCY COMMUNICATIONS FEES; AMENDING SECTION 31-4809, IDAHO CODE, TO PROVIDE THAT CERTAIN FEES SHALL BE DEPOSITED INTO DESIGNATED EMERGENCY COMMUNICATIONS FUNDS; AMENDING SECTION 31-4813, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE FOR THE IMPOSITION OF PREPAID WIRELESS E911 FEES, TO PROVIDE FOR THE COLLECTION OF FEES, TO PROVIDE FOR THE DISCLOSURE OF FEES, TO CLARIFY THOSE RETAIL TRANSACTIONS TREATED AS OCCURRING IN THE STATE OF IDAHO, TO SPECIFY CONSUMER AND SELLER LIABILITY, TO PROVIDE THAT FEES SHALL NOT BE INCLUDED IN THE BASE FOR MEASURING ANY CHARGES IMPOSED BY THE STATE, POLITICAL SUBDIVISION OF THE STATE OR INTERGOVERNMENTAL AGENCY, TO PROVIDE FOR THE INCREASE OR REDUCTION OF FEES, TO PROVIDE FOR THE APPLICATION OF THE IMPOSED PERCENTAGE BY THE SELLER, TO PROVIDE FOR THE REMITTANCE OF FEES TO THE IDAHO STATE TAX COMMISSION, TO PROVIDE THAT THE IDAHO STATE TAX COMMISSION SHALL ESTABLISH CERTAIN PROCEDURES, TO PROVIDE FOR SELLER RETENTION OF A PERCENTAGE OF FEES, TO PROVIDE FOR THE APPLICABILITY OF SPECIFIED AUDIT AND APPEAL PROCEDURES, TO PROVIDE THAT THE IDAHO STATE TAX COMMISSION SHALL PAY REMITTED FEES OVER TO THE IDAHO EMERGENCY COMMUNICATIONS FUND, TO PROVIDE FOR RETENTION OF A PERCENTAGE OF FEES BY THE IDAHO STATE TAX COMMISSION, TO RESTRICT CERTAIN LIABILITY, TO PROVIDE FOR THE APPLICABILITY OF SPECIFIED LIABILITY PROVISIONS AND TO PROHIBIT THE IMPOSITION OF ADDITIONAL E911 FUNDING OBLIGATIONS; AND AMENDING SECTION 31-4818, IDAHO CODE, TO PROVIDE THAT THE IDAHO EMERGENCY COMMUNICATIONS FUND SHALL INCLUDE MONEYS FROM SPECIFIED FEES AND TO PROVIDE FOR THE DISTRIBUTION OF CERTAIN FUNDS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 31-4809, Idaho Code, be, and the same is hereby amended to read as follows:

31-4809. **FUND AND APPROPRIATIONS.** The county treasurer of each county or the administrator for a 911 service area in which an emergency communications system has been established pursuant to this chapter shall establish a fund to be designated the emergency communications fund in which all fees collected pursuant to this chapter, including fees distributed pursuant to section 31-4818(6), Idaho Code, shall be deposited and such fund shall be used exclusively for the purposes of this chapter. The moneys collected and the interest earned in this fund shall be appropriated by the county commissioners, or governing board, for expenses incurred by the emergency communications system as set forth in an annual budget prepared by the joint powers board, or in their absence, the county commissioners and incorporated into the annual county budget.

SECTION 2. That Section 31-4813, Idaho Code, be, and the same is hereby amended to read as follows:

31-4813. **PREPAID CALLING CARDS WIRELESS TELECOMMUNICATIONS SERVICE EMERGENCY COMMUNICATIONS FEE.** ~~The imposition of the emergency communications fee shall not apply to the prepaid calling cards for all forms of access fees. Prepaid wireline, wireless and VoIP phones with a service address or place of primary use within Idaho are not considered prepaid calling cards.~~  
(1) As used in this section:

(a) "Consumer" means a person who purchases prepaid wireless telecommunications service in a retail transaction;

(b) "Prepaid wireless E911 fee" means the fee imposed by subsection (2) (a) of this section on prepaid wireless telecommunications service that is required to be collected by a seller from a consumer;

(c) "Prepaid wireless telecommunications service" means a wireless telecommunications service that allows a caller to dial 911 to access the 911 system, which service must be paid for in advance and is sold in predetermined units or dollars;

(d) "Provider" means a person that provides prepaid wireless telecommunications service pursuant to a license issued by the federal communications commission;

(e) "Retail transaction" means the purchase of prepaid wireless telecommunications service from a seller for any purpose other than resale;

(f) "Seller" means a person who sells prepaid wireless telecommunications service to another person;

(g) "Tax commission" means the Idaho state tax commission.

(2) (a) There is hereby imposed a prepaid wireless E911 fee in the amount of two and one-half percent (2.5%) of the sales price on each retail transaction.

(b) The prepaid wireless E911 fee shall be collected by the seller from the consumer with respect to each retail transaction occurring in this state. The amount of the prepaid wireless E911 fee shall be either separately stated on an invoice, receipt or other similar document that is provided to the consumer by the seller, or otherwise disclosed to the consumer.

(c) For purposes of paragraph (b) of this subsection, a retail transaction is considered to have occurred in Idaho if:

(i) The retail transaction is effected in person by the customer at a seller's location in Idaho;

(ii) When subparagraph (i) of this paragraph does not apply, the prepaid wireless telecommunications service is delivered to the subscriber at an Idaho address provided to the retailer;

(iii) When subparagraphs (i) and (ii) of this paragraph do not apply, the retailer's records that are maintained in the ordinary course of business indicate that the subscriber's address is in Idaho and the records are not made or kept in bad faith;

(iv) When subparagraphs (i) through (iii) of this paragraph do not apply, the subscriber gives an Idaho address during the consummation of the sale, including the subscriber's payment instrument if no other address is available, and the address is not given in bad faith;

(v) When subparagraphs (i) through (iv) of this paragraph do not apply, the subscriber's mobile telephone number is associated with an Idaho location.

(d) The prepaid wireless E911 fee is the liability of the consumer and not of the seller or of any provider, except that the seller shall be liable to remit all prepaid wireless E911 fees that the seller collects or is required to collect from consumers as provided pursuant to the provisions of this section, including all such fees that the seller is deemed to collect where the amount of the fee has not been separately stated on an invoice, receipt or other similar document provided to the consumer by the seller.

(e) The amount of the prepaid wireless E911 fee that is collected by a seller from a consumer, if such amount is separately stated on an invoice, receipt or other similar document provided to the consumer by the seller, shall not be included in the base for measuring any tax, fee,

surcharge or other charge that is imposed by this state, any political subdivision of this state or any intergovernmental agency.

(f) The prepaid wireless E911 fee shall be proportionately increased or reduced, as applicable, upon any change to the fees imposed pursuant to the provisions of sections 31-4804 and 31-4819, Idaho Code. The amount of the prepaid wireless E911 fee shall be the percentage calculated by adding the amounts authorized pursuant to the provisions of sections 31-4804 and 31-4819, Idaho Code, and then dividing such sum by fifty dollars (\$50.00). Such increase or reduction shall be effective on the effective date of the change to the fees imposed pursuant to the provisions of sections 31-4804 and 31-4819, Idaho Code, or if later, the first day of the first calendar month to occur at least sixty (60) days after the enactment of the change to fees imposed pursuant to the provisions of sections 31-4804 and 31-4819, Idaho Code. The tax commission shall provide not less than thirty (30) days of advance notice of such increase or reduction on its website.

(g) When prepaid wireless telecommunications service is sold with one (1) or more other products or services for a single, nonitemized price, then the percentage specified in paragraph (a) of this subsection shall apply to the entire nonitemized price unless the seller elects to apply such percentage to:

(i) If the amount of the prepaid wireless telecommunications service is disclosed to the consumer as a dollar amount, such dollar amount; or

(ii) If the seller can identify the portion of the price that is attributable to the prepaid wireless telecommunications service by reasonable and verifiable standards from its books and records that are kept in the regular course of business for other purposes including, but not limited to, non-tax purposes, such portion. Provided however, if a minimal amount of prepaid wireless telecommunications service is sold with a prepaid wireless device for a single, nonitemized price, then the seller may elect not to apply the percentage specified in paragraph (a) of this subsection to such transaction. For purposes of this subparagraph, an amount of service denominated as ten (10) minutes or less, or five dollars (\$5.00) or less, is minimal.

(3) (a) Prepaid wireless E911 fees collected by sellers shall be remitted to the tax commission at the times and in the manner provided by chapter 36, title 63, Idaho Code, with respect to the sales tax. The tax commission shall establish registration, reporting and payment procedures that substantially coincide with the registration and payment procedures that apply to the sales tax pursuant to the provisions of chapter 36, title 63, Idaho Code.

(b) A seller shall be permitted to deduct and retain three percent (3%) of prepaid wireless E911 fees that are collected by the seller from consumers.

(c) The following provisions of chapter 36, title 63, Idaho Code, with respect to sales tax shall apply to the prepaid wireless E911 fee:

(i) Audit and appeal procedures;

(ii) Collection, enforcement, penalties and interest; and

(iii) Statute of limitations and refunds of fees paid erroneously.

The tax commission shall have the authority to promulgate administrative rules applicable to the prepaid wireless E911 fee. Such rules shall, to the extent practicable, minimize administrative burdens on sellers by incorporating existing provisions of chapter 36, title 63, Idaho Code, that apply to audits, appeals, collection, enforcement, penalties, interest, statute of limitations and refunds of fees paid erroneously.

(d) The tax commission shall establish procedures by which a seller of prepaid wireless telecommunications service may document that a sale is not a retail transaction, which procedures shall substantially coincide with the procedures for documenting sale for resale transactions pursuant to the provisions of chapter 36, title 63, Idaho Code, with respect to the sales tax.

(e) The tax commission shall distribute revenue from the prepaid wireless E911 fees as follows:

(i) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized under this chapter by the tax commission shall be paid through the state refund account; and

(ii) Pay all remaining remitted prepaid wireless E911 fees over to the Idaho emergency communications fund provided for in section 31-4818(1), Idaho Code, within thirty (30) days of receipt.

The tax commission may deduct an amount, not to exceed two percent (2%) of remitted fees, to reimburse its actual costs of administering the collection and remittance of prepaid wireless E911 fees. The tax commission may also retain an amount, not to exceed seventy thousand dollars (\$70,000), of remitted revenues in the fiscal year 2014 only for programming and one-time implementation costs.

(4) Each provider and seller of prepaid wireless telecommunications service is covered by the liability provisions of section 31-4812, Idaho Code.

(5) The prepaid wireless E911 fee imposed pursuant to this section shall be the only E911 funding obligation imposed with respect to prepaid wireless telecommunications service in this state, and no tax, fee, surcharge or other charge shall be imposed by this state, any political subdivision of this state or any intergovernmental agency, for E911 funding purposes, upon any provider, seller or consumer with respect to the sale, purchase, use or provision of prepaid wireless telecommunications service.

SECTION 3. That Section 31-4818, Idaho Code, be, and the same is hereby amended to read as follows:

31-4818. IDAHO EMERGENCY COMMUNICATIONS FUND -- ESTABLISHMENT AND ADMINISTRATION. (1) There is hereby created within the treasury of the state of Idaho a separate fund known as the Idaho emergency communications fund, which shall consist of moneys received from counties, cities, consolidated emergency communications operations, the fee imposed pursuant to the provisions of section 31-4813, Idaho Code, grants, donations, gifts and revenues from any other source to support the delivery of consolidated emergency communications systems.

(2) Moneys in the fund are hereby continuously appropriated and shall be utilized exclusively for the purposes set forth in this chapter as determined by the commission.

(3) Annually, at the direction of the commission, not more than one percent (1%) of the total emergency communications fees collected in the state of Idaho is hereby dedicated for and shall be placed in the fund on a quarterly basis by county, city or consolidated emergency communications systems. The commission, on an annual basis, shall prepare a budget indicating that portion of the fee necessary for the continuous operation of the commission to achieve the purposes of this chapter.

(4) The commission shall authorize disbursement of moneys in the fund to eligible entities.

(5) The state treasurer shall invest idle moneys in the fund and interest earned from such investments shall be returned to the fund.

(6) Funds received from the fee imposed pursuant to the provisions of section 31-4813, Idaho Code, shall be distributed quarterly to each govern-

ing board based upon population served, excluding one percent (1%) to be used for administration of the emergency communications commission as described in this section.

(7) This act is necessary for the immediate preservation of the public peace, health, safety or support of the state government and its existing public institutions and takes effect January 1, 2014.

SECTION 4. This act shall be in full force and effect on and after January 1, 2014.

Approved April 2, 2013.

CHAPTER 225  
(H.B. No. 223)

AN ACT

RELATING TO CONCEALED WEAPONS; AMENDING SECTION 18-3302, IDAHO CODE, TO REVISE THE DEFINITION OF "CONCEALED WEAPON" AND TO MAKE A TECHNICAL CORRECTION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 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. He:

- (a) Is ineligible to own, possess or receive a firearm under the provisions of state or federal law;
- (b) Is formally charged with a crime punishable by imprisonment for a term exceeding one (1) year;
- (c) Has been adjudicated guilty in any court of a crime punishable by imprisonment for a term exceeding one (1) year;
- (d) Is a fugitive from justice;
- (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;
- (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;
  - (ii) Mentally ill as defined in section 66-317, Idaho Code;
  - (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.
- (g) Is or has been discharged from the armed forces under dishonorable conditions;

(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 have elapsed since disposition or pardon has occurred prior to the date on which the application is submitted;

(i) Has had entry of a withheld judgment for a criminal offense which would disqualify him from obtaining a concealed weapon license;

(j) Is an alien illegally in the United States;

(k) Is a person who having been a citizen of the United States, has renounced his or her citizenship;

(l) Is under twenty-one (21) years of age;

(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 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.

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, except that any licensee serving on active duty in the armed forces of the United States during the renewal period shall not be required to pay a late renewal penalty upon renewing ninety-one (91) days or more after the expiration date of the license. 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, any knife, cleaver or other instrument primarily used in the processing, preparation or eating of food, any knife with a blade four (4) inches or less or any lawfully possessed taser, stun gun or pepper spray.

(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 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;

(b) Completion of any national rifle association firearms safety or training course or any national rifle association hunter education course;

(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;

(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;

(e) Presents evidence or equivalent experience with a firearm through participation in organized shooting competition or military service;

(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;

(b) Misuse of a license, including lending or giving a license to another person, duplicating a license or using a license with the intent to unlawfully cause harm to a person or property;

(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;

(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.

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 April 2, 2013.

CHAPTER 226  
(H.B. No. 283)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISIONS OF CHILD WELFARE AND DEVELOPMENTALLY DISABLED SERVICES FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING FOR GENERAL FUND TRANSFERS TO THE COOPERATIVE WELFARE FUND; DIRECTING EXPENDITURES FOR TRUSTEE AND BENEFIT PAYMENTS; PROVIDING LEGISLATIVE INTENT FOR PROGRAM INTEGRITY; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. CHILD WELFARE:					
A. CHILD WELFARE:					
FROM:					
Cooperative Welfare (General)					
Fund	\$5,409,300	\$1,569,400			\$6,978,700
Cooperative Welfare (Dedicated)					
Fund	69,300	20,000			89,300
Cooperative Welfare (Federal)					
Fund	<u>17,348,800</u>	<u>5,173,400</u>			<u>22,522,200</u>
TOTAL	\$22,827,400	\$6,762,800			\$29,590,200
B. FOSTER & ASSISTANCE PAYMENTS:					
FROM:					
Cooperative Welfare (General)					
Fund				\$11,716,500	\$11,716,500
Cooperative Welfare (Dedicated)					
Fund				955,400	955,400
Cooperative Welfare (Federal)					
Fund				<u>14,917,500</u>	<u>14,917,500</u>
TOTAL				\$27,589,400	\$27,589,400
DIVISION TOTAL	\$22,827,400	\$6,762,800		\$27,589,400	\$57,179,600

	FOR	FOR	FOR	FOR	
	PERSONNEL	OPERATING	CAPITAL	TRUSTEE AND	
	COSTS	EXPENDITURES	OUTLAY	BENEFIT	TOTAL
				PAYMENTS	
II. DEVELOPMENTALLY DISABLED, SERVICES FOR:					
FROM:					
A. COMMUNITY DEVELOPMENTAL DISABILITY SERVICES:					
Cooperative Welfare (General)					
Fund	\$5,084,800	\$1,112,500		\$2,311,000	\$8,508,300
Cooperative Welfare (Dedicated)					
Fund	815,600	46,300		1,909,800	2,771,700
Cooperative Welfare (Federal)					
Fund	<u>5,085,100</u>	<u>1,047,100</u>		<u>945,900</u>	<u>7,078,100</u>
TOTAL	\$10,985,500	\$2,205,900		\$5,166,700	\$18,358,100
B. SOUTHWEST IDAHO TREATMENT CENTER:					
FROM:					
Cooperative Welfare (General)					
Fund	\$3,068,200	\$322,200		\$77,300	\$3,467,700
Medical Assistance					
Fund		3,500			3,500
Cooperative Welfare (Dedicated)					
Fund	616,200	153,200	\$33,300	10,600	813,300
Cooperative Welfare (Federal)					
Fund	<u>7,956,600</u>	<u>1,965,900</u>	<u>70,500</u>	<u>143,200</u>	<u>10,136,200</u>
TOTAL	\$11,641,000	\$2,444,800	\$103,800	\$231,100	\$14,420,700
DIVISION TOTAL	\$22,626,500	\$4,650,700	\$103,800	\$5,397,800	\$32,778,800
GRAND TOTAL	\$45,453,900	\$11,413,500	\$103,800	\$32,987,200	\$89,958,400

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, each of the divisions of the Department of Health and Welfare listed below is authorized no more than the number of full-time equivalent positions listed below at any point during the period July 1, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Child Welfare .....	380.58
Developmentally Disabled Services .....	378.61

SECTION 3. GENERAL FUND TRANSFERS. As appropriated, the State Controller shall make transfers from the General Fund to the Cooperative Welfare Fund, periodically, as requested by the director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 4. TRUSTEE AND BENEFIT PAYMENTS. Notwithstanding the provisions of Section 67-3511, Idaho Code, funds budgeted in the trustee and benefit payments expenditure class shall not be transferred to any other expense classes during fiscal year 2014.

SECTION 5. PROGRAM INTEGRITY. Notwithstanding any other provisions of law, it is hereby declared to be the intent of the Legislature that the Department of Health and Welfare shall be required to provide those services authorized or mandated by law in each program, only to the extent of funding and available resources appropriated for each budgeted program.

SECTION 6. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved April 2, 2013.

CHAPTER 227  
(H.B. No. 284)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF DRUG POLICY FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Office of Drug Policy, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General					
Fund	\$234,000	\$54,100			\$288,100
Miscellaneous Revenue					
Fund		6,200			6,200
Federal Grant					
Fund	<u>79,000</u>	<u>470,500</u>	<u>\$5,500</u>	<u>\$1,258,000</u>	<u>1,813,000</u>
TOTAL	\$313,000	\$530,800	\$5,500	\$1,258,000	\$2,107,300

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Office of Drug Policy is authorized no more than four (4) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved April 2, 2013.

CHAPTER 228  
(H.B. No. 285)

AN ACT

APPROPRIATING MONEYS TO THE COMMISSION ON AGING FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Commission on Aging, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General				
Fund	\$452,100	\$36,900	\$3,977,100	\$4,466,100
Miscellaneous Revenue				
Fund	47,000	85,000		132,000
Federal Grant				
Fund	<u>616,000</u>	<u>337,600</u>	<u>7,565,700</u>	<u>8,519,300</u>
TOTAL	\$1,115,100	\$459,500	\$11,542,800	\$13,117,400

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Commission on Aging is authorized no more than fourteen and thirty-five hundredths (14.35) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or

be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved April 2, 2013.

CHAPTER 229  
(H.B. No. 293)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISIONS OF MENTAL HEALTH SERVICES, PSYCHIATRIC HOSPITALIZATION AND SUBSTANCE ABUSE TREATMENT AND PREVENTION FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING FOR GENERAL FUND TRANSFERS TO THE COOPERATIVE WELFARE FUND; DIRECTING EXPENDITURES FOR TRUSTEE AND BENEFIT PAYMENTS; PROVIDING LEGISLATIVE INTENT FOR PROGRAM INTEGRITY; LIMITING TRANSFER OF LEGISLATIVE APPROPRIATIONS; CLARIFYING RESPONSIBILITY FOR EDUCATION OF CERTAIN CHILDREN IN STATE CARE; DIRECTING AN INTERAGENCY PAYMENT FOR JUVENILE DETENTION CLINICIANS CONTRACT; PROVIDING FOR COURT SERVICES FUND TRANSFERS; DIRECTING A NEW SUBSTANCE ABUSE TREATMENT AND PREVENTION NETWORK MANAGEMENT AND SERVICE COORDINATION CONTRACT; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>I. MENTAL HEALTH SERVICES:</b>					
<b>A. CHILDREN'S MENTAL HEALTH:</b>					
FROM:					
Cooperative Welfare (General)					
Fund	\$4,277,200	\$632,900		\$3,304,000	\$8,214,100
Cooperative Welfare (Dedicated)					
Fund				164,500	164,500
Cooperative Welfare (Federal)					
Fund	<u>1,471,000</u>	<u>1,357,300</u>		<u>1,117,600</u>	<u>3,945,900</u>
TOTAL	\$5,748,200	\$1,990,200		\$4,586,100	\$12,324,500
<b>B. ADULT MENTAL HEALTH:</b>					
FROM:					
Cooperative Welfare (General)					
Fund	\$11,906,100	\$1,435,900		\$1,414,900	\$14,756,900

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Cooperative Welfare (Dedicated)					
Fund	433,100			350,000	783,100
Drug Court, Mental Health and Family Court Services					
Fund	159,800	98,000			257,800
Cooperative Welfare (Federal)					
Fund	<u>2,798,900</u>	<u>1,152,100</u>		<u>353,700</u>	<u>4,304,700</u>
TOTAL	\$15,297,900	\$2,686,000		\$2,118,600	\$20,102,500
DIVISION TOTAL	\$21,046,100	\$4,676,200		\$6,704,700	\$32,427,000
II. PSYCHIATRIC HOSPITALIZATION:					
A. COMMUNITY HOSPITALIZATION:					
FROM:					
Cooperative Welfare (General)					
Fund				\$2,790,000	\$2,790,000
B. STATE HOSPITAL NORTH:					
FROM:					
Cooperative Welfare (General)					
Fund	\$6,100,400	\$576,500	\$49,800	\$20,400	\$6,747,100
Cooperative Welfare (Dedicated)					
Fund	137,100				137,100
State Hospital North Endowment Income					
Fund	<u>234,200</u>	<u>557,800</u>	<u>64,000</u>	<u>44,500</u>	<u>900,500</u>
TOTAL	\$6,471,700	\$1,134,300	\$113,800	\$64,900	\$7,784,700
C. STATE HOSPITAL SOUTH:					
FROM:					
Cooperative Welfare (General)					
Fund	\$8,591,100	\$732,000	\$152,600	\$217,300	\$9,693,000
Cooperative Welfare (Dedicated)					
Fund	2,461,300	679,200		900	3,141,400
Mental Hospital Endowment Income					
Fund	2,460,000	461,100	24,900		2,946,000
Cooperative Welfare (Federal)					
Fund	<u>3,430,500</u>	<u>1,065,600</u>	<u>0</u>	<u>25,800</u>	<u>4,521,900</u>
TOTAL	\$16,942,900	\$2,937,900	\$177,500	\$244,000	\$20,302,300
DIVISION TOTAL	\$23,414,600	\$4,072,200	\$291,300	\$3,098,900	\$30,877,000

	FOR	FOR	FOR	FOR	
	PERSONNEL	OPERATING	CAPITAL	TRUSTEE AND	
	COSTS	EXPENDITURES	OUTLAY	BENEFIT	TOTAL
				PAYMENTS	
III. SUBSTANCE ABUSE TREATMENT & PREVENTION:					
FROM:					
Cooperative Welfare (General)					
Fund	\$501,000	\$573,500		\$1,455,400	\$2,529,900
Prevention of Minors' Access to Tobacco					
Fund	6,600	43,800			50,400
Cooperative Welfare (Dedicated)					
Fund	45,900	438,300			484,200
Liquor Control					
Fund				650,000	650,000
Cooperative Welfare (Federal)					
Fund	<u>613,300</u>	<u>3,459,200</u>		<u>9,321,900</u>	<u>13,394,400</u>
TOTAL	\$1,166,800	\$4,514,800		\$11,427,300	\$17,108,900
GRAND TOTAL	\$45,627,500	\$13,263,200	\$291,300	\$21,230,900	\$80,412,900

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, each of the divisions in the Department of Health and Welfare listed below is authorized no more than the number of full-time equivalent positions listed below at any point during the period July 1, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Mental Health Services .....	281.80
Psychiatric Hospitalization .....	361.45
Substance Abuse Treatment and Prevention .....	15.76

SECTION 3. GENERAL FUND TRANSFERS. As appropriated, the State Controller shall make transfers from the General Fund to the Cooperative Welfare Fund, periodically, as requested by the director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 4. TRUSTEE AND BENEFIT PAYMENTS. Notwithstanding the provisions of Section 67-3511, Idaho Code, funds budgeted in the trustee and benefit payments expenditure class shall not be transferred to any other expense classes during fiscal year 2014.

SECTION 5. PROGRAM INTEGRITY. Notwithstanding any other provisions of law, it is hereby declared to be the intent of the Legislature that the Department of Health and Welfare shall be required to provide those services authorized or mandated by law in each program, only to the extent of funding and available resources appropriated for each budgeted program.

SECTION 6. LIMITING TRANSFER OF LEGISLATIVE APPROPRIATIONS. Notwithstanding the provisions of Section 67-3511, Idaho Code, General Fund moneys appropriated to the Division of Mental Health Services shall not be transferred to any other division within the Department of Health and Welfare without legislative approval.

SECTION 7. LEGISLATIVE INTENT. It is the finding of the Legislature that the Department of Health and Welfare is responsible for the educational needs of school-age children placed in their custody by the courts for either child protective or for mental health issues. If the Department of Health and Welfare places a child in a licensed residential treatment facility that includes a non-public accredited school, and it is determined by the Department of Health and Welfare that it is in the best interests of the child to be educated at the residential treatment facility, then it is the responsibility of the Department of Health and Welfare to pay for such education at the current rate of \$71.05 per student per educational day based on the average daily attendance as defined by the state board of education for fiscal year 2014. This intent language does not preclude other Idaho state agencies from exercising their responsibility to ensure a free and appropriate education for these students within the requirements of federal disability law. The fiscal impact of this language is approximately \$690,000 from existing appropriations.

SECTION 8. INTERAGENCY PAYMENT FOR JUVENILE DETENTION CLINICIANS CONTRACT. The Children's Mental Health Program shall, no later than July 16, 2013, make an interagency payment of \$327,000 from the Cooperative Welfare (General) Fund to the Department of Juvenile Corrections to be used for the purchase of contract clinician services with juvenile detention facilities in Idaho, for the period July 1, 2013, through June 30, 2014.

SECTION 9. COURT SERVICES FUND TRANSFERS. As appropriated, the State Controller shall make transfers of the Court Services Fund to the Cooperative Welfare Fund periodically, as requested by the director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 10. SUBSTANCE ABUSE NETWORK MANAGEMENT AND SERVICE COORDINATION CONTRACT. It is the intent of the Legislature that the Department of Health and Welfare, and all state agencies that provide substance abuse services, enact an agreement for contractor services to provide administrative support to the coordinated statewide substance abuse system, manage the statewide provider network, coordinate client services, manage and report data per applicable federal and state requirements, track fiscal data for the program, and provide other necessary services as identified by the department and partnering state agencies. The department and partnering state agencies shall enact the new contract as soon as practicable.

SECTION 11. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved April 2, 2013.

CHAPTER 230  
(H.B. No. 296)

AN ACT

APPROPRIATING MONEYS TO THE COMMISSION FOR PARDONS AND PAROLE FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Commission for Pardons and Parole, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General			
Fund	\$1,927,300	\$374,000	\$2,301,300
Miscellaneous Revenue			
Fund	0	70,700	70,700
TOTAL	\$1,927,300	\$444,700	\$2,372,000

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Commission for Pardons and Parole is authorized no more than thirty-two (32) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved April 2, 2013.

CHAPTER 231  
(H.B. No. 297)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO CERTAIN MONEYS BEING CONTINUOUSLY

APPROPRIATED; AUTHORIZING THE TRANSFER OF HIGHWAY FUNDS TO THE TOURISM AND PROMOTION FUND; PROVIDING REAPPROPRIATION FOR CONTRACT CONSTRUCTION AND RIGHT-OF-WAY ACQUISITION; PROVIDING REAPPROPRIATION FOR AIRPORT DEVELOPMENT GRANTS; PROVIDING REAPPROPRIATION FOR AMERICAN RECOVERY AND REINVESTMENT ACT FUNDS; AND AUTHORIZING A TRANSFER OF FUNDS FOR DEBT SERVICE.

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

SECTION 1. There is hereby appropriated to the Idaho Transportation Department, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>I. TRANSPORTATION SERVICES:</b>					
<b>A. ADMINISTRATION:</b>					
FROM:					
State Highway (Dedicated)					
Fund	\$14,112,600	\$7,183,400	\$962,400		\$22,258,400
State Highway (Billing)					
Fund	47,500	108,700			156,200
State Highway (Federal)					
Fund	<u>353,900</u>	<u>173,900</u>	<u>0</u>	<u>\$330,000</u>	<u>857,800</u>
TOTAL	\$14,514,000	\$7,466,000	\$962,400	\$330,000	\$23,272,400
<b>B. CAPITAL FACILITIES:</b>					
FROM:					
State Aeronautics (Dedicated)					
Fund			\$50,000		\$50,000
State Highway (Dedicated)					
Fund			<u>3,910,000</u>		<u>3,910,000</u>
TOTAL			\$3,960,000		\$3,960,000
<b>C. AERONAUTICS:</b>					
FROM:					
State Aeronautics (Dedicated)					
Fund	\$887,900	\$548,400	\$4,300	\$475,000	\$1,915,600
State Aeronautics (Billing)					
Fund	78,500	95,900			174,400
State Highway (Dedicated)					
Fund			25,900		25,900
State Aeronautics (Federal)					
Fund	<u>56,600</u>	<u>263,900</u>	<u>0</u>	<u>0</u>	<u>320,500</u>
TOTAL	\$1,023,000	\$908,200	\$30,200	\$475,000	\$2,436,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>D. TRANSPORTATION PERFORMANCE:</b>					
FROM:					
State Highway (Dedicated)					
Fund	\$457,800	\$61,000	\$10,800	\$312,000	\$841,600
State Highway (Federal)					
Fund	<u>542,300</u>	<u>452,500</u>	<u>0</u>	<u>12,558,200</u>	<u>13,553,000</u>
TOTAL	\$1,000,100	\$513,500	\$10,800	\$12,870,200	\$14,394,600
DIVISION					
TOTAL	\$16,537,100	\$8,887,700	\$4,963,400	\$13,675,200	\$44,063,400
<b>II. MOTOR VEHICLES:</b>					
FROM:					
State Highway (Dedicated)					
Fund	\$13,022,300	\$16,126,300	\$419,500		\$29,568,100
State Highway (Billing)					
Fund	15,000	117,800			132,800
State Highway (Federal)					
Fund	<u>0</u>	<u>2,600,000</u>	<u>0</u>		<u>2,600,000</u>
TOTAL	\$13,037,300	\$18,844,100	\$419,500		\$32,300,900
<b>III. HIGHWAY OPERATIONS:</b>					
FROM:					
State Highway (Dedicated)					
Fund	\$75,186,400	\$51,570,600	\$26,690,000	\$140,000	\$153,587,000
State Highway (Billing)					
Fund	30,500	90,600			121,100
State Highway (Local)					
Fund	199,500	99,400			298,900
State Highway (Federal)					
Fund	<u>9,944,900</u>	<u>3,678,100</u>	<u>0</u>	<u>2,505,000</u>	<u>16,128,000</u>
TOTAL	\$85,361,300	\$55,438,700	\$26,690,000	\$2,645,000	\$170,135,000
<b>IV. CONTRACT CONSTRUCTION &amp; RIGHT-OF-WAY ACQUISITION:</b>					
FROM:					
State Highway (Dedicated)					
Fund		\$5,053,500	\$27,002,100	\$318,000	\$32,373,600
State Highway (Local)					
Fund		705,200	2,505,300	541,000	3,751,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
State Highway (Federal)					
Fund		<u>12,153,000</u>	<u>194,035,300</u>	<u>2,914,000</u>	<u>209,102,300</u>
TOTAL		\$17,911,700	\$223,542,700	\$3,773,000	\$245,227,400
GRAND TOTAL	\$114,935,700	\$101,082,200	\$255,615,600	\$20,093,200	\$491,726,700

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Idaho Transportation Department is authorized no more than one thousand eight hundred fourteen (1,814) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

SECTION 4. CONTINUOUSLY APPROPRIATED MONEYS. It is legislative intent that all moneys transferred to the Local Bridge Inspection Fund and to the Railroad Grade Crossing Protection Fund, as provided in Section 63-2412, Idaho Code, are hereby continuously appropriated to the Idaho Transportation Department for the stated purposes of those funds.

SECTION 5. STATE HIGHWAY FUND TRANSFER. There is hereby appropriated and the State Controller is directed to transfer \$25,000 from the State Highway Fund to the Tourism and Promotion Fund in the Department of Commerce during fiscal year 2014. This transfer will provide the matching fund support of the Gateway Visitor Centers.

SECTION 6. NON-GENERAL FUND REAPPROPRIATION AUTHORITY FOR CONTRACT CONSTRUCTION AND RIGHT-OF-WAY ACQUISITION. There is hereby reappropriated to the Idaho Transportation Department any unexpended and unencumbered balances of moneys categorized as the State Highway Fund for the Contract Construction and Right-of-Way Acquisition Program as appropriated or reappropriated for fiscal year 2013, to be used for nonrecurring expenditures, for the period July 1, 2013, through June 30, 2014.

SECTION 7. NON-GENERAL FUND REAPPROPRIATION AUTHORITY FOR AIRPORT DEVELOPMENT GRANTS. There is hereby reappropriated to the Idaho Transportation Department any unexpended and unencumbered balances of moneys categorized as the State Aeronautics Fund as appropriated or reappropriated for trustee and benefit payments to be used for Airport Development Grants for fiscal year 2013, to be used for nonrecurring expenditures, for the period July 1, 2013, through June 30, 2014.

SECTION 8. NON-GENERAL FUND REAPPROPRIATION AUTHORITY FOR AMERICAN RECOVERY AND REINVESTMENT ACT. There is hereby reappropriated to the Idaho Transportation Department any unexpended and unencumbered balances of moneys categorized as Title XII of the American Recovery and Reinvestment Act as appropriated or reappropriated for fiscal year 2013, to be used for nonrecurring expenditures, according to all requirements of the federal act for the period July 1, 2013, through June 30, 2014.

SECTION 9. BOND PAYMENT AUTHORIZATION. The federal GARVEE bond payment for fiscal year 2014 is approximately \$54,000,000. The Idaho Transportation Board is hereby authorized to transfer up to \$4,900,000 from within the State Highway Account to the GARVEE Debt Service Fund to pay the state match as required for federal funds committed to pay the annual scheduled debt service for fiscal year 2014.

Approved April 2, 2013.

CHAPTER 232  
(H.B. No. 298)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO STATE HISTORICAL SOCIETY FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Idaho State Historical Society, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR	FOR	FOR	FOR	
	PERSONNEL	OPERATING	CAPITAL	TRUSTEE AND	
	COSTS	EXPENDITURES	OUTLAY	BENEFIT	TOTAL
				PAYMENTS	
FROM:					
General					
Fund	\$1,548,500	\$743,100	\$19,000	\$31,600	\$2,342,200
Miscellaneous Revenue					
Fund	541,200	783,200			1,324,400
Records Management Service					
Fund	101,600	137,000			238,600
Capitol Endowment Income					
Fund	59,500	53,500			113,000
Federal Grant					
Fund	<u>893,400</u>	<u>469,300</u>	<u>1,800</u>	<u>130,000</u>	<u>1,494,500</u>
TOTAL	\$3,144,200	\$2,186,100	\$20,800	\$161,600	\$5,512,700

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Idaho State Historical Society is authorized no more than forty-nine and two-hundredths (49.02) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations

Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved April 2, 2013.

CHAPTER 233  
(H.B. No. 299)

AN ACT

APPROPRIATING MONEYS TO THE DIVISION OF FINANCIAL MANAGEMENT FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Division of Financial Management, the following amounts to be expended for the designated expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General				
Fund	\$1,414,700	\$164,000	\$14,300	\$1,593,000
Miscellaneous Revenue				
Fund	<u>33,800</u>	<u>7,100</u>	<u>0</u>	<u>40,900</u>
TOTAL	\$1,448,500	\$171,100	\$14,300	\$1,633,900

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Division of Financial Management is authorized no more than sixteen (16) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or

be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved April 2, 2013.

CHAPTER 234  
(H.B. No. 302)

AN ACT

APPROPRIATING MONEYS TO THE MILITARY DIVISION FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; GRANTING A CONTINUOUS APPROPRIATION FOR A CERTAIN FUND; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Military Division, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>I. MILITARY MANAGEMENT:</b>					
FROM:					
General					
Fund	\$1,595,600	\$248,800	\$67,000		\$1,911,400
Indirect Cost Recovery					
Fund	321,000	20,700			341,700
Miscellaneous Revenue					
Fund	<u>0</u>	<u>115,900</u>	<u>0</u>		<u>115,900</u>
<b>TOTAL</b>	<b>\$1,916,600</b>	<b>\$385,400</b>	<b>\$67,000</b>		<b>\$2,369,000</b>
<b>II. FEDERAL/STATE AGREEMENTS:</b>					
FROM:					
General					
Fund	\$695,700	\$937,600			\$1,633,300
Miscellaneous Revenue					
Fund	681,100	1,035,200			1,716,300
Federal Grant					
Fund	<u>15,340,600</u>	<u>14,942,200</u>	<u>\$685,100</u>		<u>30,967,900</u>
<b>TOTAL</b>	<b>\$16,717,400</b>	<b>\$16,915,000</b>	<b>\$685,100</b>		<b>\$34,317,500</b>

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
III. BUREAU OF HOMELAND SECURITY:					
FROM:					
General					
Fund	\$1,489,200	\$204,200			\$1,693,400
Administration and Accounting Services					
Fund	1,923,400	912,300	\$403,800		3,239,500
Federal Grant					
Fund	<u>2,195,800</u>	<u>5,911,700</u>	<u>0</u>	<u>\$14,937,900</u>	<u>23,045,400</u>
TOTAL	\$5,608,400	\$7,028,200	\$403,800	\$14,937,900	\$27,978,300
GRAND TOTAL	\$24,242,400	\$24,328,600	\$1,155,900	\$14,937,900	\$64,664,800

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Military Division is authorized no more than two hundred ninety-three and eight-tenths (293.8) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. CONTINUOUS APPROPRIATION. The Military Division is hereby granted continuous appropriation authority for the Bureau of Homeland Security's Miscellaneous Revenue Fund for the period July 1, 2013, through June 30, 2014, for the purpose of covering incurred costs arising out of hazardous substance incidents.

SECTION 4. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved April 2, 2013.

CHAPTER 235  
(H.B. No. 303)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO STATE POLICE FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Idaho State Police, the following amounts to be expended according to the designated divisions, programs and expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>I. POLICE, DIVISION OF IDAHO STATE:</b>					
<b>A. DIRECTOR'S OFFICE:</b>					
FROM:					
General					
Fund	\$1,769,600	\$376,300			\$2,145,900
Idaho Law Enforcement					
Fund	111,100				111,100
Idaho Law Enforcement (Project Choice)					
Fund	155,900	2,600			158,500
Peace Officers Training					
Fund	800				800
Miscellaneous Revenue					
Fund		56,400			56,400
Federal Grant					
Fund	<u>75,600</u>	<u>18,100</u>			<u>93,700</u>
TOTAL	\$2,113,000	\$453,400			\$2,566,400
<b>B. EXECUTIVE PROTECTION:</b>					
FROM:					
General					
Fund	\$327,500	\$64,600	\$46,900		\$439,000
Idaho Law Enforcement (Project Choice)					
Fund	56,900	700			57,600
Miscellaneous Revenue					
Fund	<u>88,600</u>	<u>5,400</u>	<u>0</u>		<u>94,000</u>
TOTAL	\$473,000	\$70,700	\$46,900		\$590,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>C. INVESTIGATIONS:</b>					
FROM:					
General					
Fund	\$5,050,800	\$663,600	\$606,600		\$6,321,000
Idaho Law Enforcement (Project Choice)					
Fund	639,800	7,700			647,500
Drug & DWUI Enforcement Donation					
Fund	200,000	429,500			629,500
Federal Grant					
Fund	<u>189,800</u>	<u>632,300</u>	<u>0</u>		<u>822,100</u>
TOTAL	\$6,080,400	\$1,733,100	\$606,600		\$8,420,100
<b>D. PATROL:</b>					
FROM:					
General					
Fund	\$2,680,600	\$1,422,400	\$3,759,400		\$7,862,400
Idaho Law Enforcement					
Fund	13,988,000	2,403,600	105,700		16,497,300
Idaho Law Enforcement (Project Choice)					
Fund	3,070,800	31,700			3,102,500
Hazardous Materials/Waste Enforcement					
Fund	379,100	67,900		\$69,100	516,100
Miscellaneous Revenue					
Fund	188,500	30,600			219,100
Federal Grant					
Fund	<u>2,617,900</u>	<u>1,228,000</u>	<u>105,700</u>	<u>2,707,600</u>	<u>6,659,200</u>
TOTAL	\$22,924,900	\$5,184,200	\$3,970,800	\$2,776,700	\$34,856,600
<b>E. LAW ENFORCEMENT PROGRAMS:</b>					
FROM:					
General					
Fund	\$266,200	\$262,800			\$529,000
Alcohol Beverage Control					
Fund	844,100	384,000	\$31,500		1,259,600
Idaho Law Enforcement (Project Choice)					
Fund	75,100	900			76,000
Miscellaneous Revenue					
Fund		12,500			12,500
Federal Grant					
Fund	<u>50,900</u>	<u>30,600</u>	<u>0</u>		<u>81,500</u>
TOTAL	\$1,236,300	\$690,800	\$31,500		\$1,958,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>F. SUPPORT SERVICES:</b>					
FROM:					
General					
Fund	\$1,268,700	\$575,400	\$200,200		\$2,044,300
Idaho Law Enforcement					
Fund	95,800				95,800
Idaho Law Enforcement (Project Choice)					
Fund	177,900	4,200			182,100
Idaho Law Enforcement Telecommunications					
Fund	428,400	679,500	3,400		1,111,300
Miscellaneous Revenue					
Fund	1,011,900	1,262,500	20,400		2,294,800
Federal Grant					
Fund	<u>0</u>	<u>76,800</u>	<u>12,100</u>	<u>\$226,800</u>	<u>315,700</u>
TOTAL	\$2,982,700	\$2,598,400	\$236,100	\$226,800	\$6,044,000
<b>G. FORENSIC SERVICES:</b>					
FROM:					
General					
Fund	\$2,673,900	\$475,800			\$3,149,700
Idaho Law Enforcement (Project Choice)					
Fund	246,900	3,700			250,600
Drug & DWUI Enforcement Donation					
Fund		296,400			296,400
Miscellaneous Revenue					
Fund	73,500	130,100			203,600
Federal Grant					
Fund	<u>120,600</u>	<u>286,900</u>			<u>407,500</u>
TOTAL	\$3,114,900	\$1,192,900			\$4,307,800
DIVISION TOTAL	\$38,925,200	\$11,923,500	\$4,891,900	\$3,003,500	\$58,744,100
<b>II. POST ACADEMY:</b>					
FROM:					
Idaho Law Enforcement (Project Choice)					
Fund	\$122,900	\$2,300			\$125,200
Peace Officers Training					
Fund	1,923,300	1,860,900	\$692,100	\$95,400	4,571,700
Miscellaneous Revenue					
Fund		29,000			29,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Federal Grant					
Fund	<u>35,000</u>	<u>221,200</u>	<u>0</u>	<u>0</u>	<u>256,200</u>
TOTAL	\$2,081,200	\$2,113,400	\$692,100	\$95,400	\$4,982,100
GRAND TOTAL	\$41,006,400	\$14,036,900	\$5,584,000	\$3,098,900	\$63,726,200

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Idaho State Police is authorized no more than four hundred ninety-seven and twenty-five hundredths (497.25) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved April 2, 2013.

CHAPTER 236  
(H.B. No. 304)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO STATE POLICE FOR BRAND INSPECTION AND THE RACING COMMISSION FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS FOR BRAND INSPECTION; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS FOR THE RACING COMMISSION; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Idaho State Police, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. BRAND INSPECTION:					
FROM:					
State Brand Board					
Fund	\$2,145,700	\$384,700	\$84,500		\$2,614,900
II. RACING COMMISSION:					
FROM:					
Idaho State Racing Commission					
Fund	\$400,900	\$269,200	\$2,800		\$672,900
Parimutuel Distributions					
Fund	<u>0</u>	<u>0</u>	<u>0</u>	<u>\$30,000</u>	<u>30,000</u>
TOTAL	\$400,900	\$269,200	\$2,800	\$30,000	\$702,900
GRAND TOTAL	\$2,546,600	\$653,900	\$87,300	\$30,000	\$3,317,800

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, Brand Inspection is authorized no more than thirty-four and eighty-two hundredths (34.82) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Racing Commission is authorized no more than three (3) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved April 2, 2013.

CHAPTER 237  
(H.B. No. 305)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF JUVENILE CORRECTIONS FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Department of Juvenile Corrections, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
<b>I. ADMINISTRATION:</b>					
FROM:					
General					
Fund	\$1,975,700	\$792,000	\$36,000	\$20,000	\$2,823,700
Miscellaneous Revenue					
Fund	71,300	21,400	29,500		122,200
State Juvenile Corrections Center Endowment Income					
Fund	<u>0</u>	<u>0</u>	<u>71,600</u>	<u>0</u>	<u>71,600</u>
TOTAL	\$2,047,000	\$813,400	\$137,100	\$20,000	\$3,017,500
<b>II. COMMUNITY, OPERATIONS, AND PROGRAM SERVICES:</b>					
FROM:					
General					
Fund	\$1,203,200	\$181,100		\$4,243,900	\$5,628,200
Juvenile Corrections					
Fund	103,100	84,700			187,800
Juvenile Corrections - Cigarette/Tobacco Tax					
Fund				5,125,000	5,125,000
Miscellaneous Revenue					
Fund		117,300		327,000	444,300
Federal Grant					
Fund	<u>140,400</u>	<u>249,600</u>		<u>1,525,000</u>	<u>1,915,000</u>
TOTAL	\$1,446,700	\$632,700		\$11,220,900	\$13,300,300
<b>III. INSTITUTIONS:</b>					
FROM:					
General					
Fund	\$18,539,400	\$1,776,600		\$4,651,500	\$24,967,500
Miscellaneous Revenue					
Fund	19,200	328,000		460,000	807,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
State Juvenile Corrections Center Endowment Income					
Fund		892,800			892,800
Federal Grant					
Fund	<u>157,500</u>	<u>570,100</u>		<u>1,195,400</u>	<u>1,923,000</u>
TOTAL	\$18,716,100	\$3,567,500		\$6,306,900	\$28,590,500

## IV. COMMUNITY-BASED SUBSTANCE ABUSE TREATMENT SERVICES:

FROM:

General

Fund	\$147,900	\$54,900		\$3,830,700	\$4,033,500
GRAND TOTAL	\$22,357,700	\$5,068,500	\$137,100	\$21,378,500	\$48,941,800

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Juvenile Corrections is authorized no more than four hundred one (401) full-time equivalent positions at any point during the period July 1, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved April 2, 2013.

CHAPTER 238  
(H.B. No. 310)

## AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISIONS OF INDEPENDENT COUNCILS, INDIRECT SUPPORT SERVICES AND LICENSING AND CERTIFICATION FOR FISCAL YEAR 2014; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING FOR GENERAL FUND TRANSFERS TO THE COOPERATIVE WELFARE FUND; DIRECTING EXPENDITURES FOR TRUSTEE AND BENEFIT PAYMENTS; PROVIDING LEGISLATIVE INTENT FOR PROGRAM INTEGRITY; DIRECTING MONTHLY MEDICAID TRACKING REPORTS; DIRECTING REPORTING FOR THE MEDICAID PROGRAM INTEGRITY UNIT COLLECTIONS; CLARIFYING FUNDING FOR MEDICAID READINESS; AND PROVIDING GUIDANCE FOR EMPLOYEE COMPENSATION.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare, the following amounts to be expended according to the designated programs and expense classes, from the listed funds for the period July 1, 2013, through June 30, 2014:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. INDEPENDENT COUNCILS:					
A. DEVELOPMENTAL DISABILITIES COUNCIL:					
FROM:					
Cooperative Welfare (General)					
Fund	\$89,600	\$11,800			\$101,400
Cooperative Welfare (Dedicated)					
Fund		15,000			15,000
Cooperative Welfare (Federal)					
Fund	<u>295,700</u>	<u>196,600</u>		<u>\$31,600</u>	<u>523,900</u>
TOTAL	\$385,300	\$223,400		\$31,600	\$640,300
B. DOMESTIC VIOLENCE COUNCIL:					
FROM:					
Cooperative Welfare (General)					
Fund	\$11,900	\$1,300			\$13,200
Domestic Violence Project					
Fund	156,900	163,200		\$171,800	491,900
Cooperative Welfare (Dedicated)					
Fund		40,000			40,000
Cooperative Welfare (Federal)					
Fund	<u>102,300</u>	<u>66,900</u>		<u>3,415,400</u>	<u>3,584,600</u>
TOTAL	\$271,100	\$271,400		\$3,587,200	\$4,129,700
DIVISION TOTAL	\$656,400	\$494,800		\$3,618,800	\$4,770,000
II. INDIRECT SUPPORT SERVICES:					
FROM:					
Cooperative Welfare (General)					
Fund	\$9,419,900	\$6,359,800	\$421,600		\$16,201,300
Cooperative Welfare (Dedicated)					
Fund	973,700	1,160,300			2,134,000
Cooperative Welfare (Federal)					
Fund	<u>11,675,500</u>	<u>7,492,300</u>	<u>397,600</u>		<u>19,565,400</u>
TOTAL	\$22,069,100	\$15,012,400	\$819,200		\$37,900,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
III. LICENSING AND CERTIFICATION:					
FROM:					
Cooperative Welfare (General)					
Fund	\$1,189,500	\$271,700			\$1,461,200
Cooperative Welfare (Dedicated)					
Fund	685,900	12,200			698,100
Cooperative Welfare (Federal)					
Fund	<u>2,681,000</u>	<u>615,100</u>			<u>3,296,100</u>
TOTAL	\$4,556,400	\$899,000			\$5,455,400
GRAND TOTAL	\$27,281,900	\$16,406,200	\$819,200	\$3,618,800	\$48,126,100

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, each of the divisions in the Department of Health and Welfare listed below is authorized no more than the number of full-time equivalent positions listed below at any point during the period July 1, 2013, through June 30, 2014, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Independent Councils .....	8.97
Indirect Support Services .....	283.5
Licensing and Certification .....	62.9

SECTION 3. GENERAL FUND TRANSFERS. As appropriated, the State Controller shall make transfers from the General Fund to the Cooperative Welfare Fund, periodically, as requested by the director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 4. TRUSTEE AND BENEFIT PAYMENTS. Notwithstanding the provisions of Section 67-3511, Idaho Code, funds budgeted in the trustee and benefit payments expenditure class shall not be transferred to any other expense classes during fiscal year 2014.

SECTION 5. PROGRAM INTEGRITY. Notwithstanding any other provisions of law, it is hereby declared to be the intent of the Legislature that the Department of Health and Welfare shall be required to provide those services authorized or mandated by law in each program, only to the extent of funding and available resources appropriated for each budgeted program.

SECTION 6. MEDICAID TRACKING REPORT. The Department of Health and Welfare, Medical Assistance Services Division and Indirect Support Services Division shall deliver on a monthly basis to the Legislative Services Office and Division of Financial Management a report that compares the Medicaid budget as appropriated, distributed by month for the year, to actual expenditures and remaining forecasted expenditures for the year. The report shall also include a forecast, updated monthly, of the next fiscal year's anticipated trustee and benefit expenditures. The format of the report, and the information included therein, shall be determined by the Legislative Services Office and Division of Financial Management.

SECTION 7. MEDICAID PROGRAM INTEGRITY COLLECTIONS. It is the intent of the Legislature that the Indirect Support Services Division provide quarterly reports to the Legislative Services Office and Division of Financial Management comparing the total costs from all funding sources used for the Medicaid Program Integrity Unit and the collections related to those efforts. The report will track the new staff and their assessment and collections separately.

SECTION 8. MEDICAID READINESS. It is the intent of the Legislature that funding provided for the Medicaid Readiness Project in fiscal year 2014 support only the "mandatory" changes to the Medicaid program that are required by the Patient Protection and Affordable Care Act. Funding for the Medicaid Readiness Project should not be construed as acceptance nor rejection of the "optional" expansion of the Medicaid program as identified in the June 28, 2012, Supreme Court Ruling in the case of National Federation of Independent Business v. Sebelius, Secretary of Health and Human Services.

SECTION 9. EMPLOYEE COMPENSATION. The Legislature finds that investing in state employee compensation should remain a high priority even in tough economic times, and therefore strongly encourages agency directors, institution executives and the Division of Financial Management to approve the use of salary savings to provide either one-time or ongoing merit increases for deserving employees, and also target employees who are below policy compensation. Such salary savings could result from turnover and attrition, or be the result of innovation and reorganization efforts that create savings. Such savings should be reinvested in employees. Agencies are cautioned to use one-time funding for one-time payments and ongoing funding for permanent pay increases.

Approved April 2, 2013.

CHAPTER 239  
(H.B. No. 321)

AN ACT

RELATING TO HIGHWAYS; PROVIDING LEGISLATIVE INTENT; AMENDING SECTION 40-114, IDAHO CODE, TO REVISE DEFINITIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 40-202, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A CERTAIN MAP, TO ESTABLISH PROVISIONS RELATING TO DESIGNATING A NEW HIGHWAY OR PUBLIC RIGHT-OF-WAY ON THE OFFICIAL MAP, TO ESTABLISH PROVISIONS RELATING TO NOTICE, TO ESTABLISH PROVISIONS RELATING TO THE PURPOSE OF AN OFFICIAL MAP AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 40-203, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO A BURDEN OF PROOF, TO REMOVE LANGUAGE RELATING TO A HIGHWAY ABANDONED AND VACATED AND THAT PUBLIC USE OF A CERTAIN HIGHWAY OR PUBLIC RIGHT-OF-WAY MAY NOT BE RESTRICTED, TO ESTABLISH PROVISIONS RELATING TO CERTAIN PROCEEDINGS DETERMINING THE PUBLIC STATUS OR WIDTH OF A HIGHWAY OR PUBLIC RIGHT-OF-WAY, TO ESTABLISH PROVISIONS WHERE CERTAIN HIGHWAYS OR PUBLIC RIGHTS-OF-WAY MAY BE ABANDONED AND VACATED ONLY UPON A FORMAL DETERMINATION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 40-208, IDAHO CODE, TO REVISE PROVISIONS RELATING TO JUDICIAL REVIEW, TO ESTABLISH PROVISIONS RELATING TO A PETITION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 40-2312, IDAHO CODE, TO REVISE PROVISIONS RELATING TO WIDTH OF CERTAIN HIGHWAYS AND TO ESTABLISH PROVISIONS RELATING TO CERTAIN HIGHWAYS THAT AT THE TIME OF A VALIDATION OR JUDICIAL PROCEEDING ARE NOT LOCATED ON CERTAIN LANDS; 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 address right-of-way issues brought forward during the testimony and discussion before the Senate Transportation Committee in the 2012 legislative session relating to House Bill No. 628, as amended. During the 2012 interim session, the President Pro Tempore of the Senate and the Speaker of the House of Representatives established an Interim Task Force encompassing members of the Idaho Senate and the House of Representatives to further study these issues. On October 1, 2012, the Right-of-Way Task Force convened and accepted extensive testimony from stakeholders that included representatives of utility companies, counties and highway districts, irrigation districts and canal companies and various members of the public. It is further the intent of the Legislature to protect private property rights and ensure adequate public rights-of-way for transportation, utility and irrigation and other public facilities. It is the intent of the Legislature that this act shall apply to any and all existing and future highways and public rights-of-way and provide for an immediate implementation date due to the year delay in passing needed legislation, as a result of the yearlong task force efforts and the immediate need to provide clarity regarding the status or abandonment of highways and public rights-of-way.

SECTION 2. That Section 40-114, Idaho Code, be, and the same is hereby amended to read as follows:

40-114. DEFINITIONS -- M. (1) "Main traveled way" means the portion of a roadway for the movement of vehicles, exclusive of shoulders.

(2) "Maintain" or "place" means to allow to exist, subject to the provisions of chapter 19, title 40, Idaho Code.

(3) "Maintenance" means to preserve from failure or decline, or repair, refurbish, repaint or otherwise keep an existing highway or structure public right-of-way in a suitable state for use including, without limitation, snow removal, sweeping, litter control, weed abatement and placement or repair of public safety signage.

(4) "Mortgage" means a class of liens, including deeds of trust, as are commonly given to secure advances on, or the unpaid purchase price of, real property under the laws of the state of Idaho, together with the credit instruments, if any, secured by it.

SECTION 3. That Section 40-202, Idaho Code, be, and the same is hereby amended to read as follows:

40-202. DESIGNATION OF HIGHWAYS AND PUBLIC RIGHTS-OF-WAY. (1) The initial selection of the county highway system and highway district system may be accomplished in the following manner:

(a) The board of county or highway district commissioners shall cause a map to be prepared showing the general location of each highway and public right-of-way in ~~their~~ its jurisdiction, and the commissioners shall cause notice to be given of intention to adopt the map as the official map of that system, and shall specify the time and place at which all interested persons may be heard.

(b) After the hearing, the commissioners shall adopt the map, with any changes or revisions considered by them to be advisable in the public interest, as the official map of the respective highway system.

(2) If a county or highway district acquires an interest in real property for highway or public right-of-way purposes, the respective commissioners shall:

- (a) Cause any order or resolution enacted, and deed or other document establishing an interest in the property for their highway system purposes to be recorded in the county records; or
- (b) Cause the official map of the county or highway district system to be amended as affected by the acceptance of the highway or public right-of-way.

Provided, however, a county with highway jurisdiction or highway district may hold title to an interest in real property for public right-of-way purposes without incurring an obligation to construct or maintain a highway within the right-of-way until the county or highway district determines that the necessities of public travel justify opening a highway within the right-of-way. The lack of an opening shall not constitute an abandonment, and mere use by the public shall not constitute an opening of the public right-of-way.

(3) Highways laid out, recorded and opened as described in subsection (2) of this section, by order of a board of commissioners, and all highways used for a period of five (5) years, provided they shall have been worked and kept up at the expense of the public, or located and recorded by order of a board of commissioners, are highways. If a highway created in accordance with the provisions of this subsection is not opened as described in subsection (2) of this section, there shall be no duty to maintain that highway, nor shall there be any liability for any injury or damage for failure to maintain it or any highway signs, until the highway is designated as a part of the county or highway district system and opened to public travel as a highway.

(4) When a public right-of-way is created in accordance with the provisions of subsection (2) of this section, or section 40-203 or 40-203A, Idaho Code, there shall be no duty to maintain that public right-of-way, nor shall there be any liability for any injury or damage for failure to maintain it or any highway signs.

(5) Nothing in this section shall limit the power of any board of commissioners to subsequently include or exclude any highway or public right-of-way from the county or highway district system.

(6) By July 1, 2005, and at least every five (5) years thereafter, the board of county or highway district commissioners shall have published in map form and made make readily available a map showing the general location of all highways and public rights-of-way under its jurisdiction. Any board of county or highway district commissioners may be granted an extension of time with approval of the legislature by adoption of a concurrent resolution.

(7) Prior to designating a new highway or public right-of-way on the official map, the board of county or highway district commissioners shall confirm that no legal abandonment has occurred on the new highway or right-of-way to be added to the official map. In addition, the board of county or highway district commissioners shall have some basis indicating dedication, purchase, prescriptive use or other means for the creation of a highway and public right-of-way with evidentiary support.

(8) The board of county or highway district commissioners shall give advance notice of hearing, by U.S. mail, to any landowner upon or within whose land the highway or public right-of-way is located whenever a highway or public right-of-way is proposed for inclusion on such map and the public status of such highway or public right-of-way is not already a matter of public record. The purpose of this official map is to put the public on notice of those highways and public rights-of-way that the board of county or highway district commissioners considers to be public. The inclusion or exclusion of a highway or public right-of-way from such a map does not, in itself, constitute a legal determination of the public status of such highway or public right-of-way. Any person may challenge, at any time, the inclusion or exclusion of a highway or public right-of-way from such map by initiating proceedings as described in section 40-208(7), Idaho Code.

(9) Nothing in this section or in any designation of the general location of a highway or public right-of-way shall authorize the public highway agency to assert or claim rights superior to or in conflict with any rights-of-way that resulted from the creation of a facility for the transmission of water which existed before the designation of the location of a highway or public right-of-way.

SECTION 4. That Section 40-203, Idaho Code, be, and the same is hereby amended to read as follows:

40-203. ABANDONMENT AND VACATION OF COUNTY AND HIGHWAY DISTRICT SYSTEM HIGHWAYS OR PUBLIC RIGHTS-OF-WAY. (1) A board of county or highway district commissioners, whichever shall have jurisdiction of the highway system, shall use the following procedure to abandon and vacate any highway or public right-of-way in the county or highway district system including those which furnish public access to state and federal public lands and waters:

(a) The commissioners may by resolution declare ~~its~~ their intention to abandon and vacate any highway or public right-of-way ~~considered no longer to be, or to reclassify a public highway as a public right-of-way, where doing so is~~ in the public interest.

(b) Any resident, or property holder, within a county or highway district system including the state of Idaho, any of its subdivisions, or any agency of the federal government may petition the respective commissioners for abandonment and vacation of any highway or public right-of-way within their highway system. The petitioner shall pay a reasonable fee as determined by the commissioners to cover the cost of the proceedings.

(c) The commissioners shall establish a hearing date or dates on the proposed abandonment and vacation.

(d) The commissioners shall prepare a public notice stating their intention to hold a public hearing to consider the proposed abandonment and vacation of a highway or public right-of-way which shall be made available to the public not later than thirty (30) days prior to any hearing and mailed to any person requesting a copy not more than three (3) working days after any such request.

(e) At least thirty (30) days prior to any hearing scheduled by the commissioners to consider abandonment and vacation of any highway or public right-of-way, the commissioners shall mail notice by United States mail to known owners and operators of an underground facility, as defined in section 55-2202, Idaho Code, that lies within the highway or public right-of-way.

(f) At least thirty (30) days prior to any hearing scheduled by the commissioners to consider abandonment and vacation of any highway or public right-of-way, the commissioners shall mail notice to owners of record of land abutting the portion of the highway or public right-of-way proposed to be abandoned and vacated at their addresses as shown on the county assessor's tax rolls and shall publish notice of the hearing at least two (2) times if in a weekly newspaper or three (3) times if in a daily newspaper, the last notice to be published at least five (5) days and not more than twenty-one (21) days before the hearing.

(g) At the hearing, the commissioners shall accept all information relating to the proceedings. Any person, including the state of Idaho or any of its subdivisions, or any agency of the federal government, may appear and give testimony for or against abandonment.

(h) After completion of the proceedings and consideration of all related information, the commissioners shall decide whether the abandonment and vacation of the highway or public right-of-way is in the public interest of the highway jurisdiction affected by the abandonment or vacation. The decision whether or not to abandon and vacate the highway or

public right-of-way shall be written and shall be supported by findings of fact and conclusions of law.

(i) If the commissioners determine that a highway or public right-of-way parcel to be abandoned and vacated in accordance with the provisions of this section has a fair market value of twenty-five hundred dollars (\$2,500) or more, a charge may be imposed upon the acquiring entity, not in excess of the fair market value of the parcel, as a condition of the abandonment and vacation; provided, however, no such charge shall be imposed on the landowner who originally dedicated such parcel to the public for use as a highway or public right-of-way; and provided further, that if the highway or public right-of-way was originally a federal land right-of-way, said highway or public right-of-way shall revert to a federal land right-of-way.

(j) The commissioners shall cause any order or resolution to be recorded in the county records and the official map of the highway system to be amended as affected by the abandonment and vacation.

(k) From any such decision, a resident or property holder within the county or highway district system, including the state of Idaho or any of its subdivisions or any agency of the federal government, may appeal to the district court of the county in which the highway or public right-of-way is located pursuant to section 40-208, Idaho Code.

(2) No highway or public right-of-way or parts thereof shall be abandoned and vacated so as to leave any real property adjoining the highway or public right-of-way without access to an established highway or public right-of-way. The burden of proof shall be on the impacted property owner to establish this fact.

(3) In the event of abandonment and vacation, rights-of-way or easements ~~may shall~~ be reserved for the continued use of existing sewer, gas, water, or similar pipelines and appurtenances, or other underground facilities as defined in section 55-2202, Idaho Code, for ditches or canals and appurtenances, and for electric, telephone and similar lines and appurtenances.

~~(4) A highway abandoned and vacated under the provisions of this section may be reclassified as a public right-of-way.~~

~~(5) Until abandonment is authorized by the commissioners, public use of the highway or public right-of-way may not be restricted or impeded by encroachment or installation of any obstruction restricting public use, or by the installation of signs or notices that might tend to restrict or prohibit public use. Any person violating the provisions of this subsection shall be guilty of a misdemeanor.~~

(64) When a county or highway district desires the abandonment or vacation of any highway, public street or public right-of-way which was accepted as part of a platted subdivision said abandonment or vacation shall be accomplished pursuant to the provisions of chapter 13, title 50, Idaho Code.

(5) In any proceeding under this section or section 40-203A, Idaho Code, or in any judicial proceeding determining the public status or width of a highway or public right-of-way, a highway or public right-of-way shall be deemed abandoned if the evidence shows:

(a) That said highway or public right-of-way was created solely by a particular type of common law dedication, to wit, a dedication based upon a plat or other document that was not recorded in the official records of an Idaho county;

(b) That said highway or public right-of-way is not located on land owned by the United States or the state of Idaho nor on land entirely surrounded by land owned by the United States or the state of Idaho nor does it provide the only means of access to such public lands; and

(c) (i) That said highway or public right-of-way has not been used by the public and has not been maintained at the expense of the public

in at least three (3) years during the previous fifteen (15) years;  
or  
(ii) Said highway or right-of-way was never constructed and at least twenty (20) years have elapsed since the common law dedication.

All other highways or public rights-of-way may be abandoned and vacated only upon a formal determination by the commissioners pursuant to this section that retaining the highway or public right-of-way for use by the public is not in the public interest, and such other highways or public rights-of-way may be validated or judicially determined at any time notwithstanding any other provision of law. Provided that any abandonment under this subsection shall be subject to and limited by the provisions of subsections (2) and (3) of this section.

SECTION 5. That Section 40-208, Idaho Code, be, and the same is hereby amended to read as follows:

40-208. JUDICIAL REVIEW. (1) Any resident or property holder within the county or highway district system, including the state of Idaho or any of its subdivisions, or any agency of the federal government, who is aggrieved by a final decision of a board of county or highway district commissioners in an abandonment and vacation or validation proceeding is entitled to judicial review under the provisions of this section.

(2) Proceedings for review are instituted by filing a petition in the district court of the county in which the commissioners have jurisdiction over the highway or public ~~right-of-way~~ right-of-way within twenty-eight (28) days after the filing of the final decision of the commissioners or, if a rehearing is requested, within twenty-eight (28) days after the decision thereon.

(3) The filing of the petition does not itself stay enforcement of the commissioners' decision. The reviewing court may order a stay upon appropriate terms.

(4) Within thirty (30) days after the service of the petition, or within further time allowed by the court, the commissioners shall transmit to the reviewing court the original, or a certified copy, of the entire record of the proceeding under review. By stipulation of all parties to the review proceedings, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be ordered by the court to pay for additional costs. The court may require subsequent corrections to the record and may also require or permit additions to the record.

(5) ~~If, before the date set for hearing, application is made to the court for leave to present additional information, and it is shown to the satisfaction of the court that the additional information is material and that there were good reasons for failure to present it in the proceeding before the commissioners,~~ The parties may present additional evidence to the court, upon a showing to the court that such evidence is material to the issues presented to the court. In such case, the court may order that the additional information shall be presented to the commissioners upon conditions determined by the court. The commissioners may modify their findings and decisions by reason of the additional information and shall file that information and any modifications, new findings, or decisions with the reviewing court.

(6) ~~The review shall be conducted by the court without a jury and shall be confined to the record. The court shall consider the record before the board of county or highway district commissioners and shall defer to the board of county or highway district commissioners on matters in which such board has appropriately exercised its discretion with respect to the evaluation of the public interest. As to the determination of highway or public right-of-way creation, width and abandonment, the court may accept~~

new evidence and testimony supplemental to the record provided by the county or highway district, and the court shall consider those issues anew. In cases of alleged irregularities in procedure before the commissioners, not shown in the record, proof thereon may be taken in the court. The court, upon request, shall hear oral argument and receive written briefs.

~~(7) The court shall not substitute its judgment for that of the commissioners as to the weight of the information on questions of fact. The court may affirm the decision of the commissioners or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the commissioners' findings, inferences, conclusions or decisions are:~~

- ~~(a) In violation of constitutional or statutory provisions;~~
- ~~(b) In excess of the statutory authority of the commissioners;~~
- ~~(c) Made upon unlawful procedure;~~
- ~~(d) Affected by other error of law;~~
- ~~(e) Clearly erroneous in view of the reliable, probative and substantial information on the whole record; or~~
- ~~(f) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion~~

Any person other than a board of county or highway district commissioners seeking a determination of the legal status or the width of a highway or public right-of-way shall first petition for the initiation of validation or abandonment proceedings, or both, as provided for in sections 40-203(1) (b) and 40-203A(1), Idaho Code. If the commissioners having jurisdiction over the highway system do not initiate a proceeding in response to such a petition within thirty (30) days, the person may seek a determination by quiet title or other available judicial means. When the legal status or width of a highway or public right-of-way is disputed and where a board of county or highway district commissioners wishes to determine the legal status or width of a highway or public right-of-way, the commissioners shall initiate validation or abandonment proceedings, or both, as provided for in sections 40-203 and 40-203A, Idaho Code, rather than initiating an action for quiet title. If proceedings pursuant to the provisions of section 40-203 or 40-203A, Idaho Code, are initiated, those proceedings and any appeal or remand therefrom shall provide the exclusive basis for determining the status and width of the highway, and no court shall have jurisdiction to determine the status or width of said highway except by way of judicial review provided for in this section. Provided that nothing in this subsection shall preclude determination of the legal status or width of a public road in the course of an eminent domain proceeding, as provided for in chapter 7, title 7, Idaho Code.

SECTION 6. That Section 40-2312, Idaho Code, be, and the same is hereby amended to read as follows:

40-2312. WIDTH OF HIGHWAYS. (1) Where the width of a highway is stated in the plat, dedication, deed, easement, agreement, official road book, determination or other document or by an oral agreement supported by clear and convincing evidence that effectively conveys, creates, recognizes or modifies the highway or establishes the width, that width shall control.

(2) Where no width is established as provided for in subsection (1) of this section and where subsection (3) of this section is not applicable, such All highways, except bridges and those located within cities, shall be not less than fifty (50) feet wide, except those of a lesser width presently existing, and may be as wide as required for proper construction and maintenance in the discretion of the authority in charge of the construction and maintenance. Bridges located outside incorporated cities shall be the same width to and across the river, creek or stream as the highway leading to it.

(3) Highways that at the time of a validation or judicial proceeding are not located on land owned by the United States or the state of Idaho or on land entirely surrounded by land owned by the United States or the state of Idaho, and that have not received maintenance at the expense of the public in at least three (3) years during the previous fifteen (15) years, shall be declared to be of such width, and none greater, as is sufficient to accommodate:

(a) The existing physical road surface;

(b) Existing uses of the highway;

(c) Existing features included within the definition of highways in section 40-109(5), Idaho Code;

(d) Such space for existing utilities as has historically been required for ongoing maintenance, replacement and upgrade of such utilities; and

(e) Space reasonably required for maintenance, motorist and pedestrian safety, necessary to maintain existing uses of the highway.

(4) Nothing in this section shall diminish or otherwise limit the authority and rights of irrigation districts, canal companies or other such entities as provided in chapters 11 and 12, title 42, Idaho Code.

(5) Nothing in this section shall diminish or otherwise limit any right of eminent domain as set forth in chapter 7, title 7, Idaho Code.

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 April 2, 2013.

CHAPTER 240  
(S.B. No. 1060)

AN ACT

RELATING TO PROSTITUTION; AMENDING CHAPTER 56, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-5610, IDAHO CODE, TO ESTABLISH A FELONY FOR UTILIZING A PERSON UNDER EIGHTEEN YEARS OF AGE FOR PROSTITUTION AND TO PROVIDE PENALTIES; AMENDING CHAPTER 56, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-5612, IDAHO CODE, TO PROVIDE FOR PROPERTY SUBJECT TO CRIMINAL FORFEITURE; AND AMENDING SECTION 18-8304, IDAHO CODE, TO PROVIDE FOR A CODE REFERENCE.

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

SECTION 1. That Chapter 56, 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 18-5610, Idaho Code, and to read as follows:

18-5610. UTILIZING A PERSON UNDER EIGHTEEN YEARS OF AGE FOR PROSTITUTION -- PENALTIES. (1) Every person who exchanges or offers to exchange anything of value for sexual conduct or sexual contact with a person under the age of eighteen (18) years shall be guilty of a felony punishable by imprisonment in the state penitentiary for a period of not less than two (2) years, which may be extended to life imprisonment, or by a fine not exceeding fifty thousand dollars (\$50,000), or by both such imprisonment and fine.

(2) As used in this section:

(a) "Sexual conduct" means sexual intercourse or deviate sexual intercourse.

(b) "Sexual contact" means any touching of the sexual organs or other intimate parts of a person not married to the actor for the purpose of arousing or gratifying the sexual desire of either party.

(c) "Anything of value" includes, but is not limited to, a fee, food, shelter, clothing, medical care or membership in a criminal gang as defined in section 18-8502, Idaho Code.

SECTION 2. That Chapter 56, 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 18-5612, Idaho Code, and to read as follows:

18-5612. PROPERTY SUBJECT TO CRIMINAL FORFEITURE. (1) Any person who is found guilty of, who enters a plea of guilty or who is convicted of a violation of section 18-5602 or 18-5609, Idaho Code, no matter the form of the judgment or order withholding judgment, shall forfeit to the state of Idaho:

(a) Any property constituting, or derived from, any proceeds the person obtained directly or indirectly as the result of such violation; and

(b) Any of the person's property used, or intended to be used, in any manner or part to commit or to facilitate the commission of such violation.

(2) The court, in imposing sentence on such person as described in subsection (1) of this section, shall order, in addition to any other sentence imposed, that the person forfeit to the state of Idaho all property described in this section. The provisions of this chapter shall not be construed in any manner to prevent the state of Idaho, the attorney general or the appropriate prosecuting attorney from requesting restitution pursuant to section 19-5304, Idaho Code. The issue of criminal forfeiture shall be for the court alone, without submission to a jury, as a part of the sentencing procedure within the criminal action.

SECTION 3. That Section 18-8304, Idaho Code, be, and the same is hereby amended to read as follows:

18-8304. APPLICATION OF CHAPTER -- RULEMAKING AUTHORITY. (1) The provisions of this chapter shall apply to any person who:

(a) On or after July 1, 1993, is convicted of the crime, or an attempt, a solicitation, or a conspiracy to commit a crime provided for in section 18-909 (assault with intent to commit rape, infamous crime against nature, or lewd and lascivious conduct with a minor, but excluding mayhem, murder or robbery), 18-911 (battery with intent to commit rape, infamous crime against nature, or lewd and lascivious conduct with a minor, but excluding mayhem, murder or robbery), 18-919 (sexual exploitation by a medical care provider), 18-1505B (sexual abuse and exploitation of a vulnerable adult), 18-1506 (sexual abuse of a child under sixteen years of age), 18-1506A (ritualized abuse of a child), 18-1507 (sexual exploitation of a child), 18-1508 (lewd conduct with a minor child), 18-1508A (sexual battery of a minor child sixteen or seventeen years of age), 18-1509A (enticing a child over the internet), 18-4003(d) (murder committed in perpetration of rape), 18-4116 (indecent exposure, but excluding a misdemeanor conviction), 18-4502 (first degree kidnapping committed for the purpose of rape, committing the infamous crime against nature or for committing any lewd and lascivious act upon any child under the age of sixteen, or for purposes of sexual gratification or arousal), 18-4503 (second degree kidnapping where the victim is an unrelated minor child), 18-5605 (detention for prostitution), 18-5609 (inducing person under eighteen years of age into prostitution), 18-5610 (utilizing a person under eighteen years of age for prostitution), 18-5611 (inducing person under eighteen years of age to patronize a prostitute), 18-6101 (rape, but excluding

18-6101(1) where the defendant is eighteen years of age), 18-6108 (male rape, but excluding 18-6108(1) where the defendant is eighteen years of age), 18-6110 (sexual contact with a prisoner), 18-6602 (incest), 18-6605 (crime against nature), 18-6608 (forcible sexual penetration by use of a foreign object), 18-6609 (video voyeurism where the victim is a minor or upon a second or subsequent conviction), 18-7804 (if the racketeering act involves kidnapping of a minor) or 18-8602(1), Idaho Code, (sex trafficking).

(b) On or after July 1, 1993, has been convicted of any crime, an attempt, a solicitation or a conspiracy to commit a crime in another jurisdiction or who has a foreign conviction that is substantially equivalent to the offenses listed in subsection (1) (a) of this section and enters this state to establish residence or for employment purposes or to attend, on a full-time or part-time basis, any public or private educational institution including any secondary school, trade or professional institution or institution of higher education.

(c) Has been convicted of any crime, an attempt, a solicitation or a conspiracy to commit a crime in another jurisdiction, including military courts, that is substantially equivalent to the offenses listed in subsection (1) (a) of this section and was required to register as a sex offender in any other state or jurisdiction when he established residency in Idaho.

(d) Pleads guilty to or has been found guilty of a crime covered in this chapter prior to July 1, 1993, and the person, as a result of the offense, is incarcerated in a county jail facility or a penal facility or is under probation or parole supervision, on or after July 1, 1993.

(e) Is a nonresident regularly employed or working in Idaho or is a student in the state of Idaho and was convicted, found guilty or pleaded guilty to a crime covered by this chapter and, as a result of such conviction, finding or plea, is required to register in his state of residence.

(2) An offender shall not be required to comply with the registration provisions of this chapter while incarcerated in a correctional institution of the department of correction, a county jail facility, committed to the department of juvenile corrections or committed to a mental health institution of the department of health and welfare.

(3) A conviction for purposes of this chapter means that the person has pled guilty or has been found guilty, notwithstanding the form of the judgment or withheld judgment.

(4) The department shall have authority to promulgate rules to implement the provisions of this chapter.

Approved April 3, 2013.

CHAPTER 241  
(H.B. No. 124)

AN ACT

RELATING TO THE STATE BOARD OF CORRECTION; AMENDING SECTION 20-223, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE RETURN OF A CERTAIN BOND AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 20-223, Idaho Code, be, and the same is hereby amended to read as follows:

20-223. PAROLE AND RULES GOVERNING -- RESTRICTIONS -- PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION. (a) Subject to section 19-2513, Idaho Code, the commission shall have the power to establish rules, policies or procedures in compliance with chapter 52, title 67, Idaho Code, under which any prisoner, excepting any under sentence of death, may be allowed to go upon parole but to remain while on parole in the legal custody and under the control of the board and subject to be taken back into confinement at the direction of the commission. Any prisoner who is granted parole under the interstate compact may be required to post a bond prior to release or prior to such acceptance under the interstate compact; such bond may be posted by the prisoner, the prisoner's family, or other interested party. Failure to successfully complete parole may be grounds for forfeiture of the bond. Upon successful completion of parole, the amount of the bond ~~will~~ may be returned, less an amount for administrative costs as determined by commission rule, in compliance with chapter 52, title 67, Idaho Code. A request must be made for return of the bond within one (1) year of discharge of the offense for which the particular offender was serving parole. Funds collected through the bonding process will be placed in a separate commission receipts fund which is hereby created in the state treasury, and utilized for the extradition of said parole violators.

(b) No person serving a sentence for rape, incest, committing a lewd act upon a child, crime against nature, or with an intent or an assault with intent to commit any ~~of the said~~ such crimes, or whose history and conduct indicate to the commission that he is a sexually dangerous person, shall be released on parole except upon the examination and evaluation of one (1) or more psychiatrists or psychologists or mental health professionals designated for this purpose by the department of correction to be selected by the commission and such evaluation shall be duly considered by the commission in making its parole determination. The commission may, in its discretion, likewise require a similar examination and evaluation for persons serving sentences for crimes other than those above enumerated. No person making such evaluation shall be held financially responsible to any person for denial of parole by the commission or for the results of the future acts of such person if he be granted parole.

(c) Before considering the parole of any prisoner, the commission shall afford the prisoner the opportunity to be interviewed by the commission, a commissioner or other designated commission staff. A designated report prepared by commission staff or a designated department of correction employee which is specifically to be used by the commission in making a parole determination shall be exempt from public disclosure; such reports contain information from the presentence investigation report, medical or psychological information, victim information, designated confidential witness information and criminal history information. A parole shall be ordered when, in the discretion of the commission, it is in the best interests of society, and the commission believes the prisoner is able and willing to fulfill the obli-

gations of a law-abiding citizen. Such determination shall not be a reward of clemency and it shall not be considered to be a reduction of sentence or a pardon. The commission may also by its rules, policies or procedures fix the times and conditions under which any application denied may be reconsidered. No action may be maintained against the commission and/or any of its members in any court in connection with any decision taken by the commission to parole a prisoner and neither the commission nor its members shall be liable in any way for its action with respect thereto.

(d) In making any parole or commutation decision with respect to a prisoner, the commission shall consider the compliance of the prisoner with any order of restitution which may have been entered according to section 19-5304, Idaho Code. The commission may make compliance with such an order of restitution a condition of parole.

(e) Except as provided in subsection (a) of this section, no provision of chapter 52, title 67, Idaho Code, shall apply to the commission.

(f) Subject to the limitations of this subsection and notwithstanding any fixed term of confinement or minimum period of confinement as provided in section 19-2513, Idaho Code, the commission may parole an inmate for medical reasons. A prisoner may be considered for medical parole only when the prisoner is permanently incapacitated or terminally ill and when the commission reasonably believes the prisoner no longer poses a threat to the safety of society. For the purposes of this section "permanently incapacitated" shall mean a person who, by reason of an existing physical condition which is not terminal, is permanently and irreversibly physically incapacitated. For the purposes of this section "terminally ill" shall mean a person who has an incurable condition caused by illness or disease and who is irreversibly terminally ill.

(g) The commission shall prepare and send to the house and senate judiciary committees annually a report containing the names, medical condition and current status of all persons granted parole pursuant to subsection (f) of this section.

Approved April 3, 2013.

CHAPTER 242  
(H.B. No. 192)

AN ACT

RELATING TO LICENSES TO CARRY CONCEALED WEAPONS; AMENDING SECTION 18-3302, IDAHO CODE, TO REVISE RENEWAL AND FEE PROVISIONS FOR LICENSES TO CARRY CONCEALED WEAPONS; AMENDING CHAPTER 33, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-3302K, IDAHO CODE, TO PROVIDE FOR THE ISSUANCE OF ENHANCED LICENSES TO CARRY CONCEALED WEAPONS, TO PROVIDE FEES, TO PROVIDE PROCEDURES, TO PROVIDE DUTIES OF THE IDAHO STATE POLICE AND THE ATTORNEY GENERAL AND TO PROVIDE APPLICATION; AMENDING SECTION 9-340B, IDAHO CODE, TO PROVIDE REFERENCE TO ADDITIONAL RECORDS THAT ARE EXEMPT FROM DISCLOSURE WITH EXCEPTIONS; AND PROVIDING SEVERABILITY.

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. He:

- (a) Is ineligible to own, possess or receive a firearm under the provisions of state or federal law;
- (b) Is formally charged with a crime punishable by imprisonment for a term exceeding one (1) year;
- (c) Has been adjudicated guilty in any court of a crime punishable by imprisonment for a term exceeding one (1) year;
- (d) Is a fugitive from justice;
- (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;
- (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;
  - (ii) Mentally ill as defined in section 66-317, Idaho Code;
  - (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.
- (g) Is or has been discharged from the armed forces under dishonorable conditions;
- (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 have elapsed since disposition or pardon has occurred prior to the date on which the application is submitted;
- (i) Has had entry of a withheld judgment for a criminal offense which would disqualify him from obtaining a concealed weapon license;
- (j) Is an alien illegally in the United States;
- (k) Is a person who having been a citizen of the United States, has renounced his or her citizenship;
- (l) Is under twenty-one (21) years of age;
- (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 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.

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~~ to one hundred eighty (180) days after the expiration date of the license shall pay a late renewal penalty of ten dollars (\$10.00) in addition to the renewal fee, except that any licensee serving on active duty in the armed forces of the United States during the renewal period shall not be required

to pay a late renewal penalty upon renewing ninety-one (91) days ~~or more~~ to one hundred eighty (180) days after the expiration date of the license. After one hundred eighty-one (181) days, the licensee shall be required to submit an initial application for a license and to pay the fees prescribed in subsection (2) of this section. The renewal fee and any penalty shall be paid to the sheriff for the purpose of enforcing the provisions of this chapter. Upon renewing a license under the provisions of this section, the sheriff shall notify the Idaho state police within five (5) days on a form or in a manner prescribed.

(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 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;

(b) Completion of any national rifle association firearms safety or training course or any national rifle association hunter education course;

(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;

(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;

(e) Presents evidence or equivalent experience with a firearm through participation in organized shooting competition or military service;

(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;

(b) Misuse of a license, including lending or giving a license to another person, duplicating a license or using a license with the intent to unlawfully cause harm to a person or property;

(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;

(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.

SECTION 2. That Chapter 33, 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 18-3302K, Idaho Code, and to read as follows:

18-3302K. ISSUANCE OF ENHANCED LICENSES TO CARRY CONCEALED WEAPONS. (1) The sheriff of a county shall, within ninety (90) days after the filing of an application by any person who is not disqualified from possessing or receiving a firearm under state or federal law and has otherwise complied with the requirements of this section for an enhanced license, issue an enhanced license to the person to carry a weapon concealed on his person. Licenses issued under this section shall be valid for five (5) years from the date of issue.

(2) A person may file an application with the sheriff of the county in which he resides or, if not an Idaho resident, with the sheriff of any county in Idaho. The license application shall be 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. If the applicant is not a U.S. citizen, the application shall also require any alien or admission number issued to the applicant by U.S. immigration and customs enforcement, or any successor agency. The application shall indicate that the provision of the social security number is optional. The sheriff shall make such applications readily available at the office of the sheriff or at other public offices in his jurisdiction. 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.

(3) 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 section. Within five (5) days after the filing of an application, the sheriff shall forward the application and fingerprints to the Idaho state police. The Idaho state police shall conduct a national fingerprint-based records check, an inquiry through the national instant criminal background check system, and a check of any applicable state database, including a check for any mental health records that would disqualify a person from possessing a firearm under state or federal law, and shall return the results to the sheriff within seventy-five (75) days. If

the applicant is not a U.S. citizen, an immigration alien query shall also be conducted through U.S. immigration and customs enforcement or any successor agency. The sheriff shall not issue a license before receiving and reviewing the results of the records check.

(4) The sheriff shall deny an enhanced license to carry a concealed weapon if the applicant is disqualified under any of the criteria listed in section 18-3302(1) (a) through (n), Idaho Code, or does not meet all of the following qualifications:

(a) Has been a legal resident of the state of Idaho for at least six (6) consecutive months before filing an application under this section or holds a current license or permit to carry concealed firearms issued by his state of residence; and

(b) Has successfully completed within twelve (12) months immediately preceding filing an application, a qualifying handgun course as specified in this paragraph and taught by a certified instructor who is not prohibited from possessing firearms under state or federal law. A copy of the certificate of successful completion of the handgun course, in a form to be prescribed by the director of the Idaho state police and signed by the course instructor, shall be submitted to the sheriff at the time of filing an application under this section. Certified instructors of handgun courses when filing an application under this section shall not be required to submit such certificates but shall submit a copy of their current instructor's credential. The sheriff shall accept as a qualifying handgun course a personal protection course offered by the national rifle association or an equivalent course meeting the following requirements:

(i) The course instructor is certified by the national rifle association, or by another nationally recognized organization that customarily certifies firearms instructors, as an instructor in personal protection with handguns, or the course instructor is certified by the Idaho peace officers standards and training council as a firearms instructor;

(ii) The course is at least eight (8) hours in duration;

(iii) The course is taught face to face and not by electronic or other means; and

(iv) The course includes instruction in:

1. Idaho law relating to firearms and the use of deadly force, provided that such instruction is delivered by either of the following whose name and credential shall appear on the certificate:

(A) An active licensed member of the Idaho state bar;  
or

(B) A law enforcement officer who possesses an intermediate or higher Idaho peace officers standards and training certificate.

2. The basic concepts of the safe and responsible use of handguns;

3. Self-defense principles; and

4. Live fire training including the firing of at least ninety-eight (98) rounds by the student.

(5) 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. The license shall be clearly distinguishable from a license issued pursuant to section 18-3302, Idaho Code, and shall be marked "Idaho enhanced concealed weapons license" on its face. Upon issuing a license under the provisions of this section, the sheriff shall notify the Idaho state police within three (3) days on a form

or in a manner prescribed by the Idaho 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 9-340B, Idaho Code.

(6) The fee for original issuance of a license shall be twenty dollars (\$20.00), which the sheriff shall retain for the purpose of performing the duties required in this section. 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.

(7) The fee for renewal of the enhanced license shall be fifteen dollars (\$15.00), which the sheriff shall retain for the purpose of performing duties required in this section. 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.

(8) 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. The Idaho state police shall conduct the same records checks as required for an initial license under subsection (3) of this section and shall return the results to the sheriff within thirty (30) days. The sheriff shall not issue a renewal before receiving and reviewing the results of the records check and must deny a license if the applicant is disqualified under any of the criteria provided in 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 to one hundred eighty (180) days after the expiration date of the license shall pay a late renewal penalty of ten dollars (\$10.00) in addition to the renewal fee, except that any licensee serving on active duty in the armed forces of the United States during the renewal period shall not be required to pay a late renewal penalty upon renewing ninety-one (91) days to one hundred eighty (180) days after the expiration date of the license. After one hundred eighty-one (181) days, the licensee shall be required to submit an initial application for an enhanced license and to pay the fees prescribed in subsection (6) of this section. The renewal fee and any penalty shall be paid to the sheriff for the purpose of enforcing the provisions of this chapter. Upon renewing a license under the provisions of this section, the sheriff shall notify the Idaho state police within five (5) days on a form or in a manner prescribed by the Idaho state police.

(9) The sheriff shall have the power to revoke a license issued pursuant to this section subsequent to a hearing in accordance with the provisions of chapter 52, title 67, Idaho Code, for any of the following reasons, provided that the sheriff shall notify the Idaho state police within three (3) days on a form or in a manner prescribed by the Idaho state police of any such revocation:

- (a) Fraud or intentional misrepresentation in the obtaining of a license;
- (b) Misuse of a license, including lending or giving a license to another person, duplicating a license or using a license with the intent to unlawfully cause harm to a person or property;
- (c) The doing of an act or existence of a condition that would have been grounds for the denial of the license by the sheriff;

- (d) The violation of any of the provisions of this section; or
- (e) The applicant is adjudicated guilty of or receives a withheld judgment for a crime that would have disqualified him from initially receiving a license.

(10) An applicant who provides information on the application for an enhanced license to carry a concealed weapon knowing the same to be untrue shall be guilty of a misdemeanor.

(11) The attorney general shall contact the appropriate officials in other states for the purpose of establishing, to the extent possible, recognition and reciprocity of the enhanced license to carry a concealed weapon by other states, whether by formal agreement or otherwise.

(12) Any license issued pursuant to this section is valid throughout the state of Idaho and shall be considered an authorized state license.

(13) The Idaho state police shall maintain a computerized record system that is accessible to law enforcement agencies in any state for the purpose of verifying current enhanced licensee status. Information maintained in the record system shall be confidential and exempt from disclosure under section 9-340B, Idaho Code, except that any law enforcement officer or law enforcement agency, whether inside or outside the state of Idaho, may access the record system for the purpose of verifying current enhanced licensee status.

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

9-340B. RECORDS EXEMPT FROM DISCLOSURE -- LAW ENFORCEMENT RECORDS, INVESTIGATORY RECORDS OF AGENCIES, EVACUATION AND EMERGENCY RESPONSE PLANS, WORKER'S COMPENSATION. The following records are exempt from disclosure:

(1) Investigatory records of a law enforcement agency, as defined in section 9-337(7), Idaho Code, under the conditions set forth in section 9-335, Idaho Code.

(2) Juvenile records of a person maintained pursuant to chapter 5, title 20, Idaho Code, except that facts contained in such records shall be furnished upon request in a manner determined by the court to persons and governmental and private agencies and institutions conducting pertinent research studies or having a legitimate interest in the protection, welfare and treatment of the juvenile who is thirteen (13) years of age or younger. If the juvenile is petitioned or charged with an offense which would be a criminal offense if committed by an adult, the name, offense of which the juvenile was petitioned or charged and disposition of the court shall be subject to disclosure as provided in section 20-525, Idaho Code. Additionally, facts contained in any records of a juvenile maintained under chapter 5, title 20, Idaho Code, shall be furnished upon request to any school district where the juvenile is enrolled or is seeking enrollment.

(3) Records of the custody review board of the Idaho department of juvenile corrections, including records containing the names, addresses and written statements of victims and family members of juveniles, shall be exempt from public disclosure pursuant to section 20-533A, Idaho Code.

(4) (a) The following records of the department of correction:

(i) Records of which the public interest in confidentiality, public safety, security and habilitation clearly outweighs the public interest in disclosure as identified pursuant to the authority of the Idaho board of correction under section 20-212, Idaho Code;

(ii) Records that contain any identifying information, or any information that would lead to the identification of any victims or witnesses;

(iii) Records that reflect future transportation or movement of a prisoner;

(iv) Records gathered during the course of the presentence investigation;

(v) Records of a prisoner, as defined in section 9-337(10), Idaho Code, or probationer shall not be disclosed to any other prisoner or probationer.

(b) Records of buildings, facilities, infrastructures and systems held by or in the custody of any public agency only when the disclosure of such information would jeopardize the safety of persons or the public safety. Such records may include emergency evacuation, escape or other emergency response plans, vulnerability assessments, operation and security manuals, plans, blueprints or security codes. For purposes of this section "system" shall mean electrical, heating, ventilation, air conditioning and telecommunication systems.

(c) Records of the commission of pardons and parole shall be exempt from public disclosure pursuant to section 20-213A, Idaho Code, and section 20-223, Idaho Code. Records exempt from disclosure shall also include those containing the names, addresses and written statements of victims.

(5) Voting records of the sexual offender classification board. The written record of the vote to classify an offender as a violent sexual predator by each board member in each case reviewed by that board member shall be exempt from disclosure to the public and shall be made available upon request only to the governor, the chairman of the senate judiciary and rules committee, and the chairman of the house of representatives judiciary, rules and administration committee, for all lawful purposes.

(6) Records of the sheriff or Idaho state police received or maintained pursuant to sections 18-3302, and 18-3302H and 18-3302K, Idaho Code, relating to an applicant or licensee except that any law enforcement officer and law enforcement agency, whether inside or outside the state of Idaho, may access information maintained in the license record system as set forth in section 18-3302K(13), Idaho Code.

(7) Records of investigations prepared by the department of health and welfare pursuant to its statutory responsibilities dealing with the protection of children, the rehabilitation of youth, adoptions and the commitment of mentally ill persons. For reasons of health and safety, best interests of the child or public interest, the department of health and welfare may provide for the disclosure of records of investigations associated with actions pursuant to the provisions of chapter 16, title 16, Idaho Code, prepared by the department of health and welfare pursuant to its statutory responsibilities dealing with the protection of children except any such records regarding adoptions shall remain exempt from disclosure.

(8) Records including, but not limited to, investigative reports, resulting from investigations conducted into complaints of discrimination made to the Idaho human rights commission unless the public interest in allowing inspection and copying of such records outweighs the legitimate public or private interest in maintaining confidentiality of such records. A person may inspect and copy documents from an investigative file to which he or she is a named party if such documents are not otherwise prohibited from disclosure by federal law or regulation or state law. The confidentiality of this subsection will no longer apply to any record used in any judicial proceeding brought by a named party to the complaint or investigation, or by the Idaho human rights commission, relating to the complaint of discrimination.

(9) Records containing information obtained by the manager of the Idaho state insurance fund pursuant to chapter 9, title 72, Idaho Code, from or on behalf of employers or employees contained in underwriting and claims for benefits files.

(10) The worker's compensation records of the Idaho industrial commission provided that the industrial commission shall make such records available:

(a) To the parties in any worker's compensation claim and to the industrial special indemnity fund of the state of Idaho; or

(b) To employers and prospective employers subject to the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations, who certify that the information is being requested with respect to a worker to whom the employer has extended an offer of employment and will be used in accordance with the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations; or

(c) To employers and prospective employers not subject to the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations, provided the employer presents a written authorization from the person to whom the records pertain; or

(d) To others who demonstrate that the public interest in allowing inspection and copying of such records outweighs the public or private interest in maintaining the confidentiality of such records, as determined by a civil court of competent jurisdiction; or

(e) Although a claimant's records maintained by the industrial commission, including medical and rehabilitation records, are otherwise exempt from public disclosure, the quoting or discussing of medical or rehabilitation records contained in the industrial commission's records during a hearing for compensation or in a written decision issued by the industrial commission shall be permitted; provided further, the true identification of the parties shall not be exempt from public disclosure in any written decision issued and released to the public by the industrial commission.

(11) Records of investigations compiled by the commission on aging involving vulnerable adults, as defined in section 18-1505, Idaho Code, alleged to be abused, neglected or exploited.

(12) Criminal history records and fingerprints, as defined by section 67-3001, Idaho Code, and compiled by the Idaho state police. Such records shall be released only in accordance with chapter 30, title 67, Idaho Code.

(13) Records furnished or obtained pursuant to section 41-1019, Idaho Code, regarding termination of an appointment, employment, contract or other insurance business relationship between an insurer and a producer.

(14) Records of a prisoner or former prisoner in the custody of any state or local correctional facility, when the request is made by another prisoner in the custody of any state or local correctional facility.

(15) Except as provided in section 72-1007, Idaho Code, records of the Idaho industrial commission relating to compensation for crime victims under chapter 10, title 72, Idaho Code.

(16) Records or information identifying a complainant maintained by the department of health and welfare pursuant to section 39-3556, Idaho Code, relating to certified family homes, unless the complainant consents in writing to the disclosure or the disclosure of the complainant's identity is required in any administrative or judicial proceeding.

**SECTION 4. SEVERABILITY.** The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

Approved April 2, 2013.

CHAPTER 243  
(H.B. No. 315)

## AN ACT

RELATING TO THE TAXATION OF PERSONAL PROPERTY; AMENDING SECTION 63-602KK, IDAHO CODE, TO ESTABLISH AND REVISE PROVISIONS RELATING TO CERTAIN PERSONAL PROPERTY BEING EXEMPT FROM TAXATION, TO REMOVE THE TRIGGER, TO PROVIDE ADDITIONAL PROCEDURES AND DEFINITIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-803, IDAHO CODE, TO PROVIDE A CORRECT CODE CITATION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 63-803, IDAHO CODE, AS ADDED BY SECTION 13, CHAPTER 339, LAWS OF 2012, TO PROVIDE A CORRECT CODE CITATION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 63-3638, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE, TO CLARIFY THAT MONEYS REMITTED TO TAXING DISTRICTS FOR PERSONAL PROPERTY TAX REPLACEMENT SHALL BE TREATED AS PROPERTY TAX REVENUES FOR CERTAIN STATUTES AND TO MAKE TECHNICAL CORRECTIONS; DECLARING AN EMERGENCY, PROVIDING RETROACTIVE APPLICATION AND PROVIDING EFFECTIVE DATES.

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

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

63-602KK. PROPERTY EXEMPT FROM TAXATION -- CERTAIN PERSONAL PROPERTY.

(1) (a) An item of taxable personal property purchased on or after January 1, 2013, shall be exempt from property taxation if the item of taxable personal property has an acquisition price of three thousand dollars (\$3,000) or less.

(b) For purposes of this section, the term "acquisition cost" means all costs required to put an item of taxable personal property into service and includes:

(i) The purchase price of a new or used item;

(ii) The cost of freight and shipping;

(iii) The cost of installation, engineering, erection or assembly; and

(iv) Sales and use taxes.

(c) For purposes of this subsection, an "item of taxable personal property" means equipment, machinery, furniture or other personal property that is functioning at its highest and best use for the purpose it was designed and constructed and is generally capable of performing that function without being combined with other items of personal property. An item of taxable personal property is not an individual component part of a piece of equipment, machinery, furniture or other personal property as a whole. An item of taxable personal property does not include an improvement to real property, a part that will become an improvement, or anything defined as a fixture.

~~(2) On and after January 1, 2009<sup>13</sup>, subject to subsection (2) of this section, each taxpayer's personal property, located in the county, which is not otherwise exempt and which is not operating property, shall be exempt to the extent of one hundred thousand dollars (\$100,000). For the purposes of this section, a taxpayer includes two (2) or more individuals using the property in a common enterprise or a related group of two (2) or more organizations when the individuals or organizations are within a relationship described in section 267 of the Internal Revenue Code, as defined in section 63-3004, Idaho Code.~~

~~(2) This section shall not take effect on January 1, 2009, if on September 1, 2008, the state controller certifies that the receipts to the general~~

~~fund for the fiscal year ending June 30, 2008, have not exceeded receipts to the general fund from the previous fiscal year by five percent (5%) or more. This section shall take effect on January 1 of the year following the first year when the state controller certifies to the state tax commission that receipts to the general fund for the fiscal year just ended have exceeded the receipts to the general fund during the fiscal year 2008 by five percent (5%) or more.~~

(3) (a) No later than the third Monday of November of each year 2013, the county clerk of each county shall certify to the state tax commission the amount of exemption from property taxes under subsection (12) of this section, in that county for that year. The certification shall identify the property receiving tax reductions, the value of the property, the property's location, the amount of the tax levy applicable to personal property in the location, and the tax before and after the exemption allowed in subsection (12) of this section. The certification shall be in the form prescribed by the state tax commission and shall include such additional information as the commission may require by rule as needed to implement the purpose of this section. The certification shall be reviewed and, if necessary, corrected by the state tax commission.

(b) For the year beginning January 1, 2014, and every year thereafter, the amount of annual replacement of property tax on personal property exempted pursuant to subsection (2) of this section shall be the amount approved by the state tax commission pursuant to paragraph (a) of this subsection.

(4) (a) Subject to the limitations of this section, the state tax commission shall reimburse from the amount appropriated for personal property tax replacement in section 63-3638, Idaho Code, the county treasurer of each county for the reduction on the certification provided in subsection (3) of this section. The county treasurer shall reimburse from the amount received to each taxing district within the county an amount in proportion to the amount of reduction shown on the certification in subsection (3) of this section as corrected. The amount that would otherwise be attributable to tax revenues derived from tax levies on personal property exempted by this section within an existing revenue allocation area as defined in section 50-2903(15), Idaho Code, shall be paid directly by the county treasurer to such public body or agency entitled thereto, equal to the amounts that would have been distributed in accordance with the formula for such distribution set forth in section 50-2908, Idaho Code. Taxing districts created on or after January 1, 2013, shall not be eligible for the reimbursement provided for in this paragraph.

(b) The state tax commission shall pay one-half (1/2) of the reimbursement provided in this section no later than December 20 of each year, and the second one-half (1/2) shall be paid by no later than June 20 of the following year. The money received by the county tax collector under the provisions of this section may be considered by counties and other taxing districts and budgeted against at the same time, and in the same manner, and in the same year as revenues from taxation. The total amount paid to the county treasurers shall not exceed the amount certified to the state tax commission under subsection (3) of this section.

(c) For purposes of the limitation provided by section 63-802, Idaho Code, moneys received from distributions pursuant to section 63-3638, Idaho Code, as property tax replacement for the taxable value of property exempt from taxation pursuant to this section shall be treated as property tax revenues.

(5) (a) Nothing contained in this section shall affect the taxation of forest lands or forest products pursuant to chapter 17, title 63, Idaho

Code, or the taxation of the net profits of mines pursuant to chapter 28, title 63, Idaho Code.

(b) The exemption from personal property tax provided for in subsection (2) of this section shall not apply to motor vehicles, recreational vehicles, aircraft and boats, which are not registered with the state of Idaho and for which required registration fees have not been paid.

(6) (a) The application for the exemption provided for in subsection (2) of this section shall be in the form prescribed by the state tax commission and shall include such information as the state tax commission may require by rule as needed to implement the purpose of this section including, but not limited to, a list of each item of personal property, the purchase date of each item of personal property, the unit cost of each item of personal property, if more than the exemption allowed in subsection (1) of this section, and the total cost of the items of personal property.

(b) The application for this exemption, if the county is capable of so providing, may be transmitted by the county assessor electronically, as that term is defined in section 63-115, Idaho Code, when requested by the taxpayer, or mailed by the county assessor to the taxpayer, or his agent or representative at the taxpayer's last known post office address, no later than March 1 of each year. The transmission or mailing of the application shall also include the taxpayer's application for the exemption allowed by this section for the last year in which the taxpayer filed an application.

(c) A taxpayer need only make application for the exemption in this section once every five (5) years, as long as all of the following conditions are met:

(ai) The taxpayer has received the exemption during the previous year as a result of him making a valid application as defined in this section.

(bii) The amount of the exemption allowed by this section is more than the maximum taxable value of personal property owned by the taxpayer.

(eiii) The taxpayer has not made purchases of personal property, excluding items of taxable personal property exempted pursuant to subsection (1) of this section, that would cause the aggregate taxable value of the personal property owned by the taxpayer to exceed the maximum amount allowed as an exemption by this section.

(div) For every year the taxpayer claims the exemption, he shall sign an affidavit on a form provided by the state tax commission, reciting the averments set forth in this section. A fraudulent claim set in an affidavit knowingly failing to report changes in the taxable value of personal property that exceed the amount of the exemption allowed pursuant to subsection (2) of this section shall subject the taxpayer to a fine not in excess of ten thousand dollars (\$10,000) in addition to other penalties set forth in this chapter.

(7) Recovery of property tax exemptions allowed by this section but improperly claimed per affidavit:

(a) Upon discovery of evidence, facts or circumstances indicating any exemption allowed by this section was improperly claimed, the county assessor shall decide whether the exemption claimed should have been allowed, and if not, notify the board of county commissioners, at which time the board may waive a recovery of the property tax and notify such taxpayer in writing.

(b) The assessment and collection of the recovery of property tax must begin within the seven (7) year period beginning on the date the assessment notice reflecting the improperly claimed exemption was required to be mailed to the taxpayer.

(c) The taxpayer may appeal to the board of tax appeals the decision by the board of county commissioners to assess the recovery of property tax within thirty (30) days of the date the county assessor sent the notice to the taxpayer pursuant to this section.

(d) For purposes of calculating the tax, the amount of the recovered property tax shall be for each year the exemption allowed by this section was improperly claimed or approved, up to a maximum of seven (7) years. The amount of the recovery of property tax shall be calculated using the product of the amount of exempted value for each year multiplied by the levy for that year plus costs, late charges and interest for each year at the rates equal to those provided for delinquent property taxes during that year. In cases of fraud, the fine set forth in subsection (6) (dc) (iv) of this section shall be assessed for each annual affidavit filed.

(e) Any recovery of property tax shall be due and payable no later than the date provided for property taxes in section 63-903, Idaho Code, and if not timely paid, late charges and interest, beginning the first day of January in the year following the year the county assessor sent the notice to the taxpayer pursuant to this section, shall be calculated at the current rate provided for property taxes.

(f) Recovered property taxes shall be billed, collected and distributed in the same manner as property taxes, except each taxing district or unit shall be notified of the amount of any recovered property taxes included in any distribution.

(g) Thirty (30) days after the taxpayer is notified, as provided in subsection (7) (a) of this section, the assessor shall record a notice of intent to attach a lien. Upon the payment in full of such recovered property taxes prior to the attachment of the lien as provided in subsection (7) (h) of this section, or upon the successful appeal by the taxpayer, the county assessor shall record a rescission of the intent to attach a lien within seven (7) business days of receiving such payment or within seven (7) business days of the county commissioners' decision granting the appeal.

(h) Any unpaid recovered property taxes shall become a lien upon the taxpayer's personal property in the same manner as provided for property taxes in section 63-206, Idaho Code, except such lien shall attach as of the first day of January in the year following the year the county treasurer sent the notice to the taxpayer pursuant to this section.

(i) For purposes of the limitation provided by section 63-802, Idaho Code, moneys received pursuant to this subsection as recovery of property tax shall be treated as property tax revenue.

SECTION 2. That Section 63-803, Idaho Code, be, and the same is hereby amended to read as follows:

63-803. CERTIFICATION OF BUDGETS IN DOLLARS. (1) Whenever any taxing district is required by law to certify to any county treasurer, county auditor, county assessor, county commissioners or to any other county officer, any property tax levy, upon property located within said district, such certification shall, notwithstanding any other provision of the law applicable to any such district, be made at the time and in the manner hereinafter provided.

(2) The county auditor shall inform each of the taxing districts within his county of the taxable value of that district as soon as such value is known to the auditor, whether the value comes from the appraisal and assessment of real and personal property, or from allocation of the taxable value of operating property, or from other sources.

(3) Using the taxable value of the district, the council, trustees, board or other governing body of any taxing district shall certify the total

amount required from a property tax upon property within the district to raise the amount of money fixed by their budget as previously prepared or approved. The amount of money so determined shall be certified in dollars to the appropriate county commissioners. Any taxing unit, except regional airport authorities, located in more than one (1) county shall divide its dollar budget for certification to the separate counties by multiplying the amount of such budget by a fraction, the numerator of which shall be the total taxable value of all property in such taxing unit within the county to which such certification is to be made, and the denominator of which shall be the total taxable value of property in such taxing unit in all such counties. Budget certification to the participating counties of regional airport authorities shall be made in the manner prescribed in section 21-807(10), Idaho Code. Taxable value shall be certified by the county auditor of each affected county to such taxing unit and such certification shall be used in this formula. Except as provided in section 33-805, Idaho Code, relating to school emergency fund levies, the certification to the county commissioners required in this section shall be made not later than the Thursday prior to the second Monday in September, unless, upon application therefor, the county commissioners grant an extension of not more than seven (7) working days. After receipt of this certification, the county commissioners shall make a tax levy as a percent of taxable value of all property in the taxing district, which, when applied to the tax rolls, will meet the budget requirements certified by such taxing districts.

(4) Except as provided in subsection (1)(a) through (f) of section 50-2908, Idaho Code, for the purpose of this section, "taxable value" shall mean the portion of the equalized assessed value, less any exemptions, except the exemption for personal property in section 63-602KK(2), Idaho Code, and the value that exceeds the value of the base assessment roll for the portion of any taxing district within a revenue allocation area of an urban renewal district, located within each taxing district which certifies a budget to be raised from a property tax levy. When the county auditor is notified of revenues sufficient to cover expenses as provided in section 50-2903(5), Idaho Code, taxable value shall also include the value that exceeds the value of the base assessment roll for the portion of any taxing district within a revenue allocation area. For each taxing district, taxable value shall include the value from the property and operating property rolls for the current year and subsequent and missed property rolls for the prior year or the best estimate of the subsequent and missed property rolls for the current year.

SECTION 3. That Section 63-803, Idaho Code, as added by Section 13, Chapter 339, Laws of 2012, be, and the same is hereby amended to read as follows:

63-803. CERTIFICATION OF BUDGETS IN DOLLARS. (1) Whenever any taxing district is required by law to certify to any county treasurer, county auditor, county assessor, county commissioners or to any other county officer, any property tax levy, upon property located within said district, such certification shall, notwithstanding any other provision of the law applicable to any such district, be made at the time and in the manner hereinafter provided.

(2) The county auditor shall inform each of the taxing districts within his county of the taxable value of that district as soon as such value is known to the auditor, whether the value comes from the appraisal and assessment of real and personal property, or from allocation of the taxable value of operating property, or from other sources.

(3) Using the taxable value of the district, the council, trustees, board or other governing body of any taxing district shall certify the total amount required from a property tax upon property within the district to

raise the amount of money fixed by their budget as previously prepared or approved. The amount of money so determined shall be certified in dollars to the appropriate county commissioners. Any taxing unit, except regional airport authorities, located in more than one (1) county shall divide its dollar budget for certification to the separate counties by multiplying the amount of such budget by a fraction, the numerator of which shall be the total taxable value of all property in such taxing unit within the county to which such certification is to be made, and the denominator of which shall be the total taxable value of property in such taxing unit in all such counties. Budget certification to the participating counties of regional airport authorities shall be made in the manner prescribed in section 21-807(10), Idaho Code. Taxable value shall be certified by the county auditor of each affected county to such taxing unit and such certification shall be used in this formula. Except as provided in section 33-805, Idaho Code, relating to school emergency fund levies, the certification to the county commissioners required in this section shall be made not later than the Thursday prior to the second Monday in September, unless, upon application therefor, the county commissioners grant an extension of not more than seven (7) working days. After receipt of this certification, the county commissioners shall make a tax levy as a percent of taxable value of all property in the taxing district, which, when applied to the tax rolls, will meet the budget requirements certified by such taxing districts.

(4) Except as provided in subsection (1)(a) through (e) of section 50-2908, Idaho Code, for the purpose of this section, "taxable value" shall mean the portion of the equalized assessed value, less any exemptions, except the exemption for personal property in section 63-602KK(2), Idaho Code, and the value that exceeds the value of the base assessment roll for the portion of any taxing district within a revenue allocation area of an urban renewal district, located within each taxing district which certifies a budget to be raised from a property tax levy. When the county auditor is notified of revenues sufficient to cover expenses as provided in section 50-2903(5), Idaho Code, taxable value shall also include the value that exceeds the value of the base assessment roll for the portion of any taxing district within a revenue allocation area. For each taxing district, taxable value shall include the value from the property and operating property rolls for the current year and subsequent and missed property rolls for the prior year or the best estimate of the subsequent and missed property rolls for the current year.

SECTION 4. That Section 63-3638, Idaho Code, be, and the same is hereby amended to read as follows:

63-3638. SALES TAX -- DISTRIBUTION. All moneys collected under this chapter, except as may otherwise be required in sections 63-3203 and 63-3709, Idaho Code, shall be distributed by the state tax commission as follows:

(1) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized under this chapter by the state tax commission shall be paid through the state refund account, and those moneys are continuously appropriated.

(2) Five million dollars (\$5,000,000) per year is continuously appropriated and shall be distributed to the permanent building fund, provided by section 57-1108, Idaho Code.

(3) Four million eight hundred thousand dollars (\$4,800,000) per year is continuously appropriated and shall be distributed to the water pollution control account established by section 39-3628, Idaho Code.

(4) An amount equal to the sum required to be certified by the chairman of the Idaho housing and finance association to the state tax commission pursuant to section 67-6211, Idaho Code, in each year is continuously

appropriated and shall be paid to any capital reserve fund, established by the Idaho housing and finance association pursuant to section 67-6211, Idaho Code. Such amounts, if any, as may be appropriated hereunder to the capital reserve fund of the Idaho housing and finance association shall be repaid for distribution under the provisions of this section, subject to the provisions of section 67-6215, Idaho Code, by the Idaho housing and finance association, as soon as possible, from any moneys available therefor and in excess of the amounts which the association determines will keep it self-supporting.

(5) An amount equal to the sum required by the provisions of sections 63-709 and 63-717, Idaho Code, after allowance for the amount appropriated by section 63-718(3), Idaho Code, is continuously appropriated and shall be paid as provided by sections 63-709 and 63-717, Idaho Code.

(6) An amount required by the provisions of chapter 53, title 33, Idaho Code.

(7) An amount required by the provisions of chapter 87, title 67, Idaho Code.

(8) For fiscal year 2011, and each fiscal year thereafter, four million one hundred thousand dollars (\$4,100,000), of which two million two hundred thousand dollars (\$2,200,000) shall be distributed to each of the forty-four (44) counties in equal amounts, and one million nine hundred thousand dollars (\$1,900,000) of which shall be distributed to the forty-four (44) counties in the proportion that the population of the county bears to the population of the state. For fiscal year 2012, and for each fiscal year thereafter, the amount distributed pursuant to this subsection ~~(8)~~, shall be adjusted annually by the state tax commission in accordance with the consumer price index for all urban consumers (CPI-U) as published by the U.S. department of labor, bureau of labor statistics, but in no fiscal year shall the total amount allocated for counties under this subsection ~~(8)~~, be less than four million one hundred thousand dollars (\$4,100,000). Each county shall establish a special election fund to which shall be deposited all revenues received from the distribution pursuant to this subsection ~~(8)~~. All such revenues shall be used exclusively to defray the costs associated with conducting elections as required of county clerks by the provisions of section 34-1401, Idaho Code.

(9) One dollar (\$1.00) on each application for certificate of title or initial application for registration of a motor vehicle, snowmobile, all-terrain vehicle or other vehicle processed by the county assessor or the Idaho transportation department excepting those applications in which any sales or use taxes due have been previously collected by a retailer, shall be a fee for the services of the assessor of the county or the Idaho transportation department in collecting such taxes, and shall be paid into the current expense fund of the county or state highway account established in section 40-702, Idaho Code.

(10) Eleven and five-tenths percent (11.5%) is continuously appropriated and shall be distributed to the revenue sharing account which is created in the state treasury, and the moneys in the revenue sharing account will be paid in installments each calendar quarter by the state tax commission as follows:

(a) Twenty-eight and two-tenths percent (28.2%) shall be paid to the various cities as follows:

(i) Fifty percent (50%) of such amount shall be paid to the various cities, and each city shall be entitled to an amount in the proportion that the population of that city bears to the population of all cities within the state; and

(ii) Fifty percent (50%) of such amount shall be paid to the various cities, and each city shall be entitled to an amount in the proportion that the preceding year's market value for assessment

purposes for that city bears to the preceding year's market value for assessment purposes for all cities within the state.

(b) Twenty-eight and two-tenths percent (28.2%) shall be paid to the various counties as follows:

(i) One million three hundred twenty thousand dollars (\$1,320,000) annually shall be distributed one forty-fourth (1/44) to each of the various counties; and

(ii) The balance of such amount shall be paid to the various counties, and each county shall be entitled to an amount in the proportion that the population of that county bears to the population of the state;

(c) Thirty-five and nine-tenths percent (35.9%) of the amount appropriated in this subsection ~~(10)~~ shall be paid to the several counties for distribution to the cities and counties as follows:

(i) Each city and county which received a payment under the provisions of section 63-3638(e), Idaho Code, during the fourth quarter of calendar year 1999, shall be entitled to a like amount during succeeding calendar quarters.

(ii) If the dollar amount of money available under this subsection (10) (c) in any quarter does not equal the amount paid in the fourth quarter of calendar year 1999, each city's and county's payment shall be reduced proportionately.

(iii) If the dollar amount of money available under this subsection (10) (c) in any quarter exceeds the amount paid in the fourth quarter of calendar year 1999, each city and county shall be entitled to a proportionately increased payment, but such increase shall not exceed one hundred five percent (105%) of the total payment made in the fourth quarter of calendar year 1999.

(iv) If the dollar amount of money available under this subsection (10) (c) in any quarter exceeds one hundred five percent (105%) of the total payment made in the fourth quarter of calendar year 1999, any amount over and above such one hundred five percent (105%) shall be paid fifty percent (50%) to the various cities in the proportion that the population of the city bears to the population of all cities within the state, and fifty percent (50%) to the various counties in the proportion that the population of a county bears to the population of the state; and

(d) Seven and seven-tenths percent (7.7%) of the amount appropriated in this subsection ~~(10)~~ shall be paid to the several counties for distribution to special purpose taxing districts as follows:

(i) Each such district which received a payment under the provisions of section 63-3638(e), Idaho Code, during the fourth quarter of calendar year 1999, shall be entitled to a like amount during succeeding calendar quarters.

(ii) If the dollar amount of money available under this subsection (10) (d) in any quarter does not equal the amount paid in the fourth quarter of calendar year 1999, each special purpose taxing district's payment shall be reduced proportionately.

(iii) If the dollar amount of money available under this subsection (10) (d) in any quarter exceeds the amount distributed under paragraph (i) of this subsection (10) (d), each special purpose taxing district shall be entitled to a share of the excess based on the proportion each such district's current property tax budget bears to the sum of the current property tax budgets of all such districts in the state. The state tax commission shall calculate district current property tax budgets to include any unrecovered foregone amounts as determined under section 63-802(1) (e), Idaho Code. When a special purpose taxing district is situated in more than one (1) county, the state tax commission shall determine the

portion attributable to the special purpose taxing district from each county in which it is situated.

(iv) If special purpose taxing districts are consolidated, the resulting district is entitled to a base amount equal to the sum of the base amounts which were received in the last calendar quarter by each district prior to the consolidation.

(v) If a special purpose taxing district is dissolved or disincorporated, the state tax commission shall continuously distribute to the board of county commissioners an amount equal to the last quarter's distribution prior to dissolution or disincorporation. The board of county commissioners shall determine any redistribution of moneys so received.

(vi) Taxing districts formed after January 1, 2001, are not entitled to a payment under the provisions of this subsection (10) (d).

(vii) For purposes of this subsection (10) (d), a special purpose taxing district is any taxing district which is not a city, a county or a school district.

(11) Amounts calculated in accordance with section 2, chapter 356, laws of 2001, for annual distribution to counties and other taxing districts beginning in October 2001 for replacement of property tax on farm machinery and equipment exempt pursuant to section 63-602EE, Idaho Code. For nonschool districts, the state tax commission shall distribute one-fourth (1/4) of this amount certified quarterly to each county. For school districts, the state tax commission shall distribute one-fourth (1/4) of the amount certified quarterly to each school district. For nonschool districts, the county auditor shall distribute to each district within thirty (30) calendar days from receipt of moneys from the state tax commission. Moneys received by each taxing district for replacement shall be utilized in the same manner and in the same proportions as revenues from property taxation. The moneys remitted to the county treasurer for replacement of property exempt from taxation pursuant to section 63-602EE, Idaho Code, may be considered by the counties and other taxing districts and budgeted at the same time, in the same manner and in the same year as revenues from taxation on personal property which these moneys replace. If taxing districts are consolidated, the resulting district is entitled to an amount equal to the sum of the amounts which were received in the last calendar quarter by each district pursuant to this subsection prior to the consolidation. If a taxing district is dissolved or disincorporated, the state tax commission shall continuously distribute to the board of county commissioners an amount equal to the last quarter's distribution prior to dissolution or disincorporation. The board of county commissioners shall determine any redistribution of moneys so received. If a taxing district annexes territory, the distribution of moneys received pursuant to this subsection shall be unaffected. Taxing districts formed after January 1, 2001, are not entitled to a payment under the provisions of this subsection. School districts shall receive an amount determined by multiplying the sum of the year 2000 school district levy minus .004 times the market value on December 31, 2000, in the district of the property exempt from taxation pursuant to section 63-602EE, Idaho Code, provided that the result of these calculations shall not be less than zero (0). The result of these school district calculations shall be further increased by six percent (6%). For purposes of the limitation provided by section 63-802, Idaho Code, moneys received pursuant to this section as property tax replacement for property exempt from taxation pursuant to section 63-602EE, Idaho Code, shall be treated as property tax revenues.

(12) Amounts necessary to pay refunds as provided in section 63-3641, Idaho Code, to a developer of a retail complex shall be remitted to the demonstration pilot project fund created in section 63-3641, Idaho Code.

(13) Amounts calculated in accordance with subsection (4) of section 63-602KK, Idaho Code, for annual distribution to counties and other tax-

ing districts for replacement of property tax on personal property tax exemptions pursuant to subsection (12) of section 63-602KK, Idaho Code, which amounts are continuously appropriated unless the legislature enacts a different appropriation for a particular fiscal year. For purposes of the limitation provided by section 63-802, Idaho Code, moneys received pursuant to this section as property tax replacement for property exempt from taxation pursuant to section 63-602KK, Idaho Code, shall be treated as property tax revenues.

(14) Any moneys remaining over and above those necessary to meet and reserve for payments under other subsections of this section shall be distributed to the general fund.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1, 2 and 4 of this act shall be in full force and effect on and after passage and approval, and retroactively to January 1, 2013. Section 3 of this act shall be in full force and effect on and after July 1, 2017.

Approved April 3, 2013.

CHAPTER 244  
(S.B. No. 1047, As Amended)

AN ACT

RELATING TO GARNISHMENT FOR PAYMENT OF STATE TAXES; AMENDING CHAPTER 30, TITLE 63, BY THE ADDITION OF A NEW SECTION 63-3060A, IDAHO CODE, TO PROVIDE THAT EXECUTION ON INDIVIDUAL EARNINGS MAY BE CONTINUOUS AND TO PROVIDE A MAXIMUM PERCENTAGE THAT MAY BE COLLECTED FROM ANY CERTAIN PERIOD OF INCOME; AND AMENDING SECTION 63-3068, IDAHO CODE, TO ALLOW A LONGER PERIOD FOR COLLECTION OF STATE TAXES AND TO MAKE A TECHNICAL CORRECTION.

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 63-3060A, Idaho Code, and to read as follows:

63-3060A. CONTINUOUS EXECUTION ON INDIVIDUAL EARNINGS. Where an execution or garnishment against earnings for a state tax liability is served upon any person or upon the state of Idaho, and there is in possession of such person or the state of Idaho any such earnings of the individual debtor, the execution and the garnishment shall operate continuously and shall require such person or the state of Idaho to withhold the nonexempt portion of earnings at each succeeding earnings disbursement interval until released by the state tax commission or until the dollar amount specifically set forth on the record of assessment, identified in section 63-3045A, Idaho Code, and subject to garnishment as of the date the tax warrant is issued, is discharged or satisfied in full. The proportion of earnings subject to garnishment pursuant to this section, as compared to total gross taxable earnings, shall be limited to twenty-five percent (25%), except if the federal government is also garnishing the earnings of such person then the garnishment shall be limited to ten percent (10%). All garnishment or execution against earnings for the payments of any tax owed to the state of Idaho shall be governed by this section. For purposes of this section, earnings are gross taxable earnings from sources identified in section 11-206(1), Idaho Code.

SECTION 2. That Section 63-3068, Idaho Code, be, and the same is hereby amended to read as follows:

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

(b) If an assessment has been made as provided in this chapter, then such tax shall be collected either by levy, or by a proceeding brought in court, within a period of ~~six~~ twelve (6~~12~~) years from the date of entry of the record of assessment required by section 63-3045A, Idaho Code, of the tax and provided, further, that this shall not be in derogation of any of the remedies elsewhere provided in this chapter.

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

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

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

(f) When Idaho taxable income or tax credits for any taxable year have been adjusted as a result of a final federal determination, the period of limitation for issuing a notice of deficiency shall be reopened and shall not expire until the later of one (1) year from the date of delivery of the final federal determination to the state tax commission by the taxpayer, three (3) years from the due date of the return, without regard to extensions, or three (3) years from the date the return was filed. For purposes of this subsection the term "final federal determination" shall mean the final resolution of all issues which were adjusted by the internal revenue service. When the final federal determination is submitted, the taxpayer shall also submit copies of all schedules and written explanations provided by the internal revenue service. Upon the expiration of the period of limitations as provided in subsections (a) and (m) of this section, only those specific items of income, deductions, gains, losses, or credits which were adjusted in the final federal determination shall be subject to adjustment for purposes of recomputing Idaho income, deductions, gains, losses, credits, and the effect of such adjustments on Idaho allocations and apportionments.

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

(h) Notwithstanding any other provisions of this section, when an amended Idaho return is filed within the period of limitations as provided

in subsections (a) and (m) of this section, the period of limitations for issuing a notice of deficiency shall be three (3) years from the date the amended return was filed. However, upon the expiration of the period of limitations as provided in subsections (a) and (m) of this section, only those specific items of income, deductions, gains, losses, or credits, which were adjusted in the amended Idaho return shall be subject to adjustment for purposes of recomputing Idaho income, deductions, gains, losses, credits, and the effect of such adjustments on Idaho allocations and apportionments.

(i) If a taxpayer has filed an amended federal return, and no corresponding Idaho amended return has been filed with the state tax commission, then the period of limitations for issuing a notice of deficiency shall be reopened and shall not expire until three (3) years from the date of delivery to the tax commission by the taxpayer of the amended federal return. However, upon the expiration of the period of limitations as provided in subsections (a) and (m) of this section, then only those specific items of income, deductions, gains, losses, or credits, which were adjusted in the amended federal return shall be subject to adjustment for purposes of recomputing Idaho income, deductions, gains, losses, credits, and the effect of such adjustments on Idaho allocations and apportionments.

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

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

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

(m) Prior to the expiration of the time prescribed in this section for the issuance of a notice of deficiency for the tax imposed in this chapter, both the state tax commission, its delegate or deputy, and the taxpayer may consent in writing to extend the period of time within which a notice of deficiency may be issued. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon. When a pass-through entity extends the period of limitations in accordance with this subsection, the period of limitations for the other

taxpayers is automatically extended for the same period for the purpose of issuing a notice of deficiency to the other taxpayers reflecting the adjustments to the pass-through entity's return.

(n) The expiration of the period of limitations as provided in this section shall be suspended for the time period during which the state tax commission is prohibited from issuing a notice of deficiency, making the assessment, or from collecting by levy or a proceeding in court, and for thirty (30) days thereafter.

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

Law without signature.

CHAPTER 245  
(S.B. No. 1079)

AN ACT

RELATING TO INTERNET CRIMES AGAINST CHILDREN; AMENDING SECTION 67-1401, IDAHO CODE, TO PROVIDE ADDITIONAL DUTIES OF THE ATTORNEY GENERAL AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 14, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-1410, IDAHO CODE, TO CREATE THE INTERNET CRIMES AGAINST CHILDREN UNIT IN THE OFFICE OF THE ATTORNEY GENERAL AND TO PROVIDE POWERS, DUTIES AND AUTHORITIES OF SUCH UNIT IN THE OFFICE OF THE ATTORNEY GENERAL; AND AMENDING CHAPTER 14, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-1411, IDAHO CODE, TO CREATE THE INTERNET CRIMES AGAINST CHILDREN FUND IN THE STATE TREASURY.

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

SECTION 1. 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 ~~this chapter~~, 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~~ subsection (8) of this section 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 section, 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.

(16) To establish an internet crimes against children unit pursuant to the provisions of section 67-1410, 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 sections 18-1507, 18-1509A, 18-1513 and 18-1515, Idaho Code, which may also encompass criminal offenses that are not defined in said sections but that involve or are directly related to child pornography and solicitation of minors for pornography, prostitution or sex-related offenses.

SECTION 2. That Chapter 14, 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 67-1410, Idaho Code, and to read as follows:

67-1410. INTERNET CRIMES AGAINST CHILDREN UNIT. (1) There is hereby established in the office of the attorney general the internet crimes against children unit (ICAC) that shall have the authority and responsibilities as set forth in this section.

(2) The ICAC shall have the authority and responsibility to conduct a statewide program for the investigation and prosecution of violations of all applicable Idaho laws that involve or are directly related to child pornography and solicitation of minors for pornography, prostitution or sex-related offenses.

(3) The ICAC shall be under the exclusive control of the attorney general.

(4) The attorney general may request and receive the assistance of, and may enter into written agreements with, any prosecutor or law enforcement agency as necessary to implement the duties and responsibilities assigned to the ICAC under this section. This will include contracting for the assistance of law enforcement personnel in the investigation of any violation of any applicable laws pertaining to child pornography and solicitation of minors for pornography, prostitution or sex-related offenses. The attorney general may renew, suspend or revoke any ICAC agreement with a law enforcement agency at any time.

(5) The attorney general shall have the authority to designate ICAC task force agents. ICAC task force agents shall be commissioned law enforcement officers employed by law enforcement agencies.

(a) The designation of an ICAC task force agent is not an act of employment by the office of the attorney general.

(b) ICAC task force agents serve solely at the discretion and will of the attorney general and designation as an ICAC task force agent is not a property right to which due process applies.

(6) Designated ICAC task force agents shall have general peace officer powers and the authority to arrest individuals throughout the state for the purpose of investigation of internet crimes committed against children.

(7) The office of the attorney general shall employ such attorneys, investigators and other personnel as necessary to carry out the responsibilities of the ICAC as set forth under this section.

(8) The attorney general shall have the authority to adopt rules necessary to implement the duties and responsibilities assigned to the ICAC under this section.

SECTION 3. That Chapter 14, 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 67-1411, Idaho Code, and to read as follows:

67-1411. INTERNET CRIMES AGAINST CHILDREN FUND. (1) There is hereby created in the state treasury the internet crimes against children fund.

(2) The fund shall consist of:

(a) Funds as may be appropriated by the legislature; and

(b) Grants, donations and moneys from other sources.

(3) The fund shall be administered by the office of the attorney general, and moneys in the fund shall be used to fund the internet crimes against children unit as established by section 67-1410, Idaho Code. Moneys in the fund may be allowed to accumulate from year to year and interest earned on the investment of idle moneys in the fund shall be returned to the fund.

(4) Moneys from the fund shall be appropriated by the legislature to the office of the attorney general and such appropriated moneys shall be used for carrying out the provisions of this section and section 67-1410, Idaho Code.

Approved April 3, 2013.

#### CHAPTER 246

(S.B. No. 1109, As Amended)

#### AN ACT

RELATING TO ANNUITY CONTRACTS; AMENDING SECTION 41-1836, IDAHO CODE, TO PROVIDE THAT CERTAIN EXEMPTIONS AND PROTECTIONS SHALL NOT APPLY TO CERTAIN DEFERRED ANNUITY CONTRACTS.

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

SECTION 1. That Section 41-1836, Idaho Code, be, and the same is hereby amended to read as follows:

41-1836. EXEMPTION OF PROCEEDS -- ANNUITY CONTRACTS -- ASSIGNABILITY OF RIGHTS. (1) The benefits, rights, privileges and options which under any annuity contract heretofore or hereafter issued are due or prospectively due the annuitant, shall not be subject to execution nor shall the annuitant be compelled to exercise any such rights, powers, or options, nor shall creditors be allowed to interfere with or terminate the contract, except:

(a) As to amounts paid for or as premium on any such annuity with intent to defraud creditors, with interest thereon, and of which the creditor has given the insurer written notice at its home office prior to the making of the payments to the annuitant out of which the creditor seeks to recover. Any such notice shall specify the amount claimed or such facts as will enable the insurer to ascertain such amount, and shall set forth such facts as will enable the insurer to ascertain the annuity contract, the annuitant and the payments sought to be avoided on the ground of fraud.

(b) The total exemption of benefits presently due and payable to any annuitant periodically or at stated times under all annuity contracts under which he is an annuitant, shall not at any time exceed one thousand two hundred fifty dollars (\$1,250) per month for the length of time represented by such installments, and that such periodic payments in excess of one thousand two hundred fifty dollars (\$1,250) per month shall be subject to garnishee execution to the same extent as are wages and salaries.

(c) If the total benefits presently due and payable to any annuitant under all annuity contracts under which he is an annuitant, shall at

any time exceed payment at the rate of one thousand two hundred fifty dollars (\$1,250) per month, then the court may order such annuitant to pay to a judgment creditor or apply on the judgment, in installments, such portion of such excess benefits as to the court may appear just and proper, after due regard for the reasonable requirements of the judgment debtor and his family, if dependent upon him, as well as any payments required to be made by the annuitant to other creditors under prior court orders.

(d) As to any deferred annuity contract having a cash surrender provision and from which no periodic payments are being made, the cash surrender value of the deferred annuity contract, not to exceed premiums paid into the deferred annuity contract within six (6) months prior to the filing of a bankruptcy petition, as defined in 11 U.S.C. section 101, or the date of attachment or levy on execution, as defined in section 11-201, Idaho Code, whichever is applicable.

(2) If the contract so provides, the benefits, rights, privileges or options accruing under such contract to a beneficiary or assignee shall not be transferable nor subject to commutation, and if the benefits are payable periodically or at stated times, the same exemptions and exceptions contained herein for the annuitant, shall apply with respect to such beneficiary or assignee.

(3) An annuity contract within the meaning of this section shall be any obligation to pay certain sums at stated times, during life or lives, or for a specified term or terms, issued for a valuable consideration, regardless of whether or not such sums are payable to one (1) or more persons, jointly or otherwise, but does not include payments under life insurance contracts at stated times during life or lives, or for a specified term or terms.

(4) This section shall not be affected by the terms of section 15-6-107, Idaho Code.

Approved April 3, 2013.

#### CHAPTER 247

(S.B. No. 1116, As Amended, As Amended in the House)

#### AN ACT

RELATING TO ORGAN DONOR NOTIFICATION; AMENDING SECTION 39-3413, IDAHO CODE, TO DEFINE A TERM, TO REVISE TERMINOLOGY, TO PROVIDE THAT CERTAIN INFORMATION REGARDING DONORS SHALL BE GIVEN TO THE IDAHO STATE COMMUNICATION CENTER AND ORGAN PROCUREMENT ORGANIZATIONS, TO PROVIDE A CORRECT CODE REFERENCE AND TO REVISE A PROVISION RELATING TO PENALTIES.

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

SECTION 1. That Section 39-3413, Idaho Code, be, and the same is hereby amended to read as follows:

39-3413. SEARCH AND NOTIFICATION. (1) For purposes of this section, "first responder" means a law enforcement officer, firefighter, emergency medical services provider, coroner or other emergency rescuer.

(2) The following persons shall make a reasonable search of an individual who the person reasonably believes is dead or near death for a document of gift or other information identifying the individual as a donor or as an individual who made a refusal:

(a) ~~A law enforcement officer, firefighter, paramedic or other emergency rescuer~~ first responder finding the individual; and

(b) If no other source of the information is immediately available, a hospital, as soon as practical after the individual's arrival at the hospital.

(3) For all individuals identified as a donor, following the determination that an individual is deceased by a person qualified to do so, such person shall, as soon as reasonably possible, notify the Idaho state communication center of the location where the deceased will be or has been transported to and include the deceased individual's name and date of birth if known. The Idaho state communication center shall, as soon as reasonably possible, notify the appropriate organ procurement organization, tissue bank or eye bank.

(24) If a document of gift or a refusal to make an anatomical gift is located by the search required by subsection (12) (a) of this section and the individual or deceased individual to whom it relates is taken to a hospital, the person responsible for conducting the search shall send the document of gift or refusal to the hospital.

(35) A person is not subject to criminal or civil liability for failing to discharge the duties imposed by this section ~~but may be subject to administrative sanctions.~~

Approved April 3, 2013.

CHAPTER 248  
(S.B. No. 1119)

AN ACT

RELATING TO MANDATORY INCOME WITHHOLDING FOR CHILD SUPPORT; AMENDING SECTION 32-1206, IDAHO CODE, TO PROVIDE THAT INCOME WITHHOLDING ORDERS USE A CERTAIN FORM AND TO PROVIDE THAT INCOME WITHHOLDING PAYMENTS BY EMPLOYERS BE REMITTED TO THE DEPARTMENT OF HEALTH AND WELFARE; AND AMENDING SECTION 32-1210, IDAHO CODE, TO PROVIDE THAT INCOME WITHHOLDING PAYMENTS BY EMPLOYERS BE REMITTED TO THE DEPARTMENT OF HEALTH AND WELFARE.

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

SECTION 1. That Section 32-1206, Idaho Code, be, and the same is hereby amended to read as follows:

32-1206. JUDICIAL PROCEEDINGS FOR INCOME WITHHOLDING. (1) A proceeding to enforce a duty of support is commenced:

- (a) By filing a petition or complaint for an original action; or
- (b) By motion in an existing action or under an existing case number.

(2) Venue for the action is in the district court of the county where the dependent child resides or is present, where the obligor resides, or where the prior support order was entered. The petition or motion may be filed by the obligee, the state, or any agency providing care or support to the dependent child.

(3) A filing fee shall not be assessed in cases brought on behalf of the state of Idaho.

(4) A petition or motion shall include a sworn statement by the obligee, stating the facts authorizing the issuance of the income withholding order, pursuant to section 32-1204 or 32-1205, Idaho Code, and:

- (a) The name, address, and social security number of the obligor;
- (b) A copy of the support order;
- (c) The name and address of the obligor's employer;
- (d) The amount of any delinquency; and

(e) In cases not filed by the state, whether the obligee has received public assistance from any source on behalf of the minor child, and, if so, from which source(s).

(5) Upon receipt of a petition or motion, the court shall issue an income withholding order pursuant to section 32-1204 or 32-1205, Idaho Code, to the employer utilizing the required income withholding for support form and shall provide a form for an answer to the income withholding order which shall be returned to the court within ten (10) days. The court shall also order the employer to remit the amount withheld to the ~~person or entity designated in the income withholding order~~ department of health and welfare within seven (7) business days after the date the amount would have been paid or credited to the obligor. The department shall supply each county with ~~forms for income withholding orders~~ the required income withholding for support form and answers that comply with the rules promulgated by the department, and which include:

(a) The maximum amount of current support, if any, to be withheld from the obligor's earnings each month, or from each earnings disbursement; and

(b) The total amount of the arrearage or reimbursement judgment previously entered by the court, if any, together with interest, if any; and

(c) The amount of arrearage payments specified in the support order, if any.

(6) If the petition or motion indicates the obligee has received public assistance from any source on behalf of a minor child, the clerk shall immediately forward a copy of the petition or the motion to the department.

(7) The court retains continuing jurisdiction under this chapter until all duties of support of the obligor, including any delinquency, have been satisfied or until the order is otherwise unenforceable.

SECTION 2. That Section 32-1210, Idaho Code, be, and the same is hereby amended to read as follows:

32-1210. EMPLOYER'S DUTIES AND RESPONSIBILITIES -- FEE FOR EMPLOYER. (1) Upon receiving an income withholding order from the court, the employer shall answer the income withholding order on forms supplied with the income withholding order within ten (10) days after the date of service. The employer shall deliver the original answer to the court, and shall mail one (1) copy to the obligee or obligee's attorney, and shall deliver one (1) copy to the obligor as soon as is reasonably possible. The answer shall state whether the obligor is employed by or receives income from the employer, whether the employer will honor the income withholding order, and whether there are multiple child support income withholding orders or garnishments against the obligor. Upon receiving an income withholding order from the department, the employer shall begin income withholding pursuant to this section.

(2) If the employer possesses any income due and owing to the obligor, the income subject to the income withholding order shall be withheld immediately upon receipt of the income withholding order. The withheld income shall be delivered to the ~~person or entity designated in the income withholding order~~ department of health and welfare within seven (7) business days after the date the amount would have been paid or credited to the employee.

(3) The total amount to be withheld from the obligor's earnings each month, or from each earnings disbursement, shall not exceed fifty percent (50%) of the disposable earnings of the obligor. If the amounts to be paid toward the arrearage are specified in the support order, then the maximum amount to be withheld is the sum of the current support ordered and the amount ordered to be paid toward the arrearage, or fifty percent (50%) of the disposable earnings of the obligor, whichever is less. In no event shall

the amount to be withheld from the earnings of the obligor exceed the amount specified in section 11-207, Idaho Code.

(4) When an employer receives an income withholding order issued by another state, the employer shall apply the income withholding law of the state of the obligor's principal place of employment in determining:

- (a) The employer's fee for processing an income withholding order;
- (b) The maximum amount permitted to be withheld from the obligor's income;
- (c) The time periods within which the employer must implement the income withholding order and forward the child support payment;
- (d) The priorities for withholding and allocating income withheld for multiple child support obligees; and
- (e) Any withholding terms or conditions not specified in the income withholding order.

(5) If an obligor is subject to two (2) or more income withholding orders for child support on behalf of more than one (1) obligee, the employer ~~may shall~~ send the entire amount withheld from that obligor to ~~the clerk of the court or, if the department is providing child support services on behalf of either obligee,~~ to the department. If the department is providing child support services, the employer shall send the department a copy of each income withholding order under which the obligor owes a support obligation. ~~The clerk of the court or the~~ department shall apportion the amount of income withheld between all obligees of the obligor as follows: the support obligation for the current month shall be paid first. If the amount of nonexempt disposable income withheld is not sufficient to pay the total support obligation for the current month for each obligee for whom there is an income withholding order, the amount withheld shall be divided between each obligee for whom there is an income withholding order on a pro rata basis. If the amount of the nonexempt disposable earnings withheld is in excess of the total support obligation for the current month for each obligee for whom there is an income withholding order, the excess shall be divided between each obligee for whom there is an income withholding order which includes withholding for any delinquency on a pro rata basis unless otherwise ordered by a court.

(6) The employer shall continue to withhold the ordered amounts from nonexempt income of the obligor until notified by the court or the department that the income withholding order has been modified or terminated. The employer shall promptly notify the court or the department when the employee is no longer employed, and of the employee's last known address, and the name and address of his new employer, if known.

(7) The employer may deduct a processing fee, not to exceed five dollars (\$5.00), to cover the costs of each withholding. Such fee is to be withheld from the obligor's income in addition to the amount withheld to satisfy the withholding order, but the total amount withheld, including the fee, shall not exceed fifty percent (50%) of the obligor's disposable income.

(8) The employer may combine amounts withheld from various employees for a particular entity in a pay period into a single payment for that pay period, as long as the portion thereof which is attributable to each individual employee is separately designated.

(9) An order for income withholding for support entered under this chapter shall have priority over any other wage assignment or garnishment, except for another wage assignment, income withholding order, or garnishment for child support.

Approved April 3, 2013.

CHAPTER 249  
(S.B. No. 1123)

AN ACT

RELATING TO PROSTITUTION; AMENDING CHAPTER 56, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-5618, IDAHO CODE, TO PROVIDE FOR PROPERTY SUBJECT TO FORFEITURE AND TO DEFINE TERMS; AMENDING CHAPTER 56, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-5619, IDAHO CODE, TO PROVIDE THAT AN INVENTORY OF SEIZED PROPERTY SHALL BE MADE; AMENDING CHAPTER 56, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-5620, IDAHO CODE, TO PROVIDE THAT A FORFEITURE REQUEST SHALL BE FILED AND TO PROVIDE A REBUTTABLE PRESUMPTION; AMENDING CHAPTER 56, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-5621, IDAHO CODE, TO PROVIDE FOR THE PRESERVATION OF SEIZED PROPERTY; AMENDING CHAPTER 56, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-5622, IDAHO CODE, TO PROVIDE FOR A PROCESS OF THIRD PARTY PROCEEDINGS; AMENDING CHAPTER 56, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-5623, IDAHO CODE, TO PROVIDE FOR THE DISPOSITION OF PERSONAL PROPERTY AND TO ESTABLISH RIGHTS OF A THIRD PARTY; AMENDING CHAPTER 56, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-5624, IDAHO CODE, TO PROVIDE FOR THE DISPOSITION OF REAL PROPERTY AND TO ESTABLISH RIGHTS OF A THIRD PARTY; AMENDING CHAPTER 56, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-5625, IDAHO CODE, TO PROVIDE FOR PROPORTIONALITY OF PROPERTY IN DISPOSITION; AMENDING CHAPTER 56, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-5626, IDAHO CODE, TO PROVIDE FOR THE AUTHORITY OF THE ATTORNEY GENERAL IN DISPOSITION OF PROPERTY; AMENDING CHAPTER 56, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-5627, IDAHO CODE, TO PROVIDE A BAR ON INTERVENTION FOR A PARTY CLAIMING AN INTEREST IN PROPERTY; AMENDING CHAPTER 56, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-5628, IDAHO CODE, TO PROVIDE FOR THE JURISDICTION OF COURTS AND DEPOSITION PROCEDURES; AMENDING CHAPTER 56, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-5629, IDAHO CODE, TO PROVIDE PROCEDURES TO DISPOSE OF PROPERTY; AMENDING CHAPTER 56, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-5630, IDAHO CODE, TO PROVIDE FOR THE FORFEITURE OF SUBSTITUTE PROPERTY; AND AMENDING CHAPTER 56, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-5631, IDAHO CODE, TO PROVIDE THAT THIS CHAPTER SHALL BE CONSTRUED TO EFFECTUATE ITS REMEDIAL PURPOSES.

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

SECTION 1. That Chapter 56, 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 18-5618, Idaho Code, and to read as follows:

18-5618. PROPERTY SUBJECT TO FORFEITURE. Property subject to criminal forfeiture under this chapter includes:

- (1) "Real property" including things growing on, affixed to or found on the land; and
- (2) "Tangible and intangible personal property" including rights, privileges, interests, claims and securities.

SECTION 2. That Chapter 56, 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 18-5619, Idaho Code, and to read as follows:

18-5619. INVENTORY. Any peace officer of this state seizing property subject to forfeiture under the provisions of this chapter shall cause a

written inventory to be made and shall maintain custody of the same until all legal actions have been exhausted. A copy of the inventory shall be sent, within five (5) days of the seizure, to the director of the Idaho state police. Upon completion of the forfeiture action, pursuant to this chapter, a final inventory shall be made that indicates the disposition of the seized property, and a copy of that inventory shall also be sent to the director of the Idaho state police.

SECTION 3. That Chapter 56, 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 18-5620, Idaho Code, and to read as follows:

18-5620. FORFEITURE REQUEST -- REBUTTABLE PRESUMPTION. Property subject to criminal forfeiture under the provisions of this chapter shall not be ordered forfeited unless the attorney general or the appropriate prosecuting attorney has filed a separate allegation within the criminal proceeding seeking forfeiture of specific property as described in section 18-5612, Idaho Code. The attorney general or appropriate prosecuting attorney shall file, within fourteen (14) days of the filing of the criminal information or indictment, a separate part II forfeiture request and notice with the trial court.

There is a rebuttable presumption that any property of a person subject to the provisions of section 18-5612, Idaho Code, is subject to forfeiture under this chapter if the state of Idaho establishes by a preponderance of the evidence that:

(1) The property was acquired by a person during the period of the violation of either section 18-5609 (inducing a person under eighteen years of age into prostitution) or section 18-5602 (procurement), Idaho Code, or within a reasonable time after such violation; and

(2) There was no likely source for such property other than the violation of either section 18-5609 (inducing a person under eighteen years of age into prostitution) or section 18-5602 (procurement), Idaho Code.

SECTION 4. That Chapter 56, 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 18-5621, Idaho Code, and to read as follows:

18-5621. PRESERVATION OF PROPERTY -- WARRANT OF SEIZURE -- PROTECTIVE ORDERS. (1) Upon application of the state of Idaho, the court may enter a restraining order or injunction, require the execution of a satisfactory performance bond or take any other action to preserve the availability of property described in section 18-5612, Idaho Code, for forfeiture under the provisions of this chapter upon the filing of an indictment or information charging a violation of either section 18-5609 (inducing a person under eighteen years of age into prostitution) or section 18-5602 (procurement) for which criminal forfeiture may be ordered and alleging that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this chapter.

(2) The state may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this chapter in the same manner as provided for a search warrant. If the court determines that there is probable cause to believe that the property to be seized would, in the event of conviction, be subject to forfeiture and that an order under subsection (1) of this section may not be sufficient to assure the availability of the property for forfeiture, the court shall issue a warrant authorizing the seizure of such property by the appropriate law enforcement agency upon such terms and conditions as the court shall deem proper.

(3) The court may, upon application of the state of Idaho, enter such appropriate restraining orders or injunctions, require the execution of

satisfactory performance bonds, appoint receivers, conservators, appraisers, accountants or trustees, or take any other action to protect the interest of the state of Idaho in the property subject to forfeiture. Any income accruing to or derived from property subject to forfeiture under this chapter may be used to offset ordinary and necessary expenses to the property that are required by law, or that are necessary to protect the interests of the state of Idaho or third parties.

SECTION 5. That Chapter 56, 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 18-5622, Idaho Code, and to read as follows:

18-5622. INSTITUTION OF PROCEEDINGS -- THIRD PARTIES. Upon the filing of a part II forfeiture request pursuant to section 18-5620, Idaho Code, or in the event of seizure pursuant to a warrant of seizure, or upon entry of an order of forfeiture pursuant to section 18-5612, Idaho Code, the attorney general or appropriate prosecuting attorney shall, if appropriate, institute proceedings pursuant to section 18-5623 or 18-5624, Idaho Code, or both, within five (5) days of such event.

SECTION 6. That Chapter 56, 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 18-5623, Idaho Code, and to read as follows:

18-5623. PERSONAL PROPERTY -- RIGHTS OF THIRD PARTIES. (1) Within five (5) days of any of the events specified in section 18-5622, Idaho Code, notice, including a copy of the request for forfeiture, shall be given to each co-owner or party in interest who has or claims any right, title or interest in any such personal property according to one (1) of the following methods:

(a) Upon each co-owner or party in interest in a titled motor vehicle, aircraft or other conveyance, by mailing notice by certified mail to the address of each co-owner and party in interest as given upon the records of the appropriate department of state or federal government where records relating to such conveyances are maintained;

(b) Upon each secured party and assignee designated as such in any UCC-1 financing statement on file in an appropriate filing office covering any personal property sought to be forfeited, by mailing notice by certified mail to the secured party and the assignee, if any, at their respective addresses as shown on such financing statement; or

(c) Upon each co-owner or party in interest whose name and address is known, by mailing notice by registered mail to the last known address of such person.

(2) Within twenty (20) days after the mailing of the notice, the co-owner or party in interest may file a verified answer and claim to the property described in the notice.

(3) If a verified answer is filed within twenty (20) days after mailing of the notice, the forfeiture proceeding against all co-owners and parties in interest who have filed verified answers shall be set for hearing before the court without a jury on a day not less than sixty (60) days after the mailing of the notice; and the proceeding shall have priority over other civil cases.

(a) At the hearing, any co-owner or party in interest who has a verified answer on file may show by competent evidence that his interest in the titled motor vehicle, aircraft or other conveyance is not subject to forfeiture because he could not have known in the exercise of reasonable diligence that the titled motor vehicle, aircraft or other conveyance was being used, had been used or was intended to be used for the purposes described in section 18-5612, Idaho Code.

(b) A co-owner or claimant of any right, title or interest in the property may prove that his right, title or interest, whether under a lien, mortgage, security agreement, conditional sales contract or otherwise, was created without any knowledge or reason to believe that the property was being used, had been used or was intended to be used for the purpose alleged.

(i) In the event of such proof, the court shall order that portion of the property or interest released to the bona fide or innocent co-owner, purchaser, lienholder, mortgagee, secured party or conditional sales vendor.

(ii) If the amount due to such person is less than the value of the property, the property may be sold at public auction or in another commercially reasonable method by the attorney general or appropriate prosecuting attorney. If sold at public auction, the attorney general or appropriate prosecuting attorney shall publish a notice of the sale by at least one (1) publication in a newspaper published and circulated in the city, community or locality where the sale is to take place at least one (1) week prior to sale of the property. The proceeds from such sale shall be distributed as follows in the order indicated:

1. To the bona fide or innocent co-owner, purchaser, conditional sales vendor, lienholder, mortgagee or secured party of the property, if any, up to the value of his interest in the property;

2. The balance, if any, in the following order:

(A) To the attorney general or appropriate prosecuting attorney for all expenditures made or incurred in connection with the sale, including expenditure for any necessary repairs, storage or transportation of the property, and for all expenditures made or incurred by him in connection with the forfeiture proceedings including, but not limited to, expenditures for witnesses' fees, reporters' fees, transcripts, printing, traveling and investigation.

(B) To the law enforcement agency of this state that seized the property for all expenditures for traveling, investigation, storage and other expenses made or incurred after the seizure and in connection with the forfeiture of any property seized under the provisions of this chapter.

(C) The remainder, if any, to the crime victim's compensation account as established in section 72-1009, Idaho Code.

(4) Notwithstanding any other provision of this section, upon being satisfied that the interest of a co-owner or claimant should not be subject to forfeiture because they neither knew nor should have known that the personal property was being used or had been used for the purposes alleged, or that due to preexisting security interests in such property there is no equity that may be forfeited, the attorney general or appropriate prosecuting attorney may release the property to the co-owner, holder of the security interest or other claimant.

(5) In any case, the attorney general or appropriate prosecuting attorney may, within thirty (30) days after order of forfeiture, pay the balance due to the bona fide lienholder, mortgagee, secured party or conditional sales vendor and thereby purchase the property for use to enforce this chapter.

SECTION 7. That Chapter 56, 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 18-5624, Idaho Code, and to read as follows:

18-5624. REAL PROPERTY -- RIGHTS OF THIRD PARTIES. (1) Real property subject to forfeiture under the provisions of this chapter may be seized by the attorney general or appropriate prosecuting attorney upon determining that a parcel of property is subject to forfeiture, by filing a notice of seizure with the recorder of the county in which the property or any part thereof is situated. The notice must contain a legal description of the property sought to be forfeited; provided however, that in the event the property sought to be forfeited is part of a greater parcel, the attorney general or appropriate prosecuting attorney may, for the purposes of this notice, use the legal description of the greater parcel. The attorney general or appropriate prosecuting attorney shall also send by certified mail a copy of the notice of seizure to any persons holding a recorded interest or of whose interest the attorney general or appropriate prosecuting attorney has actual knowledge. The attorney general or appropriate prosecuting attorney shall post a similar copy of the notice conspicuously upon the property and publish a copy thereof once a week for three (3) consecutive weeks immediately following the seizure in a newspaper published in the county. The co-owner or party in lawful possession of the property sought to be forfeited may retain possession and use thereof and may collect and keep income from the property while the forfeiture proceedings are pending.

(2) In the event of a seizure pursuant to subsection (1) of this section, a request for forfeiture shall be filed with the trial court within the time limit imposed by section 18-5620, Idaho Code. The request shall be served in the same manner as complaints subject to Idaho rules of civil procedure on all persons having an interest in the real property sought to be forfeited.

(3) Notwithstanding any other provision of this section, upon being satisfied that the interest of a co-owner or claimant should not be subject to forfeiture because they neither knew nor should have known that the real property was being used or had been used for the purposes alleged, or that due to preexisting security interests in such property there is no equity that may be forfeited, the attorney general or appropriate prosecuting attorney may release the property to the co-owner, holder of the security interest or other claimant.

(4) Within twenty (20) days of the mailing of the notice, the co-owner or party in interest may file a verified answer and claim to the property described in the notice.

(5) If a verified answer is filed within twenty (20) days after mailing of the notice, the forfeiture proceeding against all co-owners and parties in interest who have filed verified answers shall be set for hearing before the court without a jury on a day not less than sixty (60) days after the mailing of the notice; and the proceeding shall have priority over other civil cases.

(a) A co-owner or claimant of any right, title or interest in the real property sought to be forfeited may prove that his right, title or interest, whether under a lien, mortgage, deed of trust or otherwise, was created without any knowledge or reason to believe that the real property was being used or had been used for the purposes alleged;

(b) Any co-owner who has a verified answer on file may show by competent evidence that his interest in the property sought to be forfeited is not subject to forfeiture because he could not have known in the exercise of reasonable diligence that the real property was being used or had been used in any manner in violation of the provisions of section 18-5612, Idaho Code.

(6) In the event of such proof, the court shall order the release of the interest of the co-owner, purchaser, lienholder, mortgagee or beneficiary.

(a) If the amount due to such person is less than the value of the real property, the real property may be sold in a commercially reasonable manner by the attorney general or appropriate prosecuting attorney. The proceeds from such sale shall be distributed as follows in the order indicated:

(i) To the innocent co-owner, purchaser, mortgagee or beneficiary of the real property, if any, up to the value of his interest in the real property;

(ii) The balance, if any, in the following order:

1. To the attorney general or appropriate prosecuting attorney for all expenditures made or incurred in connection with the sale, including expenditure for any necessary repairs or maintenance of the real property, and for all expenditures made or incurred in connection with the forfeiture proceedings including, but not limited to, expenditures for witnesses' fees, reporters' fees, transcripts, printing, travel, investigation, title company fees and insurance premiums.

2. The remainder, if any, to the crime victim's compensation account as established in section 72-1009, Idaho Code.

(b) In any case, the attorney general or appropriate prosecuting attorney may, within thirty (30) days after the order of forfeiture, pay the balance due to the innocent co-owner, purchaser, lienholder, mortgagee or beneficiary and thereby purchase the real property for use in the enforcement of this chapter.

SECTION 8. That Chapter 56, 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 18-5625, Idaho Code, and to read as follows:

18-5625. PROPORTIONALITY. In issuing any order under the provisions of this chapter, the court shall make a determination that the property, or a portion thereof in the case of real property, was actually used in violation of the relevant provisions of this chapter. The size of the property forfeited shall not be unfairly disproportionate to the size of the property actually used in violation of the provisions of this chapter.

SECTION 9. That Chapter 56, 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 18-5626, Idaho Code, and to read as follows:

18-5626. AUTHORITY OF THE ATTORNEY GENERAL. With respect to property ordered forfeited under the provisions of this chapter, the attorney general or appropriate prosecuting attorney is authorized to:

(1) Restore forfeited property to victims of a violation of relevant provisions of this chapter, or take any other action to protect the rights of innocent persons that is in the interest of justice and that is not inconsistent with the provisions of this chapter;

(2) Compromise claims arising under this chapter;

(3) Award compensation to persons providing information resulting in a forfeiture under this chapter; and

(4) Take appropriate measures necessary to safeguard and maintain property ordered forfeited under this chapter pending its disposition.

SECTION 10. That Chapter 56, 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 18-5627, Idaho Code, and to read as follows:

18-5627. **BAR ON INTERVENTION.** Except as provided in sections 18-5623 and 18-5624, Idaho Code, no party claiming an interest in property subject to forfeiture under this section may:

(1) Intervene in a trial or appeal of a criminal case involving the forfeiture of such property under the provisions of this chapter; or

(2) Commence an action at law or equity against the state of Idaho concerning the validity of his alleged interest in the property subsequent to the filing of an indictment or information alleging that the property is subject to forfeiture under this chapter.

SECTION 11. That Chapter 56, 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 18-5628, Idaho Code, and to read as follows:

18-5628. **JURISDICTION -- DEPOSITIONS.** The district courts of the state of Idaho shall have jurisdiction over:

(1) Property for which forfeiture is sought that is within the state at the time the action is filed; or

(2) The interest of a co-owner or interest holder in the property if the co-owner or interest holder is subject to personal jurisdiction in this state.

In order to facilitate the identification and location of property declared forfeited after the entry of an order declaring property forfeited to the state of Idaho, the court may, upon application of the state of Idaho, order that the testimony of any witness relating to the property forfeited be taken by deposition and that any designated book, paper, document, record, recording or other material not privileged be produced at the same time and place, in the same manner as provided for the taking of depositions under rule 27 of the Idaho rules of civil procedure.

SECTION 12. That Chapter 56, 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 18-5629, Idaho Code, and to read as follows:

18-5629. **DISPOSITION OF PROPERTY.** On the motion of a party and after notice to any persons who are known to have an interest in the property and an opportunity to be heard, the court may order property that has been seized for forfeiture sold, leased, rented or operated to satisfy an interest of any interest holder who has timely filed a proper claim or to preserve the interests of any party. The court may order a sale or any other disposition of the property if the property may perish, waste, be foreclosed on or otherwise be significantly reduced in value or if the expenses of maintaining the property are or will become greater than its fair market value. If the court orders a sale, the court shall designate a third party or state property manager to dispose of the property by public sale or other commercially reasonable method and shall distribute the proceeds in the following order of priority:

(1) Payment of reasonable expenses incurred in connection with the sale.

(2) Satisfaction of exempt interests in the order of their priority.

(3) Preservation of the balance, if any, in the actual or constructive custody of the court in an interest-bearing account, subject to further proceedings under the provisions of this chapter.

When property is forfeited under this chapter, the attorney general or appropriate prosecuting attorney may:

(a) Retain it for official use; and/or

(b) Sell that which is not required to be destroyed by law and which is not harmful to the public, pursuant to section 18-5623 or 18-5624, Idaho Code.

SECTION 13. That Chapter 56, 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 18-5630, Idaho Code, and to read as follows:

18-5630. FORFEITURE OF SUBSTITUTE PROPERTY. If any of the property described in section 18-5612, Idaho Code, as a result of any act or omission of the defendant:

- (1) Cannot be located upon the exercise of due diligence;
- (2) Has been transferred or sold to, or deposited with, a third party;
- (3) Has been placed beyond the jurisdiction of the court;
- (4) Has been substantially diminished in value; or
- (5) Has been commingled with other property that cannot be divided without difficulty;

the court shall order the forfeiture of any other property of the defendant up to the value of any property described in section 18-5612, Idaho Code.

SECTION 14. That Chapter 56, 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 18-5631, Idaho Code, and to read as follows:

18-5631. CONSTRUCTION. The provisions of this chapter shall be liberally construed to effectuate its remedial purposes.

Approved April 3, 2013.

CHAPTER 250  
(S.B. No. 1126)

AN ACT

RELATING TO LOTTERY PRIZES; AMENDING SECTION 56-203E, IDAHO CODE, TO REVISE PROCEDURES FOR WITHHOLDING AND SET-OFF OF LOTTERY PRIZE WINNINGS FOR SATISFACTION OF OUTSTANDING CHILD SUPPORT DEBT; AND AMENDING SECTION 67-7437, IDAHO CODE, TO REVISE PROCEDURES FOR WITHHOLDING AND SET-OFF OF LOTTERY PRIZE WINNINGS FOR SATISFACTION OF OUTSTANDING STATE TAXES OWED AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 56-203E, Idaho Code, be, and the same is hereby amended to read as follows:

56-203E. LOTTERY PRIZE SET-OFF PROCEDURE FOR SUPPORT DEBT. (1) The Idaho state lottery shall immediately withhold, and set-off a and transfer prize moneys of a lottery prize winner to the department of health and welfare upon notification and verification from the department of health and welfare to collect a support delinquency. The set-off or withholding of a prize shall be ~~completed~~ final only after the following conditions have been met:

- (a) A delinquency exists, which shall be defined as any unpaid child or spousal support including public assistance, pursuant to a court order from this state or a court or administrative order of another state.
- (b) The department of health and welfare, bureau of child support enforcement, shall forward to the Idaho state lottery the full name and social security number of the obligor and the amount of the delinquent child support. The Idaho state lottery shall notify the department of health and welfare of the amount of the prize withheld to satisfy the child support delinquency and the prize winner's address.

(c) The department of health and welfare shall provide nNotice of the proposed set-off shall be sent by registered or certified mail to the prize winner at the address provided to the Idaho state lottery. Within fourteen (14) days after such notice has been mailed (not counting Saturday, Sunday or state holidays as the 14th day) the prize winner may file a protest in writing requesting a hearing before the department of health and welfare. The hearing shall be held within thirty-five (35) days from the date of the mailing of the original notice. No issues at that hearing may be considered that have been litigated previously. The department of health and welfare shall issue its findings and decision either at the hearing or by mail to the prize winner within ten (10) days of the hearing.

(d) After the decision of the department of health and welfare is issued, or if the prize winner has failed to file a timely protest of the claim, the set-off procedure shall become final.

(2) The proceeds from the set-off shall be credited to an account designated by the department of health and welfare, and notice shall be given to the appropriate clerk of the district court.

SECTION 2. That Section 67-7437, Idaho Code, be, and the same is hereby amended to read as follows:

67-7437. PRIZES. Except as otherwise provided in this section, any prize won under this chapter is not assignable. If the prize winner dies before the prize is paid, the prize shall be paid to the estate of the prize winner. A prize is subject to garnishment and recovery for unpaid taxes, child or spousal support or public assistance benefits paid and recoverable by the state or any county, or by a person pursuant to a judgment and execution under an order of the court. A prize shall also be subject to immediate withholding and set-off to collect any support delinquency or state taxes owed upon notification from the department of health and welfare pursuant to section 56-203E, Idaho Code, or the state tax commission pursuant to section 63-3060, Idaho Code. The state lottery shall not pay a prize claim until the lottery ticket or share has passed the validation tests established by the state lottery.

No prize shall be paid arising from claimed tickets or shares that are stolen, counterfeit, altered, fraudulent, unissued, produced or issued in error, unreadable, not received or not recorded by the state lottery by applicable deadlines, lacking in captions that confirm and agree with the state lottery play symbols as appropriate to the game involved, or not in compliance with such additional specific rules and regulations and public or confidential validation and security tests of the state lottery appropriate to the particular lottery game involved. Confidential validation or security tests shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

No particular prize in any lottery game may be paid more than once, and in the event of a binding determination that more than one (1) claimant is entitled to a particular prize, the sole remedy of such claimants is the award to each of them an equal share in the prize.

Approved April 3, 2013.